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H.105

Introduced by Representative Dolan of Essex Junction

Referred to Committee on

Date:

Subject: Youth; juveniles; alcohol possession; impaired driving; Youth  
Substance Awareness Safety Program

Statement of purpose of bill as introduced: This bill proposes to expand the Youth Substance Awareness Safety Program (YSASP) by lowering the minimum age of eligible individuals to 10 years of age and to include violations for youth who engage in impaired driving with a minimum 0.02 blood alcohol concentration. By expanding YSASP to include impaired driving, the bill proposes to incentivize accountability and treatment and clarify that the person is subject to a delinquency petition if the person is unsuccessful in YSASP. This bill further proposes such an incentive by rolling in the relevant provisions of 23 V.S.A. § 1216 into 7 V.S.A. § 656.

An act relating to expanding the Youth Substance Awareness Safety Program

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

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

3 § 656. PERSON ~~46~~ 10 YEARS OF AGE OR OLDER AND UNDER 21

4 YEARS OF AGE MISREPRESENTING AGE, PROCURING,

5 POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES;

6 IMPAIRED DRIVING; CIVIL VIOLATION

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

8 (1) Prohibited conduct. A person ~~46~~ 10 years of age or older and under  
9 21 years of age shall not:

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

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

18 (C) Consume malt or vinous beverages, ready-to-drink spirits  
19 beverages, spirits, or fortified wines. A violation of this subdivision may be  
20 prosecuted in a jurisdiction where the ~~minor~~ person has consumed malt or

1 vinous beverages, ready-to-drink spirits beverages, spirits, or fortified wines or  
2 in a jurisdiction where the indicators of consumption are observed.

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

6 (2) ~~Offense~~ Underage, possession, or consumption offenses. A person  
7 who knowingly violates ~~subdivision~~ any of subdivisions (1)(A)–(C) of this  
8 subsection commits a civil violation and shall be referred to the Court  
9 Diversion Program for the purpose of enrollment in the Youth Substance  
10 Awareness Safety Program. A person who fails to complete the program  
11 successfully shall be subject to:

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

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

18 (3) Impaired driver offenses.

19 (A) A person who violates subdivision (1)(D) of this subsection (a)  
20 commits a civil violation and shall be referred to the Court Diversion Program  
21 for the purpose of enrollment in the Youth Substance Awareness Safety

1 Program. A person who fails to complete the Program successfully shall be  
2 subject to the following:

3 (i) For a first offense, a civil penalty of \$300.00 and suspension of  
4 the person's operator's license and privilege to operate a motor vehicle for a  
5 period of 180 days and compliance with the requirements of 23 V.S.A.  
6 § 1209a(a)(1).

7 (ii) For a second or subsequent offense, a civil penalty of \$600.00  
8 and suspension of the person's operator's license for a period of one year or  
9 until the person reaches 21 years of age, whichever is longer, and compliance  
10 with the requirements of 23 V.S.A. § 1209a(a)(1).

11 (iii) A person who violates subdivision (1)(D) of this subsection  
12 (a) may also be subject to recall of the person's provisional license under  
13 23 V.S.A. § 607a.

14 (iv) If a law enforcement officer has reasonable grounds to believe  
15 that a person is violating subdivision (1)(D) of this subsection (a), the officer  
16 may request the person to submit to a breath test using a preliminary screening  
17 device approved by the Commissioner of Public Safety. A refusal to submit to  
18 the breath test shall be considered a violation of subdivision (1)(D) of this  
19 subsection (a). Notwithstanding any provisions to the contrary in 23 V.S.A.  
20  §§ 1202 and 1203 of this title:

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

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

5                   (v) In a proceeding under this section, if there was at any time  
6                   within two hours after operating, attempting to operate, or being in actual  
7                   physical control of a vehicle on a highway a blood alcohol concentration of  
8                   0.02 or more, it shall be a rebuttable presumption that the person's blood  
9                   alcohol concentration was 0.02 or more at the time of operating, attempting to  
10                  operate, or being in actual physical control.

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

13                  (vii) The Alcohol and Driving Program required under this section  
14                  shall be administered by the Department of Health's Division of Substance Use  
15                  Programs and shall take into consideration any particular treatment needs of  
16                  operators under 21 years of age. Program fees for operators under 21 years of  
17                  age shall not exceed \$100.00.

18                  (viii) A charge of violating this section shall not bar prosecution  
19                  for any crime, including a prosecution under 23 V.S.A. § 1201.

20                  (ix) Suspensions imposed under this subdivision (3)(A) or any  
21                  comparable statute of any other jurisdiction shall run concurrently with

1 suspensions imposed under 23 V.S.A. §§ 1205, 1206, and 1208 or any  
2 comparable statutes of any other jurisdiction or with any suspension resulting  
3 from a conviction for a violation of 23 V.S.A. § 1091 from the same incident,  
4 and a person shall receive credit for any elapsed period of a suspension served  
5 in Vermont against a later suspension imposed in this State.

6 (B) During a suspension issued pursuant to subdivision (A) of this  
7 subdivision (3), a person may operate a motor vehicle if issued an ignition  
8 interlock restricted driver's license or certificate in accordance with 23 V.S.A.  
9 § 1213.

10 (i) A person subject to penalties under subdivision (A)(i) of this  
11 subdivision (3) and who elects to operate a motor vehicle with an ignition  
12 interlock RDL or certificate shall be automatically reinstated only if the person  
13 operates with an ignition interlock RDL or certificate for a period of 180 days,  
14 in addition to any extension of this period arising from a violation of 23 V.S.A.  
15 § 1213.

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

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

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

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

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

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

18 (c) Summons and complaint. When a person is issued a notice of violation  
19 under this section, the law enforcement officer shall complete a summons and  
20 complaint for the offense and send it to the Diversion Program in the county

1 where the offense occurred. The summons and complaint shall not be filed  
2 with the Judicial Bureau at that time.

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

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

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

20 (2) If the person does not satisfactorily complete the substance abuse  
21 screening, any required substance abuse assessment or substance abuse



1 counseling, or any other condition related to the offense imposed by the  
2 Diversion Program, the case will be referred to the Judicial Bureau, where the  
3 person, if found liable for the violation, shall be assessed a civil penalty, the  
4 person's driver's license will be suspended, and the person's automobile  
5 insurance rates may increase substantially.

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

11 (f) Diversion Program requirements.

12 (1) Upon being contacted by a person who has been issued a notice of  
13 violation, the Diversion Program shall register the person in the Youth  
14 Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse  
15 Safety Program, the Diversion Program shall impose conditions on the person.  
16 The conditions imposed shall include only conditions related to the offense and  
17 in every case shall include a condition requiring satisfactory completion of  
18 substance abuse screening using an evidence-based tool and, if deemed  
19 appropriate following the screening, substance abuse assessment and substance  
20 abuse education or substance abuse counseling, or both. If the screener  
21 recommends substance abuse counseling, the person shall choose a State-

1 certified or State-licensed substance abuse counselor or substance abuse  
2 treatment provider to provide the services.

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

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

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

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

18 (4) If a person does not satisfactorily complete substance abuse  
19 screening, any required substance abuse education or substance abuse  
20 counseling, or any other condition related to the offense imposed by the  
21 Diversion Program, the Diversion Program shall file the summons and

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

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

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

15 (g) [Repealed.]

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

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

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

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

6           (2)(A) All information related to a suspension issued pursuant to  
7           subdivision (a)(2) of this section shall be held strictly confidential and not  
8           released without the participant's prior consent.

9           (B) Any records or information produced or acquired pursuant to a  
10          suspension issued pursuant to subdivision (a)(2) of this section shall be exempt  
11          from public inspection or copying under Vermont's Public Records Act.

12          Sec. 2. REPEALS

13          (a) 7 V.S.A. § 657a is repealed.

14          (b) 23 V.S.A. § 1216 is repealed.

15          Sec. 3. EFFECTIVE DATE

16          This act shall take effect on July 1, 2025.