

No. 23. An act relating to clarifying the procedure for reinstatement of a driver's license based on total abstinence from alcohol and drugs.

(S.70)

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

Sec. 1. 23 V.S.A. § 1209a(b) is amended to read:

(b) Abstinence.

(1) Notwithstanding any other provision of this subchapter, a person whose license has been suspended for ~~three years or more~~ life under this subchapter may apply to the driver rehabilitation school director and to the commissioner for reinstatement of his or her driving privilege. ~~In the case of a suspension for three years, the person shall have completed two years of total abstinence from consumption of alcohol or drugs, or both. In the case of a suspension for life, the~~ The person shall have completed three years of total abstinence from consumption of alcohol or drugs, or both. In both cases, the The beginning date for the period of abstinence shall be no sooner than the effective date of the suspension from which the person is requesting reinstatement and shall not include any period during which the person is serving a sentence of incarceration to include furlough. 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) 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 immediately preceding the application and hearing, has successfully completed a therapy program as required under this section and the person appreciates that he or she cannot drink any amount of alcohol and drive safely, the person's license shall be reinstated immediately ~~upon such~~ subject to the condition that the person's suspension will be put back in effect in the event any further investigation reveals a return to the consumption of alcohol or drugs and to such additional conditions as the commissioner may impose.

(3) If after notice and hearing the commissioner later finds that the person was operating, attempting to operate or in actual physical control of a vehicle while the person's alcohol concentration was 0.02 or more following violating the conditions of the person's reinstatement under this subsection, the person's operating license or privilege to operate shall be immediately suspended for the period of the original suspension.

(4) If the commissioner finds that a person reinstated under this subsection was suspended pursuant to section 1205 of this title, or was convicted of a violation of section 1201 of this title, the person shall be conclusively presumed to be in violation of the conditions of his or her reinstatement.

(5) A person shall be eligible for reinstatement under this ~~section~~ subsection only once following a suspension for life.

Approved: May 15, 2009