

H.571

An act relating to driver's license suspensions, driving with a suspended license, and DUI penalties

It is hereby enacted by the General Assembly of the State of Vermont:

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

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

(a) Background.

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

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

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

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

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

(b) Termination of suspensions.

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

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

* * * Statewide Driver Restoration Program * * *

Sec. 2. STATEWIDE DRIVER RESTORATION PROGRAM

(a) Program established; one-time event.

(1) The Judicial Bureau and the Department of Motor Vehicles shall carry out a Statewide Driver Restoration Program (Program) from September 1, 2016 through November 30, 2016 (the "Program time period").

It is the intent of the General Assembly that the Program shall be a one-time statewide event.

(2) As used in this section, "suspension" means a suspension of a person's license or privilege to operate a motor vehicle in Vermont imposed by the Commissioner of Motor Vehicles.

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

(1) During the Program time period, a person who has not paid in full the amount due on a traffic violation judgment entered prior to January 1, 2015 may apply to the Judicial Bureau for a reduction in the amount due on a form approved by the Court Administrator. Judgments for traffic violations that involve violation of a law specifically governing the operation of commercial motor vehicles shall not be eligible for reduction under the Program. The Program shall not apply to pre-July 1, 1990 criminal traffic offenses.

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

(3) If a person submits a complete application during the Program time period and the judgment is eligible for reduction under subdivision (1) of this subsection, the Clerk of the Judicial Bureau or designee shall reduce the amount due on the judgment to \$30.00. Amounts paid toward a traffic violation judgment prior to the Judicial Bureau's granting an application under

this subsection shall not be refunded or credited toward the amount due under the amended judgment.

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

(1) Notwithstanding the usual time periods for filing postjudgment motions to amend and the standards for granting such motions, a person who has not paid the full amount due on a traffic violation judgment entered on or after January 1, 2015 and before July 1, 2016 may file a motion with the Judicial Bureau pursuant to Rules 60 and 80.6 of the Vermont Rules of Civil Procedure seeking an individualized determination of his or her ability to pay the amount due on the judgment. In deciding the motion, the Judicial Bureau hearing officer shall consider the person's ability to pay the amount due and may reduce the amount due and waive any reinstatement or suspension termination fee in his or her discretion.

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

(d) Restoration of driving privileges.

(1) If a person has paid all traffic violation judgments reduced under subsection (b) of this section, and is under a payment plan for any other outstanding traffic violation judgments, the Judicial Bureau shall notify the Department of Motor Vehicles that the person is in compliance with his or her obligations.

(2) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), the Commissioner of Motor Vehicles shall:

(A) upon receipt of the notice of compliance from the Judicial Bureau and without requiring an application or payment of a reinstatement fee, terminate suspensions arising from nonpayment of a traffic violation judgment of a person described in subdivision (1) of this subsection (d);

(B) during the Program time period and without requiring an application or payment of a reinstatement fee, terminate suspensions arising from nonpayment of a traffic violation judgment of a person who has paid all outstanding traffic violation judgments in full or is in compliance with a Judicial Bureau payment plan prior to December 1, 2016.

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

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

(e) Public awareness campaign. Prior to the start of the Program, the Agency of Transportation shall commence a campaign to raise public awareness of the Program, and shall conduct the campaign until the end of the Program. The Judicial Bureau, the Department of Motor Vehicles, and the Agency of Transportation shall prominently advertise the Program on their websites until the Program ends.

(f) Allocation of fines collected. Amounts collected on traffic violation judgments reduced under subsection (b) or subdivision (c)(1) of this section shall be allocated in accordance with the Process Review approved by the Court Administrator's Office entitled "Revenue Distributions - Civil Violations" and dated November 3, 2015.

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

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

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

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

(i) the number of hearings held;

(ii) the number of judgments reduced pursuant to such hearings,

the total number of the reduced judgments paid, and the total amount collected
in connection with payment of the reduced judgments; and

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

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

(2) The Commissioner of Motor Vehicles shall report to the House and
Senate Committees on Judiciary and on Transportation:

(A) the number of suspensions terminated, as well as the number of
unique persons whose suspensions were terminated, under subdivision (d)(2)
of this section; and

(B) the number of persons whose license or privilege to operate was
fully reinstated as a result of the termination of suspensions under subdivision
(d)(2) of this section.

* * * Termination of Suspensions Repealed in Act * * *

Sec. 2a. TERMINATION OF SUSPENSIONS REPEALED IN ACT

Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension),
as soon as possible after this act takes effect the Commissioner of Motor
Vehicles shall, without requiring an application or payment of a fee, terminate
pending suspensions of a person's license or privilege to operate a motor

vehicle and refusals of a person's license or privilege to operate that were imposed pursuant to the following provisions:

- (1) 7 V.S.A. § 656 (underage alcohol violation);
- (2) 7 V.S.A. § 1005 (underage tobacco violation);
- (3) 13 V.S.A. § 1753 (false public alarm; students and minors);
- (4) 18 V.S.A. § 4230b (underage marijuana violation); and
- (5) 32 V.S.A. § 8909 (driver's license suspensions for nonpayment of

purchase and use tax).

* * * Amendment or Repeal of License Suspension and Registration Refusal

Provisions and Underage Alcohol and Marijuana Crimes * * *

Sec. 3. REPEALS

23 V.S.A. §§ 305a (registration not renewed following nonpayment of traffic violation judgment) and 2307 (remedies for failure to pay traffic violations) are repealed.

Sec. 4. 4 V.S.A. § 1109 is amended to read:

§ 1109. REMEDIES FOR FAILURE TO PAY; CONTEMPT

(a) Definitions. As used in this section:

(1) "Amount due" means all financial assessments contained in a Judicial Bureau judgment, including penalties, fines, surcharges, court costs, and any other assessment authorized by law.

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

(3) [Repealed.]

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(4)~~(5) Contempt.

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

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

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

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

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

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

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

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

(iv) Recommend that the Criminal Division of the Superior Court incarcerate the defendant until the amount due is paid. If incarceration is

recommended pursuant to this subdivision ~~(4)(c)(5)~~, the Judicial Bureau shall notify the Criminal Division of the Superior Court that contempt proceedings should be commenced against the defendant. The Criminal Division of the Superior Court proceedings shall be de novo. If the defendant cannot afford counsel for the contempt proceedings in the Criminal Division of the Superior Court, the Defender General shall assign counsel at the Defender General's expense.

(d) Collections.

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

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

(e) For purposes of civil contempt proceedings, venue shall be statewide. No entry or motion fee shall be charged to a defendant who applies for a reduced judgment under subdivision (c)(4)(B) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

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

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

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

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

~~(f)~~(4) Diversion Program Requirements.

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

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

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

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

(B) ~~send~~ Send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information which identifies the person.

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

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

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

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

[Repealed.]

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

Sec. 6. REPEAL

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

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

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

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

* * *

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

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

* * *

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

* * *

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

* * *

Sec. 9. 7 V.S.A. § 1005 is amended to read:

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

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

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

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

Sec. 10. 13 V.S.A. § 1753 is amended to read:

§ 1753. FALSE PUBLIC ALARMS

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

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

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

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

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

Sec. 11. 18 V.S.A. § 4230b is amended to read:

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

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

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

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

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

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

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

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

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

* * *

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

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

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, ~~the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.~~

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

* * *

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

[Repealed.]

~~(h) Record of Adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications which shall be~~

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

Sec. 12. DEPARTMENT OF MOTOR VEHICLES REGISTRY OF
UNDERAGE ALCOHOL AND MARIJUANA OFFENSES

It is the intent of the General Assembly that any copy of the registry of underage alcohol and marijuana adjudications that the Department of Motor Vehicles was required to maintain under the former 7 V.S.A. § 656(h) and 18 V.S.A. § 4230b(h) (repealed in Secs. 5 and 11 of this act, respectively) be destroyed.

Sec. 13. REPEAL

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

Sec. 14. 20 V.S.A. § 2358 (b)(2)(B)(i)(XX) is amended to read:

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

Sec. 15. 32 V.S.A. § 8909 is amended to read:

§ 8909. ENFORCEMENT

If the tax due under subsection ~~8903(a), (b) and (d)~~ 8903(d) of this title is not paid as hereinbefore provided the Commissioner shall suspend ~~such~~

~~purchaser's or the rental company's right to operate a motor vehicle license to~~
act as a rental company and motor vehicle registrations within the State of
Vermont until such tax is paid, and such tax may be recovered with costs in an
action brought in the name of the State on this statute.

* * * Driving with License Suspended* * *

Sec. 16. 23 V.S.A. § 674 is amended to read:

§ 674. OPERATING AFTER SUSPENSION OR REVOCATION OF
LICENSE; PENALTY; REMOVAL OF REGISTRATION PLATES;
TOWING

(a)(1) Except as provided in section 676 of this title, a person whose license
or privilege to operate a motor vehicle has been suspended or revoked for a
violation of this section or subsection 1091(b), 1094(b), or 1128(b) or (c) of
this title and who operates or attempts to operate a motor vehicle upon a public
highway before the suspension period imposed for the violation has expired
shall be imprisoned not more than two years or fined not more than \$5,000.00,
or both.

(2)(A) A person whose license or privilege to operate a motor vehicle
has been suspended or revoked for a violation of section 2506 of this title
(points suspensions) and who operates or attempts to operate a motor vehicle
upon a public highway for a third or subsequent time on or after July 1, 2016

before the suspension period imposed for the violation has expired shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

(B) A Other than as provided in subdivision (A) of this subdivision (a)(2), a person who violates section 676 of this title for the sixth or subsequent time shall, if the five prior offenses occurred on or after July 1, 2003 December 1, 2016, be imprisoned not more than two years or fined not more than \$5,000.00, or both.

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

* * *

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

Sec. 17. 23 V.S.A. § 1006a is amended to read:

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

* * *

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

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

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

Sec. 18. 23 V.S.A. § 1010 is amended to read:

§ 1010. SPECIAL OCCASIONS; TOWN HIGHWAY MAINTENANCE

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

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

points assessed against a person's driving record for a violation of the speed limits established under the worksite provision of this section shall be twice the penalty and the points assessed for non-worksite speed violations.

Sec. 19. 23 V.S.A. § 1081 is amended to read:

§ 1081. BASIC RULE AND MAXIMUM LIMITS

* * *

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

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

* * *

Sec. 20. 23 V.S.A. § 1095b is amended to read:

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE
PROHIBITED

* * *

(c) Penalties.

(1) A person who violates this section commits a traffic violation and shall be subject to a fine of not less than \$100.00 and not more than \$200.00

for a first violation, and of not less than \$250.00 and not more than \$500.00 for a second or subsequent violation within any two-year period.

(2) A person convicted of violating this section while operating within a ~~properly designated work zone in which construction, maintenance, or utility personnel are present~~ the following areas shall have ~~two~~ five points assessed against his or her driving record ~~for a first conviction and five points assessed for a second or subsequent conviction;~~

(A) a properly designated work zone in which construction, maintenance, or utility personnel are present; or

(B) a school zone marked with warning signs conforming to the Manual on Uniform Traffic Control Devices.

(3) A person convicted of violating this section outside ~~a work zone in which personnel are present~~ the areas designated in subdivision (2) of this subsection shall ~~not~~ have two points assessed against his or her driving record.

* * *

Sec. 21. 23 V.S.A. § 1099 is amended to read:

§ 1099. TEXTING PROHIBITED

* * *

(c) A person who violates this section commits a traffic violation as defined in section 2302 of this title and shall be subject to:

(1) a penalty of not less than \$100.00 and not more than \$200.00 for a first violation, and of not less than \$250.00 and not more than \$500.00 for a second or subsequent violation within any two-year period; and

(2)(A) an assessment of five points against his or her driving record if the violation occurred outside the areas designated in subdivision (B) of this subdivision (c)(2); or

(B) an assessment of seven points against his or her driving record when the violation occurred within:

(i) a properly designated work zone in which construction, maintenance, or utility personnel are present; or

(ii) a school zone marked with warning signs conforming to the Manual on Uniform Traffic Control Devices.

Sec. 22. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Unless the assessment of points is waived by a Superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance with subsection 2501(b) of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

- | | | |
|---------|---------------|--|
| (LL)(i) | § 1095. | Entertainment picture visible
to operator; |
| (ii) | § 1095b(e)(2) | Use of portable electronic device
in <u>outside work or school</u>
zone— first offense |

* * *

- | | | |
|----------------------------------|---------------|--|
| (EEE) | § <u>1258</u> | <u>Child restraint systems;</u> |
| (FFF) | § 800. | Operating without financial
responsibility; |
| (FFF)(<u>GGG</u>) | | All other moving violations
which have no specified points; |

* * *

(4) Five points assessed for:

- | | | |
|-----|---------------|--|
| (A) | § 1050. | Failure to yield to emergency
vehicles; |
| (B) | § 1075. | Illegal passing of school bus; |
| (C) | § 1099. | Texting prohibited— <u>outside work or</u>
<u>school zone</u> ; |
| (D) | § 1095b(e)(2) | Use of portable electronic |

device in work or school zone—

~~second and subsequent offenses;~~

* * *

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

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

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

(9) Eight points assessed for sections 1003 ~~and~~, 1007, 1081, and 1097. State speed zones ~~and~~, local speed limits, and basic speed rule, more than 30 miles per hour over and in excess of the speed limit, and criminal excessive speed;

(10) Seven points assessed for subdivision 1099(c)(2)(B) (texting in a work or school zone).

* * *

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

Sec. 23. 4 V.S.A. § 1106 is amended to read:

§ 1106. HEARING

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

(b) The hearing shall be held before a hearing officer and conducted in an impartial manner. The hearing officer may, by subpoena, compel the attendance and testimony of witnesses and the production of books and records. All witnesses shall be sworn. The burden of proof shall be on the State or municipality to prove the allegations by clear and convincing evidence. As used in this section, “clear and convincing evidence” means evidence which establishes that the truth of the facts asserted is highly probable. Certified copies of records supplied by the Department of Motor Vehicles or the Agency of Natural Resources and presented by the issuing officer or other person shall be admissible without testimony by a representative of the Department of Motor Vehicles or the Agency of Natural Resources.

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

(2) The hearing officer shall make findings which shall be stated on the record or, if more time is needed, made in writing at a later date. The hearing

officer may make a finding that the person has committed a lesser included violation.

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

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

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

* * * DLS Diversion Program * * *

Sec. 24. DLS DIVERSION PROGRAM; REPEAL

2012 Acts and Resolves No. 147, Sec. 2, as amended by 2013 Acts and Resolves No. 18, Sec. 1a (DLS Diversion Program) shall be repealed on July 1, 2016.

* * * Awareness of Payment and Hearing Options * * *

Sec. 25. RAISING AWARENESS OF TRAFFIC VIOLATION JUDGMENT
PAYMENT AND HEARING OPTIONS

(a) In conducting basic training courses and annual in-service trainings, the Criminal Justice Training Council is encouraged to train enforcement officers about the existence of payment plan options for traffic violation judgments.

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

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

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

(d) The Agency of Transportation shall carry out a campaign to raise public awareness of traffic violation judgment payment plan options and of a person's right to request a hearing before a Judicial Bureau hearing officer on his or her ability to pay a Judicial Bureau judgment.

* * * Criminal DLS Charges; Statistics * * *

Sec. 26. STATISTICS REGARDING CRIMINAL DLS CHARGES

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

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

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

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

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

(b) On or before January 15 of 2019, 2020, and 2021, respectively, the Court Administrator shall submit in writing to the House and Senate Committees on Judiciary the statistics specified in subdivisions (a)(1)–(4) of this section for the prior calendar year.

* * * Traffic Violation Judgments; Receipts; Statistics * * *

Sec. 27. STATISTICS RELATED TO TRAFFIC VIOLATION JUDGMENT
HEARINGS, RECEIPTS

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

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

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

(b) On or before January 15 of 2019, 2020, and 2021, respectively, the Court Administrator shall submit in writing to the Committees on Judiciary

and on Transportation the statistics specified in subdivisions (a)(1) and (2) of this section for the prior calendar year.

(c) On or before January 15 of 2017–2021, respectively, the Court Administrator shall submit in writing to the House and Senate Committees on Judiciary and on Transportation:

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

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

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

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

* * * Underage Alcohol and Marijuana Violations; Statistics * * *

Sec. 28. UNDERAGE ALCOHOL AND MARIJUANA VIOLATIONS;

COMPLETION OF DIVERSION

On or before January 25, 2018, the Diversion Program shall submit to the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare statistics showing:

(1) for calendar years 2014 and 2015 separately, the number of notices to report received by the Diversion Program from law enforcement, as well as the number of persons who successfully completed Diversion, for:

- (A) a violation of 7 V.S.A. § 656 (underage alcohol violation); and
- (B) a violation of 18 V.S.A. § 4230b (underage marijuana violation);

(2) for calendar years 2016 and 2017 separately, the number of notices to report received by the Diversion Program from law enforcement, as well as the number of persons who successfully completed Diversion, for:

- (A) a first or second violation of 7 V.S.A. § 656;
- (B) a third or subsequent violation of 7 V.S.A. § 656;
- (C) a first or second violation of 18 V.S.A. § 4230b; and
- (D) a third or subsequent violation of 18 V.S.A. § 4230b.

Sec. 29. 23 V.S.A. § 4(44) is amended to read:

(44) “Moving violation” ~~shall mean~~ means any violation of any provision of this title, while the motor vehicle is being operated on a public highway, over which operation the operator has discretion as to commission of the act, ~~with exception of~~ except for offenses pertaining to a parked vehicle, equipment, size, weight, inspection, or registration of the vehicle, and ~~child restraint or safety belt systems or seat belts as required in section 1258 or 1259~~ of this title.

* * * Effective Dates * * *

Sec. 30. EFFECTIVE DATES

(a) This section, Sec. 1 (termination of suspensions arising from pre-1990 failures to appear on criminal traffic offense charges), Sec. 2(e) (public awareness campaign), Sec. 2a (termination of suspensions repealed in act), and Secs. 3–15 (amendment or repeal of license suspension and registration refusal provisions and underage alcohol and marijuana crimes) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2016.