Vermont

2013

Drugged Driving Task Force

Recommendations for the Vermont Senate and House of Representatives, Committees on Judiciary relating to Act #76, 2013

In response to instructions contained in Act #76, 2013, (page 34), "**An Act relating to civil penalties for possession of marijuana"** (a copy is attached) a Drugged Driving Task Force has been created with the following instructions:

Section 11. TASK FORCE

(a) Creation of task force. There is created a Task Force for the purpose of developing recommendations to the General Assembly to address drugged driving in Vermont and to address appropriate penalties for possession of alcohol and possession of an ounce or less of marijuana by a person under 21 years of age as provided in this act.

(b) Membership. The Task Force shall be composed of seven members as follows:

(1) the Commissioner of Public Safety or designee;

(2) the Commissioner of Health or designee;

(3) the Executive Director of State's Attorneys and Sheriffs or designee;

(4) the Defender General or designee;

(5) the Commissioner of Motor Vehicles or designee;

(6) the Court Diversion Director or designee; and

(7) a student assistance professional appointed by the Governor.

(c) Report. On or before November 1, 2013, the Task Force shall report to the House and Senate Committees on Judiciary its findings and any recommendations for legislative action.

The Commissioner of Public Safety convened the following participating membership as directed:

Task Force Members, Contact Information

Agency	Representative /Designee	Position	Telephone #	e-mail address
Department of Public Safety	Robert Sand	Senior Policy & Legal Advisor	(802) 831-1061	Robert. Sand@state.vt.us
Department of Health	Jerri Brouillette	Director, Project CRASH	(802) 863-7280	Jerri.Brouillette@state.vt.us
State's Attorneys and Sheriffs	Greg Nagurney	Traffic Safety Resource Prosecutor	(802) 828-2891	Gregory.Nagurney@state.vt.us
Office of Defender General	Matthew Valerio	Defender General	(802) 828-3168	Matthew. Valerio@state.vt.us
Department of Motor Vehicles	Chauncey Liese	Legislative Coordinator	(802) 828-5766	Chauncey.liese@state.vt.us
Court Diversion	Willa Farrell	Director	(802) 828-1360	WFarrell@state.vt.us
(VSAC) Student Assistance	Tom Little	Vice Pres., General Council	(802) 654-3747	tlittle@vsac.org

Each representative/designee will remain available to provide additional information as may be required by the Senate or House of Representatives Judiciary Committee:

Each participating member, representing their respective agency or group was asked to contribute specific recommendations relating to the requirements outlined in the instructions. The following recommendations are respectfully submitted for review and consideration:

Submitted by: Robert Sand, Senior Policy and Legal Advisor, DPS
Representing: The Commissioner, Department of Public Safety

This memorandum sets forth the different approaches currently being taken by states to address the issue of driving under the influence of THC, the active ingredient in marijuana. With the recent changes in Vermont law and increasing local and national interest in shifting away from marijuana prohibition and toward a model based upon lawful controlled, regulated, and taxed access to marijuana, people are understandably concerned that there will be an increase in the number of marijuana-impaired drivers on our roadways. This memorandum considers the current most common state responses to driving under the influence of marijuana and makes recommendations for Vermont.

Science

Before considering a modification of Vermont law to address marijuana-impaired driving it is important to look at the scientific and other evaluative literature on the public safety risks created by drivers under the influence of THC. Two things emerge from a review of the research: 1) there is no clear scientific/medical consensus on when or at what concentration THC causes impairment that would adversely affect the ability to drive; 2) there is no clear scientific/medical consensus that modest, “recreational” use has a measurable adverse effect on the ability to drive. Unlike alcohol that has a disinhibiting impact on cautious driving; THC-consuming drivers tend to overcompensate for their impairment by reducing speed and being more vigilant. There is consensus that THC in combination with alcohol can have a compounding impairing effect.
http://norml.org/library/item/marijuana-and-driving-a-review-of-the-scientific-evidence

While it is understandable why some might want to counterbalance any further move toward legalization with enhanced restrictions on THC-using drivers, it is important that those restrictions be based on science and the actual risk posed by these drivers.

State Responses:

Zero Tolerance

At least 11 states have zero tolerance driving laws that create a DUI-Drug offense if the driver has any quantity of a controlled substance in the system, regardless of the degree of the driver’s impairment. The zero tolerance approach applies to any controlled substance with no special provision for THC. The most recent of these laws in Oklahoma went into effect in October 2013.

http://blog.norml.org/2013/06/11/oklahoma-becomes-third-state-this-year-to-approve-unscientific-per-se-limits-for-cannabis/

Per Se Limit

At least 5 states, Nevada, Montana, Pennsylvania, Washington, and Ohio have set per se limits for THC, at between one and five nanograms per milliliter of blood. As a per se limit, the motorist violates the law regardless of the actual impairment in abilities if the THC level meets or exceeds the per se threshold. Accordingly, operating a vehicle in excess of this per se limit is illegal even if the abilities of the operator are not impaired. A comprehensive NHTSA report on per se drug limits can be found by following this link. The report is over 100 pages and so it is not copied here. (http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CC4QFjAA&url=http%3A%2F%2Fwww.nhtsa.gov%2Fstaticfiles%2Fnti%2Fimpaired_driving%2Fpdf%2F811317.pdf&ei=cNotUqT6Hq7I4AO4_YD4BQ&usg=AFQjCNE0Y9nwfwV5WyEuxA8xhDAyQBYXtw&sig2=K7e2Lz9dJ1mY0lKfn9jO2g&bvm=bv.51773540,d.dmg)

Permissive Inference

Colorado appears to be the only state that has adopted a permissive inference law for THC and driving. Under the law, a jury may, but need not, find a motorist is impaired if the THC level exceeds 5 nanograms per milliliter. This appears to be a legislative compromise as efforts to set a per se limit failed to garner sufficient votes.

Under the Influence

Many states do not carve out special rules for drugs but instead prosecute drugged drivers under the state's DUI laws. These states do not create a special impairment level for drugs as compared to alcohol. In other words, any driver impaired by either drugs or alcohol, violates the DUI laws. Vermont at present does create a different standard for DUI-Alcohol and DUI-Drugs with the latter standard being more difficult for the prosecution to prove. The distinction is between being "under the influence to the slightest degree" versus being "incapable of driving safely."

Recommendations

It is my strong recommendation that DPS, in concert with the State's Attorneys, recommend that the disparate legal standard for drugs and alcohol be eliminated to create a uniform legal standard of "impaired to the slightest degree." With this change, any impaired operator could be prosecuted regardless of the nature or legality of the impairing substance.

An additional advantage of the proposed change is that it would not require a specially carved out provision for THC. It is difficult to rationalize creating a special THC per se limit but not set a similar limit for other more debilitating drugs.

If there is a perceived need for a specific provision to address THC, the Colorado compromise makes sense. With the permissive inference, there is a slight boost to the

prosecution but the defense still has the opportunity to seek to undermine the inference. It is very important to note that blood testing for the quantity of THC (not simply the presence of THC) will be hugely time consuming and may further exacerbate testing delays at our crime lab and/or significantly increase the costs of prosecution.

Submitted by: Jerri Brouillette, Division of Alcohol and Drug Abuse Programs/ Director of CRASH.

Representing: The Commissioner, Department of Health

I believe that the language should be the same for substances as well as alcohol. It only makes sense at this time, with all of the abuse of prescription medication and marijuana. I believe we need further studies to know what level of use of marijuana is safe and what is not. At this time, I would defer to the States of Washington and Colorado, where they have set 5 Nano grams as the limit. (The equivalent to .05 BAC). They are struggling with the limits too, and are seeing more safety issues on their highways due to the legalization of marijuana. That being said, there is a tremendous amount of education and training that is going to need to take place to monitor the abuse of substances other than alcohol on our highways, along with tools to monitor it. I believe we will be struggling with this for the next several years, until technology catches up with the substances we are seeking to monitor.

Submitted by: Greg Nagurney, Traffic Safety Resource Prosecutor

Representing: State's Attorneys and Sheriff's Association

The Vermont State's Attorneys ("SAs") consist of fourteen elected officials, one for each county in Vermont. The SAs employ an executive director (ED), Bram Kranichfeld. Mr. Kranichfeld, together with the Traffic Safety Resource Prosecutor (TSRP), Greg Nagurney, participated in the Drugged Driving Task Force.

Kranichfeld and Nagurney participated in the report on behalf of the elected SAs in a representative capacity. This process began with an email based discussion of the report areas requested by the Vermont Legislature. This discussion was led by the ED and the TSRP. Subsequently, at the SAs fall quarter meeting, the recommendations to be included in the report were again discussed. The TSRP then represented the position of a majority of the SAs at an October meeting of Task Force Members held at the Department of Public Safety. Subsequent discussions among the Task Force members were shared with the SAs, and so the final recommendation of the SAs to the Legislature is also the product of a majority of the SAs throughout Vermont, as determined by further email facilitated discussion and polling.

<u>Drugged Driving Enforcement Recommendations</u>:

The Drugged Driving Statute, 23 V.S.A. § 120(a)(3), should be amended to criminalize operation when impaired by drugs "to the slightest degree."

Every DUI case requires the prosecutor to prove to a jury, beyond a reasonable doubt, that the Operator of a motor vehicle was impaired by alcohol, alcohol and drugs, or drugs. However, the current DUI statute uses different language with respect to impairment, depending on whether the impairment is alleged to be caused by alcohol or by drugs. The legislature should eliminate this discrepancy because Vermont's current DUI Drugs law treats drug impaired drivers differently than those impaired by alcohol.

A prosecutor with an alcohol based DUI case must prove impairment by showing that the Operator was "under the influence" of alcohol. See 23 V.S.A. § 1201(a)(2). This term, "under the influence," has long been understood by Vermont's Courts to mean "under the influence (of alcohol) to the slightest degree." *See, eg., State v. Storrs*, 105 Vt. 180, 185 (1933); see also CR30-031 (Criminal Law Model Jury instructions, available at: http://vtjuryinstructions.org/?page_id=825.) Vermont's law permits juries to infer that a person with a 0.08 BAC is impaired, 23 V.S.A. § 1204(a)(2), but a BAC of 0.08 is not an essential element of an alcohol-based DUI prosecution.

In contrast, a prosecutor with a drug based DUI must prove impairment by showing that the Operator was "under the influence (of a drug) to a degree which rendered the person incapable of operating safely." 23 V.S.A. § 1201(a)(3). Notably absent from this language is any mention of the actual amount of impairment required. Quite contrary to the DUI alcohol statute which criminalizes the slightest degree of impairment, the DUI drugs statute permits impairment in a drugged driver. It prohibits only drug impairment at a level sufficient to "render the person incapable of operating safely."

The standard established by the DUI drugs statute is unsafe and creates a risk to the public. A drug impaired Operator can argue that, even if they were impaired by a drug, they remained capable of operating safely. The public safety concerns with such an argument are readily apparent. A drug impaired Operator may be wholly incapable of operating safely, but not yet have displayed such behavior outwardly. For example, just because a drug impaired Operator successfully navigates an empty cross walk does not mean that Operator would have been so fortunate had there been a pedestrian present.

The Legislature understands the public safety risk created by even a slight degree of alcohol impairment. Drugs should not be treated differently. Impairment is impairment, and the Legislature should amend Vermont's DUI statute to reflect this fact.

Submitted by: Matthew Valerio, Defender General
Representing: The Office of the Defender General

A survey of the defense bar through our list serve, including more than 300 criminal defense lawyers, has yielded mixed results on whether there is an increase in frequency of drugged driving, and/or drugged driving charges. At least half of the counties report no change in the incidence of drugged driving charges in course of their work. The other half (counties) notice an increase in charges primarily driven by the advent and ability of the DREs. They question whether there is any increase in the actual number of people drugged driving or whether it is just a function of increased enforcement. The increase that the defense bar has seen relative to charges is primarily prescription opiate related (obtained both legally and illegally), not marijuana or other "illegal drugs".

At present, we would oppose any changes in penalties or legal standards relative to the charging of drugged driving. Further, consistent with Willa Farrell's recommendations, the recent changes to the law regarding civil for marijuana went into effect July 1, 2013, and I think it is too soon to recommend any changes. I think it is appropriate that violations for the possession of alcohol or an ounce or less of marijuana) should be treated in the same manner.

We strongly oppose any sort of strict liability scenario that gives rise to criminal and civil liability merely for having a drug or its metabolites "on board".

This suggested approach in general is grossly overbroad, and fails to take into account basic behavioral pharmacology and the manner in which the various substances are metabolized in a human body. For example, traces of THC can be found as long as 30 days after use with no impact whatsoever on human behavior only hours after use, so a mere detectable presence of the active drug in pot is irrelevant to operation safely. Metabolites of opioids can remain in the system for some time with no impact on a person's ability to drive – whether prescribed or not. As such creating a criminal offense for merely having a drug on board seems grossly overreaching if there is no impairment of one's ability to drive safely.

The current statute reads as it does - requiring that the drug on-board impact the person's ability to operate the motor vehicle safely – not merely placing criminal and civil liability for having the presence of the drug on board. Similarly, merely "being under the influence to the slightest degree of a prescribed drug" does not mean that the person's ability to drive is "impaired to the slightest degree." That is the difference between some drugs and alcohol, we know what alcohol does at certain levels. It is different for other drugs.

Based upon the commentary of others in the group, if an anticipated 350-400 new cases were added to the caseload, that would represent the work of one full lawyer equivalent caseload (in one year) as established by American Bar Association standards for public defender added caseload. The cost for an entry level public defender with benefits is approximately $75,000 per year, and it goes up from there.

Submitted by: Chauncey Liese, Legislative Coordinator
Representing: The Commissioner, Department of Motor Vehicles
Requests that Section 2, sub-section b (3) be retained in this bill. That section is as follows: (3) Record of Adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section.

Submitted by: Willa Farrell, Court Diversion Director
Representing: Attorney General's Office
Provides the following information: Particular interest relates to the second request for recommendations regarding appropriate penalties for possession of alcohol and possession of an ounce or less of marijuana by a person less than 21 years of age. Recent changes to the law regarding these violations went into effect July 1, 2013, and I think it is too soon to recommend any changes. I think it is appropriate that both violations (that of possession of alcohol and that of an ounce or less of marijuana) should be treated in the same manner.

Submitted by: Thomas Little, Vice President, General Council

Representing: Vermont Student Assistance Corporation

Under the Higher Education Act, a student may become ineligible for federal student aid upon a conviction of any offense involving the possession or sale of illegal drugs under any federal or state law while receiving Title IV federal financial aid. Federal aid includes: Federal Pell Grants, Federal Supplemental Educational Opportunity Grants, Federal ACG Grants, Federal SMART Grants, Federal Direct Stafford Loans, Federal Direct PLUS Loans, Federal Direct GradPLUS Loans, Federal Perkins Loans and Federal Work Study.

The chart below illustrates the period of ineligibility for federal student financial aid funds, depending on whether the conviction was for sale or possession and whether the student had previous offenses. (A conviction for sale of drugs includes convictions for conspiring to sell drugs.) **Possession of illegal drugs**		**Sale of illegal drugs**
1st offense	1 year from date of conviction	2 years from date of conviction
2nd offense	2 years from date of conviction	Indefinite period
3rd offense	Indefinite period	

Penalties for civil offenses do not trigger the loss of federal student financial aid. A criminal proceeding that does not result in a conviction likewise does not trigger the loss of such aid.

A copy of Act No.76. **An act relating to civil penalties for possession of marijuana,** is included, for reference purposes, on the following pages.

No. 76. An act relating to civil penalties for possession of marijuana.
(H.200)
It is hereby enacted by the General Assembly of the State of Vermont:
* * * Criminal Penalties and Civil Penalties for Marijuana Possession * * *
Sec. 1. 18 V.S.A. § 4230 is amended to read:
§ 4230. MARIJUANA
(a) Possession and cultivation.
(1)(A) A No person shall knowingly and unlawfully possessing possess more than one ounce of marijuana or more than five grams of hashish or cultivate marijuana. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than $500.00, or both.
(B) A person convicted of a second or subsequent offense under this subdivision of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating marijuana shall be imprisoned not more than two years or fined not more than $2,000.00, or both.
(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of

deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.
(2) A person knowingly and unlawfully possessing marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of two ounces or more containing any of marijuana or knowingly and unlawfully cultivating more than three plants of marijuana shall be imprisoned not more than three years or fined not more than $10,000.00, or both.
(3) A person knowingly and unlawfully possessing marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of one pound or more containing any of marijuana or knowingly and unlawfully cultivating more than 10 plants of marijuana shall be imprisoned not more than five years or fined not more than $100,000.00, or both.
(4) A person knowingly and unlawfully possessing marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of 10 pounds or more of marijuana or knowingly and unlawfully cultivating more than 25 plants of marijuana shall be imprisoned not more than 15 years or fined not more than $500,000.00, or both.

(5) Prior to accepting a plea of guilty or a plea of nolo contendere from a defendant charged with a violation of this subsection, the court shall address the defendant personally in open court, informing the defendant and determining that the defendant understands that admitting to facts sufficient to warrant a finding of guilt or pleading guilty or nolo contendere to the charge may have collateral consequences such as loss of education financial aid, suspension or revocation of professional licenses, and restricted access to public benefits such as housing. If the court fails to provide the defendant with notice of collateral consequences in accordance with this subdivision and the defendant later at any time shows that the plea and conviction may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

* * *

(d) Only the portion of a marijuana-infused product that is attributable to marijuana shall count toward the possession limits of this section. The weight of marijuana that is attributable to marijuana-infused products shall be determined according to methods set forth in rule by the Department of Public Safety in accordance with chapter 86 of this title (therapeutic use of cannabis).

Sec. 2. 18 V.S.A. § 4230a–d are added to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON OVER 21 YEARS OF AGE; CIVIL VIOLATION

(a) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:

(1) Not more than $200.00 for a first offense.

(2) Not more than $300.00 for a second offense.

(3) Not more than $500.00 for a third or subsequent offense.

(b)(1) Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under state law.

(2) A violation of this section shall not result in the creation of a criminal history record of any kind.

(c)(1) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.

(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and

subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).
(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.
(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense.
(e)(1) Upon request by a law enforcement officer who reasonably suspects that a person has committed or is committing a violation of this section, the person shall give his or her name and address to the law enforcement officer and shall produce a motor vehicle operator's license, an identification card, a passport, or another suitable form of identification.
(2) A law enforcement officer is authorized to detain a person if:
(A) the officer has reasonable grounds to believe the person has violated this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.
(3) The person may be detained only until the person identifies himself or herself satisfactorily to the officer. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.
(f) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be retained by the State for the funding of law enforcement officers on the Drug Task Force, except for a $12.50 administrative charge for each violation which shall be retained by the State. The remaining 50 percent shall be paid to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.
§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; FIRST OR SECOND OFFENSE; CIVIL VIOLATION
(a) Offense. Except as otherwise provided in section 4230c of this title, a person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be referred to the Court Diversion Program for the purpose

of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:
(1) a civil penalty of $300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a first offense; and

(2) a civil penalty of not more than $600.00 and suspension of the
person's operator's license and privilege to operate a motor vehicle for a
period of 180 days, for a second offense.
(b) Issuance of Notice of Violation. A law enforcement officer shall issue
a person under 21 years of age who violates this section with a notice of
violation, in a form approved by the Court Administrator. The notice of
violation shall require the person to provide his or her name and address and
shall explain procedures under this section, including that:
(1) the person shall contact the Diversion Program in the county where
the offense occurred within 15 days;
(2) failure to contact the Diversion Program within 15 days will result in
the case being referred to the Judicial Bureau, where the person, if found liable
for the violation, will be subject to a civil penalty and a suspension of the
person's operator's license and may face substantially increased insurance
rates;
(3) no money should be submitted to pay any penalty until after
adjudication; and
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(4) the person shall notify the Diversion Program if the person's address
changes.
(c) Summons and Complaint. When a person is issued a notice of violation
under this section, the law enforcement officer shall complete a summons and
complaint for the offense and send it to the Diversion Program in the county
where the offense occurred. The summons and complaint shall not be filed
with the Judicial Bureau at that time.
(d) Registration in Youth Substance Abuse Safety Program. Within 15
days after receiving a notice of violation, the person shall contact the Diversion
Program in the county where the offense occurred and register for the Youth
Substance Abuse Safety Program. If the person fails to do so, the Diversion
Program shall file the summons and complaint with the Judicial Bureau for
adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide
a copy of the summons and complaint to the law enforcement officer who
issued the notice of violation and shall provide two copies to the person
charged with the violation.
(e) Notice to Report to Diversion. Upon receipt from a law enforcement
officer of a summons and complaint completed under this section, the
Diversion Program shall send the person a notice to report to the Diversion
Program. The notice to report shall provide that:
(1) The person is required to complete all conditions related to the
offense imposed by the Diversion Program, including substance abuse
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screening and, if deemed appropriate following the screening, substance abuse
education or substance abuse counseling, or both.
(2) If the person does not satisfactorily complete the substance abuse
screening, any required substance abuse education or substance abuse
counseling, or any other condition related to the offense imposed by the
Diversion Program, the case will be referred to the Judicial Bureau, where the

person, if found liable for the violation, shall be assessed a civil penalty, the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

(f)(1) Diversion Program Requirements. Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening,

substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a state-certified or state-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(2) Substance abuse screening required under this subsection shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at his or her own expense.

(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense which the Diversion Program has imposed, the Diversion Program shall:

(A) void the summons and complaint with no penalty due; and

(B) send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information which identifies the person.

(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any

required Program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(5) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the

Vermont Rules of Civil Procedure.
(g) Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made.
(h) Record of Adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section.

§ 4230c. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; THIRD OR SUBSEQUENT OFFENSE; CRIME

No person shall knowingly and unlawfully possess marijuana. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a crime if the person has been adjudicated at least twice previously in violation of section 4230b of this title and shall be imprisoned not more than 30 days or fined not more than $600.00, or both.

§ 4230d. MARIJUANA POSSESSION BY A PERSON UNDER 16 YEARS OF AGE; DELINQUENCY

No person shall knowingly and unlawfully possess marijuana. A person under the age of 16 years who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a delinquent act and shall be subject to 33 V.S.A. chapter 52. The person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice.

Sec. 3. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

(b) The judicial bureau Judicial Bureau shall have jurisdiction of the following matters:

* * *

(24) Violations of 18 V.S.A. §§ 4230a and 4230b, relating to possession of marijuana.

* * *

Sec. 4. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this section, "alcoholic beverages" shall have the same meaning as "intoxicating liquor" as defined in section 1200 of this title.

* * *
(d) A person who violates subsection (a) of this section shall be fined assessed a civil penalty of not more than $500.00. A person who violates subsection (b) of this section shall be fined assessed a civil penalty of not more than $25.00. A person convicted and fined adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to prosecution a civil violation for the same actions under subsection (b) of this section.

Sec. 5. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

* * *

* * * Enhanced Penalties for Tax Offenses Based on Income Derived from Illegal Activity * * *

Sec. 6. 32 V.S.A. § 3202 is amended to read:

§ 3202. INTEREST AND PENALTIES

(a) Failure to pay; interest. When a taxpayer fails to pay a tax liability imposed by this title (except the motor vehicle purchase and use tax) on the date prescribed therefor, the commissioner Commissioner may assess and the taxpayer shall then pay, a sum of interest computed at the rate per annum established by the commissioner Commissioner pursuant to section 3108 of this title on the unpaid amount of that tax liability for the period from the prescribed date to the date of full payment of the liability.

(b) Penalties.

(1) Failure to file. When a taxpayer fails to file a tax return required by this title (other than a return required by subchapter 5 of chapter 151 of this

title for estimation of nonwithheld income tax), on the date prescribed therefor or the date as extended pursuant to section 5868 of this title, unless the taxpayer affirmatively shows that such failure is due to reasonable cause and not due to willful neglect, then in addition to any interest payable pursuant to subsection (a) of this section, the commissioner Commissioner may assess and the taxpayer shall then pay, a penalty which shall be equal to five percent of the outstanding tax liability for each month, or portion thereof, that the tax return is not filed; provided, however, that in no event shall the amount of any penalty imposed under this subdivision exceed 25 percent of the tax liability unpaid on the prescribed date of payment. If the return is not filed within 60 days after the date prescribed therefor, there shall be assessed a minimum penalty of $50.00 regardless of whether there is a tax liability.

(2) Failure to pay estimated tax. When a taxpayer fails to make payments as required by subchapter 5 of chapter 151 of this title (estimations of nonwithheld income tax), the commissioner Commissioner may assess and

the taxpayer shall then pay a penalty which shall be equal to one percent of the outstanding tax liability for each month, or portion thereof, that the tax liability is not paid in full; provided, however, that in no event shall the amount of any penalty assessed under this subdivision exceed 25 percent of the tax liability unpaid on the prescribed date of payment.

(3) Failure to pay. When a taxpayer fails to pay a tax liability imposed by this title (other than a return required by subchapter 5 of chapter 151 of this

title for estimation of nonwithheld income tax), on the date prescribed therefor, then in addition to any interest payable pursuant to subsection (a) of this section, the commissioner Commissioner may assess and the taxpayer shall then pay a penalty which shall be equal to for income tax under subchapters 2 and 3 of chapter 151 of this title, one percent, and for all other taxes five percent, of the outstanding tax liability for each month, or portion thereof, that the tax liability is not paid in full; provided, however, that in no event shall the amount of any penalty assessed under this subdivision exceed 25 percent of the tax liability unpaid on the prescribed date of payment.

(4) Negligent failure to pay. When a taxpayer fails to pay a tax liability imposed by this title and the failure is due to negligence or constitutes a substantial understatement of tax, in addition to any interest payable pursuant to subsection (a) of this section, the commissioner Commissioner may assess and the taxpayer shall then pay a penalty which shall be equal to 25 percent of that portion of the underpayment. For purposes of this subdivision, “negligence” means any failure to make a reasonable attempt to comply with the provisions of the tax code and “substantial understatement” means an understatement of 20 percent or more of the tax.

(5) Fraudulent failure to pay. When a taxpayer fraudulently or with willful intent to defeat or evade a tax liability imposed by this title, either fails to pay a tax liability on the date prescribed therefor or requests and receives a refund of a tax liability, in addition to any interest payable pursuant to

subsection (a) of this section, the commissioner Commissioner may assess and the taxpayer shall then pay, a penalty equal to the amount of the tax liability unpaid on the prescribed date of payment or received as a refund subsequent to that date.

(6) Violation based on income from illegal activity. The penalties provided in subdivisions (1)–(5) of this subsection shall be doubled if the violation is based on income derived from illegal activity. The penalty provided in this subdivision (6) shall be in addition to any other civil or criminal penalties provided by law.

(7) A failure to pay shall not be subject to more than one of the penalties set forth in subdivisions (3), (4), and (5) of this subsection.

Sec. 7. 32 V.S.A. § 5894 is amended to read:

§ 5894. LIABILITY FOR FAILURE OR DELINQUENCY

(a) Failure to supply information. An individual, fiduciary, or officer or employee of any corporation or partner or employee of any partnership, who, with intent to evade any requirement of this chapter or any lawful requirement

of the commissioner Commissioner hereunder, fails to supply any information required by or under this chapter shall be fined not more than $1,000.00 or be imprisoned not more than one year, or both.
(b) Failure to file. An individual, fiduciary, or officer or employee of any corporation or partner or employee of any partnership who knowingly fails to

file a tax return when due shall be imprisoned not more than one year or fined not more than $1,000.00, or both.
(c) Failure to pay. An individual, fiduciary, or officer or employee of any corporation or partner or employee of any partnership, who with intent to evade a tax liability fails to pay a tax when due shall, if the amount of tax evaded is $500.00 or less in a single calendar year, be imprisoned not more than one year or fined not more than $1,000.00, or both.
(d) Failure to file or failure to pay; in excess of $500.00. An individual, fiduciary, or officer or employee of a corporation or partner or employee of a partnership, who with intent to evade a tax liability fails to file a tax return when required to do so or fails to pay a tax when due shall, if the amount of tax evaded is in excess of $500.00 in a single calendar year, be imprisoned not more than three years or fined not more than $10,000.00, or both.
(e) False or fraudulent return. An individual, fiduciary, or officer or employee of a corporation or partner or employee of a partnership who knowingly makes, signs, verifies or files with the commissioner Commissioner a false or fraudulent tax return shall be imprisoned not more than one year or fined not more than $1,000.00, or both. An individual, fiduciary, or officer or employee of a corporation or partner or employee of a partnership, who with intent to evade a tax liability makes, signs, verifies or files with the commissioner Commissioner a false or fraudulent tax return shall, if the

amount of tax evaded is more than $500.00, be imprisoned not more than three years or fined not more than $10,000.00, or both.
(f) An individual, fiduciary, officer, or employee of any corporation or a partner or employee of any partnership who violates subsections (a)–(e) of this section based on income derived from illegal activity shall be imprisoned not more than three years or fined not more than $10,000.00, or both. The penalty provided in this subsection shall be in addition to any other civil or criminal penalties provided by law.
* * * Expungement of a Misdemeanor Possession of Marijuana
Criminal Record * * *
Sec. 8. 13 V.S.A. § 7601(3) is amended to read:
(3) "Predicate offense" means a criminal offense that can be used to enhance a sentence levied for a later conviction, and includes operating a vehicle under the influence of intoxicating liquor or other substance in violation of 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title. "Predicate offense" shall not include misdemeanor possession of marijuana.

* * * Alcoholic Beverage Offenses by a Person Under 21 Years of Age * * *
Sec. 9. 7 V.S.A. § 656 and 657 are amended to read:
§ 656. MINORS PERSON UNDER 21 YEARS OF AGE
MISREPRESENTING AGE, PROCURING, POSSESSING, OR
CONSUMING LIQUORS ALCOHOLIC BEVERAGES; FIRST OR
SECOND OFFENSE; CIVIL VIOLATION
(a)(1) Prohibited conduct. A minor 16 person under 21 years of age or
older shall not:
(1)(A) falsely represent his or her age for the purpose of procuring or
attempting to procure malt or vinous beverages or spirituous liquor from any
licensee, state liquor agency, or other person or persons;
(2)(B) possess malt or vinous beverages or spirituous liquor for the
purpose of consumption by himself or herself or other minors, except in the
regular performance of duties as an employee of a licensee licensed to sell
alcoholic liquor; or
(3)(C) consume malt or vinous beverages or spirituous liquors. A
violation of this subdivision may be prosecuted in a jurisdiction where the
minor has consumed malt or vinous beverages or spirituous liquors, or in a
jurisdiction where the indicators of consumption are observed.
(2) Offense. Except as otherwise provided in section 657 of this title, a
person under 21 years of age who knowingly and unlawfully violates
subdivision (1) of this subsection commits a civil violation and shall be
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referred to the Court Diversion Program for the purpose of enrollment in the
Youth Substance Abuse Safety Program. A person who fails to complete the
program successfully shall be subject to:
(A) a civil penalty of $300.00 and suspension of the person's
operator's license and privilege to operate a motor vehicle for a period of 90
days, for a first offense; and
(B) a civil penalty of not more than $600.00 and suspension of the
person's operator's license and privilege to operate a motor vehicle for a
period of 180 days, for a second offense.
(b)(1) A law enforcement officer shall issue a notice of violation, in a form
approved by the court administrator, to a person who violates this section if the
person has not previously been adjudicated in violation of this section or
convicted of violating section 657 of this title. The notice of violation shall
require the person to provide his or her name and address, and shall explain
procedure under this section, including that:
(A) the person must contact the diversion board in the county where
the offense occurred within 15 days;
(B) failure to contact the diversion board within 15 days will result in
the case being referred to the judicial bureau, where the person, if found liable
for the violation, will be subject to a penalty of $300.00 and a 90-day
suspension of the person's operator's license, and may face substantially
increased insurance rates;
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(C) no money should be submitted to pay any penalty until after

adjudication; and
(D) the person shall notify the diversion board if the person's address changes.
(2) When a person is issued a notice of violation under subdivision (1) of this subsection, the law enforcement officer shall complete a summons and complaint for the offense and send it to the diversion board in the county where the offense occurred. The summons and complaint shall not be filed with the judicial bureau at that time.
(3) Within 15 days after receiving a notice of violation issued under subdivision (1) of this subsection, the person shall contact the diversion board in the county where the offense occurred and register for the teen alcohol safety program. If the person fails to do so, the diversion board shall file the summons and complaint with the judicial bureau for adjudication under chapter 29 of Title 4. The diversion board shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation, and shall provide two copies to the person charged with the violation.
(c) A person who violates this section commits a civil violation and shall be subject to a civil penalty of $300.00, and the person's operator's license and privilege to operate a motor vehicle shall be suspended for a period of 90 days.

The state may obtain a violation under this section or a conviction under section 657 of this title, but not both.
(d) If a person fails to pay a penalty imposed under this section by the time ordered, the judicial bureau shall notify the commissioner of motor vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made.
(e) Upon adjudicating a person in violation of this section, the judicial bureau shall notify the commissioner of motor vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the department for motor vehicle driving records. The identities of persons in the registry shall only be revealed to a law enforcement officer determining whether the person has previously violated this section.
(f)(1) Upon receipt from a law enforcement officer of a summons and complaint completed under subdivision (b)(2) of this section, the diversion board shall send the person a notice to report to the diversion board. The notice to report shall provide that:
(A) The person is required to complete all conditions related to the offense imposed by the diversion board, including substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both.
(B) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse education or substance abuse

counseling, or any other conditions related to the offense imposed by the diversion board, the case will be referred to the judicial bureau, where the person, if found liable for the violation, shall be assessed a penalty of $300.00,

the person's driver's license will be suspended for 90 days, and the person's automobile insurance rates may increase substantially.
(C) If the person satisfactorily completes the substance abuse screening, any required substance abuse education or substance abuse counseling, and any other conditions related to the offense imposed by the diversion board, no penalty shall be imposed and the person's operator's license will not be suspended.
(2)(A) Upon being contacted by a person who has been issued a notice of violation under subdivision (b)(1) of this section, the diversion board shall register the person in the teen alcohol safety program. Pursuant to the teen alcohol safety program, the diversion board shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense, and in every case shall include a condition requiring satisfactory completion of substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a state-certified or state-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(B) Substance abuse screening required under this subsection shall be completed within 60 days after the diversion board receives a summons and complaint completed under subdivision (b)(2) of this section. The person shall complete all conditions at his or her own expense.
(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other conditions related to the offense which the diversion board has imposed, the diversion board shall:
(A) void the summons and complaint with no penalty due; and
(B) send copies of the voided summons and complaint to the judicial bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the judicial bureau under this subdivision, the diversion board shall redact all language containing the person's name, address, social security number or any other information which identifies the person.
(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other conditions related to the offense imposed by the diversion board, or if the person fails to pay the diversion board any required program fees, the diversion board shall file the summons and complaint with the judicial bureau for adjudication under chapter 29 of Title 4. The diversion board shall provide a copy of the summons and complaint to the law

enforcement officer who issued the notice of violation, and shall provide two copies to the person charged with the violation.
(5) A person aggrieved by a decision of the diversion board or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(g) The state's attorney may dismiss without prejudice a violation brought
under this section.
(b) Issuance of Notice of Violation. A law enforcement officer shall issue
a person under 21 years of age who violates this section a notice of violation,
in a form approved by the Court Administrator. The notice of violation shall
require the person to provide his or her name and address and shall explain
procedures under this section, including that:
(1) the person shall contact the Diversion Program in the county where
the offense occurred within 15 days;
(2) failure to contact the Diversion Program within 15 days will result in
the case being referred to the Judicial Bureau, where the person, if found liable
for the violation, will be subject to a civil penalty and a suspension of the
person's operator's license and may face substantially increased insurance
rates;
(3) no money should be submitted to pay any penalty until after
adjudication; and

(4) the person shall notify the Diversion Program if the person's address
changes.
(c) Summons and Complaint. When a person is issued a notice of violation
under this section, the law enforcement officer shall complete a summons and
complaint for the offense and send it to the Diversion Program in the county
where the offense occurred. The summons and complaint shall not be filed
with the Judicial Bureau at that time.
(d) Registration in Youth Substance Abuse Safety Program. Within 15
days after receiving a notice of violation, the person shall contact the Diversion
Program in the county where the offense occurred and register for the Youth
Substance Abuse Safety Program. If the person fails to do so, the Diversion
Program shall file the summons and complaint with the Judicial Bureau for
adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide
a copy of the summons and complaint to the law enforcement officer who
issued the notice of violation and shall provide two copies to the person
charged with the violation.
(e) Notice to Report to Diversion. Upon receipt from a law enforcement
officer of a summons and complaint completed under this section, the
Diversion Program shall send the person a notice to report to the Diversion
Program. The notice to report shall provide that:
(1) The person is required to complete all conditions related to the
offense imposed by the Diversion Program, including substance abuse

screening and, if deemed appropriate following the screening, substance abuse
education or substance abuse counseling, or both.
(2) If the person does not satisfactorily complete the substance abuse
screening, any required substance abuse education or substance abuse
counseling, or any other condition related to the offense imposed by the
Diversion Program, the case will be referred to the Judicial Bureau, where the
person, if found liable for the violation, shall be assessed a civil penalty, the

person's driver's license will be suspended, and the person's automobile
insurance rates may increase substantially.
(3) If the person satisfactorily completes the substance abuse screening,
any required substance abuse education or substance abuse counseling, and any
other condition related to the offense imposed by the Diversion Program, no
penalty shall be imposed and the person's operator's license shall not be
suspended.
(f)(1) Diversion Program Requirements. Upon being contacted by a person
who has been issued a notice of violation, the Diversion Program shall register
the person in the Youth Substance Abuse Safety Program. Pursuant to the
Youth Substance Abuse Safety Program, the Diversion Program shall impose
conditions on the person. The conditions imposed shall include only
conditions related to the offense and in every case shall include a condition
requiring satisfactory completion of substance abuse screening using an
evidence-based tool and, if deemed appropriate following the screening,

substance abuse assessment and substance abuse education or substance abuse
counseling, or both. If the screener recommends substance abuse counseling,
the person shall choose a state-certified or state-licensed substance abuse
counselor or substance abuse treatment provider to provide the services.
(2) Substance abuse screening required under this subsection shall be
completed within 60 days after the Diversion Program receives a summons and
complaint. The person shall complete all conditions at his or her own expense.
(3) When a person has satisfactorily completed substance abuse
screening, any required substance abuse education or substance abuse
counseling, and any other condition related to the offense which the diversion
program has imposed, the diversion program shall:
(A) void the summons and complaint with no penalty due; and
(B) send copies of the voided summons and complaint to the Judicial
Bureau and to the law enforcement officer who completed them. Before
sending copies of the voided summons and complaint to the Judicial Bureau
under this subdivision, the Diversion Program shall redact all language
containing the person's name, address, Social Security number, and any other
information which identifies the person.
(4) If a person does not satisfactorily complete substance abuse
screening, any required substance abuse education or substance abuse
counseling, or any other condition related to the offense imposed by the
Diversion Program or if the person fails to pay the Diversion Program any

required program fees, the Diversion Program shall file the summons and
complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29.
The Diversion Program shall provide a copy of the summons and complaint to
the law enforcement officer who issued the notice of violation and shall
provide two copies to the person charged with the violation.
(5) A person aggrieved by a decision of the Diversion Program or
alcohol counselor may seek review of that decision pursuant to Rule 75 of the
Vermont Rules of Civil Procedure.

(g) Failure to Pay Penalty. If a person fails to pay a penalty imposed under
this section by the time ordered, the Judicial Bureau shall notify the
Commissioner of Motor Vehicles, who shall suspend the person's operator's
license and privilege to operate a motor vehicle until payment is made.
(h) Record of Adjudications. Upon adjudicating a person in violation of
this section, the Judicial Bureau shall notify the Commissioner of Motor
Vehicles, who shall maintain a record of all such adjudications which shall be
separate from the registry maintained by the Department for motor vehicle
driving records. The identity of a person in the registry shall be revealed only
to a law enforcement officer determining whether the person has previously
violated this section.
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§ 657. MINORS PERSON UNDER 21 YEARS OF AGE
MISREPRESENTING AGE,OR PROCURING OR, POSSESSING
LIQUORS ALCOHOL AND DRIVING EDUCATION;, OR
CONSUMING ALCOHOLIC BEVERAGES; THIRD OR
SUBSEQUENT OFFENSE; CRIME
(a) A minor shall not:
(1) falsely represent his or her age for the purpose of procuring or
attempting to procure malt or vinous beverages or spirituous liquor from any
licensee, state liquor agency, or other person or persons; or
(2) possess malt or vinous beverages or spirituous liquor for the purpose
of consumption by himself or herself or other minors, except in the regular
performance of duties as an employee of a licensee licensed to sell alcoholic
liquor; or
(3) consume malt or vinous beverages or spirituous liquors. A violation
of this subdivision may be prosecuted in a jurisdiction where the minor has
consumed malt or vinous beverages or spirituous liquors, or in a jurisdiction
where the indicators of consumption are observed.
(b) A law enforcement officer shall issue a citation for a violation of this
section if a person has been previously adjudicated in violation of this section
or section 656 of this title.
(c) After the issuing officer issues a summons and complaint to the judicial
bureau for a first offense pursuant to section 656 of this title, the state's
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attorney may withdraw the complaint filed with the judicial bureau and file an
information charging a violation of this section in the criminal division of the
superior court. The state may obtain a conviction under either this section or
section 656 of this title, but not both.
(d) A person who violates this section:
(1) shall be fined not more than $600.00 or imprisoned not more than 30
days, or both; and
(2) if the person has previously been convicted of violating this section
or adjudicated in violation of section 656 of this title, the person's operating
license, nonresident operating privilege or the privilege of an unlicensed
person to operate a motor vehicle shall be suspended for 120 days.
(e) The state's attorney shall require as a condition of diversion that:

(1) a person who is charged with a violation of this section who holds a
license to operate a motor vehicle, and who has previously been convicted of
violating this section or adjudicated in violation of section 656 of this title,
relinquish the license for a period of 60 days; and
(2) attend an alcohol and driving program at the person's own expense.
(f) A person who is convicted of violating this section who holds a license
to operate a motor vehicle shall, as a condition of probation, be required to
complete an alcohol and driving program at the person's own expense.

(g) The alcohol and driving program shall be administered by the office of
alcohol and drug abuse programs and shall take into consideration the needs of
minors.
(h) The state's attorney may dismiss without prejudice an action brought
under this section, and may file a civil violation in the judicial bureau. A
person under 21 years of age who engages in conduct in violation of
subdivision 656(a)(1) of this title commits a crime if the person has been
adjudicated at least twice previously in violation of subdivision 656(a)(1) of
this title and shall be imprisoned not more than 30 days or fined not more than
$600.00, or both.
Sec. 10. 7 V.S.A. § 657a is added to read:
§ 657a. PERSON UNDER 16 YEARS OF AGE MISREPRESENTING AGE
OR PROCURING OR POSSESSING ALCOHOLIC BEVERAGES;
DELINQUENCY
A person under 16 years of age who engages in conduct in violation of
subdivision 656(a)(1) of this title commits a delinquent act and shall be subject
to 33 V.S.A. chapter 52. The person shall be provided the opportunity to
participate in the Court Diversion Program unless the prosecutor states on the
record why a referral to the Court Diversion Program would not serve the ends
of justice.

* * * Task Force * * *
Sec. 11. TASK FORCE
(a) Creation of task force. There is created a Task Force for the purpose of
developing recommendations to the General Assembly to address drugged
driving in Vermont and to address appropriate penalties for possession of
alcohol and possession of an ounce or less of marijuana by a person under 21
years of age as provided in this act.
(b) Membership. The Task Force shall be composed of seven members as
follows:
(1) the Commissioner of Public Safety or designee;
(2) the Commissioner of Health or designee;
(3) the Executive Director of State's Attorneys and Sheriffs or
designee;
(4) the Defender General or designee;
(5) the Commissioner of Motor Vehicles or designee;
(6) the Court Diversion Director or designee; and
(7) a student assistance professional appointed by the Governor.

(c) Report. On or before November 1, 2013, the Task Force shall report to the House and Senate Committees on Judiciary its findings and any recommendations for legislative action.

* * * Application and Effective Dates * * *

Sec. 12. APPLICATION

An offense in which the prohibited conduct occurred prior to July 1, 2013 shall not be deemed a prior offense for the purpose of determining increased penalties for second and subsequent offenses as provided in this act.

Sec. 13. EFFECTIVE DATES

(a) This section and Secs. 12 and 13 of this act shall take effect on passage.
(b) Sec. 6 of this act shall take effect on July 1, 2014.
(c) The remaining sections of this act shall take effect on July 1, 2013.

Date the Governor signed the bill: June 6, 2013

Note: See Act No. 75 (H.522), Secs. 22d–22f, which amends Act No. 76 (H.200).