

1 H.781

2 Introduced by Representative Lippert of Hinesburg

3 Referred to Committee on

4 Date:

5 Subject: Motor vehicles; criminal violations; penalties

6 Statement of purpose of bill as introduced: This bill proposes to increase the
7 penalties for certain criminal motor vehicle violations if a child 15 years of age
8 or under is present in the motor vehicle at the time of the offense.

9 An act relating to enhanced penalties for criminal motor vehicle violations
10 when a child is present

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

12 Sec. 1. 23 V.S.A. § 1091 is amended to read:

13 § 1091. NEGLIGENT OPERATION; GROSSLY NEGLIGENT
14 OPERATION

15 (a) Negligent operation.

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

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

1 (3) A person who violates this subsection shall be imprisoned not more
2 than one year or fined not more than \$1,000.00, or both. If the person has been
3 previously convicted of a violation of this subsection, the person shall be
4 imprisoned not more than two years or fined not more than \$3,000.00, or both.

5 (4) A person who violates this subsection while a child 15 years of age
6 or under is a passenger shall, in addition to any penalty imposed under
7 subdivision (3) of this subsection, be imprisoned not more than two years or
8 fined not more than \$500.00, or both. If multiple children 15 years of age or
9 under are passengers, the operator may be convicted of a separate violation for
10 each such passenger.

11 (b) Grossly negligent operation.

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

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

18 (3) A person who violates this subsection shall be imprisoned not more
19 than two years or fined not more than \$5,000.00, or both. If the person has
20 previously been convicted of a violation of this section, the person shall be
21 imprisoned not more than four years or fined not more than \$10,000.00, or

1 both. If serious bodily injury as defined in 13 V.S.A. § 1021 or death of any
2 person other than the operator results, the person shall be imprisoned for not
3 more than 15 years or fined not more than \$15,000.00, or both. If serious
4 bodily injury or death results to more than one person other than the operator,
5 the operator may be convicted of a separate violation of this ~~subdivision~~
6 subsection for each decedent or person injured.

7 (4) A person who violates this subsection while a child 15 years of age
8 or under is a passenger shall, in addition to any penalty imposed under
9 subdivision (3) of this subsection, be imprisoned not more than two years or
10 fined not more than \$500.00, or both. If multiple children 15 years of age or
11 under are passengers, the operator may be convicted of a separate violation for
12 each such passenger.

13 * * *

14 Sec. 2. 23 V.S.A. § 1133 is amended to read:

15 § 1133. ELUDING A POLICE OFFICER

16 (a) No operator of a motor vehicle shall fail to bring his or her vehicle to a
17 stop when signaled to do so by an enforcement officer:

18 (1) displaying insignia identifying him or her as such; or

19 (2) operating a law enforcement vehicle sounding a siren and displaying
20 a flashing blue or blue and white signal lamp.

1 (b)(1) A person who violates subsection (a) of this section shall be
2 imprisoned for not more than one year or fined not more than \$1,000.00, or
3 both.

4 (2) A person who violates subsection (a) of this section while operating
5 a vehicle in a negligent or grossly negligent manner in violation of section
6 1091 of this title shall be imprisoned for not more than five years or fined not
7 more than \$1,000.00, or both.

8 (3)(A) In the event that serious bodily injury to any person other than
9 the operator is proximately caused by the operator's knowing violation of
10 subsection (a) of this section, the operator shall be imprisoned for not more
11 than 15 years or fined not more than \$5,000.00, or both.

12 (B) If serious bodily injury to more than one person other than the
13 operator is proximately caused by the operator's knowing violation of
14 subsection (a) of this section, the operator may be convicted of a separate
15 violation of this subdivision for each decedent or person injured.

16 (4)(A) In the event that death to any person other than the operator is
17 proximately caused by the operator's knowing violation of subsection (a) of
18 this section, the operator shall be imprisoned for not less than one year nor
19 more than 15 years or fined not more than \$10,000.00, or both.

20 (B) If death to more than one person other than the operator is
21 proximately caused by the operator's knowing violation of subsection (a) of

1 this section, the operator may be convicted of a separate violation of this
2 subdivision for each decedent.

3 (5) A person who violates subsection (a) of this section while a child
4 15 years of age or under is a passenger shall, in addition to any penalty
5 imposed under subdivision (b)(1) or (2) of this section, be imprisoned not more
6 than two years or fined not more than \$500.00, or both. If multiple children
7 15 years of age or under are passengers, the operator may be convicted of a
8 separate violation for each such passenger.

9 * * *

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

11 § 1210. PENALTIES

12 * * *

13 (h) A person who violates section 1201 of this title while a child 15 years
14 of age or under is a passenger shall, in addition to any penalty imposed under
15 subsection (b), (c), (d), or (e)(1) of this section, be imprisoned not more than
16 two years or fined not more than \$500.00, or both. If multiple children 15
17 years of age or under are passengers, the operator may be convicted of a
18 separate violation for each such passenger.

19 (i) Determination of fines. In determining appropriate fines under this
20 section, the court may take into account the total cost to a defendant of alcohol

1 screening, participation in the alcohol and driving education program and
2 therapy, and the income of the defendant.

3 ~~(j)~~(i) A person convicted of violating section 1201 of this title shall be
4 assessed a surcharge of \$60.00, which shall be added to any fine imposed by
5 the court. The court shall collect and transfer such surcharge to the
6 Department of Public Safety for deposit in the Blood and Breath Alcohol
7 Testing Special Fund established by section 1220b of this title.

8 ~~(k)~~(k) A person convicted of violating section 1201 of this title shall be
9 assessed a surcharge of \$50.00, which shall be added to any fine or surcharge
10 imposed by the court. The court shall collect and transfer the surcharge
11 assessed under this subsection to the Office of Defender General for deposit in
12 the Public Defender Special Fund specifying the source of the monies being
13 deposited. The collection procedures described in 13 V.S.A. § 5240 shall be
14 utilized in the collection of this surcharge.

15 ~~(l)~~(l) A person convicted of violating section 1201 of this title shall be
16 assessed a surcharge of \$50.00, which shall be added to any fine or surcharge
17 imposed by the court. The court shall collect and transfer the surcharge
18 assessed under this subsection to be credited to the DUI Enforcement Fund.
19 The collection procedures described in 13 V.S.A. § 5240 shall be utilized in
20 the collection of this surcharge.

1 Sec. 4. EFFECTIVE DATE

2 This act shall take effect on July 1, 2014.