

DR 16-024: An act relating to traffic safety

NOTE: This document is intended to provide a high-level overview of DR 16-024. It does not list all changes or additions to current law made in the bill.

- **Secs. 1-12** (pp. 3-38) amend several of Vermont's DUI laws, at 23 V.S.A. chapter 13, subchapter 13 (§§ 1200–1220b).
- **Sec. 13** (pp. 39-40) amends a provision in Title 7 to create a limitation on the liability of liquor licensees/permittees and servers who make alcohol screening tests available to persons served alcohol.
- **Sec. 14** (pp. 41-42) creates an enhanced criminal penalty for negligent operation of a motor vehicle resulting in death or serious bodily injury to another.
- **Secs. 15-28** (pp. 43-61) amend Vermont traffic laws governing bicyclists and other vulnerable users and governing how various road users share the road.
- **Sec. 29** (p.61-62) amends the law governing the authority of municipalities to establish speed limits.
- **Sec. 30** (p.62-63) governs the effective date of the bill and the applicability of the bill to pending matters.

Sec. 1 (pp. 3-5) expands Vermont's DUI implied consent law in cases of a crash resulting in a fatality or serious bodily injury (SBI) to imply consent to an evidentiary test of a surviving operator's breath (or, in certain circumstances, of the operator's blood) regardless of whether the law enforcement officer has reasonable grounds to believe that the operator has any amount of alcohol or other drug in his or her system.

Sec. 2 (pp. 5-6) updates the definition of "ignition interlock restricted driver's license" in the DUI law to reflect a change to the ignition interlock law made in 2012.

Sec. 3 (pp. 6-11) requires, with certain exceptions, a Vermonter whose license is suspended for DUI to operate under an ignition interlock restricted driver's license (RDL) prior to being eligible for reinstatement of his or her regular operator's license.

Secs. 4-7 (pp. 12-19) eliminate the requirement that a DUI offender serve a "hard" suspension period prior to being eligible to operate under an ignition interlock RDL. These sections also make ignition interlock RDLs available to persons whose DUI offenses involved death or serious bodily injury to another.

Sec. 8 (pp. 19-25) updates the law governing reinstatement of a person's license following a suspension for a DUI offense in order to reference the requirement that a Vermonter operate under an ignition interlock RDL for the relevant suspension period, unless an exception applies.

Sec. 9 (pp. 25-26) authorizes the State to move for an order to immobilize the vehicle operated by a defendant during a DUI offense for a first offense. In the case of residents, this section also authorizes the state to seek an immobilization order to take effect if an ignition interlock device is not installed within 30 days of the order or if the device is removed prior to expiration of the defendant's term of suspension.

Sec. 10 (pp. 26-30) amends the law governing DUI-related immobilization and forfeiture proceedings to:

- clarify who must be served with notice of a motion for immobilization or forfeiture;
- eliminate the requirement for a hearing if no hearing is requested;
- specify the method of service of the motion to a defendant;
- allow motions to be served to other interested parties by certified mail, return receipt requested;
- specify the time periods for a defendant or other interested party to request a hearing;
- specify that a defendant who fails without good cause to timely request a hearing shall not be permitted to contest the motion;
- eliminate an “innocent operator” defense to immobilization or forfeiture, while preserving an innocent owner or co-owner defense
- provide that innocent owner or co-owner defense is waived unless the owner or co-owner submits a sworn affidavit at least seven days prior to the hearing.

Sec. 11 (pp. 30-38) amends the DUI law’s civil suspension provision to:

- provide that officers who serve a defendant a notice of intention to suspend also serve notice of a motion for immobilization of the motor vehicle operated by the defendant at the time of the offense;
- require that if a hearing on a proposed suspension and on a proposed immobilization are requested, the Court conduct a hearing on both issues on the same date unless impracticable or good cause is shown for a delay;
- provide that for a 1st DUI, a civil suspension will take effect 11 days after service of the notice of intent to suspend, even if the defendant requests a hearing;
- provide that if a defendant fails to file a list of issues seven days in advance of the final hearing, the request for a hearing is deemed withdrawn, and the court automatically enters the suspension;
- create a new presumption regarding a defendant’s BAC in the situation where the defendant is taken into custody;
- specify that the time limits for civil suspension hearings are not jurisdictional for any DUI offense;
- allow a party’s chemist to testify by videoconferencing.

Sec. 12 (p. 38) updates the implied consent law to require that a DUI defendant be notified at the time an evidentiary test is requested that if testing is refused, the motor vehicle operated at the time testing is refused may be subject to immobilization.

Sec. 13 (pp. 39-40) limits the liability under specified circumstances of liquor licensees or permittees and servers who make alcohol screening tests available to persons served alcohol, except in the case of grossly negligent, reckless, or intentional conduct, and limits the admissibility of related evidence.

Sec. 14 (pp. 41-42) creates an enhanced criminal penalty for negligent operation of a motor vehicle resulting in death or SBI.

* * * Bike-Ped/Sharing of the Road * * *

Background

23 V.S.A. § 4(81) defines vulnerable user as follows:

(81) “Vulnerable user” means a pedestrian; an operator of highway building, repair, or maintenance equipment or of agricultural equipment; a person operating a wheelchair or other personal mobility device, whether motorized or not; a person operating a bicycle or other nonmotorized means of transportation (such as roller skates, rollerblades, or roller skis); or a person riding, driving, or herding an animal.

Sec. 15 (pp. 43-44) amends the definitions of “edge of the roadway” and “roadway” that apply throughout Title 23 and adds a new definition for “vehicle” also to apply throughout Title 23.

Sec. 16 (pp. 44-46) specifies that bicyclists may proceed across roadways within crosswalks while riding on their bicycles and shall yield the right of way to pedestrians, and that motorists turning right on red or left from a one-way street shall yield the right of way to bicyclists.

Sec. 17 (pp. 46-47) specifies that bicyclists in addition to pedestrians may proceed when a pedestrian control signal indicates “Walk”, may proceed while riding on their bicycles, and shall yield the right of way to pedestrians.

Sec. 18 (pp. 47-48) provides that motorists may ride other than on the right half of the roadway when overtaking and passing a vulnerable user and must yield to vulnerable users coming from the other direction when doing so. Sec. 18 also states that the law generally requiring slow-moving vehicles to drive to the right does not apply to bicyclists, which are instead governed by another provision of law, 23 V.S.A. § 1139.

Sec. 19 (pp. 48-50) amends Vermont’s law requiring safe passing of vulnerable users to specify the clearance required to pass a vulnerable user safely at various speeds, to provide that in a civil action an unexcused violation of the vulnerable user passing law is negligence in itself, and to create a criminal penalty for a violation of the safe passing law resulting in death or injury to a person other than the operator.

Sec. 20 (pp. 50-51) amends the law governing when drivers of vehicles may overtake and pass another vehicle on the right, to specify that bicyclists may pass on the right, that vehicles making right turns must yield the right of way to the passing bicyclist, and that a bicyclist may pass on the right by driving off the pavement or main-traveled portion of the roadway.

Sec. 21 (pp. 51-52) amends the law limiting when vehicle drivers may drive to the left side of the center of a roadway in overtaking or passing another highway user, in order to specify that drivers may do so to pass vulnerable users but must not interfere with vulnerable users to the same extent that they must not interfere with other vehicles.

Sec. 22 (pp. 52-53) amends the law governing the duties of vehicle drivers turning left into an intersection or into a private road or driveway in order to expand the law to vehicles turning right

and to specify the obligation to yield the right of way to vulnerable users within the intersection or so close as to constitute a hazard.

Sec. 23 (pp. 53-54) amends the law governing right of way at intersections with a “stop” or “yield” sign to specify the obligation of drivers to yield the right of way to vulnerable users who have entered the intersection from another highway or approached so closely to constitute an immediate hazard.

Sec. 24 (p. 54) amends the law governing the duties of vehicle drivers to enter or cross a highway from a private road or driveway to create an obligation to yield to vulnerable users approaching on the highway.

Sec. 25 (pp. 54-56) amends the laws governing pedestrians’ rights and duties in order to extend certain provisions to bicyclists, including specifying that vehicle drivers must yield to bicyclists in a crosswalk, that bicyclists may not suddenly proceed into the path of a vehicle, that bicyclists may proceed across crosswalks while riding on their bicycles, that bicyclists crossing a roadway at any point other than within a marked crosswalk must yield the right of way to vehicles on the roadway. Sec. 25 also establishes when pedestrians and bicyclists may cross an intersection diagonally.

Sec. 26 (pp. 57-58) allows bicyclists not to give hand signals to indicate an intention to change direction or materially reduce speed, and not to give such signals for at least 100 feet, if the bicyclist cannot do so safely.

Sec. 27 (p.58) amends a provision governing parking to the right to be consistent with the 2000 Uniform Vehicle Code and for consistency with the change to the definition of “edge of the roadway” in Sec. 15 of the bill.

Sec. 28 (pp. 59-61) amends the subchapter of law governing operation of bicycles in order to:

- clarify when bicyclists are not subject to the same laws as other vehicle operators;
- elaborate upon when a bicyclist may ride other than to the right in order to avoid hazards or road conditions; and
- authorize bicyclists to lane split with motor vehicles moving in the same direction under specific circumstances.

Sec. 29 (pp. 61-62) authorizes municipalities to establish on the basis of an engineering and traffic investigation speed limits on town highways that are lower than 25 miles per hour.

Sec. 30 (pp. 62-63) provides for an effective date of the bill of July 1, 2016. Sec. 30 also specifies that the amendments in the bill requiring operation under an ignition interlock RDL as a condition of reinstatement, and authorizing the State to pursue immobilization of vehicles used in the commission of a DUI offense and authorize immobilization orders that take effect if the defendant fails to install an ignition interlock device or removes the device prior to the end of the suspension period, shall apply only in connection with DUI offenses that occur on or after the bill’s effective date.