

1 H.26

2 Introduced by Representative Sweaney of Windsor

3 Referred to Committee on

4 Date:

5 Subject: Technical corrections

6 Statement of purpose of bill as introduced: This bill proposes to make several
7 technical corrections to the Vermont Statutes Annotated without substantively
8 changing the law.

9 An act relating to technical corrections

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

11 Sec. 1. 4 V.S.A. § 31 is amended to read:

12 § 31. JURISDICTION; CIVIL DIVISION

13 The ~~civil division~~ Civil Division shall have:

14 * * *

15 (5) jurisdiction to hear and dispose of any other matter brought before
16 the ~~court~~ Court pursuant to law that is not subject to the jurisdiction of another
17 division.

1 Sec. 2. 7 V.S.A. § 66 is amended to read:

2 § 66. VINOUS BEVERAGE SHIPPING LICENSE; IN STATE; OUT OF
3 STATE; PROHIBITIONS; PENALTIES

4 (a) A manufacturer or rectifier of vinous beverages licensed in Vermont
5 may be granted an in-state consumer shipping license by filing with the
6 ~~department of liquor control~~ Department of Liquor Control an application in a
7 form required by the ~~department~~ Department accompanied by a copy of the
8 applicant's current Vermont manufacturer's license and the fee as required by
9 subdivision ~~231(7)(A)~~ 231(a)(7)(A) of this title. This consumer shipping
10 license may be renewed annually by filing the renewal fee as required by
11 subdivision ~~231(7)(A)~~ 231(a)(7)(A) of this title accompanied by a copy of the
12 licensee's current Vermont manufacturer's license.

13 (b) A manufacturer or rectifier of vinous beverages licensed in another state
14 that operates a winery in the United States and holds valid state and federal
15 permits and licenses may be granted an out-of-state consumer shipping license
16 by filing with the ~~department of liquor control~~ Department of Liquor Control
17 an application in a form required by the ~~department~~ Department accompanied
18 by copies of the applicant's current out-of-state manufacturer's license and the
19 fee as required by subdivision ~~231(7)(B)~~ 231(a)(7)(B) of this title. This
20 consumer shipping license may be renewed annually by filing the renewal fee
21 as required by subdivision ~~231(7)(B)~~ 231(a)(7)(B) of this title accompanied by

1 the licensee's current out-of-state manufacturer's license. For the purposes of
2 this subsection and subsection (c) of this section, "out-of-state" means any
3 state other than Vermont, any territory or possession of the United States, and
4 does not include a foreign country.

5 (c) A manufacturer or rectifier of vinous beverages that is licensed in-state
6 or out-of-state and holds valid state and federal permits and operates a winery
7 in the United States may apply for a retail shipping license by filing with the
8 ~~department of liquor control~~ Department of Liquor Control an application in a
9 form required by the ~~department~~ Department accompanied by a copy of ~~their~~
10 its in-state or out of state license and the fee as required by subdivision
11 ~~231(7)(C)~~ 231(a)(7)(C) of this title. The retail shipping license may be
12 renewed annually by filing the renewal fee as required by subdivision
13 ~~231(7)(C)~~ 231(a)(7)(C) of this title accompanied by the licensee's current
14 in-state or out-of-state manufacturer's license. This license permits the holder,
15 which includes the holder's affiliates, franchises, and subsidiaries, to sell up to
16 5,000 gallons of vinous beverages a year directly to first or second class
17 licensees and deliver the beverages by common carrier or the manufacturer's
18 or rectifier's own vehicles or the vehicle of an employee of a manufacturer or
19 rectifier, provided that the beverages are sold on invoice, and no more than 100
20 gallons per month are sold to any single first or second class licensee. The

1 retail shipping license holder shall report to the ~~department~~ Department
2 documentation of the annual and monthly number of gallons sold.

3 * * *

4 Sec. 3. 8 V.S.A. § 2200(17)(C) is amended to read:

5 (C) An individual “offers or negotiates terms of a residential
6 mortgage loan for compensation or gain” if the individual:

7 * * *

8 (ii) Receives or expects to receive payment of money or anything
9 of value in connection with the activities described in subdivision (C)(i) of this
10 ~~subsection~~ subdivision (17) or as a result of any residential mortgage loan
11 terms entered into as a result of such activities.

12 Sec. 4. 8 V.S.A. § 2201(d) is amended to read:

13 (d) No lender license, mortgage broker license, or sales finance company
14 license shall be required of:

15 * * *

16 (13) nonprofit organizations established under testamentary instruments,
17 exempt from taxation under Section 501(c)(3) of the Internal Revenue Code,
18 26 U.S.C. § 501(c)(3), and which make loans for postsecondary educational
19 costs to students and their parents, provided that the organizations provide
20 annual accountings to the ~~probate division of the superior court pursuant to~~
21 ~~14 V.S.A. § 2324~~ Probate Division of the Superior Court;

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Sec. 5. 10 V.S.A. § 123(a) is amended to read:

(a) The center shall have all the general powers conferred by 11B V.S.A. § 3.02 [~~chapter 19 of Title 11~~] and all amendments thereto, and all other powers necessary, desirable, or incidental fully to effectuate its corporate purposes except where otherwise limited by statute.

Sec. 6. 10 V.S.A. § 1265(d) is amended to read:

(d) Any temporary pollution permit issued shall:

* * *

(4) be valid only for the period of time, not exceeding five years, necessary for the permit holder to place into operation the facility, system, or method required to obtain a permit under section 1263. However, the terms of the permit may be amended upon application of the permit holder and a finding by the ~~secretary~~ Secretary that the amendment meets all of the requirements of subsection (c) of this section. ~~If the permit is amended so as to provide for a change in the manner, nature, volume or frequency of the discharge permitted, the secretary shall require as a condition for the amendment the payment of periodic pollution charges in accordance with pollution charge rates established by the board pursuant to subsection (e).~~ Upon application of the permit holder and a finding by the ~~secretary~~ Secretary that the amendment meets all of the requirements of subsection (c) of this section and that there is a

1 substantial change in circumstances not under the control of the permit holder,
2 the terms of the permit may be amended following all determinations and
3 procedures for initial permit application; and

4 ~~(5) require as a condition of the permit the payment of periodic pollution~~
5 ~~charges in accordance with pollution charge rates established by the board~~
6 ~~pursuant to subsection (e); and~~

7 * * *

8 Sec. 7. 10 V.S.A. § 6608(f) is amended to read:

9 (f) All generators of regulated hazardous waste, ~~except conditionally~~
10 ~~exempt generators~~, shall register with the ~~secretary~~ Secretary, renew the
11 registration annually, and pay the fee specified in 3 V.S.A. § 2822.

12 Sec. 8. 13 V.S.A. § 1404(c) is amended to read:

13 (c) This section applies only to a conspiracy to commit or cause the
14 commission of one or more of the following offenses:

15 (1) ~~Murder~~ murder in the first or second degree;:

16 (2) ~~Arson~~ arson under sections 501-504 and 506 of this title;:

17 (3) ~~Sexual~~ sexual exploitation of children under sections ~~7822,~~ 2822,
18 2823, and 2824 of this title;:

19 (4) ~~Receiving~~ receiving stolen property under sections 2561-2564 of this
20 title; or

1 Sec. 10. 16 V.S.A. § 570a(a) is amended to read:

2 (a) Policies and plan. The harassment prevention policy required by
3 section 570 of this title and its plan for implementation shall include:

4 * * *

5 (5) A procedure for investigating reports of violations and complaints.
6 The procedure shall provide that, unless special circumstances are present and
7 documented by the school officials, an investigation is initiated no later than
8 one school day from the filing of a complaint and the investigation and
9 determination by school officials are concluded no later than five school days
10 from the filing of the complaint with a person designated to receive complaints
11 under subdivision (7) of this ~~section~~ subsection. All internal reviews of the
12 school's initial determination, including the issuance of a final decision, shall,
13 unless special circumstances are present and documented by the school
14 officials, be completed within 30 days after the review is requested.

15 * * *

16 Sec. 11. 18 V.S.A. § 122(c) is amended to read:

17 (c) The remedies provided by this section are in addition to any common
18 law or statutory remedies otherwise available and do not amend or conflict
19 with the provisions of 24 V.S.A. chapter 129, the powers and authority of the
20 ~~agency of agriculture, food and markets, the department of labor, the agency of~~
21 ~~natural resources, the water resources board, or public service board~~ Agency of

1 Agriculture, Food and Markets, the Department of Labor, the Agency of
2 Natural Resources, or the Public Service Board, or the power of the
3 ~~commissioner~~ Commissioner to issue a health or emergency health order.

4 Sec. 12. 18 V.S.A. § 1121(c) is amended to read:

5 (c) To the extent permitted under ~~the federal Health Insurance Portability~~
6 ~~and Accountability Act, Pub. L. 104-191~~ 20 U.S.C. § 1232g (family
7 educational and privacy rights), and any regulations adopted thereunder, all
8 schools and child care facilities shall make publicly available the aggregated
9 immunization rates of the student body for each required vaccine using a
10 standardized form that shall be created by the ~~department of health~~ Department
11 of Health. Each school and child care facility shall annually, on or before
12 January 1, submit its standardized form containing the student body's
13 aggregated immunization rates to the ~~department of health~~ Department of
14 Health. Notwithstanding section 1120 of this title, for the purposes of this
15 subsection only, the term "child care facility" shall exclude a family day care
16 home licensed or registered under 33 V.S.A. chapter 35.

17 Sec. 13. 21 V.S.A. § 1032 is amended to read:

18 § 1032. COMMISSIONER; DUTIES; RULES

19 The ~~commissioner~~ Commissioner shall administer this chapter and, in
20 consultation with the ~~commissioners of financial regulation~~ Commissioner of
21 Financial Regulation, adopt rules to carry out the provisions of this chapter.

1 Sec. 14. 24 V.S.A. § 4303(8) is amended to read:

2 (8) “Flood hazard area” for purposes of ~~section~~ sections 4411, 4424, and
3 4469 of this title shall have the same meaning as “area of special flood hazard”
4 under 44 C.F.R. § 59.1. Further, with respect to flood, river corridor protection
5 area, and other hazard area regulation pursuant to this chapter, the following
6 terms shall have the following meanings:

7 * * *

8 Sec. 15. 24 V.S.A. § 4424(a) is amended to read:

9 (a) Any municipality may adopt freestanding bylaws under this chapter to
10 address particular hazard areas in conformance with the municipal plan or, for
11 the purpose of adoption of a flood hazard area bylaw, a local hazard mitigation
12 plan approved under 44 C.F.R. § 201.6, ~~including~~. Such freestanding bylaws
13 may include the following, which may also be part of zoning or unified
14 development bylaws:

15 * * *

16 Sec. 16. 24 V.S.A. § 5607 is amended to read:

17 § 5607. REGIONAL ECONOMIC DEVELOPMENT GRANT PROGRAM

18 (a) Creation of program. There is created a ~~regional economic~~
19 ~~development grant program~~ Regional Economic Development Grant Program
20 to provide competitive grants for capital costs associated with the major
21 maintenance, renovation, or planning related to the development of facilities

1 reasonably expected to create job opportunities in Vermont communities. The
2 ~~program~~ Program is authorized to award matching grants of up to \$25,000.00
3 per project. The required match shall be met through dollars raised and not
4 through in-kind services. State investments made under this ~~program~~ Program
5 shall be consistent with the goals found in section 4302 of this title and local
6 and regional plans adopted pursuant to this title and shall be coordinated with
7 the efforts described in chapter ~~76a~~ 76A of this title.

8 * * *

9 Sec. 17. 24 V.S.A. App chapter 417 § 35 is amended to read:

10 § 35. BUDGET HEARING

11 The Board of Supervisors shall hold a public hearing on or before
12 ~~December 31~~ January 7 of each year to receive comments from the legislative
13 bodies of member municipalities and hear all other interested persons
14 regarding the proposed budget. Notice of the hearing shall be the same as that
15 specified under section 46 of this chapter, ~~public hearings~~ (public hearings).

16 The Board of Supervisors shall give consideration to all comments received
17 and make such changes to the proposed budget as it deems advisable.

18 Sec. 18. 30 V.S.A. § 202(i) is amended to read:

19 (i) It shall be a goal of the electrical energy plan to ~~assure~~ ensure, by 2028,
20 that at least 60 MW of power are generated within the ~~state~~ State by combined
21 heat and power (CHP) facilities powered by renewable ~~fuels or by~~
22 ~~nonqualifying SPEED resources~~ energy, as defined in section 8002 of this title.

1 In order to meet this goal, the plan shall include incentives for development
2 and strategies to identify locations in the ~~state~~ State that would be suitable for
3 CHP. The plan shall include strategies to assure the consideration of CHP
4 potential during any process related to the expansion of natural gas services in
5 the ~~state~~ State.

6 Sec. 19. 30 V.S.A. § 8005(d)(4)(B) is amended to read:

7 (B) Each retail electricity provider shall manage its supply portfolio
8 to be reasonably consistent with the target amounts established by this
9 subdivision (4). The ~~board~~ Board shall consider such consistency during the
10 course of reviewing a retail electricity provider's charges and rates under this
11 title, integrated resource plans under section 218c of this title, and petitions
12 under section 248 (new gas and electric purchases, investments, and facilities)
13 of this title. ~~However, nothing in this subdivision (4) shall relieve a retail~~
14 ~~electricity provider from the obligations of section 8004 (renewable portfolio~~
15 ~~standards) of this title.~~

16 Sec. 20. 30 V.S.A. § 8005a(c)(1)(C) is amended to read:

17 (C) Adjustment; greenhouse gas reduction credits. The ~~board~~ Board
18 shall adjust the annual increase to account for greenhouse gas reduction credits
19 by multiplying the annual increase by one minus the ratio of the prior year's
20 greenhouse gas reduction credits to that year's statewide retail electric sales.

21 * * *

1 to official duties. This subsection shall not reduce the amount of per diem
2 compensation heretofore provided by ~~statute~~ act of the General Assembly to
3 members of boards or commissions entitled to receive more than \$50.00 per
4 day. "Per diem" means the amount of compensation to which a member of a
5 statutory board or commission is entitled for:

6 (1) attendance at a regular or special meeting of such board or
7 commission or any committee thereof; or

8 (2) performance of other duties directly related to the efficient conduct
9 of necessary board business as assigned and approved by the chairperson,
10 provided that payment for such duties shall be at the per diem rate prorated for
11 actual time spent performing duties. Proration shall be calculated based on an
12 eight-hour day. Under no circumstances shall the daily payment exceed the
13 per diem amount.

14 Sec. 23. 32 V.S.A. § 3752 is amended to read:

15 § 3752. DEFINITIONS

16 ~~For the purposes of~~ As used in this subchapter:

17 * * *

18 (5) "Development" means, for the purposes of determining whether a
19 land use change tax is to be assessed under section 3757 of this chapter, the
20 construction of any building, road₁ or other structure, or any mining,
21 excavation₁ or landfill activity. "Development" also means the subdivision of

1 a parcel of land into two or more parcels, regardless of whether a change in use
2 actually occurs, where one or more of the resulting parcels contains less than
3 25 acres each; but if subdivision is solely the result of a transfer to one or more
4 of a spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of
5 the transferor, or to the surviving spouse of any of the foregoing, then
6 “development” shall not apply to any portion of the ~~newly created~~ newly
7 created parcel or parcels which qualifies for enrollment and for which, within
8 30 days following the transfer, each transferee or transferor applies for
9 reenrollment in the use value appraisal program. “Development” also means
10 the cutting of timber on property appraised under this chapter at use value in a
11 manner contrary to a forest or conservation management plan as provided for
12 in subsection 3755(b) of this title during the remaining term of the plan, or
13 contrary to the minimum acceptable standards for forest management if the
14 plan has expired; or a change in the parcel or use of the parcel in violation of
15 the conservation management standards established by the ~~commissioner of~~
16 ~~forests, parks and recreation~~ Commissioner of Forests, Parks and Recreation.
17 Enrolled land is also considered ~~“developed”~~ “development” under this section
18 if a wastewater system permit has been issued for the land pursuant to
19 10 V.S.A § 1973 and the ~~commissioner of forests, parks and recreation~~
20 Commissioner of Forests, Parks and Recreation has certified to the ~~director~~
21 Director that the permit is contrary to a forest or conservation management

1 plan or the minimum acceptable standards for forest management; use of the
2 parcel would violate the conservation management standards; or after
3 consulting with the ~~secretary of agriculture, food and markets, the~~
4 ~~commissioner~~ Secretary of Agriculture, Food and Markets, the Commissioner
5 certifies that the permit is not part of a farm operation. The ~~commissioner of~~
6 ~~forests, parks and recreation~~ Commissioner of Forests, Parks and Recreation
7 may develop standards regarding circumstances under which land with
8 wastewater system and potable water permits will not be certified to the
9 ~~director~~ Director. The term “development” shall not include the construction,
10 reconstruction, structural alteration, relocation, issuance of a wastewater
11 system permit under 10 V.S.A § 1973, or enlargement of any building, road, or
12 other structure for farming, logging, forestry, or conservation purposes, but
13 shall include the subsequent commencement of a use of that building, road,
14 structure, or wastewater system permit for other than farming, logging, or
15 forestry purposes.

16 * * *

17 Sec. 24. 2012 Acts and Resolves No. 40, Sec. 12(b) is amended to read:

18 (b) The following sums are appropriated to the ~~agency of natural resources~~
19 Agency of Natural Resources in FY 2013 for:

20 * * *

1 (3) 20 years of creditable retirement service as of April 13, 2012 as a
2 facility employee who provides or who has provided direct security and
3 treatment services as provided in ~~3 V.S.A. § 459(2)(A)~~ 3 V.S.A.
4 § 459(d)(2)(A) and is 55 years of age or older on April 12, 2012.

5 Sec. 26. 2012 Acts and Resolves No. 79, Sec. 9(b)(1)(B) is amended to read:

6 (B)(i) The ~~general assembly~~ General Assembly finds that the Centers
7 for Medicare and Medicaid Services (CMS) advised the ~~state~~ State of Vermont
8 on March 14, 2012 that:

9 * * *

10 (ii) In the event the hospital owned and operated by the ~~state~~ State
11 loses or is no longer eligible for federal matching funds after December 31,
12 2013, the ~~commissioner of mental health~~ Commissioner of Mental Health shall
13 cease use of nine beds within the time frame set by CMS and reduce the
14 hospital's license from 25 to 16 beds. At that time, the ~~commissioner of~~
15 ~~mental health~~ Commissioner of Mental Health shall begin planning for an
16 orderly transition to a 16-bed hospital that shall proceed in a manner that
17 protects the health, safety, and integrity of individuals treated at the ~~state~~ State
18 owned and operated hospital. The ~~commissioner's~~ Commissioner's transition
19 plan shall ensure the nine-bed deficit in acute inpatient beds be addressed by
20 expanding acute inpatient capacity elsewhere in the ~~state~~ State if necessary and
21 that the nine decommissioned beds in the ~~state~~ State owned and operated

1 hospital be repurposed in a manner that does not jeopardize federal matching
2 funds for the remaining 16 beds. If the loss or denial of federal matching funds
3 occurs while the ~~general assembly~~ General Assembly is in session, the
4 ~~commissioner~~ Commissioner shall notify and seek approval of the transition
5 plan from the ~~senate committees on health and welfare and on institutions and~~
6 ~~the house committees on human services and on corrections and institutions~~
7 Senate Committees on Health and Welfare and on Institutions and the House
8 Committees on Human Services and on Corrections and Institutions before
9 proceeding with the transition plan. If the loss or denial of federal matching
10 funds occurs while the ~~general assembly~~ General Assembly is not in session,
11 the ~~commissioner~~ Commissioner shall notify and seek approval of the
12 transition plan from a special committee composed of members of the ~~joint~~
13 ~~fiscal committee~~ Joint Fiscal Committee and the chairs and vice chairs of the
14 ~~senate committees on health and welfare and on institutions and the house~~
15 ~~committees on human services and on corrections and institutions~~ Senate
16 Committees on Health and Welfare and on Institutions and the House
17 Committees on Human Services and on Corrections and Institutions before
18 proceeding with the transition plan. The special committee shall be entitled to
19 per diem and expenses as provided in ~~32 V.S.A. § 1010~~ 2 V.S.A. § 406.

1 Sec. 27. 2012 Acts and Resolves No. 153, Sec. 50(a) is amended to read:

2 (a) This section and Secs. 3 (portable hot mix plant), 4 (program
3 development – roadway), 12 (Rutland–Burlington rail and crossings project),
4 13 (purchase of rail bridge inspection vehicle), 14 (anticipation of federal
5 receipts – rail program), 16 (VTrans training center facility), 18 (powers of
6 secretary of transportation), 19 (authority to issue transportation infrastructure
7 bonds), 21 (agency of transportation positions), 25 (state aid for town
8 highways), 37 (copies of municipal reports), 38 (traffic safety enforcement cost
9 study), 39 (alternative fuel vehicles; user pay study), 40 (committee on
10 transportation funding), and 41 (Vermont Strong plates) of this act shall take
11 effect on passage. The authority granted under 19 V.S.A. § 306(f) by Sec.
12 25(~~f~~) of this act (state aid for federal disasters) shall be retroactive to
13 March 1, 2011.

14 Sec. 28. 2012 Acts and Resolves No. 165, Sec. 2(e) is amended to read:

15 (e) No later than January 15, 2014 and ~~annually~~ by each second January 15
16 thereafter, the ~~commissioner~~ Commissioner shall submit a written report to the
17 ~~general assembly~~ General Assembly detailing the progress of the MOU
18 program, including an identification of each hydroelectric project participating
19 in the program. After five hydroelectric projects participating in the program
20 are approved and commence operation, reports filed under this subsection shall
21 evaluate and provide lessons learned from the program, including

1 recommendations, if any, on how to improve procedures for obtaining
2 approval of micro hydroelectric projects (100 kilowatts capacity or less). The
3 provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply
4 to the report to be submitted under this subsection.

5 Sec. 29. 2012 Acts and Resolves No. 171, Sec. 41(e) is amended to read:

6 (e) ~~33~~ 18 V.S.A. chapter 13, subchapter 2 (payment reform pilots) is repealed
7 on passage.

8 Sec. 30. INTERPRETATION

9 It is the intent of the General Assembly that the technical amendments in
10 this act shall not supersede substantive changes contained in other acts passed
11 by the General Assembly. Where possible, the amendments in this act shall be
12 interpreted to be supplemental to other amendments to the same sections of
13 statute; to the extent the provisions conflict, the substantive changes in other
14 acts shall take precedence over the technical changes in this act.

15 Sec. 31. REPEALS

16 The following shall be repealed on July 1, 2013:

17 (1) 1 V.S.A. § 53 (regarding judicial actions that were commenced prior
18 to 1959).

19 (2) 1 V.S.A. § 54 (regarding penalties, forfeitures, and taxes incurred
20 prior to 1959).

21 (3) 1 V.S.A. § 58 (regarding precedence of 1959 acts over conflicting
22 language in the first volumes of the Vermont Statutes Annotated).

1 (4) 2 V.S.A. § 18 (requiring a meeting by the Governor, Secretary of
2 State, Speaker of the House, and Senate President Pro Tempore to sign and
3 approve of the Acts and Resolves within 150 days of the adjournment of each
4 session).

5 (5) 10 V.S.A. § 1956 (regarding appeal of wastewater permits that are
6 no longer issued).

7 Sec. 32. EFFECTIVE DATE

8 This act shall take effect on July 1, 2013.