

# House Calendar

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Thursday, April 20, 2017

107th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 PM

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**ACTION CALENDAR**

**Third Reading**

**S. 12**

An act relating to increasing the maximum prison sentence for first, second, and subsequent offenses of aggravated animal cruelty

**S. 75**

An act relating to aquatic nuisance species control

**Amendment to be offered by Rep. Brennan of Colchester to S. 75**

That the House proposal of amendment be amended in Sec. 2, 10 V.S.A. § 1454, by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c) Presumption of compliance; Aquatic nuisance species inspection station. A person transporting a vessel to or from a water will be presumed to have not violated subsections (a), (b), and (d) of this section if upon launching a vessel and upon leaving a water, the vessel is decontaminated at an approved aquatic nuisance inspection station. If staff of an approved aquatic nuisance inspection station observe a violation of subsection (a), (b), or (d) of this section, staff shall notify the person transporting the vessel. If the person transporting the vessel does not correct the violation before launching the vessel or transport away from the water, the staff of the approved aquatic nuisance inspection station shall report the violation to an appropriate law enforcement entity.

**S. 96**

An act relating to a news media privilege

**Favorable with Amendment**

**S. 20**

An act relating to permanent licenses for persons 66 years of age or older

**Rep. Beyor of Highgate**, for the Committee on Natural Resources; Fish & Wildlife, recommends that the House propose to the Senate that the bill be amended as follows:

That the bill be amended by striking out Sec. 2 (effective date) in its entirety and inserting in lieu thereof two new sections to be Secs. 2 and 3 to read:

Sec. 2. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER FUND BOARD

(a) Creation. There is created a the Clean Water Fund Board which shall recommend to the Secretary of Administration expenditures from the Clean Water Fund. The Clean Water Fund Board shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Fund Board shall be composed of:

- (1) ~~the~~ The Secretary of Administration or designee;
- (2) ~~the~~ The Secretary of Natural Resources or designee;
- (3) ~~the~~ The Secretary of Agriculture, Food and Markets or designee;
- (4) ~~the~~ The Secretary of Commerce and Community Development or designee; ~~and,~~

(5) ~~the~~ The Secretary of Transportation or designee.

(6) Four members of the public to be appointed as follows:

(A) The Speaker of the House of Representatives shall appoint two members of the public, one of whom shall be a municipal official.

(B) The Committee on Committees shall appoint two members of the public, one of whom shall be a municipal official.

(C) Of the members appointed under this subdivision (6), it is the intent of the General Assembly that at any one time a member representing each of the following major watersheds shall be serving on the Board:

(i) the Connecticut River watershed;

(ii) the Hudson River watershed;

(iii) the Lake Champlain watershed; and

(iv) the Lake Memphremagog watershed.

(c) Officers; committees; rules; reimbursement.

(1) The Clean Water Fund Board shall annually elect a chair from its members. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(2) Members of the Board who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 paid from the budget of the Agency of Administration for attendance of meetings of the Board.

\* \* \*

(g) Terms; appointed members. Members who are appointed to the Clean Water Fund Board shall be appointed for terms of three years, except initially, appointments shall be made such that one member appointed by the Speaker shall be appointed for a term of two years, and one member appointed by the Committee on Committees shall be appointed for a term of one year. Vacancies on the Board shall be filled for the remaining period of the term in the same manner as initial appointments.

### Sec. 3. EFFECTIVE DATES

(a) This section and Sec. 2 (Clean Water Fund Board) shall take effect on passage.

(b) Sec. 1 (permanent fishing and hunting licenses) shall take effect on January 1, 2018.

**(Committee vote: 8-0-1 )**

**(For text see Senate Journal March 15, 2017 )**

**Rep. Helm of Fair Haven**, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources; Fish & Wildlife.

**(Committee Vote: 11-0-0)**

**Rep. Canfield of Fair Haven**, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources; Fish & Wildlife.

**(Committee Vote: 10-0-1)**

### S. 72

An act relating to requiring telemarketers to provide accurate caller identification information

**Rep. Kimbell of Woodstock**, for the Committee on Commerce and Economic Development, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Telemarketers; Accurate Caller I.D. Information \* \* \*

Sec. 1. 9 V.S.A. chapter 63, subchapter 1 is amended to read:

Subchapter 1. General Provisions

\* \* \*

§ 2464a. PROHIBITED TELEPHONE SOLICITATIONS

(a) Definitions. As used in this section, section 2464b, and section 2464c of this title:

(1) “Customer” means a customer, residing or located in Vermont, of a company providing telecommunications service as defined in 30 V.S.A. § 203(5).

(2) “Caller identification information” means information a caller identification service provides regarding the name and number of the person calling.

(3) “Caller identification service” means a service that allows a subscriber of the service to have the telephone number, and where available, the name of the calling party transmitted contemporaneously with the telephone call and displayed on a device in or connected to the subscriber’s telephone.

(4) “Federal functional regulator” means a federal functional regulator as defined in 15 U.S.C. § 6809(2).

~~(3)~~(5) “Financial institution” means a financial institution as defined in 15 U.S.C. § 6809(3).

~~(4)~~(6) “Tax-exempt organization” means an organization described in Section 501(c) of the Internal Revenue Service Code (26 U.S.C. § 501(c)).

~~(5)~~(7) “Telemarketer” means any telephone solicitor. However, “telemarketer” does not include any telephone solicitor who is otherwise registered or licensed with, or regulated or chartered by, the Secretary of State, the Public Service Board, the Department of Financial Regulation, or the Department of Taxes; or is a financial institution subject to regulations adopted pursuant to 15 U.S.C. § 6804(a) by a federal functional regulator. Telephone solicitors registered with the Department of Taxes to collect Vermont income withholding, sales and use, or meals and rooms tax, but not registered with any other agency listed in this subdivision, shall provide to the Secretary of State an address and agent for the purpose of submitting to the jurisdiction of the Vermont courts in any action brought for violations of this section.

~~(6)~~(8) “Telephone solicitation”:

(A) means the solicitation by telephone of a customer for the purpose of encouraging the customer to contribute to an organization ~~which~~ that is not a tax-exempt organization, or to purchase, lease, or otherwise agree to pay consideration for money, goods, or services; and

(B) does not include:

(i) telephone calls made in response to a request or inquiry by the called customer;

(ii) telephone calls made by or on behalf of a tax-exempt organization, an organization incorporated as a nonprofit organization with the State of Vermont, or an organization in the process of applying for tax-exempt status or nonprofit status;

(iii) telephone calls made by a person not regularly engaged in the activities listed in subdivision (A) of this subdivision ~~(6)(8)~~; or

(iv) telephone calls made to a person with whom the telephone solicitor has an established business relationship.

~~(7)(9)~~ “Telephone solicitor” means any person placing telephone solicitations, or hiring others, on an hourly, commission, or independent contractor basis, to conduct telephone solicitations.

**(b) Prohibition; Caller Identification Information.**

(1) No telemarketer shall make a telephone solicitation to a telephone number in Vermont without having first registered in accordance with section 2464b of this title.

(2) No person shall make any telephone call to a telephone number in Vermont ~~which~~ that violates the Federal Trade Commission’s Do Not Call Rule, 16 C.F.R. subdivision 310.4(b)(1)(iii), or the Federal Communication Commission’s Do Not Call Rule, 47 C.F.R. subdivision 64.1200(c)(2) and subsection (d), as amended from time to time.

(3)(A) A person who places a telephone call to make a telephone solicitation, or to induce a charitable contribution, donation, or gift of money or other thing of value, shall transmit or cause to be transmitted to a caller identification service in use by the recipient of the call:

(i) the caller’s telephone number; and

(ii) if made available by the caller’s carrier, the caller’s name.

(B) Notwithstanding subdivision (A) of this subdivision (3), a caller may substitute for its own name and number the name and the number, which is answered during regular business hours, of the person on whose behalf the caller places the call.

(c) Violation. A violation of this section shall constitute a violation of section 2453 of this title. Each prohibited telephone call shall constitute a separate violation. In considering a civil penalty for violations of subdivision (b)(2) of this section, the court may consider, among other relevant factors, the extent to which a telephone solicitor maintained and complied with procedures



designed to ensure compliance with the rules of the Federal Communications Commission and the Federal Trade Commission.

(d) Criminal Penalties. A telemarketer who makes a telephone solicitation in violation of subdivision (b)(1) of this section shall be imprisoned for not more than 18 months or fined not more than \$10,000.00, or both. It shall be an affirmative defense, for a telemarketer with five or fewer employees, that the telemarketer did not know, and did not consciously avoid knowing, that Vermont has a requirement of registration of telemarketers. Each telephone call shall constitute a separate solicitation under this section. This section shall not be construed to limit a person's liability under any other civil or criminal law.

#### § 2464b. REGISTRATION OF TELEMARETERS

(a) Every telemarketer shall register with the Secretary of State, on a form approved by the Secretary. In the case of a telemarketer who hires, whether on an hourly, commission, or independent contractor basis, one or more persons to conduct telephone solicitations, only the person who causes others to conduct telephone solicitations need register. The Secretary of State may adopt rules prescribing the manner in which registration under this section shall be conducted, including a requirement of notice to the Secretary by the telemarketer when the telemarketer ceases to do business in Vermont.

(b) The Secretary of State shall require that each telemarketer designate an agent for the purpose of submitting to the jurisdiction of the Vermont courts in any action brought for violations of section 2464a of this title.

(c) The Secretary of State shall collect the following fees when a document described in this section is delivered to the Office of the Secretary of State for filing:

(1) Registration: \$125.00.

(2) Statement of change of designated agent or designated office, or both: \$25.00, not to exceed \$1,000.00 per filer per calendar year.

#### § 2464c. PRIVATE CAUSE OF ACTION

Any person who receives a telephone call in violation of subsection 2464a(b) of this title may bring an action in Superior Court for damages, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney's fees. The ~~Court~~ court may issue an award for the person's actual damages or \$500.00 for a first violation, or \$1,000.00 for each subsequent violation, whichever is greater. In considering the amount of punitive damages, the ~~Court~~ court may consider, among other relevant factors, the extent to which a telephone solicitor maintained and complied with procedures designed to ensure compliance with the requirements of sections

2464a and 2464b of this title. This section shall not limit any other claims the person may have under applicable law.

\* \* \*

\* \* \* Data Brokers \* \* \*

## Sec. 2. DATA BROKERS; RECOMMENDATION

(a) Findings. The General Assembly finds that:

(1) The data broker industry brings benefits to society by:

(A) providing data necessary for the operation of both the public and private sectors;

(B) supporting the critical flow of information for interstate and intrastate commerce; and

(C) aiding in securing and protecting consumer identities.

(2) Despite these benefits, concerns have arisen about the data broker industry, including:

(A) how the data broker industry or persons accessing the industry may directly or indirectly harm vulnerable populations;

(B) the use of the data broker industry by those who harass, stalk, and otherwise harm others;

(C) whether appropriate safeguards are in place to assure that our most sensitive information is not sold to identity thieves, scammers, and other criminals; and

(D) the impact of the data broker industry on the privacy, dignity, and well-being of the people of Vermont.

(b) Recommendation. On or before December 15, 2017, the Commissioner of Financial Regulation and the Attorney General, in consultation with industry and consumer stakeholders, shall submit a recommendation or draft legislation to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs reflecting:

(1) an appropriate definition of the term “data broker”;

(2) whether and, if so, to what extent the data broker industry should be regulated by the Commissioner of Financial Regulation or the Attorney General;

(3) additional consumer protections that data broker legislation should seek to include that are not addressed within the framework of existing federal and State consumer protection laws; and

(4) proposed courses of action that balance the benefits to society that the data broker industry brings with actual and potential harms the industry may pose to consumers.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

**(Committee vote: 11-0-0 )**

**(For text see Senate Journal March 22, 2017 )**

**Favorable**

**H. 526**

An act relating to regulating notaries public.

**(Rep. Hubert of Milton** will speak for the Committee on Government Operations.)

**Rep. Browning of Arlington**, for the Committee on Ways and Means, recommends the bill ought to pass.

**(Committee Vote: 9-1-1)**

**H. 536**

An act relating to approval of amendments to the charter of the Town of Colchester

**Rep. Lewis of Berlin**, for the Committee on Government Operations, recommends the bill ought to pass.

**( Committee Vote: 9-0-2)**

### **NOTICE CALENDAR**

**Favorable with Amendment**

**H. 333**

An act relating to identification of gender-free restrooms in public buildings and places of public accommodation

**Rep. Gonzalez of Winooski**, for the Committee on General; Housing and Military Affairs, recommends the bill be amended as follows:

First: In Sec. 1, 18 V.S.A. chapter 40, in § 1792, Single-User Restrooms, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

(a) Any single-user toilet facility in a public building or place of public accommodation shall be made available for use by persons of any gender, and designated for use by no more than one occupant at a time or for family or assisted use. A single-user toilet facility may be identified by a sign, provided that the sign marks the facility as a restroom and does not indicate any specific gender.

Second: In Sec. 2, Effective Date, by striking out “passage” and inserting in lieu thereof July 1, 2017

**( Committee Vote: 10-1-0)**

### **S. 127**

An act relating to miscellaneous changes to laws related to vehicles and vessels

**Rep. Brennan of Colchester**, for the Committee on Transportation, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Special Plates and Placards for Persons With Disabilities \* \* \*

Sec. 1. 23 V.S.A. § 304a is amended to read:

#### § 304a. SPECIAL REGISTRATION PLATES AND PLACARDS FOR PEOPLE WITH DISABILITIES

(a) The following definitions shall apply to this section:

\* \* \*

(6) “Eligible person” means:

(A) a person who is blind or has an ambulatory disability and has been issued a special registration plate or a windshield placard by this State or another state;

(B) a person who is transporting a person described in subdivision (A) of this subdivision (6); or

(C) a person transporting a person who is blind or has an ambulatory disability on behalf of an organization that has been issued a special registration plate or a windshield placard by this State or another state for the purpose of transporting a person who is blind or has an ambulatory disability.

\* \* \*

(e)(1) A person, other than an eligible person, who for his or her own purposes parks a vehicle in a space for persons with disabilities shall be ~~fin~~

subject to a civil penalty of not less than \$200.00 for each violation and shall be liable for towing charges.

(2) A person, other than an eligible person, who displays a special registration plate or removable windshield placard not issued to him or her under this section and parks a vehicle in a space for persons with disabilities, shall be subject to a civil penalty of not less than \$400.00 for each violation and shall be liable for towing charges.

(3) ~~He or she shall~~ A person who violates this section also shall be liable for storage charges not to exceed \$12.00 per day, and an artisan's lien may be imposed against the vehicle for payment of the charges assessed.

(4) The person in charge of the parking space or spaces for persons with a disability or any duly authorized law enforcement officer shall cause the removal of a vehicle parked in violation of this section.

(5) A violation of this section shall be considered a traffic violation within the meaning of 4 V.S.A. chapter 29.

\* \* \*

\* \* \* Special License Plates \* \* \*

Sec. 2. 23 V.S.A. § 304b is amended to read:

§ 304b. CONSERVATION MOTOR VEHICLE REGISTRATION PLATES

\* \* \*

(b) Initial fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$12.00~~ 46 percent to the Transportation Fund.

(2) ~~\$7.00~~ 27 percent to the Department of Fish and Wildlife for deposit into the Nongame Wildlife Account created in 10 V.S.A. § 4048.

(3) ~~\$7.00~~ 27 percent to the Department of Fish and Wildlife for deposit into the Watershed Management Account created in 10 V.S.A. § 4050.

(c) Renewal fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$11.00~~ 42 percent to the Department of Fish and Wildlife for deposit into the Nongame Wildlife Account created in 10 V.S.A. § 4048.

(2) ~~\$11.00~~ 42 percent to the Department of Fish and Wildlife for deposit into the Watershed Management Account created in 10 V.S.A. § 4050.

(3) ~~\$4.00~~ 16 percent to the Transportation Fund.

(d) The Commissioner of Fish and Wildlife is authorized to deposit fees collected by the Department of Fish and Wildlife under subsections (b) and (c) of this section into the Conservation Camp Fund when the fees collected exceed the annual funding needs of the Nongame Wildlife Account and the Watershed Management Account.

Sec. 3. 23 V.S.A. § 304c is amended to read:

§ 304c. MOTOR VEHICLE REGISTRATION PLATES: BUILDING BRIGHT SPACES FOR BRIGHT FUTURES FUND

\* \* \*

(b) Fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$7.00~~ 29 percent to the Transportation Fund.

(2) ~~\$17.00~~ 71 percent to the Department for Children and Families for deposit in the Bright Futures Fund created in 33 V.S.A. § 3531.

(c) Renewal fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$19.00~~ 79 percent to the Department for Children and Families for deposit in the Bright Futures Fund in 33 V.S.A. § 3531.

(2) ~~\$5.00~~ 21 percent to the Transportation Fund.

(d) The Department of Motor Vehicles shall be charged by the Department of Corrections for the production of the Bright Futures Fund license plates.

\* \* \* Annual Special Excess Weight Permits \* \* \*

Sec. 4. 23 V.S.A. § 305 is amended to read:

§ 305. REGISTRATION PERIODS

(a) The Commissioner of Motor Vehicles shall issue registration certificates, validation stickers, and number plates upon initial registration, and registration certificates and validation stickers for each succeeding renewal period of registration, upon payment of the registration fee. Number plates so issued will become void one year from the first day of the month following the month of issue unless a longer initial registration period is authorized by law, or unless this period is extended through renewal. Registrations issued for motor trucks shall become void one year from the first day of the month following the month of issue. ~~The fees for annual special excess weight permits issued to these vehicles pursuant to section 1392 of this title shall be prorated so as to coincide with registration expiration dates.~~

\* \* \*

\* \* \* Temporary Registration \* \* \*

Sec. 5. 23 V.S.A. § 312 is amended to read:

§ 312. TEMPORARY REGISTRATION PENDING ISSUANCE OF CERTIFICATE OF TITLE

(a) In his or her discretion, the Commissioner may issue a temporary registration certificate to a person required to obtain a certificate of title in accordance with chapter 21 of this title upon payment of the registration fee provided in subchapter 2 of this chapter and of the title fee. The temporary registration certificate and the number plate shall be valid for 60 days and shall not be renewed. At the expiration of the temporary registration, a permanent registration certificate and a set of number plates shall be issued provided that all documents and information required by law are filed with the Commissioner.

(b) The registration fee paid in accordance with subsection (a) of this section shall not be refunded, except that the fee shall be deemed the fee for the permanent registration, if one is issued, or shall be deemed the fee for another an application for registration to register another vehicle, if the title requirements are met during that registration period. Likewise, the title fee shall be deemed the fee for the title, if one is issued, or shall be deemed the fee for an application to title another vehicle.

\* \* \* Registration Transfers \* \* \*

Sec. 6. 23 V.S.A. § 321 is amended to read:

§ 321. PROCEDURE UPON TRANSFER

Upon the transfer of ownership of any registered motor vehicle its registration shall expire. The person in whose name the transferred vehicle was registered shall immediately return direct to the Commissioner the registration certificate assigned to the transferred vehicle, with the date of sale and the name and residence of the new owner endorsed on the back. However, the Commissioner may accept any other satisfactory evidence of the above required information. The transferor shall forthwith remove the registration number plates from the transferred vehicle and may attach the same to another unregistered motor vehicle owned by him or her. Upon the transfer of registration plates from a motor vehicle, the registration of which has expired as above provided, to another motor vehicle, owned by the ~~transferor~~ transferor, the owner or operator shall not, for a period of ~~30~~ 60 days, be subject to a fine for the operation of the latter motor vehicle without the proper registration certificate, provided he or she has, within 24 hours of the transfer, made application, as provided in section 323 of this title, for transfer of the registration number plates. If such application for transfer is not so received

by the Commissioner, the number plates shall be returned to the Commissioner at the end of five days after the transfer of ownership.

\* \* \* Registration Fees; Local Transit Buses \* \* \*

Sec. 7. 23 V.S.A. § 372a is amended to read:

§ 372a. LOCAL TRANSIT PUBLIC TRANSPORTATION SERVICE

(a) The annual registration fee for any motor bus used in local transit or public transportation service shall be \$62.00, except for those vehicles owned by a municipality for such service that are subject to the provisions of section 376 of this title. In the event a bus registered for local transit or public transportation service is thereafter registered for general use during the same registration year, such fee shall be applied towards the fee for general registration.

(b) As used in this section, a motor bus used in public transportation service ~~bus~~ is a bus used by a nonprofit public transit system as defined in 24 V.S.A. § 5088(3), and a motor bus used in local transit ~~bus~~ is a motor bus used entirely within or not more than ~~40~~ 100 miles beyond the boundaries of a city or town.

\* \* \* Exhibition Vehicles \* \* \*

Sec. 8. 23 V.S.A. § 373 is amended to read:

§ 373. EXHIBITION VEHICLES; YEAR OF MANUFACTURE PLATES

(a) The annual fee for the registration of a motor vehicle which is maintained ~~solely~~ for use in exhibitions, club activities, parades, and other functions of public interest and which is not used for ~~the general daily~~ transportation of passengers or property on any highway, ~~except to attend such functions~~, shall be \$21.00, in lieu of fees otherwise provided by law. Permitted use shall include:

(1) use in exhibitions, club activities, parades, and other functions of public interest; and

(2) occasional transportation of passengers or property not more than one day per week.

\* \* \*

\* \* \* Licenses and Permits to Operate; Refusals to Issue \* \* \*

Sec. 9. 23 V.S.A. § 603(c) is amended to read:

(c) An ~~operator~~ operator's license, junior ~~operator~~ operator's license, or ~~learner~~ learner's permit shall not be issued to an applicant whose license ~~or~~



~~learner, learner's permit, or privilege to operate~~ is suspended, revoked, or canceled in any jurisdiction.

#### Sec. 10. CONFORMING CHANGES

(a) In 23 V.S.A. § 601(b), the phrase "operator licenses" shall be replaced with "operator's licenses" wherever it appears.

(b) In 23 V.S.A. § 603(b) and (d), wherever they appear:

(1) The phrase "operator license" shall be replaced with "operator's license."

(2) The phrase "junior operator license" shall be replaced with "junior operator's license."

(3) The phrase "learner permit" shall be replaced with "learner's permit."

\* \* \* Learner's Permits; Operation Under \* \* \*

Sec. 11. 23 V.S.A. § 615 is amended to read:

#### § 615. UNLICENSED OPERATORS

(a)(1)(A) An unlicensed person 15 years of age or older may operate a motor vehicle if he or she possesses a valid learner's permit issued to him or her by the Commissioner, or by another jurisdiction in accordance with section 208 of this title, and if one of the following persons who is not under the influence of alcohol or drugs rides beside him or her:

(i) his or her licensed parent or guardian;

(ii) a licensed or certified driver education instructor;

(iii) a licensed examiner of the Department; or

(iv) a licensed person at least 25 years of age ~~rides beside him or her.~~

(B) A person described under subdivisions (A)(i)–(iv) of this subdivision (1) who, while under the influence of alcohol or drugs, rides beside an individual whom the person knows to be unlicensed shall be subject to the same penalties as for a violation of subsection 1130(b) of this title. A holder of a learner's permit shall not be deemed to have violated this section if a person described under subdivisions (A)(i)–(iv) of this subdivision (1) rides beside him or her while the person is under the influence of alcohol or drugs.

(C) Nothing in this section shall be construed to permit a person against whom a revocation or suspension of license is in force, or a person younger than 15 years of age, or a person who has been refused a license by the Commissioner to operate a motor vehicle.

\* \* \*

\* \* \* Distracted Driving \* \* \*

Sec. 12. 23 V.S.A. § 1095b is amended to read:

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE  
PROHIBITED

\* \* \*

(c) Penalties.

(1) A person who violates this section commits a traffic violation and shall be subject to a fine of not less than \$100.00 and not more than \$200.00 for a first violation, and of not less than \$250.00 and not more than \$500.00 for a second or subsequent violation within any two-year period.

(2) A person convicted of violating this section while operating within a ~~properly designated work zone in which construction, maintenance, or utility personnel are present~~ the following areas shall have ~~two~~ four points assessed against his or her driving record for a first conviction and five points assessed for a second or subsequent conviction:

(A) a properly designated work zone in which construction, maintenance, or utility personnel are present; or

(B) a school zone marked with warning signs conforming to the Manual on Uniform Traffic Control Devices.

(3) A person convicted of violating this section outside ~~a work zone in which personnel are present~~ the areas designated in subdivision (2) of this subsection shall ~~not~~ have two points assessed against his or her driving record for a first conviction and four points assessed for a second or subsequent conviction.

\* \* \*

Sec. 13. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Unless the assessment of points is waived by a Superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance with subsection 2501(b) of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

\* \* \*

- (LL)(i) § 1095. Entertainment picture visible to operator;
- (ii) § 1095b(c)~~(2)~~(3) Use of portable electronic device ~~in~~ outside work or school zone - first offense;

\* \* \*

(3) Four points assessed for:

- (A) § 1012. Failure to obey enforcement officer;
- (B) § 1013. Authority of enforcement officers;
- (C) § 1051. Failure to yield to pedestrian;
- (D) § 1057. Failure to yield to persons who are blind;
- (E) § 1095b(c)(2) Use of portable electronic device in work or school zone—first offense;
- (F) § 1095b(c)(3) Use of portable electronic device outside work or school zone—second and subsequent offenses;

(4) Five points assessed for:

- (A) § 1050. Failure to yield to emergency vehicles;
- (B) § 1075. Illegal passing of school bus;
- (C) § 1099. Texting prohibited;
- (D) § 1095b(c)(2) Use of portable electronic device in work or school zone—second and subsequent offenses;

\* \* \*

\* \* \* DUI-Related Provisions \* \* \*

Sec. 14. 23 V.S.A. chapter 13, subchapter 13 is amended to read:

Subchapter 13. Drunken Driving

§ 1200. DEFINITIONS

As used in this subchapter:

\* \* \*

(10) “Random retest” means a test of a vehicle operator’s blood alcohol concentration, other than a test required to start the vehicle, that is required at random intervals during operation of a vehicle equipped with an ignition interlock device.

\* \* \*

§ 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND  
DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

\* \* \*

(b) Abstinence.

(1)(A) Notwithstanding any other provision of this subchapter, a person whose license or privilege to operate has been suspended or revoked for life under this subchapter may apply to the Driver Rehabilitation School Director and to the Commissioner for reinstatement of his or her driving privilege. The person shall have completed three years of total abstinence from consumption of alcohol or nonprescription regulated drugs, or both. The use of a regulated drug in accordance with a valid prescription shall not disqualify an applicant for reinstatement of his or her driving privileges unless the applicant used the regulated drug in a manner inconsistent with the prescription label.

(B) The beginning date for the period of abstinence shall be no sooner than the effective date of the suspension or revocation 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 shall include the applicant’s authorization for a urinalysis examination to be conducted prior to reinstatement under this subdivision. 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.

\* \* \*

§ 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE OR CERTIFICATE; PENALTIES

\* \* \*

(e) ~~Except as provided in subsection (m) of this section, the~~ The holder of an ignition interlock RDL or ignition interlock certificate shall pay the costs of installing, purchasing or leasing, and removing the ignition interlock device as well as calibrating the device and retrieving data from it periodically as may be specified by the Commissioner.

\* \* \*

(1)(1) The Commissioner, in consultation with any individuals or entities the Commissioner deems appropriate, shall adopt rules and may enter into agreements to implement the provisions of this section. The Commissioner shall not approve a manufacturer of ignition interlock devices as a provider in this State unless the manufacturer agrees to reduce the cost of installing, leasing, and deinstalling the device by at least 50 percent for persons who furnish proof of receipt of 3SquaresVT, LIHEAP, or Reach Up benefits or like benefits in another state.

(2) The rules shall establish uniform performance standards for ignition interlock devices including required levels of accuracy in measuring blood alcohol concentration, efficacy in distinguishing valid breath samples, the occurrence of random retests while the vehicle is running, and automatic signaling by the vehicle if the operator fails such a retest. After an initial random retest to occur within 15 minutes of the vehicle starting, subsequent random retests shall occur on average not more often than once every 30 minutes. The Commissioner shall certify devices that meet these standards, specify any periodic calibration that may be required to ensure accuracy of the devices, and specify the means and frequency of the retrieval and sharing of data collected by ignition interlock devices. ~~Persons who elect to obtain an ignition interlock RDL or certificate following a conviction under this subchapter when the person's blood alcohol concentration is proven to be 0.16 or more shall be required to install an ignition interlock device with a Global Positioning System feature.~~ The rules also shall establish a schedule of extensions of the period prior to eligibility for reinstatement as authorized under subsection (h) of this section.

\* \* \*

\* \* \* Length of Vehicles \* \* \*

Sec. 15. 23 V.S.A. § 1402(b)(2) is amended to read:

~~(2) Notwithstanding the provisions of this section, the Agency of Transportation may erect signs at those locations where it would be unsafe to operate vehicles in excess of 68 feet in length. [Repealed.]~~

Sec. 16. 23 V.S.A. § 1432 is amended to read:

§ 1432. LENGTH OF VEHICLES; ~~AUTHORIZED HIGHWAYS~~

\* \* \*

~~(f) List of approved highways. The Commissioner shall prepare a list of each highway that has been approved for travel by vehicles referred to in subsection (a) of this section. The list shall be furnished, without charge, to each permitting service, electronic dispatching service, or other similar service authorized to do business in this State and, upon request, to any interested person. [Repealed.]~~

\* \* \* Transfer of Title, Registration; Vessels, Snowmobiles, and ATVs \* \* \*

Sec. 17. 23 V.S.A. § 3816 is amended to read:

§ 3816. TRANSFER OF INTEREST IN VESSEL, SNOWMOBILE, OR ALL-TERRAIN VEHICLE

(a) If an owner transfers his or her interest in a vessel, snowmobile, or all-terrain vehicle, other than by the creation of a security interest, he or she shall, at the time of delivery of the vessel, snowmobile, or all-terrain vehicle, execute an assignment and warranty of title to the transferee in the space provided on the certificate or as the Commissioner prescribes, and cause the certificate and assignment to be mailed or delivered to the transferee or to the Commissioner. Where title to a vessel, snowmobile, or all-terrain vehicle is in the name of more than one person, the nature of the ownership must be indicated by one of the following on the certificate of title:

\* \* \*

~~(e)(1) Pursuant to the provisions of 14 V.S.A. § 313, whenever the estate of an individual who dies intestate consists principally of a vessel, snowmobile, or all-terrain vehicle, the surviving spouse shall be deemed to be the owner of the vessel, snowmobile, or all-terrain vehicle and title to the vessel, snowmobile, or all-terrain vehicle shall automatically pass to the surviving spouse. The surviving spouse may register Upon request, the Department shall register and title the vessel, snowmobile, or all-terrain vehicle by paying a transfer fee not to exceed \$2.00 in the name of the surviving spouse, and no fee shall be assessed.~~

(2) Notwithstanding any contrary provision of law, and except as provided in subdivision (3) of this subsection, whenever the estate of an individual consists in whole or in part of a vessel, snowmobile, or all-terrain

vehicle, and the person's will or other testamentary document does not specifically address disposition of the same, the surviving spouse shall be deemed to be the owner and title to the vessel, snowmobile, or all-terrain vehicle shall automatically pass to the surviving spouse. Upon request, the Department shall register and title the vessel, snowmobile, or all-terrain vehicle in the name of the surviving spouse, and no fee shall be assessed.

(3) This subsection shall not apply if the vessel, snowmobile, or all-terrain vehicle is titled in the name of one or more persons other than the decedent and the surviving spouse.

\* \* \* Enforcement of Snowmobile and Boating Violations \* \* \*

Sec. 18. REPEAL

12 V.S.A. chapter 193 (snowmobile and boating violations) is repealed.

Sec. 19. 23 V.S.A. § 3208 is amended to read:

§ 3208. ADMINISTRATION AND ENFORCEMENT

\* \* \*

(d) The provisions of this subchapter and the rules adopted pursuant thereto shall be enforced by law enforcement officers as defined in section 3302 of this title in accordance with the provisions of ~~12 V.S.A. chapter 193~~ 4 V.S.A. chapter 29. Testimony of a witness as to the existence of navigation or snowmobile control signs, signals, or markings, shall be prima facie evidence that such control, sign, signal, or marking existed pursuant to a lawful statute, regulation, or ordinance and that the defendant was lawfully required to obey a direction of such device.

(e) Law enforcement officers as defined in section 3302 of this title, ~~in accordance with the provisions of 12 V.S.A. chapter 193,~~ may conduct safety inspections on snowmobiles stopped for other snowmobile law violations on the Statewide Snowmobile Trail System. Safety inspections may also be conducted in a designated area by law enforcement officials. A designated area shall be warned solely by blue lights either on a stationary snowmobile parked on a trail or on a cruiser parked at a roadside trail crossing.

Sec. 20. 23 V.S.A. § 3318 is amended to read:

§ 3318. ADMINISTRATION AND ENFORCEMENT

(a) The administration of the provisions of this chapter, as they pertain to the registration and numbering of vessels and the suspension of the privilege to operate vessels, shall be the responsibility of the Department of Motor Vehicles.

\* \* \*

(c) The provisions of this subchapter and the rules adopted pursuant to this subchapter shall be enforced by law enforcement officers as defined in section 3302 of this title in accordance with the provisions of ~~12 V.S.A. chapter 193~~ 4 V.S.A. chapter 29. Law enforcement officers as defined in section 3302 of this title may also enforce the provisions of 10 V.S.A. § 1454 and the rules adopted pursuant to 10 V.S.A. § 1424 in accordance with the requirements of 10 V.S.A. chapter 50.

\* \* \* Motor Vehicle Purchase and Use Tax \* \* \*

Sec. 21. 32 V.S.A. § 8902(5) is amended to read:

(5) “Taxable cost” means the purchase price as defined in subdivision (4) of this section or the taxable cost as determined under section 8907 of this title. For any purchaser who has paid tax on the purchase or use of a motor vehicle that was sold or traded by the purchaser or for which the purchaser received payment under a contract of insurance, the taxable cost of the replacement motor vehicle other than a leased vehicle shall exclude:

\* \* \*

(B) the amount received from the sale of a motor vehicle last registered in his or her name, the amount not to exceed the ~~average book~~ clean trade-in value of the same make, type, model, and year of manufacture as designated by the manufacturer and as shown in the NADA Official Used Car Guide, ~~National Automobile Dealers Association~~ (New England edition), or any comparable publication, provided such sale occurs within three months of the taxable purchase. However, this three-month period shall be extended day-for-day for any time that a member of a guard unit or of the U.S. Armed Forces, as defined in 38 U.S.C. § 101(10), spends outside Vermont due to activation or deployment, and an additional 60 days following the person’s return from activation or deployment. Such amount shall be reported on forms supplied by the Commissioner of Motor Vehicles;

\* \* \*

Sec. 22. 32 V.S.A. § 8907 is amended to read:

§ 8907. COMMISSIONER, COMPUTATION OF TAXABLE COSTS

(a) The Commissioner may investigate the taxable cost of any motor vehicle transferred subject to the provisions of this chapter. If the motor vehicle is not acquired by purchase in Vermont or is received for an amount which does not represent actual value, or if no tax form is filed or it appears to the Commissioner that a tax form contains fraudulent or incorrect information, the Commissioner may, in his or her discretion, fix the taxable cost of the motor vehicle at the ~~average book~~ clean trade-in value of vehicles of the same make, type, model, and year of manufacture as designated by the manufacturer,



as shown in the NADA Official Used Car Guide, National Automobile Dealers Association (New England Edition) or any comparable publication, less the lease end value of any leased vehicle. The Commissioner may compute and assess the tax due thereon, and notify the purchaser thereof forthwith by certified mail, and the purchaser shall remit the same within 15 days thereafter.

\* \* \*

Sec. 23. MOTOR VEHICLE PURCHASE AND USE TAX; EXTENSION  
OF THREE-MONTH PERIOD TO REDUCE TAXABLE COST

(a) Notwithstanding 32 V.S.A. § 8902(5)(B), the three-month limitation on the period in which to reduce the taxable cost of a motor vehicle by the sale of a previously owned vehicle shall not apply in the case of vehicles sold to the manufacturer pursuant to buyback agreement under a Volkswagen, Audi, or Porsche diesel engine defeat device settlement or judgment, if the vehicle is sold to the manufacturer:

(1) on or before November 10, 2017, in the case of 2.0 liter diesel engine Volkswagens and Audis; or

(2) on or before one year after buybacks commence under the 3.0 liter diesel engine class action settlement for Volkswagens, Audis, and Porsches.

(b) If a person paid a purchase and use tax in excess of the amount that would have been required if this section had been in effect at the time of the tax payment, the Commissioner of Motor Vehicles, upon application, shall issue the person a refund in accordance with this section.

\* \* \* Vermont Strong License Plates \* \* \*

Sec. 24. VERMONT STRONG MOTOR VEHICLE PLATES

(a) In 2012 Acts and Resolves No. 71, Sec. 1, as amended by 2012 Acts and Resolves No. 143, Sec. 13, the General Assembly authorized the Department of Motor Vehicles to distribute “Vermont Strong” commemorative plates and authorized operators of certain Vermont-registered vehicles to display the commemorative plates over the regular front registration plates of such vehicles until June 30, 2014. In 2014 Acts and Resolves No. 189, Sec. 26, the authorized display period was extended to June 30, 2016.

(b) Through an executive order issued on June 2, 2016, No. 3-74, the Governor ordered and directed that the Commissioner of Motor Vehicles continue to permit Vermonters to display Vermont Strong plates on the front of eligible vehicles and that Vermont law enforcement officers refrain from ticketing or otherwise penalizing any Vermonter for displaying a Vermont Strong plate on eligible vehicles “until the General Assembly next has the

opportunity to consider and clarify the duration of Vermont Strong Commemorative License Plates.”

(c) Under 23 V.S.A. § 511(a), “A motor vehicle operated on any highway shall have displayed in a conspicuous place either one or two number plates as the Commissioner may require.” The Commissioner has implemented this authority through a regulation, CVR 14-050-025, which states, “Two registration plates are issued to and must be displayed by all registered vehicles” with the exception of certain listed vehicles. The listed exceptions do not include pleasure cars or motor trucks, which therefore are required to display two registration plates unless otherwise provided by law.

(d) This subsection supersedes Executive Order 3-74. The display of Vermont Strong commemorative plates in place of front registration plates no longer is authorized. On and after September 1, 2017, the Commissioner of Motor Vehicles and law enforcement officers shall enforce the provisions of 23 V.S.A. § 511(a) and CVR 14-050-025 that require the display of two registration plates on pleasure cars and on motor trucks. Prior to September 1, 2017, the Commissioner shall take measures to raise public awareness that the display of Vermont Strong commemorative plates in place of front registration plates no longer is authorized.

\* \* \* Incident Clearance; Duties; Limitation on Liability \* \* \*

Sec. 25. 23 V.S.A. § 1102 is amended to read:

§ 1102. REMOVAL OF STOPPED VEHICLES

(a) ~~Any~~ Subject to subsection (c) of this section, any enforcement officer is authorized to:

(1) ~~move~~ cause the removal of a vehicle stopped, parked, or standing contrary to section 1101 of this title, or ~~to~~ require the driver or other person in charge to move the vehicle to a safe position off the ~~paved or~~ main-traveled part of the highway;

(2) ~~remove~~ cause the removal of an unattended vehicle ~~which~~ or cargo ~~that~~ is an obstruction to traffic or to maintenance of the highway to a garage or other place of safety;

(3) ~~remove~~ cause the removal of any vehicle found upon a highway, as defined in 19 V.S.A. § 1, to a garage or other place of safety when:

(A) the officer is informed by a reliable source that the vehicle has been stolen or taken without the consent of its owner; or

(B) the person in charge of the vehicle is unable to provide for its removal; or

(C) the person in charge of the vehicle has been arrested under circumstances ~~which~~ that require his or her immediate removal from control of the vehicle.

(b) In the case of a crash involving a serious bodily injury or fatality, clearance of the crash scene may be delayed until the crash investigation is completed.

(c) A towing operator shall undertake removal of a vehicle or cargo under this section only if summoned to the scene by the vehicle owner or vehicle operator, or an enforcement officer, and is authorized to perform the removal as follows:

(1) The owner or operator of the vehicle or cargo being removed shall summon to the scene the towing operator of the owner's or operator's choice in consultation with the enforcement officer and designate the location to where the vehicle or cargo is to be removed.

(2) The provisions of subdivision (1) of this subsection shall not apply when the owner or operator is incapacitated or otherwise unable to summon a towing operator, does not make a timely choice of a towing operator, or defers to the enforcement officer's selection of the towing operator.

(3) The authority provided to the owner or operator under subdivision (1) of this subsection may be superseded by the enforcement officer if the towing operator of choice cannot respond to the scene in a timely fashion and the vehicle or cargo is a hazard, impedes the flow of traffic, or may not legally remain in its location in the opinion of the enforcement officer.

(d)(1) Except as provided in subdivision (2) of this subsection, the vehicle owner and the motor carrier, if any, shall be responsible to the law enforcement agency or towing operator for reasonable costs incurred solely in the removal and subsequent disposition of the vehicle or cargo under this section.

(2) When applicable, the provisions of 10 V.S.A. § 6615 (liability for release of hazardous materials) shall apply in lieu of this subsection.

(e) Except for intentionally inflicted damage or gross negligence, an enforcement officer or a person acting at the direction of an enforcement officer who removes from a highway a motor vehicle or cargo that is obstructing traffic or maintenance activities or creating a hazard to traffic shall not be liable for damage to the vehicle or cargo incurred during the removal.

(f) Any enforcement officer causing the removal of a motor vehicle under this section shall notify the Department as to the location and date of discovery of the vehicle, date of removal of the vehicle, name of the towing service removing the vehicle, and place of storage. The officer shall record and remove from the vehicle, if possible, any information ~~which~~ that might aid the

Department in ascertaining the ownership of the vehicle and forward ~~it~~ the information to the Department. A motor vehicle towed under authority of this section may qualify as an abandoned motor vehicle under subchapter 7 of chapter 21 of this title.

(g)(1) Except as otherwise provided in subdivision (2) of this subsection, the operator of a vehicle involved in a crash who is required by law to stop the vehicle, or who elects to stop the vehicle, at the crash scene shall move and stop the vehicle at the nearest location where the vehicle will not impede traffic or jeopardize the safety of a person.

(2) The duty to move a vehicle under subdivision (1) of this subsection shall not apply when:

(A) the crash involved the death of or apparent injury to any person;

(B) the vehicle to be moved was transporting hazardous material;

(C) the vehicle cannot be operated under its own power without further damage to the vehicle or the highway; or

(D) the movement cannot be made without endangering other highway users.

(3) An operator required to move a vehicle under this subsection who fails to do so shall not be ticketed, assessed a civil penalty, or have points assessed against his or her driving record.

Sec. 26. 23 V.S.A. § 1128 is amended to read:

§ 1128. ACCIDENTS—DUTY TO STOP

(a) The operator of a motor vehicle who has caused or is involved in ~~an accident~~ a crash resulting in injury to any person other than the operator, or in damage to any property other than the vehicle then under his or her control, shall immediately stop and render any assistance reasonably necessary. Subsection 1102(g) of this title (stopping not to impede traffic or jeopardize safety; exceptions) governs the location where a person shall stop. The operator shall give his or her name, residence, license number, and the name of the owner of the motor vehicle to any person who is injured or whose property is damaged and to any enforcement officer. A person who violates this section shall be fined not more than \$2,000.00 or imprisoned for not more than two years, or both.

\* \* \*

\* \* \* Inspections; Mail Carrier Vehicles \* \* \*

Sec. 27. 23 V.S.A. § 1222(e) is added to read:

(e) A vehicle used as a mail carrier under a contract with the U.S. Postal Service shall not fail inspection solely because, in converting the vehicle to be a right-hand drive vehicle, the right air bag in the front compartment has been disconnected or a nonfactory disconnect switch has been installed to disable the air bag.

\* \* \* Motorboat Safety Equipment \* \* \*

Sec. 28. 23 V.S.A. § 3306 is amended to read:

§ 3306. LIGHTS AND EQUIPMENT

(a) Every vessel shall carry and show the following lights when underway between sunset and sunrise:

\* \* \*

(3) motorboats 26 feet or longer, a white light aft showing all around, visible for at least two miles, ~~a white light in the forepart of the boat showing all around,~~ and a light in the forepart of the boat showing red to port and green to starboard, visible at least one mile;

\* \* \*

(g) Motorboats operated on waters that the U.S. Coast Guard has determined to be navigable waters of the United States and therefore subject to the jurisdiction of the United States must have lights and other safety equipment as required by U.S. Coast Guard rules and regulations.

Sec. 29. 23 V.S.A. § 3317 is amended to read:

§ 3317. PENALTIES

(a) A person who violates any of the following sections of this title shall be subject to a ~~fine~~ penalty of not more than \$50.00 for each violation:

\* \* \*

- § 3306(a)-(d) and (g) lights and equipment
- § 3307a documented boat validation sticker
- § 3308 boat rental records
- § 3309 muffling device
- § 3311(c) distance requirements
- § 3311(d) underwater historic preserve area
- § 3311(e) overloaded vessel
- § 3311(h)-(i) authority of law enforcement officer
- § 3312 rules between vessels

- § 3313(b) failing to file report
- § 3315(a) water ski observer
- § 3315(c) improper ski towing
- § 3316 boat races

\* \* \*

\* \* \* Injury Prevention; Educational Resource \* \* \*

Sec. 30. PREVENTING INJURY ON PROPERTY USED FOR  
RECREATION

(a) The Secretary of Transportation, in consultation with the Commissioners of Fish and Wildlife and of Forests, Parks and Recreation, shall:

(1) Develop an educational resource for property owners related to the prevention of injuries arising from recreational use of property. At a minimum, this resource shall:

(A) note that failure to mark appropriately a chain, wire, cable, or similar material strung across a known path of recreational users can result in severe injury or death; and

(B) recommend means and methods to mark appropriately such chains, wires, cables, or similar materials.

(2) Take appropriate steps to cause this resource to be disseminated to owners of property in the State.

(b) Nothing in this section is intended to modify the rights, duties, liabilities, or defenses available to any person under any other law. Neither the existence of, nor the fact that a property owner received or may have received or been aware of, the educational resource required to be developed under this section shall be discoverable or used in any civil, criminal, or administrative proceeding.

\* \* \* Effective Dates; Retroactivity; Sunset; Applicability \* \* \*

Sec. 31. EFFECTIVE DATES; RETROACTIVITY; SUNSET;  
APPLICABILITY

(a)(1) This section and Secs. 9 (licenses and permits to operate; refusals to issue), 15 (signs regarding length of vehicles), 16 (list of approved highways), 23 (motor vehicle purchase and use tax; extension of three-month period to reduce taxable cost), 24 (Vermont Strong license plates), 25–26 (incident clearance), 27 (inspections; mail carrier vehicles), 28–29 (motorboat safety

equipment), and 30 (injury prevention; educational resource) shall take effect on passage.

(2) In Sec. 14, 23 V.S.A. § 1209a(b) (reinstatement under Total Abstinence Program) shall take effect on passage.

(3) Notwithstanding 1 V.S.A. § 214, Sec. 23 shall apply retroactively to October 26, 2016.

(4) 23 V.S.A. § 1222(e), added in Sec. 27 (inspections; mail carrier vehicles), shall be repealed on July 1, 2020.

(b) In Sec. 14, 23 V.S.A. § 1213(1)(2) (timing of random retests and elimination of GPS requirement) shall take effect 60 days after passage of this act.

(c) All other sections shall take effect on July 1, 2017.

(d) In Sec. 14, 23 V.S.A. § 1213(1)(2) (timing of random retests and elimination of GPS requirement) shall apply to all persons with ignition interlock restricted driver's licenses as of the effective date of this provision and to persons whose underlying DUI offenses occurred prior to the effective date of this act, as well as to persons who obtain ignition interlock RDLs on or after the effective date of this provision.

(e) In Sec. 14, 23 V.S.A. § 1209a(b) (reinstatement under Total Abstinence Program) shall apply to persons whose periods of abstinence began prior to the effective date of this provision, as well as to persons who begin a period of abstinence on or after the effective date of this provision. In addition to hardship fee waivers authorized under 23 V.S.A. § 1209a(b), if a person's application for reinstatement under the Program was denied prior to the effective date solely because of use of a drug in accordance with a valid prescription, and the person used the drug in a manner consistent with the prescription label, the Commissioner shall waive the fee for a subsequent application.

**(Committee vote: 10-0-1)**

**(For text see Senate Journal March 29, 2017)**

**Reps. Masland of Thetford**, for the Committee on Ways and Means, recommends the bill ought to pass with proposal of amendment as recommended by the Committee on Transportation.

**(Committee Vote: 10-0-1)**

#### **J.R.S. 25**

Joint resolution authorizing the Commissioner of Forests, Parks and Recreation to amend conservation easements related to the former Hancock

Lands and adjacent Averill Inholdings in Essex County and to sell the Bertha Tract in Mendon and the Burch Tract in Killington to the Trust for Public Land

**Rep. Belaski of Windsor**, for the Committee on Corrections and Institutions, reports that it has considered the same and recommends that the House propose to the Senate that the resolution be amended by striking out the resolution in its entirety and inserting in lieu thereof the following:

Joint resolution authorizing the Commissioner of Forest, Parks, and Recreation to amend conservation easements related to the former Hancock Lands and adjacent Averill Inholdings in Essex County, to sell the Bertha Tract in Mendon and the Burch Tract in Killington to the Trust for Public Lands, to authorize the Commissioner to amend the Department of Forests, Parks and Recreation's existing lease with the Smuggler's Notch Management Company Ltd. and to authorize the Department to enter into a land exchange with the Smuggler's Notch Management Company Ltd.

*Whereas*, in 1996, the Department of Forests, Parks and Recreation acquired from the John Hancock Mutual Life Insurance Company a conservation easement for certain lands (known as the Hancock Lands) in Warren's Gore, and separately in 2005, the Department acquired a second conservation easement for inholdings within the former Hancock Lands in the town of Averill, and

*Whereas*, these easements envisioned that the covered lands could be subdivided and would be dedicated primarily to conservation purposes but commercial forestry management, including maple sugaring and syrup activities, were permissible, and

*Whereas*, the Department has now determined that the language in both easements is ambiguous concerning the construction of forestry management-related structures such as a sugarhouse, and

*Whereas*, upon consultation with the U.S. Forest Service, whose Forest Legacy Program facilitated the Department's acquisition of the easements, the Department has determined the easements should be amended with clarifying language subject to the approval of the owners of the parcels that resulted from the subdivision, and

*Whereas*, the Department owns the Bertha Tract in Mendon and the adjacent Burch Tract in Killington, both of which contain Green Mountain Club-held easements for segments of the Long Trail, and

*Whereas*, the Department proposes to sell these tracts to the Trust for Public Land in anticipation of their eventual transfer to the U.S. Forest Service for inclusion in the Green Mountain National Forest at which time the Green



Mountain Club's easements would terminate and the covered Long Trail segments would be subject to federal protection, and

*Whereas*, in 1987, the Department entered into a lease with the Smuggler's Notch Management Company Ltd. (Smuggler's Notch), terminating in 2058 and renewable in ten-year increments, in which the Department leases 2,000 acres (the boundaries having last been amended in 2005) in the Mt. Mansfield State Forest to Smuggler's Notch for use as a ski resort, and

*Whereas*, under the terms of the lease, Smuggler's Notch's Madonna-Sterling base lodge (and all other buildings and structures on the leasehold property) have remained State property, and

*Whereas*, the 45-year-old lodge is in need of major improvements and the current lease makes it economically difficult for Smuggler's Notch to finance these improvements, and

*Whereas*, Smuggler's Notch proposes to assume ownership of the base lodge and two acres of surrounding land contained in the leasehold and in exchange Smuggler's Notch proposes: (i) to relinquish its leasehold interest in approximately 330 acres of land near the summit of Whiteface Mountain, and (ii) to convey a right-of-way to the State across a separate parcel of land that Smuggler's Notch owns in the Mt. Mansfield State Forest, and

*Whereas*, Smuggler's Notch would be responsible for property taxes for the base lodge and the two-acre parcel and would continue to make payments in lieu of base lodge rent, using the formula now in place, and

*Whereas*, Smuggler's Notch will work with the Department to update the lease, and

*Whereas*, pursuant to the authority granted in 10 V.S.A. § 2606(b), the Commissioner of Forests, Parks and Recreation believes that these land transactions are in the best interest of the State, *now therefore be it*

***Resolved by the Senate and House of Representatives:***

That the General Assembly authorizes the Commissioner of Forests, Parks and Recreation:

First: To amend certain terms and conditions of the conservation easements that the Department acquired with federal Forest Legacy funding: (i) on approximately 31,000 acres (known as the Hancock Lands) from the John Hancock Mutual Life Insurance Company on December 17, 1996; and (ii) on 210 acres (known as the Averill Inholdings) from the Trust for Public Land on December 7, 2005 in order to clarify the allowed uses for forestry-management-related structures and facilities, including their associated infrastructure and utilities.

Second: To sell to the Trust for Public Land two tracts, with the goal that the Trust will subsequently convey these tracts to the U.S. Forest Service for inclusion in the Green Mountain National Forest: (i) an approximately 113-acre tract in the town of Mendon (known as the Bertha Tract), and (ii) a 58-acre tract in the town of Killington (known as the Burch Tract), both of which the Department acquired from the Green Mountain Club on March 31, 2003 and that the sale shall be pursuant to the terms of a mutually satisfactory purchase and sales agreement. The selling price shall be based on the tracts' fair market value that an appraisal shall determine. The sale of these tracts is contingent on support from the towns of Mendon and Killington. The proceeds of the sale shall be deposited in the Agency of Natural Resources Land Acquisition Fund to be used to acquire additional properties for Long Trail protection purposes.

Third: To amend the lease between the Department and Smuggler's Notch to:

(1) Revise the leasehold boundary to conform to the land exchange authorized in the fourth provision of this resolution.

(2) Include new lease provisions: (i) authorizing the Department to add new terms to reflect new laws, administrative rules, and policies should the leasehold be sold, including the sale of all or substantially all of the lessee's assets; and (ii) clarifying the various types of revenue generated within the ski leasehold area that must be incorporated into the ski lease fee payment but not changing the underlying formula.

(3) Update the indemnification and liability language to meet current State requirements.

(4) Clarify public access rights to the leasehold land, including Smuggler's Notch's right to restrict access for safety reasons.

Fourth: To enter into a land exchange with Smuggler's Notch that provides for:

(1) The Department to convey to Smuggler's Notch the base lodge and approximately two acres of surrounding land located within the Smuggler's Notch leasehold.

(2) Smuggler's Notch's relinquishing to the State 330 acres more or less of land within the leasehold located below the summit of Whiteface Mountain.

(3) Smuggler's Notch's conveying to the Department, for management purposes in the Mt. Mansfield State Forest, a right-of-way, for a route to be mutually agreed upon, through a separate parcel of land that Smuggler's Notch owns on the west side of Route 108.

(4) That the proposed exchanges listed in subdivisions (1)–(3) of this provision of the resolution are contingent on the approval of the Town of Cambridge and that Smuggler’s Notch’s leasehold interest in the 330 more or less acres to be removed from the lease be equal or greater than the appraised value of the base lodge and two acres of surrounding land.

(5) That Smuggler’s Notch, upon the conveyance of the base lodge and the surrounding approximately two acres to its ownership, shall continue to pay the Department 2.5 percent of all revenue generated at the base lodge for as long as the lease shall remain in effect, *and be it further*

**Resolved:** That the Secretary of State be directed to send a copy of this resolution to the Commissioner of Forests, Parks and Recreation.

( **Committee Vote: 9-0-2**)

### **Senate Proposal of Amendment**

#### **H. 265**

An act relating to the State Long-Term Care Ombudsman

The Senate proposes to the House to amend the bill as follows:

By striking out Sec. 3, effective date, and inserting in lieu thereof three new sections to be Secs. 3–5 to read as follows:

Sec. 3. 33 V.S.A. chapter 69, subchapter 3 is redesignated to read:

Subchapter ~~3~~ 4. Vermont Vulnerable Adult Fatality Review Team

Sec. 4. 33 V.S.A. chapter 69, subchapter 3 is added to read:

#### Subchapter 3. Protecting Against Financial Exploitation

#### § 6951. DEFINITIONS

As used in this subchapter:

(1) “Agent” shall have the same meaning as in 14 V.S.A. § 3501.

(2) “Guardian” means a person appointed to serve as the guardian for a vulnerable adult pursuant to the process established in 14 V.S.A. chapter 111 or in 18 V.S.A. chapter 215.

(3) “Financial exploitation” means:

(A) using, withholding, transferring, or disposing of funds or property of a vulnerable adult, without or in excess of legal authority, for the wrongful profit or advantage of another;

(B) acquiring possession or control of or an interest in funds or property of a vulnerable adult through the use of undue influence, harassment, duress, or fraud; or

(C) the act of forcing or compelling a vulnerable adult against his or her will to perform services for the profit or financial advantage of another.

(4) "Vulnerable adult" shall have the same meaning as in section 6902 of this chapter.

#### § 6952. CIVIL ACTION FOR RELIEF FROM FINANCIAL EXPLOITATION

(a) Right of action. A vulnerable adult or his or her agent or guardian may bring an action in the Civil Division of the Superior Court pursuant to this section for relief against a natural person who, with reckless disregard or with knowledge, has engaged in the financial exploitation of the vulnerable adult. An action under this section shall be dismissed if the court determines the vulnerable adult is capable of expressing his or her wishes and that he or she does not wish to pursue the action.

(b)(1) Remedies. If the court finds that financial exploitation of a vulnerable adult has occurred, the court shall grant appropriate relief to the vulnerable adult, which may include money damages, injunctive relief, reasonable costs, attorney's fees, and equitable relief.

(2) If the financial exploitation was intentional, the court may grant exemplary damages not to exceed three times the value of economic damages.

(c) Effects on other parties. No relief granted or otherwise obtained pursuant to this section shall affect or limit in any way the right, title, or interest of a good faith purchaser, mortgagee, holder of a security interest, or other party who obtained an interest in property after its transfer from the vulnerable adult to the natural person who engaged in financial exploitation. No relief granted or otherwise obtained pursuant to this section shall affect any mortgage deed to the extent of the value provided by the mortgagee.

(d) Statute of limitations. The limitations period imposed by 12 V.S.A. § 511 shall apply to all actions brought pursuant to this subchapter.

#### § 6953. OTHER RELIEF STILL AVAILABLE

Nothing in this subchapter shall be construed to limit the availability of other causes of action or relief at law or equity to which a vulnerable adult may be entitled under other State or federal laws or at common law.

#### Sec. 5. EFFECTIVE DATES

(a) Secs. 1 and 2 (State Long-Term Care Ombudsman) shall take effect on July 1, 2017.

(b) Secs. 3 and 4 (protecting against financial exploitation) and this section shall take effect on passage.

(For text see House Journal March 14, 2017 )

## **Consent Calendar**

### **Concurrent Resolutions**

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

#### **H.C.R. 123**

House concurrent resolution designating Thursday, April 13, 2017 as Vermont Coalition of Runaway and Homeless Youth Programs and the Vermont Youth Development Program Awareness Day

#### **H.C.R. 124**

House concurrent resolution congratulating Elizabeth Ainsworth of Bellows Falls on being chosen the 2017 Vermont Mother of the Year

#### **H.C.R. 125**

House concurrent resolution congratulating the 2017 Norwich University Cadets NCAA Division III championship men's ice hockey team

#### **H.C.R. 126**

House concurrent resolution congratulating the 2016 Champlain Valley Union High School Redhawks on winning their school's eighth consecutive Division I girls' cross-country championship

#### **H.C.R. 127**

House concurrent resolution congratulating the 2016 Champlain Valley Union High School Redhawks on winning their school's second-consecutive Division I boys' cross-country championship

#### **H.C.R. 128**

House concurrent resolution congratulating the Champlain Valley Union High School Redhawks on winning a fifth consecutive Division I girls' basketball championship

#### **H.C.R. 129**

House concurrent resolution congratulating the 2017 Mount St. Joseph Academy Lady Mounties Division IV championship girls' basketball team

**H.C.R. 130**

House concurrent resolution congratulating the 2016-17 Champlain Valley Union High School Redhawks Division I championship boys' Nordic skiing team

**H.C.R. 131**

House concurrent resolution congratulating the 2016 Champlain Valley Union High School Redhawks State championship boys' volleyball team

**H.C.R. 132**

House concurrent resolution honoring Norwich University ice hockey coach extraordinaire Mike McShane

**H.C.R. 133**

House concurrent resolution congratulating the 2017 Williamstown High School Blue Devils on winning the Division III boys' basketball championship

**H.C.R. 134**

House concurrent resolution congratulating the U-32 High School Raiders on winning the school's fourth consecutive Division II boys' outdoor track and field championship

**H.C.R. 135**

House concurrent resolution congratulating the 2016 U-32 High School Raiders on winning consecutive Division II girls' outdoor track and field championships

**H.C.R. 136**

House concurrent resolution congratulating Peter Gould on winning the 2016 Ellen McCulloch-Lovell Award in Arts Education

**H.C.R. 137**

House concurrent resolution honoring Gary Wheelock for his dedicated service on behalf of the New England dairy industry

**H.C.R. 138**

House concurrent resolution congratulating Maureen Eddy on graduating from the Team IMPACT program and the Saint Michael's College Purple Knights women's field hockey team for its devotion to this worthy endeavor

**H.C.R. 139**

House concurrent resolution congratulating the 2017 North Country Union  
High School Falcons Division II championship boys' hockey team

**Public Hearings**

April 20, 2017 - Room 10, 10:00 AM-12:00 PM - Federal 2018 Farm bill -  
House Agriculture and Forestry; Senate Agriculture