

DEPARTMENT OF TRANSPORTATION
DIVISION OF TRANSPORTATION SOLUTIONS

Statutory Authority: 21 Delaware Code, Sections 302(a) and 4137 (21 **Del.C.** §§302(a) & 4137)

PROPOSED

PUBLIC NOTICE

1208 Electronic Traffic Monitoring for Vehicle Obstructions System

Pursuant to the authority provided by 21 **Del.C.** §302(a) and 4137, the Delaware Department of Transportation (DelDOT) established an Electronic Traffic Monitoring for Vehicle Obstructions System (Block the Box) program at qualifying intersections across the State of Delaware.

The Department, through its Division of Transportation Solutions seeks to adopt this regulation to administer the Block the Box program, which is established in support of DelDOT's goals of minimizing congestion, allowing for the continued movement of all road users, and improved emergency vehicle movement at signalized intersections along roadways with a Principal Arterial or Other Arterial functional classification.

Public Comment Period

DelDOT will take written comments on the proposed Regulation 1208 of Title 2, Delaware Administrative Code, from June 1, 2024 through July 1, 2024. The public may submit their comments to:

Peter Haag, P.E.
Chief of Traffic Engineering
(Peter.Haag@delaware.gov) or in writing to his attention,
Delaware Department of Transportation
Division of Transportation Solutions
169 Brick Store Landing Road
Smyrna, DE 19977

1208 Electronic Traffic Monitoring for Vehicle Obstructions System

1.0 Statement of Purpose

The purpose of these regulations is to provide for the establishment and administration of an Electronic Traffic Monitoring for Vehicle Obstructions System (i.e., "Block the Box") program at qualifying intersections across the State of Delaware. The Delaware Department of Transportation (DelDOT), or the governing body of any municipality, may install and operate Block the Box monitoring systems and assess fines in accordance with 21 **Del.C.** §4137 and 21 **Del.C.** §4205. The Block the Box program is established in support of DelDOT's goals of minimizing congestion, allowing for the continued movement of all road users, and improved emergency vehicle movement at signalized intersections along roadways with a Principal Arterial or Other Arterial functional classification. These regulations are being promulgated in accordance with 21 **Del.C.** §4130, 21 **Del.C.** §4137, and 83 Del. Laws, c. 494, §1.

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning:

"DelDOT" means the Delaware Department of Transportation.

"Block the Box" means a vehicle obstructing traffic, as described in 21 **Del.C.** §4130 and 21 **Del.C.** §4179.

3.0 Electronic Traffic Monitoring for Vehicle Obstructions System Program Requirements

3.1 DelDOT may approve the installation and use of a Block the Box monitoring system if the conditions in subsection 3.2 of this regulation are met.

3.2 DelDOT will implement procedures and guidelines to aid the selection of appropriate intersections at which to implement Block the Box monitoring systems. The conditions for installation and operation of a Block the Box system are as follows:

3.2.1 The system may be installed or used to record images of a motor vehicle traveling through an intersection controlled by a DelDOT-owned traffic signal, and at least 1 approach of the intersection has a functional classification of a principal arterial or minor arterial only as defined by DelDOT.

- 3.2.2 If the intersection meets the criteria in subsection 3.2 and is within the boundaries of a municipality, the municipality must approve the intersection eligible for monitoring prior to DeIDOT approval.
- 3.2.3 DeIDOT and the police agency with jurisdiction must provide notice on their publicly accessible websites of the intended use of the Block the Box system at least 14 calendar days prior to its implementation.

4.0 Deployment

A Block the Box system will be installed at an approved intersection by the approved vendor. The participating police agency may prioritize sites within their jurisdiction; the police agency may consider crash data in prioritizing locations where the system is to be implemented in addition to the requirements noted in Section 3.0 of this regulation. Temporary message boards shall be installed to warn motorists along the monitored corridor in each direction at least 7 days prior to the Block the Box systems issuing violation notices.

5.0 Installation

To inform motorists clearly of the Block the Box enforcement area, A "DO NOT BLOCK INTERSECTION" sign, with a photo enforced camera symbol or a "PHOTO ENFORCED" plaque mounted directly below, should be installed near the stop line on the approach to all monitored movements. This is a courtesy notification and is not required; violations may still be issued even if signage is not present.

6.0 Reporting

- 6.1 DeIDOT shall be responsible for preparing an annual report on the Block the Box systems as implemented statewide.
- 6.2 The report must include the following:
 - 6.2.1 Where and when the system was used. The approved vendor shall maintain a log of Block the Box system locations as well as activation and shut-down dates.
 - 6.2.2 Citation data. The approved vendor shall maintain a log of Block the Box violations by location, date, and time.
 - 6.2.3 Financial data, including expenditures and revenues. All financial data and itemized transactions for Block the Box locations operated by municipalities and enforced by municipal police are the sole responsibility of the municipality and the selected vendor.
 - 6.2.4 State and municipal police agencies shall cooperate with DeIDOT regarding the collection of data necessary to prepare the annual report. In the event a police agency does not provide the requested information in a timely manner to DeIDOT, the police agency will no longer be eligible for use of Block the Box systems, and all enforcement equipment will be removed.

7.0 System Approved Vendor

- 7.1 DeIDOT utilizes a supporting approved vendor to provide enforcement monitoring systems and assist in administering the program. The approved vendor is selected through an open competitive procurement process which allows for the government and the taxpayer to benefit from improved quality at lower pricing. To assure integrity and propriety, any person involved in the administration or enforcement of the program may not own any interest or equity in the approved vendor used by DeIDOT to support the administrative elements of the program. A person with an ownership or equity interest in an approved vendor must divest from this ownership or investment no later than 90 days after the effective date of this act. This restriction applies to anyone with either direct involvement in the administering or enforcement of the program and those in any supervisory capacity above persons with direct involvement.
- 7.2 To participate in the program, and in accordance with 29 **Del.C.** §6904, municipalities shall utilize "piggyback" agreements with DeIDOT's selected vendor for Block the Box monitoring as well as collections activities.

8.0 Fines

- 8.1 Violation notices are sent by the system approved vendor to the registered owner of the vehicle whose position within an intersection violates right-of-way regulations, as evidenced by information obtained from a Block the Box monitoring system and shall be subject to a civil offense rather than a criminal offense. The present violation fine structure is established under and 21 **Del.C.** §4205. No additional assessments or court costs, other than those specified in Section 15.0 of this regulation, shall be assessed or collected against the owner or operator of a vehicle who has violated this regulation.

- 8.2 The base fine for a vehicle that violates right-of-way regulations, as evidenced by information obtained from a Block the Box monitoring system, is \$25 for first offense and \$57.50 for each subsequent offense pursuant to 21 Del.C. §4205.
- 8.2.1 A subsequent violation, before being punishable as a subsequent offense, shall have been committed within 24 months after the commission of the prior offense.
- 8.2.2 Prior non-electronic moving violations issued by an officer are considered separate from Block the Box violations for the purposes of determining if a subsequent violation occurred.
- 8.3 For violations of Title 21, the following surcharges will be levied:
- 8.3.1 A Transportation Trust Fund Surcharge equal to 50% of the base fine, pursuant to 11 Del.C. §4101, which requires fines or fees levied for violations of Title 21 to include an additional 50% surcharge assessment.
- 8.3.2 A Violent Crimes Fund Surcharge of \$15 pursuant to 11 Del.C. §4101(h).
- 8.3.3 An Ambulance Fund Surcharge of \$10 pursuant to 11 Del.C. §4101(j).

9.0 Violation Criteria

For a violation to occur, a motor vehicle must be located within a conflicting left-turn or through vehicle's path of travel or pedestrian crosswalk following the termination of the violating vehicle's right-of-way and subsequent all-red clearance interval.

10.0 Determination of Violation

The technology for electronic enforcement utilizes a specialized camera, coupled with a traffic signal. The device detects the movement of vehicles into the intersection after a signal turns red. The technology video tapes this movement while simultaneously taking a picture of the violator's license plate to identify the vehicle. A trained technician(e.g., a currently serving or retired sworn law enforcement officer) employed by a state agency or municipality, or an entity designated by a state agency or municipality for this purpose, inspects the evidence. Using this information, a violation notice is generated and sent to the registered owner of the vehicle.

11.0 Exemptions

- 11.1 Emergency vehicles with active emergency lights and vehicles yielding the right-of-way to emergency vehicles are exempt from receiving a notice of violation.
- 11.2 No other exemptions are provided for in the Delaware Code and no other exemptions will be considered as defenses to the issuance of a violation.

12.0 Notice of Violation Content

- 12.1 A Notice of Violation shall be sent by the system approved vendor and must contain:
- 12.1.1 The name and address of the registered owner of the vehicle that committed the violation;
- 12.1.2 The registration number of the motor vehicle involved in the violation;
- 12.1.3 The violation charges;
- 12.1.4 The location where the violation occurred;
- 12.1.5 The date and time of the violation;
- 12.1.6 Copies of 2 or more photographs, or microphotographs, or other recorded images, taken as proof of the violation, which also include the distance traveled between the 2 photographs as well as the time gap between the 2 photographs;
- 12.1.7 The amount of the civil penalty imposed and the date by which the civil penalty shall be paid;
- 12.1.8 The length of time and location for contesting liability and notice that the failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability and may result in a judgment being entered against the summonsed person and the denial of the registration or renewal of registration of any of the owner's vehicles; and
- 12.1.9 Notice of the summonsed person's ability, via an enclosed affidavit form, to rebut the presumption under Section 12.0 of this regulation that the summonsed person was the operator of the vehicle at the time of the violation and the manner of rebutting said presumption.

13.0 Affidavits

- 13.1 If the registered owner of a vehicle who has received a notice of violation contends that the registered owner was not the operator of the vehicle at the time of the violation, the registered owner must furnish evidence that

the vehicle was, at the time of the violation, in the care, custody or control of another person. The presumption shall be rebutted if the owner:

- 13.1.1 Furnishes an affidavit by regular mail to the entity indicated on the summons that the owner was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person or company who leased, rented or otherwise had the care, custody or control of the vehicle, or attaches a certified copy of a police report showing that the vehicle or license plate or plates had been reported to the police as stolen prior to the time of the alleged violation; or
- 13.1.2 Provides proof in court or to the entity handling the administrative appeal process that the owner was not the operator of the vehicle at the time of the alleged violation.
- 13.2 An affidavit must be provided by the registered owner of a vehicle receiving a Notice of Violation within 90 days of the issue date of the Notice of Violation or no later than 10 days prior to a hearing if one is requested, whichever date is earlier.
- 13.3 Upon receipt of an affidavit by the State of Delaware or the system approved vendor, the newly implicated person will be mailed a notification of the violation.

14.0 Payment of Civil Assessment

A person electing to pay the civil assessment shall follow the process as outlined on the Notice of Violation.

15.0 Procedures to Contest a Violation

A person receiving a Notice of Violation may request a hearing to contest the violation by notifying in writing the entity designated on the summons, within 20 days of the issue date. Upon timely receipt of a hearing request, a civil hearing will be scheduled and the defendant will be notified of the hearing date by first class mail. Costs for this hearing may not be assessed against the prevailing party. A civil hearing shall be held by the Justice of the Peace Court or other court with competent jurisdiction as designated by the Department of Safety and Homeland Security or municipality in which the Block the Box monitoring system was located. Court costs, or similar administrative fees, not to exceed \$35, may be imposed against an owner or operator of a motor vehicle who requests a hearing to contest a violation and is either found at fault or admits to fault at the hearing. No costs may be assessed against the prevailing party. There shall be no right to transfer to the Court of Common Pleas, and no right of appeal unless the civil penalty exceeds \$100.

16.0 Failure to Pay Civil Assessment

Failure to pay the civil assessment or to appear for a scheduled hearing may result in the refusal by the Division of Motor Vehicles to renew the registration of the motor vehicle which committed the violation, the suspension of the driver's license of the owner or operator of the motor vehicle, as well as the entry of a civil traffic judgment against the owner or operator of the motor vehicle. See 21 Del.C. §4137 and House Bill 244 of the 151st General Assembly.

27 DE Reg. 958 (06/01/24) (Prop.)