

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

OFFICE OF HIGHWAY SAFETY

Statutory Authority: 21 Delaware Code, Section 4177G (21 **Del.C.** §4177G)
2 **DE Admin. Code** 1203

FINAL

ORDER

1203 Ignition Interlock Device Installation, Removal and Monthly Monitoring and Calibration Fees

NATURE OF THE PROCEEDINGS

At **26 DE Reg. 40** (July 1, 2022), the Delaware Department of Safety and Homeland Security, Office of Highway Safety, pursuant to the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 21 of the Delaware Code, Chapter 41, Section 4177G, proposed to repeal 1203 Ignition Interlock Device Installation, Removal and Monthly Monitoring and Calibration Fees to be consistent with changes in basic law. The Office of Highway Safety no longer possesses the appropriate statutory authority under which 2 **DE Admin. Code** § 1203 was promulgated and it has since been replaced by 2 **DE Admin. Code** § 2223 Ignition Interlock Device Installation, Removal and Monthly Monitoring and Calibration Fees by the Department of Transportation on March 1, 2022. At the same time, DSHS submitted a Regulatory Flexibility Analysis and Impact Statement for this proposed repeal, as required by 29 **Del. C.** Ch. 104. DSHS solicited written comments from the public for thirty (30) days as mandated by 29 **Del. C.** §10118(a).

SUMMARY OF EVIDENCE

In accordance with law, public notice regarding the proposed repeal was published in the *Delaware Register of Regulations*. The public comment period was open from July 1, 2022 through August 5, 2022. During this period, DSHS did not receive any written comments.

FINDINGS OF FACT

The public was given the required notice of DSHS's intention to repeal the regulation and was given opportunity to submit comments. The required Regulatory Flexibility Analysis and Impact Statement for this proposed repeal was submitted. DSHS did not receive any written comments. Thus, DSHS finds that the regulations should be repealed as submitted by DSHS.

EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by DSHS pursuant to 21 **Del. C.** §4177G. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

ORDER

NOW THEREFORE, under the statutory authority and for the reasons set forth above, DSHS does hereby ORDER this 14th day of October 2022 that the regulations be, and that they hereby are, repealed as set forth below.

IT IS SO ORDERED, this 14th day of October 2022.

Delaware Department of Safety and Homeland Security

Nathaniel McQueen Jr., Secretary 14 October 2022

1203 Ignition Interlock Device Installation, Removal and Monthly Monitoring and Calibration Fees

* Please Note: Jurisdiction was transferred to the Division of Motor Vehicle, July 2010. Please see: 2 **DE Admin. Code** 2223

4.0 Authority

The authority to promulgate this regulation is ~~21 Del.C. §4177F(e)~~.

2.0 Purpose

~~Title 21 Del.C. §4177F established a program utilizing the Ignition Interlock device for those individuals with an alcohol-related violation or offense. After surveying the fees charged by surrounding jurisdictions for similar services, this policy regulation will establish a fee schedule for all expenses related to installation and lease of the device.~~

3.0 Applicability

~~This policy regulation concerns Title 21 Del.C. §4177F.~~

4.0 Substance of Policy

~~4.1 Installation of Device~~

~~4.1.1 All persons who voluntarily or as a result of a court order, install an Ignition Interlock device in a motor vehicle monitored in conjunction with the Division of Motor Vehicles, will be charged a fee by the provider for that service, and this fee will include the cost of removing the device at the termination of the program.~~

~~4.1.2 The service providers shall charge a fee not to exceed \$100.00 for installation of the Interlock device, but this amount includes a rebate of \$30.00 which will be returned to the client at the time of removal. This fee shall be the responsibility of the clients.~~

~~4.2 Monthly Monitoring & Calibration~~

~~4.2.1 All persons with an Ignition Interlock device installed in a vehicle monitored in conjunction with the Division of Motor Vehicles, shall be charged a fee for the monthly electronic monitoring and regular calibration of the device.~~

~~4.2.2 The service providers shall charge a fee not to exceed \$75.00 for monthly monitoring and calibration. This fee shall be the responsibility of the clients.~~

~~4.3 Initial down Payment~~

~~4.3.1 The initial payment will include the installation fee and the first month's monitoring and calibration. The initial payment, therefore, shall not exceed \$175.00 and the bi-monthly payment shall not exceed \$150.00~~

~~4.4 Other Fees~~

~~4.4.1 The Division of Motor Vehicles recognizes that Service providers may charge fees for other services outside the scope of this policy regulation, including but not limited to fees for missed appointments, device resets, and optional insurance programs relating to damage or loss of the device.~~

~~4.5 Definition of Alcohol Related Violations and Offenses~~

~~4.5.1 For purposes of this policy regulation, alcohol related violations and offenses shall mean violations of Sections 2740, 2742, 4177, 4177B, 4175 of Title 21, conforming statutes of other states or the District of Columbia, or local ordinances in conformity therewith.~~

5.0 Severability

If any part of this Regulation is held to be unconstitutional or otherwise contrary to law by a court of competent jurisdiction, said portion shall be severed and the remaining portions of this Regulation shall remain in full force and effect under Delaware law.

6.0 Effective Date

The following regulation shall be effective 10 days from the date the order is signed and it is published in its final form in the Register of Regulations in accordance with 29 Del.C. §10118(e).

26 DE Reg. 402 (11/01/22) (Final)