

Journal of the Senate

THURSDAY, MARCH 23, 2023

Pursuant to the Senate Rules, in the absence of the President, the Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 32

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 470. An act relating to miscellaneous amendments to alcoholic beverage laws.

In the passage of which the concurrence of the Senate is requested.

Bills Referred to Committee on Appropriations

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

S. 56. An act relating to child care and early childhood education.

S. 135. An act relating to the establishment of VT Saves.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 140.

By Senators Watson, Bray, Champion, Harrison, Hashim, MacDonald, McCormack, Perchlik, Vyhovsky and White,

An act relating to an energy storage study committee.

To the Committee on Natural Resources and Energy.

Bill Referred

House bill of the following title was read the first time and referred:

H. 470.

An act relating to miscellaneous amendments to alcoholic beverage laws.

To the Committee on Economic Development, Housing and General Affairs.

Bill Passed**S. 47.**

Senate bill of the following title was read the third time and passed:

An act relating to the transport of individuals requiring psychiatric care.

Bill Amended; Bill Passed**S. 73.**

Senate bill entitled:

An act relating to workers' compensation coverage for firefighters with cancer.

Was taken up.

Thereupon, pending third reading of the bill, Senators Clarkson and Sears moved to amend the bill as follows:

First: In Sec. 2, annual cancer screenings; personal protective equipment upgrades; report, by striking out subdivisions (a)(4) and (5) in their entirety and inserting in lieu thereof subdivisions (a)(4), (5), and (6) to read as follows:

(4) the projected cost for the State to fund the replacement of personal protective equipment for all volunteer and career firefighters on a rolling basis so that all personal protective equipment is replaced within 10 years after being acquired;

(5) potential opportunities for the State to reduce the cost to fire departments for the replacement of personal protective equipment; and

(6) the potential impact of amending or repealing the provisions of 21 V.S.A. § 601(11)(E) that bar a firefighter from the presumption that the firefighter's cancer resulted from work-related exposure if the firefighter is either over 65 years of age or has used tobacco products within the last 10 years.

Second: In Sec. 2, annual cancer screenings; personal protective equipment upgrades; report, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) The report may include recommendations for legislative action to:

(1) facilitate:

(A) the early identification of cancer in firefighters;

(B) the acquisition of personal protective equipment by fire departments; and

(C) the elimination of PFAS and other carcinogens in firefighting equipment; and

(2) amend or repeal the provisions of 21 V.S.A. § 601(11)(E) that bar a firefighter from the presumption that the firefighter's cancer resulted from work-related exposure if the firefighter is either over 65 years of age or has used tobacco products within the last 10 years.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 103. An act relating to amending the prohibitions against discrimination.

S. 112. An act relating to miscellaneous subjects related to the Public Utility Commission.

Bill Amended; Bill Passed

S. 99.

Senate bill entitled:

An act relating to miscellaneous changes to laws related to vehicles.

Was taken up.

Thereupon, pending third reading of the bill, Senator White moved to amend the bill as follows:

* * * Excessive Motor Vehicle Noise Report * * *

Sec. 47. EXCESSIVE MOTOR VEHICLE NOISE REPORT

(a) The Commissioner of Motor Vehicles, in consultation with the Commissioner of Public Safety and the Vermont League of Cities and Towns,

shall study and report on current and potential enforcement practices around excessive motor vehicle noise and make recommendations on ways to limit excessive motor vehicle noise in Vermont.

(b) The study and report shall, at a minimum, address:

(1) if there should be a noise standard in statute or the Periodic Inspection Manual, or both, and, if so, what that standard should be;

(2) costs to incorporate noise testing into the State motor vehicle inspection required under 23 V.S.A. § 1222 and the State's Periodic Inspection Manual;

(3) costs to train law enforcement officers on noise testing; and

(4) approaches to minimize excessive motor vehicle noise that have been taken in other states, including increased enforcement by law enforcement coupled with an objective noise standard defense.

(c) On or before January 1, 2025, the Commissioner of Motor Vehicles shall submit a written report to the House and Senate Committees on Judiciary and on Transportation with the Commissioner's findings and any recommendations for legislative action.

And by renumbering the remaining section to be numerically correct.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Hardy, Clarkson and Vyhovsky moved to amend the bill as follows:

First: By striking out Secs. 40–43, implementation of Department of Motor Vehicles modernization project; driver services, and inserting in lieu thereof the following:

Sec. 40. IMPLEMENTATION OF DEPARTMENT OF MOTOR VEHICLES
MODERNIZATION PROJECT; GENERAL ASSEMBLY
OVERSIGHT

(a) Findings. The General Assembly finds that:

(1) The Department of Motor Vehicles provides services to almost all Vermonters, including, in fiscal year 2022, engaging in more than a million transactions, with almost half of all transactions being conducted online.

(2) The Department is in the middle of the DMV Core System Modernization project, with an estimated launch date for the vehicle services module in November 2023 and with the driver services module expected to launch approximately 18 months after it commences in February 2024.

(3) As part of its design and implementation of the vehicle services

module, the Department has discovered that one of the barriers to modernizing Department operations is certain outdated statutes. In order to best modernize and optimize Department processes for the future during the months-long module design and development process, the Commissioner of Motor Vehicles has had to make business decisions that conflict with current statutes while the General Assembly was adjourned, prior to an opportunity to seek amendments to those statutes through the legislative process.

(4) The driver services module of the DMV Core System Modernization project will design and implement processes to issue and maintain driver's licenses and other credentials; support fraud detection and investigation; administer hearings; and administer, manage, and report driver restrictions, convictions, and other information related to driver improvement.

(5) Driver services processes are regulated by statute in 23 V.S.A. chapters 1, 3, 5, 9, 11, 24, 25, and 39, as well as more than 15 rules adopted pursuant to authority under Title 23.

(6) It is anticipated that in designing and implementing the driver services module, the Commissioner will need to make additional business decisions that conflict with current statutes in order to modernize and optimize Department processes to best serve Vermonters.

(7) Of the modernization projects in which the State is currently engaged, the DMV Core System Modernization Project will likely have the most significant impact on existing statutory language, but it is anticipated that other modernization projects, such as the one that the Department of Labor will undertake related to unemployment insurance, will raise similar tensions between promoting efficiencies as part of modernization and contending with outdated statutory provisions.

(8) A collaborative partnership between the Department and the General Assembly throughout the driver services module, monitored during legislative adjournment by the Joint Transportation Oversight Committee, the Joint Fiscal Committee, and the House and Senate Committees on Transportation, provides the best opportunity to save money, promote transparency, streamline the process of amending statute to optimize potential efficiencies for Vermonters, and serve as a model for collaboration between branches of State government in future modernization projects.

(b) Reports.

(1) The Commissioner of Motor Vehicles shall provide two written reports on the design and implementation of the driver services module of the DMV Core System Modernization project to the Joint Transportation Oversight Committee, the Joint Fiscal Committee, and the House and Senate

Committees on Transportation. The first shall be due on or before July 1, 2024 and the second shall be due on or before December 1, 2024.

(2) To the extent practicable, at the time each written report is filed, the Department shall include recommendations on which provisions of statute and rule the Department anticipates will need to be amended or repealed in order to best modernize and optimize Department processes related to the provision of driver services.

(c) Joint meetings. The Commissioner of Motor Vehicles shall provide updates on the implementation of the driver services module of the DMV Core System Modernization project by testifying at two joint meetings of the House and Senate Committees on Transportation. The first joint meeting shall be held on or before January 31, 2025 and the second joint meeting shall be held on or before April 30, 2025.

(d) General Assembly oversight. To the extent practicable, the Joint Transportation Oversight Committee, the Joint Fiscal Committee, and the House and Senate Committees on Transportation shall promptly express any concerns to the Department regarding any Department recommendations contained in any written report or testimony provided pursuant to subsections (b) and (c) of this section

Sec. 41. [Deleted.]

Sec. 42. [Deleted.]

Sec. 43. [Deleted.]

Second: In Sec. 48, effective dates, by striking out subsections (g) and (h) and inserting in lieu thereof the following:

(g) All other sections shall take effect on July 1, 2023.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Bill Amended; Third Reading Ordered

S. 27.

Senator Vyhovsky, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to reducing the imposition of cash bail.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7551 is amended to read:

§ 7551. IMPOSITION OF BAIL, SECURED APPEARANCE BONDS, AND APPEARANCE BONDS

(a) Bonds; generally. A bond given by a person charged with a criminal offense or by a witness in a criminal prosecution under section 6605 of this title, conditioned for the appearance of the person or witness before the court in cases where the offense is punishable by fine or imprisonment, and in appealed cases, shall be taken to the Criminal Division of the Superior Court where the prosecution is pending and shall remain binding upon parties until discharged by the court or until sentencing. The person or witness shall appear at all required court proceedings.

(b) Limitation on imposition of bail, secured appearance bonds, and appearance bonds.

(1) ~~Except as provided in subdivision (2) of this subsection, no~~ No bail, secured appearance bond, or appearance bond may be imposed:

~~(A) at the initial appearance of a person charged with a misdemeanor if the person was cited for the offense in accordance with Rule 3 of the Vermont Rules of Criminal Procedure; or~~

~~(B) at the initial appearance offense or upon the temporary release pursuant to Rule 5(b) of the Vermont Rules of Criminal Procedure of a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title.~~

~~(2) In the event, except where the court finds that imposing bail is necessary to mitigate the risk of flight from prosecution for a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title, the court may impose bail in a maximum amount of \$200.00 any of the following offenses:~~

~~(A) domestic assault as defined in section 1042 of this title;~~

~~(B) stalking as defined in section 1062 of this title;~~

~~(C) violation of a protection order as defined in section 1030 of this title;~~

~~(D) recklessly endangering another person as defined in section 1025 of this title;~~

~~(E) misdemeanor cruelty to a child as defined in section 1304 of this title;~~

(F) misdemeanor abuse, neglect, or exploitation of a vulnerable adult as defined in chapter 28 of this title; or

(G) misdemeanor sexual exploitation of children in violation of chapter 64 of this title.

~~(3)~~(2) This subsection shall not be construed to restrict the court's ability to impose conditions on such persons to reasonably mitigate the risk of flight from prosecution or to reasonably protect the public in accordance with section 7554 of this title.

Sec. 2. PROPOSAL TO ELIMINATE CASH BAIL

(a)(1) The Vermont Sentencing Commission, in consultation with the entities designated in subdivision (2) of this subsection, shall identify the conditions that would be required to move toward the elimination of the use of cash bail for the purpose of mitigating risk of flight from prosecution and develop a proposal to eliminate cash bail in Vermont.

(2) The Commission shall solicit input from:

(A) the Vermont Network Against Domestic and Sexual Violence;

(B) the Community Justice Unit of the Office of the Attorney General;

(C) Vermont Legal Aid;

(D) the Vermont Office of Racial Equity;

(E) the Vermont chapter of the American Civil Liberties Union;

(F) the Vermont Freedom Fund; and

(G) national experts on bail reform.

(b) The Commission shall report its findings and recommendations to the General Assembly on or before December 1, 2023.

Sec. 3. JUDICIARY; NOTICES OF HEARINGS

(a) To reduce the instances of failure to appear by persons who are charged with a criminal offense, on or before July 1, 2025, the Judiciary shall establish and implement a system to electronically notify such persons of upcoming required court appearances.

(b) On or before December 1, 2023, the Judiciary shall report to the General Assembly any requests for legislation or monies necessary to fund the system identified in subsection (a) of this section.

(c) On or before December 1, 2026, the Judiciary shall report to the General Assembly on the efficacy of the notification system.

Sec. 4. EFFECTIVE DATES

(a) This section and Secs. 2 and 3 shall take effect on passage.

(b) Sec. 1 shall take effect on July 1, 2025.

And that when so amended the bill ought to pass.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to and third reading of the bill was ordered.

**Rules Suspended; Third Reading Ordered; Rules Suspended; Bill Passed
in Concurrence; Bill Messaged**

H. 411.

Appearing on the Calendar for notice, on motion of Senator Lyons, the rules were suspended and House bill entitled:

An act relating to extending COVID-19 health care regulatory flexibility.

Was taken up for immediate consideration.

Senator Lyons, for the Committee on Health and Welfare, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator Lyons, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence.

Thereupon, the bill was read the third time and passed in concurrence.

Thereupon, on motion of Senator Lyons, the rules were suspended and the bill was ordered messaged to the House forthwith.

Adjournment

On motion of Senator Clarkson, the Senate adjourned until eleven o'clock and thirty minutes in the morning.