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LAW ENFORCEMENT BULLETIN #16-02 JUNE 29, 2016

Changes to Motor Vehicle Laws

Act 147 – An Act Related to Driver’s License Suspensions and Judicial, Criminal Justice, and Insurance Topics

Act 158 – An Act Related to the Transportation Capital Program and Miscellaneous Changes to Transportation-Related Law

Act 169 – An Act Relating to Privacy Protection and a Code of Administrative Rules

There were numerous changes to Vermont’s motor vehicle laws this past legislative session that law enforcement officers should be aware of. These changes are contained in Acts 147, 158 and 169. The following information highlights the sections of the Acts we feel would be of most interest to law enforcement officers. These sections become law on July 1, 2016 unless otherwise noted. You can view the Acts in their entirety on the legislative home page of the state website: <http://legislature.vermont.gov/bill/search/2016>

Act No. 147 (H.571) An act relating to driver’s license suspensions and judicial, criminal justice, and insurance topics

- Section 1: Pre-July 1, 1990 Criminal Traffic Offenses. All FAP suspensions stemming from traffic tickets issued before July 1, 1990 have been made eligible for reinstatement and applicable reinstatement fees have been waived.
- Section 2: Driver Restoration Program to run 9/1/2016 - 11/30/2016 to be administered by the Vermont Judicial Bureau. Traffic tickets issued 7/1/1990 - 6/20/2012 are eligible to be reduced to \$30 through the VJB. Commercial vehicle and DUI related violations are not eligible for reduction through the program
- Section 3: Repealed and terminated driver’s license suspensions imposed under Titles 7 V.S.A. § 656(g), 7 V.S.A. § 1005, 13 V.S.A. § 1753, 18 V.S.A. § 4230b(g) and 32 V.S.A. § 8909 which are penalties for nondriving conduct. License suspensions for the following violations are made eligible for reinstatement:
 - Failure to pay a fine on underage alcohol possession (16A, 16B, 16C)
 - Underage tobacco possession (TOB, TO2, CIG, CI2, CHU)
 - False public alarm (ED1, ED2, ED3, ED4, ED5)
 - Failure to pay a fine on underage marijuana possession (MJ1, MJ2)
 - Individuals failing to pay P&U tax (PU)

- Section 5: Repeals 23 V.S.A. § 2307, but provisions of this repealed law were reenacted as amended so FAF suspensions are now limited to 30 days and only apply to FAF suspensions when the underlying ticket had points on a person's record. The \$30/30 plan offered through the Vermont Judicial Bureau (VJB) has been modified to \$30 per ticket per month with a maximum monthly payment of \$100.
- Section 6 – 15: Repealed Suspensions for Nonpayment of Civil Penalties for 7 V.S.A. § 656(g), 7 V.S.A. § 1005, 13 V.S.A. § 1753, 18 V.S.A. § 4230b(g) and 32 V.S.A. § 8909
- Section 16: 23 V.S.A. § 674 (a)(2) criminalizes a third civil offense for driving with a license suspended (DLS) when the two prior offenses have occurred within two years of the third offense and after December 1, 2016, and repeals a provision that requires civil DLS offenses arising from suspensions for unpaid traffic violation judgments that have since been paid not to count as prior offenses.
- Section 17: Crime for Operating Without a License 23 V.S.A. § 601(g) is amended for a second violation for driving without obtaining a license (NL) within a two-year period is subject to a criminal charge (NLC). This is not a traffic ticket offense. There will not be any flag used, it will be up to the officer making the stop to determine the charge based upon the driver's record. A driver who violates this section after a previous conviction under this section within the prior two years shall be subject to imprisonment for not more than 60 days or a fine of not more than \$5,000.00, or both. An unsworn printout of the person's Vermont motor vehicle conviction history may be admitted into evidence to prove a prior conviction under this section.
- Section 18-20: Amends 23 V.S.A. § 4(44) to exclude (C) motorcycle headgear under section 1256 of this title from being categorized as a "Moving violation." It also eliminates 2 points for motorcycle headgear violation but applies 2 points for failure to wear eyewear while operating a motorcycle as required under 1257.
- Section 21: Addresses training about the VJB payment plan options for traffic violations. Officers are encouraged to tell motorists at the time of issuing a traffic ticket about the VJB payment plan option. The legislature recommended the VJB update materials enforcement officers provide to persons issued a complaint for a traffic violation about payment plan options and of the person's right to request a hearing on ability to pay. Further recommendations included prominently displaying on its website information about the existence of payment plan options for traffic violation judgments and the right of a person issued a complaint for a traffic violation to request a hearing on ability to pay. The Agency of Transportation is tasked with carrying out a campaign to raise public awareness of traffic violation judgment payment plan options and of a person's right to request a hearing before a Judicial Bureau hearing officer on his or her ability to pay a Judicial Bureau judgment.
- Section 24: 12 V.S.A. § 5784 provides Immunity for the Forcible Entry of Motor Vehicle for Rescue Purposes. Limits the liability of a person who forcibly enters a motor vehicle to remove a child or animal if the person reasonably and in good faith believes that the child or animal is in imminent danger of harm and if certain other conditions are satisfied.
 - (1) determines the motor vehicle is locked or there is otherwise no reasonable method for the child or animal to exit the vehicle;
 - (2) reasonably and in good faith believes that forcible entry into the motor vehicle is necessary because the child or animal is in imminent danger of harm;

- (3) notifies local law enforcement, fire department, or a 911 operator prior to forcibly entering the vehicle;
- (4) remains with the child or animal in a safe location reasonably close to the motor vehicle until a law enforcement, fire, or other emergency responder arrives;
- (5) places a notice on the vehicle that the authorities have been notified and specifying the location of the child or animal; and (6) uses no more force to enter the vehicle and remove the child or animal than necessary under the circumstances.

EFFECTIVE DATES:

Sec. 1 (termination of suspensions arising from pre-1990 failures to appear on criminal traffic offense charges), Sec. 2(e) (public awareness campaign), Sec. 3 (termination of suspensions repealed in act), and Secs. 4–15 (amendment or repeal of license suspension and registration refusal provisions and underage alcohol and marijuana crimes shall take effect on passage. All other sections shall take effect on July 1, 2016.

<http://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT147/ACT147%20As%20Enacted.pdf>

Act No. 158 (H.876) An act relating to the transportation capital program and miscellaneous changes to transportation-related law

Vulnerable Users

- Section 39 - 44: 23 V.S.A. § 1033, 1035, 1047, 1049, 1064, 1136, 1139, and 1142. Amends current laws regarding safe passing to provide the duty of motor vehicles to exercise due care when passing vulnerable users which includes increasing clearance to a recommended distance of at least four feet. Amended the duties of a vehicle when it crosses to the left of the center of a highway in order to prohibit the vehicle from passing unless the passing movement can be made without interfering with a vulnerable user. Requires drivers of vehicles entering a highway from a private road to yield the right of way to vulnerable users approaching on the highway. Grants a bicyclist flexibility to not give hand signals when turning (or when significantly slowing down), and to not give such signals continuously for 100 feet, when the bicyclist cannot give the signals safely. Amends current law governing duties of vehicles turning left to establish a duty to turn left only when the turn can be made at a “safe distance” from a vulnerable user. Amends the existing standard that bicyclists must generally ride as near to the right side of a roadway as is “practicable” to specify that bicyclists must ride as near to the right of the improved area of the highway right-of-way as is “safe.” Amends the existing law that creates exceptions for when a bicyclist must ride to the left in a roadway to allow, but not require, bicyclists to ride to the left when taking precautions to avoid hazards and road conditions and provides examples of such hazards. Lastly raises from \$25.00 to \$100.00 the maximum penalty for violating the law that requires bicyclists to ride no more than two abreast and not to impede the normal and reasonable movement of traffic when riding two abreast.

Ignition Interlock Devices

- Section 45-52: Ignition Interlock Devices makes several changes to Vermont’s current law governing DUI suspensions and ignition interlock restricted driver’s licenses (RDLs), including establishing an “ignition interlock certificate” for nonresidents. Eliminates “hard” suspension periods prior to eligibility for an ignition interlock RDL or certificate except in

the case of a person whose offense involves death or serious bodily injury to another person or involves refusal of a law enforcement officer's reasonable request for an evidentiary test. Makes operation under an ignition interlock RDL or certificate "mandatory" for second or subsequent DUI offenders by requiring such offenders to operate under an RDL or certificate prior to being eligible for reinstatement of their regular operator's license or privilege to operate. Eliminates requirements that a person operate under an RDL for a period longer than his or her initial suspension period as well as eliminating the requirement that a person be enrolled in an Alcohol and Driving Education Program prior to being eligible to obtain an ignition interlock RDL. A transition provision at the end of the act provides that the provision of the act that requires operation under an ignition interlock RDL as a condition of eligibility for reinstatement of the operator's license or privilege to operate of a second or subsequent DUI offender shall apply only in connection with a second or subsequent DUI offense that occurs on or after July 1, 2016.

Refusal to take an evidentiary test (CT1,CT2,CT3,CT4,CT5, 21C,21D) convictions are now eligible for RDL use following a hard suspension of:

- 1st offense – 30 days
- 2nd offense – 90 days
- 3rd or subsequent – 1 year plus Total abstinence Program

A person choosing to use an IID for their first offense must have the device for 90-days without any extensions.

IID use is mandatory for reinstatement for second and subsequent driving under the influence convictions, unless waived due to a medical exemption (inability to blow one liter of breath into the machine), or the conviction resulted solely from drug use

- 2nd offense – 18 months
- 3rd or subsequent – 3 years plus Total Abstinence Program

DUI with death or serious bodily injury resulting carry a one-year hard suspension that must be served prior to applying for an RDL or Ignition Interlock Certificate

IID manufacturers and providers must agree to provide a discount of 50% to applicants who prove receipt of 3SquaresVT, LIHEAP, Reach Up, or like benefits from another state

Persons under 21 with an alcohol concentration of .02 or more are eligible to apply for an RDL or Ignition Interlock Certificate which must be used for the following length of time if the applicant chooses to apply:

- (1) 1st offense – 6 months
- (2) 2nd or subsequent – 1 year or until 21st birthday, whichever is longer

Motor Assisted Bicycles

- Section 56: 23 V.S.A. § 4 Motor-assisted Bicycles. Defines "motor-assisted bicycle" to mean a bicycle or tricycle with fully operable pedals that is equipped with a motor that has a power output of not more than 1,000 watts or 1.3 horsepower and is itself capable of producing a top speed of no more than 20 miles per hour on a paved level surface when ridden by an operator who weighs up to 170 pounds. Provides that motor-assisted bicycles are generally to

be governed by Vermont laws applicable to bicycles, and are exempt from registration, licensing, and inspection requirements; may not be operated on a sidewalk in Vermont; and may not be operated on a Vermont highway by a person under 16 years of age.

Exhibition Vehicles

- Section 60: Exhibition Vehicles; Year of Manufacture Plates 23 V.S.A. § 373 expands the authorized use of year-of-manufacture license plates on vehicles registered as exhibition vehicles in order to allow such plates to be displayed on such vehicles of a model year prior to 1968.

Licenses

- Section 61 - 63: 23 V.S.A. § 208 Recognition of Out-of-State Licenses, Permits, and Registrations repeals and reenacts (with minor modifications) a law that governs the recognition of out-of-state licenses, permits, and registrations and adds to the law governing operator's licenses a provision of existing law that authorizes operation of a motor vehicle in Vermont under a foreign country license for up to 30 days for vacation purposes.

Smugglers Notch

- Section: 68 23 V.S.A. § 1006b prohibits the operation of commercial vehicles on the Smugglers' Notch segment of VT Route 108 and specifies the penalties for a violation. The commercial vehicles prohibited from using this segment are truck-tractor-semitrailer combinations and truck-tractor-trailer combinations.

Tire Chains

- Section 69 23 V.S.A. § 1006c gives the Secretary of Transportation, the Commissioner of Motor Vehicles, and the Commissioner of Public Safety authority to require the use of tire chains on vehicles with a weight rating of more than 26,000 pounds, and specifies how the chains must be affixed for different vehicle configurations as well as the penalties for a violation. This would apply to the Vermont Route 9 corridor between Bennington and Brattleboro.

EFFECTIVE DATES:

APPLICABILITY TO DUI MATTERS This section shall take effect on passage. The requirement for a second or subsequent DUI offender to operate under an ignition interlock RDL or certificate as a condition of eligibility for reinstatement of the offender's regular operator's license or privilege to operate, created under Sec. 46, amending 23 V.S.A. § 1209a, shall apply only in connection with a second or subsequent DUI offense that occurs on or after July 1, 2016.

<http://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT158/ACT158%20As%20Enacted.pdf>

Act No. 169 (S.155). Judiciary; public records; executive branch An act relating to privacy protection and a code of administrative rules

Automated License Plate Readers (ALPR) Systems and Data

- Section 6 Sunset of Laws Governing Use of Automated License Plate Recognition (ALPR) Systems and Data. Extends by two years, from July 1, 2016 to July 1, 2018, the repeal of 23

V.S.A. §§ 1607 and 1608, which regulate the use of ALPR systems and the use and retention of ALPR data.

- Section 7 Analysis of ALPR System-Related Costs and Benefits. Directs the Department of Public Safety, in consultation with the Joint Fiscal Office, to analyze all present and projected costs associated with ALPR systems used by law enforcement in Vermont and conduct a cost-benefit analysis of the use of the systems, and to report its findings to the House and Senate Committees on Judiciary and on Transportation on or before January 15, 2017.
- Section 8-9 Amendments to Laws Governing Law Enforcement Use of ALPR Systems and Data. Amends the existing law governing the use of ALPR systems and the use and retention of ALPR data to provide that: a “legitimate law enforcement purpose” for the use of ALPR systems and data includes a person’s defense against certain charges and does not include enforcement of parking or traffic violations other than commercial motor vehicle violations; access to active ALPR data stored on individual ALPR units and to historical data stored on the statewide database maintained by the Department of Public Safety will require a person to cite “specific and articulable facts showing that there are reasonable grounds to believe that the data are relevant and material to an ongoing criminal, missing person, or commercial motor vehicle investigation or enforcement action;” access to historical ALPR data will be governed by this standard for the first six months after the data creation and that after six months, the data will only be accessible pursuant to a warrant if not requested in connection with a pending criminal charge or pursuant to a court order by the prosecution or the defense in connection with a pending criminal charge; and the Department of Motor Vehicles, in connection with commercial motor vehicle enforcement activities, may manage a separate database of ALPR data. In addition, the act also amends the existing law to expand the annual reporting requirements of the Department of Public Safety and to require the Department to adopt rules on or before January 1, 2018 to implement the law.
- Section 10 Information Related to Use of Ignition Interlock Devices. Provides that data in the custody of a public agency related to the use of an ignition interlock device shall not be disclosed except pursuant to a warrant, in the case of an emergency, or in connection with an enforcement proceeding for violating the law regulating persons who operate under an ignition interlock restricted driver’s license.

EFFECTIVE DATES:

Secs. 6–7 shall take effect on passage. Secs. 8–10 shall take effect on July 1, 2016, except that in Sec. 8, 23 V.S.A. § 1607(e)(1) (oversight, reporting) shall take effect on January 16, 2017.

<http://legislature.vermont.gov/bill/status/2016/S.0155>

LAW ENFORCEMENT REQUEST FOR ASSISTANCE VIA EMAIL

Please be advised due to staffing changes and to improve responses to written requests for assistance, the Enforcement & Safety Division has created two new e-mail addresses. All law enforcement requests for information should be emailed to: DMV-Enforcement@vermont.gov. This change is designed to reduce wait times due to individual personnel being available to respond. These requests are being handled by the Administrative Support Unit within the Enforcement & Safety Division.

If there is something of a confidential and sensitive, on holidays or afterhours, these requests can be emailed to Kathy.Codling@vermont.gov who will respond to the requests as soon as practicable.

If you have questions regarding Dealers and Inspections an email address for our Dealer and Inspection clerks has also been created at DMV-DealersInspections@vermont.gov.

Please contact me if you have any questions by phone at 828-2156 or by e-mail at william.elovirta@vermont.gov.



Colonel William (Jake) Elovirta
Director - Enforcement & Safety Division

June 30, 2016

Date