

Total Abstinence Program:

- **Statute:** 23 V.S.A. §1209a
- **Rationale:**
 - (b)(3) – individuals have submitted proof of ignition interlock use for three years not immediately preceding application, which provides no evidence of how the individual is doing with the IID and whether they have had any issues.
 - (b)(4) – Allows for sample if an officer has reasonable grounds to believe the person is in violation of the total abstinence program.
 - (b)(6) – An applicant for the total abstinence program certifies that they have not consumed alcohol or drugs not in accordance with a valid prescription in the immediate three years as part of the application.
 - (b)(7) – An individual not residing in Vermont is not a resident and is not eligible to hold a Vermont credential. The liability of the State of Vermont to remove an individual from a RDL and not be able to monitor said individual is extremely high.

- **Language:**

(b)(3) If the Commissioner or a medical review board convened by the Commissioner is satisfied by a preponderance of the evidence that the applicant has maintained total abstinence for the three years immediately preceding the application, has successfully completed a therapy program as required under this section, and has operated under a valid ignition interlock RDL or under an ignition interlock certificate following the suspension or revocation for at least the three years immediately preceding the application, and the applicant provides a written acknowledgment that the applicant must maintain total abstinence at all times while participating in the Total Abstinence Program, the applicant's license or privilege to operate shall be reinstated immediately, subject to the condition that the applicant's suspension or revocation will be put back in effect in the event any further investigation reveals a failure to maintain total abstinence and to any additional conditions as the Commissioner may impose to advance the public interest in public safety. This shall include providing a sample for a urinalysis examination / breath sample /swab sample, if requested by any law enforcement officer or motor vehicle inspector at any time if reasonable grounds exist that the participant is violating the terms of the Total Abstinence Program. The requirement to operate under an ignition interlock RDL or ignition interlock certificate shall not apply if the applicant is exempt under subdivision (a)(4) of this section.

(b)(4) If after acceptance into the TA Program, ~~notice and an opportunity for a hearing~~ the Commissioner ~~later~~ reasonably finds that the individual was violating the conditions of the individual's reinstatement TA Program under this subsection, or refuses to comply with the reasonable request by any law enforcement officer or motor vehicle inspector to provide a breath sample and or sample for urinalysis when reasonable grounds exist, the individual's operating license or privilege to operate shall be immediately suspended or revoked for life and the individual will be provided opportunity to request a hearing.

(A) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in

violation of section 1201 or 1209a(b) of this title and that the person refused to submit to a test, the Commissioner shall remove the person from the Total Abstinence program.

(b)(6) An individual shall be eligible for reinstatement under this subsection only once following a suspension or revocation for life. This includes a failed attempt at reinstatement due to the fact that the person is found to have consumed drugs or alcohol during the past three years immediately prior to their application to the TA program.

~~(b)(7)(A) If an applicant for reinstatement under this subsection (b) resides in a jurisdiction other than Vermont, the Commissioner may elect not to conduct an investigation. If the Commissioner elects not to conduct an investigation, the Commissioner shall provide a letter to the applicant's jurisdiction of residence stating that Vermont does not object to the jurisdiction issuing the applicant a license if the applicant is required to operate only vehicles equipped with an ignition interlock device for at least a three-year period, unless exempt under subdivision (a)(4) of this section, and is required to complete any alcohol rehabilitation or treatment requirements of the licensing jurisdiction.~~

~~(b)(7)(B) If the applicant's jurisdiction of residence is prepared to issue or has issued a license in accordance with subdivision (A) of this subdivision (7) and the applicant satisfies the requirements of section 675 of this title, the Commissioner shall update relevant State and federal databases to reflect that the applicant's lifetime suspension or revocation in Vermont under this subchapter has terminated.~~
