

No. 41. An act relating to miscellaneous changes to laws related to vehicles.

(S.99)

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

* * * New Motor Vehicle Arbitration * * *

Sec. 1. 9 V.S.A. § 4173(d) is amended to read:

(d) Within the 45-day period set forth in subsection (c) of this section but at least five days prior to hearing, the manufacturer shall have one final opportunity to correct and repair the defect that the consumer claims entitles ~~him or her~~ the consumer to a refund or replacement vehicle. Any right to a final repair attempt is waived if the manufacturer does not complete it at least five days prior to hearing. If the consumer is satisfied with the corrective work done by the manufacturer or ~~his or her~~ the manufacturer's delegate, the arbitration proceedings shall be terminated without prejudice to the consumer's right to request arbitration be recommenced ~~if the repair proves unsatisfactory~~ for the duration of the within one year following the expiration of the express warranty term in accordance with subsection 4179(a) of this title.

* * * Definition of Mail * * *

Sec. 2. 23 V.S.A. § 4(87) is added to read:

(87) "Mail," "mail or deliver," "mails," "mails or delivers," "mailing," "mailing or delivering," "mailed," and "mailed or delivered" mean any method of delivery authorized by the Commissioner, which may include by hand, U.S. mail, and electronic transmission.

feature of the device or the motor vehicle being operated and without the operator utilizing either hand to hold the portable electronic device;

(C) ~~When~~ when use of a portable electronic device is necessary for an individual to communicate with law enforcement or emergency service personnel under emergency circumstances or in response to a direction or order from law enforcement;

(D) ~~To~~ to use of an ignition interlock device, as defined in section 1200 of this title;

(E) ~~To~~ to use of a global positioning or navigation system if it is installed by the manufacturer or securely mounted in the vehicle ~~in a manner that does not violate section 1125 of this title. As used in this subdivision (b)(3)(E), “securely mounted” means the device is placed in an accessory or location in the vehicle, other than the operator’s hands, where the device will remain stationary under typical driving conditions; or~~

(F) when the operator has moved the motor vehicle to the side of or off the public highway and has halted, with or without the motor running, in a location where the vehicle can safely and lawfully remain stationary.

* * *

* * * Total Abstinence Program * * *

Sec. 19. 23 V.S.A. § 1209a is amended to read:

§ 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND

DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

(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:

(1) In the case of a first suspension, a license or privilege to operate shall be reinstated only:

(A) after the ~~person~~ individual has successfully completed the Alcohol and Driving Education Program, at the ~~person's~~ individual's own expense, followed by an assessment of the need for further treatment by a State-designated counselor, at the ~~person's~~ individual's own expense, to determine whether reinstatement should be further conditioned on satisfactory completion of a therapy program agreed to by the ~~person~~ individual and the Drinking Driver Rehabilitation Program Director;

(B) if the screening indicates that therapy is needed, after the ~~person~~ individual has satisfactorily completed or shown substantial progress in completing a therapy program at the ~~person's~~ individual's own expense agreed to by the ~~person~~ individual and the Driver Rehabilitation Program Director;

(C) if the ~~person~~ individual elects to operate under an ignition interlock RDL or ignition interlock certificate, after the ~~person~~ individual operates under the RDL or certificate for the applicable period set forth in subsection 1205(a) or section 1206 of this title, plus any extension of this period arising from a violation of section 1213 of this title; and

(D) if the ~~person~~ individual has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(2) In the case of a second suspension, a license or privilege to operate shall not be reinstated until:

(A) the ~~person~~ individual has successfully completed an alcohol and driving rehabilitation program;

(B) the ~~person~~ individual has completed or shown substantial progress in completing a therapy program at the ~~person's~~ individual's own expense agreed to by the ~~person~~ individual and the Driver Rehabilitation Program Director;

(C) after the ~~person~~ individual operates under an ignition interlock RDL or ignition interlock certificate for 18 months or, in the case of a ~~person~~ someone subject to the one-year hard suspension prescribed in subdivision 1213(a)(1)(C) of this title, for one year, plus any extension of the relevant period arising from a violation of section 1213 of this title, except if otherwise provided in subdivision (4) of this subsection (a); and

(D) the ~~person~~ individual has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(3) In the case of a third or subsequent suspension or a revocation, a license or privilege to operate shall not be reinstated until:

(A) the ~~person~~ individual has successfully completed an alcohol and driving rehabilitation program;

(B) the ~~person~~ individual has completed or shown substantial progress in completing a therapy program at the ~~person's~~ individual's own expense agreed to by the ~~person~~ individual and the Driver Rehabilitation Program Director;

(C) the ~~person~~ individual has satisfied the requirements of subsection (b) of this section; and

(D) the ~~person~~ individual has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(4) The Commissioner shall waive a requirement under subdivision (2) of this subsection or subsection (b) of this section that ~~a person~~ an individual operate under an ignition interlock RDL or certificate prior to eligibility for reinstatement if:

(A) the ~~person~~ individual furnishes sufficient proof as prescribed by the Commissioner that ~~he or she~~ the individual is incapable of using an ignition interlock device because of a medical condition that will persist permanently or at least for the term of the suspension or, in the case of suspensions or revocations for life, for a period of at least three years; or

(B) the underlying offenses arose solely from being under the influence of a drug other than alcohol.

(b) Total Abstinence Program.

(1) As used in this subsection:

(A) “Drug” means:

(i) a regulated drug, as defined in 18 V.S.A. § 4201, that is used in any way other than as prescribed for a legitimate medical use in conformity with instructions from the prescriber; or

(ii) any substance or combination of substances, other than alcohol or a regulated drug, that potentially affects the nervous system, brain, or muscles of an individual so as to impair an individual's ability to drive a vehicle safely to the slightest degree.

(B) "Total abstinence" means refraining from consuming any amount of alcohol or drugs at any time, regardless of whether the alcohol or drugs are consumed by an individual when attempting to operate, operating, or in actual physical control of a vehicle.

(2)(A) Notwithstanding any other provision of this subchapter, a ~~person~~ an individual whose license or privilege to operate has been suspended or revoked for life under this subchapter may apply to the Commissioner for reinstatement of ~~his or her~~ the individual's driving privilege if the individual satisfies the requirements set forth in subdivision (3) of this subsection (b).

~~The person shall have completed three years of total abstinence from consumption of alcohol and nonprescription regulated drugs. The use of a regulated drug in accordance with a valid prescription shall not disqualify an applicant for reinstatement of his or her driving privileges unless the applicant used the regulated drug in a manner inconsistent with the prescription label.~~

(B) The beginning date for the period of total abstinence shall be not earlier than the effective date of the suspension or revocation from which the ~~person~~ individual is requesting reinstatement and shall not include any period during which the ~~person~~ individual is serving a sentence of incarceration to include furlough. The application shall include the applicant's authorization for a urinalysis examination, or another examination if it is approved as a preliminary screening test under this subchapter, to be conducted prior to reinstatement under this subdivision (2). The application to the Commissioner shall be accompanied by a fee of \$500.00. The Commissioner shall have the discretion to waive the application fee if the Commissioner determines that payment of the fee would present a hardship to the applicant.

~~(2)(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 ~~abstained for the required number of years~~ 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 for at least three years following the suspension or revocation, and the ~~person~~ applicant provides a written acknowledgment that ~~he or she cannot drink any amount of alcohol at all and cannot consume nonprescription regulated drugs under any circumstances~~ the applicant must maintain total abstinence at all times while participating in the Total

Abstinence Program, the ~~person's~~ applicant's license or privilege to operate shall be reinstated immediately, subject to the condition that the ~~person's~~ applicant's suspension or revocation will be put back in effect in the event any further investigation reveals a ~~return to the consumption of alcohol or drugs~~ failure to maintain total abstinence and to ~~such~~ any additional conditions as the Commissioner may impose to advance the public interest in public safety. The requirement to operate under an ignition interlock RDL or ignition interlock certificate shall not apply if the ~~person~~ applicant is exempt under subdivision (a)(4) of this section.

~~(3)~~(4) If after notice and an opportunity for a hearing the Commissioner later finds that the ~~person~~ individual was violating the conditions of the ~~person's~~ individual's reinstatement under this subsection, the ~~person's~~ individual's operating license or privilege to operate shall be immediately suspended or revoked for life.

~~(4)~~(5) If the Commissioner finds that a ~~person~~ an individual reinstated under this subsection is suspended pursuant to section 1205 of this title or is convicted of a violation of section 1201 of this title subsequent to reinstatement under this subsection, the ~~person~~ individual shall be conclusively presumed to be in violation of the conditions of ~~his or her~~ the reinstatement.

~~(5)~~(6) ~~A person~~ An individual shall be eligible for reinstatement under this subsection only once following a suspension or revocation for life.

~~(6)~~(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, ~~he or she~~ 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) If the applicant's jurisdiction of residence is prepared to issue or has issued a license in accordance with subdivision (A) of this subdivision (6) 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 chapter 13, subchapter 13 of this title has terminated.

(c) Screening and therapy programs. In the case of a second or subsequent suspension, the Commissioner shall notify the ~~person that he or she is required~~ individual of the requirement to enroll in the alcohol and driving education screening and therapy program provided for in this section within 30 days ~~of~~ after license suspension. If the ~~person~~ individual fails to enroll or fails to remain so enrolled until completion, the Drinking Driver Rehabilitation

Program shall report such failure to the sentencing court. The court may order the ~~person~~ individual to appear and show cause why ~~he or she~~ the individual failed to comply.

(d) Judicial review. ~~A person~~ An individual aggrieved by a decision of a designated counselor under this section may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

* * *

Sec. 20. CURRENT TOTAL ABSTINENCE PROGRAM PARTICIPANTS

(a) Not later than September 1, 2023, the Commissioner of Motor Vehicles shall provide written notice to all individuals participating in or applying to participate in the Total Abstinence Program as of the effective date of this section of amendments to 23 V.S.A. § 1209a and that, as of the effective date of this section, they must maintain total abstinence, as defined in 23 V.S.A. § 1209a(b)(1) as amended by Sec. 19 of this act, at all times while participating in or applying to participate in the Total Abstinence Program. Notice shall be mailed to an individual's residence or mailing address as currently listed with the Department of Motor Vehicles.

(b) Notwithstanding any provision of law to the contrary, the license or privilege to operate of an individual participating in the Total Abstinence Program on the effective date of this section may be suspended or revoked for life in accordance with 23 V.S.A. § 1209a(b)(3), as amended by Sec. 19 of this act, in the event that any further investigation reveals a failure to maintain total

abstinence, as defined in 23 V.S.A. § 1209a(b)(1) as amended by Sec. 19 of this act.

* * * Overweight Permits * * *

Sec. 21. 23 V.S.A. § 1392 is amended to read:

§ 1392. GROSS WEIGHT LIMITS ON HIGHWAYS

Except as provided in section 1400 of this title, a person or corporation shall not operate or cause to be operated a motor vehicle in excess of the total weight, including vehicle, object, or contrivance and load, of:

* * *

(3) No vehicle may exceed a gross weight in excess of 80,000 pounds unless the operator or owner of the vehicle has complied with the provisions of section 1400 of this title or except as otherwise provided in this section.

* * *

(13) Despite the axle-load provisions of section 1391 of this title and the maximum gross load of subdivision (4) of this section, a special annual permit, which shall expire with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following date of issue, may be issued to a person ~~or corporation~~ operating on designated routes on the State Highway System for a fee of ~~\$415.00~~ \$382.00 for each vehicle ~~that must be~~ registered for a weight of 80,000 pounds. This special permit shall be issued only for a combination of vehicle and semi-trailer or trailer equipped with five or more axles, with a distance between

police department, the Department of Public Safety, and the Department of Fish and Wildlife for purposes of trail compliance pursuant to this chapter. The Departments of Public Safety and of Fish and Wildlife are authorized to contract with VASA to provide these law enforcement services. The ~~Agency of Natural Resources~~ Department of Forests, Parks and Recreation shall retain for its use up to \$7,000.00 during each fiscal year to be used for administration of the State grant that supports this ~~program~~ Program.

* * * Effective Dates * * *

Sec. 47. EFFECTIVE DATES

(a) This section and Secs. 1 (new motor vehicle arbitration; 9 V.S.A. § 4173(d)), 2 (definition of mail; 23 V.S.A. § 4(87)), 14 (validation sticker requirements in rule), 15 (electronic proof of registration; 23 V.S.A. § 307), 16 and 17 (plug-in electric vehicle registration fees; 23 V.S.A. §§ 361 and 362), 20 (current Total Abstinence Program participants), and 23 and 24 (electronic permits; 23 V.S.A. §§ 1392(21) and 1455) shall take effect on passage.

(b) Sec. 19 (Total Abstinence Program; 23 V.S.A. § 1209a) shall take effect on passage and apply to all individuals participating in or in the process of applying to participate in the Total Abstinence Program as of the effective date of this section without regard to when the individual's license was reinstated under the Total Abstinence Program.

(c) Secs. 4–13 (license plate stickers; validation stickers) shall take effect on November 1, 2023.

(d) Secs. 25–28 (title; 23 V.S.A. §§ 2012, 2013, 2017, and 2091(a)) shall take effect upon completion of the vehicle services module of the DMV Core System Modernization project.

(e) Sec. 37 (commercial driver’s license clearinghouse; 23 V.S.A. § 4108) shall take effect on November 18, 2024.

(f) All other sections shall take effect on July 1, 2023.

Date Governor signed bill: June 1, 2023