

Senate proposal of amendment

H. 105

An act relating to expanding the Youth Substance Awareness Safety Program

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

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

§ 656. PERSON ~~16~~ 12 YEARS OF AGE OR OLDER AND UNDER 21 YEARS OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES; IMPAIRED DRIVING; POSSESSION OF CANNABIS; CIVIL VIOLATION

(a) Definitions. As used in this section:

(1) “Alcohol” has the same meaning as in 23 V.S.A. § 1200(4).

(2) “Alcohol concentration” has the same meaning as in 23 V.S.A. § 1200(1).

(3) “Cannabis” has the same meaning as in subdivision 831(2) of this title.

(4) “Highway” has the same meaning as in 23 V.S.A. § 1200(7).

(5) “Ignition interlock device” has the same meaning as in 23 V.S.A. § 1200(8).

(6) “Ignition interlock restricted driver’s license,” “ignition interlock RDL” or “RDL,” and “ignition interlock certificate” have the same meaning as in 23 V.S.A. § 1200(9).

(7) “Law enforcement officer” has the same meaning as “enforcement officer” as defined in 23 V.S.A. § 4(11)(A).

(8) “License to operate a motor vehicle” has the same meaning as in 23 V.S.A. § 4(48).

(9) “Motor vehicle” or “vehicle” has the same meaning as “motor vehicle” as defined in 23 V.S.A. § 4(21).

(10) “Operate or attempts to operate” has the same meaning as in 23 V.S.A. § 4(24).

(11) “Operator” has the same meaning as in 23 V.S.A. § 4(25) and shall include “junior operator” as defined in 23 V.S.A. § 4(16).

(12) “Person” has the same meaning as in 23 V.S.A. § 4(27).

(13) “Privilege to operate” has the same meaning as in 23 V.S.A. § 4(58).

(14) “Suspension” or “suspension of the person’s operator’s license” has the same meaning as “suspension of license” as defined in 23 V.S.A. § 4(50).

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

(1) Prohibited conduct. A person ~~16~~ 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.

(C) Knowingly and unlawfully possess one ounce or less of cannabis or five grams or less of hashish or two mature cannabis plants or fewer or four immature cannabis plants or fewer.

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

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

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

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

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

(3) Impaired driver penalties.

(A) A person who violates subdivision (1)(E) of this subsection (b) commits a civil violation, shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Awareness Safety Program, and the Commissioner of Motor Vehicles shall suspend the person's operator's license and privilege to operate a motor vehicle in accordance with subdivision (B) of this subsection (b)(3). A person who fails to complete the Program successfully commits a civil violation under the jurisdiction of the Judicial Bureau and shall be subject to the following:

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

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

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

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

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

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

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

(vi) No points shall be assessed for a violation of subdivision (1)(E) of this subsection (b).

(vii) The Alcohol and Driving Program required under this section shall be administered by the Department of Health's Division of Substance Use Programs and shall take into consideration any particular treatment needs of operators under 21 years of age.

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

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

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

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

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

(iv) If a person fails to complete the Youth Substance Awareness Safety Program, the person shall receive credit for any elapsed period of a suspension served pursuant to this subdivision (b)(3)(B) against any suspension imposed pursuant to subdivision (A) of this subdivision (b)(3).

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

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

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

~~(b)~~(c) Issuance of notice of violation. A law enforcement officer shall issue a person who violates this section a notice of violation, in a form approved by the Court Administrator. A person shall not be cited for more than one violation of subsection (b) of this section arising out of the same incident. The notice of violation shall require the person to provide the person's name and address, shall indicate the presence of any substances that constitute a violation of subsection (b) of this section, and shall explain procedures under this section, including that:

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

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

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

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

(d) Issuance of Notice of Suspension.

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

(A) the effective date of the suspension;

(B) the suspension's duration;

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

(D) the option to operate a motor vehicle with an ignition interlock restricted driver's license or certificate in accordance with 23 V.S.A. § 1213;

(E) the projected date of reinstatement upon successful completion of the suspension; and

(F) the ability to review the imposition of the suspension pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

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

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

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

~~(d)~~(f) Registration in Youth Substance Abuse Safety Program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for the Youth Substance Abuse Safety Program. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person ~~charged with~~ subject to the violation.

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

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

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

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse assessment or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

~~(f)~~(h) Diversion Program requirements.

(1) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse

Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

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

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

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

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

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

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

(B) Prior to the filing of the complaint with the Judicial Bureau in accordance with this section, a person aggrieved by a suspension imposed under subdivision (b)(3)(B) of this section may seek review of that imposition pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

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

~~(g) [Repealed.]~~

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

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

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

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

(2) Except as provided in this subsection:

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

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

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

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

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

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

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

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

Sec. 2. IMPAIRED DRIVING; OUTCOME MEASURES; REPORT

For the first report submitted pursuant to 7 V.S.A. § 656(j), the Office of the Attorney General, in collaboration with the Vermont Statistical Analysis Center and others as needed, shall propose outcome measures to assess the effectiveness of any suspensions imposed for impaired driver violations and the Youth Substance Awareness Safety Program as a whole.

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

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

* * *

Sec. 4. REPEALS

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

(b) 18 V.S.A. § 4230b (cannabis possession by a person 16 years of age or older and under 21 years of age; civil violation) is repealed.

(c) 18 V.S.A. § 4230j (cannabis possession by a person under 16 years of age; delinquency) is repealed.

(d) 23 V.S.A. § 1216 (persons under 21 years of age; alcohol concentration of 0.02 or more) is repealed.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2025.