

1 S.103

2 Introduced by Senators Illuzzi and Sears

3 Referred to Committee on Transportation

4 Date: February 24, 2009

5 Subject: Motor vehicles; operation of vehicles; ignition interlock devices

6 Statement of purpose: This bill proposes to allow the department of motor
7 vehicles to issue an ignition interlock driver's license to a person whose
8 driver's license has been suspended for operating under the influence. An
9 ignition interlock system is a device similar to a breathalyzer which is installed
10 in a vehicle's dashboard. It allows a motor vehicle to be operated only after
11 the driver has blown into it and the device determines that the driver's blood
12 alcohol is below a certain limit. The bill would require the person receiving
13 the ignition interlock driver's license to pay the costs of installing, removing,
14 and leasing the ignition interlock device.

*An act relating to the study and recommendation of ignition interlock device
legislation*

15 ~~An act relating to ignition interlock drivers' licenses~~

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

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

18 ~~§ 1200. DEFINITIONS~~

19 ~~As used in this subchapter:~~

20 ~~* * *~~

21 ~~(8) "Department" means the department of motor vehicles.~~

22 ~~(9) "Ignition interlock driver's license" means a permit issued to a~~

23 ~~person by the department that allows the person to operate a noncommercial~~

1 ~~motor vehicle with an ignition interlock device while the person's regular~~
2 ~~driver's license is suspended or revoked.~~

3 Sec. 2. 23 V.S.A. § 1207 is added to read:

4 § 1207. IGNITION INTERLOCK DRIVER'S LICENSE

5 (a) Any person whose operator's license has been suspended or revoked for
6 operating a motor vehicle while under the influence of intoxicating liquor in
7 violation of section 1201 of this title, other than for a violation with death
8 resulting under subsection 1210(e) of this title, may submit an application to
9 the department for an ignition interlock driver's license. The department, upon
10 receipt of a \$100.00 fee and upon determining that the petitioner is eligible to
11 receive the license, may issue an ignition interlock driver's license.

12 (b) A person who is eligible for an ignition interlock driver's license may
13 apply for the license at anytime, including immediately after receiving notice
14 of suspension under section 1205 of this title, or after his or her license is
15 suspended or revoked. A person receiving an ignition interlock driver's
16 license waives his or her right to an appeal under section 1205 of this title.

17 (c) An applicant under this section shall provide proof to the department
18 that a functioning ignition interlock device has been installed on all vehicles
19 operated by the person.

20 (d) The department shall require the person to maintain the ignition
21 interlock device on all vehicles operated by the person and shall restrict the

1 ~~person to operating only vehicles which are equipped with the device for the~~
2 ~~remainder of the period of suspension or revocation.~~

3 ~~(e) An ignition interlock driver's license issued pursuant to this section~~
4 ~~shall remain valid through the remaining portion of any concurrent or~~
5 ~~consecutive suspension or revocation that is in effect at the time the person~~
6 ~~applied for the license. The license shall expire on the day after the expiration~~
7 ~~of the suspension or revocation period.~~

8 ~~(f) An applicant for an ignition interlock driver's license under subsection~~
9 ~~(a) of this section is eligible to receive a license only if:~~

10 ~~(1) the applicant has not committed grossly negligent operation with~~
11 ~~death resulting in violation of subsection 1091(b) of this title or operating a~~
12 ~~motor vehicle under the influence of intoxicating liquor death resulting in~~
13 ~~violation of subsection 1210(e) of this title within the seven years preceding~~
14 ~~the date that the person applies for the ignition interlock driver's license; and~~

15 ~~(2) the applicant files proof of financial responsibility under section 800~~
16 ~~of this title.~~

17 ~~(g) If the department determines that a holder of an ignition interlock~~
18 ~~driver's license no longer has a functioning ignition interlock device installed~~
19 ~~on all vehicles operated by the driver, the department shall give written notice~~
20 ~~by first-class mail to the driver that the ignition interlock driver's license shall~~
21 ~~be cancelled. The effective date of cancellation shall be 15 days from the date~~

1 ~~of mailing the notice. If at any time before the cancellation goes into effect the~~
2 department determines that a functioning ignition interlock device has been
3 installed on all vehicles operated by the driver, the cancellation shall be
4 rescinded. If the cancellation becomes effective, the department may issue, at
5 no additional charge to the driver, a new ignition interlock driver's license if it
6 determines that a functioning ignition interlock device has been installed on all
7 vehicles operated by the driver.

8 (h) A person who is denied an ignition interlock driver's license may
9 request a hearing before the commissioner pursuant to section 105 of this title.

10 (i) The department shall cancel an ignition interlock driver's license upon
11 receipt of notice that the license holder has been convicted of operating a
12 motor vehicle in violation of its restrictions, or of a separate offense under this
13 title that would warrant suspension or revocation of a regular operator's
14 license.

15 (j) Unless costs are waived by the ignition interlock company, the applicant
16 shall pay the cost of installing, removing, and leasing the ignition interlock
17 device and shall pay an additional fee of \$20.00 per month. The company
18 shall remit the additional \$20.00 fee to the department, which shall deposit the
19 fees into the ignition interlock device revolving fund established pursuant to
20 section 1207a of this title.

1 ~~(k) The department shall adopt rules to implement ignition interlock~~
2 ~~licensing. The department shall consult with the court administrator, the~~
3 ~~Vermont state police, the department of state's attorneys and sheriffs, the~~
4 ~~defender general, ignition interlock companies, and any other organizations or~~
5 ~~entities the department deems appropriate.~~

6 Sec. 3. 23 V.S.A. § 1207a is added to read:

7 § 1207a. IGNITION INTERLOCK DEVICE REVOLVING FUND

8 There is established an ignition interlock device revolving fund within the
9 department of motor vehicles to help indigent persons pay for ignition
10 interlock licensing fees and the costs of installing, removing, and leasing
11 ignition interlock devices. The department shall deposit into the fund all fees
12 received from ignition interlock companies pursuant to subsection 1207(j) of
13 this section. Expenditures from the fund may be used only to administer and
14 operate the ignition interlock device revolving fund program. The department
15 shall adopt rules to administer the fund consistent with this section.

16 Sec. 4. MONITORING AND REPORT

17 (a) The department of motor vehicles shall monitor compliance by persons
18 required to use ignition interlock devices and by ignition interlock companies
19 and vendors. The department shall.

1 ~~(1) review the number of ignition interlock devices that are required to~~
2 ~~be installed in the state and the number of ignition interlock devices actually~~
3 ~~installed;~~

4 ~~(2) work to identify persons who are not complying with the ignition~~
5 ~~interlock requirements or are repeatedly violating ignition interlock~~
6 ~~requirements; and~~

7 ~~(3) identify ways to track compliance and to reduce noncompliance.~~

8 ~~(b) The department shall report the results of its findings under this section~~
9 ~~to the house and senate committees on judiciary on or before January 15, 2010,~~
10 ~~and on or before January 15 of each year thereafter.~~

Sec. 1. LEGISLATIVE INTENT

It is the intent of the general assembly to require the commissioner of motor vehicles to conduct an in-depth study of the most effective and efficient mechanisms for promoting the use of ignition interlock devices or other devices that prevent impaired driving and implementing legislation related to such devices in Vermont. The commissioner also is directed to formulate recommended legislation by January 15, 2011, to advance the general assembly's goal to pass ignition interlock legislation.

Sec. 2. LEGISLATIVE FINDINGS

The general assembly finds that:

(1) In 2008, nearly 12,000 people were killed in crashes attributed to alcohol-impaired driving, which accounted for 32 percent of all traffic fatalities in the United States. Impaired driving is a significant public safety concern.

(2) As a tool to combat impaired driving, 47 states have laws concerning the use of ignition interlock devices. Ignition interlock devices are installed in motor vehicles to prevent them from being started unless the operator blows into the device and the device detects that the operator's alcohol concentration is below a pre-set limit. Devices may be programmed to

~~require periodic retesting while the car is running. About 146,000 ignition interlock devices currently are in use in the United States.~~

~~(3) Vermont is one of just three states that has not enacted ignition interlock legislation.~~

~~(4) Research shows that ignition interlock devices reduce subsequent arrest rates among both first-time and repeat DUI offenders by 50 to 90 percent while such devices are installed.~~

~~(5) Research estimating the costs versus the benefits of ignition interlock programs suggests a \$3.00 benefit for each \$1.00 in program costs for first-time DUI offenders and a \$4.00 to \$7.00 benefit for each \$1.00 in program costs for other DUI offenders.~~

~~Sec. 3. IGNITION INTERLOCK DEVICE STUDY~~

~~(a) The commissioner of motor vehicles, in consultation with the commissioner of corrections, the court administrator, the department of public safety, state's attorneys and sheriffs, the defender general, the attorney general, the Vermont bar association, and any other organizations or entities the commissioner deems appropriate, shall study and formulate recommended legislation authorizing use of ignition interlock devices or other devices that prevent impaired driving in Vermont. In carrying out this directive, the commissioner shall:~~

~~(1) Review current laws, rules, and regulations, and practices regarding use of ignition interlock devices in other states and attempt to ascertain the factors that contribute to the varying success of states in promoting use of ignition interlock devices.~~

~~(2) Consider whether legislation should:~~

~~(A) require installation of ignition interlock devices by some or all DUI offenders as a condition of license reinstatement;~~

~~(B) authorize operation during a suspension period, and, if so, the period of "hard" suspension that must be served prior to such authorization for different classes of DUI offenders;~~

~~(C) authorize or require that some or all DUI offenders, at their request, be allowed to install ignition interlock devices in exchange for a reduced period of license suspension;~~

~~(D) authorize or require judges to order installation of ignition interlock devices as a condition of probation for some or all DUI offenders;~~

~~(E) authorize or require judges to provide incentives (such as reduced fines) to some or all DUI offenders to encourage installation of such devices;~~

~~(F) require devices to be installed for a period in excess of usual suspension periods for some or all offenders;~~

~~(G) supplement, or operate as an alternative to, the state's abstinence program for persons whose license has been suspended for life;~~

~~(H) apply to all impaired driving offenders (i.e., include those whose violations involve operating under the influence of drugs) or only to those whose offense involved operating under the influence of intoxicating liquor;~~

~~(I) limit eligibility to certain classes of DUI offenders (i.e., those whose offense did not result in death of another); or~~

~~(J) authorize or require installation of ignition interlock devices under any other circumstances.~~

~~(3) Consider how any recommended use of ignition interlock devices should be coordinated with the use of electronic monitoring equipment such as global position monitoring equipment, automated voice recognition telephone equipment, and transdermal alcohol monitoring equipment.~~

~~(4) Study the costs of ignition interlock devices, including installation, monthly lease charges, periodic recalibration, and data downloads and the relative merits of having such costs borne entirely by DUI offenders or partially borne by the state.~~

~~(5) Study whether conditions or restrictions (such as hours of operation or limitation to travel to or from work, school, or a treatment program) should be imposed on some or all DUI offenders operating subject to an ignition interlock device requirement.~~

~~(6) Study the administrative tasks that must be performed to implement and carry out ignition interlock legislation and the costs associated with them; which agency or agencies are best suited to perform these tasks; and what additional authority or resources this agency or these agencies will need to perform these tasks.~~

~~(7) Consider appropriate penalties for DUI offenders required to operate vehicles equipped with ignition interlock devices who tamper with or otherwise circumvent such devices, or operate a vehicle not equipped with such a device, or whose attempt to operate a vehicle is prevented through the functioning of such device, and the due process to which DUI offenders cited for such activities shall be entitled.~~

~~(8) Consider appropriate penalties for third parties who tamper with or otherwise circumvent ignition interlock devices or knowingly provide vehicles not equipped with such devices for DUI offenders required to operate vehicles equipped with such devices, and the due process to which persons cited for such activities shall be entitled.~~

~~(9) Consider the degree to which the state should monitor, utilize, and impose sanctions based on data obtained from ignition interlock devices.~~

~~(10) Consider and study any other issues deemed relevant to ignition interlock device policy and legislation.~~

~~(b) The commissioner shall report his or her findings and recommended legislation to the senate and house committees on transportation, the senate and house committees on judiciary, and the joint corrections oversight committee no later than January 15, 2011.~~

~~Sec. 4. EFFECTIVE DATE~~

~~This act shall take effect on passage~~

Sec. 1. 23 V.S.A. § 674 is amended to read:

§ 674. OPERATING AFTER SUSPENSION OR REVOCATION OF LICENSE; PENALTY; REMOVAL OF REGISTRATION PLATES; TOWING

* * *

(b) ~~A~~ Except as authorized in section 1213 of this title, a person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of section 1201 of this title or has been suspended under section 1205 of this title and who operates or attempts to operate a motor vehicle upon a public highway before reinstatement of the license shall be imprisoned not more than two years or fined not more than \$5,000.00, or both. The sentence shall be subject to the following mandatory minimum terms:

* * *

Sec. 2. 23 V.S.A. § 1130 is amended to read:

§ 1130. PERMITTING EMPLOYING AN UNLICENSED PERSON TO OPERATE; PERMITTING UNAUTHORIZED OPERATION

No person shall knowingly employ, as operator of a motor vehicle, a person not licensed as provided in this title. No person shall knowingly permit a motor vehicle owned by him or her or under his or her control to be operated by a person who has no legal right to do so, or in violation of a provision of this title.

Sec. 3. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(8) “Ignition interlock device” means a device that is capable of measuring a person’s alcohol concentration and that prevents a motor vehicle from being started by a person whose alcohol concentration is 0.02 or greater.

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

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

(a) Refusal; alcohol concentration of 0.08 or more; suspension periods.

For a first suspension under this subchapter:

(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 months and until the person complies with section 1209a of this title.

(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 0.08 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 a period of 90 days 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 alleged offense involved a collision resulting in serious bodily injury or death to another.

* * *

(d) *Form of notice.* The notice of intention to suspend and of suspension shall be in a form prescribed by the supreme court. The notice shall include an explanation of rights, a form to be used to request a hearing, and, if a hearing is requested, the date, time and location of the district court where the person must appear for a preliminary hearing. The notice shall also contain, in boldface print, the following:

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

(2) This notice shall serve as a temporary operator's license and is valid until 12:01 a.m. of the date of suspension. If this is your first violation of section 1201 of this title and if you do not request a hearing, your license will be suspended as provided in this notice. If this is your second or subsequent violation of section 1201 of this title, your license will be suspended on the 11th day after you receive this notice. It is a crime to drive while your license is suspended unless you have been issued an ignition interlock restricted driver's license.

* * *

(m) *Second and subsequent suspensions.* For a second suspension under this ~~section~~ subchapter, the period of suspension shall be 18 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 90 days of this 18-month period unless the alleged offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another. For a third or subsequent suspension under this ~~section~~ 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 this lifetime suspension unless the alleged offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

* * *

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

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

(a) ~~First conviction~~ 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 and until the defendant 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 refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

(b) ~~Extended suspension~~ Extended suspension—fatality. In cases resulting in a fatality, 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(b) ~~or~~ (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.

Sec. 6. 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. However, a 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 offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or 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 this lifetime suspension unless the offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

Sec. 7. 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 license 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 ~~not~~ be reinstated ~~until the person has~~ only:

(A) after the person has successfully completed an alcohol and driving education program, at the person's own expense, followed by an assessment of the need for further treatment by a state designated counselor, at the person's own expense, to determine whether reinstatement should be further conditioned on satisfactory completion of a therapy program agreed to by the person and the drinking driver rehabilitation program director; and

(B) if the screening indicates that therapy is needed, after the person has satisfactorily 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) if electing to operate under an ignition interlock RDL, after the person has operated under a valid RDL for a period of six months, or if the RDL is permanently revoked, after one year from the date of suspension; 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 the person has successfully completed an alcohol and driving rehabilitation program ~~and~~; 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; if electing to operate under an ignition interlock RDL, has operated under the terms of a valid ignition interlock RDL for 18 months; and has no pending criminal charges,

civil citations, or unpaid fines or penalties for a violation under this chapter. However, if the RDL is permanently revoked, the person shall not be eligible for license reinstatement until two years from the date of suspension.

(3) In the case of a third or subsequent suspension or a revocation, a license shall not be reinstated until the person has successfully completed an alcohol and driving rehabilitation program; 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; has satisfied the requirements of subsection (b) of this section; if electing to operate under an ignition interlock RDL, has operated under the terms of a valid ignition interlock RDL for a period of three years; and has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter. However, if the RDL is permanently revoked, the person shall not be eligible for license reinstatement until four years from the date of suspension.

* * *

Sec. 8. 23 V.S.A. § 1212 is amended to read:

§ 1212. CONDITIONS OF RELEASE; ARREST UPON VIOLATION

(a) At the first appearance before a judicial officer of a person charged with violation of section 1201 of this title, the court, upon a plea of not guilty, shall consider whether to establish conditions of release. Those conditions may include a requirement that the defendant not operate a motor vehicle if there is a likelihood that the defendant will operate a motor vehicle in violation of section 1201 or section 1213 of this title. The court may consider all relevant evidence, including whether the defendant has a motor vehicle or criminal record indicating prior convictions for one or more alcohol-related offenses. Prior convictions may be established for this purpose by a noncertified photocopy of a motor vehicle record, a computer printout or an affidavit. Nothing in this section limits the authority of a judicial officer to impose other conditions of release, nor does it limit or modify other statutory provisions concerning license suspension or revocation or the right of a person to operate a motor vehicle.

* * *

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

§ 1213. ~~[RESERVED FOR FUTURE USE.]~~ IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE; PENALTIES

(a) First offense. A person whose license or privilege to operate is suspended for a first offense under this subchapter 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 sections 1205(a)(2), 1206(a), or 1216(a)(1) of this title and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, 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 subsection 1205(a)(2), 1206(a), or 1216(a)(1) of this title. An ignition interlock RDL shall expire upon reinstatement of a person's regular license or privilege to operate or shall expire unless renewed yearly. 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.

(b) Second offense. A person whose license or privilege to operate is suspended for a second offense under this subchapter 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 subsection 1205(m), 1208(a), or 1216(a)(2) of this title and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, 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 subsection 1205(m), 1208(a), or 1216(a)(2) of this title. An ignition interlock RDL shall expire upon reinstatement of a person's regular license or privilege to operate or shall expire unless renewed yearly. 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.

(c) Third or subsequent offense. A person whose license or privilege to operate is suspended or revoked for a third or subsequent offense under this subchapter 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 subsection 1205(m), 1208(b), or 1216(a)(2) of this title and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, 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 subsection

1205(m), 1208(b), or 1216(a)(2) of this title. An ignition interlock RDL shall expire upon reinstatement of a person's regular license or privilege to operate or shall expire unless renewed yearly. 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.

(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.

(e) The holder of an ignition interlock RDL shall pay the costs of installing, purchasing or leasing, and removing the ignition interlock device as well as calibrating the device and retrieving data from it periodically as may be specified by the commissioner. The holder of an ignition interlock RDL shall notify the commissioner and the department of corrections in writing if the device is removed or if the vehicle in which the device is installed is sold, repossessed, or otherwise conveyed. Notice shall be provided within 10 days of such removal or conveyance, and the commissioner shall cancel the person's ignition interlock RDL upon receipt of notice under this subsection.

(f) The holder of an ignition interlock RDL shall operate only motor vehicles equipped with an ignition interlock device until his or her license or privilege to operate is reinstated, shall not attempt or take any action to tamper with or otherwise circumvent the holder's ignition interlock device, and shall not continue to drive after failing a retest.

(g) A person who violates any provision of subsection (f) of this section before reinstatement of a license or privilege to operate suspended under this subchapter commits a criminal offense, shall be subject to the sanctions and procedures provided for in subsections 674(b)-(i) of this title, and upon conviction shall have his or her ignition interlock RDL permanently revoked. A person convicted of a separate criminal offense under this title also shall have his or her ignition interlock RDL permanently revoked.

(h) A person who violates a rule adopted by the commissioner pursuant to subsection (l) of this section commits a civil traffic violation subject to the jurisdiction of the judicial bureau and shall be subject to a civil penalty of up to \$500.00 and up to a one-year recall of the person's ignition interlock RDL.

(i) Upon receipt of notice that the holder of an ignition interlock RDL has been adjudicated of a separate civil offense under this title that would result in

suspension, revocation, or recall of a license or privilege to operate, the commissioner shall 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.

(j) Upon expiration of a recall imposed under subsection (h) or (i) of this section and receipt of satisfactory proof of installation of an approved ignition interlock device, financial responsibility as provided in section 801 of this title, and enrollment in or completion of an alcohol and driving education or rehabilitation program, the commissioner shall reinstate the ignition interlock RDL. The commissioner may charge a fee for reinstatement in the amount specified in section 675 of this title.

(k) A person shall not knowingly and voluntarily tamper with an ignition interlock device on behalf of another person or otherwise assist another person to circumvent an ignition interlock device. A person adjudicated of a violation of this subsection shall be subject to a civil penalty of \$500.00.

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

(2) The commissioner shall establish uniform performance standards for ignition interlock devices including required levels of accuracy in measuring blood alcohol concentration, efficacy in distinguishing valid breath samples, the occurrence of random retests while the vehicle is running, and automatic signaling by the vehicle if the operator fails such a retest. The commissioner shall certify devices that meet these standards, specify any periodic calibration that may be required to ensure accuracy of the devices, and specify the means and frequency of the retrieval and sharing of data collected by ignition interlock devices.

Sec. 10. 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. 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 six-month period unless the offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

(2) For a second or subsequent violation, the person's license or privilege to operate shall be suspended until the person reaches the age of 21 or for one year, whichever is longer, and complies with ~~section~~ subdivision 1209a(a)(2) 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 90 days of the applicable suspension period unless the offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

(b) Notwithstanding the provisions in subsection (a) of this section to the contrary, a 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 the provider of the 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) a person operating under an ignition interlock RDL for a first offense has operated under a valid RDL for a period of nine months or, if the RDL is permanently revoked, after one year from the date of suspension; or

(B) a person operating under an ignition interlock RDL for a second or subsequent offense has operated under a valid RDL for a period of 18 months or until the person is 21, whichever is longer, or if the RDL is permanently revoked, after two years from the date of suspension or until the person is 21, whichever is longer.

* * *

Sec. 11. TRANSITION RULE

On July 1, 2011, ignition interlock restricted driver's licenses shall be available to persons suspended for a violation of 23 V.S.A. § 1201 or 1216 or pursuant to 23 V.S.A. § 1205 prior to July 1, 2011, if such persons otherwise would be eligible for an ignition interlock RDL under this act. Persons who elect to obtain an ignition interlock RDL pursuant to this section shall be subject to all of the provisions of this act but shall not be eligible for the reduced fine specified in subsection (d) of Sec. 9, and shall be so notified by the commissioner in advance of obtaining an ignition interlock RDL.

Sec. 12. STUDY, IMPLEMENTATION PLANNING, REPORTING, AND RECOMMENDATIONS

(a) The commissioner of motor vehicles, in consultation with the commissioner of corrections and other any individuals or entities the commissioner deems appropriate, shall study:

(1) whether creation of a fund to assist indigent persons in defraying the costs associated with ignition interlock devices is likely to promote the use of ignition interlock devices, as well as potential funding sources and mechanisms;

(2) how any recommended use of ignition interlock devices should be coordinated with the use of electronic monitoring equipment such as global position monitoring equipment, automated voice recognition telephone equipment, and transdermal alcohol monitoring equipment;

(3) the factors that have contributed to the varying success of states in promoting use of ignition interlock devices and reducing DUI recidivism; and

(4) any other issues pertaining to ignition interlock devices and restricted drivers' licenses that the commissioner deems relevant to successful implementation of ignition interlock legislation in Vermont.

(b) The commissioner also shall study the costs associated with issuing and renewing ignition interlock RDLs and the minimum fees that will be required to defray the costs of issuing and renewing ignition interlock RDLs.

(c) In studying these issues, the commissioner shall review ignition interlock laws and regulations as well as administrative practices in other states.

(d) The commissioner shall provide a report of the findings of the studies conducted pursuant to subsections (a), (b) and (c) of this section to the senate and house committees on judiciary and on transportation by January 15, 2011.

(e) The commissioner shall formulate an implementation plan that shall include a timeline and steps that the department of motor vehicles will undertake prior to July 1, 2011, to prepare for issuance of ignition interlock restricted drivers' licenses in accordance with this act. The commissioner shall provide a copy of this implementation plan and any recommendations concerning additional legislation needed for effective implementation of ignition interlock restricted drivers' licenses in Vermont to the senate and house committees on judiciary and on transportation by January 15, 2011.

Sec. 13. PILOT PROJECT

(a) Pilot project established. The commissioner of corrections and the commissioner of motor vehicles shall conduct an ignition interlock device pilot project as provided in this section to inform the process of ignition interlock

program implementation. The pilot project shall commence no later than January 1, 2011, and continue until July 1, 2011.

(b) Device certification. The commissioner of motor vehicles shall determine appropriate ignition interlock device performance standards and certify ignition interlock devices for the pilot project. Only devices certified by the commissioner of motor vehicles shall be used in the pilot project.

(c) Restricted driver's license eligibility; issuance. Persons under the supervision of the department of corrections through the Intensive Substance Abuse Program 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 are eligible for an ignition interlock restricted driver's license under the pilot project established by this section unless the suspension or revocation arises from an offense involving refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or an offense involving a collision resulting in serious bodily injury or death to another. The commissioner of motor vehicles may issue an ignition interlock RDL to an eligible person upon the approval of the commissioner of corrections and 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. The privilege to operate a motor vehicle by persons issued an RDL under this section may be restricted by the department of corrections.

(d) A person eligible for an ignition interlock RDL under this section whose modified adjusted gross income as defined in 32 V.S.A. § 6061(5) for the preceding taxable year was less than 150 percent of the official poverty line established by the federal Department of Health and Human Services for a family of two published as of October 1, 2010, shall be eligible for subsidies from the department of corrections to defray the costs of installing, calibrating, or leasing an approved ignition interlock device. By October 1, 2010, the commissioner of corrections shall submit for approval by the joint legislative corrections oversight committee recommendations concerning the levels of such subsidies.

(e) By October 1, 2010, the commissioners of corrections and of motor vehicles may submit for approval by the joint legislative corrections oversight committee and the joint transportation oversight committee additional guidelines for participation in the pilot project and the terms of operation under an ignition interlock RDL under the pilot project.

(f) The holder of an ignition interlock RDL under the pilot project shall operate only motor vehicles equipped with an approved ignition interlock device, shall not attempt or take any action to tamper with or otherwise

circumvent the holder's ignition interlock device, and shall not continue to drive after failing a retest. A person who violates any of these provisions commits a criminal offense, shall be subject to the sanctions and procedures provided for in subsections 674(b)–(i) of this title, and upon conviction shall have his or her ignition interlock RDL permanently revoked. A person convicted of a separate criminal offense under this title also shall have his or her ignition interlock RDL permanently revoked.

(g) The commissioners of corrections and of motor vehicles shall submit a report by January 15, 2012, to the senate and house committees on judiciary and on transportation evaluating the pilot project established by this section, including information on program costs, savings generated by reduced recidivism, and any recommendations concerning the design and implementation of ignition interlock program legislation.

Sec. 14. EFFECTIVENESS STUDY

The commissioner of motor vehicles shall monitor and calculate the rate of use of ignition interlock devices in Vermont after July 1, 2011, by different classes of offenders suspended for a violation of 23 V.S.A. § 1201 or 1216 or pursuant to 23 V.S.A. § 1205. The commissioner, in consultation with the commissioner of corrections and any other individuals or entities the commissioner deems appropriate, shall study whether changes to this act, including mandating installation of ignition interlock devices and reducing the 30-day period of hard suspension for first offenders, are likely to promote usage. The commissioner shall report the findings of this study and any recommendations to the senate and house committees on judiciary and on transportation by January 15, 2013.

Sec. 15. EFFECTIVE DATES

(a) This section, Sec. 12, Sec. 13, and subsection 1213(l) of Sec. 9 (ignition interlock rulemaking) shall take effect on passage.

(b) All other sections of this act shall take effect on July 1, 2011.