

H.485

Introduced by Representatives Gamache of Swanton, Batchelor of Derby,  
Hebert of Vernon, Savage of Swanton, and Viens of Newport  
City

Referred to Committee on

Date:

Subject: Motor vehicles; licenses and permits

Statement of purpose of bill as introduced: This bill proposes to authorize the  
Commissioner of Motor Vehicles to:

(1) issue an operator's license, junior operator's license, or learner's  
permit to an applicant who becomes a Vermont resident even if the applicant's  
license or permit is suspended, revoked, or canceled in another jurisdiction, if  
the suspension, revocation, or cancellation is not the result of a motor vehicle  
violation required to be reported under the National Driver Register Problem  
Driver Pointer System; and

(2) provide a mechanism for an applicant to obtain a waiver from the  
prohibition on issuing a Vermont license or permit to a person whose license or  
permit is suspended, revoked, or canceled in another jurisdiction, if certain  
conditions are met.

(c)(1) ~~An operator operator's~~ license, junior ~~operator operator's~~ license, or  
~~learner learner's~~ permit shall not be issued to an applicant whose license or  
~~learner learner's~~ permit is suspended, revoked, or canceled in any jurisdiction,  
unless:

1           (A) the suspension, revocation, or cancellation is the result of a motor  
2           vehicle violation that is not required to be reported to the National Driver  
3           Register's Problem Driver Pointer System (PDPS); or

4           (B) at least one year has passed since the suspension, revocation, or  
5           cancellation of a license and all of the following conditions are met:

6                   (i) the applicant petitions the Commissioner for a waiver under  
7                   this subdivision (c)(1)(B);

8                   (ii) the applicant furnishes the Commissioner a reinstatement  
9                   requirements letter and a certified copy of his or her driving record from any  
10                  jurisdiction in which he or she has a pending suspension, revocation, or  
11                  cancellation that is required to be reported to the PDPS;

12                  (iii) the applicant furnishes the Commissioner in writing a detailed  
13                  description of why he or she currently is unable to satisfy each requirement to  
14                  be reinstated and a specific plan of how the applicant will satisfy the  
15                  requirements and obtain reinstatement; and

16                  (iv) if the suspension, revocation, or cancellation is alcohol-  
17                  related, the applicant agrees to operate under the terms of an ignition interlock  
18                  restricted driver's license issued pursuant to section 1213 of this title until he  
19                  or she satisfies the requirements to be reinstated in relation to the alcohol-  
20                  related suspension, revocation, or cancellation.

\* \* \*

§ 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE OR  
CERTIFICATE; PENALTIES

(A) the person submits a \$125.00 application fee;

1 (B) the person submits satisfactory proof of installation of an  
2 approved ignition interlock device in any motor vehicle to be operated and of  
3 financial responsibility as provided in section 801 of this title;

4 (C) at least one year has passed since the suspension or revocation  
5 was imposed if the offense involved death or serious bodily injury to a person  
6 other than the operator; ~~and~~

7 (D) the Commissioner has granted the applicant a waiver pursuant to  
8 subdivision 603(c)(1)(B) of this title, if the suspension, revocation, or  
9 cancellation was imposed by another jurisdiction for an alcohol-related  
10 offense; and

11 (E) the applicable period set forth below has passed since the  
12 suspension or revocation was imposed if the offense involved refusal of an  
13 enforcement officer's reasonable request for an evidentiary test:

14 (i) 30 days for a first offense;

15 (ii) 90 days for a second offense;

16 (iii) one year for a third or subsequent offense.

17 (2) A new ignition interlock RDL or ignition interlock certificate shall  
18 expire at midnight on the eve of the second birthday of the applicant following  
19 the date of issue, and may be renewed for one-year terms. The Commissioner  
20 shall send by first class mail an application for renewal of the RDL or  
21 certificate at least 30 days prior to the day renewal is required and shall impose

1 the same conditions for renewal as are required for initial issuance. The  
2 renewal fee shall be \$125.00.

3 \* \* \*

4 (f)(1) Prior to the issuance of an ignition interlock RDL or ignition  
5 interlock certificate under this section, the Commissioner shall notify the  
6 applicant that the period prior to eligibility for reinstatement or issuance may  
7 be extended under this subsection (f) or subsections (g)-(h) of this section.

8 (2)(A) Prior to any such extension of the reinstatement or issuance  
9 period, the ignition interlock RDL or certificate holder shall be given notice  
10 and opportunity for a hearing. Service of the notice shall be sent by first class  
11 mail to the last known address of the person. The notice shall include a factual  
12 description of the grounds for an extension, a reference to the particular law  
13 allegedly violated, and a warning that the right to a hearing will be deemed  
14 waived, and an extension of the reinstatement or issuance period will be  
15 imposed, if a written request for a hearing is not received at the Department of  
16 Motor Vehicles within 15 days after the date of the notice.

17 (B) When a holder receives a notice under subdivision (2)(A) of this  
18 subsection (f), the holder shall be deemed to have waived the right to a hearing  
19 unless a written request for a hearing is received at the Department of Motor  
20 Vehicles within 15 days after the date of the notice. If a hearing is not timely

1 requested, the reinstatement or issuance period shall be extended in accordance  
2 with law.

3 (C) The provisions of sections 105-107 of this title shall apply to  
4 hearings conducted under this subdivision (2).

5 (3)(A) A holder of an ignition interlock RDL or certificate who, prior to  
6 eligibility for reinstatement under section 1209a or 1216 of this title or  
7 issuance under section 603 of this title, is prevented from starting a motor  
8 vehicle because the ignition interlock device records a blood alcohol  
9 concentration of 0.04 or above, shall be subject to a three-month extension of  
10 the applicable reinstatement or issuance period in the event of three such  
11 recorded events, and to consecutive three-month extensions for every  
12 additional three recorded events thereafter. The Commissioner shall disregard  
13 a recording of 0.04 or above for the purposes of this subdivision if the  
14 Commissioner in his or her discretion finds, based on a pattern of tests or other  
15 reliable information, that the recording does not indicate the consumption of  
16 intoxicating liquor by the holder. The Commissioner shall notify the holder in  
17 writing after every recording of 0.04 or above that indicates the consumption  
18 of intoxicating liquor by the holder and, prior to any extension under this  
19 subdivision, the holder shall have the opportunity to be heard pursuant to  
20 subdivision (2) of this subsection (f).

1           (B) A holder of an ignition interlock RDL or certificate who, prior to  
2           eligibility for reinstatement under section 1209a or 1216 of this title or  
3           issuance under section 603 of this title, fails a random retest because the  
4           ignition interlock device records a blood alcohol concentration of 0.04 or  
5           above and below 0.08, shall be subject to consecutive three-month extensions  
6           of the applicable reinstatement period for every such recorded event. A holder  
7           who fails a random retest because of a recording of 0.08 or above shall be  
8           subject to consecutive six-month extensions of the applicable reinstatement or  
9           issuance period for every such recorded event. The Commissioner shall  
10          disregard a recording of 0.04 or above for the purposes of this subdivision if  
11          the Commissioner in his or her discretion finds, based on a pattern of tests or  
12          other reliable information, that the recording does not indicate the consumption  
13          of intoxicating liquor by the holder. The Commissioner shall notify the holder  
14          in writing after every recording of 0.04 or above that is indicative of the  
15          consumption of intoxicating liquor by the holder and, prior to any extension  
16          under this subdivision, the holder shall have the opportunity to be heard  
17          pursuant to subdivision (2) of this subsection (f).

18          (g) The holder of an ignition interlock RDL or certificate shall operate only  
19          motor vehicles equipped with an ignition interlock device, shall not attempt or  
20          take any action to tamper with or otherwise circumvent an ignition interlock  
21          device, and, after failing a random retest, shall pull over and shut off the



1 vehicle's engine as soon as practicable. A person who violates any provision  
2 of this section commits a criminal offense, shall be subject to the sanctions and  
3 procedures provided for in subsections 674(b)-(i) of this title, and, upon  
4 conviction, the applicable period prior to eligibility for reinstatement under  
5 section 1209a or 1216 of this title or for issuance under section 603 of this title  
6 shall be extended by six months.

7 (h) A person who violates a rule adopted by the Commissioner pursuant to  
8 subsection (l) of this section shall, after notice and an opportunity to be heard  
9 is provided pursuant to subdivision (f)(2) of this section, be subject to an  
10 extension of the period prior to eligibility for reinstatement under section  
11 1209a or 1216 of this title or for issuance under section 603 of this title in  
12 accordance with rules adopted by the Commissioner.

13 (i) Upon receipt of notice that the holder of an ignition interlock RDL or  
14 certificate has been convicted of an offense under this title that would result in  
15 suspension, revocation, or recall of a license or privilege to operate, the  
16 Commissioner shall suspend, revoke, or recall the person's ignition interlock  
17 RDL or certificate for the same period that the license or privilege to operate  
18 would have been suspended, revoked, or recalled. The Commissioner may  
19 impose a reinstatement fee in accordance with section 675 of this title and  
20 require, prior to reinstatement or issuance, satisfactory proof of installation of

1 an approved ignition interlock device and of financial responsibility as  
2 provided in section 801 of this title.

3 \* \* \*

4 (1)(1) The Commissioner, in consultation with any individuals or entities  
5 the Commissioner deems appropriate, shall adopt rules and may enter into  
6 agreements to implement the provisions of this section. The Commissioner  
7 shall not approve a manufacturer of ignition interlock devices as a provider in  
8 this State unless the manufacturer agrees to reduce the cost of installing,  
9 leasing, and deinstalling the device by at least 50 percent for persons who  
10 furnish proof of receipt of 3SquaresVT, LIHEAP, or Reach Up benefits or like  
11 benefits in another state.

12 (2) The rules shall establish uniform performance standards for ignition  
13 interlock devices including required levels of accuracy in measuring blood  
14 alcohol concentration, efficacy in distinguishing valid breath samples, the  
15 occurrence of random retests while the vehicle is running, and automatic  
16 signaling by the vehicle if the operator fails such a retest. The Commissioner  
17 shall certify devices that meet these standards, specify any periodic calibration  
18 that may be required to ensure accuracy of the devices, and specify the means  
19 and frequency of the retrieval and sharing of data collected by ignition  
20 interlock devices. Persons who elect to obtain an ignition interlock RDL or  
21 certificate following a conviction under this subchapter or under a substantially

1     similar law in another jurisdiction when the person's blood alcohol  
2     concentration is proven to be 0.16 or more shall be required to install an  
3     ignition interlock device with a Global Positioning System feature. The rules  
4     also shall establish a schedule of extensions of the period prior to eligibility for  
5     reinstatement or issuance as authorized under subsection (h) of this section.

6   \* \* \*

7     Sec. 3. EFFECTIVE DATE

8         This act shall take effect on July 1, 2017.