H.26

An act relating to technical corrections

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

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

§ 31. JURISDICTION; CIVIL DIVISION

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

* * *

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

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

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

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

subdivision ~~231(7)(A)~~ 231(a)(7)(A) of this title accompanied by a copy of the licensee's current Vermont manufacturer's license.

(b) A manufacturer or rectifier of vinous beverages licensed in another state that operates a winery in the United States and holds valid state and federal permits and licenses may be granted an out-of-state consumer shipping license by filing with the ~~department of liquor control~~ Department of Liquor Control an application in a form required by the ~~department~~ Department accompanied by copies of the applicant's current out-of-state manufacturer's license and the fee as required by subdivision ~~231(7)(B)~~ 231(a)(7)(B) of this title. This consumer shipping license may be renewed annually by filing the renewal fee as required by subdivision ~~231(7)(B)~~ 231(a)(7)(B) of this title accompanied by the licensee's current out-of-state manufacturer's license. For the purposes of this subsection and subsection (c) of this section, "out-of-state" means any state other than Vermont, any territory or possession of the United States, and does not include a foreign country.

(c) A manufacturer or rectifier of vinous beverages that is licensed in-state or out-of-state and holds valid state and federal permits and operates a winery in the United States may apply for a retail shipping license by filing with the ~~department of liquor control~~ Department of Liquor Control an application in a form required by the ~~department~~ Department accompanied by a copy of ~~their~~ its in-state or out of state license and the fee as required by subdivision

~~231(7)(C)~~ 231(a)(7)(C) of this title. The retail shipping license may be renewed annually by filing the renewal fee as required by subdivision ~~231(7)(C)~~ 231(a)(7)(C) of this title accompanied by the licensee's current in-state or out-of-state manufacturer's license. This license permits the holder, which includes the holder's affiliates, franchises, and subsidiaries, to sell up to 5,000 gallons of vinous beverages a year directly to first or second class licensees and deliver the beverages by common carrier or the manufacturer's or rectifier's own vehicles or the vehicle of an employee of a manufacturer or rectifier, provided that the beverages are sold on invoice, and no more than 100 gallons per month are sold to any single first or second class licensee. The retail shipping license holder shall report to the ~~department~~ Department documentation of the annual and monthly number of gallons sold.

* * *

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

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

* * *

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

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

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

* * *

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

* * *

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

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

* * *

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

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

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

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

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

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

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

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

(5) ~~An~~ an offense involving the sale, delivery, manufacture, or cultivation of a regulated drug or an offense under:

(A) 18 V.S.A. § 4230(c), relating to trafficking in marijuana~~.~~;

(B) 18 V.S.A. § 4231(c), relating to trafficking in cocaine~~.~~;

(C) 18 V.S.A. § 4233(c), relating to trafficking in heroin~~.~~;

(D) 18 V.S.A. § 4234(b)(3), relating to unlawful selling or dispensing of a depressant, stimulant, or narcotic drug, other than heroin or cocaine~~.~~; or

(E) 18 V.S.A. § 4234a(c), relating to trafficking in methamphetamine.

Sec. 9. 13 V.S.A. § 7043(c) is amended to read:

(c) Restitution hearing.

* * *

(2) Prior to the date of the hearing, the prosecuting attorney shall provide the defendant with a statement of the amount of restitution claimed together with copies of bills that support the claim for restitution. If any amount of the restitution claim has been paid by the ~~victims compensation fund~~ Victims Compensation Fund, the prosecuting attorney shall provide the defendant with copies of bills submitted by the ~~victims compensation board~~ Victims Compensation Board pursuant to section ~~5360~~ 5358a of this title.

* * *

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

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

* * *

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

unless special circumstances are present and documented by the school officials, be completed within 30 days after the review is requested.

* * *

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

(c) The remedies provided by this section are in addition to any common law or statutory remedies otherwise available and do not amend or conflict with the provisions of 24 V.S.A. chapter 129, the powers and authority of the ~~agency of agriculture, food and markets, the department of labor, the agency of natural resources, the water resources board, or public service board~~ Agency of Agriculture, Food and Markets, the Department of Labor, the Agency of Natural Resources, or the Public Service Board, or the power of the ~~commissioner~~ Commissioner to issue a health or emergency health order.

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

(c) To the extent permitted under ~~the federal Health Insurance Portability and Accountability Act, Pub. L. 104-191~~ 20 U.S.C. § 1232g (family educational and privacy rights), and any regulations adopted thereunder, all schools and child care facilities shall make publicly available the aggregated immunization rates of the student body for each required vaccine using a standardized form that shall be created by the ~~department of health~~ Department of Health. Each school and child care facility shall annually, on or before January 1, submit its standardized form containing the student body's

aggregated immunization rates to the ~~department of health~~ Department of Health. Notwithstanding section 1120 of this title, for the purposes of this subsection only, the term "child care facility" shall exclude a family day care home licensed or registered under 33 V.S.A. chapter 35.

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

§ 1032. COMMISSIONER; DUTIES; RULES

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

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

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

* * *

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

(a) Any municipality may adopt freestanding bylaws under this chapter to address particular hazard areas in conformance with the municipal plan or, for the purpose of adoption of a flood hazard area bylaw, a local hazard mitigation plan approved under 44 C.F.R. § 201.6~~, including~~. Such freestanding bylaws

may include the following, which may also be part of zoning or unified development bylaws:

* * *

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

§ 5607. REGIONAL ECONOMIC DEVELOPMENT GRANT PROGRAM

(a) Creation of program. There is created a ~~regional economic development grant program~~ Regional Economic Development Grant Program to provide competitive grants for capital costs associated with the major maintenance, renovation, or planning related to the development of facilities reasonably expected to create job opportunities in Vermont communities. The ~~program~~ Program is authorized to award matching grants of up to $25,000.00 per project. The required match shall be met through dollars raised and not through in-kind services. State investments made under this ~~program~~ Program shall be consistent with the goals found in section 4302 of this title and local and regional plans adopted pursuant to this title and shall be coordinated with the efforts described in chapter ~~76a~~ 76A of this title.

* * *

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

§ 35. BUDGET HEARING

The Board of Supervisors shall hold a public hearing on or before ~~December 31~~ January 7 of each year to receive comments from the legislative

bodies of member municipalities and hear all other interested persons regarding the proposed budget. Notice of the hearing shall be the same as that specified under section 46 of this chapter~~, public hearings~~ (public hearings). The Board of Supervisors shall give consideration to all comments received and make such changes to the proposed budget as it deems advisable.

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

(i) It shall be a goal of the electrical energy plan to ~~assure~~ ensure, by 2028, that at least 60 MW of power are generated within the ~~state~~ State by combined heat and power (CHP) facilities powered by renewable ~~fuels or by nonqualifying SPEED resources~~ energy, as defined in section 8002 of this title. In order to meet this goal, the plan shall include incentives for development and strategies to identify locations in the ~~state~~ State that would be suitable for CHP. The plan shall include strategies to assure the consideration of CHP potential during any process related to the expansion of natural gas services in the ~~state~~ State.

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

(B) Each retail electricity provider shall manage its supply portfolio to be reasonably consistent with the target amounts established by this subdivision (4). The ~~board~~ Board shall consider such consistency during the course of reviewing a retail electricity provider's charges and rates under this title, integrated resource plans under section 218c of this title, and petitions

under section 248 (new gas and electric purchases, investments, and facilities) of this title. ~~However, nothing in this subdivision (4) shall relieve a retail electricity provider from the obligations of section 8004 (renewable portfolio standards) of this title.~~

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

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

* * *

(ii) ~~During years in which the annual increase is 10 MW, the~~ The adjustment in the annual increase shall be applied proportionally to the independent developer block and the provider block.

* * *

Sec. 21. 31 V.S.A. § 403 is amended to read:

§ 403. PENALTIES IMPOSED ON TOWN OFFICERS

Town clerks, boards of selectmen, village trustees, or any other town or city officials shall be fined not more than $10.00 for issuing a permit or license to the owner or operator of a show mentioned in this chapter for less than the minimum fee prescribed for the use of the town in section 401 of this title ~~or for issuing such permit or license without such show having first obtained a~~

~~license from the secretary of state as provided in sections 9901-9910 of Title 32~~.

Sec. 22. 32 V.S.A. § 1010(b) is amended to read:

(b) Notwithstanding any other provision of law, members of professional or occupational licensing boards or commissions, advisory boards or commissions, appeals boards, promotional boards, interstate boards, supervisory boards and councils, or any other boards or commissions that are not listed in subsection (a) of this section but are otherwise entitled by ~~statute~~ act of the General Assembly to receive per diem compensation, shall receive per diem compensation in the amount of $50.00 per day for each day devoted to official duties. This subsection shall not reduce the amount of per diem compensation heretofore provided by ~~statute~~ act of the General Assembly to members of boards or commissions entitled to receive more than $50.00 per day. "Per diem" means the amount of compensation to which a member of a statutory board or commission is entitled for:

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

(2) performance of other duties directly related to the efficient conduct of necessary board business as assigned and approved by the chairperson, provided that payment for such duties shall be at the per diem rate prorated for actual time spent performing duties. Proration shall be calculated based on an

eight-hour day. Under no circumstances shall the daily payment exceed the per diem amount.

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

§ 3752. DEFINITIONS

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

* * *

(5) "Development" means, for the purposes of determining whether a land use change tax is to be assessed under section 3757 of this chapter, the construction of any building, road, or other structure, or any mining, excavation, or landfill activity. "Development" also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres each; but if subdivision is solely the result of a transfer to one or more of a spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of the transferor, or to the surviving spouse of any of the foregoing, then "development" shall not apply to any portion of the ~~newly-created~~ newly created parcel or parcels which qualifies for enrollment and for which, within 30 days following the transfer, each transferee or transferor applies for reenrollment in the use value appraisal program. "Development" also means the cutting of timber on property appraised under this chapter at use value in a

manner contrary to a forest or conservation management plan as provided for in subsection 3755(b) of this title during the remaining term of the plan, or contrary to the minimum acceptable standards for forest management if the plan has expired; or a change in the parcel or use of the parcel in violation of the conservation management standards established by the ~~commissioner of forests, parks and recreation~~ Commissioner of Forests, Parks and Recreation. Enrolled land is also considered ~~"developed"~~ "development" under this section if a wastewater system permit has been issued for the land pursuant to 10 V.S.A § 1973 and the ~~commissioner of forests, parks and recreation~~ Commissioner of Forests, Parks and Recreation has certified to the ~~director~~ Director that the permit is contrary to a forest or conservation management plan or the minimum acceptable standards for forest management; use of the parcel would violate the conservation management standards; or after consulting with the ~~secretary of agriculture, food and markets, the commissioner~~ Secretary of Agriculture, Food and Markets, the Commissioner certifies that the permit is not part of a farm operation. The ~~commissioner of forests, parks and recreation~~ Commissioner of Forests, Parks and Recreation may develop standards regarding circumstances under which land with wastewater system and potable water permits will not be certified to the ~~director~~ Director. The term "development" shall not include the construction, reconstruction, structural alteration, relocation, issuance of a wastewater

system permit under 10 V.S.A § 1973, or enlargement of any building, road, or other structure for farming, logging, forestry, or conservation purposes, but shall include the subsequent commencement of a use of that building, road, structure, or wastewater system permit for other than farming, logging, or forestry purposes.

* * *

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

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

* * *

(5) the following ~~department of fish and wildlife~~ Department of Fish and Wildlife projects:

* * *

~~(E)~~(6) the ~~department of forests, parks and recreation~~ Department of Forests, Parks and Recreation for the Vermont Youth Conservation Corps to perform stabilization, restoration, and cleanup of environmental damage to waterways, forests, and public access lands caused by Tropical Storm Irene, including projects such as controlling the spread of invasive species, stabilizing flood-eroded river and stream banks; restoring vital aquatic and wildlife

habitats, removing toxic materials from fragile natural areas, and remediating recognized viewsheds: 200,000

* * *

Sec. 25. 2012 Acts and Resolves No. 79, Sec. 37aa(a) is amended to read:

(a) An individual who was employed by the ~~department of mental health~~ Department of Mental Health as of March 1, 2012, who was employed at the Vermont State Hospital on August 28, 2011, who participates in either the defined benefit or defined contribution plan, and who does not initiate the purchase of any additional service credit after March 1, 2012 shall be eligible for the retirement incentive outlined in subsection (b) of this section if the individual has:

* * *

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

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

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

* * *

(ii) In the event the hospital owned and operated by the ~~state~~ State loses or is no longer eligible for federal matching funds after December 31, 2013, the ~~commissioner of mental health~~ Commissioner of Mental Health shall cease use of nine beds within the time frame set by CMS and reduce the hospital's license from 25 to 16 beds. At that time, the ~~commissioner of mental health~~ Commissioner of Mental Health shall begin planning for an orderly transition to a 16-bed hospital that shall proceed in a manner that protects the health, safety, and integrity of individuals treated at the ~~state~~ State owned and operated hospital. The ~~commissioner's~~ Commissioner's transition plan shall ensure the nine-bed deficit in acute inpatient beds be addressed by expanding acute inpatient capacity elsewhere in the ~~state~~ State if necessary and that the nine decommissioned beds in the ~~state~~ State owned and operated hospital be repurposed in a manner that does not jeopardize federal matching funds for the remaining 16 beds. If the loss or denial of federal matching funds occurs while the ~~general assembly~~ General Assembly is in session, the ~~commissioner~~ Commissioner shall notify and seek approval of the transition plan from the ~~senate committees on health and welfare and on institutions and the house committees on human services and on corrections and institutions~~ Senate Committees on Health and Welfare and on Institutions and the House Committees on Human Services and on Corrections and Institutions before proceeding with the transition plan. If the loss or denial of federal matching

funds occurs while the ~~general assembly~~ General Assembly is not in session, the ~~commissioner~~ Commissioner shall notify and seek approval of the transition plan from a special committee composed of members of the ~~joint fiscal committee~~ Joint Fiscal Committee and the chairs and vice chairs of the ~~senate committees on health and welfare and on institutions and the house committees on human services and on corrections and institutions~~ Senate Committees on Health and Welfare and on Institutions and the House Committees on Human Services and on Corrections and Institutions before proceeding with the transition plan. The special committee shall be entitled to per diem and expenses as provided in ~~32 V.S.A. § 1010~~ 2 V.S.A. § 406.

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

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

25~~(f)~~ of this act (state aid for federal disasters) shall be retroactive to March 1, 2011.

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

(e) No later than January 15, 2014 and ~~annually by~~ each second January 15 thereafter, the ~~commissioner~~ Commissioner shall submit a written report to the ~~general assembly~~ General Assembly detailing the progress of the MOU program, including an identification of each hydroelectric project participating in the program. After five hydroelectric projects participating in the program are approved and commence operation, reports filed under this subsection shall evaluate and provide lessons learned from the program, including recommendations, if any, on how to improve procedures for obtaining approval of micro hydroelectric projects (100 kilowatts capacity or less). The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be submitted under this subsection.

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

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

Sec. 30. INTERPRETATION

It is the intent of the General Assembly that the technical amendments in this act shall not supersede substantive changes contained in other acts passed by the General Assembly. Where possible, the amendments in this act shall be

interpreted to be supplemental to other amendments to the same sections of statute; to the extent the provisions conflict, the substantive changes in other acts shall take precedence over the technical changes in this act.

Sec. 31. REPEALS

The following shall be repealed on July 1, 2013:

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

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

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

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

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

Sec. 32. EFFECTIVE DATE

This act shall take effect on July 1, 2013.