

1 H.707

2 Introduced by Representative Lippert of Hinesburg

3 Referred to Committee on

4 Date:

5 Subject: Motor vehicles; driving under the influence of alcohol

6 Statement of purpose of bill as introduced: This bill proposes to lower the
7 permissible blood alcohol concentration limit for purposes of being charged
8 with operating a vehicle while under the influence of alcohol from 0.08 to
9 0.05.

10 An act relating to lowering the DUI blood alcohol limit from 0.08 to 0.05

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

12 Sec. 1. 23 V.S.A. § 1201 is amended to read:

13 § 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF

14 INTOXICATING LIQUOR OR OTHER SUBSTANCE; CRIMINAL

15 REFUSAL; ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

16 (a) A person shall not operate, attempt to operate, or be in actual physical
17 control of any vehicle on a highway:

18 (1) when the person's alcohol concentration is ~~0.08~~ 0.05 or more, or
19 0.02 or more if the person is operating a school bus as defined in subdivision
20 4(34) of this title; or

1 Sec. 4. 23 V.S.A. § 1213 is amended to read:

2 § 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE;

3 PENALTIES

4 * * *

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

10 * * *

11 (3)(A) A holder of an ignition interlock RDL who, prior to eligibility for
12 reinstatement under section 1209a or 1216 of this title, is prevented from
13 starting a motor vehicle because the ignition interlock device records a blood
14 alcohol concentration of ~~0.04~~ 0.02 or above, shall be subject to a three-month
15 extension of the applicable reinstatement period in the event of three such
16 recorded events, and to consecutive three-month extensions for every
17 additional three recorded events thereafter. The Commissioner shall disregard
18 a recording of ~~0.04~~ 0.02 or above for the purposes of this subdivision if the
19 Commissioner in his or her discretion finds, based on a pattern of tests or other
20 reliable information, that the recording does not indicate the consumption of
21 intoxicating liquor by the holder. The Commissioner shall notify the holder in

1 writing after every recording of ~~0.04~~ 0.02 or above that indicates the
2 consumption of intoxicating liquor by the holder and, prior to any extension
3 under this subdivision, the holder shall have the opportunity to be heard
4 pursuant to subdivision (2) of this subsection (f).

5 (B) A holder of an ignition interlock RDL who, prior to eligibility for
6 reinstatement under section 1209a or 1216 of this title, fails a random retest
7 because the ignition interlock device records a blood alcohol concentration of
8 ~~0.04~~ 0.02 or above and below ~~0.08~~ 0.05, shall be subject to consecutive
9 three-month extensions of the applicable reinstatement period for every such
10 recorded event. A holder who fails a random retest because of a recording of
11 ~~0.08~~ 0.05 or above shall be subject to consecutive six-month extensions of the
12 applicable reinstatement period for every such recorded event. The
13 Commissioner shall disregard a recording of ~~0.04~~ 0.02 or above for the
14 purposes of this subdivision if the Commissioner in his or her discretion finds,
15 based on a pattern of tests or other reliable information, that the recording does
16 not indicate the consumption of intoxicating liquor by the holder. The
17 Commissioner shall notify the holder in writing after every recording of ~~0.04~~
18 0.02 or above that is indicative of the consumption of intoxicating liquor by the
19 holder and, prior to any extension under this subdivision, the holder shall have
20 the opportunity to be heard pursuant to subdivision (2) of this subsection (f).

21 * * *

1 Sec. 5. 23 V.S.A. § 3207a is amended to read:

2 § 3207a. OPERATING UNDER THE INFLUENCE OF INTOXICATING
3 LIQUOR OR DRUGS; SWI

4 (a) A person shall not operate, attempt to operate, or be in actual physical
5 control of a snowmobile on any lands, waters, or public highways of this ~~state~~
6 State:

7 (1) when the person's alcohol concentration is ~~0.08~~ 0.05 or more; or

8 (2) when the person is under the influence of intoxicating liquor; or

9 (3) when the person is under the influence of any other drug or under the
10 combined influence of alcohol and any other drug to a degree which renders
11 the person incapable of safely operating a snowmobile.

12 * * *

13 Sec. 6. 23 V.S.A. § 3207d is amended to read:

14 § 3207d. PERMISSIVE INFERENCES

15 Upon the trial of any civil or criminal action or proceeding arising out of
16 acts alleged to have been committed by a person while operating, attempting to
17 operate, or in actual physical control of a snowmobile on any lands, waters, or
18 public highways of this ~~state~~ State, the person's alcohol concentration shall
19 give rise to the following permissive inferences:

20 (1) If the person's alcohol concentration at that time was less than ~~0.08~~
21 0.05, such fact shall not give rise to any presumption or permissive inference

1 that the person was or was not under the influence of intoxicating liquor, but
2 such fact may be considered with other competent evidence in determining
3 whether the person was under the influence of intoxicating liquor.

4 (2) If the person's alcohol concentration at that time was ~~0.08~~ 0.05 or
5 more, it shall be a permissive inference that the person was under the influence
6 of intoxicating liquor in violation of ~~subdivisions~~ subdivision 3207a(a)(2) or
7 (3) of this title.

8 (3) If the person's alcohol concentration at any time within two hours of
9 the alleged offense was ~~0.10~~ 0.07 or more, it shall be a permissive inference
10 that the person was under the influence of intoxicating liquor in violation of
11 ~~subdivisions~~ subdivision 3207a(a)(2) or (3) of this title.

12 Sec. 7. 23 V.S.A. § 3323 is amended to read:

13 § 3323. OPERATING UNDER THE INFLUENCE OF INTOXICATING
14 LIQUOR OR DRUGS; B.W.I.

15 (a) A person shall not operate, attempt to operate, or be in actual physical
16 control of a vessel on the waters of this ~~state~~ State while:

17 (1) there is ~~0.08~~ 0.05 percent or more by weight of alcohol in his or her
18 blood, as shown by analysis of his or her breath or blood; or

19 (2) under the influence of intoxicating liquor; or

1 more or under the influence of intoxicating liquor or other substance, as
2 defined in section 1201 of this title;

3 * * *

4 Sec. 10. EFFECTIVE DATE

5 This act shall take effect on passage.