

DRIVER'S LICENSE SUSPENSIONS AND DRIVING WITH A LICENSE SUSPENDED IN VERMONT: BACKGROUND

I. Existing Law

A. Grounds for suspension/revocation/refusal of a license or privilege to operate

- The highest volume grounds for license suspensions and revocations are:
 - i. Nonpayment of a judgment on a traffic violation.¹ According to legislative findings in Act 147 of 2012, approximately 60% of suspensions are attributable to failure to pay such judgments.
 - ii. Accumulation of points against a person's driving record for motor vehicle moving violations. According to legislative findings in Act 147 of 2012, approximately 24% of suspensions are attributable to accumulation of points.
 - iii. DUI (criminal and civil).
- For a complete list of statutes that give rise to license suspensions, revocations, or refusals, see Appendix A.

B. Civil and criminal penalties for driving with a license suspended (DLS)

- 23 V.S.A. § 674 establishes criminal penalties for driving with a suspended or revoked license or privilege to operate:
 - i. If the underlying suspension arises from a conviction under 23 V.S.A. §§ 1091(b) (grossly negligent operation); 1094(b) (aggravated operation without owner's consent); or 1128(b) or (c) (failure to stop when involved in an accident that involves serious bodily injury or death).
 - ii. Following a violation of 23 V.S.A. § 676 for a 6th or subsequent time (exceptions).
 - iii. If the underlying suspension or revocation arises from DUI conviction under 23 V.S.A. § 1201 or a civil DUI suspension under 23 V.S.A. § 1205.
- 23 V.S.A. § 676 establishes civil penalties for driving with a license or privilege to operate that has been suspended, revoked, or refused other than as provided in § 674.

C. Reinstatement following a suspension

- Under 23 V.S.A. § 675, a person whose license or privilege to operate is suspended or revoked must apply for termination of the revocation, or reinstatement of his or her license or privilege to operate, and must pay a \$71.00 fee.
- As a result, even if a suspension is for a specific time period—*e.g.* 120 days—a person under a suspension may be subject to a DLS civil ticket or criminal charge after that time period has expired if the person has failed to apply for reinstatement and pay the fee.

¹ "Traffic violation" is defined in 23 V.S.A. § 2302, available at <http://legislature.vermont.gov/statutes/section/23/024/02302>

II. Recent History of Legislative and Executive Branch Actions to Address DLS

- In Act 167 of 2006,² the General Assembly amended the criminal DLS statute to add subdiv. (a)(2), which criminalizes a sixth or subsequent violation of 23 V.S.A. § 676, if the five prior offenses occurred on or after 7/1/2003.
- In 2012, after the Nonviolent Misdemeanor Review Committee identified civil and criminal DLS as a significant driver of costs to the justice system, the General Assembly passed Act 147,³ which created the DLS Diversion Program. Under the Program, a qualifying person under suspension who enters into a diversion contract may have his or her license reinstated prior to complete payment of the amount due on traffic violation judgments and may have the amount due reduced, subject to Judicial Bureau approval. → Act 147 also eliminated the imposition of points for civil and criminal DLS violations and eliminated the imposition of new suspensions for a criminal DLS violation, and amended the criminal DLS statute to provide that violations of 23 V.S.A. § 676 occurring prior to successful completion of DLS Diversion shall not count as prior offenses.
- The Judicial Bureau has offered persons subject to traffic violation judgments the ability to avoid license suspension for nonpayment of the judgments within 30 days by paying \$30 per month per ticket. This is called the “30 by 30 Program.”
- In 2014, the General Assembly passed Act 128,⁴ which:
 - i. Capped the suspension period for failure to pay a judgment on a traffic violation at 120 days. Previously, the period of suspension extended until payment of the amount due.
 - ii. Added language authorizing the Judicial Bureau to extend time periods for paying judgments on traffic violations.
 - iii. Eliminated credit bureau reporting for failure to pay traffic tickets.
 - iv. Attempted to provide that a civil DLS offense would not count as a prior toward a criminal DLS violation, if the underlying suspension resulted from failure to pay a judgment on a traffic violation and the amount due was paid.
- On March 20, 2015, a Driver Restoration Day was held in Burlington. Residents of Chittenden, Franklin, Grand Isle, Lamoille, and Washington counties were eligible to participate, and had traffic violation judgments reduced to \$20 per ticket. On December 11, 2015, a second Driver Restoration Day was held in Windsor County, with judgments reduced to \$25 per ticket.
- On February 25, 2015, Rep. Grad and Sen. Sears sent a letter to then Secretary of Transportation Sue Minter requesting that she convene a working group to study various approaches for reducing the number and duration of driver’s license suspensions in Vermont. The Working Group submitted a report on Jan. 4, 2016.

² See <http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2006/acts/ACT167.htm>

³ See <http://www.leg.state.vt.us/docs/2012/Acts/ACT147.pdf>, amended by <http://legislature.vermont.gov/assets/Documents/2014/Docs/ACTS/ACT018/ACT018%20As%20Enacted.pdf>

⁴ See <http://www.leg.state.vt.us/DOCS/2014/ACTS/ACT128.PDF>

III. Traffic Violation Enforcement, Judicial Bureau Jurisdiction and Procedure

- Prior to 7/1/90, violations of motor vehicle laws were charged as “traffic offenses” and were criminal misdemeanors handled by district courts. *Act 109 of 1989* (“An act to decriminalize traffic offenses”) decriminalized them and added a new chapter governing civil “traffic violations.”
- Act 109 moved jurisdiction over “traffic violations” to a “traffic bureau” eff. 7/1/90, which was renamed to be the “traffic and municipal ordinance bureau” in Act 237 of 1994. Jurisdiction over “traffic violations” then moved to the Judicial Bureau, which was created in Act 121 of 1998.
- The Judicial Bureau has jurisdiction over many matters other than traffic violations.⁵
- Three hearing officers appointed by the Court Administrator determine “waiver penalties” for violations within the Judicial Bureau’s jurisdiction (except for municipal civil ordinance violations). The waiver penalty is the amount a person is assessed if he or she admits, does not contest, or fails to answer the ticket.⁶
 - With certain exceptions, penalties and fines imposed by courts for criminal offenses and the Judicial Bureau for certain civil offenses under its jurisdiction are subject to a \$47.00 surcharge and a 15% surcharge.⁷
- Traffic violations under the Judicial Bureau’s jurisdiction are charged on a Civil Violation Complaint form.
 - A defendant has 20 days to answer (by admitting, not contesting, or denying the violation). Failure to answer results in a \$20 fee. 4 V.S.A. § 1105.
 - Defendants who fail to answer are subject to a default judgment. 4 V.S.A. § 1105.
 - Defendants who admit or do not contest the ticket, or who deny the allegation and are found guilty at the hearing, are subject to a judgment.
 - A defendant has 30 days to pay a Judicial Bureau judgment; failure to pay within 30 days results in a \$30 fee. 4 V.S.A. § 1109.
 - ***If the judgment is for a traffic violation***, the Judicial Bureau sends notice of the failure to pay to DMV. After 20 days from the date of receiving the notice, DMV “shall” suspend the defendant’s license for a 120-day period (this period may be shortened if the defendant pays the amount due). 23 V.S.A. § 2307.⁸
- If a Judicial Bureau judgment is not paid 75 days after the defendant is provided notice of judgment, the Judicial Bureau “may” initiate contempt proceedings. 4 V.S.A. § 1109.
 - If the underlying judgment is for a traffic violation, during contempt proceedings, a Judicial Bureau hearing officer may waive the license reinstatement fee or reduce the amount due on certain grounds. *See* 23 V.S.A. § 2307.

⁵ See 4 V.S.A. § 1102, available at <http://legislature.vermont.gov/statutes/section/04/029/01102>

⁶ A schedule of waiver penalties is available at:

https://www.vermontjudiciary.org/eforms/Waiver_Penalty_Schedule.pdf

⁷ See 13 V.S.A. § 7282, available at <http://legislature.vermont.gov/statutes/section/13/223/07282>

⁸ 23 V.S.A. § 2307 is available at: <http://legislature.vermont.gov/statutes/section/23/024/02307>

- As a practical matter, the Judicial Bureau enforces judgments through collection agencies and tax set-offs rather than through contempt proceedings.

VI. Terminology

Suspension

- Defined in 23 V.S.A. § 4(50): “‘Suspension of license’ means the withdrawal by formal action of the Commissioner, for a specific period of time and until reinstatement by the Commissioner, of a person’s license or privilege to operate a motor vehicle on the public highways. The term also includes the refusal of the right of an unlicensed person to apply for a license.”

Revocation

- Defined in 23 V.S.A. § 4(49): “‘Revocation of a license’ means the termination by formal action of the Commissioner of a person’s license or privilege to operate a motor vehicle on the public highways whereby the license or privilege shall not be subject to renewal or restoration except upon an application for a new license presented to and acted upon by the Commissioner after the expiration of the applicable period of time prescribed in this title. The term also includes the refusal of the right of an unlicensed person to apply for a license.”

“Privilege to operate” refers to the right of a person not licensed in Vermont to operate on Vermont highways. A privilege to operate may extend to:

- Nonresidents who hold a valid license or permit issued by another jurisdiction.
- Residents who hold only learner’s permits issued in Vermont.

Appendix A

I. Suspensions, Revocations, Refusals, and Recalls Arising from Motor Vehicle Operation

1. 23 V.S.A. § 603(a): Comm'r *may* refuse to issue license to a person “mentally or physically unfit, or because of his or her habits, or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles.”
2. 23 V.S.A. §§ 603(c): Comm'r must refuse to issue license/permit to person whose “license or learner permit is suspended, revoked, or canceled” in any jurisdiction.
→ Under § 3906, Comm'r must refuse to issue license to person whose “license to drive”⁹ from another state is suspended or revoked in that state.
3. 23 V.S.A. § 606: Comm'r must refuse to license a person who previously held a junior operator license if he or she had any suspensions, revocations, or recalls for the six-month period preceding licensure under this section.
4. 23 V.S.A. § 607(a)(3)(B): Comm'r must refuse issuance of junior operator license to person with learner’s permit suspension, revocation, or recall within prior six months.
5. 23 V.S.A. § 607a: Recall of learner’s permit or junior operator’s license
- mentally or physically unfit or unsafe to be trusted with the operation of motor vehicles; recommendation of diversion or reparative board; single texting violation; speeding violation that triggers 3 points; accumulation of 6 points; or violates restrictions of permit or jr operator license (§ 614(c) and § 615(b)).
6. 23 V.S.A. § 617(a): Refusal to issue permit to person under age 18 who has convictions for certain traffic violations in prior 2 years.
7. 23 V.S.A. § 636(b): Physical or mental condition rendering person incompetent to drive.
8. 23 V.S.A. § 671(a): Suspension with prior right of hearing of a person incompetent to operate a motor vehicle, or who is operating improperly so as to endanger the public.
9. 23 V.S.A. § 671(b): Suspension for 15 days without prior right of hearing if the safety of the public has been or will be imperiled as a result of the operation of a motor vehicle by the operator.
10. 23 V.S.A. § 672: Suspending or revoking privilege to operate of nonresident operator for the same causes and under the same conditions and in the same manner as with a resident operator.
11. 23 V.S.A. § 673a: Revoke the license of a habitual offender (eight 6 or more point moving violation convictions within a 5-year period).
12. 23 V.S.A. § 802(a)&(c): Failure to furnish proof of financial responsibility when proof required by Vermont under 23 V.S.A. § 801 or by another state (SR-22).
13. 23 V.S.A. § 803: Termination or expiration of insurance when a person has been required to prove financial responsibility.
14. 23 V.S.A. § 1205: Civil DUI suspension.
15. 23 V.S.A. §§ 1206, 1208: Suspension (or for 3d or more, revocation) upon criminal DUI conviction.
16. 23 V.S.A. § 1213: Suspension, revocation, recall of ignition interlock RDL for same reasons as regular license can be suspended, revoked, or recalled.
17. 23 V.S.A. § 1216: Civil DUI suspension for persons under age 21.

⁹ “License to drive” and “license to operate” are used interchangeably throughout the Driver License Compact, but are not defined terms.

18. 23 V.S.A. § 2506: Suspensions arising from accumulation of points; convictions for specific offenses; extra suspension in case of a fatality.
19. 23 V.S.A. § 3905(a): For purposes of suspension, revocations, or limitations of operating privileges of holders of Vermont licenses, Vermont shall give same effect to out-of-state convictions for specific serious traffic offenses.
20. 23 V.S.A. § 4108(g): Comm'r shall not issue commercial driver license (CDL) or commercial learner's permit (CLP) to a person subject to a disqualification from driving a commercial motor vehicle, or while the person's driver license is suspended, revoked, or cancelled in any state.
21. 23 V.S.A. § 4115(b): Under the CDL law, the Commissioner must give all out-of-state convictions full faith and credit and treat them for sanctioning purposes as if they occurred in Vermont.
22. 23 V.S.A. § 4116a: Grounds for suspension of privilege to operate a CMV.

II. Offenses That Trigger Suspensions, Revocations, or Refusals, But Do Not Arise from Motor Vehicle Operation

A. Motor vehicle-related, or derivative of a motor vehicle offense

1. False or fraudulent license/registration applications; impersonation in an application. 23 V.S.A. §§ 202, 671(e), and 4124.
2. Counterfeit, fraud, misuse with regard to licenses/registrations. 23 V.S.A. §§ 203, 674(e).
3. Failure to fully pay for a license/registration, or giving of a bad check. 23 V.S.A. §§ 110, 204(a).
4. Unsatisfied judgment for damages arising out of a motor vehicle accident, and based on violation of Title 23. 23 V.S.A. § 605.
5. Failure to pay fines arising from a traffic violation judgment; Judicial Bureau contempt. 23 V.S.A. § 2307(b); 4 V.S.A. § 1109.
6. Failure to appear for a special examination; other failures to appear. 23 V.S.A. §§ 636, 671.
7. Resumption of use of alcohol or drugs following reinstatement under total abstinence program. 23 V.S.A. § 1209a(b)(2).
8. Nonpayment of purchase and use tax. 32 V.S.A. § 8909

B. Unrelated to a motor vehicle offense

1. Nonpayment of child support order. 15 V.S.A. § 798.
2. Minor misrepresenting age, possessing, consuming alcohol (failure to report to or complete diversion). 7 V.S.A. §§ 656-67
3. Failure to pay fine; minor's unlawful possession of tobacco. 7 V.S.A. § 1005.
4. False alarm of an impending bombing or other offense or catastrophe, knowing that the report or warning is false or baseless, by a person under age 18. 13 V.S.A. § 1753.
5. Possession of marijuana by a person under 21 years of age (failure to report to or complete Youth Substance Abuse Safety Program). 18 V.S.A. § 4230
6. Failure of motor fuel or diesel distributor to comply with laws governing their recordkeeping, remittance of taxes, etc. 23 V.S.A. §§ 3009(b) or 3103(b).