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Introduced by Representatives Arsenault of Williston, Dolan of Essex  
Junction, and Rachelson of Burlington

Referred to Committee on

Date:

Subject: Crimes; driving with license suspended; decriminalization

Statement of purpose of bill as introduced: This bill proposes to create a civil violation for individuals who commit a nonmoving violation of a motor vehicle after the individuals' privilege to operate a motor vehicle is suspended or revoked for a third or subsequent time within a two-year period of the first offense.

An act relating to decriminalizing nonmoving DLS violations for third-time offenders

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

Sec. 1. 23 V.S.A. § 674 is amended to read:

§ 674. OPERATING AFTER SUSPENSION OR REVOCATION OF

LICENSE; PENALTY; REMOVAL OF REGISTRATION PLATES;

TOWING

(a)(1) Except as provided in section 676 of this title, a person whose license or privilege to operate a motor vehicle has been suspended or revoked for a

1 violation of this section or subsection 1091(b), 1094(b), or 1128(b) or (c) of  
2 this title and who operates or attempts to operate a motor vehicle upon a public  
3 highway before the suspension period imposed for the violation has expired  
4 shall be imprisoned not more than two years or fined not more than \$5,000.00,  
5 or both.

6 (2) ~~A~~ On or after December 1, 2016, a person who violates section 676  
7 of this title for the third or subsequent time shall, if the two prior offenses  
8 occurred within two years of the third offense and ~~on or after December 1,~~  
9 ~~2016~~ the basis for the third or subsequent offense is a moving violation, be  
10 imprisoned not more than two years or fined not more than \$5,000.00, or both.

11 (3) Violations of section 676 of this title that occurred prior to the date a  
12 person successfully completes the DLS Diversion Program shall not be  
13 counted as prior offenses under subdivision (2) of this subsection.

14 (b) Except as authorized in section 1213 of this title, a person whose  
15 license or privilege to operate a motor vehicle has been suspended or revoked  
16 for a violation of section 1201 of this title or has been suspended under section  
17 1205 of this title and who operates or attempts to operate a motor vehicle upon  
18 a public highway before reinstatement of the license shall be imprisoned not  
19 more than two years or fined not more than \$5,000.00, or both. The sentence  
20 shall be subject to the following mandatory minimum terms:

1           (1) For the first offense, the defendant shall pay a mandatory minimum  
2 fine of \$300.00 or complete 40 hours of community service. In the event that  
3 no term of imprisonment, suspended or to serve, is imposed, the community  
4 service shall be performed within 120 days. Failure to submit proof of  
5 completion of the 40 hours within 120 days shall constitute civil contempt  
6 unless the defendant requests an extension for good cause shown prior to  
7 expiration of the 120 days.

8           (2) For a second offense occurring within five years, the defendant shall  
9 pay a mandatory minimum fine of \$750.00 or complete 80 hours of community  
10 service. In the event that no term of imprisonment, suspended or to serve, is  
11 imposed, the community service shall be performed within 120 days. Failure  
12 to submit proof of completion of the 80 hours within 120 days shall constitute  
13 civil contempt unless the defendant requests an extension for good cause  
14 shown prior to expiration of the 120 days.

15           (3) For the third offense occurring within five years, the defendant shall  
16 serve at least 12 days of preapproved furlough with community restitution.

17           (4) For the fourth offense occurring within five years, the defendant  
18 shall serve at least 18 days of preapproved furlough with community  
19 restitution.

1           (5) For the fifth and subsequent offenses occurring within five years, the  
2 defendant shall be imprisoned at least 16 consecutive days in a correctional  
3 facility. The sentence ~~may~~ shall not be suspended or deferred.

4           (c) An enforcement officer shall have the authority to remove any number  
5 plates from a motor vehicle that is being operated by a person in violation of  
6 subsection (a) or (b) of this section. The Commissioner shall be notified in  
7 writing and may, in ~~his or her~~ the Commissioner's sole discretion, cause the  
8 plates to be returned to the registered owner or lessee for good cause shown.

9           (d) Notwithstanding any other provision of this title, when a conviction for  
10 a violation of this section and a conviction for a violation of section 1201 of  
11 this title result from the same incident, any penalty or suspension or revocation  
12 of a person's license or privilege to operate shall be imposed to be consecutive  
13 and not concurrent.

14           (e) In determining appropriate fines under this section, the court may take  
15 into account the income of the defendant.

16           (f) For purposes of this section and section 676 of this title, the suspension  
17 period for a violation of section 1201 or 1205 of this title shall not be deemed  
18 to expire until the person has complied with section 1209a of this title and the  
19 person's license has been reinstated.

20           (g) In establishing a prima facie case against a person accused of violating  
21 this section, the court shall accept as evidence a printout attested to by the law

1 enforcement officer as the person's motor vehicle record showing convictions  
2 and resulting license suspensions. The admitted motor vehicle record shall  
3 establish a permissive inference that the person was under suspension on the  
4 dates and time periods set forth in the record. No certified copy shall be  
5 required from the Department of Motor Vehicles to establish the permissive  
6 inference.

7 (h) At the time of sentencing after a second or subsequent conviction under  
8 subsection (b) of this section, the court may, in addition to any penalty  
9 imposed by law, order that the motor vehicle operated by the person at the time  
10 of the offense be immobilized. At the time of sentencing after a third or  
11 subsequent conviction under subsection (b) of this section, the court may, in  
12 addition to any penalty imposed by law, order that the motor vehicle operated  
13 by the person at the time of the offense be forfeited and sold. Immobilization  
14 and forfeiture procedures under this section shall be conducted in accordance  
15 with the procedures in section 1213c of this title.

16 (i) A person convicted of violating this section shall be assessed a  
17 surcharge of \$50.00, which shall be added to any fine or surcharge imposed by  
18 the court. The court shall collect and transfer the surcharge assessed under this  
19 subsection to be credited to the DUI Enforcement Fund. The collection  
20 procedures described in 13 V.S.A. § 5240 shall be utilized in the collection of  
21 this surcharge.

1       Sec. 2. EFFECTIVE DATE

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