

1 H.560

2 Introduced by Representatives Jewett of Ripton, Burke of Brattleboro,
3 Conquest of Newbury, Frank of Underhill, Grad of Moretown,
4 LaLonde of South Burlington, Martel of Waterford,
5 McCormack of Burlington, McCullough of Williston, Nuovo of
6 Middlebury, and Rachelson of Burlington

7 Referred to Committee on

8 Date:

9 Subject: Motor vehicles; driving under the influence; implied consent to BAC
10 testing; ignition interlock devices; immobilization; forfeiture;
11 vulnerable users; bicycles; highways; lanes; yielding; passing; alcohol
12 screening devices; limitation on liability; town highways; authority to
13 establish speed limits

14 Statement of purpose of bill as introduced: This bill proposes to:

- 15 (1) expand Vermont's DUI implied consent law in cases of a crash
16 resulting in a fatality or serious bodily injury (SBI);
17 (2) require operation under an ignition interlock restricted driver's
18 license prior to eligibility for reinstatement of an operator's license or driving
19 privilege following a DUI offense, make various amendments to the law
20 governing civil DUI suspensions, and authorize the State to move for an order

1 immobilizing the vehicle operated by a resident defendant during a DUI
2 offense unless an ignition interlock device is installed;

3 (3) amend the availability and the procedure for proving an innocent
4 owner defense in a DUI-related immobilization or forfeiture proceeding;

5 (4) limit the liability of liquor licensees or permittees and servers that
6 make alcohol screening tests available to persons served alcohol;

7 (5) create an enhanced penalty for negligent operation of a motor
8 vehicle resulting in death or SBI;

9 (6) amend various definitions that apply throughout Title 23 and add a
10 new definition for “vehicle”;

11 (7) amend motor vehicle laws to clarify the obligation of motorists to
12 yield the right of way to bicyclists and other vulnerable users in various
13 circumstances;

14 (8) authorize bicyclists to proceed within crosswalks and pursuant to
15 pedestrian control signals while riding on their bicycles;

16 (9) amend Vermont’s law requiring safe passing of vulnerable users to
17 specify distances to pass a vulnerable user safely, to specify that in a civil
18 action an unexcused violation of the vulnerable user passing law is negligence
19 in itself, and to create a criminal penalty for a violation resulting in death or
20 injury to a person other than the operator;

1 (10) specify that bicyclists generally must ride as near to the right side
2 of the highway as is safe and elaborate on an exception to this general rule;

3 (11) authorize bicyclists to lane split with motor vehicles moving in the
4 same direction under specific circumstances; and

5 (12) authorize municipalities to establish speed limits on town highways
6 that are lower than 25 miles per hour.

7 An act relating to traffic safety

8 It is hereby enacted by the General Assembly of the State of Vermont:

9 ~~*** DUI, Implied Consent ***~~

10 Sec. 1. 23 V.S.A. § 1202 is amended to read:

11 § 1202. ~~CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD~~
12 ~~ALCOHOL CONTENT~~

13 (a)(1) Implied consent. Every person who operates, attempts to operate, or
14 is in actual physical control of any vehicle on a highway in this State is deemed
15 to have given consent to an evidentiary test of that person's breath for the
16 purpose of determining the person's alcohol concentration or the presence of
17 other drug in the blood. The test shall be administered at the direction of a law
18 enforcement officer.

19 (2) Blood test. If breath testing equipment is not reasonably available or
20 if the officer has reason to believe that the person is unable to give a sufficient

1 ~~sample of breath for testing or if the law enforcement officer has reasonable~~
2 grounds to believe that the person is under the influence of a drug other than
3 alcohol, the person is deemed to have given consent to the taking of an
4 evidentiary sample of blood. If in the officer's opinion the person is incapable
5 of decision or unconscious or dead, it is deemed that the person's consent is
6 given and a sample of blood shall be taken.

7 (3) Evidentiary test. The evidentiary test shall be required of a person
8 when:

9 (A) a law enforcement officer has reasonable grounds to believe that
10 the person was operating, attempting to operate, or in actual physical control of
11 a vehicle in violation of section 1201 of this title; or

12 ~~(4) Fatal collision or incident resulting in serious bodily injury. The~~
13 ~~evidentiary test shall also be required if~~

14 (B) the person is ~~the~~ a surviving operator of a motor vehicle involved
15 in a fatal incident or collision or an incident or collision resulting in serious
16 bodily injury ~~and the law enforcement officer has reasonable grounds to~~
17 ~~believe that the person has any amount of alcohol or other drug in his or her~~
18 ~~system.~~

19 (b) If the person refuses to submit to an evidentiary test, it shall not be
20 given, except as provided in subsection (f) of this section, but the refusal may
21 be introduced as evidence in a criminal proceeding.

1 ~~(9) "Ignition interlock restricted driver's license" or "ignition interlock~~
2 RDL" or "RDL" means a restricted license or privilege to operate a motor
3 vehicle issued by the Commissioner allowing a person whose license or
4 privilege to operate has been suspended or revoked for operating under the
5 influence of intoxicating liquor or in excess of legal limits of alcohol
6 concentration, or for refusing an enforcement officer's reasonable request for
7 an evidentiary test, to operate a motor vehicle, other than a commercial motor
8 vehicle as defined in section 4103 of this title, installed with an approved
9 ignition interlock device.

10 * * *

11 Sec. 3. 23 V.S.A. § 1213 is amended to read:

12 § 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE;

13 PENALTIES

14 (a) First offense. ~~A person~~ Except for an offense under section 1216 of this
15 subchapter or an offense arising solely from being under the influence of a
16 drug other than alcohol, a resident whose license or privilege to operate is
17 suspended for a first offense under this subchapter shall be ~~permitted~~ required
18 to operate a motor vehicle, other than a commercial motor vehicle as defined in
19 section 4103 of this title, if issued under a valid ignition interlock RDL. ~~The~~
20 Commissioner shall issue an ignition interlock RDL to a person eligible under
21 for the relevant period specified in section 1205(a)(1), 1205(a)(2), ~~1206(a), or~~

1 ~~1216(a)(1) or 1206 of this title prior to being eligible for reinstatement of his or~~
2 ~~her regular license, unless exempt under subdivision 1209a(a)(4) of this title.~~

3 A resident whose license is suspended under subdivision 1216(a)(1) may elect
4 to obtain an ignition interlock RDL. The Commissioner shall issue an ignition
5 interlock RDL upon receipt of a \$125.00 application fee, and upon receipt of
6 satisfactory proof of installation of an approved ignition interlock device in any
7 motor vehicle to be operated; and financial responsibility as provided in
8 section 801 of this title, ~~and enrollment in an Alcohol and Driving Education~~
9 ~~Program. The RDL shall be valid after expiration of the applicable shortened~~
10 ~~period specified in section 1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of~~
11 ~~this title.~~ A new ignition interlock RDL shall expire at midnight on the eve of
12 the second birthday of the applicant following the date of issue, and may be
13 renewed for one-year terms. The Commissioner shall send by first class mail
14 an application for renewal of the RDL at least 30 days prior to the day renewal
15 is required and shall impose the same conditions for renewal as are required for
16 initial issuance of an ignition interlock RDL. The renewal fee shall be \$125.00.

17 (b) Second offense. ~~A person~~ Except for an offense under section 1216 of
18 this subchapter or an offense arising solely from being under the influence of a
19 drug other than alcohol, a resident whose license or privilege to operate is
20 suspended for a second offense under this subchapter shall be ~~permitted~~
21 required to operate a motor vehicle, ~~other than a commercial motor vehicle as~~

1 ~~defined in section 4103 of this title, if issued under a valid ignition interlock~~
2 ~~RDL. The Commissioner shall issue an ignition interlock RDL to a person~~
3 ~~eligible under for the relevant period specified in section 1205(m), or 1208(a),~~
4 ~~or 1216(a)(2) of this title prior to being eligible for reinstatement of his or her~~
5 ~~regular license, unless exempt under subdivision 1209a(a)(4) of this title. A~~
6 ~~resident whose license is suspended under subdivision 1216(a)(2) may elect to~~
7 ~~obtain an ignition interlock RDL. The Commissioner shall issue an ignition~~
8 ~~interlock RDL upon receipt of a \$125.00 application fee, and upon receipt of~~
9 ~~satisfactory proof of installation of an approved ignition interlock device in any~~
10 ~~motor vehicle to be operated, and of financial responsibility as provided in~~
11 ~~section 801 of this title, and enrollment in an Alcohol and Driving~~
12 ~~Rehabilitation Program. The RDL shall be valid after expiration of the~~
13 ~~applicable shortened period specified in section 1205(m), 1208(a), or~~
14 ~~1216(a)(2) of this title. A new ignition interlock RDL shall expire at midnight~~
15 ~~on the eve of the second birthday of the applicant following the date of issue,~~
16 ~~and may be renewed for one-year terms. The Commissioner shall send by first~~
17 ~~class mail an application for renewal of the RDL at least 30 days prior to the~~
18 ~~day renewal is required and shall impose the same conditions for renewal as~~
19 ~~are required for initial issuance of an ignition interlock RDL. The renewal fee~~
20 ~~shall be \$125.00.~~

1 ~~(e) Third or subsequent offense. A person Except for an offense under~~
2 ~~section 1216 of this subchapter or an offense arising solely from being under~~
3 ~~the influence of a drug other than alcohol, a resident whose license or privilege~~
4 ~~to operate is suspended or revoked for a third or subsequent offense under this~~
5 ~~subchapter shall be ~~permitted~~ required to operate a motor vehicle, other than a~~
6 ~~commercial motor vehicle as defined in section 4103 of this title, if issued~~
7 ~~under a valid ignition interlock RDL for the relevant period prescribed in~~
8 ~~subsection 1209a(b) of this title prior to being eligible for issuance or~~
9 ~~reinstatement of a regular license, or for life if suspended under section~~
10 ~~1205(a)(3), 1205(m), or 1208(b) and reinstatement is not sought, unless~~
11 ~~exempt under subdivision 1209a(a)(4) of this title. The Commissioner shall~~
12 ~~issue an ignition interlock RDL ~~to a person eligible under section 1205(a)(3),~~~~
13 ~~~~1205(m), 1208(b), or 1216(a)(2) of this title~~ upon receipt of a \$125.00~~
14 ~~application fee; and upon receipt of satisfactory proof of installation of an~~
15 ~~approved ignition interlock device in any motor vehicle to be operated; and of~~
16 ~~financial responsibility as provided in section 801 of this title, ~~and enrollment~~~~
17 ~~~~in an Alcohol and Driving Rehabilitation Program.~~ The RDL shall be valid~~
18 ~~~~after expiration of the applicable shortened period specified in section~~~~
19 ~~~~1205(a)(3), 1205(m), 1208(b), or 1216(a)(2) of this title.~~ A new ignition~~
20 ~~interlock RDL shall expire at midnight on the eve of the second birthday of the~~
21 ~~applicant following the date of issue, and may be renewed for one-year terms.~~

1 ~~The Commissioner shall send by first class mail an application for renewal of~~
2 the RDL at least 30 days prior to the day renewal is required and shall impose
3 the same conditions for renewal as are required for initial issuance of an
4 ignition interlock RDL. The renewal fee shall be \$125.00.

5 * * *

6 (f)(1) Prior to the issuance of an ignition interlock RDL under this section,
7 the Commissioner shall notify the applicant ~~of the applicable period prior to~~
8 ~~eligibility for reinstatement under section 1209a or 1216 of this title, and that~~
9 the reinstatement period under section 1209a or 1216 of this title may be
10 extended under this subsection (f) or subsections (g)–(h) of this section.

11 * * *

12 (i) Upon receipt of notice that the holder of an ignition interlock RDL has
13 been ~~adjudicated~~ convicted of an offense under this title that would result in
14 suspension, revocation, or recall of a license or privilege to operate, the
15 Commissioner shall suspend, revoke, or recall the person's ignition interlock
16 RDL for the same period that the license or privilege to operate would have
17 been suspended, revoked, or recalled. The Commissioner may impose a
18 reinstatement fee in accordance with section 675 of this title and require, prior
19 to reinstatement, satisfactory proof of installation of an approved ignition
20 interlock device, and of financial responsibility as provided in section 801 of

1 ~~this title, and enrollment in or completion of an alcohol and driving education~~
2 ~~or rehabilitation program.~~

3 * * *

4 (1)(1) The Commissioner, in consultation with any individuals or entities
5 the Commissioner deems appropriate, shall adopt rules and may enter into
6 agreements to implement the provisions of this section.

7 (2) The rules shall establish uniform performance standards for ignition
8 interlock devices including required levels of accuracy in measuring blood
9 alcohol concentration, efficacy in distinguishing valid breath samples, the
10 occurrence of random retests while the vehicle is running, and automatic
11 signaling by the vehicle if the operator fails such a retest. The Commissioner
12 shall certify devices that meet these standards, specify any periodic calibration
13 that may be required to ensure accuracy of the devices, and specify the means
14 and frequency of the retrieval and sharing of data collected by ignition
15 interlock devices. Persons who elect to obtain an ignition interlock RDL
16 following a conviction under this subchapter when the person's blood alcohol
17 concentration is proven to be 0.16 or more shall be required to install an
18 ignition interlock device with a Global Positioning System feature. The rules
19 also shall establish a schedule of extensions of the period prior to eligibility for
20 reinstatement as authorized under subsection (h) of this section.

1 ~~Sec. 4. 23 V.S.A. § 1205 is amended to read:~~

2 § 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

3 (a) Refusal; alcohol concentration above legal limits; suspension periods.

4 (1) Upon affidavit of a law enforcement officer that the officer had
5 reasonable grounds to believe that the person was operating, attempting to
6 operate, or in actual physical control of a vehicle in violation of section 1201
7 of this title and that the person refused to submit to a test, the Commissioner
8 shall suspend the person's operating license, or nonresident operating
9 privilege, or the privilege of an unlicensed operator to operate a vehicle for a
10 period of six months and until the person complies with section 1209a of this
11 title. However, during this period, a person may operate under the terms of an
12 ignition interlock RDL issued pursuant to section 1213 of this title ~~after 30~~
13 ~~days of this six-month period unless the alleged offense involved a collision~~
14 ~~resulting in serious bodily injury or death to another.~~

15 (2) Upon affidavit of a law enforcement officer that the officer had
16 reasonable grounds to believe that the person was operating, attempting to
17 operate, or in actual physical control of a vehicle in violation of section 1201
18 of this title and that the person submitted to a test and the test results indicated
19 that the person's alcohol concentration was above a limit specified in
20 subsection 1201(a) of this title, at the time of operating, attempting to operate,
21 or being in actual physical control, the Commissioner shall suspend the

1 ~~person's operating license, or nonresident operating privilege, or the privilege~~
2 of an unlicensed operator to operate a vehicle for a period of 90 days and until
3 the person complies with section 1209a of this title. However, during this
4 period, a person may operate under the terms of an ignition interlock RDL
5 issued pursuant to section 1213 of this title ~~after 30 days of this 90-day period~~
6 ~~unless the alleged offense involved a collision resulting in serious bodily injury~~
7 ~~or death to another.~~

8 (3) Upon affidavit of a law enforcement officer that the officer had
9 reasonable grounds to believe that the person was operating, attempting to
10 operate, or in actual physical control of a vehicle in violation of subdivision
11 1201(d)(2) of this title and that the person submitted to a test and the test
12 results indicated that the person's alcohol concentration was 0.02 or more at
13 the time of operating, attempting to operate, or being in actual physical control,
14 the Commissioner shall suspend the person's operating license; or nonresident
15 operating privilege; or the privilege of an unlicensed operator to operate a
16 vehicle for life. However, while the license or privilege is suspended, a person
17 may operate under the terms of an ignition interlock RDL issued pursuant to
18 section 1213 of this title ~~after one year of this lifetime suspension unless the~~
19 ~~alleged offense involved a collision resulting in serious bodily injury or death~~
20 ~~to another.~~

21 * * *

1 ~~(m) Second and subsequent suspensions. For a second suspension under~~
2 this subchapter, the period of suspension shall be 18 months and until the
3 person complies with section 1209a of this title. However, during this period,
4 a person may operate under the terms of an ignition interlock RDL issued
5 pursuant to section 1213 of this title ~~after 90 days of this 18-month period~~
6 ~~unless the alleged offense involved a collision resulting in serious bodily injury~~
7 ~~or death to another.~~ For a third or subsequent suspension under this
8 subchapter, the period of suspension shall be life. However, while the license
9 or privilege is suspended, a person may operate under the terms of an ignition
10 interlock RDL issued pursuant to section 1213 of this title ~~after one year of this~~
11 ~~lifetime suspension unless the alleged offense involved a collision resulting in~~
12 ~~serious bodily injury or death to another.~~

13 * * *

14 Sec. 5. 23 V.S.A. § 1206 is amended to read:

15 § 1206. SUSPENSION OF LICENSE FOR DRIVING WHILE UNDER
16 INFLUENCE; FIRST CONVICTIONS

17 (a) First conviction—generally. Except as otherwise provided, upon
18 conviction of a person for violating a provision of section 1201 of this title, or
19 upon final determination of an appeal, the Court shall forward the conviction
20 report forthwith to the Commissioner of Motor Vehicles. The Commissioner
21 shall immediately suspend the person's operating license, or nonresident

1 ~~operating privilege, or the privilege of an unlicensed operator to operate a~~
2 vehicle for a period of 90 days and until the defendant complies with section
3 1209a of this title. However, during any suspension period under this section,
4 a person may operate under the terms of an ignition interlock RDL issued
5 pursuant to section 1213 of this title ~~after 30 days of this 90-day period unless~~
6 ~~the offense involved a collision resulting in serious bodily injury or death to~~
7 ~~another.~~

8 (b) Extended suspension–fatality. In cases resulting in a fatality, the period
9 of suspension shall be one year and until the defendant complies with section
10 1209a of this title.

11 (c) Extended suspension–refusal; serious bodily injury. Upon conviction of
12 a person for violating a provision of subsection 1201(c) of this title involving a
13 collision in which serious bodily injury resulted, or upon final determination of
14 an appeal, the Court shall forward the conviction report forthwith to the
15 Commissioner of Motor Vehicles. The Commissioner shall immediately
16 suspend the person’s operating license or nonresident operating privilege or the
17 privilege of an unlicensed operator to operate a vehicle for a period of six
18 months, and until the defendant complies with section 1209a of this title.

1 ~~Sec. 6. 23 V.S.A. § 1208 is amended to read:~~

2 § 1208. SUSPENSIONS FOR SUBSEQUENT CONVICTIONS

3 (a) Second conviction. Upon a second conviction of a person violating a
4 provision of section 1201 of this title and upon final determination of an
5 appeal, the Court shall forward the conviction report forthwith to the
6 Commissioner of Motor Vehicles. The Commissioner shall immediately
7 suspend the person's operating license, or nonresident operating privilege or
8 the privilege of an unlicensed operator to operate a vehicle for 18 months and
9 until the defendant complies with section 1209a of this title. However, during
10 this period, a person may operate under the terms of an ignition interlock RDL
11 issued pursuant to section 1213 of this title ~~after 90 days of this 18 month~~
12 ~~period unless the offense involved a collision resulting in serious bodily injury~~
13 ~~or death to another.~~

14 (b) Third conviction. Upon a third or subsequent conviction of a person
15 violating a provision of section 1201 of this title and upon final determination
16 of any appeal, the Court shall forward the conviction report forthwith to the
17 Commissioner of Motor Vehicles. The Commissioner shall immediately
18 revoke the person's operating license, or nonresident operating privilege or the
19 privilege of an unlicensed operator to operate a motor vehicle for life.
20 However, while his or her license is revoked, a person may operate under the
21 terms of an ignition interlock RDL issued pursuant to section 1213 of this title

1 ~~after one year of this lifetime suspension unless the offense involved a~~
2 ~~collision resulting in serious bodily injury or death to another.~~

3 Sec. 7. 23 V.S.A. § 1216 is amended to read:

4 § 1216. PERSONS UNDER 21; ALCOHOL CONCENTRATION OF 0.02
5 OR MORE

6 (a) A person under the age of 21 who operates, attempts to operate, or is in
7 actual physical control of a vehicle on a highway when the person's alcohol
8 concentration is 0.02 or more, commits a civil traffic violation subject to the
9 jurisdiction of the Judicial Bureau and subject to the following sanctions:

10 (1) For a first violation, the person's license or privilege to operate shall
11 be suspended for six months and until the person complies with subdivision
12 1209a(a)(1) of this title. However, during this period, a person may operate
13 under the terms of an ignition interlock RDL issued pursuant to section 1213 of
14 this title ~~after 30 days of this six-month period unless the offense involved a~~
15 ~~collision resulting in serious bodily injury or death to another.~~

16 (2) For a second or subsequent violation, the person's license or
17 privilege to operate shall be suspended until the person reaches the age of 21 or
18 for one year, whichever is longer, and complies with subdivision 1209a(a)(2)
19 of this title. However, during this period, a person may operate under the
20 terms of an ignition interlock RDL issued pursuant to section 1213 of this title

1 ~~after 90 days of the applicable suspension period unless the offense involved a~~
2 ~~collision resulting in serious bodily injury or death to another.~~

3 (b) A person's license or privilege to operate that has been suspended under
4 this section shall not be reinstated until:

5 (1) the Commissioner has received satisfactory evidence that the person
6 has complied with ~~section 1209a of this title and~~ an Alcohol and Driving
7 Education Program approved by the Commissioner of Health and a therapy
8 program if required, and that the provider of the a required therapy program
9 has been paid in full;

10 (2) the person has no pending criminal charges, civil citations, or unpaid
11 fines or penalties for a violation under this chapter; and

12 (3)(A) for persons operating under an ignition interlock RDL for a first
13 offense, after:

14 (i) a period of one year (plus any extension of this period arising
15 from a violation of section 1213 of this title) if the person's license or privilege
16 to operate is suspended after a refusal to consent to a law enforcement officer's
17 reasonable request for an evidentiary test; or

18 (ii) a period of nine months (plus any extension of this period
19 arising from a violation of section 1213 of this title) in all other cases; or

20 (B) for persons operating under an ignition interlock RDL for a
21 second or subsequent offense, after:

1 ~~(i) a period of two years (plus any extension of this period arising~~
2 ~~from a violation of section 1213 of this title) or until the person is 21,~~
3 ~~whichever is longer, if the person's license or privilege to operate is suspended~~
4 ~~after a refusal to consent to a law enforcement officer's reasonable request for~~
5 ~~an evidentiary test; or~~

6 (ii) a period of 18 months (plus any extension of this period
7 arising from a violation of section 1213 of this title) or until the person is 21,
8 whichever is longer, in all other cases.

9 * * *

10 Sec. 8. 23 V.S.A. § 1209a is amended to read:

11 § 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND
12 DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

13 (a) Conditions of reinstatement. ~~No~~ A license or privilege to operate
14 suspended or revoked under this subchapter, except a license suspended under
15 section 1216 of this title, shall be reinstated ~~except~~ as follows:

16 (1) In the case of a first suspension, a license shall be reinstated only:

17 * * *

18 (C) ~~if the person elects to operate~~ after the person, if a Vermont
19 resident, operates under an ignition interlock RDL, ~~after:~~

20 (i) ~~a period of nine months (plus any extension of this period~~
21 ~~arising from a violation of section 1213 of this title) if the person's license or~~

1 ~~privilege to operate is suspended after a refusal to consent to a law~~
2 ~~enforcement officer's reasonable request for an evidentiary test; or~~

3 ~~(ii) a period of six months (for a period equivalent to the relevant~~
4 ~~suspension period specified in section 1205(a)(1), 1205(a)(2), or 1206 of this~~
5 ~~title, plus any extension of this period arising from a violation of section 1213~~
6 ~~of this title) in all other cases, except that this requirement shall not apply if the~~
7 ~~underlying offense arose solely from being under the influence of a drug other~~
8 ~~than alcohol; and~~

9 (D) if the person has no pending criminal charges, civil citations, or
10 unpaid fines or penalties for a violation under this chapter.

11 (2) In the case of a second suspension, a license shall not be reinstated
12 until:

13 * * *

14 (C) ~~if the person elects to operate~~ after the person, if a Vermont
15 resident, operates under an ignition interlock RDL, ~~after:~~

16 (i) ~~a period of two years (plus any extension of this period arising~~
17 ~~from a violation of section 1213 of this title) if the person's license or privilege~~
18 ~~to operate is suspended after a refusal to consent to a law enforcement officer's~~
19 ~~reasonable request for an evidentiary test; or~~

20 (ii) ~~a period of 18 months (for a period equivalent to the relevant~~
21 ~~suspension period specified in section 1205(m) or 1208(a) of this title, plus any~~

1 ~~extension of this period arising from a violation of section 1213 of this title) in~~
2 ~~all other cases, except that this requirement shall not apply if the underlying~~
3 ~~offense arose solely from being under the influence of a drug other than~~
4 ~~alcohol; and~~

5 (D) the person has no pending criminal charges, civil citations, or
6 unpaid fines or penalties for a violation under this chapter.

7 (3) In the case of a third or subsequent suspension or a revocation, a
8 license shall not be reinstated until:

9 (A) the person has successfully completed an alcohol and driving
10 rehabilitation program;

11 (B) the person has completed or shown substantial progress in
12 completing a therapy program at the person's own expense agreed to by the
13 person and the Driver Rehabilitation Program Director;

14 (C) the person has satisfied the requirements of subsection (b) of this
15 section; and

16 (D) ~~if the person elects to operate under an ignition interlock RDL,~~
17 ~~after:~~

18 (i) ~~a period of four years (plus any extension of this period arising~~
19 ~~from a violation of section 1213 of this title) if the person's license or privilege~~
20 ~~to operate is suspended after a refusal to consent to a law enforcement officer's~~
21 ~~reasonable request for an evidentiary test; or~~

1 ~~(ii) a period of three years (plus any extension of this period~~
2 ~~arising from a violation of section 1213 of this title) in all other cases; and~~

3 ~~(E) the person has no pending criminal charges, civil citations, or~~
4 ~~unpaid fines or penalties for a violation under this chapter.~~

5 (4) The Commissioner may waive the requirement to operate under an
6 ignition interlock restricted driver's license prior to eligibility for reinstatement
7 if the person furnishes proof as prescribed by the Commissioner that he or she
8 is incapable of using an ignition interlock device because of a medical
9 condition that will persist permanently or at least for the term of the suspension
10 or, in the case of suspensions or revocations for life, for a period of at least
11 three years.

12 (b) Abstinance.

13 (1) Notwithstanding any other provision of this subchapter, a person
14 whose license or privilege to operate has been suspended or revoked for life
15 under this subchapter may apply to the Driver Rehabilitation School Director
16 and to the Commissioner for reinstatement of his or her driving privilege. The
17 person shall have completed three years of total abstinence from consumption
18 of alcohol or drugs, or both. The beginning date for the period of abstinence
19 shall be no sooner than the effective date of the suspension or revocation from
20 which the person is requesting reinstatement and shall not include any period
21 during which the person is serving a sentence of incarceration to include

1 ~~furlough. The application shall include the applicant's authorization for a~~
2 ~~urinalysis examination to be conducted prior to reinstatement under this~~
3 ~~subdivision. The application to the Commissioner shall be accompanied by a~~
4 ~~fee of \$500.00. The Commissioner shall have the discretion to waive the~~
5 ~~application fee if the Commissioner determines that payment of the fee would~~
6 ~~present a hardship to the applicant.~~

7 (2) If the Commissioner, or a medical review board convened by the
8 Commissioner, is satisfied by a preponderance of the evidence that the
9 applicant has abstained for the required number of years immediately
10 preceding the application and hearing, has successfully completed a therapy
11 program as required under this section, has operated under a valid ignition
12 interlock RDL for three years if a Vermont resident, and the person appreciates
13 that he or she cannot drink any amount of alcohol and drive safely, the
14 person's license shall be reinstated immediately, subject to the condition that
15 the person's suspension or revocation will be put back in effect in the event
16 any further investigation reveals a return to the consumption of alcohol or
17 drugs and to such additional conditions as the Commissioner may impose ~~and,~~
18 ~~if the person has not previously operated for three years under an ignition~~
19 ~~interlock RDL, subject to the additional condition that the person shall operate~~
20 ~~under an ignition interlock restricted driver's license for a period of at least one~~
21 ~~year following reinstatement under this subsection. However, the~~

1 ~~Commissioner may waive this one year requirement to operate under an~~
2 ~~ignition interlock restricted driver's license if the person furnishes proof as~~
3 ~~prescribed by the Commissioner that he or she is incapable of using an ignition~~
4 ~~interlock device because of a medical condition that will persist permanently or~~
5 ~~at least for one year. The requirement to operate under an ignition interlock~~
6 ~~RDL shall not apply if the person is exempt under subdivision (a)(4) of this~~
7 ~~section or if the offenses that triggered the lifetime suspension or revocation~~
8 ~~arose solely from being under the influence of a drug other than alcohol.~~

9 (3) If after notice and hearing the Commissioner later finds that the
10 person was violating the conditions of the person's reinstatement under this
11 subsection, the person's operating license or privilege to operate shall be
12 immediately suspended or revoked for the period of the original suspension or
13 revocation.

14 (4) If the Commissioner finds that a person reinstated under this
15 subsection was suspended pursuant to section 1205 of this title, or was
16 convicted of a violation of section 1201 of this title, the person shall be
17 conclusively presumed to be in violation of the conditions of his or her
18 reinstatement.

19 (5) A person shall be eligible for reinstatement under this subsection
20 only once following a suspension or revocation for life.

1 ~~(6)(A) If an applicant for reinstatement under this subsection resides in a~~
2 jurisdiction other than Vermont, the Commissioner may elect not to conduct an
3 investigation. If the Commissioner elects not to conduct an investigation, he or
4 she shall provide a letter to the applicant's jurisdiction of residence stating that
5 Vermont does not object to the jurisdiction issuing the applicant a license if the
6 applicant is ~~authorized~~ required to operate only vehicles equipped with an
7 ignition interlock device for at least a three-year period and is required to
8 complete any alcohol rehabilitation or treatment requirements of the licensing
9 jurisdiction.

10 (B) If the applicant's jurisdiction of residence is prepared to issue or
11 has issued a license in accordance with subdivision (A) of this subdivision (6)
12 and the applicant satisfies the requirements of section 675 of this title, the
13 Commissioner shall update relevant State and federal databases to reflect that
14 the applicant's lifetime suspension or revocation in Vermont under chapter 13,
15 subchapter 13 of this title has terminated.

16 * * *

17 * * * DUI; Immobilization and Forfeiture Proceedings * * *

18 Sec. 9. 23 V.S.A. § 1213a is amended to read:

19 § 1213a. IMMOBILIZATION OF VEHICLE

20 (a) Immobilization. At the time of sentencing ~~after a second or subsequent~~
21 for a conviction under section 1201 of this title, at a final hearing under section

1 ~~1205 of this title, or after the defendant waives a hearing under section 1205 of~~
2 ~~this title,~~ the Court may, upon the motion of the State, and in addition to any
3 penalty imposed by law, order the motor vehicle operated by the defendant at
4 the time of the offense seized and immobilized by a law enforcement agency
5 designated by the Court, as provided in this section and section 1213c of this
6 title. In the case of residents, the State may move that a vehicle be
7 immobilized if an ignition interlock device is not installed in the vehicle within
8 30 days of the order, or if the ignition interlock device is removed prior to
9 expiration of the period specified under subdivision 1209a(a)(1)(C), (a)(2)(C),
10 or (a)(3)(C) of this title.

11 * * *

12 Sec. 10. 23 V.S.A. § 1213c is amended to read:

13 § 1213c. IMMOBILIZATION AND FORFEITURE PROCEEDINGS

14 (a) Notice. The State shall provide the following persons with notice of ~~an~~
15 a motion for immobilization or forfeiture hearing:

16 (1) the defendant;

17 (2) the registered owner or owners;

18 (3) any holder of a security interest in or lien on the vehicle as shown in
19 any certificate of title for or other instrument creating a security interest in the
20 vehicle as shown in the records in the state in which the vehicle is registered or
21 titled; and

1 ~~(4) any other person appearing to be an innocent owner or operator as~~
2 described in subsection (g) of this section.

3 (b) Content of notice. The notice shall contain the following:

4 (1) a description of the motor vehicle, including vehicle identification
5 number, make, model, and year;

6 (2) the name of the registered owner or owners, lienholder, and any
7 other person appearing to be an innocent owner ~~or operator~~ as described in
8 subsection (g) of this section;

9 (3) a statement that the vehicle shall be subject to immobilization or
10 forfeiture without hearing unless a hearing is requested and the date, time, and
11 place of the hearing if a hearing is requested; and

12 (4) a statement that any person who is an innocent owner, ~~an innocent~~
13 ~~owner or operator~~ co-owner, or who holds a security interest in, or claims any
14 interest in the motor vehicle, may appear and be heard at the hearing to protect
15 the person's interest in the motor vehicle.

16 (c) Service of notice; time to request hearing.

17 (1) Service to defendant. The defendant shall be served with the notice
18 in accordance with section 1205 of this title, personally at or before the first
19 appearance in any criminal case arising from a violation of section 1201 of this
20 title, or in accordance with the Vermont Rules of Civil Procedure. The
21 defendant shall have seven days from receipt of the notice to request a hearing.

1 ~~(2) Service to other interested parties. The notice of hearing shall be~~
2 ~~served to any party entitled to notice under subsection (a) of this section other~~
3 ~~than the defendant by certified mail, return receipt requested, or as provided~~
4 ~~for in the Vermont Rules of Civil Procedure on the registered owner or owners~~
5 ~~and any lienholders as shown on the certificate of title for the vehicle as shown~~
6 ~~in the records of the department of motor vehicles in the state in which the~~
7 ~~vehicle is registered or titled. Such persons shall have 20 days from receipt of~~
8 ~~the notice to request a hearing.~~

9 (d) Hearing. ~~The~~ If a hearing is timely requested by a person entitled to
10 notice under subsection (a) of this section, the Court shall hold a hearing to
11 determine whether or not to order the motor vehicle immobilized or forfeited.
12 The defendant shall not be permitted to contest a motion for immobilization if
13 he or she fails without good cause to timely request a hearing. The proceeding
14 shall be against the motor vehicle and shall be deemed civil in nature.

15 (e) Hardship consideration. In determining the motion, the Court may
16 consider any undue hardship which immobilization or forfeiture would cause
17 ~~to a person~~ the owner or co-owner, other than the defendant, who is dependent
18 on the motor vehicle for essential transportation needs. In making such
19 determination, the Court shall consider any evidence of past or current
20 domestic violence.

21 (f) Order.

1 ~~(1) The Court shall make findings of fact and conclusions of law and~~
2 shall issue a final order. The Court ~~may~~ shall order the motor vehicle
3 immobilized or forfeited if the Court finds that:

4 ~~(1)(A)~~ the motor vehicle is subject to immobilization or forfeiture;

5 ~~(2)(B)~~ the notice as required by this section was served; and

6 ~~(3)(C)~~ no party has shown that he or she is an innocent owner ~~or~~
7 ~~operator~~ as described in subsection (g) of this section.

8 (2) In the case of an immobilization order, the court may order that the
9 vehicle be immobilized if an ignition interlock device is not installed in the
10 vehicle within 30 days of the order or if the device is removed prior to
11 expiration of the suspension period described in subdivision 1209a(a)(1)(C),
12 (a)(2)(C), or (a)(3)(C) of this title.

13 (g) Rights of innocent owner ~~or operator~~. The Court shall not order the
14 immobilization or forfeiture of a motor vehicle if an owner, or co-owner, ~~or~~
15 ~~person who regularly operates the motor vehicle~~, other than the defendant,
16 ~~shows, proves~~ by a preponderance of the evidence that the owner, or co-owner,
17 ~~or regular operator~~ did not consent to or have any express or implied
18 knowledge that the motor vehicle was being or was intended to be operated in
19 a manner that would subject the motor vehicle to immobilization or forfeiture,
20 or ~~that the owner, co-owner, or regular operator~~ had no reasonable opportunity
21 or capacity to prevent the defendant from operating the motor vehicle. The

1 ~~owner or co-owner shall not be permitted to raise a defense under this~~
2 subsection if the owner or co-owner fails without good cause to submit a sworn
3 affidavit at least seven days prior to the hearing setting forth facts showing
4 eligibility for the defense.

5 * * *

6 Sec. 11. 23 V.S.A. § 1205 is amended to read:

7 § 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

8 * * *

9 (c) Notice of suspension; ~~notice of immobilization motion; service.~~ On
10 behalf of the Commissioner of Motor Vehicles, a law enforcement officer
11 requesting or directing the administration of an evidentiary test shall serve
12 notice of intention to suspend and of suspension on a person who refuses to
13 submit to an evidentiary test or on a person who submits to a test the results of
14 which indicate that the person's alcohol concentration was above a legal limit
15 specified in subsection 1201(a) or (d) of this title, at the time of operating,
16 attempting to operate, or being in actual physical control of a vehicle in
17 violation of section 1201 of this title. On request of the State's Attorney, the
18 officer also shall serve notice of a motion for immobilization of the motor
19 vehicle operated by the defendant at the time of the offense. The notice or
20 notices shall be signed by the law enforcement officer requesting the test. A
21 copy of the notice or notices shall be sent to the Commissioner of Motor

1 ~~Vehicles and a copy shall be mailed or given to the defendant within three~~
2 business days of the date the officer receives the results of the test. If mailed,
3 the notice ~~is~~ or notices shall be deemed received three days after mailing to the
4 address provided by the defendant to the law enforcement officer. A copy of
5 the affidavit of the law enforcement officer shall also be mailed first class mail
6 or given to the defendant within seven days of the date of notice. Notice and
7 service of a motion for a proposed immobilization to persons other than the
8 defendant shall be effected in accordance with section 1213c of this title.

9 (d)(1) Form of notice. The notice of intention to suspend and of suspension
10 shall be in a form prescribed by the Supreme Court and a notice of proposed
11 vehicle immobilization shall be consistent with the requirements of section
12 1213c of this title.

13 (2) The notice of intention to suspend and of suspension shall include an
14 explanation of rights, a form to be used to request a hearing, and, if a hearing is
15 requested, the date, time, and location of the Criminal Division of the Superior
16 Court where the person must appear for a preliminary hearing. The notice
17 shall also contain, in boldface print, the following:

18 (1)(A) You have the right to ask for a hearing to contest the suspension
19 of your operator's license.

20 (2)(B) This notice shall serve as a temporary operator's license and is
21 valid until 12:01 a.m. of the date of suspension. ~~If this is your first violation of~~

1 ~~section 1201 of this title and if you do not request a hearing, your license will~~
2 ~~be suspended as provided in this notice. If this is your second or subsequent~~
3 ~~violation of section 1201 of this title, your Your license will be suspended on~~
4 ~~the 11th day after you receive this notice. It is a crime to drive while your~~
5 ~~license is suspended unless you have been issued an ignition interlock~~
6 ~~restricted driver's license.~~

7 ~~(3)(C)~~ If you wish to request a hearing before the Criminal Division of
8 the Superior Court, you must mail or deliver your request for a hearing within
9 seven days after (date of notice).

10 ~~(4)(D)~~ If your request for a hearing is not mailed or delivered within
11 seven days after (date of notice), you waive your right to a hearing and your
12 license will be suspended as provided in this notice.

13 ~~(5)(E)~~ In order to request a hearing, sign the attached form and mail or
14 deliver the form to the Commissioner of Motor Vehicles at the address shown.

15 ~~(6)(F)~~ If you are charged with a second or subsequent violation of
16 section 1201 of this title, ~~no~~ No person shall sell, transfer, or encumber the title
17 to a vehicle that may be subject to immobilization or forfeiture unless
18 approved by the court in which the charge is filed for good cause shown.

19 (e) Effective date of suspension, immobilization.

20 (1) ~~First offense. Unless a hearing is requested, a suspension under this~~
21 ~~section of the license of a person who the officer has reasonable grounds to~~

1 ~~believe violated section 1201 of this title a first time becomes effective on the~~
2 ~~11th day after the person receives notice or is deemed to have received notice~~
3 ~~under subsection (c) of this section. If a hearing is requested, a suspension~~
4 ~~shall not become effective unless the court orders a suspension after hearing as~~
5 ~~provided in this section.~~

6 ~~(2) Second or subsequent offense. Effective date of suspension. A~~
7 ~~suspension of a person's license under this section shall become effective on~~
8 ~~the 11th day after the person receives notice or is deemed to have received~~
9 ~~notice under subsection (c) of this section if:~~

10 ~~(A) the officer has reasonable grounds to believe the person has~~
11 ~~violated section 1201 of this title; and~~

12 ~~(B) after July 1, 1991, the person has:~~

13 ~~(i) had his or her operator's license suspended pursuant to this~~
14 ~~section; or~~

15 ~~(ii) been convicted of a violation of section 1201 of this title.~~

16 ~~(2) Immobilization. The court shall proceed on a motion for~~
17 ~~immobilization pursuant to 1213c of this title. If a hearing on a proposed~~
18 ~~suspension and a hearing on a proposed immobilization are requested, the~~
19 ~~Court shall conduct a final hearing under this section and on immobilization on~~
20 ~~the same date unless impracticable or good cause is shown for a delay.~~

1 ~~(f) Review by Superior Court. Within seven days following receipt of a~~
2 ~~notice of intention to suspend and of suspension, a person or of a motion for~~
3 ~~immobilization, a defendant may make a request for a hearing before the~~
4 ~~Superior Court by mailing or delivering the form provided with the notice.~~
5 ~~The request shall be mailed or delivered to the Commissioner of Motor~~
6 ~~Vehicles, who shall then notify the Criminal Division of the Superior Court~~
7 ~~that a hearing has been requested and provide the State's Attorney with a copy~~
8 ~~of the notice.~~

9 (g) Preliminary hearing. The preliminary hearing shall be held within 21
10 days of the alleged offense. Unless impracticable or continued for good cause
11 shown, the date of the preliminary hearing shall be the same as the date of the
12 first appearance in any criminal case resulting from the same incident for
13 which the person received a citation to appear in court. The preliminary
14 hearing shall be held in accordance with procedures prescribed by the Supreme
15 Court. At the preliminary hearing, the court shall set the date of the final
16 hearing, which shall be held no later than 21 days subsequent to the
17 preliminary hearing, except with the consent of the defendant or for good cause
18 shown.

19 (h) Final hearing.

20 (1) If the defendant requests a hearing on the merits of the suspension,
21 the Court shall schedule a final hearing on the merits ~~to be held within 21 days~~

1 ~~of the date of the preliminary hearing. In no event may a final hearing occur~~
2 ~~more than 42 days after the date of the alleged offense without the consent of~~
3 ~~the defendant or for good cause shown. The final hearing, which~~ may only be
4 continued by the consent of the defendant or for good cause shown. The issues
5 at the final hearing shall be limited to the following specifically enumerated
6 issues:

7 (A) Whether the law enforcement officer had reasonable grounds to
8 believe the person was operating, attempting to operate, or in actual physical
9 control of a vehicle in violation of section 1201 of this title.

10 (B) Whether at the time of the request for the evidentiary test the
11 officer informed the person of the person's rights and the consequences of
12 taking and refusing the test substantially as set out in subsection 1202(d) of
13 this title.

14 (C) Whether the person refused to permit the test.

15 (D) Whether the test was taken and the test results indicated that the
16 person's alcohol concentration was above a legal limit specified in subsection
17 1201(a) or (d) of this title, at the time of operating, attempting to operate, or
18 being in actual physical control of a vehicle in violation of section 1201 of this
19 title, whether the testing methods used were valid and reliable, and whether the
20 test results were accurate and accurately evaluated. Evidence that the test was
21 taken and evaluated in compliance with rules adopted by the Department of

1 ~~Public Safety shall be prima facie evidence that the testing methods used were~~
2 valid and reliable and that the test results are accurate and were accurately
3 evaluated.

4 (F) Whether the requirements of section 1202 of this title were
5 complied with

6 (2) No less than seven days before the final hearing, and subject to the
7 requirements of Vermont Rule of Civil Procedure 11, the defendant shall
8 provide to the State and file with the Court ~~a list of the issues (limited to the~~
9 ~~issues set forth in this subsection) that the defendant intends to raise~~ an answer
10 to the notice of intent to suspend setting forth the issues raised by the
11 defendant and a brief statement of the facts and law upon which the defendant
12 intends to rely at the final hearing. Only evidence that is relevant to an issue
13 listed by the defendant may be raised by the defendant at the final hearing.
14 The defendant shall not be permitted to raise any other evidence at the final
15 hearing, and all other evidence shall be inadmissible. A defendant's failure to
16 timely file an answer shall constitute withdrawal of the request for hearing and
17 shall result in the court's entering a finding directing suspension of the
18 defendant's license or privilege to operate for the required term under
19 subsection (a) or (m) of this section.

1 ~~(3) If a hearing on immobilization is requested, the conduct of the~~
2 ~~hearing, the issues required to be addressed, and appeal rights shall be~~
3 ~~governed by sections 1213a and 1213c of this title.~~

4 * * *

5 (n) Presumption. In a proceeding under this section;

6 (1) if at any time within two hours of operating, attempting to operate,
7 or being in actual physical control of a vehicle a person had an alcohol
8 concentration of above a legal limit specified in subsection 1201(a) or (d) of
9 this title, it shall be a rebuttable presumption that the person's alcohol
10 concentration was above the applicable limit at the time of operating,
11 attempting to operate, or being in actual physical control;

12 (2) if a person operates, attempts to operate, or is in actual physical
13 control of a vehicle in the presence of a law enforcement officer and is taken
14 into custody in connection with such operation, attempted operation, or actual
15 physical control, and while in custody of the officer at any time had an alcohol
16 concentration above a legal limit specified in subsection 1201(a) or (d) of this
17 title, it shall be a rebuttable presumption that the person's alcohol
18 concentration was above the applicable limit at the time of operating,
19 attempting to operate, or being in actual physical control.

20 * * *

1 ~~(t) For a first offense, the The time limits set forth in subsections (g) and~~
2 ~~(h) of this section are directive only, and shall not be interpreted by the court to~~
3 ~~be mandatory or jurisdictional.~~

4 (u) In any proceeding under this section;

5 (1) for cause shown, a party's chemist may be allowed to testify by
6 telephone in lieu of a personal appearance;

7 (2) a party's chemist shall be allowed to testify by videoconference in
8 lieu of a personal appearance, provided that videoconferencing shall be at the
9 party's own expense and by the party's own arrangement.

10 Sec. 12. 23 V.S.A. § 1202(d) is amended to read:

11 (d) At the time a test is requested, the person shall be informed of the
12 following statutory information:

13 (1) Vermont law authorizes a law enforcement officer to request a test to
14 determine whether the person is under the influence of alcohol or other drug.

15 (2) If the officer's request is ~~reasonable~~ authorized by law and testing is
16 refused, the person's license or privilege to operate will be suspended for at
17 least six months and the motor vehicle operated by the person at the time
18 testing is refused may be subject to immobilization.

19 * * *

~~*** Alcohol Screening Devices; Limitation on Liability ***~~

Sec. 13. 7 V.S.A. chapter 17 is amended to read:

CHAPTER 17. FURNISHING OR SALE TO INTOXICATED PERSONS

AND PUBLIC CHARGES

Subchapter 1. Liability for Furnishing or Sale

* * *

Subchapter 2. Alcohol Screening Devices; Limitation on Liability

§ 511. ALCOHOL SCREENING DEVICES; LIMITATION ON LIABILITY

(a) As used in this section, "alcohol screening device" means a breath or saliva device that tests for alcohol concentration, is approved by the National Highway Traffic Safety Administration (NHTSA), and is on NHTSA's conforming products list for such devices.

(b) Except in the case of grossly negligent, reckless, or intentional conduct, a person licensed or permitted under this title to serve alcoholic beverages that makes an alcohol screening device available to individuals served alcohol, or an individual who serves alcohol on behalf of the licensee or permittee, shall not be liable in connection with:

(1) an individual's use or failure to use the device, including any failure to encourage use of the device;

(2) any failure to monitor or become apprised of test results from the device;

1 ~~(3) the selection of the device;~~

2 ~~(4) testing, maintenance, or repair of the device, or the failure to test,~~
3 ~~maintain, or repair the device.~~

4 ~~(c) The following evidence shall not be admissible in any civil,~~
5 ~~administrative, or criminal proceeding against a person described in subsection~~
6 ~~(b) of this section.~~

7 ~~(1) test results from an alcohol screening device test made available by~~
8 ~~the person;~~

9 ~~(2) the fact that the person made or could have made an alcohol~~
10 ~~screening device available;~~

11 ~~(3) conduct described in subsection (b) of this section, unless it is~~
12 ~~grossly negligent, reckless, or intentional.~~

13 ~~(d) A person shall not be eligible for the limitations on liability or on the~~
14 ~~admissibility of evidence under this section:~~

15 ~~(1) if the person charges a fee for use of the alcohol screening device; or~~

16 ~~(2) in connection with service of alcohol outside the scope of the license~~
17 ~~or permit.~~

18 ~~(e) Except as specifically provided under this section, this section shall not~~
19 ~~affect liability or the admissibility of evidence in an action brought under~~
20 ~~subchapter 1 of this chapter.~~

~~*** Negligent Operation of a Motor Vehicle; Penalties ***~~

Sec. 14. 23 V.S.A. § 1091 is amended to read:

§ 1091. NEGLIGENCE; GROSSLY NEGLIGENCE
OPERATION

(a) Negligent operation.

(1) A person who operates a motor vehicle on a public highway in a negligent manner shall be guilty of negligent operation.

(2) The standard for a conviction for negligent operation in violation of this subsection shall be ordinary negligence, examining whether the person breached a duty to exercise ordinary care.

(3) A person who violates this subsection shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. If the person has been previously convicted of a violation of this subsection, the person shall be imprisoned not more than two years or fined not more than \$3,000.00, or both. If serious bodily injury as defined in 13 V.S.A. § 1021 or death of any person other than the operator results, the operator shall be imprisoned for not more than two years or fined not more than \$3,000.00, or both. If serious bodily injury or death results to more than one person other than the operator, the operator may be convicted of a separate violation of this subdivision for each decedent or person injured.

(b) Grossly negligent operation.

1 ~~(1) A person who operates a motor vehicle on a public highway in a~~
2 grossly negligent manner shall be guilty of grossly negligent operation.

3 (2) The standard for a conviction for grossly negligent operation in
4 violation of this subsection shall be gross negligence, examining whether the
5 person engaged in conduct which involved a gross deviation from the care that
6 a reasonable person would have exercised in that situation.

7 (3) A person who violates this subsection shall be imprisoned not more
8 than two years or fined not more than \$5,000.00, or both. If the person has
9 previously been convicted of a violation of this section, the person shall be
10 imprisoned not more than four years or fined not more than \$10,000.00, or
11 both. If serious bodily injury as defined in 13 V.S.A. § 1021 or death of any
12 person other than the operator results, the ~~person~~ operator shall be imprisoned
13 for not more than 15 years or fined not more than \$15,000.00, or both. If
14 serious bodily injury or death results to more than one person other than the
15 operator, the operator may be convicted of a separate violation of this
16 subdivision for each decedent or person injured.

17 (c) The provisions of this section do not limit or restrict the prosecution for
18 manslaughter.

19 * * *

1 ~~*** Bicycles and Other Vulnerable Users; Rights and Obligations ***~~

2 Sec. 15. 23 V.S.A. § 4 is amended to read:

3 § 4. DEFINITIONS

4 Except as may be otherwise provided herein, and unless the context
5 otherwise requires in statutes relating to motor vehicles and enforcement of the
6 law regulating vehicles, as provided in this title and 20 V.S.A. part 5, the
7 following definitions shall apply:

8 * * *

9 (7) "Crosswalks":

10 (A) that part of a roadway at an intersection included within the
11 connections of the lateral lines of the sidewalks on opposite sides of the
12 highway measured from the curbs or, in the absence of curbs, from the edges
13 of the traversable roadway;

14 (B) any portion of a roadway at an intersection or elsewhere
15 distinctly indicated for pedestrian or bicyclist crossing by lines or other
16 markings on the surface.

17 * * *

18 (9) "Edge of the roadway" is the extreme right-hand limit of ~~any~~
19 ~~improved area within the right-of-way of the highway~~ a roadway as defined in
20 subdivision (32) of this section.

21 * * *

1 ~~(21)(A) "Motor vehicle" shall include all vehicles propelled or drawn by~~
2 power other than muscular power, except farm tractors, vehicles running only
3 upon stationary rails or tracks, motorized highway building equipment, road
4 making appliances, snowmobiles, or tracked vehicles or electric personal
5 assistive mobility devices.

6 (B) "Vehicle" means every device in, upon, or by which any person
7 or property is or may be transported or drawn upon a highway, except devices
8 used exclusively upon stationary rails or tracks. "Vehicle" includes motor
9 vehicles and bicycles, among other devices.

10 * * *

11 (32) "Roadway" is that portion of a highway improved, designed, or
12 ordinarily used for vehicular traffic, exclusive of the shoulder, except that
13 with regard to the rights and duties of bicyclists and other operators of
14 human-powered vehicles, "roadway" shall include the shoulder.

15 * * *

16 Sec. 16. 23 V.S.A. § 1022 is amended to read:

17 § 1022. TRAFFIC-CONTROL SIGNALS

18 (a) Whenever traffic is controlled by traffic-control signals exhibiting
19 different colored lights, or colored lighted arrows, successively one at a time or
20 in combination, only the colors green, red, and yellow may be used, except for

1 ~~special pedestrian signals carrying a word legend, and the signals shall indicate~~

2 and apply to drivers and pedestrians as follows:

3 (1) Green signal:

4 (A) Vehicular traffic facing a circular green signal may proceed

5 straight through or turn right or left unless a sign prohibits either turn.

6 Vehicular traffic, including vehicles turning right or left, shall yield the right of

7 way to other vehicles or to pedestrians lawfully within the intersection or on an

8 adjacent crosswalk at the time the signal is exhibited.

9 (B) Vehicular traffic facing a green arrow signal, shown alone or in

10 combination with another signal, may cautiously enter the intersection only to

11 make the movement indicated by the arrow, or such other movement as is

12 permitted by other signals shown at the same time. Vehicular traffic shall

13 yield the right of way to pedestrians and bicyclists lawfully within an adjacent

14 crosswalk or to other traffic lawfully using the intersection.

15 (C) Unless otherwise directed by a pedestrian-control signal, as

16 provided in section 1023 of this title, pedestrians and bicyclists facing a green

17 signal may proceed across the roadway within any marked or unmarked

18 crosswalk, but not when the sole green signal is a turn arrow. Bicyclists may

19 proceed while riding on their bicycles and shall yield the right of way to

20 pedestrians.

21 * * *

1 ~~(3) Steady red signal:~~

2 (A) Vehicular traffic facing a steady circular red signal alone shall
3 stop at a clearly marked stop line, but if none, shall stop before entering the
4 crosswalk on the near side of the intersection.

5 (B) Except when a sign is in place prohibiting a turn, vehicular traffic
6 facing any steady red signal may cautiously enter the intersection to turn right,
7 or to turn left from a ~~one-way~~ one-way street into a ~~one-way~~ one-way street,
8 after stopping as required by subdivision (A) of this subdivision (3). This
9 traffic shall yield the ~~right-of-way~~ right of way to pedestrians and bicyclists
10 lawfully within an adjacent crosswalk and to other traffic lawfully using the
11 intersection. ~~No~~ A motorist shall not turn right when facing a red arrow signal
12 indication unless a regulatory sign is present which permits this movement.

13 (C) Unless otherwise directed by a pedestrian-control signal as
14 provided in section 1023 of this title, pedestrians facing a steady red signal
15 alone shall not enter the roadway.

16 * * *

17 Sec. 17. 23 V.S.A. § 1023 is amended to read:

18 § 1023. PEDESTRIAN-CONTROL SIGNALS

19 (a) Whenever special pedestrian-control signals exhibiting the words
20 “Walk” or “Don’t Walk” are in place, the signals indicate as follows:

1 ~~(1) "Walk": pedestrians and bicyclists facing the signal may proceed~~
2 across the roadway in the direction of the signal and shall be given the right of
3 way by all drivers.

4 (2) "Don't Walk": ~~no~~ a pedestrian or bicyclist shall not start to cross the
5 roadway in the direction of the signal, but any pedestrian or bicyclist who has
6 begun his or her crossing on the "Walk" signal shall proceed to a sidewalk or a
7 safety island while the "Don't Walk" signal is showing.

8 (b) Bicyclists may proceed while riding on their bicycles and shall yield the
9 right of way to pedestrians.

10 Sec. 18. 23 V.S.A. § 1031 is amended to read:

11 § 1031. DRIVING TO RIGHT

12 (a) Upon all roadways of sufficient width a vehicle shall be driven upon the
13 right half of the roadway, except as follows:

14 (1) when overtaking and passing another vehicle or a vulnerable user
15 proceeding in the same direction under the rules governing such movement;

16 (2) when an obstruction exists making it necessary to drive to the left of
17 the center of the highway; provided, any person so doing shall yield the right
18 of way to all vehicles and vulnerable users traveling in the proper direction
19 upon the unobstructed portion of the highway within such distance as to
20 constitute an immediate hazard;

1 ~~(3) upon a roadway divided into three marked lanes for traffic under the~~
2 rules applicable thereon; or

3 (4) upon a roadway restricted to one-way traffic.

4 (b) Upon all roadways, any vehicle proceeding at less than the normal
5 speed of traffic at the time and place and under the conditions then existing
6 shall be driven in the right-hand lane then available for traffic, or as close as
7 practicable to the right-hand curb or edge of the roadway, except when
8 overtaking and passing another vehicle or a vulnerable user proceeding in the
9 same direction or when preparing for a left turn at an intersection or into a
10 private road or driveway.

11 * * *

12 (d) The obligation of bicyclists to ride to the right, and the exceptions
13 thereto, shall be governed by section 1139 of this title instead of this section.

14 Sec. 19. 23 V.S.A. § 1033 is amended to read:

15 § 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS

16 (a) Passing motor vehicles. Motor vehicles proceeding in the same
17 direction may be overtaken and passed only as follows:

18 (1) The driver of a motor vehicle overtaking another motor vehicle
19 proceeding in the same direction may pass to its left at a safe distance, and
20 when so doing shall exercise due care, shall not pass to the left of the center of
21 the highway ~~unless the way ahead is clear of approaching traffic~~ except as

1 ~~authorized in section 1035 of this title, and shall not again drive to the right~~

2 side of the roadway until safely clear of the overtaken vehicle.

3 (2) Except when overtaking and passing on the right is permitted, the
4 driver of an overtaken motor vehicle shall give way to the right in favor of the
5 overtaking motor vehicle ~~on audible signal~~ and shall not increase the speed of
6 his or her vehicle until completely passed by the overtaking vehicle.

7 (b) Passing vulnerable users. The operator of a motor vehicle approaching
8 or passing a vulnerable user as defined in subdivision 4(81) of this title shall
9 exercise due care, which includes increasing clearance, to pass the vulnerable
10 user safely, ~~and shall cross the center of the highway only as provided in~~
11 ~~subdivision (a)(1) of this section.~~ It shall constitute prima facie evidence of a
12 violation of this subsection if the operator failed to pass the vulnerable user at
13 the following distances: at least three feet from the vulnerable user when
14 traveling at less than 30 miles per hour, at least four feet when traveling
15 30 miles per hour or more but not more than 40 miles per hour, and at least one
16 additional foot for every 10 miles per hour at or above 40 miles per hour. If an
17 operator is unable to pass a vulnerable user as required in this subsection and
18 in compliance with section 1035 of this chapter, then the operator shall not
19 pass the vulnerable user until the way is clear.

20 (c) In a civil action, proof of an unexcused violation of subsection (b) of
21 this section shall constitute proof of negligence in itself. This subsection shall

1 ~~not relieve the plaintiff of the obligation to prove a causal relation between the~~
2 violation and the harm to the plaintiff. Nothing in this subsection is intended
3 to eliminate defenses that may be available to the defendant.

4 (d) If injury to any person other than the operator results from the
5 operator's violation of subsection (b) of this section, the operator shall be
6 subject to imprisonment for not more than two years or a fine of not more than
7 \$3,000.00, or both. The provisions of this section do not limit prosecution
8 under section 1091 of this chapter or for any other crime.

9 Sec. 20. 23 V.S.A. § 1034 is amended to read:

10 § 1034. PASSING ON THE RIGHT

11 (a) The driver of a vehicle may overtake and pass upon the right of another
12 vehicle only as follows:

13 (1) ~~when~~ When the vehicle overtaken is making or about to make a left
14 turn;

15 (2) ~~upon~~ Upon a street or highway of sufficient width for two or more
16 lines of moving vehicles in one or more directions and with unobstructed
17 pavement not occupied by parked vehicles;

18 (3) If the passing vehicle is a bicycle, except if such action is prohibited
19 under section 1139 of this title. A vehicle making a right turn shall yield the
20 right of way to the bicyclist.

1 ~~(3)(4) upon Upon a one way street, or upon any roadway on which~~
2 traffic is restricted to one direction of movement, where the roadway is free
3 from obstructions and of sufficient width for two or more lines of moving
4 vehicles.

5 (b) In no event may a vehicle be passed by driving off the pavement or
6 main-traveled portion of the roadway, unless the passing vehicle is a bicycle.

7 Sec. 21. 23 V.S.A. § 1035 is amended to read:

8 § 1035. LIMITATIONS

9 (a) ~~No~~ A vehicle shall not be driven to the left side of the center of the
10 roadway in overtaking and passing another vehicle or a vulnerable user
11 proceeding in the same direction unless authorized by the provisions of this
12 chapter and unless the left side is clearly visible and free of oncoming traffic
13 and vulnerable users for a sufficient distance ahead to permit overtaking and
14 passing to be completed without interfering with the operation of any vehicle
15 or with any vulnerable user approaching from the opposite direction or with
16 the operation of any vehicle or with any vulnerable user overtaken. In every
17 event, the overtaking vehicle shall return to an authorized lane of travel as soon
18 as practicable and, if the passing movement involves the use of a lane
19 authorized for vehicles approaching from the opposite direction, before coming
20 within 200 feet of any approaching vehicle or a vulnerable user.

1 ~~(b) A vehicle shall not pass another from the rear under any of the~~

2 following conditions:

3 (1) when approaching or upon the crest of a grade or upon a curve in the
4 highway where the driver's view is in any way obstructed;

5 (2) when approaching within 100 feet of, or traversing, any intersection
6 or railroad grade crossing unless otherwise indicated by official traffic control
7 devices; or

8 (3) when the view is obstructed upon approaching within 100 feet of any
9 bridge, viaduct, or tunnel.

10 (c) The foregoing limitations do not apply upon a one-way roadway, or
11 when subdivision 1031(a)(2) of this title applies, or where a vehicle is turning
12 left into an alley, private road, or driveway.

13 Sec. 22. 23 V.S.A. § 1047 is amended to read:

14 § 1047. VEHICLE TURNING ~~LEFT~~ —GENERAL DUTY TO YIELD

15 (a) The driver of a vehicle intending to turn to the left within an
16 intersection or into an alley, private road, or driveway shall yield the right of
17 way to any vehicle or vulnerable user approaching from the opposite direction
18 which is either within the intersection or so close as to constitute ~~an immediate~~
19 a hazard.

1 ~~(b) The driver of a vehicle intending to turn right within an intersection or~~
2 ~~into an alley, private road, or driveway shall yield the right of way to any~~
3 ~~vulnerable user within the intersection or so close as to constitute a hazard.~~

4 Sec. 23. 23 V.S.A. § 1048 is amended to read:

5 § 1048. STOP OR YIELD INTERSECTIONS

6 (a) Preferential right of way at an intersection may be indicated by “stop”
7 signs or “yield” signs.

8 (b) Except when directed to proceed by an enforcement officer or
9 traffic-control signal, every driver of a vehicle approaching a stop intersection
10 indicated by a stop sign shall stop at a clearly marked stop line, but if none,
11 before entering the crosswalk on the near side of the intersection, or, if none,
12 then at the point nearest the intersecting roadway where the driver has a view
13 of approaching traffic on the intersecting roadway before entering the
14 intersection. After having stopped, the driver shall yield the right of way to
15 any vehicle which has entered and to any vulnerable user who has entered the
16 intersection from another highway or which is approaching so closely on said
17 the highway as to constitute an immediate hazard during the time when such
18 the driver is moving across or within the intersection.

19 (c) The driver of a vehicle approaching a yield sign shall in obedience to
20 the yield sign slow down to a speed reasonable for the existing conditions and,
21 if required for safety to stop, shall stop before entering the crosswalk on the

1 ~~near side of the intersection, or, if none, then at the point nearest the~~
2 intersecting roadway where the driver has a view of approaching traffic on the
3 intersecting roadway. After slowing or stopping, the driver shall yield the right
4 of way to any vehicle and to any vulnerable user in the intersection or
5 approaching on another highway so closely as to constitute an immediate
6 hazard during the time the driver is moving across or within the intersection.
7 ~~However, if~~ If the driver is involved in a collision with a vehicle or vulnerable
8 user in the intersection, after driving past a yield sign without stopping, the
9 collision shall be deemed prima facie evidence of the driver's failure to yield
10 the right of way.

11 Sec. 24. 23 V.S.A. § 1049 is amended to read:

12 § 1049. VEHICLE ENTERING FROM PRIVATE ROAD

13 The driver of a vehicle about to enter or ~~cross~~ a highway from an alley,
14 building, private road, or driveway shall yield the right of way to all vehicles
15 and vulnerable users approaching on the highway.

16 Sec. 25. 23 V.S.A. chapter 13, subchapter 5 is amended to read:

17 Subchapter 5. Pedestrians' Rights and Duties;

18 Rights of Bicyclists in Crossing

19 § 1051. PEDESTRIANS' AND BICYCLISTS' RIGHT OF WAY IN

20 CROSSWALKS

1 ~~(a) If traffic control signals are not in operation, the driver of a vehicle~~
2 shall yield the right of way, slowing down or stopping if necessary, to a
3 pedestrian or bicyclist crossing the roadway within a crosswalk.

4 (b) ~~No~~ A pedestrian ~~may~~ or bicyclist shall not suddenly leave a curb or
5 other place of safety and ~~walk or run~~ proceed into the path of a vehicle which
6 is so close that it is impossible for a driver to yield.

7 (c) If any vehicle is stopped at a marked crosswalk or at any unmarked
8 crosswalk at an intersection to permit a pedestrian or bicyclist to cross the
9 roadway, the driver of any other vehicle approaching from the rear may not
10 overtake and pass the stopped vehicle.

11 (d) Bicyclists may proceed across crosswalks while riding on their bicycles
12 and shall yield the right of way to pedestrians.

13 § 1052. CROSSING EXCEPT AT CROSSWALKS

14 (a) Every pedestrian or bicyclist crossing a roadway at any point other than
15 within a marked crosswalk shall yield the right of way to all vehicles upon the
16 roadway.

17 (b) Every pedestrian or bicyclist crossing a roadway at a point where a
18 pedestrian tunnel or overhead pedestrian crossing has been provided shall yield
19 the right of way to all vehicles upon the roadway.

1 ~~(e) Between adjacent intersections at which traffic control signals are in~~
2 operation, pedestrians shall not cross at any place except in a marked
3 crosswalk.

4 (d)(1) ~~No~~ A pedestrian may or bicyclist shall not cross a roadway
5 intersection diagonally unless:

6 (A) traffic is stopped in all directions by official traffic control
7 devices or diagonal crossing is otherwise authorized by official traffic control
8 devices; or

9 (B) authorized by an enforcement officer.

10 (2) When authorized to cross diagonally under subdivision (1) of this
11 subsection, pedestrians and bicyclists may cross only in accordance with the
12 official traffic control devices or signal of an enforcement officer.

13 (e) Bicyclists may proceed across roadways while riding on their bicycles
14 and shall yield the right of way to pedestrians.

15 § 1054. ~~PEDESTRIANS TO USE~~ OF RIGHT HALF OF CROSSWALKS

16 Pedestrians and bicyclists may move, whenever practicable, upon the right
17 half of crosswalks only.

18 * * *

1 ~~Sec. 26. 23 V.S.A. § 1064 is amended to read:~~

2 § 1064. SIGNALS REQUIRED; GENERAL OBLIGATION TO TURN AND
3 MOVE SAFELY

4 (a) Before changing direction or materially slackening speed, a driver shall
5 give warning of his or her intention with the hand signals as provided in
6 section 1065 of this title, or with a mechanical or lighting device approved by
7 the Commissioner of Motor Vehicles. A bicyclist shall give such hand signals
8 unless he or she cannot do so safely.

9 (b) ~~No person may~~ A person shall not turn a vehicle at an intersection
10 unless the vehicle is in proper position upon the roadway as required in section
11 1061 of this title, or turn a vehicle to enter an alley, private road, or driveway,
12 or otherwise turn a vehicle from a direct course or move right or left upon a
13 roadway unless such movement can be made with reasonable safety.

14 (c) No person shall stop or suddenly decrease the speed of a vehicle
15 without first giving an appropriate signal in the manner provided herein to the
16 driver of any vehicle immediately to the rear when there is opportunity to give
17 such signal.

18 (d) A signal of intention to turn right or left when required shall be given
19 continuously during not less than the last 100 feet traveled by the vehicle
20 before turning. A bicyclist shall comply with this subsection unless he or she
21 cannot do so safely.

1 ~~(e) The signals provided for in section 1065 of this title shall be used to~~
2 indicate an intention to turn, change lanes, or start from a parked position and
3 may not be flashed on one side only on a parked or disabled vehicle, or flashed
4 as a courtesy or “do pass” signal to operators of other vehicles approaching
5 from the rear.

6 Sec. 27. 23 V.S.A. § 1105 is amended to read:

7 § 1105. ADDITIONAL PARKING REGULATIONS

8 (a) Except as otherwise provided by local ordinance or authorized traffic
9 control devices, every vehicle stopped or parked upon a two-way roadway
10 shall be stopped or parked with the right-hand wheels parallel to and within 12
11 inches of the right-hand curb or if there is no curb, within 12 inches of the right
12 edge of the roadway improved area of the highway right-of-way.

13 (b) Except when otherwise provided by local ordinance or authorized
14 traffic control devices, every vehicle stopped or parked upon a one-way
15 roadway shall be so stopped or parked parallel to and within 12 inches of a
16 curb or, if there is no curb, within 12 inches of the edge of the roadway
17 improved area of the highway right-of-way, in the direction of authorized
18 traffic movement.

1 ~~Sec. 28. 23 V.S.A. chapter 13, subchapter 12 is amended to read:~~

2 Subchapter 12. Operation of Bicycles, Electric Personal Assistive Mobility
3 Devices, and Play Vehicles

4 § 1136. APPLICATION OF SUBCHAPTER

5 (a) The parent of any child and the guardian of any ward may not authorize
6 or knowingly permit any such child or ward to violate any of the provisions of
7 this subchapter.

8 (b) This subchapter applies whenever a bicycle is operated upon any
9 highway or upon any path set aside for the exclusive use of bicycles subject to
10 those exceptions stated herein.

11 (c) Every person riding a bicycle is granted all of the rights and is subject
12 to all of the duties applicable to operators of vehicles, except as to those
13 provisions which:

14 (1) are inconsistent with provisions that specifically address the rights
15 and duties of bicyclists; or

16 (2) by their very nature can have no application.

17 * * *

18 § 1139. RIDING ON ROADWAYS AND BICYCLE PATHS

19 (a)(1) A person operating a bicycle upon a roadway shall exercise due care
20 when passing a standing vehicle or one proceeding in the same direction ~~and~~
21 Bicyclists generally shall ride as near to the right side of the roadway as

1 ~~practicable, but shall ride to the left or in a left lane is safe, but shall ride to the~~

2 left or in a left lane when:

3 ~~(1)(A) preparing~~ Preparing for a left turn at an intersection or into a
4 private roadway or driveway;

5 ~~(2)(B) approaching~~ Approaching an intersection with a right-turn lane if
6 not turning right at the intersection;

7 ~~(3)(C) overtaking~~ Overtaking another highway user;

8 ~~(4)(D) taking~~ Taking reasonably necessary precautions to avoid hazards

9 or road conditions. Examples include objects on the road, parked or moving

10 vehicles, pedestrians, animals, surface conditions that may impair the

11 bicyclist's stability, or safety hazards caused by a narrow road or steep

12 embankment, road geometry, or unfavorable atmospheric conditions.

13 (2) Notwithstanding the obligation of a bicyclist to exercise due care

14 when overtaking and passing a vehicle proceeding in the same direction, a

15 turning vehicle shall have the obligation to yield the right of way to a bicyclist.

16 * * *

17 (c)(1) [Repealed.] Notwithstanding 23 V.S.A. § 1115, the operator of a

18 bicycle may operate between the right edge of the rightmost lane and a line of

19 traffic within that lane proceeding in the same direction if sufficient space

20 exists to do so safely, and if the operation is consistent with subsection (a) of

21 this section.

1 ~~(2) The operator of a bicycle shall not otherwise operate between lanes~~
2 ~~of traffic or adjacent lines or rows of traffic.~~

3 * * *

4 * * * Town Highways; Establishing Speed Limits * * *

5 Sec. 29. 23 V.S.A. § 1007 is amended to read:

6 § 1007. LOCAL SPEED LIMITS

7 (a)(1) The legislative body of a municipality may establish, on the basis of
8 an engineering and traffic investigation, a speed limit on all or a part of any
9 city, town, or village highway (town highway) within its jurisdiction, which:

10 (A) is not more than 50 miles per hour; ~~however,~~ However, after
11 considering neighborhood character, abutting land use, bicycle and pedestrian
12 use, and physical characteristics of the highways, the legislative body of a
13 municipality may vote to set the maximum speed limit, without an engineering
14 and traffic investigation, at not more than 50 miles per hour nor less than 35
15 miles per hour, on all or a portion of unpaved town highways within its
16 boundaries, unless otherwise posted in accordance with the provisions of this
17 section; ~~or~~

18 (B) ~~is not less than 25 miles per hour.~~

19 (2) If the legislative body of a municipality votes to set the speed limit
20 on all unpaved town highways in its boundaries at no more than 50 miles per
21 hour nor less than 35 miles per hour ~~as provided for in subdivision (a)(1) of~~

1 ~~this section, signs shall be located at points of change from one speed limit to~~
2 another.

3 * * *

4 * * * Effective Date; Transition Provision * * *

5 Sec. 30. EFFECTIVE DATE AND APPLICABILITY TO PENDING DUI
6 MATTERS

7 (a) This act shall take effect on July 1, 2016.

8 (b) The requirement to operate under an ignition interlock RDL as a
9 condition for eligibility for reinstatement, created under Secs. 3 and 8,
10 amending 23 V.S.A. §§ 1213 and 1209a, shall apply only in connection with
11 DUI offenses committed on or after the effective date of this act.

12 (c) The amendment to 23 V.S.A. § 1213a in Sec. 9, expanding the authority
13 of the State to pursue immobilization of the vehicle used by a defendant in the
14 commission of a DUI offense, and authorizing the State to move for
15 immobilization to occur if the defendant fails to install an ignition interlock
16 device or removes an ignition interlock device prior to the end of the
17 suspension period, shall apply only in connection with DUI offenses
18 committed on or after the effective date of this act.

19 (d) For any DUI offense that occurs before the effective date of this act, the
20 law in effect:

1 ~~(1) on the date of the offense shall govern eligibility for reinstatement of~~
2 ~~a person's license or privilege to operate as well as vehicle immobilization and~~
3 ~~forfeiture proceedings;~~
4 (2) on June 30, 2016 shall govern eligibility for and the terms of an
5 ~~ignition interlock RDL.~~

** * * DUI; Ignition Interlock Devices * * **

Sec. 1. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

** * **

(9) "Ignition interlock restricted driver's license" or "ignition interlock RDL" or "RDL" means a restricted license or privilege to operate a motor vehicle issued by the Commissioner allowing a person whose license or privilege to operate has been suspended or revoked for operating under the influence of intoxicating liquor or in excess of legal limits of alcohol concentration, or for refusing an enforcement officer's reasonable request for an evidentiary test, to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved ignition interlock device.

** * **

Sec. 2. 23 V.S.A. § 1213 is amended to read:

*§ 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE;
PENALTIES*

(a) First offense without death or serious bodily injury. A person whose license or privilege to operate is suspended for a first offense under this subchapter that did not result in death or serious bodily injury to another person shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The Commissioner shall issue an ignition interlock RDL ~~to a~~ person eligible under section 1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of this title upon to a person suspended for a first offense upon receipt of a \$125.00 application fee, ~~and upon receipt~~ and of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated; and of financial responsibility as provided in section 801 of this title; and enrollment in an Alcohol and Driving Education Program. ~~The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of this title.~~ A new ignition interlock RDL shall expire at midnight on the eve of the second birthday of the applicant following the date of issue, and may be renewed for one-year terms. The Commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose

the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be \$125.00.

(b) ~~Second~~ First offense involving death or SBI; second offense. ~~A person~~ Except for an offense under section 1216 of this subchapter or an offense arising solely from being under the influence of a drug other than alcohol, a person whose license or privilege to operate is suspended for a first offense involving death or serious bodily injury to another or a second offense under this subchapter shall be ~~permitted~~ required to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued under a valid ignition interlock RDL. ~~The Commissioner shall issue an ignition interlock RDL to a person eligible under section~~ for the relevant period prescribed in subsection 1205(m), 1206(b), or 1208(a), or 1216(a)(2) of this title prior to being eligible for reinstatement of his or her regular license, unless exempt under subdivision 1209a(a)(4) of this title. A person whose license is suspended under subdivision 1216(a)(2) of this title may elect to obtain an ignition interlock RDL. The Commissioner shall issue an ignition interlock RDL upon receipt of a \$125.00 application fee; and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated; and of financial responsibility as provided in section 801 of this title; and enrollment in an Alcohol and Driving Rehabilitation Program. ~~The RDL shall be valid after expiration of the~~

~~applicable shortened period specified in section 1205(m), 1208(a), or 1216(a)(2) of this title. A new ignition interlock RDL shall expire at midnight on the eve of the second birthday of the applicant following the date of issue, and may be renewed for one-year terms. The Commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be \$125.00.~~

~~(c) Third or subsequent offense. A person~~ Except for an offense under section 1216 of this subchapter or an offense arising solely from being under the influence of a drug other than alcohol, a person whose license or privilege to operate is suspended or revoked for a third or subsequent offense under this subchapter shall be ~~permitted~~ required to operate ~~a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued under a valid ignition interlock RDL for the relevant period prescribed in subsection 1209a(b) of this title prior to being eligible for reinstatement or issuance of a regular license, unless exempt under subdivision 1209a(a)(4) of this title.~~ The Commissioner shall issue an ignition interlock RDL ~~to a person eligible under section 1205(a)(3), 1205(m), 1208(b), or 1216(a)(2) of this title~~ upon receipt of a \$125.00 application fee; and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor

~~vehicle to be operated, and of financial responsibility as provided in section 801 of this title, and enrollment in an Alcohol and Driving Rehabilitation Program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(a)(3), 1205(m), 1208(b), or 1216(a)(2) of this title. A new ignition interlock RDL shall expire at midnight on the eve of the second birthday of the applicant following the date of issue, and may be renewed for one-year terms. The Commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be \$125.00.~~

~~(d) If a fine is to be imposed for a conviction of a violation of section 1201 of this title, upon receipt of proof of installation of an approved ignition interlock device, the Court may order that the fine of an indigent person conditionally be reduced by one-half to defray the costs of the ignition interlock device, subject to the person's ongoing operation under, and compliance with the terms of, a valid ignition interlock RDL as set forth in this section. In considering whether a person's fine should be reduced under this subsection, the Court shall take into account any discount already provided by the device manufacturer or provider.~~

* * *

(f)(1) Prior to the issuance of an ignition interlock RDL under this section, the Commissioner shall notify the applicant ~~of the applicable period prior to eligibility for reinstatement under section 1209a or 1216 of this title, and that the reinstatement period under section 1209a or 1216 of this title may be extended under this subsection (f) or subsections (g)–(h) of this section.~~

* * *

(i) Upon receipt of notice that the holder of an ignition interlock RDL has been ~~adjudicated~~ convicted of an offense under this title that would result in suspension, revocation, or recall of a license or privilege to operate, the Commissioner shall suspend, revoke, or recall the person's ignition interlock RDL for the same period that the license or privilege to operate would have been suspended, revoked, or recalled. The Commissioner may impose a reinstatement fee in accordance with section 675 of this title and require, prior to reinstatement, satisfactory proof of installation of an approved ignition interlock device; and of financial responsibility as provided in section 801 of this title, ~~and enrollment in or completion of an alcohol and driving education or rehabilitation program.~~

* * *

(l)(1) The Commissioner, in consultation with any individuals or entities the Commissioner deems appropriate, shall adopt rules and may enter into agreements to implement the provisions of this section. The Commissioner

shall not approve a manufacturer of ignition interlock devices as a provider in this State unless the manufacturer agrees to reduce the cost of installing, leasing, and deinstalling the device by at least 50 percent for persons who furnish proof of receipt of Three Squares, Heating Assistance, or Reach Up benefits.

* * *

Sec. 3. 23 V.S.A. § 1209a is amended to read:

§ 1209a. *CONDITIONS OF REINSTATEMENT; ALCOHOL AND DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS*

(a) *Conditions of reinstatement. ~~No~~ A license or privilege to operate suspended or revoked under this subchapter, except a license suspended under section 1216 of this title, shall be reinstated ~~except~~ as follows:*

(1) *In the case of a first suspension, a license shall be reinstated only:*

* * *

(C) ~~if the person elects to operate under an ignition interlock RDL, after:~~

~~(i) a period of nine months (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of six months (~~

(i) after the end of the relevant suspension period specified in subsection 1205(a) or 1206(a) of this title or, if the person elects to operate under an ignition interlock RDL, after operating under the ignition interlock RDL for a period equivalent to the relevant suspension period specified in subsection 1205(a) or 1206(a) of this title plus any extension of this period arising from a violation of section 1213 of this title)~~in all other cases; or~~

(ii) in the case of a first suspension arising from an offense that resulted in serious bodily injury to or death of another person, after the person operates under an ignition interlock RDL for a period equivalent to the relevant suspension period specified in subsection 1206(b) of this title; and

(D) if the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(2) In the case of a second suspension, a license shall not be reinstated until:

* * *

~~(C) if the person elects to operate after the person operates under an ignition interlock RDL, after:~~

~~(i) a period of two years (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of 18 months (for a period equivalent to the relevant suspension period specified in subsection 1205(m) or 1208(a) of this title, plus any extension of this period arising from a violation of section 1213 of this title) in all other cases, except that this requirement shall not apply if the underlying offense arose solely from being under the influence of a drug other than alcohol; and~~

(D) the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(3) In the case of a third or subsequent suspension or a revocation, a license shall not be reinstated until:

(A) the person has successfully completed an alcohol and driving rehabilitation program;

(B) the person has completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the Driver Rehabilitation Program Director;

(C) the person has satisfied the requirements of subsection (b) of this section; and

~~(D) if the person elects to operate under an ignition interlock RDL, after:~~

~~(i) a period of four years (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege~~

~~to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of three years (plus any extension of this period arising from a violation of section 1213 of this title) in all other cases; and~~

~~(E) the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.~~

~~(4) The Commissioner shall waive a requirement to operate under an ignition interlock RDL prior to eligibility for reinstatement if the person furnishes sufficient proof as prescribed by the Commissioner that he or she is incapable of using an ignition interlock device because of a medical condition that will persist permanently or at least for the term of the suspension or, in the case of suspensions or revocations for life, for a period of at least three years.~~

~~(b) Abstinence.~~

~~(1) Notwithstanding any other provision of this subchapter, a person whose license or privilege to operate has been suspended or revoked for life under this subchapter may apply to the Driver Rehabilitation School Director and to the Commissioner for reinstatement of his or her driving privilege. The person shall have completed three years of total abstinence from consumption of alcohol or drugs, or both. The beginning date for the period of abstinence shall be no sooner than the effective date of the suspension or revocation from which the person is requesting reinstatement and shall not include any period~~

during which the person is serving a sentence of incarceration to include furlough. The application shall include the applicant's authorization for a urinalysis examination to be conducted prior to reinstatement under this subdivision. The application to the Commissioner shall be accompanied by a fee of \$500.00. The Commissioner shall have the discretion to waive the application fee if the Commissioner determines that payment of the fee would present a hardship to the applicant.

(2) If the Commissioner, or a medical review board convened by the Commissioner, is satisfied by a preponderance of the evidence that the applicant has abstained for the required number of years immediately preceding the application and hearing, has successfully completed a therapy program as required under this section, has operated under a valid ignition interlock RDL for at least three years following the suspension or revocation or, in the case of a suspension or revocation involving a refusal, for at least four years following the suspension or revocation, and the person appreciates that he or she cannot drink any amount of alcohol and drive safely, the person's license shall be reinstated immediately, subject to the condition that the person's suspension or revocation will be put back in effect in the event any further investigation reveals a return to the consumption of alcohol or drugs and to such additional conditions as the Commissioner may impose ~~and~~, ~~if the person has not previously operated for three years under an ignition~~

~~interlock RDL, subject to the additional condition that the person shall operate under an ignition interlock restricted driver's license for a period of at least one year following reinstatement under this subsection. However, the Commissioner may waive this one year requirement to operate under an ignition interlock restricted driver's license if the person furnishes proof as prescribed by the Commissioner that he or she is incapable of using an ignition interlock device because of a medical condition that will persist permanently or at least for one year. The requirement to operate under an ignition interlock RDL shall not apply if the person is exempt under subdivision (a)(4) of this section or if all of the offenses that triggered the lifetime suspension or revocation arose solely from being under the influence of a drug other than alcohol.~~

~~(3) If after notice and hearing the Commissioner later finds that the person was violating the conditions of the person's reinstatement under this subsection, the person's operating license or privilege to operate shall be immediately suspended or revoked for ~~the period of the original suspension~~ life.~~

~~(4) If the Commissioner finds that a person reinstated under this subsection was suspended pursuant to section 1205 of this title, or was convicted of a violation of section 1201 of this title, the person shall be~~

conclusively presumed to be in violation of the conditions of his or her reinstatement.

(5) A person shall be eligible for reinstatement under this subsection only once following a suspension or revocation for life.

(6)(A) If an applicant for reinstatement under this subsection resides in a jurisdiction other than Vermont, the Commissioner may elect not to conduct an investigation. If the Commissioner elects not to conduct an investigation, he or she shall provide a letter to the applicant's jurisdiction of residence stating that Vermont does not object to the jurisdiction issuing the applicant a license if the applicant is ~~authorized~~ required to operate only vehicles equipped with an ignition interlock device for at least a three-year period and is required to complete any alcohol rehabilitation or treatment requirements of the licensing jurisdiction.

(B) If the applicant's jurisdiction of residence is prepared to issue or has issued a license in accordance with subdivision (A) of this subdivision (6) and the applicant satisfies the requirements of section 675 of this title, the Commissioner shall update relevant State and federal databases to reflect that the applicant's lifetime suspension or revocation in Vermont under chapter 13, subchapter 13 of this title has terminated.

* * *

Sec. 4. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

(a) Refusal; alcohol concentration above legal limits; suspension periods.

(1) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person refused to submit to a test, the Commissioner shall suspend the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for a period of ~~six~~ nine months and until the person complies with section 1209a of this title. However, ~~and~~ during this period, the person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 30 days of this six month period unless the alleged offense involved a collision resulting in serious bodily injury or death to another.

(2) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was above a limit specified in subsection 1201(a) of this title, at the time of operating, attempting to operate, or being in actual physical control, the Commissioner shall suspend the

~~person's operating license; or nonresident operating privilege; or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days six months and until the person complies with section 1209a of this title. However, ~~and~~ during this period, the person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 30 days of this 90 day period unless the alleged offense involved a collision resulting in serious bodily injury or death to another.~~

(3) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of subdivision 1201(d)(2) of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was 0.02 or more at the time of operating, attempting to operate, or being in actual physical control, the Commissioner shall suspend the person's operating license; or nonresident operating privilege; or the privilege of an unlicensed operator to operate a vehicle for life. However, during the suspension, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of this lifetime suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another operate a motor vehicle under the terms of an ignition interlock RDL issued under section 1213 of this title.

* * *

(m) Second and subsequent suspensions. For a second suspension under this subchapter, the period of suspension shall be 18 months and until the person complies with section 1209a of this title or, in the case of a suspension following refusal of an enforcement officer's reasonable request for an evidentiary test, the period of suspension shall be two years and until the person complies with section 1209a of this title. However, ~~a~~ the person may operate a motor vehicle during this period under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title ~~after 90 days of this 18-month period unless the alleged offense involved a collision resulting in serious bodily injury or death to another.~~ For a third or subsequent suspension under this subchapter, the period of suspension shall be life. However, ~~a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of~~ during this lifetime suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another, the person may operate a motor vehicle under the terms of an ignition interlock RDL issued under section 1213 of this title.

* * *

Sec. 5. 23 V.S.A. § 1206 is amended to read:

*§ 1206. SUSPENSION OF LICENSE FOR DRIVING WHILE UNDER
INFLUENCE; FIRST CONVICTIONS*

(a) First conviction—generally. Except as otherwise provided, upon conviction of a person for violating a provision of section 1201 of this title, or upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person’s operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for a period of ~~90 days~~ six months and until the defendant complies with section 1209a of this title or, in the case of a conviction following refusal of an enforcement officer’s reasonable request for an evidentiary test, the period of suspension shall be nine months and until the person complies with section 1209a of this title. ~~However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 30 days of this 90 day period unless the offense involved a collision resulting in serious bodily injury or death to another.~~

(b) Extended suspension—fatality or serious bodily injury. In cases resulting in a fatality or a serious bodily injury to a person other than the defendant, the period of suspension shall be one year and until the defendant complies with section 1209a of this title.

~~(c) *Extended suspension refusal; serious bodily injury.* Upon conviction of a person for violating a provision of subsection 1201(c) of this title involving a collision in which serious bodily injury resulted, or upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for a period of six months, and until the defendant complies with section 1209a of this title. During a suspension under this section, the defendant may operate a motor vehicle under the terms of an ignition interlock RDL issued under section 1213 of this title.~~

Sec. 6. 23 V.S.A. § 1202(d) is amended to read:

~~(d) At the time a test is requested, the person shall be informed of the following statutory information:~~

~~(1) Vermont law authorizes a law enforcement officer to request a test to determine whether the person is under the influence of alcohol or other drug.~~

~~(2) If the officer's request is reasonable and testing is refused, the person's license or privilege to operate will be suspended for at least ~~six~~ nine months.~~

~~(3) If a test is taken and the results indicate that the person is under the influence of alcohol or other drug, the person will be subject to criminal~~

charges and the person's license or privilege to operate will be suspended for at least ~~90 days~~ six months.

* * *

Sec. 7. 23 V.S.A. § 1208 is amended to read:

§ 1208. SUSPENSIONS FOR SUBSEQUENT CONVICTIONS

(a) Second conviction. Upon a second conviction of a person violating a provision of section 1201 of this title and upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person's operating license; or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for 18 months and until the defendant complies with section 1209a of this title or, in the case of a conviction following refusal of an enforcement officer's reasonable request for an evidentiary test, for a period of two years and until the person complies with section 1209a of this title. However, ~~a~~ during the suspension period, the person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after ~~90 days of this 18-month period unless the alleged offense involved a collision resulting in serious bodily injury or death to another.~~

(b) Third conviction. Upon a third or subsequent conviction of a person violating a provision of section 1201 of this title and upon final determination

of any appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately revoke the person's operating license, or nonresident operating privilege or the privilege of an unlicensed operator to operate a motor vehicle for life. However, ~~a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of~~ during this lifetime suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another revocation, the person may operate a motor vehicle under the terms of an ignition interlock RDL issued under section 1213 of this title.

Sec. 8. 23 V.S.A. § 1216 is amended to read:

*§ 1216. PERSONS UNDER 21; ALCOHOL CONCENTRATION OF 0.02
OR MORE*

(a) A person under the age of 21 who operates, attempts to operate, or is in actual physical control of a vehicle on a highway when the person's alcohol concentration is 0.02 or more, commits a civil traffic violation subject to the jurisdiction of the Judicial Bureau and subject to the following sanctions:

(1) For a first violation, the person's license or privilege to operate shall be suspended for six months and until the person complies with subdivision 1209a(a)(1) of this title or, in the case of a refusal of an enforcement officer's reasonable request for an evidentiary test, for a period of

~~nine months and until the person complies with section 1209a of this title.~~
~~However, during this period, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title ~~after 30 days of this six-month period unless the offense involved a collision resulting in serious bodily injury or death to another.~~~~

~~(2)(A) For a second or subsequent violation, the person's license or privilege to operate shall be suspended until the person complies with subdivision 1209a(a)(2) of this title and for the longer of the following periods:~~

~~(i) until the person reaches the age of 21 years of age; or ~~for~~~~

~~(ii) one year, whichever is longer, and complies with subdivision 1209a(a)(2) of this title or, in the case of a refusal of an enforcement officer's reasonable request for an evidentiary test, for 15 months.~~

~~(B) However, during the suspension period, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title ~~after 90 days of the applicable suspension period unless the offense involved a collision resulting in serious bodily injury or death to another.~~~~

~~(b) A person's license or privilege to operate that has been suspended under this section shall not be reinstated until:~~

~~(1) the Commissioner has received satisfactory evidence that the person has complied with section 1209a of this title and an Alcohol and Driving Education Program approved by the Commissioner of Health and a therapy~~

~~program if required, and that the provider of the a required therapy program has been paid in full;~~

~~(2) the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter; and~~

~~(3)(A) for a first offense, after:~~

~~(i) a period of one year (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of nine months (plus any extension of this period arising from a violation of section 1213 of this title) in all other cases; or~~

~~(B) for persons operating under an ignition interlock RDL for a second or subsequent offense, after:~~

~~(i) a period of two years (plus any extension of this period arising from a violation of section 1213 of this title) or until the person is 21, whichever is longer, if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of 18 months (plus any extension of this period arising from a violation of section 1213 of this title) or until the person is 21, whichever is longer, in all other cases after the end of the relevant suspension~~

period specified in subsection (a) of this section or, if the person elects to operate under an ignition interlock RDL, after operating under the ignition interlock RDL for a period equivalent to the relevant suspension period specified in subsection (a) of this section plus any extension of this period arising from a violation of section 1213 of this title.

* * *

* * * *DUI; Civil Suspensions* * * *

Sec. 9. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

* * *

(f) Review by Superior Court. Within seven days following receipt of a notice of intention to suspend and of suspension, a ~~person~~ defendant may ~~make~~ ~~a~~ request ~~for~~ a hearing before the Superior Court by mailing or delivering the form provided with the notice. The request shall be mailed or delivered to the Commissioner of Motor Vehicles, who shall then notify the Criminal Division of the Superior Court that a hearing has been requested and provide the State's Attorney with a copy of the notice.

(g) Preliminary hearing. The preliminary hearing shall be held within 21 days of the alleged offense. Unless impracticable or continued for good cause shown, the date of the preliminary hearing shall be the same as the date of the first appearance in any criminal case resulting from the same incident

for which the person received a citation to appear in court. The preliminary hearing shall be held in accordance with procedures prescribed by the Supreme Court. At or before the preliminary hearing, the judicial officer shall determine whether the affidavit or affidavits filed by the State provide a sufficient factual basis under subsection (a) of this section for the civil suspension matter to proceed. At the preliminary hearing, if the defendant requests a hearing on the merits, the court shall set the date of the final hearing in accordance with subsection (h) of this section.

(h) Final hearing.

(1) If the defendant requests a hearing on the merits, the ~~Court shall schedule a final hearing on the merits to~~ hearing shall be held within no later than 21 days of following the date of the preliminary hearing. ~~In no event may a final hearing occur more than 42 days after the date of the alleged offense without the consent of the defendant or for good cause shown. The final hearing may only be continued by~~ except if this period is extended with the consent of the defendant or for good cause shown. The issues at the final hearing shall be limited to the following specifically enumerated issues:

(A) Whether the law enforcement officer had reasonable grounds to believe the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

(B) Whether at the time of the request for the evidentiary test the officer informed the person of the person's rights and the consequences of taking and refusing the test substantially as set out in subsection 1202(d) of this title.

(C) Whether the person refused to permit the test.

(D) Whether the test was taken and the test results indicated that the person's alcohol concentration was above a legal limit specified in subsection 1201(a) or (d) of this title, at the time of operating, attempting to operate, or being in actual physical control of a vehicle in violation of section 1201 of this title, whether the testing methods used were valid and reliable, and whether the test results were accurate and accurately evaluated. Evidence that the test was taken and evaluated in compliance with rules adopted by the Department of Public Safety shall be prima facie evidence that the testing methods used were valid and reliable and that the test results are accurate and were accurately evaluated.

(E) Whether the requirements of section 1202 of this title were complied with.

(2) No less than seven days before the final hearing, and subject to the requirements of Vermont Rule of Civil Procedure 11, the defendant shall provide to the State and file with the Court ~~a list of the issues (limited to the issues set forth in this subsection)~~ that the defendant intends to raise an answer

to the notice of intent to suspend setting forth the issues raised by the defendant, limited to the issues set forth in this subsection, and a brief statement of the facts and law upon which the defendant intends to rely at the final hearing. Only evidence that is relevant to an issue listed by the defendant may be raised by the defendant at the final hearing. The defendant shall not be permitted to raise any other evidence at the final hearing, and all other evidence shall be inadmissible.

* * *

(n) Presumption. In a proceeding under this section;

(1) if at any time within two hours of operating, attempting to operate, or being in actual physical control of a vehicle a person had an alcohol concentration ~~of~~ at or above a legal limit specified in subsection 1201(a) or (d) of this title, it shall be a rebuttable presumption that the person's alcohol concentration was above the applicable limit at the time of operating, attempting to operate, or being in actual physical control;

(2) if a person operates, attempts to operate, or is in actual physical control of a vehicle in the presence of a law enforcement officer and is taken into custody in connection with such operation, attempted operation, or actual physical control, and while in the continuous custody of the officer at any time had an alcohol concentration at or above a legal limit specified in subsection 1201(a) or (d) of this title, it shall be a rebuttable presumption that the

person's alcohol concentration was above the applicable limit at the time of operating, attempting to operate, or being in actual physical control.

* * *

(u) In any proceeding under this section:

(1) for cause shown, a party's chemist may be allowed to testify by telephone in lieu of a personal appearance;

(2) a party's chemist shall be allowed to testify by videoconference in lieu of a personal appearance, provided that videoconferencing shall be at the party's own expense and by the party's own arrangement.

Sec. 10. 23 V.S.A. § 1204 is amended to read:

§ 1204. PERMISSIVE INFERENCES

(a) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by a person while operating, attempting to operate or in actual physical control of a vehicle on a highway, the person's alcohol concentration shall give rise to the following permissive inferences:

* * *

(3) If the person's alcohol concentration at any time within two hours of the alleged offense was ~~0.10 or more,~~ at or above the applicable legal limit specified in subsection 1201(a) or (d) of this title, it shall be a permissive inference that the person was under the influence of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.

(b) The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor, nor shall they be construed as requiring that evidence of the amount of alcohol in the person's blood, breath, urine, or saliva must be presented.

** * * DUI Penalties * * **

Sec. 11. 23 V.S.A. § 1210 is amended to read:

§ 1210. PENALTIES

** * **

(b) First offense. A person who violates section 1201 of this title may be fined not more than ~~\$750.00~~, \$1,000.00 or imprisoned for not more than two years, or both.

(c) Second offense. A person convicted of violating section 1201 of this title who has been convicted of another violation of that section shall be fined not more than ~~\$1,500.00~~ \$2,000.00 or imprisoned not more than two years, or both. At least 200 hours of community service shall be performed, or 60 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed.

(d) Third offense. A person convicted of violating section 1201 of this title who has previously been convicted two times of a violation of that section shall be fined not more than ~~\$2,500.00~~ \$3,000.00 or imprisoned not more than five years, or both. At least 96 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed. The Court may impose a sentence that does not include a term of imprisonment or that does not require that the 96 hours of imprisonment be served consecutively only if the Court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

(e)(1) Fourth or subsequent offense. A person convicted of violating section 1201 of this title who has previously been convicted three ~~or more~~ times of a violation of that section shall be fined not more than ~~\$5,000.00~~ \$4,000.00 for a fourth offense or imprisoned not more than 10 years, or both. A person convicted of violating section 1201 of this title who has previously been convicted four or more times of a violation of that section shall be fined not more than the sum of \$5,000.00 plus an additional \$1,000.00 for each prior conviction that exceeds four priors or imprisoned not more than 10 years, or both. At least 192 consecutive hours of the sentence of imprisonment

shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol treatment facility pursuant to sentence if the program is successfully completed. The Court shall not impose a sentence that does not include a term of imprisonment unless the Court makes written findings on the record that there are compelling reasons why such a sentence will serve the interests of justice and public safety.

* * *

** * * Alcohol Screening Devices * * **

Sec. 12. 7 V.S.A. § 501 is amended to read:

*§ 501. UNLAWFUL SALE OF INTOXICATING LIQUORS; CIVIL
ACTION FOR DAMAGES*

* * *

(e) Evidence. In an action brought under this section, evidence of responsible actions taken or not taken is admissible, if otherwise relevant. Responsible actions may include, but are not limited to, instruction of servers as to laws governing the sale of alcoholic beverages, training of servers regarding intervention techniques, admonishment to patrons or guests concerning laws regarding the consumption of intoxicating liquor, making available an alcohol screening device, and inquiry under the methods provided by law as to the age or degree of intoxication of the persons involved.

* * *

* * * *Alcohol Screening Devices; Study* * * *

Sec. 13. ALCOHOL SCREENING DEVICES; STUDY

The Commissioner of Liquor Control or designee, in consultation with the Commissioner of Health or designee, shall study whether and how the State should promote the availability and use of alcohol screening devices in the State, and whether making such devices available on the premises of liquor licensees and to individuals will promote public safety. On or before January 15, 2017, the Commissioner shall submit a written report of his or her findings and any proposed recommendations for legislation to the House and Senate Committees on Judiciary, the House Committee on General, Housing and Military Affairs, and the Senate Committee on Economic Development, Housing and General Affairs.

* * * *Serious Bodily Injury; Definition* * * *

Sec. 14. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the law regulating vehicles, as provided in this title and 20 V.S.A. part 5, the following definitions shall apply:

* * *

(84) "Serious bodily injury" has the meaning set forth in 13 V.S.A. § 1021.

** * * Negligent Operation of a Motor Vehicle; Penalties * * **

Sec. 15. 23 V.S.A. § 1091 is amended to read:

§ 1091. NEGLIGENT OPERATION; GROSSLY NEGLIGENT OPERATION

(a) Negligent operation.

(1) A person who operates a motor vehicle on a public highway in a negligent manner shall be guilty of negligent operation.

(2) The standard for a conviction for negligent operation in violation of this subsection shall be ordinary negligence, examining whether the person breached a duty to exercise ordinary care.

(3) A person who violates this subsection shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. If the person has been previously convicted of a violation of this subsection, the person shall be imprisoned not more than two years or fined not more than \$3,000.00, or both. If serious bodily injury to or death of any person other than the operator results, the operator shall be subject to imprisonment for not more than two years or to a fine of not more than \$3,000.00, or both. If serious bodily injury or death results to more than one person other than the operator, the operator

may be convicted of a separate violation of this subdivision for each decedent or person injured.

(b) *Grossly negligent operation.*

(1) *A person who operates a motor vehicle on a public highway in a grossly negligent manner shall be guilty of grossly negligent operation.*

(2) *The standard for a conviction for grossly negligent operation in violation of this subsection shall be gross negligence, examining whether the person engaged in conduct which involved a gross deviation from the care that a reasonable person would have exercised in that situation.*

(3) *A person who violates this subsection shall be imprisoned not more than two years or fined not more than \$5,000.00, or both. If the person has previously been convicted of a violation of this section, the person shall be imprisoned not more than four years or fined not more than \$10,000.00, or both. If serious bodily injury ~~as defined in 13 V.S.A. § 1021~~ to or death of any person other than the operator results, the ~~person~~ operator shall be imprisoned for not more than 15 years or fined not more than \$15,000.00, or both. If serious bodily injury or death results to more than one person other than the operator, the operator may be convicted of a separate violation of this subdivision for each decedent or person injured.*

(c) *The provisions of this section do not limit or restrict the prosecution for manslaughter.*

* * *

* * * *Passing Vulnerable Users; Violations* * * *

Sec. 16. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS

* * *

(c) If serious bodily injury to or death of any person other than the operator results from the operator's violation of subsection (b) of this section, the operator shall be subject to imprisonment for not more than two years or a fine of not more than \$3,000.00, or both. The provisions of this section do not limit prosecution under section 1091 of this chapter or for any other crime.

* * * *Effective Date; Transition Provision* * * *

Sec. 17. EFFECTIVE DATE AND APPLICABILITY TO PENDING DUI MATTERS

(a) This act shall take effect on July 1, 2016.

(b) The requirement to operate under an ignition interlock RDL as a condition for eligibility for reinstatement for first DUI offenses involving death or serious bodily and for second or subsequent DUI offenses, created under Secs. 2 and 3, amending 23 V.S.A. §§ 1213(b), 1213(c), and 1209a, shall apply only in connection with a first DUI offense involving death or serious bodily injury or a second or subsequent DUI offense that occurs on or after the effective date of this act.