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H.53

Introduced by Representatives Dolan of Essex Junction, LaLonde of South  
Burlington, Burditt of West Rutland, Burke of Brattleboro,  
Christie of Hartford, Notte of Rutland City, and Rachelson of  
Burlington

Referred to Committee on

Date:

Subject: Motor vehicles; driver's licenses; privilege to operate; suspension;  
nonpayment

Statement of purpose of bill as introduced: This bill proposes to eliminate the  
suspension of a driver's license or privilege to operate based on the  
nonpayment of civil penalties for moving violations.

An act relating to driver's license suspensions

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

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

§ 1109. REMEDIES FOR FAILURE TO PAY; CONTEMPT

\* \* \*

(b) Late fees; ~~suspensions for nonpayment of certain traffic violation~~  
~~judgments~~ payment plans.

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

6           ~~(2)(A) In the case of a judgment on a traffic violation for which the  
7 imposition of points against the person's driving record is authorized by law,  
8 the judgment shall contain a notice that failure to pay or otherwise satisfy the  
9 amount due within 30 days of the notice will result in suspension of the  
10 person's operator's license or privilege to operate, and that payment plan  
11 options are available. If the defendant fails to pay the amount due within 30  
12 days of the notice, or by a later date as determined by a Judicial Bureau clerk  
13 or hearing officer, and the case is not pending on appeal, the Judicial Bureau  
14 shall provide electronic notice thereof to the Commissioner of Motor Vehicles.  
15 After 20 days from the date of receiving the electronic notice, the  
16 Commissioner shall suspend the person's operator's license or privilege to  
17 operate for a period of 30 days or until the amount due is satisfied, whichever  
18 is earlier.~~

19           ~~(B) At minimum, the Judicial Bureau shall offer a payment plan  
20 option that allows a person an individual to avoid a suspension of his or her  
21 license or privilege to operate by paying no pay not more than \$30.00 per~~

1 traffic violation judgment per month; and not to exceed \$100.00 per month if  
2 the ~~person~~ individual has four or more outstanding judgments.

3 (c)(1) Civil contempt proceedings.

4 (1) Commencement. If an amount due remains unpaid for 75 days after  
5 the Judicial Bureau provides the defendant with a notice of judgment and the  
6 defendant is not currently complying with a payment plan, the Judicial Bureau  
7 may initiate civil contempt proceedings pursuant to this subsection.

8 (2) Notice of hearing. The Judicial Bureau shall provide notice by ~~first~~  
9 ~~class~~ first-class mail sent to the defendant's last known address that a contempt  
10 hearing will be held pursuant to this subsection; and that failure to appear at the  
11 contempt hearing may result in the sanctions listed in subdivision (3) of this  
12 subsection.

13 \* \* \*

14 (4)(A) Hearing.

15 (A) Procedure. The hearing shall be conducted in a summary  
16 manner. The hearing officer shall examine the defendant and any other  
17 witnesses and may require the defendant to produce documents relevant to the  
18 defendant's ability to pay the amount due. The State or municipality shall not  
19 be a party except with the permission of the hearing officer. The defendant  
20 may be represented by counsel at the defendant's own expense.

1           (B) Traffic violations; reduction of amount due. When the judgment  
2 is based upon a traffic violation, the hearing officer may waive the  
3 reinstatement fee required pursuant to 23 V.S.A. § 675(a) or reduce the amount  
4 due on the basis of the defendant's driving history, ability to pay, or service to  
5 the community; the collateral consequences of the violation; or the interests of  
6 justice. The hearing officer's decision to reduce the amount due shall not be  
7 subject to review or appeal except in the case of a violation of rights  
8 guaranteed under the Vermont or U.S. Constitution.

9           (5) Contempt.

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

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

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

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

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

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

1                   (ii) Assess an additional penalty not to exceed ~~ten~~ 10 percent of  
2 the amount due.

3                   (iii) [Repealed.]

4                   (iv) Recommend that the Criminal Division of the Superior Court  
5 incarcerate the defendant until the amount due is paid. If incarceration is  
6 recommended pursuant to this subdivision (c)(5), the Judicial Bureau shall  
7 notify the Criminal Division of the Superior Court that contempt proceedings  
8 should be commenced against the defendant. The Criminal Division of the  
9 Superior Court proceedings shall be de novo. If the defendant cannot afford  
10 counsel for the contempt proceedings in the Criminal Division of the Superior  
11 Court, the Defender General shall assign counsel at the Defender General's  
12 expense.

13                  (d) Collections.

14                  (1) If an amount due remains unpaid after the issuance of a notice of  
15 judgment, the Court Administrator may authorize the clerk of the Judicial  
16 Bureau to refer the matter to a designated collection agency.

17    \* \* \*

18                  (e) Venue. For purposes of civil contempt proceedings, venue shall be  
19 statewide. No entry or motion fee shall be charged to a defendant who applies  
20 for a reduced judgment under subdivision (c)(4)(B) of this section.

1           (f) Collections. Notwithstanding 32 V.S.A. § 502, the Court Administrator  
2 is authorized to contract with a third party to collect fines, penalties, and fees  
3 by credit card, debit card, charge card, prepaid card, stored value card, and  
4 direct bank account withdrawals or transfers, as authorized by 32 V.S.A. § 583,  
5 and to add on and collect, or charge against collections, a processing charge in  
6 an amount approved by the Court Administrator.

7           Sec. 2. EFFECTIVE DATE

8           This act shall take effect on passage and no driver's licenses or privileges to  
9 operate that are not already suspended shall be suspended solely for the  
10 nonpayment of one or more civil penalties for a traffic violation due as of the  
11 effective date of this act.