

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 **without death or serious bodily injury**. A person whose
5 license or privilege to operate is suspended for a first offense under this
6 subchapter **that did not result in death or serious bodily injury to another**
7 **person**, shall be permitted to operate a motor vehicle, other than a commercial
8 motor vehicle as defined in section 4103 of this title, if issued a valid ignition
9 interlock RDL. The Commissioner shall issue an ignition interlock RDL ~~to a~~
10 ~~person eligible under section 1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of~~
11 ~~this title upon~~ to a person suspended for a first offense upon receipt of a
12 \$125.00 application fee, ~~and upon receipt~~ and of satisfactory proof of
13 installation of an approved ignition interlock device in any motor vehicle to be
14 operated, and of financial responsibility as provided in section 801 of this title,
15 ~~and enrollment in an Alcohol and Driving Education Program. The RDL shall~~
16 ~~be valid after expiration of the applicable shortened period specified in section~~
17 ~~1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of this title.~~ A new ignition
18 interlock RDL shall expire at midnight on the eve of the second birthday of the
19 applicant following the date of issue, and may be renewed for one-year terms.
20 The Commissioner shall send by first class mail an application for renewal of
21 the RDL at least 30 days prior to the day renewal is required and shall impose

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

3 (b) Second First offense involving death or SBI; second offense. ~~A person~~
4 Except for an offense under section 1216 of this subchapter or an offense
5 arising solely from being under the influence of a drug other than alcohol, a
6 person whose license or privilege to operate is suspended for a first offense
7 involving death or serious bodily injury to another or a second offense under
8 this subchapter shall be ~~permitted~~ required to operate ~~a motor vehicle, other~~
9 ~~than a commercial motor vehicle as defined in section 4103 of this title, if~~
10 ~~issued under a valid ignition interlock RDL. The Commissioner shall issue an~~
11 ~~ignition interlock RDL to a person eligible under section~~ for the relevant
12 period prescribed in subsection 1205(m), 1206(b), or 1208(a), or 1216(a)(2) of
13 this title prior to being eligible for reinstatement of his or her regular license,
14 unless exempt under subdivision 1209a(a)(4) of this title. A person whose
15 license is suspended under subdivision 1216(a)(2) of this title may elect to
16 obtain an ignition interlock RDL. The Commissioner shall issue an ignition
17 interlock RDL upon receipt of a \$125.00 application fee, and upon receipt of
18 satisfactory proof of installation of an approved ignition interlock device in any
19 motor vehicle to be operated, and of financial responsibility as provided in
20 section 801 of this title, and enrollment in an Alcohol and Driving
21 Rehabilitation Program. The RDL shall be valid after expiration of the

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

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

1 vehicle to be operated, and of financial responsibility as provided in section
2 801 of this title, ~~and enrollment in an Alcohol and Driving Rehabilitation~~
3 ~~Program. The RDL shall be valid after expiration of the applicable shortened~~
4 ~~period specified in section 1205(a)(3), 1205(m), 1208(b), or 1216(a)(2) of this~~
5 ~~title.~~ A new ignition interlock RDL shall expire at midnight on the eve of the
6 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
11 \$125.00.

12 (d) If a fine is to be imposed for a conviction of a violation of section 1201
13 of this title, upon receipt of proof of installation of an approved ignition
14 interlock device, the Court may order that the fine of an indigent person
15 conditionally be reduced by one-half to defray the costs of the ignition
16 interlock device, subject to the person's ongoing operation under, and
17 compliance with the terms of, a valid ignition interlock RDL as set forth in this
18 section. In considering whether a person's fine should be reduced under this
19 subsection, the Court shall take into account any discount already provided by
20 the device manufacturer or provider.

21 * * *

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

6 * * *

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

18 * * *

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

1 shall not approve a manufacturer of ignition interlock devices as a provider in
2 this State unless the manufacturer agrees to reduce the cost of installing,
3 leasing, and deinstalling the device by at least 50 percent for persons who
4 furnish proof of receipt of Three Squares, Heating Assistance, or Reach Up
5 benefits.

6 * * *

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

8 § 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND
9 DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

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

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

14 * * *

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

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

21 ~~(ii) a period of six months (~~

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

5 (ii) in the case of a first suspension arising from an offense that
 6 resulted in serious bodily injury to or death of another person, after the person
 7 operates under an ignition interlock RDL for a period equivalent to the relevant
 8 suspension period specified in subsection 1206(b) of this title; and

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

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

13 * * *

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

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

20 (ii) ~~a period of 18 months~~ (for a period equivalent to the relevant
 21 suspension period specified in subsection 1205(m) or 1208(a) of this title, plus

1 any extension of this period arising from a violation of section 1213 of this
2 title) ~~in all other cases, except that this requirement shall not apply if the~~
3 underlying offense arose solely from being under the influence of a drug other
4 than alcohol; and

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

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

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

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

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

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

18 (i) ~~a period of four years (plus any extension of this period arising~~
19 ~~from a violation of section 1213 of this title) if the person's license or privilege~~
20 ~~to operate is suspended after a refusal to consent to a law enforcement officer's~~
21 ~~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 three years following the suspension or revocation
13 or, in the case of a suspension or revocation involving a refusal, for at least
14 four years following the suspension or revocation, and the person appreciates
15 that he or she cannot drink any amount of alcohol and drive safely, the
16 person's license shall be reinstated immediately, subject to the condition that
17 the person's suspension or revocation will be put back in effect in the event
18 any further investigation reveals a return to the consumption of alcohol or
19 drugs and to such additional conditions as the Commissioner may impose ~~and,~~
20 ~~if the person has not previously operated for three years under an ignition~~
21 ~~interlock RDL, subject to the additional condition that the person shall operate~~

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

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

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

1 (5) A person shall be eligible for reinstatement under this subsection
2 only once following a suspension or revocation for life.

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

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

18 * * *

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

2 § 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

3 (a) Refusal; alcohol concentration above legal limits; suspension periods
4 for first offenses.

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

16 (2) 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 submitted to a test and the test results indicated
20 that the person's alcohol concentration was above a limit specified in
21 subsection 1201(a) of this title, at the time of operating, attempting to operate,

1 or being in actual physical control, the Commissioner shall suspend the
2 person's operating license; or nonresident operating privilege; or the privilege
3 of an unlicensed operator to operate a vehicle for a period of ~~90 days~~ six
4 months and until the person complies with section 1209a of this title.

5 However, a during this period, the person may operate under the terms of an
6 ignition interlock RDL issued pursuant to section 1213 of this title ~~after 30~~
7 ~~days of this 90-day period unless the alleged offense involved a collision~~
8 ~~resulting in serious bodily injury or death to another.~~

9 (3) Upon affidavit of a law enforcement officer that the officer had
10 reasonable grounds to believe that the person was operating, attempting to
11 operate, or in actual physical control of a vehicle in violation of subdivision
12 1201(d)(2) of this title and that the person submitted to a test and the test
13 results indicated that the person's alcohol concentration was 0.02 or more at
14 the time of operating, attempting to operate, or being in actual physical control,
15 the Commissioner shall suspend the person's operating license; or nonresident
16 operating privilege; or the privilege of an unlicensed operator to operate a
17 vehicle for life. However, during the suspension, a person may ~~operate under~~
18 ~~the terms of an ignition interlock RDL issued pursuant to section 1213 of this~~
19 ~~title after one year of this lifetime suspension unless the alleged offense~~
20 ~~involved a collision resulting in serious bodily injury or death to another~~

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

3 * * *

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

20 * * *

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

2 § 1206. SUSPENSION OF LICENSE FOR DRIVING WHILE UNDER
3 INFLUENCE; FIRST CONVICTIONS

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

18 (b) Extended suspension—fatality or serious bodily injury. In cases
19 resulting in a fatality or a serious bodily injury to a person other than the
20 defendant, the period of suspension shall be one year and until the defendant
21 complies with section 1209a of this title.

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

9 During a suspension under this section, the defendant may operate a motor
10 vehicle under the terms of an ignition interlock RDL issued under section 1213
11 of this title.

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

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

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

17 (2) If the officer's request is reasonable and testing is refused, the
18 person's license or privilege to operate will be suspended for at least **six nine**
19 months.

20 (3) If a test is taken and the results indicate that the person is under the
21 influence of alcohol or other drug, the person will be subject to criminal

1 charges and the person's license or privilege to operate will be suspended for at
2 least ~~90 days~~ six months.

3 * * *

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

5 § 1208. SUSPENSIONS FOR SUBSEQUENT CONVICTIONS

6 (a) Second conviction. Upon a second conviction of a person violating a
7 provision of section 1201 of this title and upon final determination of an
8 appeal, the Court shall forward the conviction report forthwith to the
9 Commissioner of Motor Vehicles. The Commissioner shall immediately
10 suspend the person's operating license, or nonresident operating privilege or
11 the privilege of an unlicensed operator to operate a vehicle for 18 months and
12 until the defendant complies with section 1209a of this title or, in the case of a
13 conviction following refusal of an enforcement officer's reasonable request for
14 an evidentiary test, for a period of two years and until the person complies with
15 section 1209a of this title. However, a during the suspension period, the
16 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~~.

20 (b) Third conviction. Upon a third or subsequent conviction of a person
21 violating a provision of section 1201 of this title and upon final determination

1 of any appeal, the Court shall forward the conviction report forthwith to the
2 Commissioner of Motor Vehicles. The Commissioner shall immediately
3 revoke the person's operating license, or nonresident operating privilege or the
4 privilege of an unlicensed operator to operate a motor vehicle for life.

5 ~~However, a person may operate under the terms of an ignition interlock RDL~~
6 ~~issued pursuant to section 1213 of this title~~ after one year of during this
7 ~~lifetime suspension unless the alleged offense involved a collision resulting in~~
8 ~~serious bodily injury or death to another~~ revocation, the person may operate a
9 motor vehicle under the terms of an ignition interlock RDL issued under
10 section 1213 of this title.

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

12 § 1216. PERSONS UNDER 21; ALCOHOL CONCENTRATION OF 0.02
13 OR MORE

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

18 (1) For a first violation, the person's license or privilege to operate shall
19 be suspended for six months and until the person complies with subdivision
20 1209a(a)(1) of this title or, in the case of a refusal of an enforcement officer's
21 reasonable request for an evidentiary test, for a period of nine months and until

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

6 (2)(A) For a second or subsequent violation, the person's license or
7 privilege to operate shall be suspended until the person complies with
8 subdivision 1209a(a)(2) of this title and for the longer of the following periods:

9 (i) until the person reaches the age of 21 years of age; or for
10 (ii) one year, whichever is longer, and complies with subdivision
11 1209a(a)(2) of this title or, in the case of a refusal of an enforcement officer's
12 reasonable request for an evidentiary test, for 15 months.

13 (B) However, during the suspension period, a person may operate
14 under the terms of an ignition interlock RDL issued pursuant to section 1213 of
15 this title ~~after 90 days of the applicable suspension period unless the offense~~
16 ~~involved a collision resulting in serious bodily injury or death to another.~~

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

19 (1) the Commissioner has received satisfactory evidence that the person
20 has complied with ~~section 1209a of this title and~~ an Alcohol and Driving
21 Education Program approved by the Commissioner of Health and a therapy

1 program if required, and that the provider of the a required therapy program
2 has been paid in full;

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

5 (3)(A) for persons operating under an ignition interlock RDL for a first
6 offense, after:

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

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

13 (B) ~~for persons operating under an ignition interlock RDL for a~~
14 ~~second or subsequent offense, 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) or until the person is 21,~~
17 ~~whichever is longer, if the person's license or privilege to operate is suspended~~
18 ~~after a refusal to consent to a law enforcement officer's reasonable request for~~
19 ~~an evidentiary test; or~~

20 (ii) ~~a period of 18 months (plus any extension of this period~~
21 ~~arising from a violation of section 1213 of this title) or until the person is 21,~~

1 ~~whichever is longer, in all other cases~~ the relevant suspension period under
2 subsection (a) of this section, plus any extension of this period arising from a
3 violation of section 1213 of this title.

4 * * *

5 * * * DUI; Civil Suspensions * * *

6 Sec. 9. 23 V.S.A. § 1205 is amended to read:

7 § 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

8 * * *

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

16 (g) Preliminary hearing. The preliminary hearing shall be held within
17 21 days of the alleged offense. Unless impracticable or continued for good
18 cause shown, the date of the preliminary hearing shall be the same as the date
19 of the first appearance in any criminal case resulting from the same incident for
20 which the person received a citation to appear in court. The preliminary
21 hearing shall be held in accordance with procedures prescribed by the Supreme

1 Court. At or before the preliminary hearing, the judicial officer shall
2 determine whether the affidavit or affidavits filed by the State provide a
3 sufficient factual basis under subsection (a) of this section for the civil
4 suspension matter to proceed. At the preliminary hearing, if the defendant
5 requests a hearing on the merits, the court shall set the date of the final hearing
6 in accordance with subsection (h) of this section.

7 (h) Final hearing.

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

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

19 (B) Whether at the time of the request for the evidentiary test the
20 officer informed the person of the person's rights and the consequences of

1 taking and refusing the test substantially as set out in subsection 1202(d) of
2 this title.

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

4 (D) Whether the test was taken and the test results indicated that the
5 person's alcohol concentration was above a legal limit specified in subsection
6 1201(a) or (d) of this title, at the time of operating, attempting to operate, or
7 being in actual physical control of a vehicle in violation of section 1201 of this
8 title, whether the testing methods used were valid and reliable, and whether the
9 test results were accurate and accurately evaluated. Evidence that the test was
10 taken and evaluated in compliance with rules adopted by the Department of
11 Public Safety shall be prima facie evidence that the testing methods used were
12 valid and reliable and that the test results are accurate and were accurately
13 evaluated.

14 (E) Whether the requirements of section 1202 of this title were
15 complied with.

16 (2) No less than seven days before the final hearing, and subject to the
17 requirements of Vermont Rule of Civil Procedure 11, the defendant shall
18 provide to the State and file with the Court ~~a list of the issues (limited to the~~
19 ~~issues set forth in this subsection) that the defendant intends to raise~~ an answer
20 to the notice of intent to suspend setting forth the issues raised by the
21 defendant, limited to the issues set forth in this subsection, and a brief

1 statement of the facts and law upon which the defendant intends to rely at the
2 final hearing. Only evidence that is relevant to an issue listed by the defendant
3 may be raised by the defendant at the final hearing. The defendant shall not be
4 permitted to raise any other evidence at the final hearing, and all other
5 evidence shall be inadmissible.

6 * * *

7 (n) Presumption. In a proceeding under this section;

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

14 (2) if a person operates, attempts to operate, or is in actual physical
15 control of a vehicle in the presence of a law enforcement officer and is taken
16 into custody in connection with such operation, attempted operation, or actual
17 physical control, and while in the continuous custody of the officer at any time
18 had an alcohol concentration at or above a legal limit specified in subsection
19 1201(a) or (d) of this title, it shall be a rebuttable presumption that the person's
20 alcohol concentration was above the applicable limit at the time of operating,
21 attempting to operate, or being in actual physical control.

1 * * *

2 (u) In any proceeding under this section;

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

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

8 Sec. 10. 23 V.S.A. § 1204 is amended to read:

9 § 1204. PERMISSIVE INFERENCES

10 (a) Upon the trial of any civil or criminal action or proceeding arising out
11 of acts alleged to have been committed by a person while operating, attempting
12 to operate or in actual physical control of a vehicle on a highway, the person's
13 alcohol concentration shall give rise to the following permissive inferences:

14 * * *

15 (3) If the person's alcohol concentration at any time within two hours of
16 the alleged offense was ~~0.10 or more~~, at or above the applicable legal limit
17 specified in subsection 1201(a) or (d) of this title, or was at or above the
18 applicable legal limit at any time after the alleged offense if the person was in
19 the continuous custody of the arresting officer until the time of the evidentiary
20 test, it shall be a permissive inference that the person was under the influence
21 of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.

1 (b) The foregoing provisions shall not be construed as limiting the
2 introduction of any other competent evidence bearing upon the question
3 whether the person was under the influence of intoxicating liquor, nor shall
4 they be construed as requiring that evidence of the amount of alcohol in the
5 person's blood, breath, urine, or saliva must be presented.

6 * * * DUI Penalties * * *

7 Sec. 11. 23 V.S.A. § 1210 is amended to read:

8 § 1210. PENALTIES

9 * * *

10 (b) First offense. A person who violates section 1201 of this title may be
11 fined not more than ~~\$750.00~~, \$1,000.00 or imprisoned for not more than two
12 years, or both.

13 (c) Second offense. A person convicted of violating section 1201 of this
14 title who has been convicted of another violation of that section shall be fined
15 not more than ~~\$1,500.00~~ \$2,000.00 or imprisoned not more than two years, or
16 both. At least 200 hours of community service shall be performed, or 60
17 consecutive hours of the sentence of imprisonment shall be served and may not
18 be suspended or deferred or served as a supervised sentence, except that credit
19 for a sentence of imprisonment may be received for time served in a residential
20 alcohol facility pursuant to sentence if the program is successfully completed.

1 (d) Third offense. A person convicted of violating section 1201 of this title
2 who has previously been convicted two times of a violation of that section
3 shall be fined not more than ~~\$2,500.00~~ \$3,000.00 or imprisoned not more than
4 five years, or both. At least 96 consecutive hours of the sentence of
5 imprisonment shall be served and may not be suspended or deferred or served
6 as a supervised sentence, except that credit for a sentence of imprisonment may
7 be received for time served in a residential alcohol facility pursuant to sentence
8 if the program is successfully completed. The Court may impose a sentence
9 that does not include a term of imprisonment or that does not require that the
10 96 hours of imprisonment be served consecutively only if the Court makes
11 written findings on the record that such a sentence will serve the interests of
12 justice and public safety.

13 (e)(1) Fourth or subsequent offense. A person convicted of violating
14 section 1201 of this title who has previously been convicted three ~~or more~~
15 times of a violation of that section shall be fined not more than ~~\$5,000.00~~
16 \$4,000.00 for a fourth offense or imprisoned not more than 10 years, or both.
17 A person convicted of violating section 1201 of this title who has previously
18 been convicted four or more times of a violation of that section shall be fined
19 not more than the sum of \$4,000.00 plus an additional \$1,000.00 for each prior
20 conviction that exceeds three priors or imprisoned not more than 10 years, or
21 both. At least 192 consecutive hours of the sentence of imprisonment shall be

1 served and may not be suspended or deferred or served as a supervised
2 sentence, except that credit for a sentence of imprisonment may be received for
3 time served in a residential alcohol treatment facility pursuant to sentence if
4 the program is successfully completed. The Court shall not impose a sentence
5 that does not include a term of imprisonment unless the Court makes written
6 findings on the record that there are compelling reasons why such a sentence
7 will serve the interests of justice and public safety.

8 * * *

9 * * * Alcohol Screening Devices * * *

10 Sec. 12. 7 V.S.A. § 501 is amended to read:

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

13 * * *

14 (e) Evidence. In an action brought under this section, evidence of
15 responsible actions taken or not taken is admissible, if otherwise relevant.
16 Responsible actions may include, ~~but are not limited to,~~ instruction of servers
17 as to laws governing the sale of alcoholic beverages, training of servers
18 regarding intervention techniques, admonishment to patrons or guests
19 concerning laws regarding the consumption of intoxicating liquor, making
20 available an alcohol screening device, and inquiry under the methods provided
21 by law as to the age or degree of intoxication of the persons involved.

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

* * *

* * * Alcohol Screening Devices; Study * * *

Sec. 13. ALCOHOL SCREENING DEVICES; STUDY

The Commissioner of Liquor Control shall study whether and how the State should promote the availability and use of alcohol screening devices in the State, and whether making such devices available on the premises of liquor licensees and to individuals will promote public safety. On or before January 15, 2017, the Commissioner shall submit a written report of his or her findings and any proposed recommendations for legislation to the House and Senate Committees on Judiciary, the House Committee on General, Housing and Military Affairs, and the Senate Committee on Economic Development, Housing and General Affairs.

* * * Serious Bodily Injury; Definition * * *

Sec. 14. 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:

* * *

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. 15. 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. 16. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS

* * *

(c) If serious bodily injury to or death of 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.

* * * Judiciary; Special Assignments; Compensation * * *

Sec. 17. 4 V.S.A. § 23 is amended to read:

§ 23. COMPENSATION

In the performance of judicial duties, the specially assigned judicial officer shall be entitled to a per diem equal to the daily compensation authorized for the judicial position to which he or she is assigned and necessary expenses, unless otherwise limited by the special assignment. An acting judge in ~~criminal division of the superior court~~ the Criminal Division of the Superior Court shall receive \$75.00 a day and necessary expenses. Payment of compensation for special judicial assignments shall not diminish the retirement compensation of retired judicial officers. However, a retired judicial officer

1 shall not receive total annual compensation in excess of the annual salary of a
2 ~~superior~~ Superior judge. Active judicial officers shall receive the
3 compensation of their regular judicial office or that of the office to which they
4 are specially assigned, whichever is greater.

5 * * * Distracted Driving * * *

6 Sec. 18. 23 V.S.A. § 632 is amended to read:

7 § 632. EXAMINATION REQUIRED; WAIVER

8 (a) Before an operator's or a junior operator's license is issued to an
9 applicant for the first time in this State, or before a renewal license is issued to
10 an applicant whose previous Vermont license had expired more than three
11 years prior to the application for renewal, the applicant shall pass a satisfactory
12 examination, except that the Commissioner may, in his or her discretion, waive
13 the examination when the applicant holds a chauffeur's or operator's license in
14 force at the time of application or within one year of the application in some
15 other state where an examination is required similar to the examination
16 required in this State.

17 (b) The examination shall consist of:

18 (1) an oral or written examination;

19 (2) a thorough road test; and

20 (3) at the discretion of the Commissioner, such other examination or
21 demonstration as he or she may prescribe.

1 (c) The oral or written examination required under subsection (b) of this
2 section shall test the applicant's awareness of distracted driving.

3 Sec. 19. 23 V.S.A. § 607a is amended to read:

4 § 607a. RECALL OF LEARNER'S PERMIT OR JUNIOR OPERATOR'S
5 LICENSE

6 (a)(1) A learner's permit or junior operator's license shall contain an
7 admonition that it is recallable and that the later procurement of an operator's
8 license is conditional on the establishment of a record which is satisfactory to
9 the Commissioner and showing compliance with the motor vehicle laws of this
10 and other states.

11 (2) The Commissioner may recall any permit or license issued to a
12 minor:

13 (A) whenever he or she is satisfied, from information provided by
14 a credible person and upon investigation, that the operator is mentally or
15 physically unfit or, because of his or her habits or record as to accidents or
16 convictions, is unsafe to be trusted with the operation of motor
17 vehicles. ~~On, or~~

18 (B) for up to 30 days on recommendation of a diversion or reparative
19 board, the Commissioner may recall the learner's permit or junior operator's
20 license of a person if the minor is enrolled in a diversion or reparative program
21 for up to 30 days.

1 (3) The Commissioner shall also recall any learner’s permit or junior
2 operator’s license issued to a minor for:

3 (A) 30 days following conviction of a second violation of section
4 1095a of this chapter;

5 (B) 30 days when an operator is adjudicated following conviction of
6 a single texting violation under section 1099 of this title;

7 (C) 90 days following adjudication of conviction of a single speeding
8 violation resulting in a three-point assessment;

9 (D) 90 days when the minor has accumulated a total of six points has
10 been accumulated, against his or her driving record; or

11 (E) 90 days when an operator is adjudicated following conviction of
12 a violation of subsection 614(c) or 615(a) of this title.

13 (4) When a learner’s permit or junior operator’s license is so recalled, it
14 shall be reinstated upon expiration of a specific term, and, if required by the
15 Commissioner, when the person has passed a reexamination approved by the
16 Commissioner.

17 * * *

1 Sec. 20. 23 V.S.A. § 1220a is amended to read:

2 § 1220a. DUI AND DISTRACTED DRIVING ENFORCEMENT SPECIAL
3 FUND

4 (a) There is created a DUI and Distracted Driving Enforcement Special
5 Fund which shall be a special fund established and managed pursuant to
6 32 V.S.A. chapter 7, subchapter 5. The ~~DUI Enforcement~~ Special Fund shall
7 be a continuation of and successor to the DUI Enforcement Special Fund
8 established under subsection 1205(r) of this title.

9 (b) The DUI and Distracted Driving Enforcement Special Fund shall
10 consist of:

11 (1) receipts from the surcharges assessed under section 206 and
12 subsections 674(i), 1091(d), 1094(f), 1128(d), 1133(d), 1205(r), and 1210(k) of
13 this title;

14 (2) ~~beginning in fiscal year 2000 and thereafter,~~ the first \$150,000.00 of
15 revenues collected from fines imposed under chapter 13, subchapter 13 of
16 ~~chapter 13~~ of this title pertaining to DUI related offenses;

17 (3) notwithstanding 19 V.S.A. § 11(6), all fines collected from penalties
18 imposed under sections 1095, 1095a, 1095b, 1099, and 4125 of this title,
19 except for the \$12.50 administrative charge specified in 13 V.S.A. § 7252;

1 ~~(3)~~(4) beginning May 1, 2013 and thereafter, \$0.0038 per gallon of the
2 revenues raised by the motor fuel tax on gasoline imposed by chapter 28 of this
3 title; and

4 ~~(4)~~(5) any additional funds transferred or appropriated by the General
5 Assembly.

6 (c) The DUI and Distracted Driving Enforcement Special Fund shall be
7 used for the implementation and enforcement of this subchapter and of sections
8 1095, 1095a, 1095b, 1099, and 4125 of this title for purposes specified and in
9 amounts appropriated by the General Assembly. Effort shall be given to
10 awarding grants to municipalities or law enforcement agencies for innovative
11 programs designed to reduce DUI and distracted driving offenses, and priority
12 shall be given to grants requested jointly by more than one law enforcement
13 agency or municipality.

14 **Sec. 21. REPLACEMENTS; CONFORMING CHANGES**

15 (a) In 23 V.S.A. §§ 206, 674, 1091, 1094, 1128, 1133, and 1210, the phrase
16 “DUI Enforcement Fund” is hereby replaced with “DUI and Distracted
17 Driving Enforcement Special Fund.”

18 (b) In 23 V.S.A. § 1205, the phrase “DUI Enforcement Special Fund” is
19 hereby replaced with “DUI and Distracted Driving Enforcement Special
20 Fund.”

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

* * * Effective Date; Transition Provision * * *

Sec. 22. 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 first DUI offenses involving death or serious bodily and for second or subsequent DUI offenses, created under Secs. 2 and 3, amending 23 V.S.A. §§ 1213(b), 1213(c), and 1209a, shall apply only in connection with a first DUI offense involving death or serious bodily injury or a second or subsequent DUI offense that occurs on or after the effective date of this act.

(Committee vote: _____)

Representative _____

FOR THE COMMITTEE