

1 TO THE HONORABLE SENATE:

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 Senate propose to the House that  
6 the bill be amended by striking out all after the enacting clause and inserting in  
7 lieu thereof the following:

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

9 Sec. 1. TERMINATION OF SUSPENSIONS ARISING FROM PRE-JULY 1,  
10 1990 CRIMINAL TRAFFIC OFFENSES

11 (a) Background.

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

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

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

20 (4) Many of the criminal complaints in these matters are fire- and  
21 water-damaged. In many of these cases, the facts underlying the complaints no  
22 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 prior to July 1,  
10           1990 on a criminal traffic offense charged by the State for conduct that is a  
11           civil traffic violation under current Vermont law.

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

15                           \* \* \* Driver Restoration Program \* \* \*

16           Sec. 2. DRIVER RESTORATION PROGRAM

17           (a) Program established; one-time event.

18           (1) The Judicial Bureau and the Department of Motor Vehicles shall  
19           carry out a Driver Restoration Program (Program) from September 1, 2016  
20           through November 30, 2016 (the “Program time period”). A person shall not  
21           be eligible for reduction of a traffic violation judgment under subsection (b) of  
22           this section unless the State’s Attorney of the county in which the person

1 resides has approved the participation of the county in the Program. It is the  
2 intent of the General Assembly that the Program be a one-time event.

3 (2) As used in this section, “suspension” means a suspension of a  
4 person’s license or privilege to operate a motor vehicle in Vermont imposed by  
5 the Commissioner of Motor Vehicles.

6 (b) Traffic violation judgments entered before July 1, 2010; exception.

7 (1) During the Program time period, a person who has not paid in full  
8 the amount due on a traffic violation judgment entered prior to July 1, 2010  
9 may apply to the Judicial Bureau for a reduction in the amount due on a form  
10 approved by the Court Administrator. Judgments for traffic violations that  
11 involve violation of a law specifically governing the operation of commercial  
12 motor vehicles shall not be eligible for reduction under the Program. The  
13 Program shall not apply to pre-July 1, 1990 criminal traffic offenses.

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

16 (3) If a person submits a complete application during the Program time  
17 period and the judgment is eligible for reduction under subdivision (1) of this  
18 subsection, the Clerk of the Judicial Bureau or designee shall reduce the  
19 amount due on the judgment to \$30.00. Amounts paid toward a traffic  
20 violation judgment prior to the Judicial Bureau’s granting an application under  
21 this subsection shall not be refunded or credited toward the amount due under  
22 the amended judgment.

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

7       (d) Restoration of driving privileges.

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

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

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

19           (B) during the Program time period and without requiring an  
20       application or payment of a reinstatement fee, terminate suspensions arising  
21       from nonpayment of a traffic violation judgment of a person who has paid all

1 outstanding traffic violation judgments in full or is in compliance with a  
2 Judicial Bureau payment plan prior to December 1, 2016.

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

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

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

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

1                   \* \* \* Termination of Suspensions Repealed in Act \* \* \*

2           Sec. 2a. TERMINATION OF SUSPENSIONS REPEALED IN ACT

3                   Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension),  
4                   as soon as possible after this act takes effect, the Commissioner of Motor  
5                   Vehicles shall, without requiring an application or payment of a fee, terminate  
6                   pending suspensions of a person’s license or privilege to operate a motor  
7                   vehicle and refusals of a person’s license or privilege to operate that were  
8                   imposed pursuant to the following provisions:

9                   (1) 7 V.S.A. § 656(g) (underage alcohol violation; failure to pay civil  
10                   penalty);

11                   (2) 7 V.S.A. § 1005 (underage tobacco violation);

12                   (3) 13 V.S.A. § 1753 (false public alarm; students and minors);

13                   (4) 18 V.S.A. § 4230b(g) (underage marijuana violation; failure to pay  
14                   civil penalty); and

15                   (5) 32 V.S.A. § 8909 (driver’s license suspensions for nonpayment of  
16                   purchase and use tax).

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

18                   Provisions **and Underage Alcohol and Marijuana Crimes** \* \* \*

19           Sec. 3. REPEALS

20                   23 V.S.A. §§ 305a (registration not renewed following nonpayment of  
21                   traffic violation judgment) and 2307 (remedies for failure to pay traffic  
22                   violations) are repealed.

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

2 § 1109. REMEDIES FOR FAILURE TO PAY; CONTEMPT

3 (a) Definitions. As used in this section:

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

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

9 (3) [Repealed.]

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

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

17 (2)(A) In the case of a traffic violation judgment, the judgment shall  
18 contain a notice that failure to pay or otherwise satisfy the amount due within  
19 30 days of the notice will result in suspension of the person’s operator’s license  
20 or privilege to operate, and that payment plan options are available. If the  
21 defendant fails to pay the amount due within 30 days of the notice, or by a later  
22 date as determined by a Judicial Bureau clerk or hearing officer, and the case is

1 not pending on appeal, the Judicial Bureau shall provide electronic notice  
2 thereof to the Commissioner of Motor Vehicles. After 20 days from the date  
3 of receiving the electronic notice, the Commissioner shall suspend the person's  
4 operator's license or privilege to operate for a period of 30 days or until the  
5 amount due is satisfied, whichever is earlier.

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

11 (c)(1) Civil contempt proceedings. If an amount due remains unpaid for  
12 75 days after the Judicial Bureau provides the defendant with a notice of  
13 judgment, the Judicial Bureau may initiate civil contempt proceedings pursuant  
14 to this subsection.

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

20 ~~(2)~~(3) Failure to appear. If the defendant fails to appear at the contempt  
21 hearing, the hearing officer may direct the clerk of the Judicial Bureau to do  
22 one or more of the following:



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

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

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

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

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

1           ~~(4)~~(5) Contempt.

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

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

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

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

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

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

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

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

20           (iv) Recommend that the Criminal Division of the Superior Court  
21 incarcerate the defendant until the amount due is paid. If incarceration is  
22 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  
21 on and collect, or charge against collections, a processing charge in an amount  
22 approved by the Court Administrator.

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

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

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

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

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

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

18 (2) Offense. ~~Except as otherwise provided in section 657 of this title, a~~  
19 A person under 21 years of age who knowingly ~~and unlawfully~~ violates  
20 subdivision (1) of this subsection commits a civil violation and shall be  
21 referred to the Court Diversion Program for the purpose of enrollment in the

1 Youth Substance Abuse Safety Program. A person who fails to complete the  
2 program successfully shall be subject to:

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

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

9 \* \* \*

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

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

18 (2) If the person does not satisfactorily complete the substance abuse  
19 screening, any required substance abuse ~~education~~ assessment or substance  
20 abuse counseling, or any other condition related to the offense imposed by the  
21 Diversion Program, the case will be referred to the Judicial Bureau, where the  
22 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~~ assessment or substance abuse  
5 counseling, and any other condition related to the offense imposed by the  
6 Diversion Program, no penalty shall be imposed and the person's operator's  
7 license shall not be suspended.

8 \* \* \*

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

13 [Repealed.]

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

1 Sec. 6. REPEAL

2 7 V.S.A. § 657 (persons under 21; third or subsequent alcohol offense;  
3 crime) is repealed.

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

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

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

11 \* \* \*

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

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

18 \* \* \*

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

20 \* \* \*

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

1 \* \* \*

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

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

6 (a) A person under 18 years of age shall not possess, purchase, or attempt  
7 to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia  
8 unless the person is an employee of a holder of a tobacco license and is in  
9 possession of tobacco products, tobacco substitutes, or tobacco paraphernalia  
10 to effect a sale in the course of employment. A person under 18 years of age  
11 shall not misrepresent his or her age to purchase or attempt to purchase tobacco  
12 products, tobacco substitutes, or tobacco paraphernalia. A person who  
13 possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in  
14 violation of this subsection shall be subject to having the tobacco products,  
15 tobacco substitutes, or tobacco paraphernalia immediately confiscated and  
16 shall be further subject to a civil penalty of \$25.00. ~~In the case of failure to~~  
17 ~~pay a penalty, the Judicial Bureau shall mail a notice to the person at the~~  
18 ~~address in the complaint notifying the person that failure to pay the penalty~~  
19 ~~within 60 days of the notice will result in either the suspension of the person's~~  
20 ~~operator's license for a period of not more than 90 days or the delay of the~~  
21 ~~initial licensing of the person for a period of not more than one year. A copy~~  
22 ~~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.~~

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. 10. 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  
22 for not more than two years or fined not more than \$5,000.00, or both. For the

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

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

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

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

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

18 § 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS  
19 OF AGE; FIRST OR SECOND OFFENSE; CIVIL VIOLATION

20 (a) Offense. ~~Except as otherwise provided in section 4230c of this title, a~~  
21 A person under 21 years of age who knowingly and unlawfully possesses one  
22 ounce or less of marijuana or five grams or less of hashish commits a civil

1 violation and shall be referred to the Court Diversion Program for the purpose  
2 of enrollment in the Youth Substance Abuse Safety Program. A person who  
3 fails to complete the program successfully shall be subject to:

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

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

10 \* \* \*

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

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

19 (2) If the person does not satisfactorily complete the substance abuse  
20 screening, any required substance abuse ~~education~~ assessment or substance  
21 abuse counseling, or any other condition related to the offense imposed by the  
22 Diversion Program, the case will be referred to the Judicial Bureau, where the

1 person, if found liable for the violation, shall be assessed a civil penalty, the  
2 person's driver's license will be suspended, and the person's automobile  
3 insurance rates may increase substantially.

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

9 \* \* \*

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

14 [Repealed.]

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

1 **Sec. 12. DEPARTMENT OF MOTOR VEHICLES REGISTRY OF**

2 **UNDERAGE ALCOHOL AND MARIJUANA OFFENSES**

3 It is the intent of the General Assembly that any copy of the registry of  
4 underage alcohol and marijuana adjudications that the Department of Motor  
5 Vehicles was required to maintain under the former 7 V.S.A. § 656(h) and  
6 18 V.S.A. § 4230b(h) (repealed in Secs. 5 and 11 of this act, respectively) be  
7 destroyed.

8 **Sec. 13. REPEAL**

9 18 V.S.A. § 4230c (marijuana possession by a person under 21 years of age;  
10 third or subsequent offense; crime) is repealed.

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

12 (XX) 18 V.S.A. §§ 4230(a), 4230e, and 4230d (marijuana  
13 possession);

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

15 **§ 8909. ENFORCEMENT**

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





1 Sec. 19. 23 V.S.A. § 2502 is amended to read:

2 § 2502. POINT ASSESSMENT; SCHEDULE

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

10 (1) Two points assessed for:

11

\* \* \*

12

(CCC) § ~~1256.~~

~~Motorcycle headgear~~

13

~~[Repealed.];~~

14

(DDD) § 1257.

Face Eye Protection;

15

\* \* \*

16 Sec. 20. 23 V.S.A. § 1257 is amended to read:

17 § 1257. ~~FACE~~ EYE PROTECTION

18 If a motorcycle is not equipped with a windshield or screen, the operator of  
19 the motorcycle shall wear either eye glasses, goggles, or a protective face  
20 shield when operating the vehicle. The glasses, goggles, or face shield shall  
21 have colorless lenses when the motorcycle is being operated during the period  
22 of 30 minutes after sunset to 30 minutes before sunrise and at any other time



1 when due to insufficient light or unfavorable atmospheric conditions, persons  
2 and vehicles on the highway are not clearly discernible at a distance of 500 feet  
3 ahead.

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

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

6 § 1106. HEARING

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

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

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

1 officer may make a finding that the person has committed a lesser included  
2 violation. If the hearing officer finds that the defendant committed a violation,  
3 the hearing officer shall consider evidence of ability to pay, if offered by the  
4 defendant, prior to imposing a penalty.

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

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

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

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

14 Sec. 22. RAISING AWARENESS OF TRAFFIC VIOLATION JUDGMENT  
15 PAYMENT AND HEARING OPTIONS

16 (a) In conducting basic training courses and annual in-service trainings, the  
17 Criminal Justice Training Council is encouraged to train enforcement officers  
18 about the existence of payment plan options for traffic violation judgments.  
19 Enforcement officers are encouraged to mention these options to a motorist at  
20 the time of issuing a complaint for a traffic violation.

21 (b) The General Assembly recommends that the Judicial Bureau update the  
22 standard materials that enforcement officers provide to persons issued a civil

1 complaint for a traffic violation to notify such persons of payment plan options  
2 and of the person’s right to request a hearing on ability to pay.

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

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

11 \* \* \* Immunity for Forcible Entry of Motor Vehicle for Rescue Purposes \* \* \*

12 Sec. 23. 12 V.S.A. § 5784 is added to read:

13 § 5784. FORCIBLE ENTRY OF MOTOR VEHICLE TO REMOVE

14 UNATTENDED CHILD OR ANIMAL

15 A person who forcibly enters a motor vehicle for the purpose of removing a  
16 child or animal from the motor vehicle shall not be subject to civil liability for  
17 damages arising from the forcible entry if the person:

18 (1) determines the motor vehicle is locked or there is otherwise no  
19 reasonable method for the child or animal to exit the vehicle;

20 (2) reasonably and in good faith believes that forcible entry into the  
21 motor vehicle is necessary because the child or animal is in imminent danger  
22 of harm;

1           (3) notifies local law enforcement, fire department, or a 911 operator as  
2           soon as practicable under the circumstances;

3           (4) remains with the child or animal in a safe location reasonably close  
4           to the motor vehicle until a law enforcement, fire, or other emergency  
5           responder arrives;

6           (5) places a notice on the vehicle that the authorities have been notified  
7           and specifying the location of the child or animal; and

8           (6) uses no more force to enter the vehicle and remove the child or  
9           animal than necessary under the circumstances.

10                           \* \* \* Fair and Impartial Policing \* \* \*

11           Sec. 24. 20 V.S.A. § 2358 is amended to read:

12           § 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

13                           \* \* \*

14           (e)(1) The criteria for all minimum training standards under this section  
15           shall include anti-bias training approved by the Vermont Criminal Justice  
16           Training Council and training on the State, county, or municipal law  
17           enforcement agency's fair and impartial policing policy, adopted pursuant to  
18           subsection 2366(a) of this title.

19           (2) On or before December 31, 2018, law enforcement officers shall  
20           receive a minimum of four hours of training as required by this subsection.

21           (3) In order to remain certified, law enforcement officers shall receive a  
22           refresher course on the training required by this subsection during every odd-

1 numbered year in a program approved by the Vermont Criminal Justice  
2 Training Council.

3 Sec. 25. 20 V.S.A. § 2366 is amended to read:

4 § 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL

5 POLICING POLICY; RACE DATA COLLECTION

6 ~~(a)(1) Except as provided in subdivision (2) of this subsection, on or before~~  
7 ~~September 1, 2014, every State, local, county, and municipal law enforcement~~  
8 ~~agency, and every constable who exercises law enforcement authority pursuant~~  
9 ~~to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of~~  
10 ~~this title, shall adopt a fair and impartial policing policy. The policy shall~~  
11 ~~contain substantially the same elements of either the current Vermont State~~  
12 ~~Police fair and impartial policing policy or the most current model policy~~  
13 ~~issued by the Office of the Attorney General.~~

14 ~~(2)~~ On or before January 1, 2016, the Criminal Justice Training Council,  
15 in consultation with stakeholders, including the Vermont League of Cities and  
16 Towns, the Vermont Human Rights Commission, and Migrant Justice, shall  
17 ~~adopt~~ create a model fair and impartial policing policy. On or before July 1,  
18 2016, every State, local, county, and municipal law enforcement agency,  
19 and every constable who exercises law enforcement authority pursuant to  
20 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this  
21 title, shall adopt a fair and impartial policing policy that includes, at a  
22 minimum, the elements of the Criminal Justice Training Council model policy.

1 (b) If a law enforcement agency or constable that is required to adopt a  
2 policy pursuant to subsection (a) of this section fails to do so on or before  
3 ~~September 1, 2014~~ July 1, 2016, that agency or constable shall be deemed to  
4 have adopted, and shall follow and enforce, the model policy issued by the  
5 ~~Office of the Attorney General~~ Criminal Justice Training Council.

6 (c) On or before September 15, 2014, and annually thereafter as part of  
7 their annual training report to the Council, every State, ~~local~~, county, and  
8 municipal law enforcement agency, and every constable who exercises law  
9 enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in  
10 compliance with section 2358 of this title, shall report to the Council whether  
11 the agency or officer has adopted a fair and impartial policing policy in  
12 accordance with subsections (a) and (b) of this section ~~and which policy has~~  
13 ~~been adopted~~. The Criminal Justice Training Council shall determine, as part  
14 of the Council's annual certification of training requirements, ~~if~~ whether  
15 current officers have received training on fair and impartial policing as  
16 required by 20 V.S.A. § 2358(e).

17 (d) On or before October 15, 2014, and annually thereafter on April 1, the  
18 Criminal Justice Training Council shall report to the House and Senate  
19 Committees on Judiciary which departments and officers have adopted a fair  
20 and impartial policing policy, ~~which policy has been adopted~~, and whether  
21 officers have received training on fair and impartial policing.

1 (e)(1) On or before September 1, 2014, every State, ~~local~~ county, and  
2 municipal law enforcement agency shall collect roadside stop data consisting  
3 of the following:

- 4 (A) the age, gender, and race of the driver;  
5 (B) the reason for the stop;  
6 (C) the type of search conducted, if any;  
7 (D) the evidence located, if any; and  
8 (E) the outcome of the stop, including whether:  
9 (i) a written warning was issued;  
10 (ii) a citation for a civil violation was issued;  
11 (iii) a citation or arrest for a misdemeanor or a felony occurred; or  
12 (iv) no subsequent action was taken.

13 (2) Law enforcement agencies shall work with the Criminal Justice  
14 Training Council and a vendor chosen by the Council with the goals of  
15 collecting uniform data, adopting uniform storage methods and periods, and  
16 ensuring that data can be analyzed. Roadside stop data, as well as reports and  
17 analysis of roadside stop data, shall be public.

18 (3) On or before September 1, 2016 and annually thereafter, law  
19 enforcement agencies shall provide the data collected under this subsection to  
20 the vendor chosen by the Criminal Justice Training Council under subdivision  
21 (2) of this subsection or, in the event the vendor is unable to continue receiving  
22 data under this section, to the Council. Law enforcement agencies shall

1 provide the data collected under this subsection in an electronic format  
2 specified by the receiving entity.

3 (4) The data provided pursuant to subdivision (3) of this subsection shall  
4 be posted electronically in a manner that is analyzable and accessible to the  
5 public on the receiving agency's website.

6 \* \* \* Motor Vehicle Insurance and Credit History \* \* \*

7 Sec. 26. 8 V.S.A. § 4203(7) is added to read:

8 (7) An insurer engaged in writing private passenger motor vehicle  
9 insurance in Vermont shall not consider an applicant's or an insured's credit  
10 information, including a numerical credit-based insurance score or other credit  
11 rating, in connection with underwriting such insurance. This subdivision shall  
12 not be construed to limit an insurer from obtaining or using its own payment  
13 history information or information contained in an insurance claims history  
14 report, a motor vehicle driver history report, or any other report from a motor  
15 vehicle registry when underwriting motor vehicle insurance.

16 \* \* \* Effective Dates \* \* \*

17 Sec. 27. EFFECTIVE DATES

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



1        (b) Secs. 24–25 (related to fair and impartial policing) shall take effect on  
2        passage, except that in Sec. 24, 20 V.S.A. § 2358(e)(3) shall take effect on  
3        January 1, 2019.

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

5        and that after passage the title of the bill be amended to read: “An act relating  
6        to driver’s license suspensions and miscellaneous judicial, criminal justice, and  
7        insurance topics”

8  
9        (Committee vote: \_\_\_\_\_)

10        \_\_\_\_\_

11        Senator \_\_\_\_\_

12        FOR THE COMMITTEE

