

1 ***[DMV PROPOSALS AS MODIFIED BY LEG. COUNSEL AND LEG.***
2 ***COUNSEL TECH. CORR. (REPEAL OF 32 V.S.A. § 8902(5)(F) (SEC. 5))]***

3 Introduced by Committee on Transportation

4 Date:

5 Subject: Motor vehicles; New Motor Vehicle Arbitration; Lemon Law; total
6 abstinence; overweight permits; title; purchase and use tax

7 Statement of purpose of bill as introduced: This bill proposes to make
8 miscellaneous changes to laws related to vehicles.

9 An act relating to miscellaneous changes to laws related to vehicles

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

11 * * * New Motor Vehicle Arbitration * * *

12 Sec. 1. 9 V.S.A. § 4173(d) is amended to read:

13 (d) Within the 45-day period set forth in subsection (c) of this section but at
14 least five days prior to hearing, the manufacturer shall have one final
15 opportunity to correct and repair the defect that the consumer claims entitles
16 ~~him or her~~ the consumer to a refund or replacement vehicle. Any right to a
17 final repair attempt is waived if the manufacturer does not complete it at least
18 five days prior to hearing. If the consumer is satisfied with the corrective work
19 done by the manufacturer or ~~his or her~~ the manufacturer's delegate, the
20 arbitration proceedings shall be terminated without prejudice to the consumer's

1 right to request arbitration be recommenced ~~if the repair proves unsatisfactory~~
2 ~~for the duration of the~~ within one year following the expiration of the express
3 warranty term in accordance with subsection 4179(a) of this title.

4 * * * Total Abstinence Program * * *

5 Sec. 2. 23 V.S.A. § 1209a is amended to read:

6 § 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND
7 DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

8 (a) Conditions of reinstatement. No license or privilege to operate
9 suspended or revoked under this subchapter, except a license or privilege to
10 operate suspended under section 1216 of this title, shall be reinstated except as
11 follows:

12 (1) In the case of a first suspension, a license or privilege to operate
13 shall be reinstated only:

14 (A) after the ~~person~~ individual has successfully completed the
15 Alcohol and Driving Education Program, at the ~~person's~~ the individual's own
16 expense, followed by an assessment of the need for further treatment by a
17 State-designated counselor, at the ~~person's~~ the individual's own expense, to
18 determine whether reinstatement should be further conditioned on satisfactory
19 completion of a therapy program agreed to by the ~~person~~ individual and the
20 Drinking Driver Rehabilitation Program Director;

1 (B) if the screening indicates that therapy is needed, after the ~~person~~
2 individual has satisfactorily completed or shown substantial progress in
3 completing a therapy program at the ~~person's~~ individual's own expense agreed
4 to by the ~~person~~ individual and the Driver Rehabilitation Program Director;

5 (C) if the ~~person~~ individual elects to operate under an ignition
6 interlock RDL or ignition interlock certificate, after the ~~person~~ individual
7 operates under the RDL or certificate for the applicable period set forth in
8 subsection 1205(a) or section 1206 of this title, plus any extension of this
9 period arising from a violation of section 1213 of this title; and

10 (D) if the ~~person~~ individual has no pending criminal charges, civil
11 citations, or unpaid fines or penalties for a violation under this chapter.

12 (2) In the case of a second suspension, a license or privilege to operate
13 shall not be reinstated until:

14 (A) the ~~person~~ individual has successfully completed an alcohol and
15 driving rehabilitation program;

16 (B) the ~~person~~ individual has completed or shown substantial
17 progress in completing a therapy program at the ~~person's~~ the individual's own
18 expense agreed to by the ~~person~~ individual and the Driver Rehabilitation
19 Program Director;

20 (C) after the ~~person~~ individual operates under an ignition interlock
21 RDL or ignition interlock certificate for 18 months or, in the case of a ~~person~~

1 someone subject to the one-year hard suspension prescribed in subdivision
2 1213(a)(1)(C) of this title, for one year, plus any extension of the relevant
3 period arising from a violation of section 1213 of this title, except if otherwise
4 provided in subdivision (4) of this subsection (a); and

5 (D) the ~~person~~ individual has no pending criminal charges, civil
6 citations, or unpaid fines or penalties for a violation under this chapter.

7 (3) In the case of a third or subsequent suspension or a revocation, a
8 license or privilege to operate shall not be reinstated until:

9 (A) the ~~person~~ individual has successfully completed an alcohol and
10 driving rehabilitation program;

11 (B) the ~~person~~ individual has completed or shown substantial
12 progress in completing a therapy program at the ~~person's~~ the individual's own
13 expense agreed to by the ~~person~~ individual and the Driver Rehabilitation
14 Program Director;

15 (C) the ~~person~~ individual has satisfied the requirements of subsection
16 (b) of this section; and

17 (D) the ~~person~~ individual has no pending criminal charges, civil
18 citations, or unpaid fines or penalties for a violation under this chapter.

19 (4) The Commissioner shall waive a requirement under subdivision (2)
20 of this subsection or subsection (b) of this section that a ~~person~~ an individual

1 operate under an ignition interlock RDL or certificate prior to eligibility for
2 reinstatement if:

3 (A) the ~~person~~ individual furnishes sufficient proof as prescribed by
4 the Commissioner that ~~he or she~~ the individual is incapable of using an ignition
5 interlock device because of a medical condition that will persist permanently or
6 at least for the term of the suspension or, in the case of suspensions or
7 revocations for life, for a period of at least three years; or

8 (B) the underlying offenses arose solely from being under the
9 influence of a drug other than alcohol.

10 (b) Total Abstinence Program.

11 (1) As used in this subsection:

12 (A) “Drug” means:

13 (i) a regulated drug, as defined in 18 V.S.A. § 4201, that is used in
14 any way other than as prescribed for a legitimate medical use in conformity
15 with instructions from the prescriber; or

16 (ii) any substance or combination of substances, other than
17 alcohol, that potentially affects the nervous system, brain, or muscles of an
18 individual so as to impair an individual’s ability to drive a vehicle safely to the
19 slightest degree.

20 (B) “Total abstinence” means refraining from consuming any amount
21 of alcohol or drugs at any time, regardless of whether the alcohol or drugs is

1 consumed by an individual when attempting to operate, operating, or in actual
2 physical control of a vehicle.

3 (2)(A) Notwithstanding any other provision of this subchapter, ~~a person~~
4 an individual whose license or privilege to operate has been suspended or
5 revoked for life under this subchapter may apply to the Commissioner for
6 reinstatement of ~~his or her~~ the individual's driving privilege if the individual
7 satisfies the requirements set forth in subdivision (3) of this subsection (b).

8 ~~The person shall have completed three years of total abstinence from~~
9 ~~consumption of alcohol and nonprescription regulated drugs. The use of a~~
10 ~~regulated drug in accordance with a valid prescription shall not disqualify an~~
11 ~~applicant for reinstatement of his or her driving privileges unless the applicant~~
12 ~~used the regulated drug in a manner inconsistent with the prescription label.~~

13 (B) The beginning date for the period of total abstinence shall be not
14 earlier than the effective date of the suspension or revocation from which the
15 ~~person~~ individual is requesting reinstatement and shall not include any period
16 during which the ~~person~~ individual is serving a sentence of incarceration to
17 include furlough. The application shall include the applicant's authorization
18 for a urinalysis examination, or another examination if it is approved as a
19 preliminary screening test under this subchapter, to be conducted prior to
20 reinstatement under this subdivision. The application to the Commissioner
21 shall be accompanied by a fee of \$500.00. The Commissioner shall have the

1 discretion to waive the application fee if the Commissioner determines that
2 payment of the fee would present a hardship to the applicant.

3 ~~(2)~~(3) If the Commissioner or a medical review board convened by the
4 Commissioner is satisfied by a preponderance of the evidence that the
5 applicant has ~~abstained for the required number of years~~ maintained total
6 abstinence for the three years immediately preceding the application, has
7 successfully completed a therapy program as required under this section, and
8 has operated under a valid ignition interlock RDL or under an ignition
9 interlock certificate for at least three years following the suspension or
10 revocation, and the ~~person~~ applicant provides a written acknowledgment that
11 ~~he or she cannot drink any amount of alcohol at all and cannot consume~~
12 ~~nonprescription regulated drugs under any circumstances~~ the applicant must
13 maintain total abstinence at all times while participating in the Total
14 Abstinence Program, the ~~person's~~ the applicant's license or privilege to operate
15 shall be reinstated immediately, subject to the condition that the ~~person's~~
16 applicant's suspension or revocation will be put back in effect in the event any
17 further investigation reveals a ~~return to the consumption of alcohol or drugs~~
18 failure to maintain total abstinence and to ~~such~~ any additional conditions as the
19 Commissioner may impose to advance the public interest in public safety. The
20 requirement to operate under an ignition interlock RDL or ignition interlock

1 certificate shall not apply if the ~~person~~ applicant is exempt under subdivision
2 (a)(4) of this section.

3 ~~(3)~~(4) If after notice and an opportunity for a hearing the Commissioner
4 later finds that the ~~person~~ individual was violating the conditions of the
5 ~~person's~~ individual's reinstatement under this subsection, the ~~person's~~
6 individual's operating license or privilege to operate shall be immediately
7 suspended or revoked for life.

8 ~~(4)~~(5) If the Commissioner finds that a ~~person~~ an individual reinstated
9 under this subsection is suspended pursuant to section 1205 of this title or is
10 convicted of a violation of section 1201 of this title subsequent to
11 reinstatement under this subsection, the ~~person~~ individual shall be conclusively
12 presumed to be in violation of the conditions of ~~his or her~~ the reinstatement.

13 ~~(5)~~(6) ~~A person~~ An individual shall be eligible for reinstatement under
14 this subsection only once following a suspension or revocation for life.

15 ~~(6)~~(7)(A) If an applicant for reinstatement under this subsection (b)
16 resides in a jurisdiction other than Vermont, the Commissioner may elect not
17 to conduct an investigation. If the Commissioner elects not to conduct an
18 investigation, ~~he or she~~ the Commissioner shall provide a letter to the
19 applicant's jurisdiction of residence stating that Vermont does not object to the
20 jurisdiction issuing the applicant a license if the applicant is required to operate
21 only vehicles equipped with an ignition interlock device for at least a three-

1 year period, unless exempt under subdivision (a)(4) of this section, and is
2 required to complete any alcohol rehabilitation or treatment requirements of
3 the licensing jurisdiction.

4 (B) If the applicant’s jurisdiction of residence is prepared to issue or
5 has issued a license in accordance with subdivision (A) of this subdivision (6)
6 and the applicant satisfies the requirements of section 675 of this title, the
7 Commissioner shall update relevant State and federal databases to reflect that
8 the applicant’s lifetime suspension or revocation in Vermont under chapter 13,
9 subchapter 13 of this title has terminated.

10 (c) Screening and therapy programs. In the case of a second or subsequent
11 suspension, the Commissioner shall notify the ~~person that he or she is required~~
12 individual of the requirement to enroll in the alcohol and driving education
13 screening and therapy program provided for in this section within 30 days ~~of~~
14 after license suspension. If the ~~person~~ individual fails to enroll or fails to
15 remain so enrolled until completion, the Drinking Driver Rehabilitation
16 Program shall report such failure to the sentencing court. The court may order
17 the ~~person~~ individual to appear and show cause why ~~he or she~~ the individual
18 failed to comply.

19 (d) Judicial review. ~~A person~~ An individual aggrieved by a decision of a
20 designated counselor under this section may seek review of that decision
21 pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

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Sec. 3. CURRENT TOTAL ABSTINENCE PROGRAM PARTICIPANTS

(a) Not later than September 1, 2022, the Commissioner of Motor Vehicles shall provide written notice to all individuals participating in or applying to participate in the Total Abstinence Program as of the effective date of this section of amendments to 23 V.S.A. § 1209a and that, as of the effective date of this section, they must maintain total abstinence, as defined in 23 V.S.A. § 1209a(b)(1) as amended by Sec. 1 of this act, at all times while participating in or applying to participate in the Total Abstinence Program. Notice shall be mailed to an individual’s residence or mailing address as currently listed with the Department of Motor Vehicles.

(b) Notwithstanding any provision of law to the contrary, the license or privilege to operate of an individual participating in the Total Abstinence Program on the effective date of this section may be suspended or revoked for life in accordance with 23 V.S.A. § 1209a(b)(3), as amended by Sec. 1 of this act, in the event that any further investigation reveals a failure to maintain total abstinence, as defined in 23 V.S.A. § 1209a(b)(1) as amended by Sec. 1 of this act.

* * * Overweight Permits * * *

Sec. 4. 23 V.S.A. § 1392 is amended to read:
§ 1392. GROSS WEIGHT LIMITS ON HIGHWAYS

1 federal law, this subdivision shall not apply to operation on the Dwight D.
2 Eisenhower National System of Interstate and Defense Highways.

3 * * *

4 (16) Notwithstanding the axle load provisions of section 1391 of this
5 title and the maximum gross load of subdivision (4) of this section, a five or
6 more axle truck tractor, semi-trailer combination, or truck trailer combination,
7 when the load consists solely of unprocessed milk products as defined in
8 subdivision 4(55) of this title, may be registered for and operated with a
9 maximum gross weight of 90,000 pounds on State highways without permit
10 and upon posted State and town highways ~~and those highways designated as~~
11 ~~the Dwight D. Eisenhower National System of Interstate and Defense~~
12 ~~Highways~~ when the vehicle has been issued a permit in compliance with the
13 provisions of section 1400 of this title; however:

14 (A) Vehicles operated pursuant to this subdivision (16) shall be
15 subject to the same axle spacing restrictions as are applied to five or more axle
16 vehicles registered to 80,000 pounds as set forth in subdivision (4) of this
17 section.

18 (B) ~~On those highways designated as the Dwight D. Eisenhower~~
19 ~~National System of Interstate and Defense Highways, the provisions of~~
20 ~~subsection 1391(e) of this title shall apply unless other axle load limits,~~
21 ~~tolerances, or both, are authorized under federal law. Unless authorized by~~

1 federal law, the provisions of this subdivision (16) shall not apply to operation
2 on the Dwight D. Eisenhower National System of Interstate and Defense
3 Highways.

4 (C) ~~The fee for the annual permit as provided in this subdivision (16)~~
5 ~~shall be \$10.00 when the fee has been paid to register the vehicle for 90,000~~
6 ~~pounds or \$382.00 when the vehicle is registered for 80,000 pounds.~~

7 [Repealed.]

8 (17) Notwithstanding the gross vehicle weight provisions of subdivision
9 (4) of this section, a truck trailer combination or truck tractor, semi-trailer
10 combination with six or more load-bearing axles registered for 80,000 pounds
11 shall be allowed to bear a maximum of 99,000 pounds by special annual
12 permit, which shall expire with the vehicle's registration, except for vehicles
13 not registered in Vermont in which case the permit shall become void on
14 January 1 following the date of issue, for operating on designated routes on
15 State and town highways, subject to the following:

16 (A) The combination of vehicles must have, as a minimum, a
17 distance of 51 feet between extreme axles.

18 (B) The axle weight provisions of section 1391 of this title and
19 ~~subdivision 1392~~ the axle weight provisions of subdivisions (6)(A)–(D) of this
20 section shall also apply to vehicles permitted under this subdivision (17).

1 (C) When determining the fine for a gross overweight violation of
2 this subdivision (17), the fine for any portion of the first 10,000 pounds over
3 the permitted weight shall be the same as provided in section 1391a of this
4 title, and for overweight violations 10,001 pounds or more over the permitted
5 weight, the fine schedule provided in section 1391a shall be doubled.

6 (D) The weight permitted by this subdivision (17) shall be allowed
7 for foreign trucks that are registered or permitted for 99,000 pounds in a state
8 or province that recognizes Vermont vehicles for weights consistent with this
9 subdivision (17).

10 (E) Unless authorized by federal law, the provisions of this
11 subdivision (17) shall not apply to operation on the Dwight D. Eisenhower
12 National System of Interstate and Defense Highways.

13 (F) The fee for the annual permit as provided in this subdivision (17)
14 shall be ~~\$415.00~~ \$382.00 for vehicles bearing up to 90,000 pounds and
15 \$560.00 for vehicles bearing up to 99,000 pounds.

16 * * *

17 (19)(A) A person issued a permit under the provisions of subdivision
18 (13), (14), ~~(16)~~, or (17) of this section, and upon payment of a \$10.00
19 administrative fee for each additional permit, may obtain additional permits for
20 the same vehicle, provided the additional permit is for a lesser weight and

1 provided the vehicle or combination of vehicles meets the minimum
2 requirements for the permit sought as set forth in this section.

3 * * *

4 * * * Nonresident Title * * *

5 Sec. 5. 23 V.S.A. § 2020 is amended to read:

6 § 2020. WITHHOLDING OF CERTIFICATE; BOND REQUIRED

7 If the Commissioner is not satisfied as to the ownership of the vehicle or
8 that there are no undisclosed security interests in it, the Commissioner may
9 register the vehicle but shall either:

10 (1) Withhold issuance of a certificate of title until the applicant presents
11 documents reasonably sufficient to satisfy the Commissioner as to the
12 applicant's ownership of the vehicle and that there are no undisclosed security
13 interests in it; or

14 (2) As a condition of issuing a certificate of title, require ~~the~~ an
15 applicant who is a Vermont resident to file with the Commissioner a bond in
16 the form prescribed by the Commissioner and executed by the applicant, and
17 either accompanied by the deposit of cash with the Commissioner or also
18 executed by a person authorized to conduct a surety business in this State. The
19 bond shall be in an amount equal to one and one-half times the value of the
20 vehicle as determined by the Commissioner and conditioned to indemnify any
21 prior owner and lienholder and any subsequent purchaser of the vehicle or

1 person acquiring any security interest in it, and their respective successors in
2 interest, against any expense, loss, or damage, including reasonable attorney’s
3 fees, by reason of the issuance of the certificate of title of the vehicle or on
4 account of any defect in or undisclosed security interest upon the right, title,
5 and interest of the applicant in and to the vehicle. Any such interested person
6 has a right of action to recover on the bond for any breach of its conditions, but
7 the aggregate liability of the surety to all persons shall not exceed the amount
8 of the bond. The bond, and any deposit accompanying it, shall be returned at
9 the end of three years or earlier if the vehicle is no longer registered in this
10 State and the currently valid certificate of title is surrendered to the
11 Commissioner, unless the Commissioner has been notified of the pendency of
12 an action to recover on the bond. The Commissioner shall not issue titles to
13 nonresidents under the provisions of this subdivision.

14 * * * Purchase and Use Tax * * *

15 Sec. 6. 32 V.S.A. § 8902(5) is amended to read:

16 (5) “Taxable cost” means the purchase price as defined in subdivision
17 (4) of this section or the taxable cost as determined under section 8907 of this
18 title. For any purchaser who has paid tax on the purchase or use of a motor
19 vehicle that was sold or traded by the purchaser or for which the purchaser
20 received payment under a contract of insurance, the taxable cost of the
21 replacement motor vehicle other than a leased vehicle shall exclude:

1 applying to participate in the Total Abstinence Program as of the effective date
2 of this section without regard to when the individual's license was reinstated
3 under the Total Abstinence Program.

4 (c) Secs. 4 (overweight permits; 23 V.S.A. § 1392), 5 (nonresident title;
5 23 V.S.A. § 2020), and 6 and 7 (purchase and use tax; 32 V.S.A. § 8902 and
6 8911) shall take effect on July 1, 2022.