

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2016**

Bill Number: H.560 Name of Bill: An act relating to traffic safety

Agency/Dept: Public Safety Author of Bill Lt. John Flannigan  
Review: \_\_\_\_\_

Date of Bill Review: 1/29/16 Related Bills and Key Players: Rep. Jewett

Status of Bill: (check one)

X Upon Introduction \_\_\_\_\_ As passed by 1<sup>st</sup> body \_\_\_\_\_ As passed by both bodies

Recommended Position:

\_\_\_\_\_ Support \_\_\_\_\_ Oppose X Remain Neutral \_\_\_\_\_ Support with modifications identified in # 8 below

**Analysis of Bill**

**1. Summary of bill and issue it addresses.**

This bill proposes to:

Section 1: Expand Vermont's DUI implied consent law in cases of a crash resulting in a fatality or serious bodily injury.

Sect. 2: Amend the definition of "ignition interlock restricted driver's license" to include DUI refusals.

Section 3: Requires operation under an ignition interlock restricted driver's license prior to eligibility for reinstatement of an operator's license or driving privilege following all DUI offenses.

Section 4-6: Remove the requirement for serving some suspension period prior to getting a Restricted Driver's License and prohibition against people with an offense resulting in serious bodily injury or death.

Section 7: Removes requirement for serving some suspension period prior to getting a Restricted Driver's License (RDL) for offenders under the age of 21.

Section 8: Mandates use of IID as condition of reinstatement; for 1st, 2nd, and 3rd convictions. Moves exemption for those incapable of providing adequate breath samples.

Section 9: Authorize the State to move for an order immobilizing the vehicle operated by a resident defendant during a DUI offense unless an ignition interlock device is installed.

Section 10: Amend the procedure for proving an innocent owner defense in a DUI - related immobilization or forfeiture proceeding.

Section 11: Modifies notice of suspension issued by Law Enforcement to include notice of immobilization and establishes procedures.

**Section 12:** Add a requirement to notify operator that by refusing evidentiary test the vehicle may be immobilized.

**Section 13:** Limit the liability of liquor licenses or permittees and servers that make alcohol screening tests available to persons served alcohol.

**Section 14:** Create an enhanced penalty for negligent operation of a motor vehicle resulting in death or serious bodily injury.

**Section 15:** Amend various definitions that apply throughout Title 23 and add a new definition for “vehicle”.

**Section 16 & 17:** Authorize bicyclists to proceed within crosswalks and pursuant to pedestrian control signals while riding on their bicycles and adds bicyclists to certain definitions.

**Section 18:** Amend motor vehicle laws to clarify the obligation of motorists to yield the right of way to bicyclists and other vulnerable users in various circumstances. Adds obligation of bicyclists to ride to right.

**Section 19:** Amend Vermont’s law requiring safe passing of vulnerable users to specify distances to pass a vulnerable user safely, to specify that in a civil action an unexcused violation of the vulnerable user passing law is negligence in itself, and to create a criminal penalty for a violation resulting in death or injury to a person other than the operator. Bicycle – vulnerable users (3 ft. to 4 ft. to biker).

**Section 20:** Requires a vehicle turning right to yield right of way to bicyclist passing on the right.

**Section 21:** Add vulnerable user to section regulating passing on the left.

**Section 22:** Modify general duty to yield, adds vulnerable user to regulations governing left and right turns.

**Section 23:** Add vulnerable user to section on stopping or yielding for vehicles at a stop or yield intersection.

**Section 24:** Add vulnerable user to section about vehicles entering from private roads.

**Section 25:** Authorize bicyclists to proceed within crosswalks and pursuant to pedestrian control signals while riding on their bicycles. Add bicyclists will yield right of way to pedestrians in crosswalks.

**Section 26:** Require bicyclists to give hand signals when turning, unless they cannot do so safely.

**Section 27:** Add vehicles must be parked on the ‘right’ edge of highway and add in an area with ‘authorized traffic control devices.’

**Section 28:** Specify that bicyclists must ride as near to the right side of the highway as is safe and elaborate on an exception to this general rule.

**Section 29:** Authorize municipalities to establish speed limits on town highways that are lower than 25 miles per hour.

**Section 30:** Establishes effective dates for the various sections.

2. Is there a need for this bill? Yes. Changes are need to make specific sections effective for desired outcomes.
3. What are likely to be the fiscal and programmatic implications of this bill for this Department? Possibly for Sections;

1. Required to test all operators in SBI and fatal crashes, could impact fiscally in overtime.
9. Would require an immobilization order to be served, if VSP is required to serve, could impact fiscally in overtime.
4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?  
Significant impacts to Vtrans / DMV and possibly judiciary both fiscally and programmatically.
5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)  
People convicted of DUI may oppose because of increased costs and no options to serve hard suspensions. Towns would bear the costs of signing and enforcing any regulations arising from the authority granted under this proposed legislation on speed and other road rules.
6. Other Stakeholders:

**6.1 Who else is likely to support the proposal and why?**

Local Motion (Vermont Bicycle and Pedestrian Coalition), organization is a voice for the biking and pedestrian community in Vermont.

**6.2 Who else is likely to oppose the proposal and why?**

Judiciary and State's Attorneys

7. Rationale for recommendation: *Justify recommendation stated above.*

While section 1 requires all operators to submit to an evidentiary test in crashes involving SBI or death, this may be seen as 4<sup>th</sup> amendment violation without justification. VT is currently has an "any amount" standard. However, this would help with better fatal crash data on drug and alcohol use.

Sections 2-8 deal with changes to the RDL law, the major component to this would require an RDL (ignition interlock) mandatory for ALL DUI offenders. This is currently optional and mandatory use may be best served for all second and subsequent offenders as well as ALL high BAC offenders.

Sections 9-12 address modification to immobilization and forfeiture of vehicles in DUI cases. VT already has laws dealing with this, but is rarely if all used. The intent is to strength the law, but puts an onus on courts and state's attorney offices with many administrative tasks. Some operational questions aren't answered on specific procedures regarding notices.

Section 13, allows establishments to have approved breath machines to limit liability as long as they are maintained properly. This may be a good deterrent if rules are followed and monitored.

Section 14 strengthens the Negligent Operation penalties in cases involving SBI and death, without having to prove "gross negligence" as in current law. This gives prosecutors and courts more options in these cases that seriously hurt or kill individuals.

Sections 15-28 deal with significant changes regarding bicycles and vulnerable users. Some sections appear contrary to rules of the road. Sections 19 deals with passing distances that are difficult or almost impossible to enforce. Section 28 specifically has language as suggested may be considered contrary to current rules of the road. Law Enforcement would oppose where the motor vehicle turning right traditionally has right of way for someone approaching from the rear. Vulnerable users need to follow the current rules of the road because size makes it difficult to be seen.

Section 29: Many smaller municipalities use the state police for their primary law enforcement. This bill could cause a proliferation of artificially low speed limits and, as a consequence, increase violations and ticketing. In turn, this would increase court time for law enforcement officers and court officials. It also creates a logistical conundrum for an enforcement officer who must decide who among the majority of drivers should be stopped

and ticketed because they are violating an artificially low speed limit. The result can be that the speed limit (maximum allowed speed) as actually enforced is much higher than the posted speed limit, which exacerbates driver contempt for all posted speed limits. While it may be indisputable that driver/pedestrian collisions are less likely to be fatal or incapacitating at lower impact speeds, it is not certain that lowering the speed limit would guarantee lower impact speeds. In nearly all cases where VTrans has conducted before/after studies of segments where the speed limit has been lowered below the 85th percentile speed, there has been no change in driver speeds after the speed limit has been lowered. If the majority of drivers are not already driving 15 mph, it is unlikely that changing the speed limit to 15 mph will result in drivers obeying that speed limit.

8. **Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

Remove requirement for mandatory RDL (Restricted Driver's License) for 1st offense. Leave statute as voluntary for 1st offenders.

Rework vulnerable users sections, as many sections contradict current law and others are not enforceable (i.e., distance for passing requirements)

9. **Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many?**

Secretary/Commissioner has reviewed this document



Date: 2/4/16