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STATE OF VERMONT
OFFICE OF THE STATE'S ATTORNEY
GRAND ISLE COUNTY

MEMO

To: Vermont State Police | Grand Isle County Sheriff's Dept. | Vermont Dept. of Fish & Wildlife
From: Douglas E. DiSabito, Esq., State's Attorney, Grand Isle County
Date: July 18, 2020
Re: Immobilization, Forfeiture and Sale of Vehicles related to subsequent violations of 23 V.S.A. 1201 and 23 V.S.A. 674(b); Permitting unlicensed or impaired person to operate.

In an effort to further deter individuals from habitually driving while under the influence and habitually driving when their license has been suspended (for DUI), going forward I will be taking advantage of the options of vehicle immobilization and forfeiture contained in Title 23. To facilitate this, I am requesting that all law enforcement officers in this county ensure the following information is included in their affidavits: a description of the motor vehicle, including vehicle identification number, make, model, and year, as well as the registered owner(s)' contact information.

Here are the laws relating to immobilization, forfeiture and sale:

IMMOBILIZATION / FORFEITURE & SALE

Driving with a suspended license #2 or more & #3 or more ("DLS for DUI")

At the time of sentencing **after a second or subsequent conviction** under subsection (b) of this section¹, the court may, in addition to any penalty imposed by law, order that the motor vehicle operated by the person at the time of the offense be **immobilized**. At the time of sentencing **after a third or subsequent conviction** under subsection (b) of this section, the court may, in addition to any penalty imposed by law, order that the motor vehicle operated by the person at the time of the offense be **forfeited and sold**. Immobilization and forfeiture procedures under this section shall be conducted in accordance with the procedures in section 1213c of this title. 23 V.S.A. § 674(h)

IMMOBILIZATION

Driving while under the influence #2 or more

At the time of sentencing **after a second or subsequent conviction** under section 1201 of this title, the Court may, upon the motion of the State, and in addition to any penalty imposed by law, order the motor vehicle operated by the defendant at the time of the offense seized and immobilized by a law enforcement agency designated by the Court, as provided in this section and section 1213c of this title. 23 V.S.A. § 1213a.

¹ Suspended for a violation of 23 V.S.A. § 1201 or suspended under 23 V.S.A. § 1205.

FORFEITURE & SALE
Driving while under the influence #3 or more

At the time of sentencing **after a third or subsequent conviction** under section 1201 of this title . . . the Court may, upon motion of the State and in addition to any penalty imposed by law and after notice and hearing, order the motor vehicle operated by the defendant . . . at the time of the offense **forfeited and sold** as provided in section 1213c of this title. 23 V.S.A. § 1213b.

In an effort to further deter individuals from habitually driving while under the influence and habitually driving when their license has been suspended (for DUI), going forward I will be taking advantage of the option contained in Title 23 of charging the registered owner(s) for permitting the operator whose license is suspended to use the motor vehicle, whether the operator was impaired or not. To facilitate this, if the operator is not the registered owner of the motor vehicle, I am requesting that all law enforcement officers ask the operator:

1. What is the relation between the operator and registered owner(s);
2. Were they given permission by the registered owner(s) to operate the motor vehicle; and
3. Was the registered owner(s) aware that the operator's license was suspended.

If at any time a law enforcement officer connects with the registered owner(s), (i.e, they are a passenger, they come to the scene to retrieve the motor vehicle, etc.), I am requesting that they ask the registered owner(s):

1. Did they give the operator permission and keys to operate the motor vehicle; and
2. Were they aware the operator's license was suspended.

If the registered owner(s)' answers to those two questions are "yes", I am requesting that they be cited into court to answer to the misdemeanor charge of "Permitting an Unlicensed Person to Operate a Motor Vehicle", a violation of 23 V.S.A. § 1130(b).

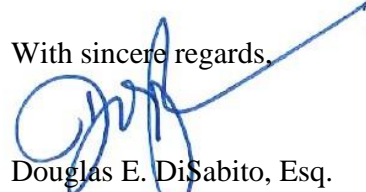
If the operator is under the influence at the time of operation, and if at any time a law enforcement officer connects with the registered owner(s), I am requesting that they ask the registered owner(s):

1. Did they give the operator permission and keys to operate the motor vehicle; and
2. Were they aware the operator was under the influence.

If the registered owner(s)' answers to those two questions are "yes", I am requesting that they be cited into court to answer to the misdemeanor charge of "Permitting an Impaired Person to Operate a Motor Vehicle", a violation of 23 V.S.A. § 1130(c)(1).

I would greatly appreciate it if you would cooperate and distribute this memo to all law enforcement officers in your respective departments who may be assigned to Grand Isle County. Please let me know if you have any questions or concerns. I am grateful for the service your departments provide in keeping Grand Isle County safe. It is my distinct pleasure and privilege to support your efforts.

With sincere regards,


Douglas E. DiSabito, Esq.
State's Attorney, Grand Isle County