

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 571  
3 entitled “An act relating to driver’s license suspensions, driving with a  
4 suspended license, and DUI penalties” respectfully reports that it has  
5 considered the same and recommends that the bill be amended by striking out  
6 all after the enacting clause and inserting in lieu thereof the following:

7 \* \* \* Pre-July 1, 1990 Criminal Traffic Offenses \* \* \*

8 Sec. 1. TERMINATION OF SUSPENSIONS ARISING FROM PRE-JULY 1,  
9 1990 CRIMINAL TRAFFIC OFFENSES

10 (a) Background.

11 (1) Prior to July 1, 1990, traffic offenses that are handled as civil traffic  
12 violations under current Vermont law were charged as criminal offenses.

13 (2) A defendant’s failure to appear on such charges resulted in  
14 suspension of the defendant’s privilege to operate a motor vehicle in Vermont.

15 (3) As of February 2016, approximately 26,260 defendants who failed to  
16 appear in connection with pre-July 1, 1990 criminal traffic charges have  
17 pending suspensions as a result of their failure to appear. None of these  
18 charges relate to conduct that is criminal under current Vermont law.

19 (4) Many of the criminal complaints in these matters are fire- and  
20 water-damaged. In many of these cases, the facts underlying the complaints no  
21 longer can be proved.

1           (5) On February 22, 2016, the Office of the Attorney General mailed to  
2           all Criminal Divisions of the Superior Court and to the Judicial Bureau notices  
3           of dismissal of these pre-July 1, 1990 charges.

4           (b) Termination of suspensions.

5           (1) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of  
6           suspension), as soon as possible after this act takes effect, the Commissioner of  
7           Motor Vehicles shall, without requiring an application or payment of a fee,  
8           terminate pending suspensions of a person's license or privilege to operate a  
9           motor vehicle that resulted from the person's failure to appear on a criminal  
10           traffic offense charged by the State prior to July 1, 1990.

11           (2) This subsection shall not affect pending suspensions of a person's  
12           license or privilege to operate other than those specifically described in  
13           subdivision (1) of this subsection.

14           \* \* \* Statewide Driver Restoration Program \* \* \*

15           Sec. 2. STATEWIDE DRIVER RESTORATION PROGRAM

16           (a) Program established; one-time event. The Judicial Bureau and the  
17           Department of Motor Vehicles shall carry out a Statewide Driver Restoration  
18           Program (Program) from July 1, 2016 through November 30, 2016. It is the  
19           intent of the General Assembly that the Program shall be a one-time statewide  
20           event.

21           (b) Traffic violation judgments entered before January 1, 2015; exception.

1           (1) Under the Program, a person who has not paid in full the amount due  
2           on a traffic violation judgment entered prior to January 1, 2015 may apply to  
3           the Judicial Bureau for a reduction in the amount due on a form approved by  
4           the Court Administrator. The Program shall not apply to pre-July 1, 1990  
5           criminal traffic offenses.

6           (2) A person shall be permitted to apply in person or through the mail.  
7           The Judicial Bureau may accept applications electronically or by other means.

8           (3) If the traffic violation judgment does not involve the violation of a  
9           law that specifically governs operation of commercial motor vehicles, the  
10           Clerk of the Judicial Bureau or designee shall grant the application and amend  
11           the judgment to reduce the amount due to \$30.00. Amounts paid toward a  
12           traffic violation judgment prior to the Judicial Bureau granting an application  
13           under this subsection shall not be refunded or credited toward the amount due  
14           under the amended judgment.

15           (c) Traffic violation judgments entered on or after January 1, 2015.

16           (1) Notwithstanding the usual time periods for filing and standards for  
17           granting postjudgment motions to amend, a person who has not paid the full  
18           amount due on a traffic violation judgment entered on or after January 1, 2015  
19           and before July 1, 2016 may file a motion with the Judicial Bureau pursuant to  
20           Rules 60 and 80.6 of the Vermont Rules of Civil Procedure seeking an  
21           individualized determination of his or her ability to pay the amount due on the

1 judgment. In deciding the motion, the Judicial Bureau hearing officer shall  
2 consider the person's ability to pay the amount due and may reduce the amount  
3 due and waive any reinstatement or suspension termination fee in his or her  
4 discretion.

5 (2) Consistent with Sec. 4 of this act, amending 4 V.S.A. § 1109 to  
6 direct the Judicial Bureau to provide a more flexible payment plan option, a  
7 person who has an amount due on a traffic violation judgment shall not be  
8 required to pay more than \$100.00 per month in order to be current on all of  
9 his or her traffic violation judgments, regardless of the dates when the  
10 judgments were entered. This subdivision (c)(2) shall not be limited by the  
11 time period of the Program described in subsection (a) of this section.

12 (d) Restoration of driving privileges.

13 (1) If a person has paid all traffic violation judgments reduced under  
14 subsection (b) of this section, and is under a payment plan for any other  
15 outstanding traffic violation judgments, the Judicial Bureau shall notify the  
16 Department of Motor Vehicles. Notwithstanding 23 V.S.A. § 675 (fee prior to  
17 termination of suspension), the Commissioner of Motor Vehicles shall, without  
18 requiring an application or payment of a fee, terminate the suspensions of the  
19 person's license or privilege to operate a motor vehicle that arose from  
20 nonpayment of such judgments.

1           (2) If a person described under subdivision (1) of this subsection fails to  
2           make a payment under a payment plan, the Judicial Bureau shall notify the  
3           Department of Motor Vehicles if required under 4 V.S.A. § 1109, as amended  
4           by Sec. 4 of this act.

5           (3) This subsection shall not affect pending suspensions other than as  
6           specifically described in this subsection.

7           (e) Termination of suspensions repealed in this act. Notwithstanding  
8           23 V.S.A. § 675 (fee prior to termination of suspension), the Commissioner  
9           shall, without requiring an application or payment of a fee, terminate pending  
10           suspensions of a person’s license or privilege to operate a motor vehicle or the  
11           refusal of a person’s license or privilege to operate imposed pursuant to the  
12           following sections:

13           (1) 7 V.S.A. § 656;

14           (2) 7 V.S.A. § 1005;

15           (3) 13 V.S.A. § 1753;

16           (4) 18 V.S.A. § 4230b; and

17           (5) 32 V.S.A. § 8909.

18           (f) Advertising campaign. The Judicial Bureau, the Department of Motor  
19           Vehicles, and the Agency of Transportation shall prominently advertise the  
20           Program on their websites until the Program ends. Prior to the start of the  
21           Program, the Agency of Transportation shall commence a public awareness

1 campaign of the Program, and shall conduct the campaign until the end of the  
2 Program.

3 (g) Allocation of fines collected. [Notwithstanding clause?], amounts  
4 collected on traffic violation judgments reduced under subsection (b) or  
5 subdivision (c)(1) of this section shall be allocated as follows: [???]

6 (h) Collection and reporting of statistics. On or before January 15, 2017:

7 (1) The Court Administrator shall report to the House and Senate  
8 Committees on Judiciary and on Transportation:

9 (A) the number of traffic violation judgments reduced to \$30.00  
10 under subsection (b) of this section, the total number of the judgments paid,  
11 and the total amount collected in connection with payment of the judgments;

12 (B) the number of postjudgment motions filed under subdivision  
13 (c)(1) of this section and in connection with such motions:

14 (i) the number of hearings held;

15 (ii) the number of judgments reduced pursuant to such hearings,  
16 the total number of the reduced judgments paid, and the total amount collected  
17 in connection with payment of the reduced judgments; and

18 (iii) the number of hearings scheduled but not yet held;

19 (C) the number of persons eligible for a reduced judgment under  
20 subsection (b) of this section who did not apply for a reduced judgment.



1           (2) “Designated collection agency” means a collection agency  
2 designated by the Court Administrator.

3           (3) [Repealed.]

4           (b) Late fees; suspensions for nonpayment of certain traffic violation  
5 judgments.

6           (1) A Judicial Bureau judgment shall provide notice that a \$30.00 fee  
7 shall be assessed for failure to pay within 30 days. If the defendant fails to pay  
8 the amount due within 30 days, the fee shall be added to the judgment amount  
9 and deposited in the Court Technology Special Fund established pursuant to  
10 section 27 of this title.

11           (2)(A) In the case of a judgment on a traffic violation for which the  
12 imposition of points against the person’s driving record is authorized by law,  
13 the judgment shall contain a notice that failure to pay or otherwise satisfy the  
14 amount due within 30 days of the notice will result in suspension of the  
15 person’s operator’s license or privilege to operate, and that payment plan  
16 options are available. If the defendant fails to pay the amount due within  
17 30 days of the notice, or by a later date as determined by a Judicial Bureau  
18 clerk or hearing officer, and the case is not pending on appeal, the Judicial  
19 Bureau shall provide electronic notice thereof to the Commissioner of Motor  
20 Vehicles. After 20 days from the date of receiving the electronic notice, the  
21 Commissioner shall suspend the person’s operator’s license or privilege to



1 operate for a period of 30 days or until the amount due is satisfied, whichever  
2 is earlier.

3 (B) At minimum, the Judicial Bureau shall offer a payment plan  
4 option that allows a person to avoid a suspension of his or her license or  
5 privilege to operate by paying no more than \$30.00 per traffic violation  
6 judgment per month, and not to exceed \$100.00 per month if the person has  
7 four or more outstanding judgments.

8 (c)(1) Civil contempt proceedings. If an amount due remains unpaid for  
9 75 days after the Judicial Bureau provides the defendant with a notice of  
10 judgment, the Judicial Bureau may initiate civil contempt proceedings pursuant  
11 to this subsection.

12 ~~(1)~~(2) Notice of hearing. The Judicial Bureau shall provide notice by  
13 first class mail sent to the defendant's last known address that a contempt  
14 hearing will be held pursuant to this subsection, and that failure to appear at the  
15 contempt hearing may result in the sanctions listed in subdivision ~~(2)~~(3) of this  
16 subsection.

17 ~~(2)~~(3) Failure to appear. If the defendant fails to appear at the contempt  
18 hearing, the hearing officer may direct the clerk of the Judicial Bureau to do  
19 one or more of the following:

20 (A) ~~Cause~~ cause the matter to be reported to one or more designated  
21 collection agencies; or

1           (B) ~~Refer~~ refer the matter to the Criminal Division of the Superior  
2 Court for contempt proceedings.

3           (C) ~~Provide electronic notice thereof to the Commissioner of Motor~~  
4 ~~Vehicles who shall suspend the person's operator's license or privilege to~~  
5 ~~operate. However, the person shall become eligible for reinstatement if the~~  
6 ~~amount due is paid or otherwise satisfied. [Repealed.]~~

7           ~~(3)~~(4)(A) Hearing. The hearing shall be conducted in a summary  
8 manner. The hearing officer shall examine the defendant and any other  
9 witnesses and may require the defendant to produce documents relevant to the  
10 defendant's ability to pay the amount due. The State or municipality shall not  
11 be a party except with the permission of the hearing officer. The defendant  
12 may be represented by counsel at the defendant's own expense.

13           (B) Traffic violations; reduction of amount due. When the judgment  
14 is based upon a traffic violation, the hearing officer may reduce the amount  
15 due on the basis of the defendant's driving history, ability to pay, or service to  
16 the community; the collateral consequences of the violation; or the interests of  
17 justice. The hearing officer's decision on a motion to reduce the amount due  
18 shall not be subject to review or appeal except in the case of a violation of  
19 rights guaranteed under the Vermont or U.S. Constitution.

20           ~~(4)~~(5) Contempt.

1 (A) The hearing officer may conclude that the defendant is in  
2 contempt if the hearing officer states in written findings a factual basis for  
3 concluding that:

4 (i) the defendant knew or reasonably should have known that he or  
5 she owed an amount due on a Judicial Bureau judgment;

6 (ii) the defendant had the ability to pay all or any portion of the  
7 amount due; and

8 (iii) the defendant failed to pay all or any portion of the  
9 amount due.

10 (B) In the contempt order, the hearing officer may do one or more of  
11 the following:

12 (i) Set a date by which the defendant shall pay the amount due.

13 (ii) Assess an additional penalty not to exceed ten percent of the  
14 amount due.

15 (iii) ~~Order that the Commissioner of Motor Vehicles suspend the~~  
16 ~~person's operator's license or privilege to operate. However, the person shall~~  
17 ~~become eligible for reinstatement if the amount due is paid or otherwise~~  
18 ~~satisfied. [Repealed.]~~

19 (iv) Recommend that the Criminal Division of the Superior Court  
20 incarcerate the defendant until the amount due is paid. If incarceration is  
21 recommended pursuant to this subdivision (4)(c)(5), the Judicial Bureau shall

1 notify the Criminal Division of the Superior Court that contempt proceedings  
2 should be commenced against the defendant. The Criminal Division of the  
3 Superior Court proceedings shall be de novo. If the defendant cannot afford  
4 counsel for the contempt proceedings in the Criminal Division of the Superior  
5 Court, the Defender General shall assign counsel at the Defender General's  
6 expense.

7 (d) Collections.

8 (1) If an amount due remains unpaid after the issuance of a notice of  
9 judgment, the Court Administrator may authorize the clerk of the Judicial  
10 Bureau to refer the matter to a designated collection agency.

11 (2) The Court Administrator or the Court Administrator's designee is  
12 authorized to contract with one or more collection agencies for the purpose of  
13 collecting unpaid Judicial Bureau judgments pursuant to 13 V.S.A. § 7171.

14 (e) For purposes of civil contempt proceedings, venue shall be statewide.

15 No entry or motion fee shall be charged to a defendant who applies for a  
16 reduced judgment under subdivision (c)(4)(B) of this section.

17 (f) Notwithstanding 32 V.S.A. § 502, the Court Administrator is authorized  
18 to contract with a third party to collect fines, penalties, and fees by credit card,  
19 debit card, charge card, prepaid card, stored value card, and direct bank  
20 account withdrawals or transfers, as authorized by 32 V.S.A. § 583, and to add

1 on and collect, or charge against collections, a processing charge in an amount  
2 approved by the Court Administrator.

3 Sec. 5. 7 V.S.A. § 656 is amended to read:

4 § 656. PERSON UNDER 21 YEARS OF AGE MISREPRESENTING AGE,  
5 PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC  
6 BEVERAGES; FIRST OR SECOND OFFENSE; CIVIL VIOLATION

7 (a)(1) Prohibited conduct. A person under 21 years of age shall not:

8 (A) ~~falsely~~ Falsely represent his or her age for the purpose of  
9 procuring or attempting to procure malt or vinous beverages, spirits, or  
10 fortified wines from any licensee, State liquor agency, or other person or  
11 persons;

12 (B) ~~possess~~ Possess malt or vinous beverages, spirits, or fortified  
13 wines for the purpose of consumption by himself or herself or other minors,  
14 except in the regular performance of duties as an employee of a licensee  
15 licensed to sell alcoholic liquor;

16 (C) ~~consume~~ Consume malt or vinous beverages, spirits, or fortified  
17 wines. A violation of this subdivision may be prosecuted in a jurisdiction  
18 where the minor has consumed malt or vinous beverages, spirits, or fortified  
19 wines or in a jurisdiction where the indicators of consumption are observed.

20 (2) Offense. ~~Except as otherwise provided in section 657 of this title, a~~  
21 A person under 21 years of age who knowingly and unlawfully violates

1 subdivision (1) of this subsection commits a civil violation and shall be  
2 referred to the Court Diversion Program for the purpose of enrollment in the  
3 Youth Substance Abuse Safety Program. A person who fails to complete the  
4 program successfully shall be subject to:

5 (A) a civil penalty of ~~\$300.00 and suspension of the person's~~  
6 ~~operator's license and privilege to operate a motor vehicle for a period of 90~~  
7 ~~days, \$400.00~~ for a first offense; and

8 (B) a civil penalty of not less than \$400.00 and not more than  
9 \$600.00 and suspension of the person's operator's license and privilege to  
10 operate a motor vehicle for a period of 180 days, for a second or subsequent  
11 offense.

12 (b) Issuance of Notice of Violation. A law enforcement officer shall issue  
13 a person under 21 years of age who violates this section a notice of violation,  
14 in a form approved by the Court Administrator. The notice of violation shall  
15 require the person to provide his or her name and address and shall explain  
16 procedures under this section, including that:

17 (1) the person shall contact the Diversion Program in the county where  
18 the offense occurred within 15 days;

19 (2) failure to contact the Diversion Program within 15 days will result in  
20 the case being referred to the Judicial Bureau, where the person, if found liable  
21 for the violation, will be subject to a civil penalty ~~and a suspension of the~~

1 ~~person's operator's license and may face substantially increased insurance~~  
2 ~~rates;~~

3 (3) no money should be submitted to pay any penalty until after  
4 adjudication; and

5 (4) the person shall notify the Diversion Program if the person's address  
6 changes.

7 \* \* \*

8 (e) Notice to Report to Diversion. Upon receipt from a law enforcement  
9 officer of a summons and complaint completed under this section, the  
10 Diversion Program shall send the person a notice to report to the Diversion  
11 Program. The notice to report shall provide that:

12 (1) The person is required to complete all conditions related to the  
13 offense imposed by the Diversion Program, including substance abuse  
14 screening and, if deemed appropriate following the screening, substance abuse  
15 education or substance abuse counseling, or both.

16 (2) If the person does not satisfactorily complete the substance abuse  
17 screening, any required substance abuse education or substance abuse  
18 counseling, or any other condition related to the offense imposed by the  
19 Diversion Program, the case will be referred to the Judicial Bureau, where the  
20 person, if found liable for the violation, shall be assessed a civil penalty, ~~the~~

1 ~~person's driver's license will be suspended, and the person's automobile~~  
2 ~~insurance rates may increase substantially.~~

3 (3) If the person satisfactorily completes the substance abuse screening,  
4 any required substance abuse education or substance abuse counseling, and any  
5 other condition related to the offense imposed by the Diversion Program, no  
6 penalty shall be imposed ~~and the person's operator's license shall not be~~  
7 ~~suspended.~~

8 (f)(4) Diversion Program Requirements.

9 (1) Upon being contacted by a person who has been issued a notice of  
10 violation, the Diversion Program shall register the person in the Youth  
11 Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse  
12 Safety Program, the Diversion Program shall impose conditions on the person.  
13 The conditions imposed shall include only conditions related to the offense and  
14 in every case shall include a condition requiring satisfactory completion of  
15 substance abuse screening using an evidence-based tool and, if deemed  
16 appropriate following the screening, substance abuse assessment and substance  
17 abuse education or substance abuse counseling, or both. If the screener  
18 recommends substance abuse counseling, the person shall choose a State-  
19 certified or State-licensed substance abuse counselor or substance abuse  
20 treatment provider to provide the services.



1           (2) Substance abuse screening required under this subsection shall be  
2 completed within 60 days after the Diversion Program receives a summons and  
3 complaint. The person shall complete all conditions at his or her own expense.

4           (3) When a person has satisfactorily completed substance abuse  
5 screening, any required substance abuse education or substance abuse  
6 counseling, and any other condition related to the offense which the Diversion  
7 Program has imposed, the Diversion Program shall:

8                   (A) ~~void~~ Void the summons and complaint with no penalty due; ~~and~~

9                   (B) ~~send~~ Send copies of the voided summons and complaint to the  
10 Judicial Bureau and to the law enforcement officer who completed them.

11 Before sending copies of the voided summons and complaint to the Judicial  
12 Bureau under this subdivision, the Diversion Program shall redact all language  
13 containing the person's name, address, Social Security number, and any other  
14 information which identifies the person.

15           (4) If a person does not satisfactorily complete substance abuse  
16 screening, any required substance abuse education or substance abuse  
17 counseling, or any other condition related to the offense imposed by the  
18 Diversion Program or if the person fails to pay the Diversion Program any  
19 required program fees, the Diversion Program shall file the summons and  
20 complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29.  
21 The Diversion Program shall provide a copy of the summons and complaint to

1 the law enforcement officer who issued the notice of violation and shall  
2 provide two copies to the person charged with the violation.

3 (5) A person aggrieved by a decision of the Diversion Program or  
4 alcohol counselor may seek review of that decision pursuant to Rule 75 of the  
5 Vermont Rules of Civil Procedure.

6 (g) ~~Failure to Pay Penalty. If a person fails to pay a penalty imposed under~~  
7 ~~this section by the time ordered, the Judicial Bureau shall notify the~~  
8 ~~Commissioner of Motor Vehicles, who shall suspend the person's operator's~~  
9 ~~license and privilege to operate a motor vehicle until payment is made.~~

10 [Repealed.]

11 (h) Record of Adjudications. Upon adjudicating a person in violation of  
12 this section, the Judicial Bureau shall notify the Commissioner of Motor  
13 Vehicles, who shall maintain a record of all such adjudications which shall be  
14 separate from the registry maintained by the Department for motor vehicle  
15 driving records. The identity of a person in the registry shall be revealed only  
16 to a law enforcement officer determining whether the person has previously  
17 violated this section.

18 Sec. 6. REPEAL

19 7 V.S.A. § 657 (persons under 21; third or subsequent alcohol offense) is  
20 repealed.

1 Sec. 7. 13 V.S.A. § 5201(5) is amended to read:

2 (5) “Serious crime” does not include the following misdemeanor  
3 offenses unless the judge at arraignment but before the entry of a plea  
4 determines and states on the record that a sentence of imprisonment or a fine  
5 over \$1,000.00 may be imposed on conviction:

6 (A) ~~Minors misrepresenting age, procuring or possessing malt or~~  
7 ~~vinous beverages or spirituous liquor (7 V.S.A. § 657(a))~~ [Repealed.]

8 \* \* \*

9 Sec. 8. 28 V.S.A. § 205(c) is amended to read:

10 (c)(1) Unless the Court in its discretion finds that the interests of justice  
11 require additional standard and special conditions of probation, when the Court  
12 orders a specific term of probation for a qualifying offense, the offender shall  
13 be placed on administrative probation, which means that the only conditions of  
14 probation shall be that the probationer:

15 \* \* \*

16 (2) As used in this subsection, “qualifying offense” means:

17 \* \* \*

18 (M) ~~A first offense of a minor’s misrepresenting age, procuring,~~  
19 ~~possessing, or consuming liquors under 7 V.S.A. § 657.~~ [Repealed.]

20 \* \* \*

1 Sec. 8a. 7 V.S.A. § 1005 is amended to read:

2 § 1005. PERSONS UNDER 18 YEARS OF AGE; POSSESSION OF  
3 TOBACCO PRODUCTS; MISREPRESENTING AGE OR  
4 PURCHASING TOBACCO PRODUCTS; PENALTY

5 (a) A person under 18 years of age shall not possess, purchase, or attempt  
6 to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia  
7 unless the person is an employee of a holder of a tobacco license and is in  
8 possession of tobacco products, tobacco substitutes, or tobacco paraphernalia  
9 to effect a sale in the course of employment. A person under 18 years of age  
10 shall not misrepresent his or her age to purchase or attempt to purchase tobacco  
11 products, tobacco substitutes, or tobacco paraphernalia. A person who  
12 possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in  
13 violation of this subsection shall be subject to having the tobacco products,  
14 tobacco substitutes, or tobacco paraphernalia immediately confiscated and  
15 shall be further subject to a civil penalty of \$25.00. ~~In the case of failure to  
16 pay a penalty, the Judicial Bureau shall mail a notice to the person at the  
17 address in the complaint notifying the person that failure to pay the penalty  
18 within 60 days of the notice will result in either the suspension of the person's  
19 operator's license for a period of not more than 90 days or the delay of the  
20 initial licensing of the person for a period of not more than one year. A copy  
21 of the notice shall be sent to the Commissioner of Motor Vehicles, who, after~~

1 ~~expiration of 60 days from the date of notice and unless notified by the Judicial~~  
2 ~~Bureau that the penalty has been paid shall either suspend the person's~~  
3 ~~operator's license or cause initial licensing of the person to be delayed for the~~  
4 ~~periods set forth in this subsection and the rules. An action under this~~  
5 ~~subsection shall be brought in the same manner as a traffic violation pursuant~~  
6 ~~to 23 V.S.A. chapter 24. The Commissioner of Motor Vehicles shall adopt~~  
7 ~~rules in accordance with the provisions of 3 V.S.A. chapter 25 to implement~~  
8 ~~the provisions of this subsection, which may provide for incremental~~  
9 ~~suspension or delays not exceeding cumulatively the maximum periods~~  
10 ~~established by this subsection under 4 V.S.A. chapter 29.~~

11 (b) A person under 18 years of age who misrepresents his or her age by  
12 presenting false identification to purchase tobacco products, tobacco  
13 substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or  
14 provide up to 10 hours of community service, or both.

15 Sec. 9. 13 V.S.A. § 1753 is amended to read:

16 § 1753. FALSE PUBLIC ALARMS

17 (a) A person who initiates or willfully circulates or transmits a report or  
18 warning of an impending bombing or other offense or catastrophe, knowing  
19 that the report or warning is false or baseless and that it is likely to cause  
20 evacuation of a building, place of assembly, or facility of public transport, or to  
21 cause public inconvenience or alarm, shall, for the first offense, be imprisoned

1 for not more than two years or fined not more than \$5,000.00, or both. For the  
2 second or subsequent offense, the person shall be imprisoned for not more than  
3 five years or fined not more than \$10,000.00, or both. In addition, the court  
4 may order the person to perform community service. Any community service  
5 ordered under this section shall be supervised by the ~~department of corrections~~  
6 Department of Corrections.

7 (b) ~~In addition, if the person is under 18 years of age, or if the person is~~  
8 ~~enrolled in a public school, an approved or recognized independent school, a~~  
9 ~~home study program, or tutorial program as those terms are defined in section~~  
10 ~~11 of Title 16:~~

11 (1) ~~if the person has a motor vehicle operator's license issued under~~  
12 ~~chapter 9 of Title 23, the commissioner of motor vehicles shall suspend the~~  
13 ~~license for 180 days for a first offense and two years for a second offense; or~~

14 (2) ~~if the person does not qualify for a license because the person is~~  
15 ~~underage, the commissioner of motor vehicles shall delay the person's~~  
16 ~~eligibility to obtain a drivers license for 180 days for the first offense and two~~  
17 ~~years for the second offense. [Repealed.]~~

1 Sec. 10. 18 V.S.A. § 4230b is amended to read:

2 § 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS  
3 OF AGE; FIRST OR SECOND OFFENSE; CIVIL VIOLATION

4 (a) Offense. ~~Except as otherwise provided in section 4230c of this title, a~~  
5 A person under 21 years of age who knowingly and unlawfully possesses one  
6 ounce or less of marijuana or five grams or less of hashish commits a civil  
7 violation and shall be referred to the Court Diversion Program for the purpose  
8 of enrollment in the Youth Substance Abuse Safety Program. A person who  
9 fails to complete the program successfully shall be subject to:

10 (1) a civil penalty of ~~\$300.00 and suspension of the person's operator's~~  
11 ~~license and privilege to operate a motor vehicle for a period of 90 days,~~  
12 \$400.00 for a first offense; and

13 (2) a civil penalty of not less than \$400.00 and not more than \$600.00  
14 ~~and suspension of the person's operator's license and privilege to operate a~~  
15 ~~motor vehicle for a period of 180 days,~~ for a second or subsequent offense.

16 (b) Issuance of Notice of Violation. A law enforcement officer shall issue  
17 a person under 21 years of age who violates this section with a notice of  
18 violation, in a form approved by the Court Administrator. The notice of  
19 violation shall require the person to provide his or her name and address and  
20 shall explain procedures under this section, including that:

1 (1) the person shall contact the Diversion Program in the county where  
2 the offense occurred within 15 days;

3 (2) failure to contact the Diversion Program within 15 days will result in  
4 the case being referred to the Judicial Bureau, where the person, if found liable  
5 for the violation, will be subject to a civil penalty ~~and a suspension of the~~  
6 ~~person's operator's license and may face substantially increased insurance~~  
7 ~~rates;~~

8 (3) no money should be submitted to pay any penalty until after  
9 adjudication; and

10 (4) the person shall notify the Diversion Program if the person's address  
11 changes.

12 \* \* \*

13 (e) Notice to Report to Diversion. Upon receipt from a law enforcement  
14 officer of a summons and complaint completed under this section, the  
15 Diversion Program shall send the person a notice to report to the Diversion  
16 Program. The notice to report shall provide that:

17 (1) The person is required to complete all conditions related to the  
18 offense imposed by the Diversion Program, including substance abuse  
19 screening and, if deemed appropriate following the screening, substance abuse  
20 education or substance abuse counseling, or both.





1 separate from the registry maintained by the Department for motor vehicle  
2 driving records. ~~The identity of a person in the registry shall be revealed only~~  
3 ~~to a law enforcement officer determining whether the person has previously~~  
4 ~~violated this section.~~ **[Repealed.]**

5 Sec. 11. REPEAL

6 18 V.S.A. § 4230c (marijuana possession by a person under 21 years of age;  
7 third or subsequent offense; crime) is repealed.

8 Sec. 12. 20 V.S.A. § 2358 (b)(2)(B)(i)(XX) is amended to read:

9 (XX) 18 V.S.A. §§ 4230(a), ~~4230c,~~ and 4230d (marijuana  
10 possession);

11 Sec. 13. 32 V.S.A. § 8909 is amended to read:

12 § 8909. ENFORCEMENT

13 ~~If the tax due under subsection 8903(a), (b) and (d) of this title is not paid as~~  
14 ~~hereinbefore provided the Commissioner shall suspend such purchaser's or~~  
15 ~~rental company's right to operate a motor vehicle within the State of Vermont~~  
16 ~~until such tax is paid, and such tax may be recovered with costs in an action~~  
17 ~~brought in the name of the State on this statute.~~ **[Repealed.]**



1 December 1, 2016, be imprisoned not more than two years or fined not more  
2 than \$5,000.00, or both.

3 (3) Violations of section 676 of this title that occurred prior to the date a  
4 person successfully completes the DLS Diversion Program ~~or prior to the date~~  
5 ~~that a person pays the amount due to the Judicial Bureau in accordance with~~  
6 ~~subsection 2307(b) of this chapter~~ shall not be counted as prior offenses under  
7 subdivision (2) of this subsection.

8 \* \* \*

9 \* \* \* Assessment of Points Against a Person's Driving Record \* \* \*

10 Sec. 15. 23 V.S.A. § 1006a is amended to read:

11 § 1006a. HIGHWAYS; EMERGENCY CLOSURE; TEMPORARY SPEED  
12 LIMITS

13 \* \* \*

14 (b) The Traffic Committee may establish a temporary speed limit within  
15 that portion of the State highways that is being reconstructed or maintained.  
16 The limit shall be effective when appropriate signs stating the limit are erected.

17 (c) Under 3 V.S.A. chapter 25, the Traffic Committee shall adopt such  
18 rules as are necessary to administer this section and may delegate this authority  
19 to the Agency of Transportation.

20 (d) Notwithstanding the limit established in section 2302 of this title and  
21 the waiver penalties established under 4 V.S.A. § 1102(d), the penalty and

1 points assessed against a person's driving record for a violation of the speed  
2 limits established under subsection (b) of this section shall be twice the penalty  
3 and the points assessed for ~~non-worksite~~ nonworksite speed violations.

4 Sec. 16. 23 V.S.A. § 1010 is amended to read:

5 § 1010. SPECIAL OCCASIONS; TOWN HIGHWAY MAINTENANCE

6 (a) When it appears that traffic will be congested by reason of a public  
7 occasion, or when a town highway is being reconstructed or maintained, or  
8 where utilities are being installed, relocated, or maintained along a town  
9 highway, the legislative body of a municipality may make special regulations  
10 as to the speed of motor vehicles, may exclude motor vehicles from town  
11 highways, and may make such traffic rules and regulations as the public good  
12 requires. However, signs indicating the special regulations must be  
13 conspicuously posted in and near all affected areas, giving as much notice as  
14 possible to the public so that alternative routes of travel could be considered.

15 (b) Notwithstanding the limit established in section 2302 of this title and  
16 the waiver penalties established under 4 V.S.A. § 1102(d), the penalty and  
17 points assessed against a person's driving record for a violation of the speed  
18 limits established under the worksite provision of this section shall be twice the  
19 penalty and the points assessed for ~~non-worksite~~ nonworksite speed violations.

1 Sec. 17. 23 V.S.A. § 1081 is amended to read:

2 § 1081. BASIC RULE AND MAXIMUM LIMITS

3 \* \* \*

4 (b) Except when there exists a special hazard that requires lower speed in  
5 accordance with subsection (a) of this section, the limits specified in this  
6 section or established as hereinafter authorized are maximum lawful speeds,  
7 and no person shall drive a vehicle on a highway at a speed in excess of 50  
8 miles per hour.

9 (c) The maximum speed limits set forth in this section may be altered in  
10 accordance with sections 1003, ~~1004~~ 1006a, 1007, and 1010 of this title.

11 \* \* \*

12 Sec. 18. 23 V.S.A. § 1095b is amended to read:

13 § 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE

14 PROHIBITED

15 \* \* \*

16 (c) Penalties.

17 (1) A person who violates this section commits a traffic violation and  
18 shall be subject to a fine of not less than \$100.00 and not more than \$200.00  
19 for a first violation, and of not less than \$250.00 and not more than \$500.00 for  
20 a second or subsequent violation within any two-year period.







1 (4) Five points assessed for:

2 (A) § 1050. Failure to yield to emergency  
3 vehicles;

4 (B) § 1075. Illegal passing of school bus;

5 (C) § 1099. Texting prohibited outside work  
6 zone;

7 (D) § 1095b(c)(2) Use of portable electronic  
8 device in work zone —~~second~~  
9 ~~and subsequent offenses~~;

10 (5) Ten points assessed for:

11 (A) [Repealed];

12 (B) § 1091. Negligent operation;

13 (C) § 1094. Operation without owner's  
14 consent and aggravated  
15 operation without owner's  
16 consent;

17 (D) § 1099 Texting prohibited—work zone

18 (E) § 1128. Failure to stop when involved  
19 in an accident;

20 ~~(E)~~(F) § 1133. Attempting to elude a police  
21 officer;

1 (6) Two points assessed for sections 1003 ~~and~~, 1007, and 1081. State  
2 speed zones ~~and~~, local speed limits, and basic speed rule, less than 10 miles per  
3 hour over and in excess of speed limit;

4 (7) Three points assessed for sections 1003 ~~and~~, 1007, and 1081. State  
5 speed zones ~~and~~, local speed limits, and basic speed rule, more than 10 miles  
6 per hour over and in excess of speed limit;

7 (8) Five points assessed for sections 1003 ~~and~~, 1007, and 1081. State  
8 speed zones ~~and~~, local speed limits, and basic speed rule, more than 20 miles  
9 per hour over and in excess of speed limit;

10 (9) Eight points assessed for sections 1003 ~~and~~, 1007, 1081, and 1087.  
11 State speed zones ~~and~~, local speed limits, and basic speed rule, more than  
12 30 miles per hour over and in excess of the speed limit.

13 \* \* \*

14 \* \* \* Judicial Bureau Hearings; Consideration of Ability to Pay \* \* \*

15 Sec. 21. 4 V.S.A. § 1106 is amended to read:

16 § 1106. HEARING

17 (a) The Bureau shall notify the person charged and the issuing officer of  
18 the time and place for the hearing.

19 (b) The hearing shall be held before a hearing officer and conducted in an  
20 impartial manner. The hearing officer may, by subpoena, compel the  
21 attendance and testimony of witnesses and the production of books and

1 records. All witnesses shall be sworn. The burden of proof shall be on the  
2 State or municipality to prove the allegations by clear and convincing  
3 evidence. As used in this section, “clear and convincing evidence” means  
4 evidence which establishes that the truth of the facts asserted is highly  
5 probable. Certified copies of records supplied by the Department of Motor  
6 Vehicles or the Agency of Natural Resources and presented by the issuing  
7 officer or other person shall be admissible without testimony by a  
8 representative of the Department of Motor Vehicles or the Agency of Natural  
9 Resources.

10 (c)(1) Prior to entering judgment against a defendant, a hearing officer shall  
11 consider evidence of ability to pay offered by the defendant.

12 (2) The hearing officer shall make findings which shall be stated on the  
13 record or, if more time is needed, made in writing at a later date. The hearing  
14 officer may make a finding that the person has committed a lesser included  
15 violation.

16 (d) A law enforcement officer may void or amend a complaint issued by  
17 that officer by so marking the complaint and returning it to the Bureau,  
18 regardless of whether the amended complaint is a lesser included violation. At  
19 the hearing, a law enforcement officer may void or amend a complaint issued  
20 by that officer in the discretion of that officer.

21 (e) A State’s Attorney may dismiss or amend a complaint.

1 (f) The Supreme Court shall establish rules for the conduct of hearings  
2 under this chapter.

3 \* \* \* DLS Diversion Program \* \* \*

4 Sec. 22. DLS DIVERSION PROGRAM; REPEAL, TRANSITION

5 (a) 2012 Acts and Resolves No. 147, Sec. 2, as amended by 2013 Acts and  
6 Resolves No. 18, Sec. 1a (DLS Diversion Program) shall be repealed on July 1,  
7 2017.

8 (b) On and after July 1, 2016 and before July 1, 2017, the DLS Diversion  
9 Program shall not pursue any new DLS Diversion contracts, but shall continue  
10 to provide information and referral services for persons whose license or  
11 privilege to operate is suspended, including informing such persons of the  
12 Statewide Driver Restoration Program established in Sec. 2 of this act and the  
13 availability of more flexible payment plan options required under 4 V.S.A.  
14 § 1109, as amended in Sec. 4 of this act. The DLS Diversion Program shall  
15 have authority to amend existing diversion contracts entered into prior to  
16 July 1, 2016.

17 \* \* \* Awareness of Payment and Hearing Options \* \* \*

18 Sec. 23. RAISING AWARENESS OF TRAFFIC VIOLATION JUDGMENT

19 PAYMENT AND HEARING OPTIONS

20 (a) In conducting basic training courses and annual in-service trainings, the  
21 Criminal Justice Training Council is encouraged to train enforcement officers

1 about the existence of payment plan options for traffic violation judgments.

2 Enforcement officers are encouraged to mention these options to a motorist at  
3 the time of issuing a complaint for a traffic violation.

4 (b) The General Assembly recommends that the Judicial Bureau update the  
5 standard materials that enforcement officers provide to persons issued a civil  
6 complaint for a traffic violation to notify such persons of payment plan options  
7 and of the person’s right to request a hearing on ability to pay.

8 (c) The General Assembly encourages the Judicial Bureau to prominently  
9 display on its website information about the existence of payment plan options  
10 for traffic violation judgments and the right of a person issued a complaint for  
11 a traffic violation to request a hearing on ability to pay.

12 (d) [Statewide advertising campaign?]

13 \* \* \* Studies and Statistics \* \* \*

14 \* \* \* Criminal DLS Charges \* \* \*

15 Sec. 24. STATISTICS REGARDING CRIMINAL DLS CHARGES

16 (a) On or before January 15, 2018, and separately for calendar years 2013,  
17 2014, 2015, 2016, and 2017, the Court Administrator shall submit in writing to  
18 the House and Senate Committees on Judiciary the number of criminal driving  
19 with license suspended charges filed statewide:

20 (1) under 23 V.S.A. § 674(b) (driving while suspended for a DUI  
21 offense);

1           (2) under 23 V.S.A. § 674(a)(1) (driving while suspended for certain  
2           non-DUI criminal motor vehicle offenses);

3           (3) for a sixth or subsequent violation of 23 V.S.A. § 676 (civil DLS);

4           (4) for 2016 and 2017 only, under 23 V.S.A. § 674(a)(2)(A) (a third or  
5           subsequent DLS arising from a suspension for points).

6           (b) On or before January 15, 2019, for calendar year 2018, the Court  
7           Administrator shall submit in writing to the House and Senate Committees on  
8           Judiciary the statistics specified in subdivisions (a)(1)–(4) of this section.

9                           \* \* \* Affordability and Rationality of Traffic

10                           Violation Judgments; Studies \* \* \*

11           Sec. 25. STUDIES RELATED TO THE AFFORDABILITY AND

12                           RATIONALITY OF TRAFFIC VIOLATION JUDGMENTS

13           (a) Affordability of traffic violation judgments.

14           (1) The Secretary of Transportation or designee, in consultation with  
15           Vermont Legal Aid and the Judicial Bureau, shall study the affordability of  
16           traffic violation judgments in Vermont and identify alternative mechanisms to  
17           base judgment amounts on a person's ability to pay. At a minimum, the  
18           Secretary shall review the following:

19                           (A) the laws or practices of jurisdictions outside Vermont that take  
20           into account a person's ability to pay in setting or modifying traffic violation  
21           judgments;

1           (B) the feasibility of establishing, and the implementation steps that  
2           would be required to establish, mechanisms in Vermont to modify traffic  
3           violation complaints or judgments based on a person’s ability to pay;

4           (C) the likely benefits and costs of implementing a sliding scale  
5           reduction in traffic violation judgments based on a person’s ability to pay; and

6           (D) various indicia and measures of ability to pay, types of evidence  
7           available to establish ability to pay, and alternative means of or processes for  
8           verifying such evidence.

9           (2) On or before January 15, 2017, the Secretary of Transportation shall  
10           submit to the House and Senate Committees on Judiciary and on  
11           Transportation a written report of his or her findings and any recommendations  
12           for proposed legislation.

13           (b) Traffic violation fine structure.

14           (1) The Secretary of Transportation or designee, in consultation with the  
15           Judicial Bureau and the Department of State’s Attorneys and Sheriffs, shall  
16           study the existing structure of traffic violation fines in Vermont, including:

17           (A) existing waiver penalties;

18           (B) provisions establishing minimum or maximum or set fines for  
19           particular traffic violations, or any of these;

20           (C) elevated fines for second or subsequent offenses and other special  
21           enhancements such as work zone enhancements; and

1           (D) the comparability and rationality of the existing scheme of  
2           minimum, maximum, and set fines and waiver penalties across traffic  
3           violations, in light of the seriousness of violating the underlying safety statutes.

4           (2) On or before January 15, 2017, the Secretary of Transportation shall  
5           submit to the House and Senate Committees on Judiciary and on  
6           Transportation a written report of his or her findings and any recommendations  
7           for proposed legislation or other recommended measures to rationalize  
8           Vermont’s existing traffic violation fine structure.

9           (c) Study regarding surcharges.

10           (1) Findings. Under 13 V.S.A. § 7282, all traffic violation judgments  
11           and various other civil judgments and criminal fines are subject to a 15 percent  
12           surcharge on the fine imposed for the offense as well as a \$47.00 surcharge.  
13           The 15 percent surcharge is allocated to the Crime Victims’ Restitution Special  
14           Fund. The \$47.00 surcharge is allocated with \$29.75 deposited to the Victim  
15           Compensation Special Fund, \$10.00 deposited to the Domestic and Sexual  
16           Violence Special Fund, and \$7.25 deposited to the General Fund.

17           (2) The Secretary of Administration or designee, in consultation with  
18           representatives of the agencies that oversee the special funds referenced in  
19           subdivision (1) of this subsection and representatives of crime victims and  
20           survivors of domestic violence, shall identify potential alternative funding  
21           mechanisms and sources that would be sufficient to replace monies generated



1 by the surcharges imposed under 13 V.S.A. § 7282. On or before January 15,  
2 2017, the Secretary shall submit a written report to the House and Senate  
3 Committees on Judiciary and on Appropriations, the House Committee on  
4 Ways and Means, and the Senate Committee on Finance describing the  
5 alternatives identified and include any proposed recommendations for  
6 legislation.

7 \* \* \* Traffic Violation Judgments; Receipts \* \* \*

8 Sec. 26. STATISTICS RELATED TO TRAFFIC VIOLATION JUDGMENT  
9 HEARINGS, RECEIPTS

10 (a) On or before January 15, 2018, and separately for calendar years 2013,  
11 2014, 2015, 2016, and 2017, the Court Administrator shall submit in writing to  
12 the House and Senate Committees on Judiciary and on Transportation:

13 (1) the total number of traffic violation judgments entered; and

14 (2) the total payments collected on traffic violation judgments.

15 (b) On or before January 15, 2019, for calendar year 2018, the Court  
16 Administrator shall submit in writing to the Committees on Judiciary and on  
17 Transportation the statistics specified in subdivisions (a)(1) and (2) of this  
18 section.

19 (c) On or before January 15 of 2017, 2018, and 2019, respectively, the  
20 Court Administrator shall submit in writing to the House and Senate  
21 Committees on Judiciary and on Transportation:

1           (1) the total unpaid amount of outstanding traffic violation judgments as  
2           of January 1 of each year;

3           (2) the number of persons under payment plans as of January 1 of each  
4           year and the number of persons who successfully completed a payment plan in  
5           the prior calendar year;

6           (3) the number of judgments reduced in the prior calendar year as a  
7           result of a hearing held pursuant to 4 V.S.A. § 1106; and

8           (4) the number of judgments reduced in the prior calendar year as a  
9           result of postjudgment motions to amend.

10                   \* \* \* Underage Alcohol and Marijuana Violations \* \* \*

11           Sec. 27. UNDERAGE ALCOHOL AND MARIJUANA VIOLATIONS;

12                   COMPLETION OF DIVERSION

13           On or before January 15, 2018, the Diversion Program shall submit to the  
14           House and Senate Committees on Judiciary, the House Committee on Human  
15           Services, and the Senate Committee on Health and Welfare statistics showing:

16           (1) for calendar years 2014 and 2015 separately, the number of persons  
17           issued a notice to report to the Diversion Program, as well as the number of  
18           persons who successfully completed Diversion, for:

19                   (A) a violation of 7 V.S.A. § 656; and

20                   (B) a violation of 18 V.S.A. § 4230b;

