

1 H.637  
2 Introduced by Representatives Goodnow of Brattleboro and LaLonde of South  
3 Burlington  
4 Referred to Committee on  
5 Date:  
6 Subject: Motor vehicles; crimes; operating a vehicle under the influence of  
7 alcohol or other substances  
8 Statement of purpose of bill as introduced: This bill proposes to make several  
9 changes to the laws concerning operating a vehicle under the influence of  
10 alcohol or other substances.

11 An act relating to operating a vehicle under the influence of alcohol or other  
12 substances

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

14 Sec. 1. 23 V.S.A. § 1201 is amended to read:

15 § 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF  
16 ALCOHOL OR OTHER SUBSTANCE; CRIMINAL REFUSAL;  
17 ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

18 \* \* \*

19 (h) As used in ~~subdivision~~ subdivisions (a)(2) and (a)(3) of this section,  
20 “under the influence of a drug” means that a person’s ~~ability to operate a motor~~

1 ~~vehicle safely is diminished or impaired in the slightest degree~~ mental or  
2 physical abilities are diminished, impaired, or affected in the slightest degree  
3 by alcohol, a drug other than alcohol, or a combination of alcohol and another  
4 drug. This subsection shall not be construed to affect the meaning of the term  
5 “under the influence of alcohol.”

6 \* \* \*

7 (j) A person suspected of violating this section shall submit to the  
8 collection of an evidentiary blood or saliva sample when a warrant for that  
9 person's blood or saliva is issued pursuant to subdivision 1202(f)(1) of this  
10 title. This subsection shall not be construed as impairing a person's right to  
11 challenge the validity of a search warrant in any subsequent legal proceedings.

12 Sec. 2. 23 V.S.A. § 1202 is amended to read:

13 § 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD

14 ALCOHOL CONTENT OR PRESENCE OF OTHER DRUG

15 (a)(1) Implied consent. Every person who operates, attempts to operate, or  
16 is in actual physical control of any vehicle on a highway in this State is deemed  
17 to have given consent to an evidentiary test of that person's breath for the  
18 purpose of determining the person's alcohol concentration or the presence of  
19 other drug in the blood. The test shall be administered at the direction of a law  
20 enforcement officer.

18 (c) Second offense. A person ~~convicted of violating~~ who violates section  
19 1201 of this title who has been convicted of another violation of that section  
20 within the ~~last~~ 20 years preceding the date of the second violation shall be  
21 fined not more than \$1,500.00 or imprisoned not more than two years, or both.

1 At least 80 hours of community service shall be performed, or 60 consecutive  
2 hours of the sentence of imprisonment shall be served and may not be  
3 suspended or deferred or served as a supervised sentence, except that credit for  
4 a sentence of imprisonment may be received for time served in a residential  
5 alcohol facility pursuant to sentence if the program is successfully completed.

6 (d) Third offense. A person ~~convicted of violating who violates~~ section  
7 1201 of this title who has previously been convicted two times of a violation of  
8 that section, including at least one ~~violation conviction~~ within the ~~last~~ 20 years  
9 preceding the date of the third violation, shall be fined not more than \$2,500.00  
10 or imprisoned not more than five years, or both. At least 96 consecutive hours  
11 of the sentence of imprisonment shall be served and may not be suspended or  
12 deferred or served as a supervised sentence, except that credit for a sentence of  
13 imprisonment may be received for time served in a residential alcohol facility  
14 pursuant to sentence if the program is successfully completed. The court may  
15 impose a sentence that does not include a term of imprisonment or that does  
16 not require that the 96 hours of imprisonment be served consecutively only if  
17 the court makes written findings on the record that such a sentence will serve  
18 the interests of justice and public safety.

19 (e) Fourth or subsequent offense.

20 (1) A person ~~convicted of violating who violates~~ section 1201 of this  
21 title who has previously been convicted three or more times of a violation of

1 that section, including at least one ~~violation~~ conviction within the ~~last~~ 20 years  
2 preceding the date of the fourth violation, shall be fined not more than  
3 \$5,000.00 or imprisoned not more than 10 years, or both. At least 192  
4 consecutive hours of the sentence of imprisonment shall be served and may not  
5 be suspended or deferred or served as a supervised sentence, except that credit  
6 for a sentence of imprisonment may be received for time served in a residential  
7 alcohol treatment facility pursuant to sentence if the program is successfully  
8 completed. The court shall not impose a sentence that does not include a term  
9 of imprisonment unless the court makes written findings on the record that  
10 there are compelling reasons why such a sentence will serve the interests of  
11 justice and public safety.

12 \* \* \*

13 Sec. 4. EFFECTIVE DATE

14 This act shall take effect on passage.