

# Journal of the House

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Tuesday, May 2, 2017

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

## Devotional Exercises

Devotional exercises were conducted by Representative Janssen Willhoit of St. Johnsbury.

## Pledge of Allegiance

Page Megan Humphrey of Milton led the House in the Pledge of Allegiance.

## House Bill Introduced

### H. 538

By Rep. Browning of Arlington,

House bill, entitled

An act relating to broadening Vermont's personal income tax base, restructuring the Education Fund, eliminating tax expenditures, and capping education spending growth;

To the committee on Ways and Means.

## Bill Referred to Committee on Appropriations

### S. 103

House bill, entitled

An act relating to the regulation of toxic substances and hazardous materials

Appearing on the Calendar, carrying an appropriation, under rule 35(a), was referred to the committee on Appropriations.

## Message from the Senate No. 57

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has considered bills originating in the House of the following

titles:

**H. 356.** An act relating to approval of amendments to the charter of the Town of Berlin.

**H. 520.** An act relating to approval of amendments to the charter of the Town of Stowe.

And has passed the same in concurrence.

The Senate has considered bills originating in the House of the following titles:

**H. 506.** An act relating to professions and occupations regulated by the Office of Professional Regulation.

**H. 512.** An act relating to the procedure for conducting recounts.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposals of amendment to Senate bills of the following titles:

**S. 10.** An act relating to liability for the contamination of potable water supplies.

**S. 72.** An act relating to requiring telemarketers to provide accurate caller identification information.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

The Senate has considered House proposals of amendment to Senate proposals of amendment to House bills of the following title:

**H. 145.** An act relating to establishing the Mental Health Crisis Response Commission.

**H. 184.** An act relating to evaluation of suicide profiles.

**H. 230.** An act relating to the sale of State-owned land in the Village of Waterbury.

**H. 308.** An act relating to a committee to reorganize and reclassify Vermont's criminal statutes.

And has concurred therein.

Pursuant to the request of the House for a Committee of Conference on the disagreeing votes of the two Houses on House bill entitled:

**H. 503.** An act relating to bail.

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The President announced the appointment as members of such Committee on the part of the Senate:

Senator Sears  
Senator Nitka  
Senator Benning

**Action on Bill Postponed**

**S. 122**

Senate bill, entitled

An act relating to increased flexibility for school district mergers

Was taken up and pending the reading of the report of the committee on Education, on motion of **Rep. Sharpe of Bristol**, action on the bill was postponed until May 3, 2017.

**Action on Bill Postponed**

**H. 167**

House bill, entitled

An act relating to alternative approaches to addressing low-level illicit drug use

Was taken up and pending the question, Will the House concur in the Senate proposal of amendment? on motion of **Rep. Conquest of Newbury**, action on the bill was postponed until May 3, 2017.

**Action on Bill Postponed**

**H. 519**

House bill, entitled

An act relating to capital construction and State bonding

Was taken up and pending the question, Will the House concur in the Senate proposal of amendment? on motion of **Rep. Emmons of Springfield**, action on the bill was postponed until May 3, 2017.

**Action on Bill Postponed**

**H. 516**

House bill, entitled

An act relating to miscellaneous tax changes

Was taken up and pending the question, Will the House concur in the Senate proposal of amendment? on motion of **Rep. Ancel of Calais**, action on

the bill was postponed until May 3, 2017.

**Action on Bill Postponed**

**S. 10**

Senate bill, entitled

An act relating to liability for the contamination of potable water supplies

Was taken up and pending the question, Will the House concur in the Senate proposal of amendment to the House proposal of amendment? on motion of **Rep. Deen of Westminster**, action on the bill was postponed until May 3, 2017.

**Proposal of Amendment agreed to; Third Reading;  
Bill Passed in Concurrence with Proposal of Amendment**

**S. 16**

Senate bill, entitled

An act relating to expanding patient access to the Medical Marijuana Registry

Was taken up and pending third reading of the bill, **Rep. Haas of Rochester** moved to propose to the Senate to amend the bill as follows:

First: In Sec. 1, 18 V.S.A. § 4472 by striking subdivision (11) in its entirety and inserting in lieu thereof a new subdivision (11) to read:

(11) "Mental health care provider" means a person licensed to practice medicine who specializes in the practice of psychiatry; a psychologist, a psychologist-doctorate, or a psychologist-master as defined in 26 V.S.A. § 3001; a clinical social worker as defined in 26 V.S.A. § 3201; or a clinical mental health counselor as defined in 26 V.S.A. § 3261.

Second: In Sec. 1, 18 V.S.A. § 4472 in subdivision (13)(A) by inserting the word "domestic" in two instances; first, before the word "partner" and second, before the words "partner's parent"

Which was agreed to.

Pending the question, Shall the bill be read a third time? **Rep. McCormack of Burlington** moved to amend the bill as follows:

In Sec. 1, 18 V.S.A. § 4472, in subdivision (4)(A), after "Parkinson's disease," by inserting "Alzheimer's disease,"

Thereupon, **Rep. McCormack of Burlington** asked and was granted leave of the House to withdraw his amendment and the bill was read the third time.

Pending the question, Shall the bill pass in concurrence with proposal of amendment? **Rep. Pugh of South Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass in concurrence with proposal of amendment? was decided in the affirmative. Yeas, 130. Nays, 16.

Those who voted in the affirmative are:

Ainsworth of Royalton	Gardner of Richmond	Noyes of Wolcott
Ancel of Calais	Giambatista of Essex	Ode of Burlington
Bartholomew of Hartland	Gonzalez of Winooski	Olsen of Londonderry
Baser of Bristol	Grad of Moretown	O'Sullivan of Burlington
Beck of St. Johnsbury	Greshin of Warren	Parent of St. Albans Town
Belaski of Windsor	Haas of Rochester	Partridge of Windham
Bissonnette of Winooski	Harrison of Chittenden	Pearce of Richford
Bock of Chester	Head of South Burlington	Poirier of Barre City
Botzow of Pownal	Hebert of Vernon	Potter of Clarendon
Briglin of Thetford	Higley of Lowell	Pugh of South Burlington
Browning of Arlington	Hill of Wolcott	Rachelson of Burlington
Brumsted of Shelburne	Hooper of Montpelier	Rosenquist of Georgia
Buckholz of Hartford	Hooper of Brookfield	Scheu of Middlebury
Burditt of West Rutland	Houghton of Essex	Scheuermann of Stowe
Burke of Brattleboro	Howard of Rutland City	Sharpe of Bristol
Canfield of Fair Haven	Jessup of Middlesex	Shaw of Pittsford
Carr of Brandon	Jickling of Brookfield	Sheldon of Middlebury
Chesnut-Tangerman of Middletown Springs	Joseph of North Hero	Sibilia of Dover
Christensen of Weathersfield	Juskiewicz of Cambridge	Smith of Derby
Christie of Hartford	Keefe of Manchester	Smith of New Haven
Cina of Burlington	Kimbell of Woodstock	Squirrell of Underhill
Colburn of Burlington	Kitzmiller of Montpelier	Stevens of Waterbury
Condon of Colchester	Krowinski of Burlington	Stuart of Brattleboro
Conlon of Cornwall	LaClair of Barre Town	Sullivan of Dorset
Connor of Fairfield	Lalonde of South Burlington	Sullivan of Burlington
Conquest of Newbury	Lanpher of Vergennes	Taylor of Colchester
Copeland-Hanzas of Bradford	Lawrence of Lyndon	Terenzini of Rutland Town
Corcoran of Bennington	Lefebvre of Newark	Till of Jericho
Cupoli of Rutland City	Lewis of Berlin	Toleno of Brattleboro
Dakin of Colchester	Lippert of Hinesburg	Toll of Danville
Deen of Westminster	Long of Newfane	Townsend of South Burlington
Devereux of Mount Holly	Lucke of Hartford	Trieber of Rockingham
Dickinson of St. Albans Town	Marcotte of Coventry	Troiano of Stannard *
Donahue of Northfield	Masland of Thetford	Turner of Milton
Donovan of Burlington	McCormack of Burlington	Walz of Barre City
Dunn of Essex	McCoy of Poultney	Webb of Shelburne
Emmons of Springfield	McCullough of Williston	Weed of Enosburgh
Feltus of Lyndon	McFaun of Barre Town	Willhoit of St. Johnsbury
	Miller of Shaftsbury	Wood of Waterbury
	Morris of Bennington	Wright of Burlington
	Mrowicki of Putney	

Fields of Bennington	Murphy of Fairfax	Yacovone of Morristown
Forguites of Springfield	Myers of Essex	Yantachka of Charlotte
Gamache of Swanton	Nolan of Morristown	Young of Glover
Gannon of Wilmington	Norris of Shoreham	

Those who voted in the negative are:

Bancroft of Westford	Gage of Rutland City	Savage of Swanton
Batchelor of Derby	Helm of Fair Haven	Strong of Albany
Beyor of Highgate	Hubert of Milton	Van Wyck of Ferrisburgh
Brennan of Colchester	Martel of Waterford	Viens of Newport City
Fagan of Rutland City	Morrissey of Bennington	
Frenier of Chelsea	Quimby of Concord	

Those members absent with leave of the House and not voting are:

Graham of Williamstown	Keenan of St. Albans City	Macaig of Williston
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**Rep. Troiano of Stannard** explained his vote as follows:

“Madam Speaker:

I want to thank our committee for the work on this bill. I am confident that it will bring symptom relief to many veterans who suffer from PTSD as I have walked in those shoes.”

**Proposal of Amendment agreed to; Third Reading;  
Bill Passed in Concurrence with Proposal of Amendment**

**S. 136**

Senate bill, entitled

An act relating to miscellaneous consumer protection provisions

Was taken up and pending third reading of the bill, **Rep. Marcotte of Coventry** moved to propose to the Senate to amend the bill as follows:

First: In Sec. 6, in 9 V.S.A. § 2454a, in subsection (a), following “one year or longer” by inserting “, and that renews for a subsequent term that is longer than one month.”

Second: In Sec. 6, in 9 V.S.A. § 2454a, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) The provisions of this section do not apply to:

(1) a contract between a consumer and a financial institution, as defined in 8 V.S.A. § 11101; or

(2) a contract for insurance, as defined in 8 V.S.A. § 3301a.

Third: In Sec. 7 (Automatic renewal of contracts; Applicability to existing

contracts), in subsection (a), by striking out “includes an automatic renewal provision” and inserting in lieu thereof “renews for a subsequent term that is longer than one month”

Fourth: In Sec. 7 (Automatic renewal of contracts; Applicability to existing contracts), by inserting a subsection (c) to read:

(c) The provisions of this section do not apply to:

(1) a contract between a consumer and a financial institution, as defined in 8 V.S.A. § 11101; or

(2) a contract for insurance, as defined in 8 V.S.A. § 3301a.

Fifth: In Sec. 16 (Effective Dates), by striking out subsections (d)–(e) in their entirety and inserting in lieu thereof new subsections (d)–(e) to read:

(d) Secs. 6–7 (automatic renewal provisions) and Secs. 9–10 (credit protection for vulnerable persons) shall take effect on January 1, 2018.

(e) The following sections shall take effect on July 1, 2017:

(1) Sec. 1 (home loan escrow accounts).

(2) Sec. 8 (retainage for construction materials).

(3) Secs. 12–15 (credit card debt collection).

Which was agreed to.

Pending third reading of the bill **Rep. Donahue of Northfield** moved to amend the House proposal of amendment as follows:

In Sec. 9, in 9 V.S.A. § 2480a(12) by striking out subdivision (A) in its entirety and inserting in lieu thereof a new subdivision (A) to read:

(A) less than 18 years of age, unless emancipated under 12 V.S.A. chapter 217.

Which was agreed to. Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

### **Message from the Senate No. 58**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has considered House proposals of amendment to Senate proposals of amendment to House bill entitled:

**H. 513.** An act relating to making miscellaneous changes to education law.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Baruth  
 Senator Balint  
 Senator Mullin

**Committee of Conference Appointed**

**H. 513**

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on House bill, entitled

An act relating to making miscellaneous changes to education law

The Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Sharpe of Bristol**  
**Rep. Long of Newfane**  
**Rep. Pearce of Richford**

**Rules Suspended; Bills Messaged to Senate Forthwith**

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

**S. 16**

Senate bill, entitled

An act relating to expanding patient access to the Medical Marijuana Registry

**S. 136**

Senate bill, entitled

An act relating to miscellaneous consumer protection provisions

**Second Reading; Consideration Interrupted**

**H. 196**

**Rep. Stevens of Waterbury** for the committee on General, Housing and Military Affairs, to which had been referred House bill entitled,

An act relating to paid family leave

Reported in favor of its passage when amended by striking all after the

enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

(1) “Employer” means an individual, organization ~~or~~, governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air or express company doing business in or operating within this State ~~which for the purposes of parental leave, employs 10 or more individuals who are employed for an average of at least 30 hours per week during a year and for the purposes of family leave, employs 15 or more individuals for an average of at least 30 hours per week during a year.~~

(2) “Employee” means a person who, in consideration of direct or indirect gain or profit, ~~has been continuously employed by the same employer for a period of one year for an average of at least 30 hours per week is~~ employed by an employer and has been employed in Vermont for at least six of the previous 12 months.

(3) “Family leave” means a leave of absence from employment by an employee ~~who works for an employer which employs 15 or more individuals who are employed for an average of at least 30 hours per week during the year~~ for one of the following reasons:

(A) the serious illness of the employee; ~~or~~

(B) the serious illness of the employee’s child, stepchild or ward who lives with the employee, foster child, parent, grandparent, sibling, spouse, or parent of the employee’s spouse;

~~(4) “Parental leave” means a leave of absence from employment by an employee who works for an employer which employs 10 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:~~

(C) the employee’s pregnancy;

(D) the birth of the employee’s child; or

~~(B)(E)~~ (E) the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption or foster care.

~~(5)~~(4) “Serious illness” means an accident, disease, or physical or mental condition that:

(A) poses imminent danger of death;

(B) requires inpatient care in a hospital; or

(C) requires continuing in-home care under the direction of a physician.

(5) “Commissioner” means the Commissioner of Labor.

(6) “Worker” means a person who, in consideration of direct or indirect gain or profit, performs services for an employer, where the employer is unable to show that:

(A) the person has been and will continue to be free from control or direction over the performance of the services, both under the contract of service and in fact;

(B) the service is either outside the usual course of business for the employer for whom the service is performed, or outside all the places of business of the employer for whom the service is performed; and

(C) the person is customarily engaged in an independently established trade, occupation, profession, or business.

Sec. 2. 21 V.S.A. § 472 is amended to read:

§ 472. FAMILY LEAVE

(a) During any 12-month period, an employee shall be entitled to take unpaid leave for a period not to exceed 12 weeks up to 12 weeks of paid family leave using Family Leave Insurance benefits pursuant to section 472c of this subchapter for the following reasons:

(1) for parental leave, during the employee’s pregnancy and;

(2) following the birth of an the employee’s child ~~or~~;

(3) within a year following the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption; or foster care;

(2)(4) for family leave, for the serious illness of the employee; or

(5) the serious illness of the employee’s child, stepchild or ward of the employee who lives with the employee, foster child, parent, grandparent, sibling, spouse, or parent of the employee’s spouse.

(b) During the leave, at the employee’s option, the employee may use accrued sick leave or vacation leave or any other accrued paid leave, ~~not to exceed six weeks.~~ Utilization Use of accrued paid leave shall not extend the leave provided herein by this section.

(c) The employer shall continue employment benefits for the duration of the family leave at the level and under the conditions coverage would be

provided if the employee continued in employment continuously for the duration of the leave. The employer may require that the employee contribute to the cost of the benefits during the leave at the employee's existing rate of employee contribution.

(d) The employer shall post and maintain in a conspicuous place in and about each of ~~his or her~~ its places of business printed notices of the provisions of this subchapter on forms provided by the Commissioner of Labor.

(e)(1) An employee shall give his or her employer reasonable written notice of intent to take family leave under this subchapter. Notice shall include the date the leave is expected to commence and the estimated duration of the leave.

(2) In the case of the adoption or birth of a child, an employer shall not require that notice be given more than six weeks prior to the anticipated commencement of the leave.

(3) In the case of an unanticipated serious illness or premature birth, the employee shall give the employer notice of the commencement of the leave as soon as practicable.

(4) In the case of serious illness of the employee or a member of the employee's family, an employer may require certification from a physician to verify the condition and the amount and necessity for the leave requested.

(5) An employee may return from leave earlier than estimated upon approval of the employer.

(6) An employee shall provide reasonable notice to the employer of his or her need to extend the leave to the extent provided by this chapter.

(f) ~~Upon return from leave taken under this subchapter, an employee shall be offered~~ An employer shall offer an employee who has been employed by the employer for at least 12 months and is returning from family leave taken under this subchapter the same or a comparable job at the same level of compensation, employment benefits, seniority, or any other term or condition of the employment existing on the day the family leave began. This subchapter shall not apply if, prior to requesting leave, the employee had been given notice or had given notice that the employment would terminate. This subsection shall not apply if the employer can demonstrate by clear and convincing evidence that:

(1) during the period of leave, the employee's job would have been terminated or the employee laid off for reasons unrelated to the leave or the condition for which the leave was granted; or

(2) the employee performed unique services and hiring a permanent

replacement during the leave, after giving reasonable notice to the employee of intent to do so, was the only alternative available to the employer to prevent substantial and grievous economic injury to the employer's operation.

(g) An employer may adopt a leave policy more generous than the leave policy provided by this subchapter. Nothing in this subchapter shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or any employment benefit program or plan which provides greater leave rights than the rights provided by this subchapter. A collective bargaining agreement or employment benefit program or plan may not diminish rights provided by this subchapter. Notwithstanding the provisions of this subchapter, an employee may, at the time a need for ~~parental~~ or family leave arises, waive some or all the rights under this subchapter provided the waiver is informed and voluntary and any changes in conditions of employment related to any waiver shall be mutually agreed upon between employer and employee.

(h) Except for serious illness of the employee, an employee who does not return to employment with the employer who provided the family leave shall return to the employer the value of any compensation paid to or on behalf of the employee during the leave, except payments of Family Leave Insurance benefits and payments for accrued sick leave or vacation leave. An employer may elect to waive the rights provided pursuant to this subsection.

Sec. 3. 21 V.S.A. § 472c is added to read:

§ 472c. FAMILY LEAVE INSURANCE; SPECIAL FUND;

ADMINISTRATION

(a) The Family Leave Insurance Program is established in the Department of Labor for the provision of Family Leave Insurance benefits to eligible employees pursuant to this section.

(b) The Family Leave Insurance Special Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund may be expended by the Commissioner for the administration of the Family Leave Insurance Program and payment of Family Leave Insurance benefits provided pursuant to this section.

(c)(1)(A) The Fund shall consist of contributions equal to 0.93 percent of each worker's wages, which an employer shall deduct and withhold from each of its workers' wages.

(B) An employer may elect to pay all or a portion of the contributions due from its workers' wages.

(2)(A) Notwithstanding subdivision (1) of this subsection, the General

Assembly shall annually establish the rate of contribution for the next fiscal year. The rate shall equal the amount necessary to provide Family Leave Insurance benefits pursuant to subsection (f) of this section and to administer the Family Leave Insurance Program during the next fiscal year, adjusted by any balance in the fund from the prior fiscal year.

(B)(i) On or before February 1 of each year, the Commissioner shall report to the General Assembly the rate of contribution necessary to provide Family Leave Insurance benefits pursuant to subsection (f) of this section and to administer the Program during the next fiscal year, adjusted by any balance in the fund from the prior fiscal year.

(ii) The proposed rate of contribution determined by the Commissioner shall not exceed one percent of each worker's wages. If that amount is insufficient to fund Family Leave Insurance benefits at the rate set forth in subsection (f) of this section, the Commissioner's report shall include a recommendation of the amount by which to reduce Family Leave Insurance benefits in order to maintain the solvency of the Fund without increasing the proposed rate of contribution above one percent.

(d) An employer shall submit these contributions to the Commissioner in a form and at times determined by the Commissioner.

(e) An employee shall file an application for Family Leave Insurance benefits with the Commissioner under this section on a form provided by the Commissioner. The Commissioner shall determine eligibility of the employee based on the following criteria:

(1) The purposes for which the claim is made are documented.

(2) The employee satisfies the eligibility requirements for the requested leave.

(f)(1) Except as otherwise provided pursuant to subsection (c) of this section, an employee awarded Family Leave Insurance benefits under this section shall receive the employee's average weekly wage or an amount equal to a 40-hour workweek paid at a rate double that of the livable wage, as determined by the Joint Fiscal Office pursuant to 2 V.S.A. § 505, whichever is less.

(2) An employee shall be entitled to no more than 12 weeks of Family Leave Insurance benefits in a 12-month period.

(g) The Commissioner of Labor shall make a determination of each claim no later than five days after the date the claim is filed, and Family Leave Insurance benefits shall be paid from the Fund created pursuant to this section. An employee or employer aggrieved by a decision of the Commissioner under

this subsection may file with the Commissioner a request for reconsideration within 30 days after receipt of the Commissioner's decision. Thereafter, an applicant denied reconsideration may file an appeal to the Civil Division of the Superior Court in the county where the employment is located.

(h)(1) A self-employed person, including a sole proprietor or partner owner of an unincorporated business, may elect to obtain coverage under the Family Leave Insurance Program pursuant to this section for a period of three years by filing a notice of his or her election with the Commissioner on a form provided by the Commissioner.

(2) A person who elects coverage pursuant to this subsection may file a claim for and receive Family Leave Insurance benefits pursuant to this section after making six months of contributions to the Fund.

(3) A person who elects to obtain coverage pursuant to this subsection shall:

(A) contribute a portion of his or her work income equal to the amount established pursuant to subsection (c) of this section at times determined by the Commissioner; and

(B) provide to the Commissioner any documentation of his or her income or related information that the Commissioner determines is necessary.

(4)(A) A person who elects coverage pursuant to this subsection may terminate that coverage at the end of the three-year period by providing the Commissioner with written notice of the termination at least 30 days before the end of the period.

(B) If a person who elects coverage pursuant to this subsection does not terminate it at the end of the initial three-year period, he or she may terminate the coverage at the end of any succeeding annual period by providing the Commissioner with written notice of the termination at least 30 days before the end of the period.

(C) Notwithstanding subdivisions (A) and (B) of this subdivision (h)(4), a person who, after electing to obtain coverage pursuant to this subsection, becomes a worker or stops working in Vermont, may elect to terminate the coverage pursuant to this subsection by providing the Commissioner with 30 days' written notice in accordance with rules adopted by the Commissioner.

(D) Nothing in this subsection shall be construed to prevent an individual who is both a worker and self-employed from electing to obtain coverage pursuant to this subsection.

(i) A person who willfully makes a false statement or representation for the

purpose of obtaining any benefit or payment or to avoid payment of any required contributions under the provisions of this section, either for himself or herself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than \$20,000.00 and shall forfeit all or a portion of any right to compensation under the provisions of this section, as determined to be appropriate by the Commissioner after a determination by the Commissioner that the person has willfully made a false statement or representation of a material fact.

(j)(1) An individual filing a claim for benefits pursuant to this section shall, at the time of filing, be advised that:

(A) Family Leave Insurance benefits may be subject to income tax;

(B) requirements exist pertaining to estimated tax payments;

(C) the individual may elect to have income tax deducted and withheld from the individual's benefits payment; and

(D) the individual may change a previously elected withholding status.

(2) Amounts deducted and withheld from Family Leave Insurance benefits shall remain in the Family Leave Insurance Special Fund until transferred to the appropriate taxing authority as a payment of income tax.

(3) The Commissioner shall follow all procedures specified by the federal Internal Revenue Service pertaining to the deducting and withholding of income tax.

(k) The Commissioner may adopt rules as necessary to implement this section.

#### Sec. 4. RULEMAKING

On or before January 1, 2018, the Commissioner of Labor shall adopt rules necessary to implement the Paid Family Leave Program, including rules governing the process by which a person who has elected to obtain coverage under the Family Leave Insurance Program pursuant to 21 V.S.A. § 472c(h) and subsequently becomes a worker or stops working in Vermont may terminate that coverage.

#### Sec. 5. EDUCATION AND OUTREACH

On or before January 1, 2018, the Commissioner of Labor shall develop and make available on the Department of Labor's website information and materials to educate and inform employers and employees about the Family Leave Insurance Program established pursuant to 21 V.S.A. § 472c.

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 Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 3, 4, and 5 shall take effect on July 1, 2017.

(b) In Sec. 1, 21 V.S.A. 471, subdivision (6) shall take effect on July 1, 2017. The remaining provisions of Sec. 1 shall take effect on July 1, 2019.

(c) Sec. 2 shall take effect on July 1, 2019.

(d) Contributions from employers and employees shall begin being paid pursuant to 21 V.S.A. § 472c(c) and (d) on July 1, 2018, and, beginning on July 1, 2019, employees and self-employed persons may begin to receive benefits pursuant to 21 V.S.A. § 472c.

**Rep. Till of Jericho**, for the committee on Ways and Means, recommended that the bill ought to pass when amended as recommended by the committee on General, Housing and Military Affairs and when further amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

(1) “Employer” means an individual, organization ~~or~~, governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air or express company doing business in or operating within this State ~~which for the purposes of parental leave, that~~ employs 10 or more individuals who are employed for an average of at least 30 hours per week during a year ~~and for the purposes of family leave, employs 15 or more individuals for an average of at least 30 hours per week during a year.~~

\* \* \*

(3) “Family leave” means a leave of absence from employment by an employee who works for an employer which employs ~~15~~ 10 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:

(A) the serious illness of the employee; ~~or~~

(B) the serious illness of the employee’s child, stepchild or ward who lives with the employee, foster child, grandchild, parent, grandparent, sibling, spouse, or parent of the employee’s spouse;

~~(4) “Parental leave” means a leave of absence from employment by an employee who works for an employer which employs 10 or more individuals~~

who are employed for an average of at least 30 hours per week during the year for one of the following reasons:

(C) the employee's pregnancy;

(A)(D) the birth of the employee's child;

(B)(E) the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption or foster care; or

(F) the birth of the employee's grandchild if the employee is the primary caregiver or guardian of the child and the child's biological parents are not taking a family leave for the birth pursuant to section 472 of this chapter.

(5)(4) "Serious illness" means an accident, disease, or physical or mental condition that:

\* \* \*

(5) "Commissioner" means the Commissioner of Labor.

Sec. 2. 21 V.S.A. § 472 is amended to read:

§ 472. FAMILY LEAVE

(a) During any 12-month period, an employee shall be entitled to take unpaid leave for a period not to exceed 12 weeks for the following reasons:

(1) ~~for parental leave, during the employee's pregnancy and;~~

(2) ~~following the birth of an~~ the employee's child ~~or;~~

(3) ~~within a year following the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption; or foster care;~~

(4) ~~within a year following the birth of the employee's grandchild if the employee is the primary caregiver or guardian of the child and the child's biological parents are not taking a leave for the birth pursuant to this section;~~

(2)(5) ~~for family leave, for the serious illness of the employee; or~~

(6) ~~the serious illness of the employee's child, stepchild or ward of the employee who lives with the employee, foster child, grandchild, parent, grandparent, sibling, spouse, or parent of the employee's spouse.~~

(b) During the leave, at the employee's option, the employee may use accrued sick leave ~~or,~~ vacation leave ~~or,~~ any other accrued paid leave, ~~not to exceed six weeks~~ Parental and Family Leave Insurance benefits pursuant to subchapter 13 of this chapter, or short-term disability insurance or other insurance benefits. Utilization Use of accrued paid leave, Parental and Family Leave Insurance benefits, or insurance benefits shall not extend the leave

provided ~~herein~~ by this section.

\* \* \*

(d) The employer shall post and maintain in a conspicuous place in and about each of ~~his or her~~ its places of business printed notices of the provisions of this subchapter on forms provided by the Commissioner of Labor.

(e)(1) An employee shall give his or her employer reasonable written notice of intent to take family leave under this subchapter. Notice shall include the date the leave is expected to commence and the estimated duration of the leave.

(2) In the case of the adoption or birth of a child, an employer shall not require that notice be given more than six weeks prior to the anticipated commencement of the leave.

(3) In the case of an unanticipated serious illness or premature birth, the employee shall give the employer notice of the commencement of the leave as soon as practicable.

(4) In the case of serious illness of the employee or a member of the employee's family, an employer may require certification from a physician to verify the condition and the amount and necessity for the leave requested.

(5) An employee may return from leave earlier than estimated upon approval of the employer.

(6) An employee shall provide reasonable notice to the employer of his or her need to extend the leave to the extent provided by this chapter.

\* \* \*

(h) Except for serious illness of the employee, an employee who does not return to employment with the employer who provided the family leave shall return to the employer the value of any compensation paid to or on behalf of the employee during the leave, except payments of Parental and Family Leave Insurance benefits and payments for accrued sick leave or vacation leave. An employer may elect to waive the rights provided pursuant to this subsection.

Sec. 3. 21 V.S.A. chapter 5, subchapter 13 is added to read:

Subchapter 13. Parental and Family Leave Insurance

§ 571. DEFINITIONS

(a) As used in this subchapter:

(1) "Employee" means an individual who performs services in employment for an employer.

(2) "Employer" means an individual, organization, governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air or express company doing business in or operating within this State.

(3) "Employment" has the same meaning as in subdivision 1301(6) of this title.

(4) "Family leave" means a leave of absence from employment by an employee for the serious illness of the employee's child, stepchild or ward who lives with the employee, foster child, parent, grandparent, sibling, spouse, or parent of the employee's spouse.

(5) "Parental and bonding leave" means a leave of absence from employment by an employee for:

(A) the birth of the employee's child;

(B) the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption or foster care; or

(C) the purpose of bonding with the employee's grandchild if the leave is taken within a year following the birth of the employee's grandchild, the employee is the primary caregiver or guardian of the child, and the child's biological parents are not using Parental and Family Leave Insurance Benefits for parental and bonding leave in relation to the birth.

(6) "Qualified employee" means an individual that has been an employee during at least 12 of the previous 13 months.

(7) "Serious illness" means an accident, disease, or physical or mental condition that:

(A) poses imminent danger of death;

(B) requires inpatient care in a hospital; or

(C) requires continuing in-home care under the direction of a physician.

§ 572. PARENTAL AND FAMILY LEAVE INSURANCE; SPECIAL  
FUND; ADMINISTRATION

(a) The Parental and Family Leave Insurance Program is established in the Department of Labor for the provision of Parental and Family Leave Insurance benefits to eligible employees pursuant to this section.

(b) The Parental and Family Leave Insurance Special Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund may be expended by the Commissioner for the administration of the Parental and Family Leave

Insurance Program and payment of Parental and Family Leave Insurance benefits provided pursuant to this section.

(c)(1)(A) The Fund shall consist of contributions equal to 0.141 percent of each employee's covered wages, which an employer shall deduct and withhold from each of its employee's wages.

(B) In lieu of deducting and withholding the full amount of the contribution pursuant to subdivision (1)(A) of this subsection, an employer may elect to pay all or a portion of the contributions due from the employee's covered wages.

(C) As used in this subsection, the term "covered wages" does not include the amount of wages paid to an employee after he or she has received wages equal to \$150,000.00.

(2)(A) Notwithstanding subdivision (1) of this subsection (c), the General Assembly shall annually establish the rate of contribution for the next fiscal year. The rate shall equal the amount necessary to provide Parental and Family Leave Insurance benefits pursuant to this subchapter and to administer the Parental and Family Leave Insurance Program during the next fiscal year, adjusted by any balance in the Fund from the prior fiscal year.

(B) On or before February 1 of each year, the Commissioner shall report to the General Assembly the rate of contribution necessary to provide Parental and Family Leave Insurance benefits pursuant to this subchapter, to maintain adequate reserves in the Fund, and to administer the Program during the next fiscal year, adjusted by any balance in the Fund from the prior fiscal year.

(d) An employer shall submit these contributions to the Commissioner in a form and at times determined by the Commissioner.

§ 573. BENEFITS

(a) Except as otherwise provided pursuant to section 572 of this subchapter, a qualified employee awarded Parental and Family Leave Insurance benefits under this section shall receive 80 percent of his or her average weekly wage or an amount equal to a 40-hour workweek paid at a rate double that of the livable wage, as determined by the Joint Fiscal Office pursuant to 2 V.S.A. § 505, whichever is less.

(b) A qualified employee shall be permitted to receive not more than six weeks of Parental and Family Leave Insurance benefits in a 12-month period for family leave or parental and bonding leave, or both.

§ 574. APPLICATION FOR BENEFITS; PAYMENT; TAX WITHHOLDING

(a) A qualified employee shall file an application for Parental and Family Leave Insurance benefits with the Commissioner under this section on a form provided by the Commissioner. The Commissioner shall determine whether the qualified employee is eligible to receive Parental and Family Leave Insurance benefits based on the following criteria:

(1) The purposes for which the claim is made are documented.

(2) The qualified employee satisfies the eligibility requirements for the requested leave.

(3) The benefits are being requested in relation to a family leave or a parental and bonding leave.

(b) The Commissioner of Labor shall make a determination of each claim not later than five days after the date the claim is filed, and Parental and Family Leave Insurance benefits shall be paid from the Fund created pursuant to this section. A person aggrieved by a decision of the Commissioner under this subsection may file with the Commissioner a request for reconsideration within 30 days after receipt of the Commissioner's decision. Thereafter, an applicant denied reconsideration may file an appeal to the Civil Division of the Superior Court in the county where the employment is located.

(c)(1) An individual filing a claim for benefits pursuant to this section shall, at the time of filing, be advised that Parental and Family Leave Insurance benefits may be subject to income tax and that the individual's benefits may be subject to withholding.

(2) The Commissioner shall follow all procedures specified by 26 U.S.C. chapter 24 and 32 V.S.A. chapter 151, subchapter 4 pertaining to the withholding of income tax.

#### § 575. FALSE STATEMENT OR REPRESENTATION; PENALTY

A person who willfully makes a false statement or representation for the purpose of obtaining any benefit or payment or to avoid payment of any required contributions under the provisions of this section, either for himself or herself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than \$20,000.00 and shall forfeit all or a portion of any right to compensation under the provisions of this section, as determined to be appropriate by the Commissioner after a determination by the Commissioner that the person has willfully made a false statement or representation of a material fact.

#### § 576. RULEMAKING

The Commissioner may adopt rules as necessary to implement this subchapter.

**Sec. 4. ADOPTION OF RULES**

On or before January 1, 2018, the Commissioner of Labor shall adopt rules necessary to implement 21 V.S.A. chapter 5, subchapter 13.

**Sec. 5. EDUCATION AND OUTREACH**

On or before January 1, 2018, the Commissioner of Labor shall develop and make available on the Department of Labor's website information and materials to educate and inform employers and employees about the Parental and Family Leave Insurance Program established pursuant to 21 V.S.A. chapter 5, subchapter 13.

**Sec. 6. EFFECTIVE DATES**

(a) This section and Secs. 3, 4, and 5 shall take effect on July 1, 2017.

(b) Secs. 1 and 2 shall take effect on July 1, 2019.

(c) Contributions shall begin being paid pursuant to 21 V.S.A. § 572 on July 1, 2018, and, beginning on July 1, 2019, employees may begin to receive benefits pursuant to 21 V.S.A. chapter 5, subchapter 13.

**Rep. Trieber of Rockingham** for the committee on Appropriations recommended that the bill ought to pass when amended by the committee on Ways and Means and when amended as follows:

First: In Sec. 3, 21 V.S.A. chapter 5, subchapter 13, in section 571, by striking out the designation "(a)" and in subdivision (4), after the words "foster child" by inserting: ", grandchild"

Second: In Sec. 3, 21 V.S.A. chapter 5, subchapter 13, in subdivision 572(c)(2)(A), after the words "the amount necessary to provide Parental and Family Leave Insurance benefits pursuant to this subchapter" by inserting: ", to maintain a reserve equal to at least 100 percent of the projected benefit payments for the next fiscal year,"

Third: In Sec. 3, 21 V.S.A. chapter 5, subchapter 13, in subdivision 572(c)(2)(B), by striking out the words "adequate reserves in the Fund" and inserting in lieu thereof the words "a reserve equal to at least 100 percent of the projected benefit payments for the next fiscal year"

Fourth: In Sec. 3, 21 V.S.A. chapter 5, subchapter 13, in subsection 574(b), after the words "The Commissioner of Labor shall make a determination of each claim not later than five" by inserting the word "business"

Fifth: By striking out Sec. 6, effective dates, in its entirety and inserting in lieu thereof three new sections to be Secs. 6, 7, and 8 to read:

**Sec. 6. ESTABLISHMENT OF PARENTAL AND FAMILY LEAVE**

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INSURANCE PROGRAM; EXPENDITURES FROM SPECIAL  
FUND

Beginning on July 1, 2017, the Commissioner of Finance and Management may, pursuant to 32 V.S.A. § 588(4)(C), issue warrants for expenditures from the Parental and Family Leave Insurance Special Fund necessary to establish the Parental and Family Leave Insurance Program in anticipation of the receipt on or after July 1, 2018 of contributions submitted pursuant to 21 V.S.A. § 572.

Sec. 7. ADEQUACY OF RESERVES; REPORT

Annually, on or before January 15, 2020, 2021, and 2022, the Commissioner of Labor, in consultation with the Commissioners of Finance and Management and of Financial Regulation, shall submit a written report to the House Committees on Appropriations, on General, Housing and Military Affairs, and on Ways and Means and the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Finance regarding the amount and adequacy of the reserves in the Parental and Family Leave Insurance Special Fund and any recommendations for legislative action necessary to ensure that an adequate reserve is maintained in the fund.

Sec. 8. EFFECTIVE DATES

(a) This section and Secs. 3, 4, 5, 6, and 7 shall take effect on July 1, 2017.

(b) Secs. 1 and 2 shall take effect on October 1, 2019.

(c) Contributions shall begin being paid pursuant to 21 V.S.A. § 572 on July 1, 2018, and, beginning on October 1, 2019, employees may begin to receive benefits pursuant to 21 V.S.A. chapter 5, subchapter 13.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time.

Pending the question Pending the question, Shall the recommendation of the committee on General, Housing and Military Affairs be amended by the committee on Ways and Means? **Rep. Donahue of Northfield** moved to substitute an amendment for the amendment offered by the committee on Ways and Means, as follows:

Sec. 1. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

(1) “Employer” means an individual, organization or governmental

body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air or express company doing business in or operating within this State ~~which for the purposes of parental leave, that~~ employs 10 or more individuals who are employed for an average of at least 30 hours per week during a year ~~and for the purposes of family leave, employs 15 or more individuals for an average of at least 30 hours per week during a year.~~

\* \* \*

(3) "Family leave" means a leave of absence from employment by an employee who works for an employer which employs ~~15~~ 10 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:

(A) the serious illness of the employee; ~~or~~

(B) the serious illness of the employee's child, stepchild or ward who lives with the employee, foster child, grandchild, parent, grandparent, sibling, spouse, or parent of the employee's spouse;

~~(4) "Parental leave" means a leave of absence from employment by an employee who works for an employer which employs 10 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:~~

~~(C) the employee's pregnancy;~~

~~(A)(D) the birth of the employee's child;~~

~~(B)(E) the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption or foster care; or~~

~~(F) the birth of the employee's grandchild if the employee is the primary caregiver or guardian of the child and the child's biological parents are not taking a family leave for the birth pursuant to section 472 of this chapter.~~

~~(5)(4) "Serious illness" means an accident, disease, or physical or mental condition that:~~

\* \* \*

(5) "Commissioner" means the Commissioner of Labor.

Sec. 2. 21 V.S.A. § 472 is amended to read:

§ 472. FAMILY LEAVE

(a) During any 12-month period, an employee shall be entitled to take unpaid leave for a period not to exceed 12 weeks for the following reasons:

- 
- (1) ~~for parental leave, during the employee's pregnancy and;~~  
(2) following the birth of ~~an~~ the employee's child ~~or;~~  
(3) within a year following the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption ~~or foster care;~~  
(4) within a year following the birth of the employee's grandchild if the employee is the primary caregiver or guardian of the child and the child's biological parents are not taking a leave for the birth pursuant to this section;  
(2)(5) ~~for family leave, for the serious illness of the employee; or~~  
(6) the serious illness of the employee's child, stepchild or ward of the employee who lives with the employee, foster child, grandchild, parent, grandparent, sibling, spouse, or parent of the employee's spouse.
- (b) During the leave, at the employee's option, the employee may use accrued sick leave ~~or,~~ vacation leave ~~or,~~ any other accrued paid leave, ~~not to exceed six weeks~~ Parental and Family Leave Insurance benefits pursuant to subchapter 13 of this chapter, or short-term disability insurance or other insurance benefits. ~~Utilization~~ Use of accrued paid leave, Parental and Family Leave Insurance benefits, or insurance benefits shall not extend the leave provided ~~herein~~ by this section.

\* \* \*

- (d) The employer shall post and maintain in a conspicuous place in and about each of ~~his or her~~ its places of business printed notices of the provisions of this subchapter on forms provided by the Commissioner of Labor.
- (e)(1) An employee shall give his or her employer reasonable written notice of intent to take family leave under this subchapter. Notice shall include the date the leave is expected to commence and the estimated duration of the leave.
- (2) In the case of the adoption or birth of a child, an employer shall not require that notice be given more than six weeks prior to the anticipated commencement of the leave.
- (3) In the case of an unanticipated serious illness or premature birth, the employee shall give the employer notice of the commencement of the leave as soon as practicable.
- (4) In the case of serious illness of the employee or a member of the employee's family, an employer may require certification from a physician to verify the condition and the amount and necessity for the leave requested.
- (5) An employee may return from leave earlier than estimated upon

approval of the employer.

(6) An employee shall provide reasonable notice to the employer of his or her need to extend the leave to the extent provided by this chapter.

\* \* \*

(h) Except for serious illness of the employee, an employee who does not return to employment with the employer who provided the family leave shall return to the employer the value of any compensation paid to or on behalf of the employee during the leave, except payments of Parental and Family Leave Insurance benefits and payments for accrued sick leave or vacation leave. An employer may elect to waive the rights provided pursuant to this subsection.

Sec. 3. 21 V.S.A. chapter 5, subchapter 13 is added to read:

Subchapter 13. Parental and Family Leave Insurance

§ 571. DEFINITIONS

(a) As used in this subchapter:

(1) “Employee” means an individual who performs services in employment for an employer.

(2) “Employer” means an individual, organization, governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air or express company doing business in or operating within this State.

(3) “Employment” has the same meaning as in subdivision 1301(6) of this title.

(4) “Enrolled employee” means an employee who has enrolled in the Parental and Family Leave Insurance Program established pursuant to this subchapter.

(5) “Family leave” means a leave of absence from employment by an employee for the serious illness of the employee’s child, stepchild or ward who lives with the employee, foster child, parent, grandparent, sibling, spouse, or parent of the employee’s spouse.

(6) “Parental and bonding leave” means a leave of absence from employment by an employee for:

(A) the birth of the employee’s child;

(B) the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption or foster care; or

(C) the purpose of bonding with the employee’s grandchild if the

leave is taken within a year following the birth of the employee's grandchild, the employee is the primary caregiver or guardian of the child, and the child's biological parents are not using Parental and Family Leave Insurance Benefits for parental and bonding leave in relation to the birth.

(7) "Qualified employee" means an enrolled employee who has made contributions to the Program during at least 12 of the previous 13 months.

(8) "Serious illness" means an accident, disease, or physical or mental condition that:

(A) poses imminent danger of death;

(B) requires inpatient care in a hospital; or

(C) requires continuing in-home care under the direction of a physician.

§ 572. PARENTAL AND FAMILY LEAVE INSURANCE; SPECIAL  
FUND; ADMINISTRATION

(a) The Parental and Family Leave Insurance Program is established in the Department of Labor for the provision of Parental and Family Leave Insurance benefits to eligible employees pursuant to this subchapter.

(b) The Parental and Family Leave Insurance Special Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund may be expended by the Commissioner for the administration of the Parental and Family Leave Insurance Program and payment of Parental and Family Leave Insurance benefits provided pursuant to this subchapter.

(c)(1)(A) The Fund shall consist of contributions equal to 1.00 percent of each enrolled employee's covered wages, which an employer shall deduct and withhold from each of its enrolled employee's wages.

(B) In lieu of deducting and withholding the full amount of the contribution pursuant to subdivision (1)(A) of this subsection, an employer may elect to pay all or a portion of the contributions due from the enrolled employee's covered wages.

(C) As used in this subsection, the term "covered wages" does not include the amount of wages paid to an employee after he or she has received wages equal to \$150,000.00.

(2)(A) Notwithstanding subdivision (1) of this subsection (c), the General Assembly shall annually establish the rate of contribution for the next fiscal year. The rate shall equal the amount necessary to provide Parental and Family Leave Insurance benefits pursuant to this subchapter and to administer

the Parental and Family Leave Insurance Program during the next fiscal year, adjusted by any balance in the Fund from the prior fiscal year.

(B) On or before February 1 of each year, the Commissioner shall report to the General Assembly the rate of contribution necessary to provide Parental and Family Leave Insurance benefits pursuant to this subchapter, to maintain adequate reserves in the Fund, and to administer the Program during the next fiscal year, adjusted by any balance in the Fund from the prior fiscal year.

(d) An employer shall submit these contributions to the Commissioner in a form and at times determined by the Commissioner.

#### § 573. BENEFITS

(a) Except as otherwise provided pursuant to section 572 of this subchapter, a qualified employee awarded Parental and Family Leave Insurance benefits under this section shall receive 80 percent of his or her average weekly wage or an amount equal to a 40-hour workweek paid at a rate double that of the livable wage, as determined by the Joint Fiscal Office pursuant to 2 V.S.A. § 505, whichever is less.

(b) A qualified employee shall be permitted to receive not more than 12 weeks of Parental and Family Leave Insurance benefits in a 12-month period for family leave or parental and bonding leave, or both.

#### § 574. APPLICATION FOR BENEFITS; PAYMENT; TAX WITHHOLDING

(a) A qualified employee shall file an application for Parental and Family Leave Insurance benefits with the Commissioner under this section on a form provided by the Commissioner. The Commissioner shall determine whether the qualified employee is eligible to receive Parental and Family Leave Insurance benefits based on the following criteria:

(1) The purposes for which the claim is made are documented.

(2) The qualified employee satisfies the eligibility requirements for the requested leave.

(3) The benefits are being requested in relation to a family leave or a parental and bonding leave.

(b) The Commissioner of Labor shall make a determination of each claim not later than five days after the date the claim is filed, and Parental and Family Leave Insurance benefits shall be paid from the Fund created pursuant to this section. A person aggrieved by a decision of the Commissioner under this subsection may file with the Commissioner a request for reconsideration within 30 days after receipt of the Commissioner's decision. Thereafter, an

applicant denied reconsideration may file an appeal to the Civil Division of the Superior Court in the county where the employment is located.

(c)(1) A qualified employee filing a claim for benefits pursuant to this section shall, at the time of filing, be advised that Parental and Family Leave Insurance benefits may be subject to income tax and that the individual's benefits may be subject to withholding.

(2) The Commissioner shall follow all procedures specified by 26 U.S.C. chapter 24 and 32 V.S.A. chapter 151, subchapter 4 pertaining to the withholding of income tax.

#### § 575. FALSE STATEMENT OR REPRESENTATION; PENALTY

A person who willfully makes a false statement or representation for the purpose of obtaining any benefit or payment or to avoid payment of any required contributions under the provisions of this section, either for himself or herself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than \$20,000.00 and shall forfeit all or a portion of any right to compensation under the provisions of this section, as determined to be appropriate by the Commissioner after a determination by the Commissioner that the person has willfully made a false statement or representation of a material fact.

#### § 576. ELECTION OF COVERAGE; APPLICATION

(a) An employee may elect to enroll in the Parental and Family Leave Insurance Program by submitting to the Commissioner an application on a form provided by the Commissioner. Not more than ten days after the application is received, the Commissioner shall notify the employee's employer of the application.

(b) Upon approval of the application, the Commissioner shall provide written notice to the employer and employee that the application has been approved and the date by which the employer shall begin deducting and withholding contributions pursuant to section 572 of this section.

#### § 577. RULEMAKING

The Commissioner may adopt rules as necessary to implement this subchapter.

#### Sec. 4. ADOPTION OF RULES

On or before January 1, 2018, the Commissioner of Labor shall adopt rules necessary to implement 21 V.S.A. chapter 5, subchapter 13.

#### Sec. 5. EDUCATION AND OUTREACH

On or before January 1, 2018, the Commissioner of Labor shall develop and make available on the Department of Labor's website information and materials to educate and inform employers and employees about the Parental and Family Leave Insurance Program established pursuant to 21 V.S.A. chapter 5, subchapter 13.

Sec. 6. IMPLEMENTATION OF PROGRAM

(a) Beginning on July 1, 2018:

(1) employees shall be permitted to enroll in the Parental and Family Leave Insurance Program pursuant to 21 V.S.A. § 576; and

(2) contributions from each enrolled employee's covered wages shall begin being paid pursuant to 21 V.S.A. § 572.

(b) Beginning on July 1, 2019, qualified employees may begin to receive benefits pursuant to 21 V.S.A. chapter 5, subchapter 13.

Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 3, 4, 5, and 6 shall take effect on July 1, 2017.

(b) Secs. 1 and 2 shall take effect on July 1, 2019.

**Recess**

At twelve o'clock and ten minutes, the Speaker declared a recess until two o'clock in the afternoon.

At two o'clock and eight minutes in the afternoon, the Speaker called the House to order.

**Message from the Senate No. 59**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has considered House proposal of amendment to Senate bill of the following title:

**S. 4.** An act relating to publicly accessible meetings of an accountable care organization's governing body.

And has concurred therein.

The Senate has considered bills originating in the House of the following titles:

**H. 327.** An act relating to the charter of the Northeast Kingdom Solid Waste Management District.

**H. 524.** An act relating to approval of amendments to the charter of the Town of Hartford.

**H. 527.** An act relating to approval of amendments to the charter of the Town of East Montpelier and to the merger of the Town and the East Montpelier Fire District No. 1.

**H. 536.** An act relating to approval of amendments to the charter of the Town of Colchester.

And has passed the same in concurrence.

The Senate has considered bills originating in the House of the following titles:

**H. 22.** An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

**H. 130.** An act relating to approval of amendments to the charter of the Town of Hartford.

**H. 238.** An act relating to modernizing and reorganizing Title 7.

**H. 347.** An act relating to the State Telecommunications Plan.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

**Consideration on Bill Resumed; Bill Amended;  
Third Reading Ordered**

**H. 196**

Consideration resumed on House bill, entitled

An act relating to paid family leave

Pending the question, Shall the amendment offered by Rep. Donahue of Northfield be substituted for the recommendation of the amendment of the committee on Ways and Means? **Rep. Savage of Swanton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the amendment offered by Rep. Donahue of Northfield be substituted for the recommendation of the amendment of the committee on Ways and Means? was decided in the negative. Yeas, 57. Nays, 88.

Those who voted in the affirmative are:

Ainsworth of Royalton

Gamache of Swanton

Murphy of Fairfax

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Bancroft of Westford	Graham of Williamstown	Myers of Essex
Batchelor of Derby	Harrison of Chittenden	Nolan of Morristown
Beck of St. Johnsbury	Hebert of Vernon	Norris of Shoreham
Beyor of Highgate	Helm of Fair Haven	Olsen of Londonderry
Brennan of Colchester	Higley of Lowell	Pearce of Richford
Browning of Arlington	Hooper of Brookfield	Quimby of Concord
Burditt of West Rutland	Hubert of Milton	Rosenquist of Georgia
Canfield of Fair Haven	Juskiewicz of Cambridge	Savage of Swanton
Condon of Colchester	Keefe of Manchester	Scheuermann of Stowe
Corcoran of Bennington	Kimbell of Woodstock	Shaw of Pittsford
Cupoli of Rutland City	LaClair of Barre Town	Smith of New Haven
Devereux of Mount Holly	Lawrence of Lyndon	Strong of Albany
Dickinson of St. Albans Town	Lefebvre of Newark	Terenzini of Rutland Town
Donahue of Northfield *	Lewis of Berlin	Turner of Milton
Fagan of Rutland City	Marcotte of Coventry	Van Wyck of Ferrisburgh
Feltus of Lyndon	Martel of Waterford	Viens of Newport City
Frenier of Chelsea	McCoy of Poultney	Wright of Burlington
Gage of Rutland City	McFaun of Barre Town	
	Morrissey of Bennington	

Those who voted in the negative are:

Ancel of Calais	Giambatista of Essex	Poirier of Barre City
Baser of Bristol	Gonzalez of Winooski	Potter of Clarendon
Belaski of Windsor	Grad of Moretown	Pugh of South Burlington
Bissonnette of Winooski	Greshin of Warren	Rachelson of Burlington
Bock of Chester	Haas of Rochester	Scheu of Middlebury
Botzow of Pownal	Head of South Burlington	Sharpe of Bristol
Briglin of Thetford	Hill of Wolcott	Sheldon of Middlebury
Brumsted of Shelburne	Hooper of Montpelier	Sibilia of Dover
Buckholz of Hartford	Houghton of Essex	Squirrell of Underhill
Burke of Brattleboro	Howard of Rutland City	Stevens of Waterbury
Carr of Brandon	Jessup of Middlesex	Stuart of Brattleboro
Chesnut-Tangerman of Middletown Springs	Jickling of Brookfield	Sullivan of Dorset
Christensen of Weathersfield	Joseph of North Hero	Sullivan of Burlington
Christie of Hartford	Kitzmiller of Montpelier	Taylor of Colchester
Cina of Burlington	Krowinski of Burlington	Till of Jericho
Colburn of Burlington	Lalonde of South Burlington	Toleno of Brattleboro
Conlon of Cornwall	Lanpher of Vergennes	Toll of Danville
Connor of Fairfield	Lippert of Hinesburg	Townsend of South Burlington
Conquest of Newbury	Long of Newfane	Trieber of Rockingham
Copeland-Hanzas of Bradford	Lucke of Hartford	Troiano of Stannard
Dakin of Colchester	Masland of Thetford	Walz of Barre City
Deen of Westminster	McCormack of Burlington	Webb of Shelburne
Donovan of Burlington	McCullough of Williston	Weed of Enosburgh
Dunn of Essex	Miller of Shaftsbury	Willhoit of St. Johnsbury
Emmons of Springfield	Morris of Bennington	Wood of Waterbury
Fields of Bennington	Mrowicki of Putney	Yacovone of Morristown
Forguites of Springfield	Noyes of Wolcott	Yantachka of Charlotte
	Ode of Burlington	Young of Glover
	O'Sullivan of Burlington	

Gannon of Wilmington	Parent of St. Albans Town
Gardner of Richmond	Partridge of Windham

Those members absent with leave of the House and not voting are:

Bartholomew of Hartland	Macaig of Williston
Keenan of St. Albans City	Smith of Derby

**Rep. Donahue of Northfield** explained her vote as follows:

“Madam Speaker:

If the 70% of Vermonters who are reported to want this insurance, voluntarily participated, there would be no problem in sustaining it fiscally – and we would not have to impose it on those who do not want it.”

Pending the question, Shall the report of the committee on General, Housing and Military Affairs be amended by the committee on Ways and Means? **Rep. Parent of St. Albans Town** moved that the bill be committed to the committee on Ways and Means, which was disagreed to on a division of Yeas, 45 and Nays, 75.

Pending the question, Shall the report of the Committee of General, Housing and Military Affairs be amended as recommended by the Committee of Ways and Means? **Rep. Dunn of Essex** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the Committee of General, Housing and Military Affairs be amended as recommended by the Committee of Ways and Means? was decided in the affirmative. Yeas, 89. Nays, 57.

Those who voted in the affirmative are:

Ancel of Calais	Gannon of Wilmington	Ode of Burlington
Bartholomew of Hartland	Gardner of Richmond	O'Sullivan of Burlington
Baser of Bristol	Giambatista of Essex	Partridge of Windham
Beck of St. Johnsbury	Gonzalez of Winooski	Poirier of Barre City
Belaski of Windsor	Grad of Moretown	Potter of Clarendon
Bissonnette of Winooski	Haas of Rochester	Pugh of South Burlington
Bock of Chester	Head of South Burlington	Rachelson of Burlington
Botzow of Pownal	Hebert of Vernon	Scheu of Middlebury
Briglin of Thetford	Hill of Wolcott	Sharpe of Bristol
Brumsted of Shelburne	Hooper of Montpelier	Sheldon of Middlebury
Buckholz of Hartford	Hooper of Brookfield	Squirrell of Underhill
Burke of Brattleboro	Houghton of Essex	Stevens of Waterbury
Carr of Brandon	Howard of Rutland City	Stuart of Brattleboro *
Chesnut-Tangerman of Middletown Springs *	Jessup of Middlesex	Sullivan of Dorset
Christensen of Weathersfield	Joseph of North Hero	Sullivan of Burlington
Christie of Hartford	Kimbell of Woodstock *	Till of Jericho
	Kitzmiller of Montpelier	Toleno of Brattleboro *

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Cina of Burlington	Krowinski of Burlington	Toll of Danville
Colburn of Burlington	Lalonde of South Burlington	Townsend of South Burlington
Condon of Colchester	Lanpher of Vergennes	Trieber of Rockingham
Conlon of Cornwall	Lippert of Hinesburg	Troiano of Stannard
Connor of Fairfield	Long of Newfane	Walz of Barre City
Conquest of Newbury	Lucke of Hartford	Webb of Shelburne
Copeland-Hanzas of Bradford	Masland of Thetford	Weed of Enosburgh
Deen of Westminster	McCormack of Burlington	Willhoit of St. Johnsbury
Donovan of Burlington	McCullough of Williston	Wood of Waterbury
Dunn of Essex	McFaun of Barre Town	Yacovone of Morristown
Emmons of Springfield	Miller of Shaftsbury	Yantachka of Charlotte
Fields of Bennington	Morris of Bennington *	Young of Glover
Forguites of Springfield	Mrowicki of Putney	
	Noyes of Wolcott	

Those who voted in the negative are:

Ainsworth of Royalton	Graham of Williamstown	Norris of Shoreham
Bancroft of Westford	Greshin of Warren	Olsen of Londonderry
Batchelor of Derby	Harrison of Chittenden	Parent of St. Albans Town
Beyor of Highgate	Helm of Fair Haven	Pearce of Richford
Brennan of Colchester	Higley of Lowell	Quimby of Concord
Browning of Arlington	Hubert of Milton	Rosenquist of Georgia
Burditt of West Rutland	Jickling of Brookfield	Savage of Swanton
Canfield of Fair Haven	Juskiewicz of Cambridge	Scheuermann of Stowe
Corcoran of Bennington	Keefe of Manchester	Shaw of Pittsford
Cupoli of Rutland City	LaClair of Barre Town	Sibilia of Dover
Dakin of Colchester	Lawrence of Lyndon	Smith of New Haven
Devereux of Mount Holly	Lefebvre of Newark	Strong of Albany
Dickinson of St. Albans Town	Lewis of Berlin	Taylor of Colchester
Donahue of Northfield	Marcotte of Coventry	Terenzini of Rutland Town
Fagan of Rutland City	Martel of Waterford	Turner of Milton
Feltus of Lyndon	McCoy of Poultney	Van Wyck of Ferrisburgh
Frenier of Chelsea	Morrissey of Bennington	Viens of Newport City
Gage of Rutland City	Murphy of Fairfax	Wright of Burlington
Gamache of Swanton	Myers of Essex	
	Nolan of Morristown	

Those members absent with leave of the House and not voting are:

Keenan of St. Albans City	Macaig of Williston	Smith of Derby
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**Rep. Chestnut-Tangerman of Middletown Springs** explained his vote as follows:

“Madam Speaker:

My vote for this bill is not supporting an unwarranted tax. It is my direct investment in the health and wellbeing of my state.”

**Rep. Kimbell of Woodstock** explained his vote as follows:

“Madam Speaker:

I opposed the original bill that came out of Ways and Means because of the cost to small businesses and the length of the leave at 12 weeks. I am concerned about the impact on small businesses. I was slow to embrace the amendment from Ways and Means, but now accept it, still with reservations, but find it more palatable. I trust that we will see this bill again after the senate considers it in the next few months.”

**Rep. Morris of Bennington** explained her vote as follows

“Madam Speaker:

I stand in support of this amendment because it fundamentally changes the experience of working Vermonters in a way that honors their humanity. Last year, I watched my husband anguish over having to choose between his employment, financial insecurity or being present to care for his little sister Karen in the times that hospice could not be there. Her own son was absent when she finally passed after a long journey with cancer because no other option was available. I voted to end this cycle and dismantle the unjust narrative we currently have. Working Vermonters deserve better.

**Rep. Stuart of Brattleboro** explained her vote as follows:

“Madam Speaker:

I wholeheartedly support the committee’s work on this amendment and the General, Housing and Military Affairs committee work on the underlying bill. Madam Speaker, My husband’s firm took it on the chin for the last four years when his secretary of sixteen years was dying. For the last year, my husband’s secretary was barely at his firm because she wanted to be where she rightly belonged, by her cancer-ridden husband’s side. Madam Speaker, My husband’s firm took it on the chin for the last year, as his secretary stayed by her husband’s side as he perished from this earth. Madam Speaker, this amendment and this bill are the right thing to do.”

**Rep. Toleno of Brattleboro** explained his vote as follows:

“Madam Speaker:

When Vermonters are forced to choose between economic security and investing in critical life moments such as bonding with a new child or caring for an ill or injured loved one, no one wins. The private markets have not found a way to solve this problem, leaving many of us vulnerable and without choices. This is exactly the kind of complex problem that Vermonters expect and need us to solve and I am proud of the work of our committees to forge a new path forward. This is an important start toward healthier families, a thriving state economy, and more competitive small businesses.”

Thereupon the recommendation of the committee on General, Housing and Military Affairs, as amended, was further amended as recommended by the committee on Appropriations.

Pending the question, Shall the House amend the bill as recommended by the committee on General, Housing and Military Affairs, as amended? **Rep. Stevens of Waterbury** moved to amend the recommendation the committee on General, Housing and Military Affairs, as amended, as follows:

Sec. 8. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

\* \* \*

(5) For any week with respect to which the individual is receiving or has received remuneration in the form of:

\* \* \*

(F) Parental and Family Leave Insurance benefits pursuant to 21 V.S.A. chapter 5, subchapter 13.

\* \* \*

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 3, 4, 5, 6, and 7 shall take effect on July 1, 2017.

(b) Secs. 1, 2, and 8 shall take effect on October 1, 2019.

(c) Contributions shall begin being paid pursuant to 21 V.S.A. § 572 on July 1, 2018, and, beginning on October 1, 2019, employees may begin to receive benefits pursuant to 21 V.S.A. chapter 5, subchapter 13.

Which was agreed to. Thereupon the report of the committee on General, Housing and Military Affairs, as amended, was agreed to and third reading was ordered.

**Action on Bill Postponed**

**H. 509**

House bill, entitled

An act relating to calculating statewide education tax rates

Was taken up and pending the question, Will the House concur in the Senate proposal of amendment? on motion of **Rep. Savage of Swanton**, action on the bill was postponed until May 3, 2017.

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**Joint Resolution Read Third Time;  
Adopted in Concurrence**

**J.R.S. 18**

Joint resolution, entitled

Joint resolution in support of combating the rise in hate crimes and bigotry

Was taken up, read the third time and adopted in concurrence.

**Third Reading; Bill Passed in Concurrence  
With Proposal of Amendment**

**S. 112**

Senate bill, entitled

An act relating to creating the Spousal Support and Maintenance Task Force

Was taken up, read the third time and passed in concurrence.

**Third Reading; Bill Passed in Concurrence  
With Proposal of Amendment**

**S. 33**

Senate bill, entitled

An act relating to the Rozo McLaughlin Farm-to-School Program

Was taken up, read the third time and passed in concurrence.

**Proposal of Amendment Agreed to; Third Reading;  
Bill Passed in Concurrence with Proposal of Amendment**

**S. 8**

Senate bill, entitled

An act relating to establishing the State Ethics Commission and standards of governmental ethical conduct

Was taken up and pending third reading of the bill, **Rep. Poirier of Barre City** moved to amend the House proposal of amendment as follows:

Sec. 3. 17 V.S.A. § 2414 is added to read:

§ 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE;  
DISCLOSURE FORM

(a) Each candidate for State office, State Senator, or State Representative shall file with the officer with whom consent of candidate forms are filed, along with his or her consent, a disclosure form prepared by the State Ethics Commission that contains the following information in regard to the previous

calendar year:

(1) Each source, but not amount, of the candidate's personal income that totals more than \$5,000.00, ranked in order from highest to lowest income, including any of the sources meeting that total described as follows:

(A) employment, including the employer or business name and address and, if self-employed, a description of the nature of the self-employment, without needing to disclose any individual clients; and

(B) investments, described generally as "investment income."

(2) Any board, commission, association, or other entity on which the candidate served and a description of that position.

(3) Any company of which the candidate owned more than 10 percent.

(4) Any lease or contract with the State held or entered into by:

(A) the candidate; or

(B) a company of which the candidate owned more than 10 percent.

(b)(1) A senatorial district clerk or representative district clerk who receives a disclosure form under this section shall forward a copy of the disclosure form to the Secretary of State within three business days of receiving it.

(2) The Secretary of State shall post a copy of any disclosure form he or she receives under this section on his or her official State website.

Pending the question, Shall the House proposal of amendment be further amended as offered by Rep. Poirier of Barre City? **Rep. Poirier of Barre City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House proposal of amendment be further amended as offered by Rep. Poirier of Barre City? was decided in the negative. Yeas, 33. Nays, 109.

Those who voted in the affirmative are:

Beck of St. Johnsbury  
Brennan of Colchester  
Burditt of West Rutland  
Canfield of Fair Haven  
Conquest of Newbury  
Copeland-Hanzas of  
Bradford  
Cupoli of Rutland City  
Deen of Westminster  
Donahue of Northfield  
Frenier of Chelsea  
Graham of Williamstown

Harrison of Chittenden  
Hebert of Vernon  
Helm of Fair Haven  
Hill of Wolcott  
Lefebvre of Newark  
McCoy of Poultney  
McCullough of Williston \*  
McFaun of Barre Town  
O'Sullivan of Burlington  
Parent of St. Albans Town  
Poirier of Barre City  
Quimby of Concord

Shaw of Pittsford  
Smith of New Haven  
Strong of Albany  
Stuart of Brattleboro  
Sullivan of Dorset  
Terenzini of Rutland Town  
Till of Jericho  
Webb of Shelburne  
Wright of Burlington  
Young of Glover

Those who voted in the negative are:

Ainsworth of Royalton	Gamache of Swanton	Murphy of Fairfax
Ancel of Calais	Gannon of Wilmington	Myers of Essex
Bancroft of Westford	Gardner of Richmond	Nolan of Morrystown
Bartholomew of Hartland	Giambatista of Essex	Norris of Shoreham
Baser of Bristol	Gonzalez of Winooski	Noyes of Wolcott
Batchelor of Derby	Grad of Moretown	Ode of Burlington
Belaski of Windsor	Greshin of Warren	Olsen of Londonderry
Beyor of Highgate	Haas of Rochester	Partridge of Windham
Bissonnette of Winooski	Head of South Burlington	Pearce of Richford
Bock of Chester	Higley of Lowell	Potter of Clarendon
Botzow of Pownal	Hooper of Brookfield	Pugh of South Burlington
Briglin of Thetford	Houghton of Essex	Rachelson of Burlington
Browning of Arlington	Howard of Rutland City	Rosenquist of Georgia
Brumsted of Shelburne	Hubert of Milton	Savage of Swanton
Buckholz of Hartford	Jessup of Middlesex	Scheu of Middlebury
Burke of Brattleboro	Jickling of Brookfield	Scheuermann of Stowe
Carr of Brandon	Joseph of North Hero	Sheldon of Middlebury
Chesnut-Tangerman of Middletown Springs	Juskiewicz of Cambridge	Sibilia of Dover
Christensen of Weathersfield	Keefe of Manchester	Squirrell of Underhill
Christie of Hartford	Kimbell of Woodstock	Stevens of Waterbury
Cina of Burlington	Kitzmiller of Montpelier	Sullivan of Burlington
Colburn of Burlington	Krowinski of Burlington	Taylor of Colchester
Condon of Colchester	LaClair of Barre Town	Toleno of Brattleboro
Conlon of Cornwall	Lalonde of South Burlington	Townsend of South Burlington
Connor of Fairfield	Lanpher of Vergennes	Trieber of Rockingham
Corcoran of Bennington	Lawrence of Lyndon	Troiano of Stannard
Dakin of Colchester	Lewis of Berlin	Turner of Milton
Devereux of Mount Holly	Lippert of Hinesburg	Van Wyck of Ferrisburgh
Dickinson of St. Albans Town	Long of Newfane	Viens of Newport City
Dunn of Essex	Lucke of Hartford	Walz of Barre City
Emmons of Springfield	Marcotte of Coventry	Weed of Enosburgh
Fagan of Rutland City	Martel of Waterford	Willhoit of St. Johnsbury
Feltus of Lyndon	Masland of Thetford	Wood of Waterbury
Fields of Bennington	McCormack of Burlington	Yacovone of Morrystown
Forguites of Springfield	Miller of Shaftsbury	Yantachka of Charlotte
Gage of Rutland City	Morris of Bennington	
	Morrissey of Bennington	
	Mrowicki of Putney	

Those members absent with leave of the House and not voting are:

Donovan of Burlington	Macaig of Williston	Toll of Danville
Hooper of Montpelier	Sharpe of Bristol	
Keenan of St. Albans City	Smith of Derby	

**Rep. McCullough of Williston** explained his vote as follows:

“Madam Speaker:

I voted to keep the cops out of my medicine cabined some years ago. I vote for this amendment as well. These are two places the public do not need to look.”

Pending the third reading of the bill, **Rep. Yantachka of Charlotte** moved to amend the House proposal of amendment as follows:

In Sec. 4, 17 V.S.A. § 2950 (State officers and State office candidates; contractor contribution restrictions), in subdivision (a)(1), following “A person or his or her principal or spouse who makes a contribution to a State officer or a candidate for a State office shall not” by inserting the words “negotiate or”

Which was agreed to.

Pending the third reading of the bill, **Rep. Townsend of South Burlington** moved to amend the House proposal of amendment as follows:

In Sec. 3, 17 V.S.A. § 2414 (candidates for State and legislative office; disclosure form), in subdivision (d)(1) (“domestic partner” definition), following ““Domestic partner” means an individual with whom the candidate has an enduring domestic relationship” by inserting “of a spousal nature”

Which was agreed to.

Pending the third reading of the bill, **Rep. Donahue of Northfield** moved to amend the House proposal of amendment as follows:

First: In Sec. 3, 17 V.S.A. § 2414 (candidates for State and legislative office; disclosure form), in subsection (a), by striking out in its entirety subdivision (2) and inserting in lieu thereof the following:

(2) Any board, commission, or other entity that is regulated by law or that receives funding from the State on which the candidate served and the candidate’s position on that entity.

Second: In Sec. 7, 3 V.S.A. Part 1, chapter 31, in section 1211 (Executive officers; biennial disclosure), in subsection (a), by striking out in its entirety subdivision (2) and inserting in lieu thereof the following:

(2) Any board, commission, or other entity that is regulated by law or that receives funding from the State on which the officer served and the officer’s position on that entity.

Third: In Sec. 13 (State Ethics Commission funding source surcharge; repeal), in subsection (a) (surcharge), at the beginning of subdivision (1), by striking out “In” and inserting in lieu thereof “Notwithstanding the provisions of 3 V.S.A. § 2283(c) setting forth the purpose and rate of charges collected in the Human Resource Services Internal Service Fund, in”

Which was agreed to.

Pending the third reading of the bill, **Rep. Lippert of Hinesburg** moved to amend the House proposal of amendment as follows:

In Sec. 4, 17 V.S.A. § 2950 (State officers and State office candidates; contractor contribution restrictions), at the beginning of subdivision (a)(1), by striking out “A person or his or her principal or spouse who makes a contribution to a State officer or a candidate for a State office” and inserting in lieu thereof “If a person makes a contribution to a State officer of a candidate for a State office, or if his, her, or its principal or spouse makes such a contribution, that person”

Which was agreed to. Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass in concurrence with proposal of amendment? **Rep. Gannon of Wilmington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass in concurrence with proposal of amendment? was decided in the affirmative. Yeas, 144. Nays, 1.

Those who voted in the affirmative are:

Ainsworth of Royalton	Gardner of Richmond	Noyes of Wolcott
Ancel of Calais	Giambatista of Essex	Ode of Burlington
Bancroft of Westford	Gonzalez of Winooski	Olsen of Londonderry
Bartholomew of Hartland	Grad of Moretown	O'Sullivan of Burlington
Baser of Bristol	Graham of Williamstown	Parent of St. Albans Town
Batchelor of Derby	Greshin of Warren	Partridge of Windham
Beck of St. Johnsbury	Haas of Rochester	Pearce of Richford
Belaski of Windsor	Harrison of Chittenden	Poirier of Barre City
Bissonnette of Winooski	Head of South Burlington	Potter of Clarendon
Bock of Chester	Hebert of Vernon	Pugh of South Burlington
Botzow of Pownal	Helm of Fair Haven	Quimby of Concord
Brennan of Colchester	Higley of Lowell	Rachelson of Burlington
Briglin of Thetford	Hill of Wolcott	Rosenquist of Georgia
Browning of Arlington	Hooper of Montpelier	Savage of Swanton
Brumsted of Shelburne	Hooper of Brookfield	Scheu of Middlebury
Buckholz of Hartford	Houghton of Essex	Scheuermann of Stowe
Burditt of West Rutland	Howard of Rutland City	Sharpe of Bristol
Burke of Brattleboro	Hubert of Milton	Shaw of Pittsford
Canfield of Fair Haven	Jessup of Middlesex	Sheldon of Middlebury
Carr of Brandon	Jickling of Brookfield	Sibilia of Dover
Chesnut-Tangerman of Middletown Springs	Joseph of North Hero	Smith of New Haven
Christensen of Weathersfield	Juskiewicz of Cambridge	Squirrell of Underhill
Christie of Hartford	Keefe of Manchester	Stevens of Waterbury
Cina of Burlington	Kimbell of Woodstock	Strong of Albany
Colburn of Burlington	Kitzmiller of Montpelier	Stuart of Brattleboro
	Krowinski of Burlington	Sullivan of Dorset

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Condon of Colchester	LaClair of Barre Town	Sullivan of Burlington
Conlon of Cornwall	Lalonde of South Burlington	Taylor of Colchester
Connor of Fairfield	Lanpher of Vergennes	Terenzini of Rutland Town
Conquest of Newbury	Lawrence of Lyndon	Till of Jericho
Copeland-Hanzas of Bradford	Lefebvre of Newark	Toleno of Brattleboro
Corcoran of Bennington	Lewis of Berlin	Toll of Danville
Cupoli of Rutland City	Lippert of Hinesburg	Townsend of South Burlington
Dakin of Colchester	Long of Newfane	Trieber of Rockingham
Deen of Westminster	Lucke of Hartford	Troiano of Stannard
Devereux of Mount Holly	Marcotte of Coventry	Turner of Milton
Dickinson of St. Albans Town	Martel of Waterford	Van Wyck of Ferrisburgh
Donahue of Northfield	Masland of Thetford	Viens of Newport City
Dunn of Essex	McCormack of Burlington	Walz of Barre City
Emmons of Springfield	McCoy of Poultney	Webb of Shelburne *
Fagan of Rutland City	McCullough of Williston	Weed of Enosburgh
Feltus of Lyndon	McFaun of Barre Town	Willhoit of St. Johnsbury
Fields of Bennington	Miller of Shaftsbury	Wood of Waterbury
Forguites of Springfield	Morris of Bennington	Wright of Burlington
Frenier of Chelsea	Morrissey of Bennington	Yacovone of Morristown
Gage of Rutland City	Mrowicki of Putney	Yantachka of Charlotte
Gamache of Swanton	Murphy of Fairfax	Young of Glover
Gannon of Wilmington	Myers of Essex	
	Nolan of Morristown	
	Norris of Shoreham	

Those who voted in the negative are:

Beyor of Highgate

Those members absent with leave of the House and not voting are:

Donovan of Burlington	Macaig of Williston
Keenan of St. Albans City	Smith of Derby

**Rep. Webb of Shelburne** explained her vote as follows:

“Madam Speaker:

With an ethics commission, Vermont can finally be as ethical as New Jersey.”

### **Message from the Senate No. 60**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has considered House proposal of amendment to Senate bill of the following title:

**S. 9.** An act relating to the preparation of poultry products.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

The Senate has considered a bill originating in the House of the following title:

**H. 424.** An act relating to the Commission on Act 250: the Next 50 Years.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposals of amendment to the following Senate bills and has refused to concur therein and asks for Committees of Conference upon the disagreeing votes of the two Houses to which the President announced the appointment as members of such Committees on the part of the Senate:

**S. 134.** An act relating to court diversion and pretrial services.

Senator White  
Senator Benning  
Senator Sears

**S. 136.** An act relating to miscellaneous consumer protection provisions.

Senator Sirotkin  
Senator Baruth  
Senator Clarkson

The Senate has considered joint resolution originating in the House of the following title:

**J.R.H. 10.** Joint resolution authorizing the Green Mountain Girls State educational program to use the State House.

And has adopted the same in concurrence.

#### **Message from Governor**

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House of Representatives that on the May 1, 2017, he signed bills originating in the House of the following titles:

**H. 4 An act relating to calculating time periods in court proceedings**

**H.85 An act relating to captive insurance companies**

**H.152 An act relating to the Vermont Revised Uniform Fiduciary Access to Digital Assets Act**

**Second Reading; Consideration Interrupted**

**H. 170**

**Rep. Conquest of Newbury** for the committee on Judiciary, to which had been referred House bill entitled,

An act relating to possession and cultivation of marijuana by a person 21 years of age or older

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

It is the intent of the General Assembly to eliminate all penalties for possession of one ounce or less of marijuana for a person who is 21 years of age or older while retaining civil and criminal penalties for possession of larger amounts of marijuana and criminal penalties for unauthorized dispensing or sale of marijuana. This act also retains civil penalties for possession of marijuana by a person under 21 years of age, which are the same as for possession of alcohol by a person under 21 years of age.

Sec. 2. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

\* \* \*

(15)(A) ~~“Marijuana” means any plant material of the genus cannabis or any preparation, compound, or mixture thereof except:~~

~~(A) sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

(C) hemp or hemp products, as defined in 6 V.S.A. § 562 all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) “Marijuana” does not include:

- (i) the mature stalks of the plant and fiber produced from the stalks;
- (ii) oil or cake made from the seeds of the plant;
- (iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;
- (iv) the sterilized seed of the plant that is incapable of germination; or
- (v) hemp or hemp products, as defined in 6 V.S.A. § 562.

\* \* \*

(43) “Immature marijuana plant” means a female marijuana plant that has not flowered and that does not have buds that may be observed by visual examination.

(44) “Mature marijuana plant” means a female marijuana plant that has flowered and that has buds that may be observed by visual examination.

Sec. 3. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than ~~one ounce~~ two ounces of marijuana or more than ~~five~~ 10 grams of hashish or cultivate more than three mature marijuana plants or six immature marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than ~~one ounce~~ two ounces of marijuana or more than ~~five~~ 10 grams of hashish or cultivating more than three mature marijuana plants or six immature marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be

imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) ~~A person knowingly and unlawfully possessing two ounces of marijuana or 10 grams of hashish or knowingly and unlawfully cultivating more than three plants of marijuana shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.~~

(3) A person knowingly and unlawfully possessing more than one pound or more of marijuana or more than 2.8 ounces or more of hashish or knowingly and unlawfully cultivating more than 10 plants of six mature marijuana plants or 12 immature marijuana plants shall be imprisoned not more than ~~five~~ three years or fined not more than ~~\$100,000.00~~ \$10,000.00, or both.

(4)(3) A person knowingly and unlawfully possessing more than 10 pounds or more of marijuana or more than one pound or more of hashish or knowingly and unlawfully cultivating more than 25 plants of 12 mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5)(4) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

(5) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230f of this title.

\* \* \*

Sec. 4. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE OR OLDER; CIVIL VIOLATION

(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses ~~one ounce or but less of marijuana or five grams or less of hashish~~ any of the following commits a civil violation ~~and~~:

(A) more than one ounce, but not more than two ounces of

marijuana;

(B) more than five grams, but not more than 10 grams of hashish; or

(C) more than two mature marijuana plants and four immature marijuana plants, but not more than three mature marijuana plants or six immature marijuana plants.

(2) A person who violates subdivision (1) of this subsection shall be assessed a civil penalty as follows:

(1) of not more than \$200.00 for a first offense;

(2) not more than \$300.00 for a second offense;

(3) not more than \$500.00 for a third or subsequent offense.

~~(b)(1) Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish or who possesses paraphernalia for marijuana use and shall not be penalized or sanctioned in any other manner by the State or any of its political subdivisions or denied any right or privilege under State law.~~

~~(2) A violation of this section shall not result in the creation of a criminal history record of any kind.~~

(b) Second or subsequent violations of subdivision (1) of subsection (a) shall be punished in accordance with subdivision 4230(a)(1) of this title.

~~(c)(1) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.~~

~~(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and possessed in violation of this title is contraband and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.~~

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's~~

expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state State expense.

(e)(1) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

(f) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

Sec. 5. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; CIVIL VIOLATION

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses ~~one ounce~~ two ounces or less of marijuana or ~~five~~ 10 grams or less of hashish or three mature marijuana plants or fewer or six immature marijuana plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a

first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

\* \* \*

Sec. 6. REPEAL

18 V.S.A. § 4230d (Marijuana possession by a person under 16 years of age; delinquency) is repealed.

Sec. 7. 18 V.S.A. § 4230e is added to read:

§ 4230e. POSSESSION OF MARIJUANA BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this title, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish and two mature marijuana plants or fewer or four immature marijuana plants or fewer shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) The one-ounce limit of marijuana that may be possessed by a person 21 years of age or older shall not include marijuana cultivated, harvested, and stored in accordance with section 4230f of this title.

(b) A person shall not consume marijuana or hashish in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 of this title or chapter 37 of this title. A person who violates this subsection shall be assessed a civil penalty as follows:

- (1) not more than \$100.00 for a first offense;
- (2) not more than \$200.00 for a second offense; and
- (3) not more than \$500.00 for a third or subsequent offense.

Sec. 8. 18 V.S.A. § 4230f is added to read:

§ 4230f. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner

by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4229a of this title provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with sections 4230 and 4230a of this title.

(b)(1) Personal cultivation of marijuana only shall occur:

(A) on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property; and

(B) in an enclosure that is screened from public view and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(2) A person who violates this subsection shall be assessed a civil penalty as follows:

(A) not more than \$100.00 for a first offense;

(B) not more than \$200.00 for a second offense; and

(C) not more than \$500.00 for a third or subsequent offense.

Sec. 9. 18 V.S.A. § 4230g is added to read:

§ 4230g. FURNISHING MARIJUANA TO A PERSON UNDER  
21 YEARS OF AGE; CRIMINAL OFFENSE

(a) No person shall:

(1) furnish marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under 21 years of age.

(b) As used in this section, "enable the consumption of marijuana" means creating a direct and immediate opportunity for a person to consume marijuana.

(c) Except as provided in subsection (d) of this section, a person who

violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(d) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle on a public highway, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(e) This section shall not apply to:

(1) A person under 21 years of age who furnishes marijuana to a person under 21 years of age or who knowingly enables the consumption of marijuana by a person under 21 years of age. Possession of an ounce or less of marijuana by a person under 21 years of age shall be punished in accordance with sections 4230b–4230d of this title and dispensing or selling marijuana shall be punished in accordance with sections 4230 and 4237 of this title.

(2) A dispensary that lawfully provides marijuana to a registered patient or caregiver pursuant to chapter 86 of this title.

Sec. 10. 18 V.S.A. § 4230h is added to read:

§ 4230h. FURNISHING MARIJUANA TO A PERSON UNDER  
21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by furnishing marijuana to a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who furnished the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be

enforced in a separate action brought for that purpose.

(f) A person who knowingly furnishes marijuana to a person under 21 years of age may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

Sec. 11. 18 V.S.A. § 4230i is added to read:

§ 4230i. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE  
PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

Sec. 12. 18 V.S.A. § 4476 is amended to read:

§ 4476. OFFENSES AND PENALTIES

~~(a) No person shall sell, possess with intent to sell, or manufacture with intent to sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a regulated drug in violation of chapter 84 of this title. Whoever violates any provision of this section shall be punished by imprisonment for not more than one year, or by a fine of not more than \$1,000.00, or both.~~

~~(b) Any~~ A ~~person who violates subsection (a) of this section by selling~~ sells ~~drug paraphernalia to a person under 18 years of age shall be imprisoned for not more than two years, or fined not more than \$2,000.00, or both.~~

~~(e)~~(b) ~~The distribution and possession of needles and syringes as part of an organized community-based needle exchange program shall not be a violation of this section or of chapter 84 of this title.~~

Sec. 13. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

**Rep. Olsen of Londonderry**, for the committee on Human Services, recommended that the bill ought to pass when amended as recommended by the committee on Judiciary and when further amended as follows:

First: In Sec. 7, 18 V.S.A. § 4230e, in subsection (b), after “section 1421” by striking out the words “of this title” and after “chapter 37 of this title” by inserting before the period “or 16 V.S.A. § 140”

Second: In Sec. 8, 18 V.S.A. § 4230f, in subdivision (b)(1)(B), by striking out “reasonable precautions are taken to prevent unauthorized access to the marijuana” and inserting in lieu thereof is secure so that access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator

Third: By adding a new section to be Sec. 12a to read as follows:

Sec. 12a. 23 V.S.A. § 1134b is amended to read:

§ 1134b. SMOKING USING MARIJUANA OR TOBACCO IN A MOTOR VEHICLE WITH CHILD PRESENT

(a) A person shall not use marijuana as defined in 18 V.S.A. § 4201 or a tobacco substitute as defined in 7 V.S.A. § 1001 or possess a lighted tobacco product or use a tobacco substitute as defined in 7 V.S.A. § 1001 in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

(b) A person who violates subsection (a) of this section shall be subject to a ~~fine~~ civil penalty of not more than \$100.00. No points shall be assessed for a violation of this section.

Fourth: By adding a new section to be Sec. 12b to read as follows:

Sec. 12b. 33 V.S.A. § 3504 is amended to read:

§ 3504. MARIJUANA AND TOBACCO USE PROHIBITED AT CHILD CARE FACILITIES

(a) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201 or to cultivate marijuana, or use tobacco products or tobacco substitutes as defined in 7 V.S.A. § on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time.

(b) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201, tobacco products, or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both ~~indoor~~ indoors and in any outdoor area designated for child care, of a licensed or registered family child care home while children

are present and in care. If use of marijuana or smoking of tobacco products or tobacco substitutes occurs on the premises during other times, the family child care home shall notify prospective families prior to enrolling a child in the family child care home that their child will be exposed to an environment in which marijuana, tobacco products, or tobacco substitutes, or both, are used. Cultivation of marijuana in a licensed or registered family child care home is not permitted.

### Recess

At six o'clock and fourteen minutes in the evening, the Speaker declared a recess until the fall of the gavel.

At seven o'clock and thirty four minutes in the evening, the Speaker called the House to order.

### Consideration Resumed; Bill Amended; Third Reading Ordered

#### H. 170

Consideration resumed on House bill, entitled

An act relating to possession and cultivation of marijuana by a person 21 years of age or older

Pending the question, Shall the recommendation of the committee on Judiciary be amended as recommended by the committee on Human Services? **Rep. Cupoli of Rutland City** moved that the bill be committed to the committee on Transportation.

Pending the question, Shall the bill be committed to the Committee on Transportation? **Rep. Cupoli of Rutland City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be committed to the Committee on Transportation? was decided in the negative. Yeas, 57. Nays, 85.

Those who voted in the affirmative are:

Ainsworth of Royalton	Graham of Williamstown	Nolan of Morristown
Bancroft of Westford	Harrison of Chittenden	Norris of Shoreham
Batchelor of Derby	Hebert of Vernon	Parent of St. Albans Town
Beck of St. Johnsbury	Helm of Fair Haven	Pearce of Richford
Beyor of Highgate	Higley of Lowell	Poirier of Barre City
Bissonnette of Winooski	Hubert of Milton	Quimby of Concord
Bock of Chester	Joseph of North Hero	Rosenquist of Georgia
Brennan of Colchester	Juskiewicz of Cambridge	Savage of Swanton
Browning of Arlington	Keefe of Manchester	Scheuermann of Stowe
Canfield of Fair Haven	LaClair of Barre Town	Shaw of Pittsford

Cupoli of Rutland City	Lanpher of Vergennes	Smith of New Haven
Devereux of Mount Holly	Lawrence of Lyndon	Strong of Albany
Dickinson of St. Albans Town	Lewis of Berlin	Terenzini of Rutland Town
Donahue of Northfield	Marcotte of Coventry	Till of Jericho
Fagan of Rutland City	Martel of Waterford	Turner of Milton
Feltus of Lyndon	McCoy of Poultney	Van Wyck of Ferrisburgh
Forguites of Springfield	McFaun of Barre Town	Viens of Newport City
Frenier of Chelsea	Morrissey of Bennington	Willhoit of St. Johnsbury
Gage of Rutland City	Murphy of Fairfax	
	Myers of Essex	

Those who voted in the negative are:

Ancel of Calais	Gannon of Wilmington	Olsen of Londonderry
Bartholomew of Hartland	Giambatista of Essex	O'Sullivan of Burlington
Baser of Bristol	Gonzalez of Winooski	Partridge of Windham
Belaski of Windsor	Grad of Moretown	Potter of Clarendon
Botzow of Pownal	Greshin of Warren	Rachelson of Burlington
Briglin of Thetford	Haas of Rochester	Scheu of Middlebury
Brumsted of Shelburne	Head of South Burlington	Sharpe of Bristol
Buckholz of Hartford	Hill of Wolcott	Sheldon of Middlebury
Burditt of West Rutland	Hooper of Montpelier	Sibilia of Dover
Burke of Brattleboro	Hooper of Brookfield	Squirrell of Underhill
Carr of Brandon	Houghton of Essex	Stevens of Waterbury
Chesnut-Tangerman of Middletown Springs	Howard of Rutland City	Stuart of Brattleboro
Christensen of Weathersfield	Jessup of Middlesex	Sullivan of Dorset
Christie of Hartford	Jickling of Brookfield	Sullivan of Burlington
Cina of Burlington	Kimbell of Woodstock	Taylor of Colchester
Colburn of Burlington	Kitzmiller of Montpelier	Toleno of Brattleboro
Condon of Colchester	Krowinski of Burlington	Townsend of South Burlington
Conlon of Cornwall	Lalonde of South Burlington	Trieber of Rockingham
Connor of Fairfield	Lefebvre of Newark	Troiano of Stannard
Conquest of Newbury	Lippert of Hinesburg	Walz of Barre City
Copeland-Hanzas of Bradford	Long of Newfane	Webb of Shelburne
Corcoran of Bennington	Lucke of Hartford	Weed of Enosburgh
Dakin of Colchester	Masland of Thetford	Wood of Waterbury
Deen of Westminster	McCormack of Burlington	Wright of Burlington
Donovan of Burlington	McCullough of Williston	Yacovone of Morristown
Dunn of Essex	Miller of Shaftsbury	Yantachka of Charlotte
Emmons of Springfield	Morris of Bennington	Young of Glover
Fields of Bennington	Mrowicki of Putney	
	Noyes of Wolcott	
	Ode of Burlington	

Those members absent with leave of the House and not voting are:

Gamache of Swanton	Macaig of Williston	Toll of Danville
Gardner of Richmond	Pugh of South Burlington	
Keenan of St. Albans City	Smith of Derby	

Thereupon, the recommendation of the committee on Judiciary was

amended as recommended by the committee on Human Services.

Pending the question, Shall the bill be amended as recommended by the committee on Judiciary, as amended? **Rep. Gannon of Wilmington** moved to amend the recommendation of the committee on Judiciary as follows:

First: In Sec. 4, 18 V.S.A. § 4230a, in subdivision (a)(1), by striking “A” and inserting in lieu thereof Except as otherwise provided in this title, a and by striking subsection (c) in its entirety and inserting in lieu thereof the following:

~~(c)(1) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.~~

~~(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and possessed in violation of this title is contraband and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3)(2) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places. Nothing in this section or sections 4230b, 4230e, and 4230f of this title:~~

~~(A) exempts a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;~~

~~(B) repeals or modifies existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;~~

~~(C) limits the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;~~

~~(D) prohibits a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;~~

~~(E) prohibits a landlord from banning possession or use of marijuana in a lease agreement; or~~

~~(F) allows an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on~~

offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

Second: By adding three sections to be Sec. 11a–11c to read as follows:

Sec. 11a. 18 V.S.A. § 4230j is added to read:

§ 4230j. EXCEPTIONS

(a) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2017 and who possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:

- (1) not more than \$200.00 for a first offense;
- (2) not more than \$300.00 for a second offense;
- (3) not more than \$500.00 for a third or subsequent offense.

(b) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2017 and who possesses any of the following commits a misdemeanor and is subject to imprisonment of not more than one year or a fine of not more than \$1,000.00, or both:

- (1) more than one ounce, but not more than two ounces of marijuana;
- (2) more than five grams, but not more than 10 grams of hashish; or
- (3) not more than six mature marijuana plants and 12 immature marijuana plants.

Sec. 11b. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.

(c) As used in this section, “passenger area” shall mean the area designed

to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~\$25.00~~ \$50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 11c. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be ~~fined~~ subject to a civil penalty of not more than \$25.00 \$50.00.

**Rep. Turner of Milton** raised a point of order that the amendments were taken out of order which the Speaker ruled not well taken as the House rules allow the Speaker the ability to determine the order of the amendments.

Thereupon the amendment offered by **Rep. Gannon of Wilmington** was

agreed to on a division of Yeas 86 and Nays 45.

Thereupon **Rep. Brennan of Colchester** moved to commit the bill to the committee on Transportation which was disagreed to on a division of Yeas, 56 and Nays, 80.

Pending the question, Shall the bill be amended as recommended by the committee on Judiciary, as amended? **Rep. Donahue of Northfield** moved to amend the recommendation of Judiciary, as amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish ~~or cultivate marijuana~~. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish ~~or cultivating marijuana~~ shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing two ounces or more of marijuana or 10 grams or more of hashish or knowingly and unlawfully cultivating more than three plants of marijuana shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing one pound or more of marijuana or 2.8 ounces or more of hashish or knowingly and unlawfully cultivating more than 10 plants of marijuana shall be imprisoned not more than

five years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing 10 pounds or more of marijuana or one pound or more of hashish or knowingly and unlawfully cultivating more than 25 plants of marijuana shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

\* \* \*

Sec. 2. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE  
OR OLDER; CIVIL VIOLATION

(a) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish or one mature and two immature marijuana plants as defined in section 4472 of this title or less commits a civil violation and shall be assessed a civil penalty as follows:

- (1) not more than \$200.00 for a first offense;
- (2) not more than \$300.00 for a second offense;
- (3) not more than \$500.00 for a third or subsequent offense.

(b)(1) Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish or one mature and two immature marijuana plants as defined in section 4472 of this title or less or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) A violation of this section shall not result in the creation of a criminal history record of any kind.

\* \* \*

Sec. 3. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS

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OF AGE; CIVIL VIOLATION

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish or one mature and two immature marijuana plants as defined in section 4472 of this title or less commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

\* \* \*

Sec. 4. 18 V.S.A. § 4230d is added to read:

§ 4230d. MARIJUANA POSSESSION BY A PERSON UNDER 16 YEARS  
OF AGE; DELINQUENCY

No person shall knowingly and unlawfully possess marijuana. A person under the age of 16 years who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish or one mature and two immature marijuana plants as defined in section 4472 of this title or less commits a delinquent act and shall be subject to 33 V.S.A. chapter 52. The person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

Which was disagreed to.

Pending the question, Shall the bill be amended as recommended by the committee on Judiciary as amended? **Rep. Browning of Arlington** moved to amend recommendation by the committee on Judiciary, as amended as follows by striking out Sec. 13 in its entirety and inserting in lieu thereof the following:

Sec. 13. MARIJUANA YOUTH EDUCATION AND PREVENTION;  
PUBLIC EDUCATION CAMPAIGN

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(a)(1) Relying on lessons learned from tobacco and alcohol prevention efforts, the Department of Health, in collaboration with the Department of Public Safety, the Agency of Education, the Governor's Highway Safety Program, and representatives of youth and prevention professionals serving youth, shall develop and administer an education and prevention program focused on use of marijuana by youth under 25 years of age. In so doing, the Department shall consider at least the following:

(A) Community- and school-based youth and family-focused prevention initiatives that strive to:

(i) expand the number of school-based grants for substance abuse services to enable each supervisory union to develop and implement a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(ii) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youth in schools and other settings; and

(iii) expand family education programs.

(B) An informational and counter-marketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(C) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(D) Expansion of the use of SBIRT among the State's pediatric practices and school-based health centers.

(E) Strategies specific to youth who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) The Department shall adopt rules to implement the education and prevention program described in this subsection and implement the program no later than six months from the date of adoption of the final rules.

(b) The Department shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youth in Vermont and to understand the source of marijuana used by this population.

(c) Any data collected by the Department on the use of marijuana by youth shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

(d) The Department shall develop and implement a public campaign to educate the general public about the health implications of marijuana use.

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Sec. 14. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Sec. 13 shall take effect on the date state funding is appropriated for implementation of that section. Costs of implementation of Sec. 13 shall not be an unfunded mandate on school districts or supervisory unions.

(c) The remaining sections shall take effect 18 months from the date subsection (b) of this section takes effect.

Which was disagreed to on a division of Yeas, 61 and Nays, 78.

Pending the question, Shall the bill be amended as recommended by the committee on Judiciary, as amended? **Rep. Browning of Arlington** moved to amend the recommendation of the committee on Judiciary, as amended as follows by striking Sec. 13 in its entirety and inserting in lieu thereof the following:

Sec. 13. EFFECTIVE DATE

This act shall take effect 90 days from either of the following, whichever occurs first:

(1) The date of employment by the Vermont State Police of a field testing device for marijuana presence that demonstrates accuracy in controlled, published scientific studies in providing evidence correlating the results of the presence of marijuana in an operator of a motor vehicle with impairment level. The Commissioner of Public Safety shall notify the Governor and the General Assembly, in writing, that such devices have been employed within seven days of such employment.

(2) The date of employment by the Vermont State Police of a field testing device for marijuana presence in saliva or blood and there are in this State at least 50 active law enforcement officers who are trained as Drug Recognition Experts and at least 600 law enforcement officers who are trained in Advanced Roadside Impaired Driving Enforcement.

Pending the question, Shall the report of the Committee on Judiciary be amended as recommended by Rep. Browning of Arlington? **Rep. Browning of Arlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the Committee on Judiciary be amended as recommended by Rep. Browning of Arlington? was decided in the negative. Yeas, 64. Nays, 77.

Those who voted in the affirmative are:

Ainsworth of Royalton

Graham of Williamstown

Nolan of Morristown

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Bancroft of Westford	Greshin of Warren	Norris of Shoreham
Batchelor of Derby	Harrison of Chittenden	Parent of St. Albans Town
Beck of St. Johnsbury	Hebert of Vernon	Pearce of Richford
Beyor of Highgate	Helm of Fair Haven	Poirier of Barre City
Brennan of Colchester	Higley of Lowell	Potter of Clarendon
Briglin of Thetford	Howard of Rutland City	Quimby of Concord
Browning of Arlington	Hubert of Milton	Rosenquist of Georgia
Canfield of Fair Haven	Joseph of North Hero	Savage of Swanton
Corcoran of Bennington	Juskiewicz of Cambridge	Scheuermann of Stowe
Cupoli of Rutland City	Keefe of Manchester	Shaw of Pittsford
Dakin of Colchester	Kimbell of Woodstock	Sibilia of Dover
Devereux of Mount Holly	LaClair of Barre Town	Smith of New Haven
Dickinson of St. Albans Town	Lanpher of Vergennes	Strong of Albany
Donahue of Northfield	Lawrence of Lyndon	Till of Jericho
Fagan of Rutland City	Lewis of Berlin	Turner of Milton
Feltus of Lyndon	Marcotte of Coventry	Van Wyck of Ferrisburgh
Fields of Bennington	Martel of Waterford	Viens of Newport City
Frenier of Chelsea	McCoy of Poultney	Willhoit of St. Johnsbury
Gage of Rutland City	McFaun of Barre Town	Wright of Burlington
Gamache of Swanton	Morrissey of Bennington	Yantachka of Charlotte
	Myers of Essex	

Those who voted in the negative are:

Ancel of Calais	Forguites of Springfield	Noyes of Wolcott
Bartholomew of Hartland	Gannon of Wilmington	Ode of Burlington
Baser of Bristol	Giambatista of Essex	Olsen of Londonderry
Belaski of Windsor	Gonzalez of Winooski	O'Sullivan of Burlington
Bissonnette of Winooski	Grad of Moretown	Partridge of Windham
Bock of Chester	Haas of Rochester	Rachelson of Burlington
Botzow of Pownal	Head of South Burlington	Scheu of Middlebury
Brumsted of Shelburne	Hill of Wolcott	Sharpe of Bristol
Buckholz of Hartford	Hooper of Montpelier	Sheldon of Middlebury
Burditt of West Rutland	Hooper of Brookfield	Squirrell of Underhill
Burke of Brattleboro	Houghton of Essex	Stevens of Waterbury
Carr of Brandon	Jessup of Middlesex	Stuart of Brattleboro
Chesnut-Tangerman of Middletown Springs	Jickling of Brookfield	Sullivan of Dorset
Christensen of Weathersfield	Kitzmiller of Montpelier	Sullivan of Burlington
Christie of Hartford	Krowinski of Burlington	Taylor of Colchester
Cina of Burlington	Lalonde of South Burlington	Toleno of Brattleboro
Colburn of Burlington	Lefebvre of Newark	Townsend of South Burlington
Conlon of Cornwall	Lippert of Hinesburg	Trieber of Rockingham
Connor of Fairfield	Long of Newfane	Troiano of Stannard
Conquest of Newbury	Lucke of Hartford	Walz of Barre City
Copeland-Hanzas of Bradford	Masland of Thetford	Webb of Shelburne
Deen of Westminster	McCormack of Burlington	Weed of Enosburgh
Donovan of Burlington	McCullough of Williston	Wood of Waterbury
Dunn of Essex	Miller of Shaftsbury	Yacovone of Morristown
Emmons of Springfield	Morris of Bennington	Young of Glover
	Mrowicki of Putney	
	Murphy of Fairfax	

Those members absent with leave of the House and not voting are:

Condon of Colchester	Macaig of Williston	Terenzini of Rutland Town
Gardner of Richmond	Pugh of South Burlington	Toll of Danville
Keenan of St. Albans City	Smith of Derby	

Pending the question, Shall the bill be amended as recommended by the committee on Judiciary, as amended? **Rep. O'Sullivan of Burlington** moved to amend the recommendation of the committee on Judiciary, as amended as follows by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Misdemeanor Possession of Drugs Study \* \* \*

Sec. 1. MISDEMEANOR POSSESSION OF DRUGS; PRETRIAL SERVICES

(a) It is the intent of the General Assembly to encourage persons cited or arrested for a misdemeanor drug possession charge to engage with pretrial services, and, if appropriate, enter treatment, and that, in turn, a person who complies with such conditions will be eligible for dismissal of the charge.

(b) The Attorney General, the Defender General, and the Executive Director of the Department of State's Attorneys and Sheriffs shall work collaboratively to develop a specific legislative proposal to accomplish this intent with an implementation date of July 1, 2018 and report to the Senate and House Committees on Judiciary and on Appropriations, the Senate Committee on Health and Welfare, and the House Committee on Human Services on or before November 1, 2017.

\* \* \* Findings \* \* \*

Sec. 2. LEGISLATIVE FINDINGS AND INTENT

The General Assembly finds the following:

(1) According to a 2014 study commissioned by the administration and conducted by the RAND Corporation, marijuana is commonly used in Vermont with an estimated 80,000 residents having used marijuana in the last month.

(2) For over 75 years, Vermont has debated the issue of marijuana regulation and amended its marijuana laws numerous times in an effort to protect public health and safety. Criminal penalties for possession rose in the 1940s and 50s to include harsh mandatory minimums, dropped in the 1960s and 70s, rose again in the 1980s and 90s, and dropped again in the 2000s. A study published in the American Journal of Public Health found that no

evidence supports the claim that criminalization reduces marijuana use.

(3) Vermont seeks to take a new comprehensive approach to marijuana use and abuse that incorporates prevention, education, regulation, treatment, and law enforcement which results in a net reduction in public harm and an overall improvement in public safety. Responsible use of marijuana by adults 21 years of age or older should be treated the same as responsible use of alcohol, the abuse of either treated as a public health matter, and irresponsible use of either that causes harm to others sanctioned with penalties.

(4) Policymakers recognize legitimate federal concerns about marijuana reform and seek through this legislation to provide better control of access and distribution of marijuana in a manner that prevents:

(A) distribution of marijuana to persons under 21 years of age;

(B) revenue from the sale of marijuana going to criminal enterprises;

(C) diversion of marijuana to states that do not permit possession of marijuana;

(D) State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or activity;

(E) violence and the use of firearms in the cultivation and distribution of marijuana;

(F) drugged driving and the exacerbation of any other adverse public health consequences of marijuana use;

(G) growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(H) possession or use of marijuana on federal property.

(5) Revenue generated by this act shall be used to provide for the implementation, administration, and enforcement of this chapter and to provide additional funding for State efforts on the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts to combat the illegal drug trade and impaired driving. As used in this subdivision, "criminal justice efforts" shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

\* \* \* Prevention \* \* \*

### Sec. 3. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a)(1) Relying on lessons learned from tobacco and alcohol prevention

efforts, the Department of Health, in collaboration with the Agency of Agriculture, Food, and Markets, the Agency of Education, and the Governor's Highway Safety Program, shall develop and administer an education and prevention program focused on use of marijuana by youth under 25 years of age. In so doing, the Department shall consider at least the following:

(A) Community- and school-based youth and family-focused prevention initiatives that strive to:

(i) expand the number of school-based grants for substance abuse services to enable each Supervisory Union to develop and implement a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(ii) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youth in schools and other settings; and

(iii) expand family education programs.

(B) An informational and counter-marketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(C) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(D) Expansion of the use of SBIRT among the State's pediatric practices and school-based health centers.

(E) Strategies specific to youth who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) On or before March 15, 2018, the Department shall adopt rules to implement the education and prevention program described in subsection (a) of this section and implement the program on or before September 15, 2018.

(b) The Department shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youth in Vermont and to understand the source of marijuana used by this population.

(c) Any data collected by the Department on the use of marijuana by youth shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

\* \* \* Legal Possession; Civil and Criminal Penalties \* \* \*

#### Sec. 4. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

It is the intent of the General Assembly to eliminate all civil penalties for

possession of one ounce or less of marijuana and a small number of marijuana plants for a person who is 21 years of age or older while retaining the current criminal penalties for possession of larger amounts of marijuana and criminal penalties for unauthorized dispensing or sale of marijuana. This act also retains the current civil and criminal penalties for possession of marijuana by a person under 21 years of age, which are the same as possession of alcohol by a person under 21 years of age.

Sec. 5. 18 V.S.A. § 4201(15) is amended to read:

(15)(A) ~~“Marijuana” means any plant material of the genus *Cannabis* or any preparation, compound, or mixture thereof except:~~

~~(A) sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562 all parts of the plant *Cannabis sativa* L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:~~

~~(i) the seeds of the plant;~~

~~(ii) the resin extracted from any part of the plant; and~~

~~(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.~~

~~(B) “Marijuana” does not include:~~

~~(i) the mature stalks of the plant and fiber produced from the stalks;~~

~~(ii) oil or cake made from the seeds of the plant;~~

~~(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake; or~~

~~(iv) the sterilized seed of the plant that is incapable of germination.~~

Sec. 6. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two mature marijuana plants or four immature marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the

prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating more than two mature marijuana plants or four immature marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing two ounces of marijuana or 10 grams of hashish or knowingly and unlawfully cultivating more than ~~three plants of~~ four mature marijuana plants or eight immature marijuana plants shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing more than one pound or more of marijuana or more than 2.8 ounces or more of hashish or knowingly and unlawfully cultivating more than ~~10 plants of~~ six mature marijuana plants or 12 immature marijuana plants shall be imprisoned not more than five years or fined not more than ~~\$100,000.00~~ \$10,000.00, or both.

(4) A person knowingly and unlawfully possessing more than 10 pounds or more of marijuana or more than one pound or more of hashish or knowingly and unlawfully cultivating more than ~~25 plants of~~ 12 mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion

to vacate.

(6) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

\* \* \*

Sec. 7. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE  
OR OLDER;~~CIVIL VIOLATION~~

~~(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

- ~~(1) not more than \$200.00 for a first offense;~~
- ~~(2) not more than \$300.00 for a second offense;~~
- ~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1) Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish and two mature marijuana plants or fewer or four immature marijuana plants or fewer or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law. The one-ounce limit of marijuana or five grams of hashish that may be possessed by a person 21 years of age or older shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.~~

~~(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind. A person shall not consume marijuana in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 or chapter 37 of this title or 16 V.S.A. § 140.~~

~~(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:~~

- ~~(i) not more than \$100.00 for a first offense;~~
- ~~(ii) not more than \$200.00 for a second offense; and~~
- ~~(iii) not more than \$500.00 for a third or subsequent offense.~~

~~(e)(1)(b) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.~~

~~(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.~~

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense.:~~

(1) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(2) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(3) limit the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;

(4) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(5) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(6) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

(e)(c)(1) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has

violated subsection (b) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(f)~~(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.

Sec. 8. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; CIVIL VIOLATION

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish or two mature marijuana plants or fewer or four immature marijuana plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

\* \* \*

Sec. 9. 18 V.S.A. § 4230e is added to read:

§ 4230e. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4230a of this title provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with section 4230 of this title.

(b)(1) Personal cultivation of marijuana only shall occur:

(A) on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property; and

(B) in an enclosure that is screened from public view and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(2) A person who violates this subsection shall be assessed a civil penalty as follows:

(A) not more than \$100.00 for a first offense;

(B) not more than \$200.00 for a second offense; and

(C) not more than \$500.00 for a third or subsequent offense.

Sec. 10. 18 V.S.A. § 4230f is added to read:

§ 4230f. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER  
21 YEARS OF AGE

(a) No person shall:

(1) sell or furnish marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under 21 years of age.

(b) As used in this section, “enable the consumption of marijuana” means creating a direct and immediate opportunity for a person to consume marijuana.

(c) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(d) An employee of a marijuana establishment licensed pursuant to chapter 87 of this title, who, in the course of employment, violates subdivision (a)(1) of this section during a compliance check conducted by a law enforcement officer shall be:

(1) assessed a civil penalty of not more than \$100.00 for the first violation and a civil penalty of not less than \$100.00 nor more than \$500.00 for a second violation that occurs more than one year after the first violation; and

(2) subject to the criminal penalties provided in subsection (c) of this section for a second violation within a year of the first violation, and for a third or subsequent violation within three years of the first violation.

(e) An employee alleged to have committed a violation of subsection (d) of this section may plead as an affirmative defense that:

(1) the purchaser exhibited and the employee carefully viewed photographic identification that indicated the purchaser to be 21 years of age or older;

(2) an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(3) the sale was made in good faith, based upon the reasonable belief that the purchaser was of legal age to purchase marijuana.

(f) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle on a public highway, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(g) This section shall not apply to:

(1) A person under 21 years of age who sells or furnishes marijuana to a person under 21 years of age or who knowingly enables the consumption of marijuana by a person under 21 years of age. Possession of an ounce or less of marijuana by a person under 21 years of age shall be punished in accordance with sections 4230b–4230d of this title and dispensing or selling marijuana shall be punished in accordance with sections 4230 and 4237 of this title.

(2) A dispensary registered pursuant to chapter 86 of this title.

Sec. 11. 18 V.S.A. § 4230g is added to read:

§ 4230g. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by selling or furnishing marijuana to a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who sold or furnished the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant. Responsible actions may include a marijuana establishment's instruction to employees as to laws

governing the sale of marijuana to adults 21 years of age or older and procedures for verification of age of customers.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f)(1) Except as provided in subdivision (2) of this subsection, nothing in this section shall create a statutory cause of action against a social host for furnishing marijuana to any person without compensation or profit. However, this subdivision shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(2) A social host who knowingly furnishes marijuana to a person under 21 years of age may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

(3) As used in this subsection, "social host" means a person who is not the holder of a marijuana establishment license and is not required under chapter 87 of this title to hold a marijuana establishment license.

Sec. 12. 18 V.S.A. § 4230h is added to read:

§ 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE

PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

\* \* \* Commercial Marijuana Regulation \* \* \*

Sec. 13. 18 V.S.A. chapter 87 is added to read:

CHAPTER 87. MARIJUANA ESTABLISHMENTS

Subchapter 1. General Provisions

§ 4501. DEFINITIONS

As used in this chapter:

(1) “Affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

(2) “Agency” means the Agency of Agriculture, Food, and Markets.

(3) “Applicant” means a person that applies for a license to operate a marijuana establishment pursuant to this chapter.

(4) “Child care facility” means a child care facility or family day care home licensed or registered under 33 V.S.A. chapter 35.

(5) “Commissioner” means the Commissioner of Public Safety.

(6) “Department” means the Department of Public Safety.

(7) “Dispensary” means a person registered under section 4474e of this title that acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient’s use for symptom relief.

(8) “Enclosed, locked facility” shall be either indoors or outdoors, not visible to the public, and may include a building, room, greenhouse, fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include marijuana cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where marijuana is being grown, processed, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(9) “Financier” means a person, other than a financial institution as defined in 8 V.S.A. § 11101, that makes an equity investment, a gift, loan, or otherwise provides financing to a person with the expectation of a financial return.

(10) “Marijuana” shall have the same meaning as provided in section

4201 of this title.

(11) “Marijuana cultivator” or “cultivator” means a person registered with the Agency to engage in commercial cultivation of marijuana in accordance with this chapter.

(12) “Marijuana establishment” means a marijuana cultivator, retailer, or testing laboratory licensed by the Agency to engage in commercial marijuana activity in accordance with this chapter.

(13) “Marijuana retailer” or “retailer” means a person licensed by the Agency to sell marijuana to consumers for off-site consumption in accordance with this chapter.

(14) “Marijuana testing laboratory” or “testing laboratory” means a person licensed by the Agency to test marijuana for cultivators and retailers in accordance with this chapter.

(15) “Owns or controls,” “is owned or controlled by,” and “under common ownership or control” mean direct ownership or beneficial ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the power to direct, or cause the direction of, the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(16) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

(17) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

(18) “Principal” means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice-president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership.

(19) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 of this title or chapter 37 of this title.

(20) “Resident” means a person who is domiciled in Vermont, subject to the following:

(A) The process for determining the domicile of an individual shall be the same as that required by rules adopted by the Department of Taxes related to determining domicile for the purpose of the interpretation and administration of 32 V.S.A. § 5401(14).

(B) The domicile of a business entity is the State in which it is organized.

(21) “School” means a public school, independent school, or facility that provides early childhood education as those terms are defined in 16 V.S.A. § 11.

(22) “Secretary” means the Secretary of Agriculture, Food, and Markets.

§ 4502. MARIJUANA POSSESSED UNLAWFULLY SUBJECT TO SEIZURE AND FORFEITURE

Marijuana possessed unlawfully in violation of this chapter may be seized by law enforcement and is subject to forfeiture.

§ 4503. NOT APPLICABLE TO HEMP OR THERAPEUTIC USE OF CANNABIS

This chapter shall not apply to activities regulated by 7 V.S.A. chapter 34 (hemp) or chapter 86 (therapeutic use of cannabis) of this title.

§ 4504. CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE PROHIBITED

This chapter shall not be construed to permit consumption of marijuana in a public place. Violations shall be punished in accordance with section 4230a of this title.

§ 4505. REGULATION BY LOCAL GOVERNMENT

(a)(1) A marijuana establishment shall obtain a permit from a town, city, or incorporated village prior to beginning operations within the municipality.

(2) A municipality that hosts a marijuana establishment may establish a board of marijuana control commissioners, who shall be the members of the municipal legislative body. The board shall administer the municipal permits under this subsection (a) for the marijuana establishments within the municipality.

(b) Nothing in this chapter shall be construed to prevent a town, city, or

incorporated village from regulating marijuana establishments through local ordinances as set forth in 24 V.S.A. § 2291 or through land use bylaws as set forth in 24 V.S.A. § 4414.

(c)(1) A town, city, or incorporated village, by majority vote of those present and voting at annual or special meeting warned for the purpose, may prohibit the operation of a marijuana establishment within the municipality. The provisions of this subdivision shall not apply to a marijuana establishment that is operating within the municipality at the time of the vote.

(2) A vote to prohibit the operation of a marijuana establishment within the municipality shall remain in effect until rescinded by majority vote of those present and voting at an annual or special meeting warned for the purpose.

#### § 4506. YOUTH RESTRICTIONS

(a) A marijuana establishment shall not dispense or sell marijuana to a person under 21 years of age or employ a person under 21 years of age.

(b) A marijuana establishment shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) A marijuana establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where marijuana is located. This subsection shall not apply to a registered patient visiting his or her designated dispensary even if that dispensary is located in a building that is located on the same premises of a marijuana establishment.

#### § 4507. ADVERTISING

(a) Marijuana advertising shall not contain any statement or illustration that:

(1) is false or misleading;

(2) promotes overconsumption; or

(3) is designed to appeal to children or persons under 18 years of age by portraying anyone under 18 years of age or objects suggestive of the presence of anyone under 18 years of age, or containing the use of a figure, a symbol, or language that is customarily associated with anyone under 18 years of age.

(b) Outdoor marijuana advertising shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) In accordance with section 4512 of this chapter, the Agency shall adopt regulations on marijuana establishment advertising that reflect the policies of

subsection (a) of this section and place restrictions on the time, place, and manner, but not content, of the advertising.

(d) All advertising shall contain the following warnings:

(1) For use only by adults 21 years of age or older. Keep out of the reach of children.

(2) Marijuana has intoxicating effects and may impair concentration, coordination, and judgment. Do not operate a motor vehicle or heavy machinery or enter into any contractual agreement under the influence of marijuana.

#### Subchapter 2. Administration

#### § 4511. AUTHORITY

(a) For the purpose of regulating the cultivation, processing, packaging, transportation, testing, purchase, and sale of marijuana in accordance with this chapter, the Agency shall have the following authority and duties:

(1) rulemaking in accordance with this chapter and 3 V.S.A. chapter 25;

(2) administration of a program for the licensure of marijuana establishments, which shall include compliance and enforcement; and

(3) submission of an annual budget to the Governor.

(b)(1) There is established the Marijuana Advisory Board within the Agency for the purpose of advising the Agency and other administrative agencies and departments regarding policy for the implementation and operation of this chapter. The Board shall be composed of the following members:

(A) the Secretary of Agriculture, Food and Markets or designee;

(B) the Commissioner of Public Safety or designee;

(C) the Commissioner of Health or designee;

(D) the Commissioner of Taxes or designee; and

(E) a member of local law enforcement appointed by the Governor.

(2) The Secretary of Administration shall convene the first meeting of the Board on or before June 1, 2017 and shall attend Board meetings.

#### § 4512. RULEMAKING

(a) The Agency shall adopt rules to implement this chapter on or before March 15, 2018, in accordance with subdivisions (1)–(4) of this subsection.

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(1) Rules concerning any marijuana establishment shall include:

(A) the form and content of license and renewal applications;

(B) qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment, including submission of an operating plan and the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to subsection 4522(d) of this title;

(C) oversight requirements;

(D) inspection requirements;

(E) records to be kept by licensees and the required availability of the records;

(F) employment and training requirements, including requiring that each marijuana establishment create an identification badge for each employee;

(G) security requirements, including lighting, physical security, video, and alarm requirements;

(H) restrictions on advertising, marketing, and signage;

(I) health and safety requirements;

(J) regulation of additives to marijuana, including those that are toxic or designed to make the product more addictive, more appealing to children, or to mislead consumers;

(K) procedures for seed to sale traceability of marijuana, including any requirements for tracking software;

(L) regulation of the storage and transportation of marijuana;

(M) sanitary requirements;

(N) pricing guidelines with a goal of ensuring marijuana is sufficiently affordable to undercut the illegal market;

(O) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the marijuana establishment's license;

(P) procedures for suspension and revocation of a license; and

(Q) requirements for banking and financial transactions.

(2) Rules concerning cultivators shall include:

(A) labeling requirements for products sold to retailers; and

(B) regulation of visits to the establishments, including the number of visitors allowed at any one time and recordkeeping concerning visitors.

(3) Rules concerning retailers shall include:

(A) labeling requirements, including appropriate warnings concerning the carcinogenic effects and other potential negative health consequences of consuming marijuana, for products sold to customers;

(B) requirements for proper verification of age and residency of customers;

(C) restrictions that marijuana shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the marijuana; and

(D) regulation of visits to the establishments, including the number of customers allowed at any one time and recordkeeping concerning visitors.

(4) Rules concerning testing laboratories shall include:

(A) procedures for destruction of all samples; and

(B) requirements for chain of custody recordkeeping.

(b) The Agency shall consult with the Department in the development and adoption of the following rules identified in subsection (a) of this section:

(1) regarding any marijuana establishment, subdivisions (1)(B), (G), (K), (L), (P), and (Q);

(2) regarding cultivators, subdivision (2)(A)(vi);

(3) regarding retailers, subdivisions (4)(B), (C), and (E); and

(4) regarding testing laboratories, subdivisions (5)(B), (C), and (D).

#### § 4513. IMPLEMENTATION

(a)(1) On or before April 15, 2018, the Agency shall begin accepting applications for cultivator licenses and testing laboratory licenses. The initial application period shall remain open for 30 days. The Agency may reopen the application process for any period of time at its discretion.

(2) On or before June 15, 2018, the Agency shall begin issuing cultivator licenses and testing laboratory licenses to qualified applicants.

(b)(1) On or before May 15, 2018, the Agency shall begin accepting applications for retail licenses. The initial application period shall remain open for 30 days. The Agency may reopen the application process for any period of time at its discretion.

(2) On or before September 15, 2018, the Agency shall begin issuing retailer licenses to qualified applicants. A license shall not permit a licensee to open the store to the public or sell marijuana to the public prior to January 2, 2019.

(c)(1) Prior to July 1, 2019, provided applicants meet the requirements of this chapter, the Agency shall issue:

(A) an unlimited number of cultivator licenses that permit a cultivation space of not more than 500 square feet;

(B) a maximum of 20 cultivator licenses that permit a cultivation space of more than 500 square feet but not more than 1,000 square feet;

(C) a maximum of 15 cultivator licenses that permit a cultivation space of more than 1,000 square feet up to 2,500 square feet;

(D) a maximum of 10 cultivator licenses that permit a cultivation space of more than 2,500 square feet up to 5,000 square feet;

(E) a maximum of five cultivator licenses that permit a cultivation space of more than 5,000 square feet up to 10,000 square feet;

(F) a maximum of five testing laboratory licenses; and

(G) a maximum of 42 retailer licenses.

(2) On or after July 1, 2019, the limitations in subdivision (1) of this subsection shall not apply and the Agency shall use its discretion to issue licenses in a number and size for the purpose of competing with and undercutting the illegal market based on available data and recommendations of the Marijuana Program Review Commission. A cultivator licensed prior to July 1, 2019 may apply to the Agency to modify its license to expand its cultivation space.

#### § 4514. CIVIL CITATIONS; SUSPENSION AND REVOCATION OF LICENSES

(a) The Agency shall have the authority to adopt rules for the issuance of civil citations for violations of this chapter and the rules adopted pursuant to section 4512 of this title. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

(b) The Agency shall have the authority to suspend or revoke a license for violations of this chapter in accordance with rules adopted pursuant to section 4512 of this title.

#### Subchapter 3. Licenses

#### § 4521. GENERAL PROVISIONS

(a) Except as otherwise permitted by this chapter, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of marijuana without obtaining a license from the Agency.

(b) All licenses shall expire at midnight, April 30, of each year beginning no earlier than 10 months after the original license was issued to the marijuana establishment.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Agency and shall be accompanied by the fees provided for in section 4528 of this section.

(d)(1) Except as provided in subdivision (2) of this subsection (d), an applicant and its affiliates may obtain only one license, either a cultivator license, a retailer license, or a testing laboratory license under this chapter.

(2) A dispensary or a subsidiary of a dispensary may obtain one of each type of license under this chapter, provided that a dispensary or its subsidiary obtains no more than one cultivator license, one retailer license, and one testing laboratory license total.

(e) Each license shall permit only one location of the establishment.

(f) A dispensary that obtains a retailer license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Agency. If the dispensary and retail establishment are located on the same premises, the dispensary and retail establishment shall provide separate entrances and common areas designed to serve patients and caregivers and customers.

(g) Each licensee shall obtain and maintain commercial general liability insurance in accordance with rules adopted by the Agency. Failure to provide proof of insurance to the Agency, as required, may result in revocation of the license.

(h) All records relating to security, transportation, public safety, and trade secrets in an application for a license under this chapter shall be exempt from public inspection and copying under the Public Records Act.

(i) This subchapter shall not apply to possession regulated by chapters 84 or 86 of this title.

#### § 4522. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

(a) To be eligible for a marijuana establishment license:

(1) An applicant shall be a resident of Vermont.

(2) A principal of an applicant, and a person who owns or controls an

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applicant, shall have been a resident of Vermont for two or more years immediately preceding the date of application.

(3) An applicant, principal of an applicant, or person who owns or controls an applicant, who is a natural person:

(A) shall be 21 years of age or older; and

(B) shall consent to the release of his or her criminal and administrative history records.

(b) A financier of an applicant shall have been a resident of Vermont for two or more years immediately preceding the date of application.

(c) As part of the application process, each applicant shall submit, in a format proscribed by the Agency, an operating plan. The plan shall include a floor plan or site plan drawn to scale that illustrates the entire operation being proposed. The plan shall also include the following:

(1) For a cultivator license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) transportation of product;

(E) destruction of waste product;

(F) description of growing operation, including growing media, size of grow space allocated for plant production, space allowed for any other business activity, description of all equipment to be used in the cultivation process, and a list of soil amendments, fertilizers, or other crop production aids, or pesticides, utilized in the production process;

(G) how the applicant will meet its operation's need for energy services at the lowest present value life-cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy efficiency and energy supply;

(H) testing procedures and protocols;

(I) description of packaging and labeling of products transported to retailers; and

(J) any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(2) For a retailer license, information concerning:

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- (A) security;
  - (B) traceability;
  - (C) employee qualifications and training;
  - (D) destruction of waste product;
  - (E) description of packaging and labeling of products sold to customers;
  - (F) the products to be sold and how they will be displayed to customers; and
  - (G) any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(3) For a testing laboratory license, information concerning:

- (A) security;
- (B) traceability;
- (C) employee qualifications and training;
- (D) destruction of waste product; and
- (E) the types of testing to be offered.

(d) The Department shall obtain a Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of a business in this State or any other jurisdiction for each of the following who is a natural person:

- (1) an applicant or financier;
- (2) a principal of an applicant or financier; and
- (3) a person who owns or controls an applicant or financier.

(e) When considering applications for a marijuana establishment license, the Agency shall:

- (1) give priority to a qualified applicant that is a dispensary or subsidiary of a dispensary;
- (2) strive for geographic distribution of marijuana establishments based on population.

§ 4523. EDUCATION

(a) An applicant for a marijuana establishment license shall meet with a Agency designee for the purpose of reviewing Vermont laws and rules

pertaining to the possession, purchase, storage, and sale of marijuana prior to receiving a license.

(b) A licensee shall complete an enforcement seminar every three years conducted by the Agency. A license shall not be renewed unless the records of the Agency show that the licensee has complied with the terms of this subsection.

(c) A licensee shall ensure that each employee involved in the sale of marijuana completes a training program approved by the Agency prior to selling marijuana and at least once every 24 months thereafter. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Agency. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of no less than one day of the license issued under this chapter.

#### § 4524. IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

(a) The Agency shall issue each employee an identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the marijuana establishment and shall not be passed on to an employee. A person shall not work as an employee until that person has received an identification card issued under this section. Each card shall contain the following:

- (1) the name, address, and date of birth of the person;
- (2) the legal name of the marijuana establishment with which the person is affiliated;
- (3) a random identification number that is unique to the person;
- (4) the date of issuance and the expiration date of the identification card; and
- (5) a photograph of the person.

(b) Prior to acting on an application for an identification card, the Agency shall obtain from the Department the person's Vermont criminal history record, out-of-state criminal history record, and criminal history record from the Federal Bureau of Investigation. Each person shall consent to the release of criminal history records to the Agency and the Department on forms developed by the Vermont Crime Information Center.

(c) When the Department obtains a criminal history record, the Department shall promptly provide a copy of the record to the person and the marijuana

establishment. The Department shall inform the person of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Agency.

(d) The Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter.

(e) The Agency, in consultation with the Department, shall adopt rules for the issuance of an identification card and shall set forth standards for determining whether a person should be denied a registry identification card because his or her criminal history record indicates that the person's association with a marijuana establishment would pose a demonstrable threat to public safety. Previous nonviolent drug-related convictions shall not automatically disqualify an applicant. A marijuana establishment may deny a person the opportunity to serve as an employee based on his or her criminal history record. A person who is denied an identification card may appeal the Agency's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(f) An identification card shall expire one year after its issuance or upon the expiration of the marijuana establishment's license, whichever occurs first.

#### § 4525. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, package, label, transport, test, and sell marijuana to a licensed retailer.

(b) Cultivation of marijuana shall occur only in an enclosed, locked facility which is either indoors, or if outdoors, not visible to the public, and which can only be accessed by principal officers and employees of the licensee who have valid identification cards.

(c) An applicant shall designate on his or her operating plan the size of the premises and the amount of actual square footage that will be dedicated to plant canopy.

(d) Representative samples of each lot or batch of marijuana intended for human consumption shall be tested for safety and potency in accordance with rules adopted by the Agency.

(e) Each cultivator shall create packaging for its marijuana.

(1) Packaging shall include:

(A) The name and registration number of the cultivator.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Department in accordance with this chapter. Rules shall take into consideration that different labeling requirements may be appropriate depending on whether the marijuana is sold to a wholesaler, product manufacturer, or retailer.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(f)(1) Only unadulterated marijuana shall be offered for sale. If, upon inspection, the Agency finds any violative pesticide residue or other contaminants of concern, the Agency shall order the marijuana, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Agency’s instructions.

(2) Marijuana ordered destroyed or placed on stop-sale shall be clearly separable from salable marijuana. Any order shall be confirmed in writing within seven days. The order shall include the reason for action, a description of the marijuana affected, and any recommended treatment.

(3) A person may appeal an order issued pursuant to this section within 15 days of receiving the order. The appeal shall be made in writing to the Secretary and shall clearly identify the marijuana affected and the basis for the appeal.

#### § 4526. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) transport, possess, and sell marijuana to the public for consumption

off the registered premises;

(2) purchase marijuana from a licensed cultivator; and

(3) provide marijuana to a licensed testing laboratory.

(b)(1) In a single transaction, a retailer may provide:

(A) one-half ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled in Vermont; or

(B) one-quarter of an ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled outside Vermont.

(2) A retailer shall not knowingly and willfully sell an amount of marijuana to a person that causes the person to exceed the possession limit.

(c) A retailer shall only sell "useable marijuana" which means the dried flowers of marijuana, and does not include the seeds, stalks, leaves, and roots of the plant, and shall not package marijuana with other items, such as paraphernalia, for sale to customers.

(d)(1) Packaging shall include:

(A) The name and registration number of the retailer.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A "produced on" date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, "Consumption of marijuana impairs your ability to drive a car and operate machinery," "Keep away from children," and "Possession of marijuana is illegal under federal law."

(F) Any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(e) A retailer shall display a safety information flyer developed or approved by the Agency and supplied to the retailer free of charge. The flyer

shall contain information concerning the methods for administering marijuana, the potential dangers of marijuana use, the symptoms of problematic usage, and how to receive help for marijuana abuse.

(f) Internet sales and delivery of marijuana to customers are prohibited.

§ 4527. MARIJUANA TESTING LABORATORY

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport marijuana samples obtained from a licensed marijuana establishment.

(b) Testing may address the following:

- (1) residual solvents;
- (2) poisons or toxins;
- (3) harmful chemicals;
- (4) dangerous molds, mildew, or filth;
- (5) harmful microbials, such as E.coli or salmonella;
- (6) pesticides; and
- (7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing laboratory shall establish a protocol for recording the chain of custody of all marijuana samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.

§ 4528. FEES

(a) The Agency shall charge and collect initial license application fees and annual license renewal fees for each type of marijuana license under this chapter. Fees shall be due and payable at the time of license application or renewal.

(b)(1) The nonrefundable fee accompanying an application for a cultivator license pursuant to section 4525 of this chapter shall be:

- (A) \$1,000.00 for a cultivation space that does not exceed 500 square

feet.

(B) \$3,000.00. for a cultivation space of more than 500 square feet but not more than 1,000 square feet.

(C) \$7,500.00 for a cultivation space of 1,001–2,500 square feet.

(D) \$15,000.00 for a cultivation space of 2,501–5,000 square feet.

(E) \$30,000.00 for a cultivation space of 5,001–10,000 square feet.

(2) The nonrefundable fee accompanying an application for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The nonrefundable fee accompanying an application for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$500.00.

(4) If a person submits a qualifying application for a marijuana establishment license during an open application, pays the nonrefundable application fee, but is not selected to receive a license due to the limited number of licenses available, the person may reapply, based on availability, for such a license within two years by resubmitting the application with any necessary updated information, and shall be charged a fee that is fifty percent of the application fees set forth in subdivision (1)–(3) of this subsection if the original application was submitted prior to July 1, 2019.

(c)(1) The initial annual license fee and subsequent annual renewal fee for a cultivator license pursuant to section 4525 of this chapter shall be:

(A) \$1,000.00 for a cultivation space that does not exceed 500 square feet.

(B) \$3,000.00. for a cultivation space of more than 500 square feet but not more than 1,000 square feet.

(C) \$7,500.00 for a cultivation space of 1,001–2,500 square feet.

(D) \$15,000.00 for a cultivation space of 2,501–5,000 square feet.

(E) \$30,000.00 for a cultivation space of 5,001–10,000 square feet.

(2) The initial annual license fee and subsequent annual renewal fee for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The initial annual license fee and subsequent annual renewal fee for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$2,500.00.

(d) The following administrative fees shall apply:

(1) Change of corporate structure fee (per person) shall be \$1,000.00.

- 
- (2) Change of name fee shall be \$1,000.00.
  - (3) Change of location fee shall be \$1,000.00.
  - (4) Modification of license premises fee shall be \$250.00.
  - (5) Addition of financier fee shall be \$250.00.
  - (6) Duplicate license fee shall be \$100.00.

§ 4529. MARIJUANA REGULATION AND RESOURCE FUND

(a) The Marijuana Regulation and Resource Fund is hereby created. The Fund shall be maintained by the Agency of Administration.

(b) The Fund shall be composed of:

(1) all application fees, license fees, renewal fees, and civil penalties collected pursuant to this chapter; and

(2) all taxes collected by the Commissioner of Taxes pursuant to this chapter.

(c)(1) Funds shall be appropriated as follows:

(A) For the purpose of implementation, administration, and enforcement of this chapter.

(B) Proportionately for the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts by State and local law enforcement to combat the illegal drug trade and impaired driving. As used in this subdivision, "criminal justice efforts" shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

(2) Appropriations made pursuant to subdivision (1) of this subsection shall be in addition to current funding of the identified priorities and shall not be used in place of existing State funding.

(d) All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the Fund shall be deposited into the Fund.

(e) This Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5. The Commissioner of Finance and Management shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

(f) The Secretary of Administration shall report annually to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting.

Subchapter 4. Marijuana Program Review Commission

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§ 4546. PURPOSE; MEMBERS

(a) Creation. There is created a temporary Marijuana Program Review Commission for the purpose of facilitating efficient and lawful implementation of this act and examination of issues important to the future of marijuana regulation in Vermont.

(b) Membership. The Commission shall be composed of the following members:

(1) two members of the public appointed by the Governor;

(2) two members of the House of Representatives, appointed by the Speaker of the House;

(3) two members of the Senate, appointed by the Committee on Committees; and

(4) the Attorney General or designee.

(c) Term. Legislative members shall serve only while in office.

§ 4547. POWERS; DUTIES

(a) The Commission shall:

(1) collect information about the implementation, operation, and effect of this act from members of the public, State agencies, and private and public sector businesses and organizations;

(2) communicate with other states that have legalized marijuana and monitor those states regarding their implementation of regulation, policies, and strategies that have been successful and problems that have arisen;

(3) examine the issue of marijuana concentrates and edible marijuana products and whether Vermont safely can allow and regulate their manufacture and sale and, if so, how;

(4) keep updated on the latest information in Vermont and other jurisdictions regarding the prevention and detection of impaired driving as it relates to marijuana;

(5) study the opportunity for a cooperative agriculture business model and licensure and community supported agriculture;

(6) examine whether Vermont should allow additional types of marijuana establishment licenses, including a processor license and product manufacturer license;

(7) review the statutes and rules for the therapeutic marijuana program and dispensaries and determine whether additional amendments are necessary

to maintain patient access to marijuana and viability of the dispensaries:

(8) monitor supply and demand of marijuana cultivated and sold pursuant to this act for the purpose of assisting the Agency of Agriculture, Food, and Markets and policymakers with determining appropriate numbers of licenses and limitations on the amount of marijuana cultivated and offered for retail sale in Vermont so that the adult market is served without unnecessary surplus marijuana;

(9) monitor the extent to which marijuana is accessed through both the legal and illegal market by persons under 21 years of age;

(10) identify strategies for preventing youth from using marijuana;

(11) identify academic and scientific research, including longitudinal research questions, that when completed may assist policymakers in developing marijuana policy in accordance with this act;

(12) consider whether to create a local revenue stream which may include a local option excise tax on marijuana sales or municipally assessed fees;

(13) recommend the appropriate maximum amount of marijuana sold by a retailer in a single transaction and whether there should be differing amounts for Vermonters and nonresidents; and

(14) report any recommendations to the General Assembly and the Governor, as needed.

(b) On or before January 15, 2020, the Commission shall issue a final report to the General Assembly and the Governor regarding its findings and any recommendations for legislative or administrative action.

#### § 4548. ADMINISTRATION

(a) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Administration.

(b) Meetings.

(1) The Administration shall call the first meeting of the Commission to occur on or before August 1, 2017.

(2) The Commission shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Commission shall cease meeting regularly after the issuance of its final report, but members shall be available to meet with Administration officials and the General Assembly until July 1, 2019 at which time the

Commission shall cease to exist.

(c) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for as many meetings as the Chair deems necessary.

(2) Other members of the Commission 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.

Sec. 14. 32 V.S.A. chapter 207 is added to read:

CHAPTER 207. MARIJUANA TAXES

§ 7901. TAX IMPOSED

(a) There is imposed a marijuana excise tax equal to 25 percent of the sales price, as that term is defined in subdivision 9701(4) of this title, on each retail sale of marijuana in this State. The tax imposed by this section shall be paid by the buyer to the retailer. Each retailer shall collect from the buyer the full amount of the tax payable on each taxable sale.

(b) The tax imposed by this section is separate from the general sales and use tax imposed by chapter 233 of this title. The tax imposed under this section shall be separately itemized from any State and local retail sales tax on the sales receipt provided to the buyer.

(c) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary, provided the marijuana will be provided only to registered qualifying patients directly or through their registered caregivers.

§ 7902. LIABILITY FOR TAX AND PENALTIES

(a) Any tax collected under this chapter shall be deemed to be held by the retailer in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as to clearly indicate the amount of tax collected, and that the tax receipts are the property of the State of Vermont.

(b) Every retailer required to collect the tax imposed by this chapter shall be personally and individually liable for the amount of tax together with such

interest and penalty as has accrued under this title. If the retailer is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect the tax and transmit it to the Commissioner of Taxes as required in this chapter.

(c) A retailer shall have the same rights in collecting the tax from his or her purchaser or regarding nonpayment of the tax by the purchaser as if the tax were a part of the purchase price of the marijuana and payable at the same time; provided, however, if the retailer required to collect the tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer to collect the tax and shall have the right to intervene in such action or proceeding.

(d) A retailer required to collect the tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer for the tax collected unless the purchaser has provided written notice to a retailer, and the retailer has had 60 days to respond.

(e) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use taxes in chapter 233 of this title shall apply to the tax imposed by this chapter.

#### § 7903. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes marijuana is subject to the tax imposed by this chapter on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the nontaxable products are subject to the tax imposed by this chapter unless the retailer can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products includes marijuana subject to the tax under this chapter; or

(2) marijuana provided free of charge with the required purchase of another product.

§ 7904. RETURNS

(a) Any retailer required to collect the tax imposed by this chapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer, a statement containing its name and place of business, the amount of marijuana sales subject to the excise tax imposed by this subchapter sold in the preceding month, and any other information required by the Department of Taxes, along with the tax due.

(b) Every retailer shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. These records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7905. LICENSES

(a) Every retailer required to collect the tax imposed by this chapter shall apply for a marijuana excise tax license in the manner prescribed by the Commissioner of Taxes. The Commissioner shall issue, without charge, to each registrant a license empowering him or her to collect the marijuana excise tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the registrant. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant's ceasing to do business at the place named. A license to collect marijuana excise tax shall be in addition to the licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title and any license required by the Agency of Agriculture, Food, and Markets.

(b) The Agency of Agriculture, Food, and Markets may require the Commissioner of Taxes to suspend or revoke the tax license of any person for failure to comply with any provision of this chapter.

Sec. 15. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

\* \* \*

(18) "Vermont net income" means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal

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Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for State and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; and

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from State and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont State or local obligations;

(III) the amount of any deduction for a federal net operating loss; and

(ii) decreased by:

(I) the “gross-up of dividends” required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the foreign tax credit; and

(II) the amount of income which results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

\* \* \*

(21) “Taxable income” means federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations;

(iii) the amount of State and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(iv) the amount of total itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, or charitable contributions, deducted from federal adjusted gross income for the taxable year, that is in excess of two and one-half times the standard deduction allowable to the taxpayer; and

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; ~~and~~

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

\* \* \*

Sec. 16. 32 V.S.A. § 9741(51) is added to read:

(51) Marijuana sold by a dispensary as authorized under 18 V.S.A. chapter 86 or by a retailer as authorized under 18 V.S.A. chapter 87.

\* \* \* Impaired Driving \* \* \*

Sec. 17. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while

operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.

(c) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~\$25.00~~ \$50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 18. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages or marijuana in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of

persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be fined not more than \$25.00.

Sec. 19. 23 V.S.A. § 1219 is amended to read:

§ 1219. COMMERCIAL MOTOR VEHICLE; DETECTABLE AMOUNT;  
OUT-OF-SERVICE

A person who is operating, attempting to operate, or in actual physical control of a commercial motor vehicle with any measurable or detectable amount of alcohol or marijuana in his or her system shall immediately be placed out-of-service for 24 hours by an enforcement officer. A law enforcement officer who has reasonable grounds to believe that a person has a measurable or detectable amount of alcohol or marijuana in his or her system on the basis of the person's general appearance, conduct, or other substantiating evidence, may request the person to submit to a test, which may be administered with a preliminary screening device. The law enforcement officer shall inform the person at the time the test is requested that refusal to submit will result in disqualification. If the person refuses to submit to the test, the person shall immediately be placed out-of-service for 24 hours and shall be disqualified from driving a commercial motor vehicle as provided in section 4116 of this title.

Sec. 20. 23 V.S.A. § 4116 is amended to read:

§ 4116. DISQUALIFICATION

(a) A person shall be disqualified from driving a commercial motor vehicle for a period of one year if convicted of a first violation of:

\* \* \*

(4) refusal to submit to a test to determine the operator's alcohol or marijuana concentration, as provided in section 1205, 1218, or 1219 of this title;

\* \* \*

Sec. 21. VERMONT GOVERNOR'S HIGHWAY SAFETY PROGRAM

(a) Impaired driving, operating a motor vehicle while under the influence of alcohol or drugs, is a significant concern for the General Assembly. While Vermont has made a meaningful effort to educate the public about the dangers of drinking alcohol and driving, the public seems to be less aware of the inherent risks of driving while under the influence of drugs, whether it is marijuana, a validly prescribed medication, or other drugs. It is the intent of

the General Assembly that the State reframe the issue of drunk driving as impaired driving in an effort to comprehensively address the risks of such behavior through prevention, education, and enforcement.

(b)(1) The Agency of Transportation, through its Vermont Governor's Highway Safety Program, shall expand its public education and prevention campaign on drunk driving to impaired driving, which shall include drugged driving.

(2) The Agency shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15, 2018 regarding implementation of this section.

#### Sec. 22. REPORTING IMPAIRED DRIVING DATA

The Commissioner of Public Safety and the Secretary of Transportation, in collaboration, shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15 each year regarding the following issues concerning impaired driving:

(1) the previous year's data in Vermont,

(2) the latest information regarding best practices on prevention and enforcement, and

(3) their recommendations for legislative action.

#### Sec. 23. TRAINING FOR LAW ENFORCEMENT; IMPAIRED DRIVING

(a) It is imperative that Vermont provide adequate training to both local and State law enforcement officers regarding the detection of impaired driving. Advanced Roadside Impaired Driving Enforcement (ARIDE) training provides instruction to officers at a level above Basic Standardized Sobriety Testing and proves helpful to an officer in determining when a Drug Recognition Expert (DRE) should be called. Vermont should endeavor to train as many law enforcement officers as possible in ARIDE. DREs receive a more advanced training in the detection of drugged driving and should be an available statewide resource for officers in the field.

(b) The Secretary of Transportation and the Commissioner of Public Safety shall work collaboratively to ensure that funding is available, either through the Governor's Highway Safety Program's administration of National Highway Traffic Safety Administration funds or other State funding sources, for training the number of officers necessary to provide sufficient statewide coverage for the enforcement impaired driving.

\* \* \* Appropriations and Positions \* \* \*

#### Sec. 24. FISCAL YEAR 2018 APPROPRIATIONS FROM THE

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MARIJUANA REGULATION AND RESOURCE FUND

In fiscal year 2018 the following amounts are appropriated from the Marijuana Regulation and Resource Fund:

(1) Department of Health: \$350,000.00 for initial prevention, education, and counter marketing programs.

(2) Department of Taxes: \$660,000.00 for the acquisition of an excise tax module and staffing expenses to administer the excise tax established in this act.

(3) Agency of Agriculture, Food and Markets:

(A) \$112,500.00 for the Vermont Agriculture and Environmental Lab.

(B) \$272,500.00 for staffing expenses related to rulemaking, program administration, and processing of applications and licenses.

(4) Agency of Administration: \$150,000.00 for expenses and staffing of the Marijuana Program Review Commission established in this act.

Sec. 25. EXECUTIVE BRANCH POSITION AUTHORIZATIONS

The establishment of the following new permanent classified positions is authorized in fiscal year 2018 as follows:

(1) In the Department of Health—one (1) Substance Abuse Program Manager.

(2) In the Department of Taxes—one (1) Business Analyst AC: Tax and one (1) Tax Policy Analyst.

(3) In the Agency of Agriculture, Food and Markets—one (1) Agriculture Chemist and two (2) Program Administrator.

(4) In the Marijuana Program Review Commission—one (1) exempt Commission Director.

Sec. 26. MARIJUANA REGULATION AND RESOURCE FUND

BUDGET AND REPORT

Annually, through 2019, the Secretary of Administration shall report to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting on the following:

(1) an update of the administration's efforts concerning implementation, administration, and enforcement of this act;

(2) any changes or updates to revenue expectations from fees and taxes based on changes in competitive pricing or other information;

(3) projected budget adjustment needs for current year appropriations from the Marijuana Regulation and Resource Fund; and

(4) a comprehensive spending plan with recommended appropriations from the Fund for the next the fiscal year, by department, including an explanation and justification for the expenditures and how each recommendation meets the intent of this act.

\* \* \* Miscellaneous \* \* \*

Sec. 27. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

\* \* \*

(29) To prohibit or regulate, by means of a civil ordinance adopted pursuant to chapter 59 of this title, the number, time, place, manner, or operation of a marijuana establishment, or any class of marijuana establishments, located in the municipality; provided, however, that amendments to such an ordinance shall not apply to restrict further a marijuana establishment in operation within the municipality at the time of the amendment. As used in this subdivision, "marijuana establishment" is as defined in 18 V.S.A. chapter 87.

Sec. 28. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

\* \* \*

(16) Marijuana establishments. A municipality may adopt bylaws for the purpose of regulating marijuana establishments as defined in 18 V.S.A. chapter 87.

Sec. 29. WORKFORCE STUDY COMMITTEE

(a) Creation. There is created the Workforce Study Committee to examine the potential impacts of alcohol and drug use on the workplace.

(b) Membership. The Committee shall be composed of the following five members:

(1) the Secretary of Commerce and Community Development or designee;

(2) the Commissioner of Labor or designee;

(3) the Commissioner of Health or designee;

(4) one person representing the interests of employees appointed by the Governor; and

(5) one person representing the interests of employers appointed by the Governor.

(c) Powers and duties. The Committee shall study:

(1) whether Vermont's workers' compensation and unemployment insurance systems are adversely impacted by alcohol and drug use and identify regulatory or legislative measures to mitigate any adverse impacts;

(2) the issue of alcohol and drugs in the workplace and determine whether Vermont's workplace drug testing laws should be amended to provide employers with broader authority to conduct drug testing, including by permitting drug testing based on a reasonable suspicion of drug use, or by authorizing employers to conduct post-accident, employer-wide, or post-rehabilitation follow-up testing of employees; and

(3) the impact of alcohol and drug use on workplace safety and identify regulatory or legislative measures to address adverse impacts and enhance workplace safety.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Commerce and Community Development, the Department of Labor, and the Department of Health.

(e) Report. On or before December 1, 2017, the Committee shall submit a written report with findings and recommendations to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Commerce or designee shall call the first meeting of the Committee to occur on or before September 15, 2017.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Committee shall cease to exist on December 31, 2017.

Sec. 30. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) A Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

\* \* \*

(24) Violations of 18 V.S.A. §§ 4230a and 4230b, relating to possession public consumption of marijuana and 18 V.S.A. § 4230e relating to cultivation of marijuana.

\* \* \* Effective Dates \* \* \*

Sec. 31. EFFECTIVE DATES

(a) This section and Secs. 1 (misdemeanor drug possession study), 2 (legislative findings and intent), 3 (marijuana youth education and prevention), 13 (marijuana establishments), 14 (marijuana taxes), and 29 (Workforce Study Committee) shall take effect on passage.

(b) Secs. 12 (chemical extraction via butane or hexane prohibited), 17 (consumption or possession of marijuana by the operator of a motor vehicle), 18 (consumption or possession of marijuana by a passenger of a motor vehicle), 21 (Vermont Governor's Highway Safety Program), 22 (reporting impaired driving data), 23 (training for law enforcement; impaired driving), 24 (appropriations), 25 (positions), 26 (Marijuana Regulation and Resource Fund budget and report), 27 (local authority to regulate marijuana establishments), and 28 (zoning) shall take effect on July 1, 2017.

(c) Sec. 15 (taxes; definitions) shall take effect on January 1, 2018 and shall apply to taxable year 2018 and after.

(d) Secs. 4 (legislative intent; civil and criminal penalties), 5 (marijuana definition), 6 (marijuana; criminal), 7 (marijuana; civil), 8 (marijuana possession by a person under 21 years of age), 9 (cultivation of marijuana by a person 21 years of age or older), 10 (sale or furnishing marijuana to a person under 21 years of age; criminal), 11 (sale of furnishing marijuana to a person under 21 years of age; civil action for damages), 16 (sales tax), 19 (commercial motor vehicle), 20 (disqualification; commercial motor vehicle), and 30 (Judicial Bureau; jurisdiction) shall take effect on January 2, 2019.

Pending the question, Shall the report of the committee on Judiciary, as amended, be further amended as offered by Rep. O'Sullivan of Burlington? **Rep. O'Sullivan of Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the committee on Judiciary, as amended, be further amended as offered by Rep. O'Sullivan of Burlington? was decided in the negative. Yeas, 42. Nays, 99.

Those who voted in the affirmative are:

Ancel of Calais	Giambatista of Essex	Sheldon of Middlebury
Bartholomew of Hartland	Haas of Rochester	Sibilia of Dover
Bock of Chester	Hill of Wolcott	Sullivan of Burlington
Buckholz of Hartford	Hooper of Brookfield	Taylor of Colchester
Burke of Brattleboro	Lefebvre of Newark	Toleno of Brattleboro
Chesnut-Tangerman of Middletown Springs	Long of Newfane	Trieber of Rockingham
Cina of Burlington	McCormack of Burlington	Troiano of Stannard
Colburn of Burlington	McCullough of Williston	Walz of Barre City
Copeland-Hanzas of Bradford *	Miller of Shaftsbury	Webb of Shelburne
Corcoran of Bennington	Morris of Bennington	Willhoit of St. Johnsbury
Donovan of Burlington	Mrowicki of Putney	Wood of Waterbury
Dunn of Essex	Noyes of Wolcott	Yacovone of Morristown *
Fields of Bennington	O'Sullivan of Burlington	Yantachka of Charlotte
	Scheu of Middlebury	Young of Glover
	Sharpe of Bristol	

Those who voted in the negative are:

Ainsworth of Royalton	Gage of Rutland City	McCoy of Poultney
Bancroft of Westford	Gamache of Swanton	McFaun of Barre Town
Baser of Bristol	Gannon of Wilmington	Morrissey of Bennington
Batchelor of Derby	Gonzalez of Winooski	Murphy of Fairfax
Beck of St. Johnsbury	Grad of Moretown	Myers of Essex
Belaski of Windsor	Graham of Williamstown	Nolan of Morristown
Beyor of Highgate	Greshin of Warren	Norris of Shoreham
Bissonnette of Winooski	Harrison of Chittenden	Ode of Burlington
Botzow of Pownal	Head of South Burlington	Olsen of Londonderry
Brennan of Colchester	Hebert of Vernon	Parent of St. Albans Town
Briglin of Thetford	Helm of Fair Haven	Partridge of Windham
Browning of Arlington	Higley of Lowell	Pearce of Richford
Brumsted of Shelburne	Hooper of Montpelier	Poirier of Barre City
Burditt of West Rutland	Houghton of Essex	Potter of Clarendon
Canfield of Fair Haven	Howard of Rutland City	Quimby of Concord
Carr of Brandon	Hubert of Milton	Rachelson of Burlington
Christensen of Weathersfield	Jessup of Middlesex	Rosenquist of Georgia
Christie of Hartford	Jickling of Brookfield	Savage of Swanton
Condon of Colchester	Joseph of North Hero	Scheuermann of Stowe
Conlon of Cornwall	Juskiewicz of Cambridge	Shaw of Pittsford
Connor of Fairfield	Keefe of Manchester	Smith of New Haven
Conquest of Newbury	Kimbell of Woodstock	Squirrell of Underhill

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Cupoli of Rutland City	Kitzmiller of Montpelier	Stevens of Waterbury
Dakin of Colchester	Krowinski of Burlington	Strong of Albany
Deen of Westminster	LaClair of Barre Town	Sullivan of Dorset
Devereux of Mount Holly	Lalonde of South Burlington	Till of Jericho
Dickinson of St. Albans Town	Lanpher of Vergennes	Townsend of South Burlington
Donahue of Northfield	Lawrence of Lyndon	Turner of Milton
Emmons of Springfield	Lewis of Berlin	Van Wyck of Ferrisburgh
Fagan of Rutland City	Lippert of Hinesburg	Viens of Newport City
Feltus of Lyndon	Lucke of Hartford	Weed of Enosburgh
Forguites of Springfield	Marcotte of Coventry	Wright of Burlington
Frenier of Chelsea	Martel of Waterford	
	Masland of Thetford	

Those members absent with leave of the House and not voting are:

Gardner of Richmond	Pugh of South Burlington	Terenzini of Rutland Town
Keenan of St. Albans City	Smith of Derby	Toll of Danville
Macaig of Williston	Stuart of Brattleboro	

**Rep. Copeland-Hanzas of Bradford** explained her vote as follows:

“Madam Speaker:

A little over a year from now we will have regulated retail markets for cannabis on our northern and southern borders and in our neighboring state of Maine. The sooner we recognize that treating cannabis the way we treat other intoxicating substances the sooner will be able to achieve the youth prevention we are so sorely failing at now.”

**Rep. Yacovone of Morristown** explained his vote as follows:

“Madam Speaker:

Eighty thousand Vermonters using without any regulation. If that does not scare you I don’t know what will.”

Pending the question Shall the bill be amended as recommended by the committee on Judiciary, as amended? **Rep. Fagan of Rutland City** moved to postpone action one legislative day which was disagreed to.

Pending the question, Shall the bill be amended as recommended by the Committee on Judiciary as amended? **Rep. Savage of Swanton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by the Committee on Judiciary as amended? was decided in the affirmative. Yeas, 74. Nays, 68.

Those who voted in the affirmative are:

Ancel of Calais	Gannon of Wilmington	Noyes of Wolcott
Bartholomew of Hartland	Giambatista of Essex	Olsen of Londonderry
Baser of Bristol	Gonzalez of Winooski	O'Sullivan of Burlington

Belaski of Windsor	Grad of Moretown	Partridge of Windham
Bock of Chester	Greshin of Warren	Rachelson of Burlington
Botzow of Pownal	Haas of Rochester	Scheu of Middlebury
Buckholz of Hartford	Head of South Burlington	Sharpe of Bristol
Burditt of West Rutland	Hill of Wolcott	Sheldon of Middlebury
Burke of Brattleboro	Hooper of Montpelier	Squirrell of Underhill
Carr of Brandon	Hooper of Brookfield	Stevens of Waterbury
Chesnut-Tangerman of Middletown Springs	Houghton of Essex	Stuart of Brattleboro
Christensen of Weathersfield	Jessup of Middlesex	Sullivan of Dorset
Cina of Burlington	Kimbell of Woodstock	Sullivan of Burlington
Colburn of Burlington	Kitzmiller of Montpelier	Toleno of Brattleboro
Condon of Colchester	Krowinski of Burlington	Townsend of South Burlington
Conlon of Cornwall	Lalonde of South Burlington	Trieber of Rockingham
Connor of Fairfield	Lefebvre of Newark	Troiano of Stannard
Conquest of Newbury	Lippert of Hinesburg	Walz of Barre City
Copeland-Hanzas of Bradford	Long of Newfane	Webb of Shelburne
Deen of Westminster	Lucke of Hartford	Weed of Enosburgh
Donovan of Burlington	Masland of Thetford	Wood of Waterbury
Dunn of Essex	McCormack of Burlington	Yacovone of Morristown
Emmons of Springfield	McCullough of Williston	Yantachka of Charlotte
Fields of Bennington	Miller of Shaftsbury	Young of Glover
	Morris of Bennington	
	Mrowicki of Putney	

Those who voted in the negative are:

Ainsworth of Royalton	Gage of Rutland City	Myers of Essex
Bancroft of Westford	Gamache of Swanton	Nolan of Morristown
Batchelor of Derby	Graham of Williamstown	Norris of Shoreham
Beck of St. Johnsbury	Harrison of Chittenden	Ode of Burlington
Beyor of Highgate	Hebert of Vernon	Parent of St. Albans Town
Bissonnette of Winooski	Helm of Fair Haven	Pearce of Richford
Brennan of Colchester	Higley of Lowell	Poirier of Barre City *
Briglin of Thetford	Howard of Rutland City	Potter of Clarendon
Browning of Arlington	Hubert of Milton	Quimby of Concord
Brumsted of Shelburne	Jickling of Brookfield	Rosenquist of Georgia
Canfield of Fair Haven	Joseph of North Hero	Savage of Swanton
Christie of Hartford	Juskiewicz of Cambridge	Scheuermann of Stowe
Corcoran of Bennington	Keefe of Manchester	Shaw of Pittsford
Cupoli of Rutland City	LaClair of Barre Town	Sibilia of Dover
Dakin of Colchester	Lanpher of Vergennes	Smith of New Haven
Devereux of Mount Holly	Lawrence of Lyndon	Strong of Albany
Dickinson of St. Albans Town	Lewis of Berlin	Taylor of Colchester
Donahue of Northfield	Marcotte of Coventry	Till of Jericho
Fagan of Rutland City	Martel of Waterford	Turner of Milton
Feltus of Lyndon	McCoy of Poultney	Van Wyck of Ferrisburgh
Forguites of Springfield	McFaun of Barre Town	Viens of Newport City
Frenier of Chelsea	Morrissey of Bennington	Willhoit of St. Johnsbury
	Murphy of Fairfax	Wright of Burlington

Those members absent with leave of the House and not voting are:

Gardner of Richmond  
Keenan of St. Albans City  
Macaig of Williston

Pugh of South Burlington  
Smith of Derby  
Terenzini of Rutland Town

Toll of Danville

**Rep. Poirier of Barre City** explained his vote as follows:

“Madam Speaker:

I voted no for the three Barre citizens who were killed by drug impaired drivers this year.”

Thereupon, third reading was ordered.

### **Committee of Conference Appointed**

#### **S. 136**

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to miscellaneous consumer protection provisions

The Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Marcotte of Coventry**  
**Rep. O'Sullivan of Burlington**  
**Rep. Hill of Wolcott**

### **Committee of Conference Appointed**

#### **S. 134**

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to court diversion and pretrial services

The Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Conquest of Newbury**  
**Rep. Burditt of West Rutland**  
**Rep. Colburn of Burlington**

### **Adjournment**

At eleven o'clock and forty minutes in the evening, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.