

H.105

An act relating to expanding the Youth Substance Awareness Safety
Program

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

Sec. 1. 7 V.S.A. § 656 is amended to read:

§ 656. PERSON ~~46~~ 12 YEARS OF AGE OR OLDER AND UNDER 21
YEARS OF AGE MISREPRESENTING AGE, PROCURING,
POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES;
IMPAIRED DRIVING; CIVIL VIOLATION

(a) Prohibited conduct; ~~offense~~ offenses.

(1) Prohibited conduct. A person ~~46~~ 12 years of age or older and under
21 years of age shall not:

(A) Falsely represent the person's age for the purpose of procuring or
attempting to procure malt or vinous beverages, ready-to-drink spirits
beverages, spirits, or fortified wines from any licensee, State liquor agency, or
other person or persons.

(B) Possess malt or vinous beverages, ready-to-drink spirits
beverages, spirits, or fortified wines for the purpose of consumption by the
person or other minors, except in the regular performance of duties as an
employee of a licensee licensed to sell alcoholic liquor.

1 (C) Consume malt or vinous beverages, ready-to-drink spirits
2 beverages, spirits, or fortified wines. A violation of this subdivision may be
3 prosecuted in a jurisdiction where the ~~minor~~ person has consumed malt or
4 vinous beverages, ready-to-drink spirits beverages, spirits, or fortified wines or
5 in a jurisdiction where the indicators of consumption are observed.

6 (D) Operate, attempt to operate, or be in actual physical control on a
7 highway of a vehicle when the person's blood alcohol concentration is 0.02 or
8 more.

9 (2) ~~Offense~~ Procurement, possession, or consumption penalties. A
10 person who knowingly violates ~~subdivision~~ any of subdivisions (1)(A)–(C) of
11 this subsection commits a civil violation and shall be referred to the Court
12 Diversion Program for the purpose of enrollment in the Youth Substance
13 Awareness Safety Program. A person who fails to complete the program
14 successfully commits a civil violation under the jurisdiction of the Judicial
15 Bureau and shall be subject to the following:

16 (A) a civil penalty of \$300.00 and suspension of the person's
17 operator's license and privilege to operate a motor vehicle for a period of 30
18 days, for a first offense; and

19 (B) a civil penalty of not more than \$600.00 and suspension of the
20 person's operator's license and privilege to operate a motor vehicle for a
21 period of 90 days, for a second or subsequent offense.

1 (3) Impaired driver penalties.

2 (A) A person who violates subdivision (1)(D) of this subsection (a)
3 commits a civil violation, shall be referred to the Court Diversion Program for
4 the purpose of enrollment in the Youth Substance Awareness Safety Program,
5 and shall serve a suspension of the person's operator's license and privilege to
6 operate a motor vehicle in accordance with subdivision (B) of this subdivision
7 (3). A person who fails to complete the Program successfully commits a civil
8 violation under the jurisdiction of the Judicial Bureau and shall be subject to
9 the following:

10 (i) For a first offense, a civil penalty of \$300.00 and suspension of
11 the person's operator's license and privilege to operate a motor vehicle for a
12 period of 180 days and compliance with the requirements of 23 V.S.A.
13 § 1209a(a)(1).

14 (ii) For a second or subsequent offense, a civil penalty of \$600.00
15 and suspension of the person's operator's license for a period of one year or
16 until the person reaches 21 years of age, whichever is longer, and compliance
17 with the requirements of 23 V.S.A. § 1209a(a)(2).

18 (iii) A person who violates subdivision (1)(D) of this subsection
19 (a) may also be subject to recall of the person's provisional license under
20 23 V.S.A. § 607a.

1 (iv) If a law enforcement officer has reasonable grounds to believe
2 that a person is violating subdivision (1)(D) of this subsection (a), the officer
3 may request the person to submit to a breath test using a preliminary screening
4 device approved by the Commissioner of Public Safety. A refusal to submit to
5 the breath test shall be considered a violation of subdivision (1)(D) of this
6 subsection (a). Notwithstanding any provisions to the contrary in 23 V.S.A.
7 §§ 1202 and 1203 of this title:

8 (I) the results of the test shall be admissible evidence in a
9 proceeding under this section; and

10 (II) there shall be no statutory right to counsel prior to the
11 administration of the test.

12 (v) In a proceeding under this section, if there was at any time
13 within two hours after operating, attempting to operate, or being in actual
14 physical control of a vehicle on a highway a blood alcohol concentration of
15 0.02 or more, it shall be a rebuttable presumption that the person's blood
16 alcohol concentration was 0.02 or more at the time of operating, attempting to
17 operate, or being in actual physical control.

18 (vi) No points shall be assessed for a violation of subdivision
19 (1)(D) of this subsection (a).

20 (vii) The Alcohol and Driving Program required under this section
21 shall be administered by the Department of Health's Division of Substance Use

1 Programs and shall take into consideration any particular treatment needs of
2 operators under 21 years of age.

3 (viii) An alleged violation of this section shall not bar prosecution
4 for any crime, including a prosecution under 23 V.S.A. § 1201.

5 (ix) Suspensions imposed under this subdivision (3)(A) or any
6 comparable statute of any other jurisdiction shall run concurrently with
7 suspensions imposed under 23 V.S.A. §§ 1205, 1206, and 1208 or any
8 comparable statutes of any other jurisdiction or with any suspension resulting
9 from a conviction for a violation of 23 V.S.A. § 1091 from the same incident.

10 (B)(i) For a first offense, a person shall serve suspension of the
11 person's operator's license and privilege to operate a motor vehicle for a
12 period of 90 days and shall be automatically reinstated after the 90-day period.

13 (ii) For a second or subsequent offense, a person shall serve a
14 suspension of the person's operator's license and privilege to operate a motor
15 vehicle for a period 145 days and shall be automatically reinstated after the
16 145-day period.

17 (iii) The Commissioner of Motor Vehicles shall issue a notice of
18 reinstatement to the person serving a suspension under this subdivision
19 (a)(3)(B) upon successful completion of the suspension.

20 (iv) If a person fails to complete the Youth Substance Awareness
21 Safety Program, the person shall receive credit for any elapsed period of a

1 suspension served pursuant to this subdivision (3)(B) against any suspension
2 imposed pursuant to subdivision (A) of this subdivision (3).

3 (C) During a suspension issued pursuant to subdivisions (A) or (B)
4 of this subdivision (3), a person may operate a motor vehicle if issued an
5 ignition interlock restricted driver's license or certificate in accordance with 23
6 V.S.A. § 1213.

7 (i) A person subject to penalties under subdivision (A)(i) of this
8 subdivision (3) and who elects to operate a motor vehicle with an ignition
9 interlock RDL or certificate shall be reinstated only if the person operates with
10 an ignition interlock RDL or certificate for a period of 180 days, in addition to
11 any extension of this period arising from a violation of 23 V.S.A. § 1213.

12 (ii) A person subject to penalties under subdivision (A)(i) of this
13 subdivision (3) and who elects to operate a motor vehicle with an ignition
14 interlock RDL or certificate shall be reinstated only if the person operates with
15 an ignition interlock RDL or certificate for a period of one year or until the
16 person reaches 21 years of age, whichever is longer, in addition to any
17 extension of this period arising from a violation of 23 V.S.A. § 1213.

18 (b) Issuance of notice of violation. A law enforcement officer shall issue a
19 person who violates this section a notice of violation, in a form approved by
20 the Court Administrator. A person shall not be cited for more than one
21 violation of subsection (a) of this section arising out of the same incident. The

1 notice of violation shall require the person to provide the person's name and
2 address and shall explain procedures under this section, including that:

3 (1) the person shall contact the Diversion Program in the county where
4 the offense occurred within 15 days;

5 (2) failure to contact the Diversion Program within 15 days will result in
6 the case being referred to the Judicial Bureau, where the person, if found liable
7 for the violation, will be subject to a civil penalty and a suspension of the
8 person's operator's license and may face substantially increased insurance
9 rates;

10 (3) no money should be submitted to pay any penalty until after
11 adjudication; and

12 (4) the person shall notify the Diversion Program if the person's address
13 changes.

14 (c) Issuance of Notice of Suspension.

15 (1) On behalf of the Commissioner of Motor Vehicles, a law
16 enforcement officer issuing a notice of violation in accordance with subsection
17 (b) of this section shall also serve a notice of suspension of the person's
18 operator's license and privilege to operate a motor vehicle in a form prescribed
19 by the Court Administrator. The form shall include the following:

20 (A) the effective date of the suspension;

21 (B) the suspension's duration;

1 (C) an explanation of the consequences of the suspension;

2 (D) an explanation of the process to operate a motor vehicle with an
3 ignition interlock restricted driver's license or certificate in accordance with
4 23 V.S.A. § 1213; and

5 (E) the projected date of reinstatement upon successful completion of
6 the suspension.

7 (2) A suspension issued pursuant to subdivision (a)(3)(B) of this section
8 shall become effective on the 11th day after the person receives notice in
9 accordance with this subsection (c).

10 (3) A copy of the notice of suspension shall be sent to the Commissioner
11 of Motor Vehicles.

12 (d) Summons and complaint. When a person is issued a notice of violation
13 under this section, the law enforcement officer shall complete a summons and
14 complaint for the offense and send it to the Diversion Program in the county
15 where the offense occurred. The summons and complaint shall not be filed
16 with the Judicial Bureau at that time.

17 ~~(d)~~(e) Registration in Youth Substance Abuse Safety Program. Within 15
18 days after receiving a notice of violation, the person shall contact the Diversion
19 Program in the county where the offense occurred and register for the Youth
20 Substance Abuse Safety Program. If the person fails to do so, the Diversion
21 Program shall file the summons and complaint with the Judicial Bureau for

1 adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide
2 a copy of the summons and complaint to the law enforcement officer who
3 issued the notice of violation and shall provide two copies to the person
4 ~~charged with~~ subject to the violation.

5 ~~(e)~~(f) Notice to report to Diversion. Upon receipt from a law enforcement
6 officer of a summons and complaint completed under this section, the
7 Diversion Program shall send the person a notice to report to the Diversion
8 Program. The notice to report shall provide that:

9 (1) The person is required to complete all conditions related to the
10 offense imposed by the Diversion Program, including substance abuse
11 screening and, if deemed appropriate following the screening, substance abuse
12 assessment or substance abuse counseling, or both.

13 (2) If the person does not satisfactorily complete the substance abuse
14 screening, any required substance abuse assessment or substance abuse
15 counseling, or any other condition related to the offense imposed by the
16 Diversion Program, the case will be referred to the Judicial Bureau, where the
17 person, if found liable for the violation, shall be assessed a civil penalty, the
18 person's driver's license will be suspended, and the person's automobile
19 insurance rates may increase substantially.

20 (3) If the person satisfactorily completes the substance abuse screening,
21 any required substance abuse assessment or substance abuse counseling, and

1 any other condition related to the offense imposed by the Diversion Program,
2 no penalty shall be imposed and the person's operator's license shall not be
3 suspended.

4 ~~(f)~~(g) Diversion Program requirements.

5 (1) Upon being contacted by a person who has been issued a notice of
6 violation, the Diversion Program shall register the person in the Youth
7 Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse
8 Safety Program, the Diversion Program shall impose conditions on the person.
9 The conditions imposed shall include only conditions related to the offense and
10 in every case shall include a condition requiring satisfactory completion of
11 substance abuse screening using an evidence-based tool and, if deemed
12 appropriate following the screening, substance abuse assessment and substance
13 abuse education or substance abuse counseling, or both. If the screener
14 recommends substance abuse counseling, the person shall choose a State-
15 certified or State-licensed substance abuse counselor or substance abuse
16 treatment provider to provide the services.

17 (2) Substance abuse screening required under this subsection shall be
18 completed within 60 days after the Diversion Program receives a summons and
19 complaint. The person shall complete all conditions at the person's own
20 expense.

1 (3) When a person has satisfactorily completed substance abuse
2 screening, any required substance abuse education or substance abuse
3 counseling, and any other condition related to the offense that the Diversion
4 Program has imposed, the Diversion Program shall:

5 (A) Void the summons and complaint with no penalty due.

6 (B) Send copies of the voided summons and complaint to the Judicial
7 Bureau and to the law enforcement officer who completed them. Before
8 sending copies of the voided summons and complaint to the Judicial Bureau
9 under this subdivision, the Diversion Program shall redact all language
10 containing the person's name, address, Social Security number, and any other
11 information that identifies the person.

12 (4) If a person does not satisfactorily complete substance abuse
13 screening, any required substance abuse education or substance abuse
14 counseling, or any other condition related to the offense imposed by the
15 Diversion Program, the Diversion Program shall file the summons and
16 complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29.
17 The Diversion Program shall provide a copy of the summons and complaint to
18 the law enforcement officer who issued the notice of violation and shall
19 provide two copies to the person charged with the violation.

1 (5) A person aggrieved by a decision of the Diversion Program or
2 alcohol counselor may seek review of that decision pursuant to Rule 75 of the
3 Vermont Rules of Civil Procedure.

4 (6) Notwithstanding ~~3 V.S.A. §§ 163(a)(2)(C) and 164 (a)(2)(C)~~ any law
5 to the contrary, the adult or juvenile diversion programs shall accept cases
6 from the Youth Substance Awareness Safety Program pursuant to this section.
7 The confidentiality provisions of 3 V.S.A. § 163 or 164 shall become effective
8 when a notice of violation is issued pursuant to subsection (b) of this section
9 and shall remain in effect unless the person fails to register with or complete
10 the Youth Substance Awareness Safety Program.

11 ~~(g) [Repealed.]~~

12 (h) Record of adjudications; confidentiality; public records exemption.

13 (1) Upon adjudicating a person in violation of this section, the Judicial
14 Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a
15 record of all such adjudications that shall be separate from the registry
16 maintained by the Department for motor vehicle driving records. The identity
17 of a person in the registry shall be revealed only to the following:

18 (A) a law enforcement officer determining whether the person has
19 previously violated this section; or

1 (B) an insurance company or its third-party contractor only for the
2 purposes of recording a license suspension issued pursuant to subdivision
3 (a)(3) of this section.

4 (2) Except as provided in this subsection (h):

5 (A) All information related to a suspension issued pursuant to
6 subdivision (a)(3) of this section shall be held strictly confidential and not
7 released without the participant's prior consent.

8 (B) Any records or information produced or acquired pursuant to a
9 suspension issued pursuant to subdivision (a)(3) of this section shall be exempt
10 from public inspection or copying under Vermont's Public Records Act.

11 (i) Reporting. Annually, beginning on October 1, 2026, the Office of the
12 Attorney General, and other entities as needed, shall submit a written report to
13 the House and Senate Committees on Judiciary related to impaired driver
14 violations under this section, containing the following:

15 (1) the number of persons referred to the Youth Substance Awareness
16 Safety Program;

17 (2) the ages of the persons referred to the Program;

18 (3) the number of persons who successfully complete the Program;

19 (4) the number of persons who fail the Program; and

20 (5) the number of persons who serve suspensions imposed by the
21 Judicial Bureau after failing the Program.

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Sec. 3. 23 V.S.A. § 1209a(a) is amended to read:

* * *

(a) 7 V.S.A. § 657a (person under 16 years of age misrepresenting age or procuring or possessing alcoholic beverages; delinquency) is repealed.

Sec. 5. EFFECTIVE DATE

VT LEG #381617 v.1