

1 Introduced by Representatives Jewett of Ripton and Burke of Brattleboro

2 Referred to Committee on

3 Date:

4 Subject: Motor vehicles; driving under the influence; implied consent to BAC

5 testing; ignition interlock devices; immobilization; forfeiture;

6 vulnerable users; bicycles; highways; lanes; yielding; passing; alcohol

7 screening devices; limitation on liability; town highways; authority to

8 establish speed limits

9 Statement of purpose of bill as introduced: This bill proposes to:

10 (1) expand Vermont's DUI implied consent law in cases of a crash
11 resulting in a fatality or serious bodily injury (SBI);

12 (2) require operation under an ignition interlock restricted driver's
13 license prior to eligibility for reinstatement of an operator's license or driving
14 privilege, and require that the State move for an order immobilizing the vehicle
15 operated by a resident defendant during a DUI offense unless an ignition
16 interlock device is installed, except if the vehicle is not subject to
17 immobilization by law;

18 (3) amend the availability and the procedure for proving an innocent
19 owner defense in a DUI-related immobilization or forfeiture proceeding;

20 (4) limit the liability of liquor licensees or permittees and servers that
21 make alcohol screening tests available to persons served alcohol;

1 (5) create an enhanced penalty for negligent operation of a motor
2 vehicle resulting in death or SBI;

3 (6) amend various definitions that apply throughout Title 23 and add a
4 new definition for “vehicle”;

5 (7) amend motor vehicle laws to clarify the obligation of motorists to
6 yield the right of way to bicyclists and other vulnerable users in various
7 circumstances;

8 (8) authorize bicyclists to proceed within crosswalks and pursuant to
9 pedestrian control signals while riding on their bicycles;

10 (9) amend Vermont’s law requiring safe passing of vulnerable users to
11 specify the clearance required to pass a vulnerable user safely, to specify that
12 in a civil action an unexcused violation of the vulnerable user passing law is
13 negligence in itself, and to create a criminal penalty for a violation resulting in
14 death or injury to a person other than the operator;

15 (10) specify that bicyclists generally must ride as near to the right side
16 of the highway as is safe and elaborate on an exception to this general rule;

17 (11) authorize bicyclists to lane split with motor vehicles moving in the
18 same direction under specific circumstances; and

19 (12) authorize municipalities to establish speed limits on town highways
20 that are lower than 25 miles per hour.

1 An act relating to traffic safety

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

3 * * * DUI; Implied Consent * * *

4 Sec. 1. 23 V.S.A. § 1202 is amended to read:

5 § 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD
6 ALCOHOL CONTENT

7 (a)(1) Implied consent. Every person who operates, attempts to operate, or
8 is in actual physical control of any vehicle on a highway in this State is deemed
9 to have given consent to an evidentiary test of that person's breath for the
10 purpose of determining the person's alcohol concentration or the presence of
11 other drug in the blood. The test shall be administered at the direction of a law
12 enforcement officer.

13 (2) Blood test. If breath testing equipment is not reasonably available or
14 if the officer has reason to believe that the person is unable to give a sufficient
15 sample of breath for testing or if the law enforcement officer has reasonable
16 grounds to believe that the person is under the influence of a drug other than
17 alcohol, the person is deemed to have given consent to the taking of an
18 evidentiary sample of blood. If in the officer's opinion the person is incapable
19 of decision or unconscious or dead, it is deemed that the person's consent is
20 given and a sample of blood shall be taken.

1 the refusal may still be introduced in evidence, in addition to the results of the
2 evidentiary test. Once a law enforcement official begins the application
3 process for a search warrant, the law enforcement official is not obligated to
4 discontinue the process even if the person later agrees to provide an
5 evidentiary breath sample. The limitation created by ~~Rule 41(g)~~ Rules 41(i)
6 and 41.1(m) of the Vermont Rules of Criminal Procedure regarding blood
7 specimens shall not apply to search warrants authorized by this section.

8 (g) The Defender General shall provide statewide 24-hour coverage seven
9 days a week to assure that adequate legal services are available to persons
10 entitled to consult an attorney under this section.

11 * * * DUI; Ignition Interlock Devices * * *

12 Sec. 2. 23 V.S.A. § 1200 is amended to read:

13 § 1200. DEFINITIONS

14 As used in this subchapter:

15 * * *

16 (9) “Ignition interlock restricted driver’s license” or “ignition interlock
17 RDL” or “RDL” means a restricted license or privilege to operate a motor
18 vehicle issued by the Commissioner allowing a person whose license or
19 privilege to operate has been suspended or revoked for operating under the
20 influence of intoxicating liquor or in excess of legal limits of alcohol
21 concentration, or for refusing an enforcement officer’s reasonable request for

1 an evidentiary test, to operate a motor vehicle, other than a commercial motor
2 vehicle as defined in section 4103 of this title, installed with an approved
3 ignition interlock device.

4 * * *

5 Sec. 3. 23 V.S.A. § 1213 is amended to read:

6 § 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE;

7 PENALTIES

8 (a) First offense. ~~A person~~ Except for an offense under section 1216 of this
9 subchapter or an offense arising solely from being under the influence of a
10 drug other than alcohol, a resident whose license or privilege to operate is
11 suspended for a first offense under this subchapter shall be ~~permitted~~ required
12 to operate a motor vehicle, other than a commercial motor vehicle as defined in
13 section 4103 of this title, if issued under a valid ignition interlock RDL. ~~The~~
14 ~~Commissioner shall issue an ignition interlock RDL to a person eligible under~~
15 for the relevant period specified in section 1205(a)(1), 1205(a)(2), ~~1206(a), or~~
16 ~~1216(a)(1) or 1206~~ of this title prior to being eligible for reinstatement of his or
17 her regular license, unless exempt under subdivision 1209a(a)(4) of this title.
18 A resident whose license is suspended under subdivision 1216(a)(1) may elect
19 to obtain an ignition interlock RDL. The Commissioner shall issue an ignition
20 interlock RDL upon receipt of a \$125.00 application fee, and upon receipt of
21 satisfactory proof of installation of an approved ignition interlock device in any

1 motor vehicle to be operated, and financial responsibility as provided in
2 section 801 of this title, ~~and enrollment in an Alcohol and Driving Education~~
3 ~~Program. The RDL shall be valid after expiration of the applicable shortened~~
4 ~~period specified in section 1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of~~
5 ~~this title.~~ A new ignition interlock RDL shall expire at midnight on the eve of
6 the second birthday of the applicant following the date of issue, and may be
7 renewed for one-year terms. The Commissioner shall send by first class mail
8 an application for renewal of the RDL at least 30 days prior to the day renewal
9 is required and shall impose the same conditions for renewal as are required for
10 initial issuance of an ignition interlock RDL. The renewal fee shall be \$125.00.

11 (b) Second offense. ~~A person~~ Except for an offense under section 1216 of
12 this subchapter or an offense arising solely from being under the influence of a
13 drug other than alcohol, a resident whose license or privilege to operate is
14 suspended for a second offense under this subchapter shall be ~~permitted~~
15 required to operate a motor vehicle, ~~other than a commercial motor vehicle as~~
16 ~~defined in section 4103 of this title, if issued~~ under a valid ignition interlock
17 RDL. ~~The Commissioner shall issue an ignition interlock RDL to a person~~
18 ~~eligible under~~ for the relevant period specified in section 1205(m), or 1208(a),
19 ~~or 1216(a)(2) of this title prior to being eligible for reinstatement of his or her~~
20 regular license, unless exempt under subdivision 1209a(a)(4) of this title. A
21 resident whose license is suspended under subdivision 1216(a)(2) may elect to

1 obtain an ignition interlock RDL. The Commissioner shall issue an ignition
2 interlock RDL upon receipt of a \$125.00 application fee; and upon receipt of
3 satisfactory proof of installation of an approved ignition interlock device in any
4 motor vehicle to be operated; and of financial responsibility as provided in
5 section 801 of this title, and enrollment in an Alcohol and Driving
6 Rehabilitation Program. The RDL shall be valid after expiration of the
7 applicable shortened period specified in section 1205(m), 1208(a), or
8 1216(a)(2) of this title. A new ignition interlock RDL shall expire at midnight
9 on the eve of the second birthday of the applicant following the date of issue,
10 and may be renewed for one-year terms. The Commissioner shall send by first
11 class mail an application for renewal of the RDL at least 30 days prior to the
12 day renewal is required and shall impose the same conditions for renewal as
13 are required for initial issuance of an ignition interlock RDL. The renewal fee
14 shall be \$125.00.

15 (c) Third or subsequent offense. A person Except for an offense under
16 section 1216 of this subchapter or an offense arising solely from being under
17 the influence of a drug other than alcohol, a resident whose license or privilege
18 to operate is suspended or revoked for a third or subsequent offense under this
19 subchapter shall be permitted required to operate a motor vehicle, other than a
20 commercial motor vehicle as defined in section 4103 of this title, if issued
21 under a valid ignition interlock RDL for the relevant period prescribed in

1 subsection 1209a(b) of this title prior to being eligible for issuance or
2 reinstatement of a regular license, or for life if suspended under section
3 1205(a)(3), 1205(m), or 1208(b) and reinstatement is not sought, unless
4 exempt under subdivision 1209a(a)(4) of this title. The Commissioner shall
5 issue an ignition interlock RDL ~~to a person eligible under section 1205(a)(3),~~
6 ~~1205(m), 1208(b), or 1216(a)(2) of this title~~ upon receipt of a \$125.00
7 application fee; and upon receipt of satisfactory proof of installation of an
8 approved ignition interlock device in any motor vehicle to be operated; and of
9 financial responsibility as provided in section 801 of this title, ~~and enrollment~~
10 ~~in an Alcohol and Driving Rehabilitation Program.~~ The RDL shall be valid
11 ~~after expiration of the applicable shortened period specified in section~~
12 ~~1205(a)(3), 1205(m), 1208(b), or 1216(a)(2) of this title.~~ A new ignition
13 interlock RDL shall expire at midnight on the eve of the second birthday of the
14 applicant following the date of issue, and may be renewed for one-year terms.
15 The Commissioner shall send by first class mail an application for renewal of
16 the RDL at least 30 days prior to the day renewal is required and shall impose
17 the same conditions for renewal as are required for initial issuance of an
18 ignition interlock RDL. The renewal fee shall be \$125.00.

19 * * *

20 (f)(1) Prior to the issuance of an ignition interlock RDL under this section,
21 the Commissioner shall notify the applicant ~~of the applicable period prior to~~

1 ~~eligibility for reinstatement under section 1209a or 1216 of this title, and that~~
2 the reinstatement period under section 1209a or 1216 of this title may be
3 extended under this subsection (f) or subsections (g)–(h) of this section.

4 * * *

5 (i) Upon receipt of notice that the holder of an ignition interlock RDL has
6 been ~~adjudicated~~ convicted of an offense under this title that would result in
7 suspension, revocation, or recall of a license or privilege to operate, the
8 Commissioner shall suspend, revoke, or recall the person's ignition interlock
9 RDL for the same period that the license or privilege to operate would have
10 been suspended, revoked, or recalled. The Commissioner may impose a
11 reinstatement fee in accordance with section 675 of this title and require, prior
12 to reinstatement, satisfactory proof of installation of an approved ignition
13 interlock device, and of financial responsibility as provided in section 801 of
14 this title, ~~and enrollment in or completion of an alcohol and driving education~~
15 ~~or rehabilitation program.~~

16 * * *

17 (1)(1) The Commissioner, in consultation with any individuals or entities
18 the Commissioner deems appropriate, shall adopt rules and may enter into
19 agreements to implement the provisions of this section.

20 (2) The rules shall establish uniform performance standards for ignition
21 interlock devices including required levels of accuracy in measuring blood

1 alcohol concentration, efficacy in distinguishing valid breath samples, the
2 occurrence of random retests while the vehicle is running, and automatic
3 signaling by the vehicle if the operator fails such a retest. The Commissioner
4 shall certify devices that meet these standards, specify any periodic calibration
5 that may be required to ensure accuracy of the devices, and specify the means
6 and frequency of the retrieval and sharing of data collected by ignition
7 interlock devices. Persons who ~~elect to~~ obtain an ignition interlock RDL
8 following a conviction under this subchapter when the person's blood alcohol
9 concentration is proven to be 0.16 or more shall be required to install an
10 ignition interlock device with a Global Positioning System feature. The rules
11 also shall establish a schedule of extensions of the period prior to eligibility for
12 reinstatement as authorized under subsection (h) of this section.

13 Sec. 4. 23 V.S.A. § 1205 is amended to read:

14 § 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

15 (a) Refusal; alcohol concentration above legal limits; suspension periods.

16 (1) Upon affidavit of a law enforcement officer that the officer had
17 reasonable grounds to believe that the person was operating, attempting to
18 operate, or in actual physical control of a vehicle in violation of section 1201
19 of this title and that the person refused to submit to a test, the Commissioner
20 shall suspend the person's operating license; or nonresident operating
21 privilege; or the privilege of an unlicensed operator to operate a vehicle for a

1 period of six months and until the person complies with section 1209a of this
2 title. However, during this period, a person may operate under the terms of an
3 ignition interlock RDL issued pursuant to section 1213 of this title ~~after 30~~
4 ~~days of this six-month period unless the alleged offense involved a collision~~
5 ~~resulting in serious bodily injury or death to another.~~

6 (2) Upon affidavit of a law enforcement officer that the officer had
7 reasonable grounds to believe that the person was operating, attempting to
8 operate, or in actual physical control of a vehicle in violation of section 1201
9 of this title and that the person submitted to a test and the test results indicated
10 that the person's alcohol concentration was above a limit specified in
11 subsection 1201(a) of this title, at the time of operating, attempting to operate,
12 or being in actual physical control, the Commissioner shall suspend the
13 person's operating license, or nonresident operating privilege, or the privilege
14 of an unlicensed operator to operate a vehicle for a period of 90 days and until
15 the person complies with section 1209a of this title. However, during this
16 period, a person may operate under the terms of an ignition interlock RDL
17 issued pursuant to section 1213 of this title ~~after 30 days of this 90-day period~~
18 ~~unless the alleged offense involved a collision resulting in serious bodily injury~~
19 ~~or death to another.~~

20 (3) Upon affidavit of a law enforcement officer that the officer had
21 reasonable grounds to believe that the person was operating, attempting to

1 operate, or in actual physical control of a vehicle in violation of subdivision
2 1201(d)(2) of this title and that the person submitted to a test and the test
3 results indicated that the person's alcohol concentration was 0.02 or more at
4 the time of operating, attempting to operate, or being in actual physical control,
5 the Commissioner shall suspend the person's operating license, or nonresident
6 operating privilege, or the privilege of an unlicensed operator to operate a
7 vehicle for life. However, while the license or privilege is suspended, a person
8 may operate under the terms of an ignition interlock RDL issued pursuant to
9 section 1213 of this title ~~after one year of this lifetime suspension unless the~~
10 ~~alleged offense involved a collision resulting in serious bodily injury or death~~
11 ~~to another.~~

12 * * *

13 (m) Second and subsequent suspensions. For a second suspension under
14 this subchapter, the period of suspension shall be 18 months and until the
15 person complies with section 1209a of this title. However, during this period,
16 a person may operate under the terms of an ignition interlock RDL issued
17 pursuant to section 1213 of this title ~~after 90 days of this 18-month period~~
18 ~~unless the alleged offense involved a collision resulting in serious bodily injury~~
19 ~~or death to another.~~ For a third or subsequent ~~suspension~~ suspension action under this
20 ~~subchapter~~ section, the period of ~~suspension~~ revocation shall be life. However,
21 while the license or privilege is revoked, a person may operate under the terms

1 of an ignition interlock RDL issued pursuant to section 1213 of this title ~~after~~
2 ~~one year of this lifetime suspension unless the alleged offense involved a~~
3 ~~collision resulting in serious bodily injury or death to another.~~

4 * * *

5 Sec. 5. 23 V.S.A. § 1206 is amended to read:

6 § 1206. SUSPENSION OF LICENSE FOR DRIVING WHILE UNDER
7 INFLUENCE; FIRST CONVICTIONS

8 (a) First conviction—generally. Except as otherwise provided, upon
9 conviction of a person for violating a provision of section 1201 of this title, or
10 upon final determination of an appeal, the Court shall forward the conviction
11 report forthwith to the Commissioner of Motor Vehicles. The Commissioner
12 shall immediately suspend the person’s operating license, or nonresident
13 operating privilege, or the privilege of an unlicensed operator to operate a
14 vehicle for a period of 90 days and until the defendant complies with section
15 1209a of this title. However, during any suspension period under this section,
16 a person may operate under the terms of an ignition interlock RDL issued
17 pursuant to section 1213 of this title ~~after 30 days of this 90-day period unless~~
18 ~~the offense involved a collision resulting in serious bodily injury or death to~~
19 ~~another.~~

1 (b) Extended suspension–fatality. In cases resulting in a fatality, the period
2 of suspension shall be one year and until the defendant complies with section
3 1209a of this title.

4 (c) Extended suspension–refusal; serious bodily injury. Upon conviction of
5 a person for violating a provision of subsection 1201(c) of this title involving a
6 collision in which serious bodily injury resulted, or upon final determination of
7 an appeal, the Court shall forward the conviction report forthwith to the
8 Commissioner of Motor Vehicles. The Commissioner shall immediately
9 suspend the person’s operating license or nonresident operating privilege or the
10 privilege of an unlicensed operator to operate a vehicle for a period of six
11 months, and until the defendant complies with section 1209a of this title.

12 Sec. 6. 23 V.S.A. § 1208 is amended to read:

13 § 1208. SUSPENSIONS FOR SUBSEQUENT CONVICTIONS

14 (a) Second conviction. Upon a second conviction of a person violating a
15 provision of section 1201 of this title and upon final determination of an
16 appeal, the Court shall forward the conviction report forthwith to the
17 Commissioner of Motor Vehicles. The Commissioner shall immediately
18 suspend the person’s operating license, or nonresident operating privilege or
19 the privilege of an unlicensed operator to operate a vehicle for 18 months and
20 until the defendant complies with section 1209a of this title. However, during
21 this period, a person may operate under the terms of an ignition interlock RDL

1 issued pursuant to section 1213 of this title ~~after 90 days of this 18 month~~
2 ~~period unless the offense involved a collision resulting in serious bodily injury~~
3 ~~or death to another.~~

4 (b) Third conviction. Upon a third or subsequent conviction of a person
5 violating a provision of section 1201 of this title and upon final determination
6 of any appeal, the Court shall forward the conviction report forthwith to the
7 Commissioner of Motor Vehicles. The Commissioner shall immediately
8 revoke the person's operating license, or nonresident operating privilege or the
9 privilege of an unlicensed operator to operate a motor vehicle for life.

10 However, while his or her license is revoked, a person may operate under the
11 terms of an ignition interlock RDL issued pursuant to section 1213 of this title
12 ~~after one year of this lifetime suspension unless the offense involved a~~
13 ~~collision resulting in serious bodily injury or death to another.~~

14 Sec. 7. 23 V.S.A. § 1216 is amended to read:

15 § 1216. PERSONS UNDER 21; ALCOHOL CONCENTRATION OF 0.02

16 OR MORE

17 (a) A person under the age of 21 who operates, attempts to operate, or is in
18 actual physical control of a vehicle on a highway when the person's alcohol
19 concentration is 0.02 or more, commits a civil traffic violation subject to the
20 jurisdiction of the Judicial Bureau and subject to the following sanctions:

1 (1) For a first violation, the person’s license or privilege to operate shall
2 be suspended for six months and until the person complies with subdivision
3 1209a(a)(1) of this title. However, during this period, a person may operate
4 under the terms of an ignition interlock RDL issued pursuant to section 1213 of
5 this title ~~after 30 days of this six month period unless the offense involved a~~
6 ~~collision resulting in serious bodily injury or death to another.~~

7 (2) For a second or subsequent violation, the person’s license or
8 privilege to operate shall be suspended until the person reaches the age of 21 or
9 for one year, whichever is longer, and complies with subdivision 1209a(a)(2)
10 of this title. However, during this period, a person may operate under the
11 terms of an ignition interlock RDL issued pursuant to section 1213 of this title
12 ~~after 90 days of the applicable suspension period unless the offense involved a~~
13 ~~collision resulting in serious bodily injury or death to another.~~

14 (b) A person’s license or privilege to operate that has been suspended under
15 this section shall not be reinstated until:

16 (1) the Commissioner has received satisfactory evidence that the person
17 has complied with ~~section 1209a of this title and~~ an Alcohol and Driving
18 Education Program approved by the Commissioner of Health and a therapy
19 program if required, and that the provider of ~~the~~ a required therapy program
20 has been paid in full;

1 Sec. 8. 23 V.S.A. § 1209a is amended to read:

2 § 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND
3 DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

4 (a) Conditions of reinstatement. ~~No~~ A license or privilege to operate
5 suspended or revoked under this subchapter, except a license suspended under
6 section 1216 of this title, shall be reinstated ~~except~~ as follows:

7 (1) In the case of a first suspension, a license shall be reinstated only:

8 * * *

9 (C) ~~if the person elects to operate after the person, if a Vermont~~
10 resident, operates under an ignition interlock RDL, ~~after:~~

11 (i) ~~a period of nine months (plus any extension of this period~~
12 ~~arising from a violation of section 1213 of this title) if the person's license or~~
13 ~~privilege to operate is suspended after a refusal to consent to a law~~
14 ~~enforcement officer's reasonable request for an evidentiary test; or~~

15 (ii) ~~a period of six months (~~ for a period equivalent to the relevant
16 suspension period specified in section 1205(a)(1), 1205(a)(2), or 1206 of this
17 title, plus any extension of this period arising from a violation of section 1213
18 of this title) in all other cases, except that this requirement shall not apply if the
19 underlying offense arose solely from being under the influence of a drug other
20 than alcohol; and

1 (A) the person has successfully completed an alcohol and driving
2 rehabilitation program;

3 (B) the person has completed or shown substantial progress in
4 completing a therapy program at the person's own expense agreed to by the
5 person and the Driver Rehabilitation Program Director;

6 (C) the person has satisfied the requirements of subsection (b) of this
7 section; and

8 ~~(D) if the person elects to operate under an ignition interlock RDL,~~
9 ~~after:~~

10 ~~(i) a period of four years (plus any extension of this period arising~~
11 ~~from a violation of section 1213 of this title) if the person's license or privilege~~
12 ~~to operate is suspended after a refusal to consent to a law enforcement officer's~~
13 ~~reasonable request for an evidentiary test; or~~

14 ~~(ii) a period of three years (plus any extension of this period~~
15 ~~arising from a violation of section 1213 of this title) in all other cases; and~~

16 ~~(E) the person has no pending criminal charges, civil citations, or~~
17 ~~unpaid fines or penalties for a violation under this chapter.~~

18 (4) The Commissioner may waive the requirement to operate under an
19 ignition interlock restricted driver's license prior to eligibility for reinstatement
20 if the person furnishes proof as prescribed by the Commissioner that he or she
21 is incapable of using an ignition interlock device because of a medical

1 condition that will persist permanently or at least for the term of the suspension
2 or, in the case of revocations for life, for a period of three years.

3 (b) Abstinence.

4 (1) Notwithstanding any other provision of this subchapter, a person
5 whose license or privilege to operate has been ~~suspended~~ revoked for life
6 under this subchapter may apply to the Driver Rehabilitation School Director
7 and to the Commissioner for reinstatement of his or her driving privilege. The
8 person shall have completed three years of total abstinence from consumption
9 of alcohol or drugs, or both. The beginning date for the period of abstinence
10 shall be no sooner than the effective date of the ~~suspension~~ revocation from
11 which the person is requesting reinstatement and shall not include any period
12 during which the person is serving a sentence of incarceration to include
13 furlough. The application shall include the applicant's authorization for a
14 urinalysis examination to be conducted prior to reinstatement under this
15 subdivision. The application to the Commissioner shall be accompanied by a
16 fee of \$500.00. The Commissioner shall have the discretion to waive the
17 application fee if the Commissioner determines that payment of the fee would
18 present a hardship to the applicant.

19 (2) If the Commissioner, or a medical review board convened by the
20 Commissioner, is satisfied by a preponderance of the evidence that the
21 applicant has abstained for the required number of years immediately

1 preceding the application and hearing, has successfully completed a therapy
2 program as required under this section, has operated under a valid ignition
3 interlock RDL for three years if a Vermont resident, and the person appreciates
4 that he or she cannot drink any amount of alcohol and drive safely, the
5 person's license shall be reinstated immediately, subject to the condition that
6 the person's ~~suspension~~ revocation will be put back in effect in the event any
7 further investigation reveals a return to the consumption of alcohol or drugs
8 and to such additional conditions as the Commissioner may impose ~~and, if the~~
9 ~~person has not previously operated for three years under an ignition interlock~~
10 ~~RDL, subject to the additional condition that the person shall operate under an~~
11 ~~ignition interlock restricted driver's license for a period of at least one year~~
12 ~~following reinstatement under this subsection. However, the Commissioner~~
13 ~~may waive this one year requirement to operate under an ignition interlock~~
14 ~~restricted driver's license if the person furnishes proof as prescribed by the~~
15 ~~Commissioner that he or she is incapable of using an ignition interlock device~~
16 ~~because of a medical condition that will persist permanently or at least for one~~
17 ~~year. The requirement to operate under an ignition interlock RDL shall not~~
18 ~~apply if the person is exempt under subdivision (a)(4) of this section or if the~~
19 ~~offenses that triggered the lifetime revocation arose solely from being under~~
20 ~~the influence of a drug other than alcohol.~~

1 (3) If after notice and hearing the Commissioner later finds that the
2 person was violating the conditions of the person's reinstatement under this
3 subsection, the person's operating license or privilege to operate shall be
4 immediately ~~suspended~~ revoked for the period of the original ~~suspension~~
5 revocation.

6 (4) If the Commissioner finds that a person reinstated under this
7 subsection was ~~suspended~~ revoked pursuant to section 1205 of this title, or was
8 convicted of a violation of section 1201 of this title, the person shall be
9 conclusively presumed to be in violation of the conditions of his or her
10 reinstatement.

11 (5) A person shall be eligible for reinstatement under this subsection
12 only once following a ~~suspension~~ revocation for life.

13 (6)(A) If an applicant for reinstatement under this subsection resides in a
14 jurisdiction other than Vermont, the Commissioner may elect not to conduct an
15 investigation. If the Commissioner elects not to conduct an investigation, he or
16 she shall provide a letter to the applicant's jurisdiction of residence stating that
17 Vermont does not object to the jurisdiction issuing the applicant a license if the
18 applicant is ~~authorized~~ required to operate only vehicles equipped with an
19 ignition interlock device for at least a three-year period and is required to
20 complete any alcohol rehabilitation or treatment requirements of the licensing
21 jurisdiction.

1 (B) If the applicant's jurisdiction of residence is prepared to issue or
2 has issued a license in accordance with subdivision (A) of this subdivision (6)
3 and the applicant satisfies the requirements of section 675 of this title, the
4 Commissioner shall update relevant State and federal databases to reflect that
5 the applicant's lifetime ~~suspension or~~ revocation in Vermont under chapter 13,
6 subchapter 13 of this title has terminated.

7 * * *

8 * * * DUI; Immobilization and Forfeiture Proceedings * * *

9 Sec. 9. 23 V.S.A. § 1213a is amended to read:

10 § 1213a. IMMOBILIZATION OF VEHICLE

11 (a) Immobilization. ~~At the time of~~ Prior to sentencing after for a second or
12 ~~subsequent conviction under section 1201 of this title, the Court may, upon the~~
13 ~~motion of~~ prior to a final hearing under section 1205 of this title, or after the
14 defendant waives a hearing under section 1205 of this title, the State, and in
15 addition to any penalty imposed by law, shall move in the case of residents,
16 and may move in the case nonresidents, for an order that the motor vehicle
17 operated by the defendant at the time of the offense be seized and immobilized
18 by a law enforcement agency designated by the Court, as provided in this
19 section and section 1213c of this title, if the vehicle is subject to
20 immobilization under section 1213c of this title. The State shall not be
21 required to seek an immobilization order under this subsection if it moves for a

1 forfeiture order under section 1213b of this title. In the case of residents, a
2 vehicle shall be immobilized pursuant to any resulting order if an ignition
3 interlock device is not installed in the vehicle within 30 days of the order, or if
4 the ignition interlock device is removed prior to expiration of the period
5 specified under subdivision 1209a(a)(1)(C), (a)(2)(C), or (a)(3)(C) of this title.

6 * * *

7 Sec. 10. 23 V.S.A. § 1213c is amended to read:

8 § 1213c. IMMOBILIZATION AND FORFEITURE PROCEEDINGS

9 (a) Notice. The State shall provide the following persons with notice of ~~an~~
10 a motion for immobilization or forfeiture hearing:

11 (1) the defendant;

12 (2) the registered owner or owners;

13 (3) any holder of a security interest in or lien on the vehicle as shown on
14 the certificate of title, if any, for the vehicle as shown in the records in the state
15 in which the vehicle is registered or titled; and

16 (4) any other person appearing to be an innocent owner ~~or operator~~ as
17 described in subsection (g) of this section.

18 (b) Content of notice. The notice shall contain the following:

19 (1) a description of the motor vehicle, including vehicle identification
20 number, make, model, and year;

1 (2) the name of the registered owner or owners, lienholder, and any
2 other person appearing to be an innocent owner ~~or operator~~ as described in
3 subsection (g) of this section;

4 (3) a statement that the vehicle shall be subject to immobilization or
5 forfeiture without hearing unless a hearing is requested and the date, time, and
6 place of the hearing if a hearing is requested; and

7 (4) a statement that any person who is an innocent owner, ~~an innocent~~
8 ~~owner or operator~~ co-owner, or who holds a security interest in, or claims any
9 interest in the motor vehicle, may appear and be heard at the hearing to protect
10 the person's interest in the motor vehicle.

11 (c) Service of notice; time to request hearing.

12 (1) Service to defendant. The defendant shall be served with the notice
13 in accordance with section 1205 of this title or at or before the first appearance
14 in any criminal case arising from a violation of section 1201 of this title. The
15 defendant shall have seven days from receipt of the notice to request a hearing.

16 (2) Service to other interested parties. The notice ~~of hearing~~ shall be
17 served to any party entitled to notice under subsection (a) of this section other
18 than the defendant as provided for in the Vermont Rules of Civil Procedure ~~on~~
19 ~~the registered owner or owners and any lienholders as shown on the certificate~~
20 ~~of title for the vehicle as shown in the records of the department of motor~~

1 ~~vehicles in the state in which the vehicle is registered or titled.~~ Such persons
2 shall have 20 days from receipt of the notice to request a hearing.

3 (d) Hearing. ~~The~~ If a hearing is timely requested by a person entitled to
4 notice under subsection (a) of this section, the Court shall hold a hearing to
5 determine whether or not to order the motor vehicle immobilized or forfeited.
6 The defendant shall not be permitted to contest a motion for immobilization if
7 he or she fails without good cause to timely request a hearing. The proceeding
8 shall be against the motor vehicle and shall be deemed civil in nature.

9 (e) Hardship consideration. In determining the motion, the Court may
10 consider any undue hardship which immobilization or forfeiture would cause
11 to ~~a person~~ the owner or co-owner, other than the defendant, who is dependent
12 on the motor vehicle for essential transportation needs. In making such
13 determination, the Court shall consider any evidence of past or current
14 domestic violence.

15 (f) Order.

16 (1) The Court shall make findings of fact and conclusions of law and
17 shall issue a final order. The Court ~~may~~ shall order the motor vehicle
18 immobilized or forfeited if the Court finds that:

19 ~~(1)(A)~~ (A) the motor vehicle is subject to immobilization or forfeiture;

20 ~~(2)(B)~~ (B) the notice as required by this section was served; and

1 Sec. 11. 23 V.S.A. § 1205 is amended to read:

2 § 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

3 * * *

4 (c) Notice of suspension; notice of immobilization motion. On behalf of
5 the Commissioner of Motor Vehicles, a law enforcement officer requesting or
6 directing the administration of an evidentiary test shall serve notice of intention
7 to suspend and of suspension on a person who refuses to submit to an
8 evidentiary test or on a person who submits to a test the results of which
9 indicate that the person's alcohol concentration was above a legal limit
10 specified in subsection 1201(a) or (d) of this title, at the time of operating,
11 attempting to operate, or being in actual physical control of a vehicle in
12 violation of section 1201 of this title. On behalf of the State's Attorney, the
13 officer also shall serve notice of a motion for immobilization of the motor
14 vehicle operated by the defendant at the time of the offense. The notice or
15 notices shall be signed by the law enforcement officer requesting the test. A
16 copy of the notice or notices shall be sent to the Commissioner of Motor
17 Vehicles and a copy shall be mailed or given to the defendant within three
18 business days of the date the officer receives the results of the test. If mailed,
19 the notice ~~is~~ or notices shall be deemed received three days after mailing to the
20 address provided by the defendant to the law enforcement officer. A copy of

1 the affidavit of the law enforcement officer shall also be mailed first class mail
2 or given to the defendant within seven days of the date of notice.

3 (d)(1) Form and service of notice to defendant. The notice of intention to
4 suspend and of suspension shall be in a form prescribed by the Supreme Court
5 and a notice of proposed vehicle immobilization shall be consistent with the
6 requirements of section 1213c of this title.

7 (2) The notice of intention to suspend and of suspension shall include an
8 explanation of rights, a form to be used to request a hearing, and, if a hearing is
9 requested, the date, time, and location of the Criminal Division of the Superior
10 Court where the person must appear for a preliminary hearing. The notice
11 shall also contain, in boldface print, the following:

12 ~~(1)~~(A) You have the right to ask for a hearing to contest the suspension
13 of your operator's license.

14 ~~(2)~~(B) This notice shall serve as a temporary operator's license and is
15 valid until 12:01 a.m. of the date of suspension. If this is your first violation of
16 section 1201 of this title and if you do not request a hearing, your license will
17 be suspended as provided in this notice. If this is your second or subsequent
18 violation of section 1201 of this title, your license will be suspended on the
19 11th day after you receive this notice. It is a crime to drive while your license
20 is suspended unless you have been issued an ignition interlock restricted
21 driver's license.

1 ~~(3)~~(C) If you wish to request a hearing before the Criminal Division of
2 the Superior Court, you must mail or deliver your request for a hearing within
3 seven days after (date of notice).

4 ~~(4)~~(D) If your request for a hearing is not mailed or delivered within
5 seven days after (date of notice), you waive your right to a hearing and your
6 license will be suspended as provided in this notice.

7 ~~(5)~~(E) In order to request a hearing, sign the attached form and mail or
8 deliver the form to the Commissioner of Motor Vehicles at the address shown.

9 ~~(6)~~(F) ~~If you are charged with a second or subsequent violation of~~
10 ~~section 1201 of this title, no~~ No person shall sell, transfer, or encumber the title
11 to a vehicle that may be subject to immobilization or forfeiture unless
12 approved by the court in which the charge is filed for good cause shown.

13 (3) Notice and service of a motion for a proposed immobilization to
14 persons other than the defendant shall be effected in accordance with section
15 1213c of this title.

16 (e) Effective date of suspension, immobilization.

17 (1) First offense. Unless a hearing is requested on the suspension, a
18 suspension under this section of the license of a person who the officer has
19 reasonable grounds to believe violated section 1201 of this title a first time
20 becomes effective on the 11th day after the person receives notice or is deemed
21 to have received notice under subsection (c) of this section. If a hearing is

1 requested, a suspension shall not become effective unless the court orders a
2 suspension after hearing as provided in this section.

3 (2) Second or subsequent offense. A suspension of a person's license
4 under this section shall become effective on the 11th day after the person
5 receives notice or is deemed to have received notice under subsection (c) of
6 this section if:

7 (A) the officer has reasonable grounds to believe the person has
8 violated section 1201 of this title; and

9 (B) after July 1, 1991, the person has:

10 (i) had his or her operator's license suspended pursuant to this
11 section; or

12 (ii) been convicted of a violation of section 1201 of this title.

13 (3) Immobilization. The court shall proceed on a motion for
14 immobilization pursuant to 1213c of this title. If a hearing on a proposed
15 suspension and a hearing on a proposed immobilization are requested, the
16 Court shall conduct a final hearing under this section and on immobilization on
17 the same date unless impracticable or good cause is shown for a delay.

18 (f) Review by Superior Court. Within seven days following receipt of a
19 notice of intention to suspend and of suspension, ~~a person~~ or of a motion for
20 immobilization, a defendant may ~~make a request for~~ a hearing before the
21 Superior Court by mailing or delivering the form provided with the notice.

1 The request shall be mailed or delivered to the Commissioner of Motor
2 Vehicles, who shall then notify the Criminal Division of the Superior Court
3 that a hearing has been requested and provide the State’s Attorney with a copy
4 of the notice.

5 (g) Preliminary hearing. The preliminary hearing shall be held within 21
6 days of the alleged offense. Unless impracticable or continued for good cause
7 shown, the date of the preliminary hearing shall be the same as the date of the
8 first appearance in any criminal case resulting from the same incident for
9 which the person received a citation to appear in court. The preliminary
10 hearing shall be held in accordance with procedures prescribed by the Supreme
11 Court.

12 (h) Final hearing.

13 (1) If the defendant requests a hearing on the merits, the Court shall
14 schedule a final hearing on the merits to be held within 21 days of the date of
15 the preliminary hearing. In no event may a final hearing occur more than 42
16 days after the date of the alleged offense without the consent of the defendant
17 or for good cause shown. The final hearing may only be continued by the
18 consent of the defendant or for good cause shown. The issues at the final
19 hearing shall be limited to the following:

1 (A) Whether the law enforcement officer had reasonable grounds to
2 believe the person was operating, attempting to operate, or in actual physical
3 control of a vehicle in violation of section 1201 of this title.

4 (B) Whether at the time of the request for the evidentiary test the
5 officer informed the person of the person's rights and the consequences of
6 taking and refusing the test substantially as set out in subsection 1202(d) of
7 this title.

8 (C) Whether the person refused to permit the test.

9 (D) Whether the test was taken and the test results indicated that the
10 person's alcohol concentration was above a legal limit specified in subsection
11 1201(a) or (d) of this title, at the time of operating, attempting to operate, or
12 being in actual physical control of a vehicle in violation of section 1201 of this
13 title, whether the testing methods used were valid and reliable, and whether the
14 test results were accurate and accurately evaluated. Evidence that the test was
15 taken and evaluated in compliance with rules adopted by the Department of
16 Public Safety shall be prima facie evidence that the testing methods used were
17 valid and reliable and that the test results are accurate and were accurately
18 evaluated.

19 (E) Whether the requirements of section 1202 of this title were
20 complied with.

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* * * Alcohol Screening Devices; Limitation on Liability * * *

Sec. 13. 7 V.S.A. chapter 17 is amended to read:

CHAPTER 17. FURNISHING OR SALE TO INTOXICATED PERSONS
AND PUBLIC CHARGES

Subchapter 1. Liability for Furnishing or Sale

* * *

Subchapter 2. Alcohol Screening Devices; Limitation on Liability

§ 511. ALCOHOL SCREENING DEVICES; LIMITATION ON LIABILITY

(a) As used in this section, “alcohol screening device” means a breath or saliva device that tests for alcohol concentration, is approved by the National Highway Traffic Safety Administration (NHTSA), and is on NHTSA’s conforming products list for such devices.

(b) Except in the case of grossly negligent, reckless, or intentional conduct, a person licensed or permitted under this title to serve alcoholic beverages that makes an alcohol screening device available to individuals served alcohol, or an individual who serves alcohol on behalf of the licensee or permittee, shall not be liable in connection with:

(1) an individual’s use or failure to use the device, including any failure to encourage use of the device;

1 (2) any failure to monitor or become apprised of test results from the
2 device;

3 (3) the selection of the device;

4 (4) testing, maintenance, or repair of the device, or the failure to test,
5 maintain, or repair the device.

6 (c) The following evidence shall not be admissible in any civil,
7 administrative, or criminal proceeding against a person described in subsection
8 (b) of this section:

9 (1) test results from an alcohol screening device test made available by
10 the person;

11 (2) the fact that the person made or could have made an alcohol
12 screening device available;

13 (3) conduct described in subsection (b) of this section, unless it is
14 grossly negligent, reckless, or intentional.

15 (d) A person shall not be eligible for the limitations on liability or on the
16 admissibility of evidence under this section:

17 (1) if the person charges a fee for use of the alcohol screening device; or

18 (2) in connection with service of alcohol outside the scope of the license
19 or permit.

1 (e) Except as specifically provided under this section, this section shall not
2 affect liability or the admissibility of evidence in an action brought under
3 subchapter 1 of this chapter.

4 * * * Negligent Operation of a Motor Vehicle; Penalties * * *

5 Sec. 14. 23 V.S.A. § 1091 is amended to read:

6 § 1091. NEGLIGENCE; GROSSLY NEGLIGENCE
7 OPERATION

8 (a) Negligent operation.

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

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

14 (3) A person who violates this subsection shall be imprisoned not more
15 than one year or fined not more than \$1,000.00, or both. If the person has been
16 previously convicted of a violation of this subsection, the person shall be
17 imprisoned not more than two years or fined not more than \$3,000.00, or both.
18 If serious bodily injury as defined in 13 V.S.A. § 1021 or death of any person
19 other than the operator results, the operator shall be imprisoned for not more
20 than two years or fined not more than \$3,000.00, or both. If serious bodily
21 injury or death results to more than one person other than the operator, the

1 operator may be convicted of a separate violation of this subdivision for each
2 decedent or person injured.

3 (b) Grossly negligent operation.

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

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

10 (3) A person who violates this subsection shall be imprisoned not more
11 than two years or fined not more than \$5,000.00, or both. If the person has
12 previously been convicted of a violation of this section, the person shall be
13 imprisoned not more than four years or fined not more than \$10,000.00, or
14 both. If serious bodily injury as defined in 13 V.S.A. § 1021 or death of any
15 person other than the operator results, the ~~person~~ operator shall be imprisoned
16 for not more than 15 years or fined not more than \$15,000.00, or both. If
17 serious bodily injury or death results to more than one person other than the
18 operator, the operator may be convicted of a separate violation of this
19 subdivision for each decedent or person injured.

20 (c) The provisions of this section do not limit or restrict the prosecution for
21 manslaughter.

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* * * Bicycles and Other Vulnerable Users; Rights and Obligations * * *

Sec. 15. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the law regulating vehicles, as provided in this title and 20 V.S.A. part 5, the following definitions shall apply:

* * *

(7) “Crosswalks”:

(A) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway;

(B) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian or bicyclist crossing by lines or other markings on the surface.

* * *

(9) “Edge of the roadway” is the extreme right-hand limit of ~~any improved area within the right-of-way of the highway~~ a roadway as defined in subdivision (32) of this section.

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(21)(A) “Motor vehicle” shall include all vehicles propelled or drawn by power other than muscular power, except farm tractors, vehicles running only upon stationary rails or tracks, motorized highway building equipment, road making appliances, snowmobiles, or tracked vehicles or electric personal assistive mobility devices.

(B) “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks. “Vehicle” includes motor vehicles and bicycles, among other devices.

* * *

(32) “Roadway” is that portion of a highway improved, designed, or ordinarily used for vehicular traffic, exclusive of the shoulder, except that with regard to the rights and duties of bicyclists and other operators of human-powered vehicles, “roadway” shall include the shoulder.

* * *

Sec. 16. 23 V.S.A. § 1022 is amended to read:

§ 1022. TRAFFIC-CONTROL SIGNALS

(a) Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow may be used, except for

1 special pedestrian signals carrying a word legend, and the signals shall indicate
2 and apply to drivers and pedestrians as follows:

3 (1) Green signal:

4 (A) Vehicular traffic facing a circular green signal may proceed
5 straight through or turn right or left unless a sign prohibits either turn.

6 Vehicular traffic, including vehicles turning right or left, shall yield the right of
7 way to other vehicles or to pedestrians lawfully within the intersection or on an
8 adjacent crosswalk at the time the signal is exhibited.

9 (B) Vehicular traffic facing a green arrow signal, shown alone or in
10 combination with another signal, may cautiously enter the intersection only to
11 make the movement indicated by the arrow, or such other movement as is
12 permitted by other signals shown at the same time. Vehicular traffic shall
13 yield the right of way to pedestrians and bicyclists lawfully within an adjacent
14 crosswalk or to other traffic lawfully using the intersection.

15 (C) Unless otherwise directed by a pedestrian-control signal, as
16 provided in section 1023 of this title, pedestrians and bicyclists facing a green
17 signal may proceed across the roadway within any marked or unmarked
18 crosswalk, but not when the sole green signal is a turn arrow. Bicyclists may
19 proceed while riding on their bicycles and shall yield the right of way to
20 pedestrians.

21 * * *

1 (3) Steady red signal:

2 (A) Vehicular traffic facing a steady circular red signal alone shall
3 stop at a clearly marked stop line, but if none, shall stop before entering the
4 crosswalk on the near side of the intersection.

5 (B) Except when a sign is in place prohibiting a turn, vehicular traffic
6 facing any steady red signal may cautiously enter the intersection to turn right,
7 or to turn left from a ~~one-way~~ one-way street into a ~~one-way~~ one-way street,
8 after stopping as required by subdivision (A) of this subdivision (3). This
9 traffic shall yield the ~~right-of-way~~ right of way to pedestrians and bicyclists
10 lawfully within an adjacent crosswalk and to other traffic lawfully using the
11 intersection. ~~No~~ A motorist shall not turn right when facing a red arrow signal
12 indication unless a regulatory sign is present which permits this movement.

13 (C) Unless otherwise directed by a pedestrian-control signal as
14 provided in section 1023 of this title, pedestrians facing a steady red signal
15 alone shall not enter the roadway.

16 * * *

17 Sec. 17. 23 V.S.A. § 1023 is amended to read:

18 § 1023. PEDESTRIAN-CONTROL SIGNALS

19 (a) Whenever special pedestrian-control signals exhibiting the words
20 “Walk” or “Don’t Walk” are in place, the signals indicate as follows:

1 (1) “Walk”: pedestrians and bicyclists facing the signal may proceed
2 across the roadway in the direction of the signal and shall be given the right of
3 way by all drivers.

4 (2) “Don’t Walk”: ~~no~~ a pedestrian or bicyclist shall not start to cross the
5 roadway in the direction of the signal, but any pedestrian or bicyclist who has
6 begun his or her crossing on the “Walk” signal shall proceed to a sidewalk or a
7 safety island while the “Don’t Walk” signal is showing.

8 (b) Bicyclists may proceed while riding on their bicycles and shall yield the
9 right of way to pedestrians.

10 Sec. 18. 23 V.S.A. § 1031 is amended to read:

11 § 1031. DRIVING TO RIGHT

12 (a) Upon all roadways of sufficient width a vehicle shall be driven upon the
13 right half of the roadway, except as follows:

14 (1) when overtaking and passing another vehicle or a vulnerable user
15 proceeding in the same direction under the rules governing such movement;

16 (2) when an obstruction exists making it necessary to drive to the left of
17 the center of the highway; provided, any person so doing shall yield the right
18 of way to all vehicles and vulnerable users traveling in the proper direction
19 upon the unobstructed portion of the highway within such distance as to
20 constitute an immediate hazard;

1 authorized in section 1035 of this title, and shall not again drive to the right
2 side of the roadway until safely clear of the overtaken vehicle.

3 (2) Except when overtaking and passing on the right is permitted, the
4 driver of an overtaken motor vehicle shall give way to the right in favor of the
5 overtaking motor vehicle ~~on audible signal~~ and shall not increase the speed of
6 his or her vehicle until completely passed by the overtaking vehicle.

7 (b) Passing vulnerable users. The operator of a motor vehicle approaching
8 or passing a vulnerable user as defined in subdivision 4(81) of this title shall
9 exercise due care, ~~which includes increasing clearance, to pass the vulnerable~~
10 ~~user safely, and shall cross the center of the highway only as provided in~~
11 ~~subdivision (a)(1) of this section.~~ As used in this subsection, “due care” means
12 passing at a distance of at least three feet from the vulnerable user when
13 traveling at less than 30 miles per hour, of at least four feet when traveling 30
14 miles per hour or more but not more than 40 miles per hour, and with one
15 additional foot of clearance required for every 10 miles per hour at or above 40
16 miles per hour. If an operator is unable to pass a vulnerable user at these
17 distances and in compliance with section 1035 of this chapter, then the
18 operator shall not pass the vulnerable user until the way is clear.

19 (c) In a civil action, proof of an unexcused violation of subsection (b) of
20 this section shall constitute proof of negligence in itself. This subsection shall
21 not relieve the plaintiff of the obligation to prove a causal relation between the

1 violation and the harm to the plaintiff. Nothing in this subsection is intended
2 to eliminate defenses that may be available to the defendant.

3 (d) If injury to any person other than the operator results from the
4 operator's violation of subsection (b) if this section, the operator shall be
5 subject to imprisonment for not more than two years or a fine of not more than
6 \$3,000.00, or both. The provisions of this section do not limit prosecution
7 under section 1091 of this chapter or for any other crime.

8 Sec. 20. 23 V.S.A. § 1034 is amended to read:

9 § 1034. PASSING ON THE RIGHT

10 (a) The driver of a vehicle may overtake and pass upon the right of another
11 vehicle only as follows:

12 (1) ~~when~~ When the vehicle overtaken is making or about to make a left
13 turn;

14 (2) ~~upon~~ Upon a street or highway of sufficient width for two or more
15 lines of moving vehicles in one or more directions and with unobstructed
16 pavement not occupied by parked vehicles;

17 (3) If the passing vehicle is a bicycle. A vehicle making a right turn
18 shall yield the right of way to the bicyclist.

19 ~~(3)(4)~~ Upon a one-way street, or upon any roadway on which
20 traffic is restricted to one direction of movement, where the roadway is free

1 from obstructions and of sufficient width for two or more lines of moving
2 vehicles.

3 (b) In no event may a vehicle be passed by driving off the pavement or
4 main-traveled portion of the roadway, unless the passing vehicle is a bicycle.

5 Sec. 21. 23 V.S.A. § 1035 is amended to read:

6 § 1035. LIMITATIONS

7 (a) ~~No~~ A vehicle shall not be driven to the left side of the center of the
8 roadway in overtaking and passing another vehicle or a vulnerable user
9 proceeding in the same direction unless authorized by the provisions of this
10 chapter and unless the left side is clearly visible and free of oncoming traffic
11 and vulnerable users for a sufficient distance ahead to permit overtaking and
12 passing to be completed without interfering with the operation of any vehicle
13 or with any vulnerable user approaching from the opposite direction or with
14 the operation of any vehicle or with any vulnerable user overtaken. In every
15 event, the overtaking vehicle shall return to an authorized lane of travel as soon
16 as practicable and, if the passing movement involves the use of a lane
17 authorized for vehicles approaching from the opposite direction, before coming
18 within 200 feet of any approaching vehicle or a vulnerable user.

19 (b) A vehicle shall not pass another from the rear under any of the
20 following conditions:

1 (1) when approaching or upon the crest of a grade or upon a curve in the
2 highway where the driver's view is in any way obstructed;

3 (2) when approaching within 100 feet of, or traversing, any intersection
4 or railroad grade crossing unless otherwise indicated by official traffic control
5 devices; or

6 (3) when the view is obstructed upon approaching within 100 feet of any
7 bridge, viaduct, or tunnel.

8 (c) The foregoing limitations do not apply upon a one-way roadway, or
9 when subdivision 1031(a)(2) of this title applies, or where a vehicle is turning
10 left into an alley, private road, or driveway.

11 Sec. 22. 23 V.S.A. § 1047 is amended to read:

12 § 1047. VEHICLE TURNING ~~LEFT~~ —GENERAL DUTY TO YIELD

13 (a) The driver of a vehicle intending to turn to the left within an
14 intersection or into an alley, private road, or driveway shall yield the right of
15 way to any vehicle or vulnerable user approaching from the opposite direction
16 which is either within the intersection or so close as to constitute ~~an immediate~~
17 a hazard.

18 (b) The driver of a vehicle intending to turn right within an intersection or
19 into an alley, private road, or driveway shall yield the right of way to any
20 vulnerable user within the intersection or so close as to constitute a hazard.

1 Sec. 23. 23 V.S.A. § 1048 is amended to read:

2 § 1048. STOP OR YIELD INTERSECTIONS

3 (a) Preferential right of way at an intersection may be indicated by “stop”
4 signs or “yield” signs.

5 (b) Except when directed to proceed by an enforcement officer or
6 traffic-control signal, every driver of a vehicle approaching a stop intersection
7 indicated by a stop sign shall stop at a clearly marked stop line, but if none,
8 before entering the crosswalk on the near side of the intersection, or, if none,
9 then at the point nearest the intersecting roadway where the driver has a view
10 of approaching traffic on the intersecting roadway before entering the
11 intersection. After having stopped, the driver shall yield the right of way to
12 any vehicle which has entered and to any vulnerable user who has entered the
13 intersection from another highway or ~~which~~ is approaching so closely on ~~said~~
14 the highway as to constitute an immediate hazard during the time when ~~such~~
15 the driver is moving across or within the intersection.

16 (c) The driver of a vehicle approaching a yield sign shall in obedience to
17 the yield sign slow down to a speed reasonable for the existing conditions and,
18 if required for safety to stop, shall stop before entering the crosswalk on the
19 near side of the intersection, or, if none, then at the point nearest the
20 intersecting roadway where the driver has a view of approaching traffic on the
21 intersecting roadway. After slowing or stopping, the driver shall yield the right

1 of way to any vehicle and to any vulnerable user in the intersection or
2 approaching on another highway so closely as to constitute an immediate
3 hazard during the time the driver is moving across or within the intersection.
4 ~~However, if~~ If the driver is involved in a collision with a vehicle or vulnerable
5 user in the intersection, after driving past a yield sign without stopping, the
6 collision shall be deemed prima facie evidence of the driver's failure to yield
7 the right of way.

8 Sec. 24. 23 V.S.A. § 1049 is amended to read:

9 § 1049. VEHICLE ENTERING FROM PRIVATE ROAD

10 The driver of a vehicle about to enter or cross a highway from an alley,
11 building, private road, or driveway shall yield the right of way to all vehicles
12 and vulnerable users approaching on the highway.

13 Sec. 25. 23 V.S.A. chapter 13, subchapter 5 is amended to read:

14 Subchapter 5. Pedestrians' Rights and Duties;

15 Rights of Bicyclists in Crossing

16 § 1051. PEDESTRIANS' AND BICYCLISTS' RIGHT OF WAY IN
17 CROSSWALKS

18 (a) If traffic-control signals are not in operation, the driver of a vehicle
19 shall yield the right of way, slowing down or stopping if necessary, to a
20 pedestrian or bicyclist crossing the roadway within a crosswalk.

1 (b) ~~No~~ A pedestrian may or bicyclist shall not suddenly leave a curb or
2 other place of safety and ~~walk or run~~ proceed into the path of a vehicle which
3 is so close that it is impossible for a driver to yield.

4 (c) If any vehicle is stopped at a marked crosswalk or at any unmarked
5 crosswalk at an intersection to permit a pedestrian or bicyclist to cross the
6 roadway, the driver of any other vehicle approaching from the rear may not
7 overtake and pass the stopped vehicle.

8 (d) Bicyclists may proceed across crosswalks while riding on their bicycles
9 and shall yield the right of way to pedestrians.

10 § 1052. CROSSING EXCEPT AT CROSSWALKS

11 (a) Every pedestrian or bicyclist crossing a roadway at any point other than
12 within a marked crosswalk shall yield the right of way to all vehicles upon the
13 roadway.

14 (b) Every pedestrian or bicyclist crossing a roadway at a point where a
15 pedestrian tunnel or overhead pedestrian crossing has been provided shall yield
16 the right of way to all vehicles upon the roadway.

17 (c) Between adjacent intersections at which traffic-control signals are in
18 operation pedestrians shall not cross at any place except in a marked
19 crosswalk.

20 (d)(1) ~~No~~ A pedestrian may or bicyclist shall not cross a roadway
21 intersection diagonally unless;

1 (b) ~~No person may~~ A person shall not turn a vehicle at an intersection
2 unless the vehicle is in proper position upon the roadway as required in section
3 1061 of this title, or turn a vehicle to enter an alley, private road, or driveway,
4 or otherwise turn a vehicle from a direct course or move right or left upon a
5 roadway unless such movement can be made with reasonable safety.

6 (c) No person shall stop or suddenly decrease the speed of a vehicle
7 without first giving an appropriate signal in the manner provided herein to the
8 driver of any vehicle immediately to the rear when there is opportunity to give
9 such signal.

10 (d) A signal of intention to turn right or left when required shall be given
11 continuously during not less than the last 100 feet traveled by the vehicle
12 before turning. A bicyclist shall comply with this subsection unless he or she
13 cannot do so safely.

14 (e) The signals provided for in section 1065 of this title shall be used to
15 indicate an intention to turn, change lanes, or start from a parked position and
16 may not be flashed on one side only on a parked or disabled vehicle, or flashed
17 as a courtesy or “do pass” signal to operators of other vehicles approaching
18 from the rear.

1 Sec. 27. 23 V.S.A. § 1105 is amended to read:

2 § 1105. ADDITIONAL PARKING REGULATIONS

3 (a) Except as otherwise provided by local ordinance or authorized traffic
4 control devices, every vehicle stopped or parked upon a two-way roadway
5 shall be stopped or parked with the right-hand wheels parallel to and within 12
6 inches of the right-hand curb or if there is no curb, within 12 inches of the right
7 edge of the roadway improved area of the highway right-of-way.

8 (b) Except when otherwise provided by local ordinance or authorized
9 traffic control devices, every vehicle stopped or parked upon a one-way
10 roadway shall be so stopped or parked parallel to and within 12 inches of a
11 curb or, if there is no curb, within 12 inches of the edge of the ~~roadway~~
12 improved area of the highway right-of-way, in the direction of authorized
13 traffic movement.

14 Sec. 28. 23 V.S.A. chapter 13, subchapter 12 is amended to read:

15 Subchapter 12. Operation of Bicycles, Electric Personal Assistive Mobility
16 Devices, and Play Vehicles

17 § 1136. APPLICATION OF SUBCHAPTER

18 (a) The parent of any child and the guardian of any ward may not authorize
19 or knowingly permit any such child or ward to violate any of the provisions of
20 this subchapter.

1 (b) This subchapter applies whenever a bicycle is operated upon any
2 highway or upon any path set aside for the exclusive use of bicycles subject to
3 those exceptions stated herein.

4 (c) Every person riding a bicycle is granted all of the rights and is subject
5 to all of the duties applicable to operators of vehicles, except as to those
6 provisions which:

7 (1) are inconsistent with provisions that specifically address the rights
8 and duties of bicyclists; or

9 (2) by their very nature can have no application.

10 * * *

11 § 1139. RIDING ON ROADWAYS AND BICYCLE PATHS

12 (a)~~(1)~~ A person operating a bicycle upon a roadway shall exercise due care
13 when passing a standing vehicle or one proceeding in the same direction ~~and~~
14 Bicyclists generally shall ride as near to the right side of the roadway as
15 ~~practicable, but shall ride to the left or in a left lane is safe, except~~ when:

16 ~~(1)(A) preparing~~ Preparing for a left turn at an intersection or into a
17 private roadway or driveway;

18 ~~(2)(B) approaching~~ Approaching an intersection with a right-turn lane if
19 not turning right at the intersection;

20 ~~(3)(C) overtaking~~ Overtaking another highway user; ~~or~~

1 * * * Town Highways; Establishing Speed Limits * * *

2 Sec. 29. 23 V.S.A. § 1007 is amended to read:

3 § 1007. LOCAL SPEED LIMITS

4 (a)(1) The legislative body of a municipality may establish, on the basis of
5 an engineering and traffic investigation, a speed limit on all or a part of any
6 city, town, or village highway (town highway) within its jurisdiction, which:

7 ~~(A)~~ is not more than 50 miles per hour; ~~however,~~ However, after
8 considering neighborhood character, abutting land use, bicycle and pedestrian
9 use, and physical characteristics of the highways, the legislative body of a
10 municipality may vote to set the maximum speed limit, without an engineering
11 and traffic investigation, at not more than 50 miles per hour nor less than 35
12 miles per hour, on all or a portion of unpaved town highways within its
13 boundaries, unless otherwise posted in accordance with the provisions of this
14 section; ~~or~~

15 ~~(B)~~ is not less than 25 miles per hour.

16 (2) If the legislative body of a municipality votes to set the speed limit
17 on all unpaved town highways in its boundaries at no more than 50 miles per
18 hour nor less than 35 miles per hour ~~as provided for in subdivision (a)(1) of~~
19 ~~this section~~, signs shall be located at points of change from one speed limit to
20 another.

21 * * *

1 * * * Effective Date; Transition Provision * * *

2 Sec. 30. EFFECTIVE DATE, AND APPLICABILITY TO PENDING DUI
3 MATTERS

4 (a) This act shall take effect on July 1, 2016.

5 (b) The requirement to operate under an ignition interlock RDL as a
6 condition for eligibility for reinstatement, created under Secs. 3 and 8 of this
7 act, amending 23 V.S.A. §§ 1213 and 1209a, shall apply only in connection
8 with DUI offenses committed on or after the effective date of this act.

9 (c) The requirement that the State pursue immobilization of the vehicle
10 used by a defendant in the commission of a DUI offense, with immobilization
11 to occur if the defendant fails to install an ignition interlock device or removes
12 an ignition interlock device prior to the end of the suspension period, created
13 under Sec. 9 of this act, amending 23 V.S.A. §§ 1213a, shall apply only in
14 connection with DUI offenses committed on or after the effective date of this
15 act.

16 (d) For any DUI offense that occurs before the effective date of this act, the
17 law in effect governing eligibility for and the terms of an ignition interlock
18 RDL, eligibility for reinstatement, and vehicle immobilization and forfeiture as
19 of the date of the offense shall govern.