

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”). It is the intent of the
21 General Assembly that the Program be a one-time event.

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

4 (3) The Program is only targeted at suspensions arising from
5 nonpayment of a traffic violation judgment. Even if a person benefits under
6 the Program from the termination of suspensions arising from nonpayment of
7 traffic violation judgments, other suspensions such as those arising from
8 driving under the influence in violation of 23 V.S.A. chapter 13, subchapter 13
9 shall remain in effect.

10 (b) Traffic violation judgments entered before July 1, 2006; exception.

11 (1) During the Program time period, a person who has not paid in full
12 the amount due on a traffic violation judgment entered prior to July 1, 2006
13 may apply to the Judicial Bureau for a reduction in the amount due on a form
14 approved by the Court Administrator. Judgments for traffic violations that
15 involve violation of a law specifically governing the operation of commercial
16 motor vehicles shall not be eligible for reduction under the Program. The
17 Program shall not apply to pre-July 1, 1990 criminal traffic offenses.

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

20 (3) If a person submits a complete application during the Program time
21 period and the judgment is eligible for reduction under subdivision (1) of this
22 subsection, the Clerk of the Judicial Bureau or designee shall reduce the

1 amount due on the judgment to \$30.00. Amounts paid toward a traffic
2 violation judgment prior to the Judicial Bureau's granting an application under
3 this subsection shall not be refunded or credited toward the amount due under
4 the amended judgment.

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

11 (d) Restoration of driving privileges.

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

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

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

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

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

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

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

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

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

2 Sec. 3. 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. 4. 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. 5. 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. 6. 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~~ \$1,200.00 and
7 suspension of the person's operator's license and privilege to operate a motor
8 vehicle for a 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 * * *

15 Sec. 7. 7 V.S.A. § 657 is amended to read:

16 § 657. ~~PERSON UNDER 21 YEARS OF AGE MISREPRESENTING AGE,
17 PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC
18 BEVERAGES; THIRD OR SUBSEQUENT OFFENSE~~

19 ~~A person under 21 years of age who engages in conduct in violation of
20 subdivision 656(a)(1) of this title commits a crime if the person has been
21 adjudicated at least twice previously in violation of subdivision 656(a)(1) of~~

1 ~~this title and shall be imprisoned not more than 30 days or fined not more than~~
2 ~~\$600.00, or both. [Repealed.]~~

3 Sec. 8. 13 V.S.A. § 5201(5) is amended to read:

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

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

10 * * *

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

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

17 * * *

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

19 * * *

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

22 * * *

1 Sec. 10. 7 V.S.A. § 1005 is amended to read:

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

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

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

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

14 Sec. 11. 13 V.S.A. § 1753 is amended to read:

15 § 1753. FALSE PUBLIC ALARMS

16 (a) A person who initiates or willfully circulates or transmits a report or
17 warning of an impending bombing or other offense or catastrophe, knowing
18 that the report or warning is false or baseless and that it is likely to cause
19 evacuation of a building, place of assembly, or facility of public transport, or to
20 cause public inconvenience or alarm, shall, for the first offense, be imprisoned
21 for not more than two years or fined not more than \$5,000.00, or both. For the
22 second or subsequent offense, the person shall be imprisoned for not more than

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

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

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

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

16 Sec. 12. 18 V.S.A. § 4230a(a)(3) is amended to read:

17 (a) A person 21 years of age or older who knowingly and unlawfully
18 possesses one ounce or less of marijuana or five grams or less of hashish
19 commits a civil violation and shall be assessed a civil penalty as follows:

20 * * *

1 Diversion Program shall send the person a notice to report to the Diversion
2 Program. The notice to report shall provide that:

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

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

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

19 * * *

20 (g) ~~Failure to Pay Penalty. If a person fails to pay a penalty imposed under~~
21 ~~this section by the time ordered, the Judicial Bureau shall notify the~~
22 ~~Commissioner of Motor Vehicles, who shall suspend the person's operator's~~

1 ~~license and privilege to operate a motor vehicle until payment is made.~~

2 [Repealed.]

3 * * *

4 Sec. 14. 18 V.S.A. § 4230c is amended to read:

5 § 4230c. ~~MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS~~
6 ~~OF AGE; THIRD OR SUBSEQUENT OFFENSE; CRIME~~

7 ~~No person shall knowingly and unlawfully possess marijuana. A person~~
8 ~~under 21 years of age who knowingly and unlawfully possesses one ounce or~~
9 ~~less of marijuana or five grams or less of hashish commits a crime if the person~~
10 ~~has been adjudicated at least twice previously in violation of section 4230b of~~
11 ~~this title and shall be imprisoned not more than 30 days or fined not more than~~
12 ~~\$600.00, or both. [Repealed.]~~

13 Sec. 15. 20 V.S.A. § 2358 (b)(2)(B)(i)(XX) is amended to read:

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

16 Sec. 16. 32 V.S.A. § 8909 is amended to read:

17 § 8909. ENFORCEMENT

18 If the tax due under subsection ~~8903(a), (b) and (d)~~ 8903(d) of this title is
19 not paid as hereinbefore provided the Commissioner shall suspend ~~such~~
20 ~~purchaser's or the rental company's right to operate a motor vehicle license to~~
21 act as a rental company and motor vehicle registrations within the State of

1 Vermont until such tax is paid, and such tax may be recovered with costs in an
2 action brought in the name of the State on this statute.

3 * * * Driving with License Suspended* * *

4 Sec. 17. 23 V.S.A. § 674 is amended to read:

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

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

15 (2) A person who violates section 676 of this title for the ~~sixth~~ third or
16 subsequent time shall, if the ~~five~~ two prior offenses occurred within two years
17 of the third offense and on or after July 1, 2003 December 1, 2016, be
18 imprisoned not more than two years or fined not more than \$5,000.00, or both.

19 (3) Violations of section 676 of this title that occurred prior to the date a
20 person successfully completes the DLS Diversion Program ~~or prior to the date~~
21 ~~that a person pays the amount due to the Judicial Bureau in accordance with~~

1 ~~subsection 2307(b) of this chapter~~ shall not be counted as prior offenses under
2 subdivision (2) of this subsection.

3 * * *

4 * * * Operating Without Obtaining a License * * *

5 Sec. 18. 23 V.S.A. § 601 is amended to read:

6 § 601. LICENSE REQUIRED

7 * * *

8 (g) A person who violates this section commits a traffic violation, except
9 that a person who violates this section after a previous conviction under this
10 section within the prior two years shall be subject to imprisonment for not
11 more than 60 days or a fine of not more than \$5,000.00, or both. An unsworn
12 printout of the person's Vermont motor vehicle conviction history may be
13 admitted into evidence to prove a prior conviction under this section.

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

15 Sec. 19. 23 V.S.A. § 4(44) is amended to read:

16 (44) "Moving violation" ~~shall mean~~ means any violation of any
17 provision of this title, while the motor vehicle is being operated on a public
18 highway, over which operation the operator has discretion as to commission of
19 the act, ~~with exception of~~ except for offenses pertaining to:

20 (A) a parked vehicle, equipment, size, weight, inspection, or
21 registration of the vehicle and child restraint or safety belt systems or;

22 (B) motorcycle headgear under section 1256 of this title; or

1 of 30 minutes after sunset to 30 minutes before sunrise and at any other time
2 when due to insufficient light or unfavorable atmospheric conditions, persons
3 and vehicles on the highway are not clearly discernible at a distance of 500 feet
4 ahead.

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

6 Sec. 22. 4 V.S.A. § 1106 is amended to read:

7 § 1106. HEARING

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

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

1 (c) The hearing officer shall make findings which shall be stated on the
2 record or, if more time is needed, made in writing at a later date. The hearing
3 officer may make a finding that the person has committed a lesser included
4 violation. If the hearing officer finds that the defendant committed a violation,
5 the hearing officer shall consider evidence of ability to pay, if offered by the
6 defendant, prior to imposing a penalty.

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

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

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

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

16 Sec. 23. RAISING AWARENESS OF TRAFFIC VIOLATION JUDGMENT

17 PAYMENT AND HEARING OPTIONS

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

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

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

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

13 * * * Immunity for Forcible Entry of Motor Vehicle for Rescue Purposes * * *

14 Sec. 24. 12 V.S.A. § 5784 is added to read:

15 § 5784. FORCIBLE ENTRY OF MOTOR VEHICLE TO REMOVE

16 UNATTENDED CHILD OR ANIMAL

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

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

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

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

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

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

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

13 * * * Law Enforcement Training and Data Collection * * *

14 Sec. 25. 20 V.S.A. § 2358 is amended to read:

15 § 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

16 * * *

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

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

3 (3) In order to remain certified, law enforcement officers shall receive a
4 refresher course on the training required by this subsection during every odd-
5 numbered year in a program approved by the Vermont Criminal Justice
6 Training Council.

7 Sec. 26. 20 V.S.A. § 2366 is amended to read:

8 § 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL
9 POLICING POLICY; RACE DATA COLLECTION

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

18 (2) On or before January 1, 2016, the Criminal Justice Training Council,
19 in consultation with stakeholders, including the Vermont League of Cities and
20 Towns, the Vermont Human Rights Commission, and Migrant Justice, shall
21 ~~adopt~~ create a model fair and impartial policing policy. On or before July 1,
22 2016, every State, local, county, and municipal law enforcement agency,

1 and every constable who exercises law enforcement authority pursuant to
2 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this
3 title, shall adopt a fair and impartial policing policy that includes, at a
4 minimum, the elements of the Criminal Justice Training Council model policy.

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

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

21 (d) On or before October 15, 2014, and annually thereafter on April 1, the
22 Criminal Justice Training Council shall report to the House and Senate

1 Committees on Judiciary which departments and officers have adopted a fair
2 and impartial policing policy, ~~which policy has been adopted~~, and whether
3 officers have received training on fair and impartial policing.

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

7 (A) the age, gender, and race of the driver;

8 (B) the reason for the stop;

9 (C) the type of search conducted, if any;

10 (D) the evidence located, if any; and

11 (E) the outcome of the stop, including whether:

12 (i) a written warning was issued;

13 (ii) a citation for a civil violation was issued;

14 (iii) a citation or arrest for a misdemeanor or a felony occurred; or

15 (iv) no subsequent action was taken.

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

21 (3) On or before September 1, 2016 and annually thereafter, law
22 enforcement agencies shall provide the data collected under this subsection to

1 the vendor chosen by the Criminal Justice Training Council under subdivision
2 (2) of this subsection or, in the event the vendor is unable to continue receiving
3 data under this section, to the Council. Law enforcement agencies shall
4 provide the data collected under this subsection in an electronic format
5 specified by the receiving entity.

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

9 Sec. 27. TRAINING FOR LAW ENFORCEMENT; IMPAIRED DRIVING

10 (a) It is imperative that Vermont provide adequate training to both local
11 and State law enforcement officers regarding the detection of impaired driving.
12 Advanced Roadside Impaired Driving Enforcement (ARIDE) training provides
13 instruction to officers at a level above Basic Standardized Sobriety Testing and
14 proves helpful to an officer in determining when a Drug Recognition Expert
15 (DRE) should be called. Vermont should endeavor to train as many law
16 enforcement officers as possible in ARIDE. DREs receive a more advanced
17 training in the detection of drugged driving and should be an available
18 statewide resource for officers in the field.

19 (b) The Secretary of Transportation and the Commissioner of Public Safety
20 shall work collaboratively to:

21 (1) ensure that funding is available, either through the Governor's
22 Highway Safety Program's administration of National Highway Traffic Safety

1 Administration funds or other State funding sources, for training the number of
2 officers necessary to provide sufficient statewide coverage for enforcement
3 efforts to address impaired driving; and

4 (2) collect data regarding the number and geographic distribution of law
5 enforcement officers who receive ARIDE and DRE training.

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

8 Sec. 28. 8 V.S.A. § 4203(7) is added to read:

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

17 * * * Effective Dates * * *

18 Sec. 29. EFFECTIVE DATES

19 (a) This section, Sec. 1 (termination of suspensions arising from pre-1990
20 failures to appear on criminal traffic offense charges), Sec. 2(e) (public
21 awareness campaign), Sec. 3 (termination of suspensions repealed in act), and
22 Secs. 4–16 (amendment or repeal of license suspension and registration refusal

1 provisions and underage alcohol and marijuana crimes) shall take effect on
2 passage.

3 (b) Secs. 25-26 (related to law enforcement training and data collection)
4 shall take effect on passage, except that in Sec. 25, 20 V.S.A. § 2358(e)(3)
5 shall take effect on January 1, 2019.

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

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

10

11 (Committee vote: _____)

12

13

Senator _____

14

FOR THE COMMITTEE