

1 (3) ~~An individual convicted of violating this section outside the areas~~
2 ~~designated in subdivision (2) of this subsection shall have two points assessed~~
3 ~~against his or her driving record. [Repealed.]~~

4 Sec. 9b. 23 V.S.A. § 1095b is amended to read:

5 § 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE

6 PROHIBITED

7 * * *

8 (c) Penalties.

9 (1) An individual who violates this section commits a traffic violation as
10 defined in section 2302 of this title and shall be subject to a civil penalty of not
11 less than \$100.00 and not more than \$200.00 \$250.00 and shall have four
12 points assessed against the individual's driving record for a first violation, and
13 shall be subject to a civil penalty of not less than \$250.00 and not more than
14 \$500.00 and shall have five points assessed against the individual's driving
15 record for a second or subsequent violation within any two-year period.

16 (2) An individual convicted of violating this section while operating
17 within the following areas shall be subject to a an additional civil penalty of
18 not less than \$200.00 and not more than \$400.00 for a first violation, and of
19 not less than \$500.00 and not more than \$1,000.00 for a second or subsequent
20 violation within any two-year period \$250.00 and shall have four an additional

1 ~~five points assessed against his or her the individual's~~ driving record ~~for a first~~
2 ~~conviction and five points assessed for a second or subsequent conviction:~~

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

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

7 (3) ~~An individual convicted of violating this section outside the areas~~
8 ~~designated in subdivision (2) of this subsection shall have two points assessed~~
9 ~~against his or her driving record. [Repealed.]~~

10 * * *

11 Sec. 9c. 23 V.S.A. § 1099 is amended to read:

12 § 1099. TEXTING PROHIBITED

13 * * *

14 (c)(1) An individual who violates this section commits a traffic violation as
15 defined in section 2302 of this title and shall be subject to a civil penalty of not
16 less than ~~\$100.00 and not more than \$200.00~~ \$250.00 and shall have four
17 points assessed against the individual's driving record for a first violation, and
18 shall be subject to a civil penalty of not less than ~~\$250.00 and not more than~~
19 ~~\$500.00~~ and shall have five points assessed against the individual's driving
20 record for a second or subsequent violation within any two-year period.

1 (2) An individual convicted of violating this section while operating
2 within the following areas shall be subject to a an additional civil penalty of
3 ~~not less than \$200.00 and not more than \$400.00 for a first violation, and of~~
4 ~~not less than \$500.00 and not more than \$1,000.00 for a second or subsequent~~
5 ~~violation within any two year period~~ \$250.00 and shall have ~~four~~ an additional
6 five points assessed against **his or her the individual's** driving record ~~for a first~~
7 ~~conviction and five points assessed for a second or subsequent conviction:~~

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

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

12 (3) ~~An individual convicted of violating this section outside the areas~~
13 ~~designated in subdivision (2) of this subsection shall have two points assessed~~
14 ~~against his or her driving record~~ Notwithstanding subsection 2502(b) of this
15 title, an individual who causes a crash resulting in property damage, injury, or
16 death because the individual violated this section shall be subject to a civil
17 penalty of not less than \$500.00 and shall have ten points assessed against the
18 individual's driving record.

19 Sec. 9d. 23 V.S.A. § 4125 is amended to read:

20 § 4125. TEXTING VIOLATIONS; HANDHELD MOBILE TELEPHONE
21 VIOLATIONS

1 * * *

2 (b) General prohibition on texting.

3 * * *

4 (3) No ~~person~~ operator may be issued traffic complaints alleging a
5 violation of this section and a violation of section 1099 of this title from the
6 same incident.

7 * * *

8 (e) Penalties.

9 (1) An operator who violates this section commits a traffic violation as
10 defined in section 2302 of this title and shall be subject to a civil penalty of not
11 less than \$500.00 and shall have five points assessed against **the individual's**
12 driving record.

13 (2) An operator convicted of violating this section while operating
14 within the following areas shall have an additional five points assessed against
15 **the individual's** driving record:

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

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

1 * * * Point Assessments * * *

2 Sec. 9e. 23 V.S.A. § 2502(a) is amended to read:

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 an individual** operating a motor
6 vehicle shall have points assessed against **his or her the individual's** driving
7 record for convictions for moving violations of the indicated motor vehicle
8 statutes in accord with the following schedule: (All references are to this title
9 of the Vermont Statutes Annotated.)

10 (1) Two points assessed for:

11 * * *

12 (LL)(+) § 1095. Entertainment picture visible
13 to operator;

14 (ii) — § 1095a(d)(3). ~~Junior operator use of~~
15 ~~portable electronic device~~
16 ~~outside work or school zone;~~

17 (iii) — § 1095b(e)(3). ~~Use of portable electronic~~
18 ~~device outside work or school~~
19 ~~zone;~~

20 (MM) § 1099(e)(3) ~~Texting outside work or~~
21 ~~school zone; [Repealed.]~~

1 * * *

2 (3) Four points assessed for:

3 * * *

4 (E) ~~§ 1095a(d)(2)~~ Junior operator use of
5 portable electronic device in
6 work or school zone—first
7 offense;

8 ~~(F)~~ § 1095b(c)(2)(1). Use Handheld use of portable
9 electronic device ~~in~~ outside work or
10 school zone—first ~~offense~~ violation;

11 ~~(G)(F)~~ § 1099(c)(2)(1). Texting ~~in~~ outside work or school
12 zone—first ~~offense~~ violation;

13 (G) [Repealed.]

14 (4) Five points assessed for:

15 * * *

16 (C) § 1099(c)(2)(1). Texting ~~in~~ outside work or school
17 zone—second and subsequent ~~offense~~
18 violations;

19 (D) § 1095a(d)(2). Junior operator use of portable
20 electronic device ~~in work or school~~
21 ~~zone—second and subsequent offenses~~;

1 (E) § 1095b(c)(~~2~~)(1). ~~Use~~ Handheld use of portable
2 electronic device ~~in~~ outside work or
3 school zone—second and subsequent
4 ~~offenses~~ violations;

5 (F) § 4125(e)(1). Texting violations; handheld mobile
6 telephone violations outside work or
7 school zone;

8 (5) Nine points assessed for:

9 (A) § 1095b(c)(2). Handheld use of portable electronic
10 device in work or school zone—
11 first violation;

12 (B) § 1099(c)(2). Texting in work or school zone—
13 first violation;

14 (6) Ten points assessed for:

15 * * *

16 (F) § 1095b(c)(2). Handheld use of portable electronic
17 device in work or school zone—
18 second and subsequent violations;

19 (G) § 1099(c)(2). Texting in work or school zone—
20 second and subsequent violations;

21 (H) § 1099(c)(3). Texting—crash resulting;

1 (I) § 4125(e)(2). Texting violations; handheld mobile
2 telephone violations in work or
3 school zone;

4 * * *

5 * * * Distracted Driving Diversion Program * * *

6 Sec. 9f. 23 V.S.A. § 2304 is added to read:

7 § 2304. DISTRACTED DRIVING DIVERSION PROGRAM

8 (a) Issuance of a notice of violation. A law enforcement officer shall issue
9 a notice of violation, in a form approved by the Court Administrator, to an
10 individual charged with a first violation of section 1095a, 1095b, or 1099 of
11 this title. The notice of violation shall require the individual to provide the
12 individual’s name and address and shall explain procedures under this section,
13 including that:

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

16 (2) failure to contact the Diversion Program within 15 days will result in
17 the case being referred to the Judicial Bureau, where the individual, if
18 convicted of the violation, may be subject to one or more of the following:

19 (A) a civil penalty;

20 (B) points imposition;

1 (C) the suspension of the individual’s operator’s license or privilege
2 to operate by the Commissioner; or

3 (D) substantially increased insurance rates;

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

6 (4) the individual shall notify the Diversion Program if the individual’s
7 address changes.

8 (b) Citation for violation. When an individual is issued a notice of
9 violation under subsection (a) of this section, the law enforcement officer shall
10 complete a citation for the violation and send it to the Diversion Program in the
11 county where the violation occurred. The citation shall not be filed with the
12 Judicial Bureau at that time.

13 (c) Registration in Distracted Driving Diversion Program. Within 15 days
14 after receiving a notice of violation, the individual shall contact the Diversion
15 Program in the county where the violation occurred and register for the
16 Distracted Driving Diversion Program. If the individual fails to do so, the
17 Diversion Program shall file the citation with the Judicial Bureau for
18 adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide
19 a copy of the citation to the law enforcement officer who issued the notice of
20 violation and shall provide two copies to the individual cited for the violation.

1 (d) Notice to report to Diversion Program. Upon receipt from a law
2 enforcement officer of a citation completed under subsection (b) of this
3 section, the Diversion Program shall send the individual a notice to report to
4 the Diversion Program and meet with Diversion Program staff to:

5 (1) assess the individual's risk for future traffic violations;

6 (2) identify factors that contributed to previous traffic violations; and

7 (3) develop a contract to be presented to the Judicial Bureau for review

8 that may include one or more of the following:

9 (A) completion of a driving education program approved by the
10 Vermont State Highway Safety Office;

11 (B) any other conditions related to the distracted driving traffic
12 violation; or

13 (C) a fee, not to exceed \$50.00 in the case of a violation of section
14 1095a of this title and not to exceed \$100.00 in the case of a violation of
15 section 1095b or 1099 of this title, determined using a sliding scale based on
16 the financial means of the individual, to be deposited in the Distracted Driving
17 Diversion Program Special Fund established pursuant to 23 V.S.A. § 2306.

18 (e) Referral to the Judicial Bureau. If an individual issued the notice of
19 violation under subsection (a) of this section does not satisfactorily comply
20 with the Diversion Program contract and other conditions related to the
21 violation imposed by the Diversion Program, the Diversion Program shall file

1 the citation completed pursuant to subsection (b) of this section with the
2 Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion
3 Program shall provide a copy of the citation to the law enforcement officer
4 who issued the notice of violation and shall provide two copies to the
5 individual charged with the violation.

6 (g) Satisfactory compliance with the Diversion Program. If the individual
7 satisfactorily complies with the Diversion Program contract and other
8 conditions related to the violation imposed by the Diversion Program, the
9 individual shall be convicted of the traffic violation but only subject to a civil
10 penalty of \$1.00 and no assessment of points.

11 (h) Appeals. An individual aggrieved by a decision of the Diversion
12 Program may seek review of that decision pursuant to Rule 75 of the Vermont
13 Rules of Civil Procedure.

14 Sec. 9g. 23 V.S.A. § 2306 is added to read:

15 § 2306. DISTRACTED DRIVING DIVERSION PROGRAM SPECIAL

16 FUND

17 There is established the Distracted Driving Diversion Program Special
18 Fund, which shall be managed in accordance with 32 V.S.A. chapter 7,
19 subchapter 5. Fees collected pursuant to 23 V.S.A. § 2304 shall be deposited
20 and credited to this Fund. This Fund shall be available to the Attorney General
21 to enter into memorandums of understanding with diversion programs to pay

1 for contractual and operating expenses and project-related staffing related to
2 the Distracted Driving Diversion Program.

3 **Sec. 9h. APPROVAL OF DRIVING EDUCATION PROGRAMS**

4 The Vermont State Highway Safety Office, in consultation with the
5 Department of Public Safety and the Vermont Sheriffs' Association, shall
6 approve at least one driving education program that shall be sufficient for
7 purposes of 23 V.S.A. § 2304(d)(3)(A), as added by this act, in each county
8 within the State on or before January 1, 2023.

9 * * * Recall of Learner's Permit or Junior Operator's License * * *

10 Sec. 9i. 23 V.S.A. § 607a(a) is amended to read:

11 (a) A learner's permit or junior operator's license shall contain an
12 admonition that it is recallable and that the later procurement of an operator's
13 license is conditional on the establishment of a record that is satisfactory to the
14 Commissioner and showing compliance with the motor vehicle laws of this
15 and other states. The Commissioner may recall any permit or license issued to
16 a minor whenever he or she the Commissioner is satisfied, from information
17 provided by a credible person individual and upon investigation, that the
18 operator is mentally or physically unfit or, because of his or her the operator's
19 habits or record as to accidents or convictions, is unsafe to be trusted with the
20 operation of motor vehicles. On recommendation of a diversion or reparative
21 board, the Commissioner may recall the learner's permit or junior operator's

1 license of ~~a person~~ an individual in a diversion or reparative program for up to
2 30 days. The Commissioner shall also recall any learner’s permit or junior
3 operator’s license for 30 days when ~~an operator is adjudicated of a single~~
4 ~~texting violation under section 1099 of this title, 90 days following~~
5 ~~adjudication of a single speeding violation resulting in a three point assessment~~
6 a total of at least three points has been accumulated, 90 days when a total of at
7 least six points has been accumulated, or 90 days when an operator is
8 adjudicated of a violation of subsection 614(c) or 615(a) of this title. When a
9 learner’s permit or junior operator’s license is so recalled, it shall be reinstated
10 upon expiration of a specific term and, if required by the Commissioner, when
11 the ~~person~~ individual has passed a reexamination approved by the
12 Commissioner.