

1 S.271

2 Introduced by Senators Kittell and Brock

3 Referred to Committee on

4 Date:

5 Subject: Motor vehicles; driving while intoxicated; registration and forfeiture
6 of vehicles

7 Statement of purpose: This bill proposes to:

8 (1) require that a person have insurance in order to register a motor vehicle;

9 (2) prohibit a person from registering a motor vehicle if the person's
10 license or learner's permit has been suspended or revoked in any jurisdiction;

11 (3) establish criminal penalties for permitting an unlicensed person to
12 operate a motor vehicle if death or serious bodily injury results;

13 (4) increase the penalty for a third or subsequent DUI offense by removing
14 the option of community service and requiring that six months of the sentence
15 be served in jail;

16 (5) create a five-year mandatory minimum jail sentence for DUI with death
17 resulting; and

18 (6) permit the immobilization and forfeiture of a vehicle operated in
19 violation of a parole condition which prohibits the operator from driving.

1 An act relating to driving while intoxicated and to forfeiture and registration
2 of motor vehicles

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

4 Sec. 1. 23 V.S.A. § 303 is amended to read:

5 § 303. APPLICATION REQUIRED

6 (a) The commissioner or his or her duly authorized agent shall register a
7 motor vehicle, trailer, or semi-trailer when application therefor, on a form
8 prescribed by the commissioner, showing such motor vehicle to be properly
9 equipped and in good mechanical condition, is filed with him or her,
10 accompanied by the required registration fee, the proof of financial
11 responsibility required under section 800 of this title, and evidence of the
12 applicant's ownership of the vehicle in such form as the commissioner may
13 reasonably require. Except for state or municipal vehicles, registrants and
14 titled owners shall be identical.

15 (b) An application for registration may be refused by the commissioner if it
16 is not accompanied by proof of payment of the use tax imposed by ~~section~~
17 Section 4481 of the Internal Revenue Code of 1986 in such form as may be
18 prescribed by the Secretary of the Treasury or in another form acceptable to the
19 commissioner in the case of vehicles which are subject to the tax.

20 (c) An application for registration shall be refused by the commissioner if
21 the applicant's license or learner's permit is suspended or revoked in any
22 jurisdiction.

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

2 § 1130. PERMITTING UNLICENSED PERSON TO OPERATE

3 (a) No person shall knowingly employ, as operator of a motor vehicle, a
4 person not licensed as provided in this title.

5 (b)(1) No person shall knowingly permit a motor vehicle owned by him or
6 her or under his or her control to be operated by a person who has no legal
7 right to do so, or in violation of a provision of this title.

8 (2) If the death of any person results from a violation of subdivision (1)
9 of this subsection, or if serious bodily injury as defined in 13 V.S.A. § 1021(2)
10 results to any person other than the operator from the violation, the person
11 convicted of the violation shall be fined not more than \$5,000.00 or imprisoned
12 not more than two years, or both. The provisions of this subdivision do not
13 limit or restrict prosecutions for manslaughter.

14 Sec. 3. 23 V.S.A. § 1210 is amended to read:

15 § 1210. PENALTIES

16 * * *

17 (d) Third or subsequent offense. A person convicted of violating section
18 1201 of this title who has twice been convicted of violation of that section shall
19 be fined not more than \$2,500.00 or imprisoned not more than five years, or
20 both. ~~At least 400 hours of community service shall be performed, or 100~~
21 ~~consecutive hours~~ six months of the sentence of imprisonment shall be served

1 and may not be suspended or deferred or served as a supervised sentence,
2 except that credit for a sentence of imprisonment may be received for time
3 served in a residential alcohol facility pursuant to sentence if the program is
4 successfully completed.

5 (e)(1) Death resulting. If the death of any person results from a violation of
6 section 1201 of this title, the person convicted of the violation shall be fined
7 not more than \$10,000.00 or imprisoned not less than one year nor more than
8 15 years, or both. The provisions of this subsection do not limit or restrict
9 prosecutions for manslaughter.

10 (2) If the death of more than one person results from a violation of
11 section 1201 of this title, the operator may be convicted of a separate violation
12 of this subdivision for each decedent.

13 (3) A sentence ordered pursuant to this subsection shall include at least a
14 five-year term of imprisonment. The five-year term of imprisonment required
15 by this subdivision shall be served and may not be suspended, deferred, or
16 served as a supervised sentence. The defendant shall not be eligible for
17 probation, parole, furlough, or any other type of early release until the
18 expiration of the five-year term of imprisonment.

19 * * *

1 Sec. 4. 23 V.S.A. § 1212 is amended to read:

2 § 1212. CONDITIONS OF RELEASE AND PAROLE; ARREST UPON
3 VIOLATION

4 * * *

5 (d) A law enforcement officer or a corrections officer who observes a
6 person violating a condition of parole requiring that the person not operate a
7 motor vehicle may promptly arrest the person for violating the condition and
8 shall detain the person pursuant to section 551 of Title 28. The officer shall
9 immobilize the vehicle and immediately notify the parole board of the
10 suspected violation. If the parole board determines pursuant to section 552 of
11 Title 28 that a parole violation has occurred, the board shall notify the state's
12 attorney in the county where the violation occurred, who shall institute
13 forfeiture proceedings against the vehicle under section 1213c of this title as
14 soon as practicable.

15 Sec. 5. 23 V.S.A. § 1213b is amended to read:

16 § 1213b. FORFEITURE OF VEHICLE

17 At the time of sentencing after a third or subsequent conviction under
18 section 1201 of this title, or upon a determination by the parole board that a
19 person has violated a condition of parole requiring that the person not operate a
20 motor vehicle, the court may, upon motion of the state and in addition to any
21 penalty imposed by law and after notice and hearing, order the motor vehicle

- 1 operated by the defendant or parolee at the time of the offense forfeited and
- 2 sold as provided in section 1213c of this title.