

1 S.280

2 Introduced by Committee on Transportation

3 Date: January 27, 2022

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

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

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

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

10 * * * New Motor Vehicle Arbitration * * *

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

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

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

5 * * * Total Abstinence Program * * *

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

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

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

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

15 (A) after the ~~person~~ individual has successfully completed the
16 Alcohol and Driving Education Program, at the ~~person's~~ the individual's own
17 expense, followed by an assessment of the need for further treatment by a
18 State-designated counselor, at the ~~person's~~ the individual's own expense, to
19 determine whether reinstatement should be further conditioned on satisfactory
20 completion of a therapy program agreed to by the ~~person~~ individual and the
21 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
5 ignition interlock device because of a medical condition that will persist
6 permanently or at least for the term of the suspension or, in the case of
7 suspensions or 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~~ 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.

1 * * *

2 Sec. 3. CURRENT TOTAL ABSTINENCE PROGRAM PARTICIPANTS

3 (a) Not later than September 1, 2022, the Commissioner of Motor Vehicles
4 shall provide written notice to all individuals participating in or applying to
5 participate in the Total Abstinence Program as of the effective date of this
6 section of amendments to 23 V.S.A. § 1209a and that, as of the effective date
7 of this section, they must maintain total abstinence, as defined in 23 V.S.A.
8 § 1209a(b)(1) as amended by Sec. 2 of this act, at all times while participating
9 in or applying to participate in the Total Abstinence Program. Notice shall be
10 mailed to an individual's residence or mailing address as currently listed with
11 the Department of Motor Vehicles.

12 (b) Notwithstanding any provision of law to the contrary, the license or
13 privilege to operate of an individual participating in the Total Abstinence
14 Program on the effective date of this section may be suspended or revoked for
15 life in accordance with 23 V.S.A. § 1209a(b)(3), as amended by Sec. 2 of this
16 act, in the event that any further investigation reveals a failure to maintain total
17 abstinence, as defined in 23 V.S.A. § 1209a(b)(1) as amended by Sec. 2 of this
18 act.

1 pounds as allowed under subdivision (4) of this section. The maximum gross
2 load under this special permit shall be 90,000 pounds. Unless authorized by
3 federal law, this subdivision shall not apply to operation on the Dwight D.
4 Eisenhower National System of Interstate and Defense Highways.

5 * * *

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

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

20 (B) ~~On those highways designated as the Dwight D. Eisenhower~~
21 ~~National System of Interstate and Defense Highways, the provisions of~~

1 subsection 1391(c) of this title shall apply unless other axle load limits,
2 tolerances, or both, are authorized under federal law. Unless authorized by
3 federal law, the provisions of this subdivision (16) shall not apply to operation
4 on the Dwight D. Eisenhower National System of Interstate and Defense
5 Highways.

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

9 [Repealed.]

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

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

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

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

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

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

16 (F) The fee for the annual permit as provided in this subdivision (17)
17 shall be ~~\$415.00~~ \$382.00 for vehicles bearing up to 90,000 pounds and
18 \$560.00 for vehicles bearing up to 99,000 pounds.

19 * * *

20 (19)(A) A person issued a permit under the provisions of subdivision
21 (13), (14), ~~(16)~~, or (17) of this section, and upon payment of a \$10.00

1 administrative fee for each additional permit, may obtain additional permits
2 for the same vehicle, provided the additional permit is for a lesser weight and
3 provided the vehicle or combination of vehicles meets the minimum
4 requirements for the permit sought as set forth in this section.

5 * * *

6 * * * Nonresident Title * * *

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

8 § 2020. WITHHOLDING OF CERTIFICATE; BOND REQUIRED

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

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

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

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

16 * * * Purchase and Use Tax * * *

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

18 (5) "Taxable cost" means the purchase price as defined in subdivision
19 (4) of this section or the taxable cost as determined under section 8907 of this
20 title. For any purchaser who has paid tax on the purchase or use of a motor
21 vehicle that was sold or traded by the purchaser or for which the purchaser

1 received payment under a contract of insurance, the taxable cost of the
2 replacement motor vehicle other than a leased vehicle shall exclude:

3 (A) The value allowed by the seller on any motor vehicle accepted
4 by ~~him or her~~ the seller as part of the consideration of the motor vehicle,
5 provided the motor vehicle accepted by the seller is owned and previously or
6 currently registered or titled by the purchaser, with no change of ownership
7 since registration or titling, except for motor vehicles for which registration is
8 not required under the provisions of Title 23 or motor vehicles received under
9 the provisions of subdivision 8911(8) of this title.

10 (B) The amount received from the sale of a motor vehicle last
11 registered or titled in ~~his or her~~ the seller's name, the amount not to exceed the
12 clean trade-in value of the same make, type, model, and year of manufacture
13 as designated by the manufacturer and as shown in the NADA Official Used
14 Car Guide (New England edition), or any comparable publication, provided
15 such sale occurs within three months of the taxable purchase. However, this
16 three-month period shall be extended day-for-day for any time that a member
17 of a guard unit or of the U.S. Armed Forces, as defined in 38 U.S.C. §
18 101(10), spends outside Vermont due to activation or deployment, and an
19 additional 60 days following the ~~person's~~ individual's return from activation
20 or deployment. Such amount shall be reported on forms supplied by the
21 Commissioner of Motor Vehicles.

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(F) ~~Notwithstanding any other provision of law, for leases in effect on June 30, 1995, no portion of the purchase and use tax paid at the time of lease shall be refunded; provided, however, for leases in effect on June 30, 1995, if the lessee purchases the leased vehicle, no tax shall be imposed on that purchase.~~ [Repealed.]

Sec. 7. 32 V.S.A. § 8911 is amended to read:

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

* * *

(22) Motor vehicles that have been registered to the applicant ~~for a period of at least three years~~ in a jurisdiction that imposes a state sales or use tax on motor vehicles. An applicant for exemption under this subdivision shall bear the burden of establishing to the satisfaction of the Commissioner that the vehicle was registered in a qualifying jurisdiction ~~for the requisite period.~~

* * * Towing; Abandoned Vehicles * * *

Sec. 8. 23 V.S.A. § 2151 is amended to read:

§ 2151. DEFINITIONS

As used in this subchapter:

(1)(A) “Abandoned motor vehicle” means:

1 (i) a motor vehicle that has remained on public or private property
2 or on or along a highway for more than 48 hours without the consent of the
3 owner or person in control of the property and has a valid registration plate or
4 public vehicle identification number that has not been removed, destroyed, or
5 altered; or

6 (ii) a motor vehicle that has remained on public or private
7 property or on or along a highway without the consent of the owner or person
8 in control of the property for any period of time if the vehicle does not have a
9 valid registration plate or the public vehicle identification number has been
10 removed, destroyed, or altered.

11 (B) “Abandoned motor vehicle” does not include a vehicle or other
12 equipment used or to be used in construction or in the operation or
13 maintenance of highways or public utility facilities, which is left in a manner
14 that does not interfere with the normal movement of traffic.

15 * * *

16 (4) “Motor vehicle” means all vehicles propelled or drawn by power
17 other than muscular power that have, or could have, one or more of the
18 following:

19 (A) a registration plate, registration decal, or certificate of number;

20 (B) a public vehicle identification number; or

21 (C) a certificate of title.

1 Sec. 9. 23 V.S.A. § 2153(a) is amended to read:

2 (a) A landowner on whose property an abandoned motor vehicle is located
3 shall apply to the Department for an abandoned motor vehicle certification on
4 forms supplied by the Department within ~~30~~ 90 days ~~of~~ after the date the
5 vehicle was discovered on or brought to the property unless the vehicle has
6 been removed from the property. An abandoned motor vehicle certification
7 form shall indicate the date that the abandoned motor vehicle was discovered
8 or brought to the property; the make, color, model, and location of the vehicle;
9 the name, address, and telephone number of the landowner; and a certification
10 of the public vehicle identification number, if any, to be recorded by a law
11 enforcement officer. This subsection shall not be construed as creating a
12 private right of action against the landowner.

13 * * * Effective Dates * * *

14 Sec. 10. EFFECTIVE DATES

15 (a) This section and Secs. 1 (new motor vehicle arbitration; 9 V.S.A.
16 § 4173(d), 3 (current Total Abstinence Program participants), and 8 and
17 9 (abandoned vehicles; 23 V.S.A. §§ 2151 and 2153(a)) shall take effect on
18 passage.

19 (b) Sec. 2 (Total Abstinence Program; 23 V.S.A. § 1209a) shall take effect
20 on passage and apply to all individuals participating in or in the process of
21 applying to participate in the Total Abstinence Program as of the effective date

1 of this section without regard to when the individual's license was reinstated
2 under the Total Abstinence Program.

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