

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 560
3 entitled “An act relating to traffic safety” respectfully reports that it has
4 considered the same and recommends that the bill be amended by striking out
5 all after the enacting clause and inserting in lieu thereof the following:

6 * * * DUI; Ignition Interlock Devices * * *

7 Sec. 1. 23 V.S.A. § 1200 is amended to read:

8 § 1200. DEFINITIONS

9 As used in this subchapter:

10 * * *

11 (9) “Ignition interlock restricted driver’s license” or “ignition interlock
12 RDL” or “RDL” means a restricted license or privilege to operate a motor
13 vehicle issued by the Commissioner allowing a person whose license or
14 privilege to operate has been suspended or revoked for operating under the
15 influence of intoxicating liquor or in excess of legal limits of alcohol
16 concentration, or for refusing an enforcement officer’s reasonable request for
17 an evidentiary test, to operate a motor vehicle, other than a commercial motor
18 vehicle as defined in section 4103 of this title, installed with an approved
19 ignition interlock device.

20 * * *

1 Sec. 2. 23 V.S.A. § 1213 is amended to read:

2 § 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE;

3 PENALTIES

4 (a) First offense. A person whose license or privilege to operate is
5 suspended for a first offense under this subchapter shall be permitted to operate
6 a motor vehicle, other than a commercial motor vehicle as defined in section
7 4103 of this title, if issued a valid ignition interlock RDL. The Commissioner
8 shall issue an ignition interlock RDL ~~to a person eligible under section~~
9 ~~1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of this title upon~~ to a person
10 suspended for a first offense upon receipt of a \$125.00 application fee, ~~and~~
11 ~~upon receipt~~ and of satisfactory proof of installation of an approved ignition
12 interlock device in any motor vehicle to be operated, and of financial
13 responsibility as provided in section 801 of this title, ~~and enrollment in an~~
14 ~~Alcohol and Driving Education Program. The RDL shall be valid after~~
15 ~~expiration of the applicable shortened period specified in section 1205(a)(1),~~
16 ~~1205(a)(2), 1206(a), or 1216(a)(1) of this title.~~ A new ignition interlock RDL
17 shall expire at midnight on the eve of the second birthday of the applicant
18 following the date of issue, and may be renewed for one-year terms. The
19 Commissioner shall send by first class mail an application for renewal of the
20 RDL at least 30 days prior to the day renewal is required and shall impose the

1 same conditions for renewal as are required for initial issuance of an ignition
2 interlock RDL. The renewal fee shall be \$125.00.

3 (b) Second offense. ~~A person~~ Except for an offense under section 1216 of
4 this subchapter or an offense arising solely from being under the influence of a
5 drug other than alcohol, a person whose license or privilege to operate is
6 suspended for a second offense under this subchapter shall be ~~permitted~~
7 required to operate ~~a motor vehicle, other than a commercial motor vehicle as~~
8 ~~defined in section 4103 of this title, if issued~~ under a valid ignition interlock
9 RDL. ~~The Commissioner shall issue an ignition interlock RDL to a person~~
10 ~~eligible under section~~ for the relevant period prescribed in subsection 1205(m);
11 or 1208(a), or 1216(a)(2) of this title prior to being eligible for reinstatement of
12 his or her regular license, unless exempt under subdivision 1209a(a)(4) of this
13 title. A person whose license is suspended under subdivision 1216(a)(2) of
14 this title may elect to obtain an ignition interlock RDL. The Commissioner
15 shall issue an ignition interlock RDL upon receipt of a \$125.00 application fee,
16 and upon receipt of satisfactory proof of installation of an approved ignition
17 interlock device in any motor vehicle to be operated; and of financial
18 responsibility as provided in section 801 of this title, ~~and enrollment in an~~
19 ~~Alcohol and Driving Rehabilitation Program. The RDL shall be valid after~~
20 ~~expiration of the applicable shortened period specified in section 1205(m);~~
21 ~~1208(a), or 1216(a)(2) of this title.~~ A new ignition interlock RDL shall expire

1 at midnight on the eve of the second birthday of the applicant following the
2 date of issue, and may be renewed for one-year terms. The Commissioner
3 shall send by first class mail an application for renewal of the RDL at least 30
4 days prior to the day renewal is required and shall impose the same conditions
5 for renewal as are required for initial issuance of an ignition interlock RDL.
6 The renewal fee shall be \$125.00.

7 (c) Third or subsequent offense. ~~A person~~ Except for an offense under
8 section 1216 of this subchapter or an offense arising solely from being under
9 the influence of a drug other than alcohol, a person whose license or privilege
10 to operate is suspended or revoked for a third or subsequent offense under this
11 subchapter shall be ~~permitted~~ required to operate ~~a motor vehicle, other than a~~
12 ~~commercial motor vehicle as defined in section 4103 of this title, if issued~~
13 under a valid ignition interlock RDL for the relevant period prescribed in
14 subsection 1209a(b) of this title prior to being eligible for reinstatement or
15 issuance of a regular license, unless exempt under subdivision 1209a(a)(4) of
16 this title. A person under a lifetime suspension shall be eligible to obtain and
17 operate under an ignition interlock RDL after one year from the date of the
18 suspension or revocation. The Commissioner shall issue an ignition interlock
19 RDL ~~to a person eligible under section 1205(a)(3), 1205(m), 1208(b), or~~
20 ~~1216(a)(2) of this title~~ upon receipt of a \$125.00 application fee; and upon
21 receipt of satisfactory proof of installation of an approved ignition interlock

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

12 * * *

13 (f)(1) Prior to the issuance of an ignition interlock RDL under this section,
14 the Commissioner shall notify the applicant ~~of the applicable period prior to~~
15 ~~eligibility for reinstatement under section 1209a or 1216 of this title, and that~~
16 the reinstatement period under section 1209a or 1216 of this title may be
17 extended under this subsection (f) or subsections (g)–(h) of this section.

18 * * *

19 (i) Upon receipt of notice that the holder of an ignition interlock RDL has
20 been ~~adjudicated~~ convicted of an offense under this title that would result in
21 suspension, revocation, or recall of a license or privilege to operate, the

1 Commissioner shall suspend, revoke, or recall the person's ignition interlock
2 RDL for the same period that the license or privilege to operate would have
3 been suspended, revoked, or recalled. The Commissioner may impose a
4 reinstatement fee in accordance with section 675 of this title and require, prior
5 to reinstatement, satisfactory proof of installation of an approved ignition
6 interlock device, and of financial responsibility as provided in section 801 of
7 this title, ~~and enrollment in or completion of an alcohol and driving education~~
8 ~~or rehabilitation program.~~

9 * * *

10 Sec. 3. 23 V.S.A. § 1209a is amended to read:

11 § 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND
12 DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

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

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

17 * * *

18 (C) ~~if the person elects to operate under an ignition interlock RDL,~~
19 ~~after:~~

20 (i) ~~a period of nine months (plus any extension of this period~~
21 ~~arising from a violation of section 1213 of this title) if the person's license or~~

1 ~~privilege to operate is suspended after a refusal to consent to a law~~
2 ~~enforcement officer's reasonable request for an evidentiary test; or~~

3 ~~(ii) a period of six months (after the end of the relevant~~
4 ~~suspension period specified in subsection 1205(a) or section 1206 of this title,~~
5 ~~plus any extension of this period arising from a violation of section 1213 of~~
6 ~~this title) in all other cases, if the person elects to operate under an ignition~~
7 ~~interlock RDL; and~~

8 (D) if the person has no pending criminal charges, civil citations, or
9 unpaid fines or penalties for a violation under this chapter.

10 (2) In the case of a second suspension, a license shall not be reinstated
11 until:

12 * * *

13 (C) ~~if the person elects to operate~~ after the person operates under an
14 ignition interlock RDL, ~~after:~~

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

19 ~~(ii) a period of 18 months (for a period equivalent to the relevant~~
20 ~~suspension period specified in subsection 1205(m) or 1208(a) of this title,~~ plus
21 any extension of this period arising from a violation of section 1213 of this

1 ~~title) in all other cases, except that this requirement shall not apply if the~~
2 underlying offense arose solely from being under the influence of a drug other
3 than alcohol; and

4 (D) the person has no pending criminal charges, civil citations, or
5 unpaid fines or penalties for a violation under this chapter.

6 (3) In the case of a third or subsequent suspension or a revocation, a
7 license shall not be reinstated until:

8 (A) the person has successfully completed an alcohol and driving
9 rehabilitation program;

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

13 (C) the person has satisfied the requirements of subsection (b) of this
14 section; and

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

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

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

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

5 (4) The Commissioner shall waive a requirement to operate under an
6 ignition interlock restricted driver's license prior to eligibility for reinstatement
7 if the person furnishes sufficient proof as prescribed by the Commissioner that
8 he or she is incapable of using an ignition interlock device because of a
9 medical condition that will persist permanently or at least for the term of the
10 suspension or, in the case of suspensions or revocations for life, for a period of
11 at least three years.

12 (b) Abstinance.

13 (1) Notwithstanding any other provision of this subchapter, a person
14 whose license or privilege to operate has been suspended or revoked for life
15 under this subchapter may apply to the Driver Rehabilitation School Director
16 and to the Commissioner for reinstatement of his or her driving privilege. The
17 person shall have completed three years of total abstinence from consumption
18 of alcohol or drugs, or both. The beginning date for the period of abstinence
19 shall be no sooner than the effective date of the suspension or revocation from
20 which the person is requesting reinstatement and shall not include any period
21 during which the person is serving a sentence of incarceration to include

1 furlough. The application shall include the applicant's authorization for a
2 urinalysis examination to be conducted prior to reinstatement under this
3 subdivision. The application to the Commissioner shall be accompanied by a
4 fee of \$500.00. The Commissioner shall have the discretion to waive the
5 application fee if the Commissioner determines that payment of the fee would
6 present a hardship to the applicant.

7 (2) If the Commissioner, or a medical review board convened by the
8 Commissioner, is satisfied by a preponderance of the evidence that the
9 applicant has abstained for the required number of years immediately
10 preceding the application and hearing, has successfully completed a therapy
11 program as required under this section, has operated under a valid ignition
12 interlock RDL for at least two years following the suspension or revocation or,
13 in the case of a suspension or revocation involving a refusal, for at least three
14 years following the suspension or revocation, and the person appreciates that
15 he or she cannot drink any amount of alcohol and drive safely, the person's
16 license shall be reinstated immediately, subject to the condition that the
17 person's suspension or revocation will be put back in effect in the event any
18 further investigation reveals a return to the consumption of alcohol or drugs
19 and to such additional conditions as the Commissioner may impose ~~and, if the~~
20 ~~person has not previously operated for three years under an ignition interlock~~
21 ~~RDL, subject to the additional condition that the person shall operate under an~~

1 ~~ignition interlock restricted driver's license for a period of at least one year~~
2 ~~following reinstatement under this subsection. However, the Commissioner~~
3 ~~may waive this one year requirement to operate under an ignition interlock~~
4 ~~restricted driver's license if the person furnishes proof as prescribed by the~~
5 ~~Commissioner that he or she is incapable of using an ignition interlock device~~
6 ~~because of a medical condition that will persist permanently or at least for one~~
7 ~~year. The requirement to operate under an ignition interlock RDL shall not~~
8 ~~apply if the person is exempt under subdivision (a)(4) of this section or if all of~~
9 ~~the offenses that triggered the lifetime suspension or revocation arose solely~~
10 ~~from being under the influence of a drug other than alcohol.~~

11 (3) If after notice and hearing the Commissioner later finds that the
12 person was violating the conditions of the person's reinstatement under this
13 subsection, the person's operating license or privilege to operate shall be
14 immediately suspended or revoked ~~for the period of the original suspension~~
15 life.

16 (4) If the Commissioner finds that a person reinstated under this
17 subsection was suspended pursuant to section 1205 of this title, or was
18 convicted of a violation of section 1201 of this title, the person shall be
19 conclusively presumed to be in violation of the conditions of his or her
20 reinstatement.

1 (1) Upon affidavit of a law enforcement officer that the officer had
2 reasonable grounds to believe that the person was operating, attempting to
3 operate, or in actual physical control of a vehicle in violation of section 1201
4 of this title and that the person refused to submit to a test, the Commissioner
5 shall suspend the person’s operating license, or nonresident operating
6 privilege, or the privilege of an unlicensed operator to operate a vehicle for a
7 period of six months and until the person complies with section 1209a of this
8 title. However, ~~a~~ during this period, the person may operate under the terms of
9 an ignition interlock RDL issued pursuant to section 1213 of this title ~~after 30~~
10 ~~days of this six-month period unless the alleged offense involved a collision~~
11 ~~resulting in serious bodily injury or death to another.~~

12 (2) Upon affidavit of a law enforcement officer that the officer had
13 reasonable grounds to believe that the person was operating, attempting to
14 operate, or in actual physical control of a vehicle in violation of section 1201
15 of this title and that the person submitted to a test and the test results indicated
16 that the person’s alcohol concentration was above a limit specified in
17 subsection 1201(a) of this title, at the time of operating, attempting to operate,
18 or being in actual physical control, the Commissioner shall suspend the
19 person’s operating license, or nonresident operating privilege, or the privilege
20 of an unlicensed operator to operate a vehicle for a period of ~~90 days~~ six
21 months and until the person complies with section 1209a of this title.

1 person complies with section 1209a of this title or, in the case of a suspension
2 following refusal of an enforcement officer's reasonable request for an
3 evidentiary test, the period of suspension shall be two years and until the
4 person complies with section 1209a of this title. However, a the person may
5 operate a motor vehicle during this period under the terms of an ignition
6 interlock RDL issued pursuant to section 1213 of this title ~~after 90 days of this~~
7 ~~18-month period unless the alleged offense involved a collision resulting in~~
8 ~~serious bodily injury or death to another.~~ For a third or subsequent suspension
9 under this subchapter, the period of suspension shall be life. However, a
10 ~~person may operate under the terms of an ignition interlock RDL issued~~
11 ~~pursuant to section 1213 of this title after~~ after one year following imposition
12 of this lifetime suspension unless the alleged offense involved a collision
13 resulting in serious bodily injury or death to another, the person may operate a
14 motor vehicle under the terms of an ignition interlock RDL issued under
15 section 1213 of this title.

16 * * *

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

18 § 1206. SUSPENSION OF LICENSE FOR DRIVING WHILE UNDER
19 INFLUENCE; FIRST CONVICTIONS

20 (a) First conviction—generally. Except as otherwise provided, upon
21 conviction of a person for violating a provision of section 1201 of this title, or

1 upon final determination of an appeal, the Court shall forward the conviction
2 report forthwith to the Commissioner of Motor Vehicles. The Commissioner
3 shall immediately suspend the person's operating license; or nonresident
4 operating privilege; or the privilege of an unlicensed operator to operate a
5 vehicle for a period of ~~90 days~~ six months and until the defendant complies
6 with section 1209a of this title. ~~However, a person may operate under the~~
7 ~~terms of an ignition interlock RDL issued pursuant to section 1213 of this title~~
8 ~~after 30 days of this 90 day period unless the offense involved a collision~~
9 ~~resulting in serious bodily injury or death to another.~~

10 (b) ~~Extended suspension–fatality or serious bodily injury.~~ In cases
11 resulting in a fatality or a serious bodily injury to a person other than the
12 defendant, the period of suspension shall be one year and until the defendant
13 complies with section 1209a of this title.

14 (c) ~~Extended suspension–refusal; serious bodily injury.~~ Upon conviction of
15 a person for violating a provision of subsection 1201(c) of this title involving a
16 collision in which serious bodily injury resulted, or upon final determination of
17 an appeal, the Court shall forward the conviction report forthwith to the
18 Commissioner of Motor Vehicles. The Commissioner shall immediately
19 suspend the person's operating license or nonresident operating privilege or the
20 privilege of an unlicensed operator to operate a vehicle for a period of six
21 months, and until the defendant complies with section 1209a of this title.

1 During a suspension under this section, the defendant may operate a motor
2 vehicle under the terms of an ignition interlock RDL issued under section 1213
3 of this title.

4 Sec. 6. 23 V.S.A. § 1202(d) is amended to read:

5 (d) At the time a test is requested, the person shall be informed of the
6 following statutory information:

7 (1) Vermont law authorizes a law enforcement officer to request a test to
8 determine whether the person is under the influence of alcohol or other drug.

9 (2) If the officer's request is reasonable and testing is refused, the
10 person's license or privilege to operate will be suspended for at least six
11 months.

12 (3) If a test is taken and the results indicate that the person is under the
13 influence of alcohol or other drug, the person will be subject to criminal
14 charges and the person's license or privilege to operate will be suspended for at
15 least ~~90 days~~ six months.

16 * * *

17 Sec. 7. 23 V.S.A. § 1208 is amended to read:

18 § 1208. SUSPENSIONS FOR SUBSEQUENT CONVICTIONS

19 (a) Second conviction. Upon a second conviction of a person violating a
20 provision of section 1201 of this title and upon final determination of an
21 appeal, the Court shall forward the conviction report forthwith to the

1 Commissioner of Motor Vehicles. The Commissioner shall immediately
2 suspend the person's operating license, or nonresident operating privilege or
3 the privilege of an unlicensed operator to operate a vehicle for 18 months and
4 until the defendant complies with section 1209a of this title or, in the case of a
5 conviction following refusal of an enforcement officer's reasonable request for
6 an evidentiary test, for a period of two years and until the person complies with
7 section 1209a of this title. However, a during the suspension period, the
8 person may operate under the terms of an ignition interlock RDL issued
9 pursuant to section 1213 of this title ~~after 90 days of this 18-month period~~
10 ~~unless the alleged offense involved a collision resulting in serious bodily injury~~
11 ~~or death to another.~~

12 (b) Third conviction. Upon a third or subsequent conviction of a person
13 violating a provision of section 1201 of this title and upon final determination
14 of any appeal, the Court shall forward the conviction report forthwith to the
15 Commissioner of Motor Vehicles. The Commissioner shall immediately
16 revoke the person's operating license, or nonresident operating privilege or the
17 privilege of an unlicensed operator to operate a motor vehicle for life.
18 However, ~~a person may operate under the terms of an ignition interlock RDL~~
19 ~~issued pursuant to section 1213 of this title after~~ after one year following
20 imposition of this lifetime ~~suspension unless the alleged offense involved a~~
21 ~~collision resulting in serious bodily injury or death to another~~ revocation, the

1 person may operate a motor vehicle under the terms of an ignition interlock
2 RDL issued under section 1213 of this title.

3 Sec. 8. 23 V.S.A. § 1216 is amended to read:

4 § 1216. PERSONS UNDER 21; ALCOHOL CONCENTRATION OF 0.02
5 OR MORE

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

10 (1) For a first violation, the person's license or privilege to operate shall
11 be suspended for six months and until the person complies with subdivision
12 1209a(a)(1) of this title. However, during this period, a person may operate
13 under the terms of an ignition interlock RDL issued pursuant to section 1213 of
14 this title ~~after 30 days of this six-month period unless the offense involved a~~
15 ~~collision resulting in serious bodily injury or death to another.~~

16 (2) For a second or subsequent violation, the person's license or
17 privilege to operate shall be suspended until the person reaches the age of 21 or
18 for one year, whichever is longer, and complies with subdivision 1209a(a)(2)
19 of this title. However, during this period, a person may operate under the
20 terms of an ignition interlock RDL issued pursuant to section 1213 of this title

1 ~~after 90 days of the applicable suspension period unless the offense involved a~~
2 ~~collision resulting in serious bodily injury or death to another.~~

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

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

10 (2) the person has no pending criminal charges, civil citations, or unpaid
11 fines or penalties for a violation under this chapter; and

12 (3)~~(A)~~ for persons operating under an ignition interlock RDL ~~for a first~~
13 ~~offense, after:~~

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

18 (ii) ~~a period of nine months (plus any extension of this period~~
19 ~~arising from a violation of section 1213 of this title) in all other cases; or~~

20 ~~(B) for persons operating under an ignition interlock RDL for a~~
21 ~~second or subsequent offense, after:~~

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

3 (2) This notice shall serve as a temporary operator's license and is valid
4 until 12:01 a.m. of the date of suspension. ~~If this is your first violation of~~
5 ~~section 1201 of this title and if you do not request a hearing, your license will~~
6 ~~be suspended as provided in this notice. If this is your second or subsequent~~
7 ~~violation of section 1201 of this title, your~~ Your license will be suspended on
8 the 11th day after you receive this notice. It is a crime to drive while your
9 license is suspended unless you have been issued an ignition interlock
10 restricted driver's license.

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

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

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

19 (6) If you are charged with a second or subsequent violation of section
20 1201 of this title, no person shall sell, transfer, or encumber the title to a

1 vehicle that may be subject to immobilization or forfeiture unless approved by
2 the court in which the charge is filed for good cause shown.

3 (e) Effective date of suspension.

4 ~~(1) First offense. Unless a hearing is requested, a suspension under this~~
5 ~~section of the license of a person who the officer has reasonable grounds to~~
6 ~~believe violated section 1201 of this title a first time becomes effective on the~~
7 ~~11th day after the person receives notice or is deemed to have received notice~~
8 ~~under subsection (c) of this section. If a hearing is requested, a suspension~~
9 ~~shall not become effective unless the court orders a suspension after hearing as~~
10 ~~provided in this section.~~

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

15 ~~(A) the officer has reasonable grounds to believe the person has~~
16 ~~violated section 1201 of this title; and~~

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

18 ~~(i) had his or her operator's license suspended pursuant to this~~
19 ~~section; or~~

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

1 (f) Review by Superior Court. Within seven days following receipt of a
2 notice of intention to suspend and of suspension, a ~~person~~ defendant may ~~make~~
3 a request ~~for~~ a hearing before the Superior Court by mailing or delivering the
4 form provided with the notice. The request shall be mailed or delivered to the
5 Commissioner of Motor Vehicles, who shall then notify the Criminal Division
6 of the Superior Court that a hearing has been requested and provide the State's
7 Attorney with a copy of the notice.

8 (g) Preliminary hearing. The preliminary hearing shall be held within
9 21 days of the alleged offense. Unless impracticable or continued for good
10 cause shown, the date of the preliminary hearing shall be the same as the date
11 of the first appearance in any criminal case resulting from the same incident for
12 which the person received a citation to appear in court. The preliminary
13 hearing shall be held in accordance with procedures prescribed by the Supreme
14 Court. At or before the preliminary hearing, the judicial officer shall
15 determine whether there is a sufficient factual and legal basis for the civil
16 suspension matter to proceed and the parties shall be advised of this
17 determination. At the preliminary hearing, if the defendant requests a hearing
18 on the merits, the court shall set the date of the final hearing in accordance
19 with subsection (h) of this section.

1 (h) Final hearing.

2 (1) If the defendant requests a hearing on the merits, the ~~Court shall~~
3 ~~schedule a final hearing on the merits to~~ hearing shall be held ~~within no later~~
4 ~~than~~ 21 days ~~of following~~ the date of the preliminary hearing. ~~In no event may~~
5 ~~a final hearing occur more than 42 days after the date of the alleged offense~~
6 ~~without the consent of the defendant or for good cause shown. The final~~
7 ~~hearing may only be continued by~~ except if this period is extended with the
8 consent of the defendant or for good cause shown. The issues at the final
9 hearing shall be limited to the following specifically enumerated issues:

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

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

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

18 (D) Whether the test was taken and the test results indicated that the
19 person's alcohol concentration was above a legal limit specified in subsection
20 1201(a) or (d) of this title, at the time of operating, attempting to operate, or
21 being in actual physical control of a vehicle in violation of section 1201 of this

1 title, whether the testing methods used were valid and reliable, and whether the
2 test results were accurate and accurately evaluated. Evidence that the test was
3 taken and evaluated in compliance with rules adopted by the Department of
4 Public Safety shall be prima facie evidence that the testing methods used were
5 valid and reliable and that the test results are accurate and were accurately
6 evaluated.

7 (E) Whether the requirements of section 1202 of this title were
8 complied with.

9 (2) No less than seven days before the final hearing, and subject to the
10 requirements of Vermont Rule of Civil Procedure 11, the defendant shall
11 provide to the State and file with the Court ~~a list of the issues (limited to the~~
12 ~~issues set forth in this subsection) that the defendant intends to raise~~ an answer
13 to the notice of intent to suspend setting forth the issues raised by the
14 defendant and a brief statement of the facts and law upon which the defendant
15 intends to rely at the final hearing. Only evidence that is relevant to an issue
16 listed by the defendant may be raised by the defendant at the final hearing.
17 The defendant shall not be permitted to raise any other evidence at the final
18 hearing, and all other evidence shall be inadmissible. A defendant's failure to
19 timely file an answer shall constitute withdrawal of the request for hearing and
20 shall result in the court's entering a finding directing suspension of the

1 defendant's license or privilege to operate for the required term under
2 subsection (a) or (m) of this section.

3 * * *

4 (n) Presumption. In a proceeding under this section:

5 (1) if at any time within two hours of operating, attempting to operate,
6 or being in actual physical control of a vehicle a person had an alcohol
7 concentration of above a legal limit specified in subsection 1201(a) or (d) of
8 this title, it shall be a rebuttable presumption that the person's alcohol
9 concentration was above the applicable limit at the time of operating,
10 attempting to operate, or being in actual physical control;

11 (2) if a person operates, attempts to operate, or is in actual physical
12 control of a vehicle in the presence of a law enforcement officer and is taken
13 into custody in connection with such operation, attempted operation, or actual
14 physical control, and while in custody of the officer at any time had an alcohol
15 concentration above a legal limit specified in subsection 1201(a) or (d) of this
16 title, it shall be a rebuttable presumption that the person's alcohol
17 concentration was above the applicable limit at the time of operating,
18 attempting to operate, or being in actual physical control.

19 * * *

1 (t) ~~For a first offense, the~~ The time limits set forth in subsections (g) and
2 (h) of this section ~~are directive only, and~~ shall not be interpreted by the court to
3 be ~~mandatory or~~ jurisdictional.

4 (u) In any proceeding under this section;

5 (1) for cause shown, a party's chemist may be allowed to testify by
6 telephone in lieu of a personal appearance;

7 (2) a party's chemist shall be allowed to testify by videoconference in
8 lieu of a personal appearance, provided that videoconferencing shall be at the
9 party's own expense and by the party's own arrangement.

10 * * * Alcohol Screening Devices * * *

11 Sec. 10. 7 V.S.A. § 501 is amended to read:

12 § 501. UNLAWFUL SALE OF INTOXICATING LIQUORS; CIVIL
13 ACTION FOR DAMAGES

14 * * *

15 (e) Evidence. In an action brought under this section, evidence of
16 responsible actions taken or not taken is admissible, if otherwise relevant.

17 (1) Responsible actions may include, ~~but are not limited to,~~ instruction
18 of servers as to laws governing the sale of alcoholic beverages, training of
19 servers regarding intervention techniques, admonishment to patrons or guests
20 concerning laws regarding the consumption of intoxicating liquor, making
21 available an alcohol screening device, and inquiry under the methods provided

1 by law as to the age or degree of intoxication of the persons involved.

2 Evidence of the following shall be inadmissible:

3 (A) an individual’s use or failure to use an alcohol screening device,
4 including any failure to encourage use of the device;

5 (B) any failure to monitor or become apprised of test results from the
6 device; and

7 (C) the selection of the device.

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

12 * * *

13 * * * Serious Bodily Injury; Definition * * *

14 Sec. 11. 23 V.S.A. § 4 is amended to read:

15 § 4. DEFINITIONS

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

20 * * *

1 (84) “Serious bodily injury” has the meaning set forth in 13 V.S.A.
2 § 1021.

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

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

5 § 1091. NEGLIGENCE OPERATION; GROSSLY NEGLIGENCE
6 OPERATION

7 (a) Negligent operation.

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

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

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

17 If serious bodily injury to or death of any person other than the operator
18 results, the operator shall be subject to imprisonment for not more than two
19 years or to a fine of not more than \$3,000.00, or both. If serious bodily injury
20 or death results to more than one person other than the operator, the operator

1 may be convicted of a separate violation of this subdivision for each decedent
2 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~~ to 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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

* * *

* * * Passing Vulnerable Users; Violations * * *

Sec. 13. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS

* * *

(c) In a civil action, proof of an unexcused violation of subsection (b) of this section shall constitute proof of negligence in itself. This subsection shall not relieve the plaintiff of the obligation to prove a causal relation between the violation and the harm to the plaintiff. Nothing in this subsection is intended to eliminate defenses that may be available to the defendant.

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

* * * Effective Date; Transition Provision * * *

Sec. 14. EFFECTIVE DATE AND APPLICABILITY TO PENDING DUI
MATTERS

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

(b) The requirement to operate under an ignition interlock RDL as a condition for eligibility for reinstatement for second and subsequent DUI

1 offenses, created under Secs. 2 and 3, amending 23 V.S.A. §§ 1213(b),
2 1213(c), and 1209a, shall apply only in connection with a second or
3 subsequent DUI offense committed on or after the effective date of this act.

4 (c) For any second or subsequent DUI offense that occurred prior to the
5 effective date of this act, the law in effect on the date of the offense shall
6 govern eligibility for reinstatement of a person’s license or privilege to operate.

7
8

9 (Committee vote: _____)

10
11
12

Representative _____

FOR THE COMMITTEE