

H.571 (DLS) Policy Decision Outline

I. Grounds for License Suspensions and Duration of License Suspensions

- 1) Is suspension, revocation, or refusal (hereafter, “suspension”) of a license or privilege to operate (hereafter, “license”) an appropriate enforcement tool?
- 2) If so, what conduct in Vermont should trigger a license suspension?
 - See list of existing conduct that triggers a suspension in Appendix A. In general, such conduct could be viewed as falling into three “buckets”:
 - (i) arising from motor vehicle operation;
 - (ii) motor vehicle or traffic violation-related, or derivative of a motor vehicle offense;
 - (iii) unrelated to a motor vehicle offense.
 - With regard to suspensions for nonpayment of traffic tickets, should the imposition of a suspension depend on whether the underlying offense is a moving violation?
- 3) Of the conduct penalized with a suspension, what is the appropriate length of the suspension?
 - For example, current law provides a 120-day suspension for nonpayment of a traffic judgment. H.571 proposes to reduce this to a 30-day suspension.
- 4) If the Committee recommends eliminating or shortening license suspensions, should people already under suspension as of the effective date of the bill benefit from the elimination or reduction?

II. Preventing License Suspensions; Relief From Pending License Suspensions

- 5) Judicial Bureau 30x30 Program, 30x360 Program
 - Should legislation provide for additional publicity of this program?
 - Should legislation endorse these programs, with any changes?
- 6) DLS Diversion Program
 - Depending on the recommended changes above, should the DLS Diversion Program be amended, or eventually wound down?
 - If changes are recommended above, how should the changes affect DLS Diversion Program contracts in effect on the effective date of the act?
- 7) Authorize restricted driving licenses (i.e. to allow persons under suspension to drive to work, to school, etc.)?
- 8) Other ideas?

III. Reinstatement fees

- 9) Should some or all license reinstatement fees be eliminated?
- If only some should be eliminated, which suspensions should require reinstatement fees?
 - If so, should the bill recapture lost revenue? If so, how?

IV. Laws Prohibiting Driving with License Suspended

Background:

- Under existing law, subject to exceptions for (i) civil DLS violations prior to successful completion of DLS Diversion and (ii) civil DLS violations arising from suspension for nonpayment of a ticket where the ticket has since been paid in full, a person charged with a 6th or subsequent civil DLS is subject to criminal DLS.
 - However, criminal DLS charges for a 6th or subsequent civil DLS violation are not currently being brought because of administrative difficulties with implementing the second exception.
- 10) Should legislation repeal the second exception noted above, which is causing a moratorium on criminal DLS charges for a 6th or subsequent civil DLS?
- 11) Are any other changes to the criminal or civil DLS statutes needed?
- 12) Should a new criminal offense be created for a second or subsequent offense of driving without a license (as distinct from DLS)?
- Currently, driving without a license is a civil violation under 23 V.S.A. § 601, regardless of the number of offenses.

V. Collection of Ticket Revenues

- 13) Are additional tools needed, or do existing tools need to be strengthened, to collect ticket revenues?
- See list of ideas on white board.
- 14) After a certain number of years, should judgments expire?
- If so, should this apply to traffic violation judgments only, or extend more broadly?

VI. Means-Tested Tickets or Judgments

- 15) Should waiver penalties for traffic violations be reduced on the basis of ability to pay?
- If so, by how much?
- 16) Should judgments on traffic violations be reduced on the basis of ability to pay, if the person has not already obtained a reduced waiver penalty?

- If so, by how much?
- 17) Should the reduction in waiver penalties and judgments be limited to traffic violations?
- Should commercial motor vehicle violations not be eligible for reductions?
- 18) During hearings prior to judgment on matters within its jurisdiction, should Judicial Bureau hearing officers be directed to consider evidence ability to pay?
- If so, for all matters within its jurisdiction, or just for traffic violations?
- 19) During contempt hearings for nonpayment of a traffic violation judgment, should a defendant be eligible to obtain a further reduction in the amount due on a judgment based on ability to pay, even if the defendant has already had the amount due reduced on ability to pay?
- 20) What should be the eligibility criteria to qualify for a reduced waiver penalty or judgment?
- What proof or information should the applicant be required to supply?
 - To what extent should the Judicial Bureau be required to verify the information the applicant supplies?
 - Should any provision be made for after the fact audit of the granting
- 21) What appeal rights should an applicant for a reduced waiver penalty or judgment have if his or her application is denied?
- 22) In terms of Judicial Bureau Procedure, if a defendant applies for a reduced waiver penalty, how much time should a defendant have to answer the complaint after the Judicial Bureau sends notice of its decision on the application?
- Same question re: time period to pay following notification on an application for a reduced judgment.
- 23) How should persons issued traffic tickets be notified of the availability of a reduced waiver penalty?

VII. Legacy, Pre-1990 Traffic Misdemeanors

- 24) Should pre-1990 traffic violation misdemeanors be dismissed en masse, as long as the mass dismissal does not capture serious traffic violations like DUI?

VIII. Suspensions of Registrations

- 25) Should the committee recommend eliminating the requirement that a registration not be renewed if a person has not fully paid a traffic violation judgment?

IX. Statistics

- 26) Should DMV be directed to collect statistics or track suspensions in a different manner than it is doing now, so trends can better be identified? If so, what statistics?

Appendix A

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

1. 23 V.S.A. § 603(a): Comm'r *may* refuse to issue license to a person “mentally or physically unfit, or because of his or her habits, or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles.”
2. 23 V.S.A. §§ 603(c): Comm'r must refuse to issue license/permit to person whose “license or learner permit is suspended, revoked, or canceled” in any jurisdiction. ***The suspension in another state may or may not arise from motor vehicle operation.***
→ Under § 3906 (Driver License Compact), Comm'r must refuse to issue license to person whose “license to drive”¹ from another state is suspended or revoked in that state.
3. 23 V.S.A. § 606: Comm'r must refuse to license a person who previously held a junior operator license if he or she had any suspensions, revocations, or recalls for the six-month period preceding licensure under this section.
4. 23 V.S.A. § 607(a)(3)(B): Comm'r must refuse issuance of junior operator license to person with learner’s permit suspension, revocation, or recall within prior six months.
5. 23 V.S.A. §§ 607a, 614(c), 615(b): Recall of learner’s permit or junior operator’s license
 - § 607a(a): mentally or physically unfit or unsafe to be trusted with the operation of motor vehicles; recommendation of diversion or reparative board; single texting violation; speeding violation that triggers 3 points; accumulation of 6 points.
 - § 607a(d): request of parent
 - § 614(c) and § 615(b): violates restrictions of permit or jr operator license.
6. 23 V.S.A. § 617(a): Refusal to issue permit to person under age 18 who has convictions for certain traffic violations in prior 2 years.
7. 23 V.S.A. § 636(b): Physical or mental condition rendering person incompetent to drive.
8. 23 V.S.A. § 671(a): Suspension with prior right of hearing of a person incompetent to operate a motor vehicle, or who is operating improperly so as to endanger the public.
9. 23 V.S.A. § 671(b): Suspension for 15 days without prior right of hearing if the safety of the public has been or will be imperiled as a result of the operation of a motor vehicle by the operator.
10. 23 V.S.A. § 672: Suspending or revoking privilege to operate of nonresident operator for the same causes and under the same conditions and in the same manner as with a resident operator.
11. 23 V.S.A. § 673a: Revoke the license of a habitual offender (eight 6 or more point moving violation convictions within a 5-year period).
12. 23 V.S.A. § 802(a)&(c): Failure to furnish proof of financial responsibility when proof required by Vermont under 23 V.S.A. § 801 or by another state (SR-22).
13. 23 V.S.A. § 803: Termination or expiration of insurance when a person has been required to prove financial responsibility.
14. 23 V.S.A. § 1205: Civil DUI suspension.
15. 23 V.S.A. §§ 1206, 1208: Suspension (or for 3d or more, revocation) upon criminal DUI conviction.

¹ “License to drive” and “license to operate” are used interchangeably throughout the Driver License Compact, but are not defined terms.

16. 23 V.S.A. § 1213: Suspension, revocation, recall of ignition interlock RDL for same reasons as regular license can be suspended, revoked, or recalled.
17. 23 V.S.A. § 1216: Civil DUI suspension for persons under age 21.
18. 23 V.S.A. § 2506: Suspensions arising from accumulation of points; convictions for specific offenses and longer suspensions in case of a fatality.
19. 23 V.S.A. § 3555: Nonresident Violator Compact
20. 23 V.S.A. § 3905(a) (Driver License Compact): For purposes of suspension, revocations, or limitations of operating privileges of holders of Vermont licenses, Vermont shall give same effect to out-of-state convictions for specific serious traffic offenses.
21. 23 V.S.A. § 4108(g): Comm'r shall not issue commercial driver license (CDL) or commercial learner's permit (CLP) to a person subject to a disqualification from driving a commercial motor vehicle, or while the person's driver license is suspended, revoked, or cancelled in any state.
22. 23 V.S.A. § 4115(b): Under the CDL law, the Commissioner must give all out-of-state convictions full faith and credit and treat them for sanctioning purposes as if they occurred in Vermont.
23. 23 V.S.A. § 4116a: Grounds for suspension of privilege to operate a CMV.

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

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

1. False or fraudulent license/registration/ID card applications; impersonation in an application. 23 V.S.A. §§ 202, 671(e).
2. Counterfeit, fraud, misuse with regard to licenses/registrations/inspection stickers/ID card/insurance card. 23 V.S.A. § 203.
3. Failure to fully pay for a license/registration, or giving of a bad check. 23 V.S.A. §§ 110, 204(a).
4. 23 V.S.A. §§ 603(c): Comm'r must refuse to issue license/permit to person whose "license or learner permit is suspended, revoked, or canceled" in any jurisdiction. ***The suspension in another state may or may not arise from motor vehicle operation.***
→ Under § 3906 (Driver License Compact), Comm'r must refuse to issue license to person whose "license to drive"² from another state is suspended or revoked in that state.
5. Unsatisfied judgment for damages arising out of a motor vehicle accident, and based on violation of Title 23. 23 V.S.A. § 605.
6. Failures to appear in court causing the Comm'r to have reason to believe that the person is operating improperly so as to endanger the public; DMV has used when a person fails to appear for criminal traffic offenses. 23 V.S.A. § 671(a).
7. Failure to pay fines arising from a traffic violation judgment; Judicial Bureau contempt. 23 V.S.A. § 2307(b); 4 V.S.A. § 1109.
8. Failure to appear for or schedule a special examination or to submit a special medical report. 23 V.S.A. § 636, 671.

² "License to drive" and "license to operate" are used interchangeably throughout the Driver License Compact, but are not defined terms.

9. Resumption of use of alcohol or drugs following reinstatement under total abstinence program. 23 V.S.A. § 1209a(b)(2).
10. Nonpayment of purchase and use tax. 32 V.S.A. § 8909.

B. Unrelated to a motor vehicle offense

1. Nonpayment of child support order. 15 V.S.A. § 798.
2. Minor misrepresenting age, possessing, consuming alcohol (failure to report to or complete diversion; failure to complete screening or treatment; failure to failure to pay ticket). 7 V.S.A. § 656
3. Failure to pay fine; minor's unlawful possession of tobacco or furnishing tobacco to minor. 7 V.S.A. §§ 1005, 1007.
4. False alarm of an impending bombing or other offense or catastrophe, knowing that the report or warning is false or baseless, by a person under age 18. 13 V.S.A. § 1753.
5. Possession of marijuana by a person under 21 years of age (failure to report to or complete Youth Substance Abuse Safety Program; failure to complete screening or treatment; failure to pay penalty). 18 V.S.A. § 4230b.