

# House Calendar

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TUESDAY, MARCH 17, 2009

Happy St. Patrick's Day

70th DAY OF BIENNIAL SESSION

House Convenes at 10:00 A. M.

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**ACTION CALENDAR**

**Favorable with Amendment**

**H. 16**

An act relating to deer doing damage to forest resources.

**Rep. Lewis of Derby**, for the Committee on **Fish, Wildlife and Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 4826 is amended to read:

§ 4826. TAKING DEER DAMAGING CROPS

(a) A person, including an authorized member of the person's family, an authorized regular on-premises employee, or an agent who holds a Vermont hunting license and who is designated by the person, may take, on land owned or occupied by the person, up to four deer per year which the person can prove were doing damage to the following:

(1) a tree which is being grown in a plantation or being cultivated for the purpose of harvesting an annual or perennial crop or producing any marketable item; or

(2) a crop-bearing plant; or

(3) a crop, except grass.

(b)(1) The commissioner may issue in writing an approval for a person, including an authorized member of the person's family, an on-premises employee, or an agent who holds a Vermont hunting license and who is designated by the person, to take, on land owned or occupied by the person, up to ten deer per year that are doing damage to forestland managed for the production, now or in the future, of a sawlog or sawlog product of a commercial species of any grade, provided that:

(A) The land owned by the person is not posted against hunting;

(B) The person possesses for the forestland in question a forest management plan that is current and in effect;

(C) A consulting forester or county forester has:

(i) inspected the forestland at issue;

(ii) determined that deer overbrowsing jeopardizes the regeneration of commercial timber species on the forestland; and

(iii) submitted a summary of inspection to the commissioner of fish and wildlife.

(2) Within 30 days of submission of an inspection summary under subdivision (1) of this subsection, the commissioner shall issue written approval to take deer under this subsection or shall request that a forester selected by the commissioner conduct a second inspection of the forestland at issue in order to confirm that deer overbrowsing on the forestland jeopardizes regeneration of commercial timber species on that land. If the determination of the forester selected by the commissioner conflicts with the original determination in the submitted inspection summary, the commissioner may refuse to authorize the taking of deer on the forestland at issue.

(3) No later than 180 days after the submission of the original inspection summary under subdivision (1) of this subsection, the commissioner shall notify the person who owns the forestland at issue of the outcome of the second inspection and shall issue written approval or denial to take deer.

(c) A person by whom, or under whose direction, a deer is wounded or killed, shall report in writing signed by him or her within 12 hours all the facts relative to the act to a game warden. The report shall state the time and place of the wounding or killing.

~~(e)~~(d) A person who kills a deer shall immediately properly dress the carcass and care for the meat.

~~(d)~~(e) The game warden shall immediately investigate the case and if satisfied that the deer was taken as provided in this section, shall give the person a certificate of the finding in the matter. The certificate shall entitle the person to the ownership of the carcass, but the person shall not sell or give away the same. However, the head and the antlers, if any, shall be turned over to a warden. In addition, any carcass not needed for home consumption in the household of the certificate-holder shall be turned over to a game warden.

~~(e)~~(f) When a game warden finds that a deer has been wounded or killed contrary to the provisions of this section, he or she shall dispose of the deer under the direction of the commissioner, and any monies received therefor shall be paid to the commissioner.

~~(f)~~(g) "Person" includes all people who jointly own or occupy the land. Therefore, if two or more people jointly own or occupy land, they may jointly take or authorize the taking of only up to four deer.

~~(g)~~(h) The commissioner may issue a permit to a person to take more than ~~four deer under section~~ the maximum limit of deer doing damage set forth in subsection (a) or (b) if:

- (1) the land owned by the person is not posted against hunting;
- (2) the person can prove that the property is sustaining additional and ongoing damage; and
- (3) the person has taken reasonable measures to prevent the deer from continuing to damage the crop or continuing to damage forestland managed for the production of a sawlog or sawlog product of a commercial species of any grade.

~~(h)~~(i) The commissioner is authorized to issue an order requiring any person to remove food or bait which has the effect of luring deer into the vicinity of the property sustaining damage. In this subsection, food does not include a crop or crop-bearing plant.

## Sec. 2. DEPARTMENT OF FISH AND WILDLIFE REPORT ON TAKING OF DEER DOING DAMAGE

On or before January 15, 2012, and annually thereafter, the commissioner of fish and wildlife shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy regarding implementation of the commissioner's authority to approve the taking of deer doing damage to forestland managed for the production of sawlogs or sawlog products from commercial species. The report shall include:

- (1) A summary of how the commissioner has exercised his or her authority to approve the taking of deer doing damage to forestland managed for the production of sawlogs or sawlog products from commercial species;
- (2) The number of requests that the commissioner received for approval to take deer doing damage to forestland managed for the production of sawlogs or sawlog products from commercial species;
- (3) The number of approvals that the commissioner issued to take deer doing damage to forestland managed for the production of sawlogs or sawlog products from commercial species.
- (4) An estimate of the number of deer taken under the commissioner's authority to approve the taking of deer doing damage to forestland managed for the production of sawlogs or sawlog products from commercial species.

**(Committee vote: 9-0-0)**

### **H. 160**

An act relating to approval of the charter of the town of Hartford.

**Rep. Townsend of Randolph**, for the Committee on **Government Operations**, recommends the bill be amended by adding a Sec. 2a to read as follows:

Sec. 2a. APPLICATION

The requirements set forth in 24 V.S.A. App. chapter 123A §§ 202(e)(1) and 203(a)(1)(A), that the selectboard of the town of Hartford consist of seven members, shall apply so that the two additional members of the selectboard shall be elected at the 2010 annual meeting; and the requirement set forth in 24 V.S.A. App. chapter 123A § 203(a)(2)(E), that the presence of four members of the selectboard shall constitute a quorum, shall apply following the election of those two additional members of the selectboard at the 2010 annual meeting.

**(Committee vote: 8-2-1)**

**Favorable**

### **H. 131**

An act relating to codification of and approval of an amendment to the charter of Cold Brook Fire District No. 1.

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

**( Committee Vote: 8-1-2)**

### **H. 204**

An act relating to payment of diversion program fees.

**Rep. French of Shrewsbury**, for the Committee on **Judiciary**, recommends the bill ought to pass.

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

**Action Postponed Until Wednesday, March 18, 2009**

**Senate Proposal of Amendment**

### **H. 232**

An act relating to the fiscal year 2009 budget adjustment.

**NOTICE CALENDAR**  
**Favorable with Amendment**  
**H. 83**

An act relating to underground storage tanks and the petroleum cleanup fund.

**Rep. Fagan of Rutland City**, for the Committee on **Fish, Wildlife and Water Resources**, recommends the bill ought to pass.

( Committee Vote: 9-0-0)

**Rep. Sharpe of Bristol**, for the Committee on **Ways and Means**, recommends the bill be amended as follows:

First: In Sec. 1, 10 V.S.A. § 1922, by striking all after the “(15)” and inserting in lieu thereof the following: “Public building” shall have the same meaning as defined in 20 V.S.A. § 2730.

Second: In Sec. 4, 10 V.S.A. § 1941, subsection (g), by deleting the word “which” and inserting in lieu thereof the word “who” and by striking “\$200,000.00” and inserting in lieu thereof “\$300,000.00”

Third: In Sec. 5, 10 V.S.A. § 1942, by striking subsection (b) in its entirety and inserting in lieu thereof the following:

(b) There is assessed against every seller receiving more than \$10,000.00 annually for the retail sale of heating oil ~~or~~, kerosene, low sulfur non-highway diesel fuel, or ultra-low sulfur non-highway diesel fuel sold in this state and not used to propel a motor vehicle, a licensing fee of one-half cent per gallon of such heating oil ~~or~~, kerosene, low sulfur non-highway diesel fuel, or ultra-low sulfur non-highway diesel fuel; provided, however, that uses of low sulfur non-highway diesel fuel and ultra-low sulfur non-highway diesel fuel for agricultural purposes which are exempt under 23 V.S.A. § 3003(d)(1)(B) shall be exempt from this licensing fee. This fee shall be subject to the collection, administration, and enforcement provisions of chapter 233 of Title 32, and the fees collected under this subsection by the commissioner of taxes shall be deposited into the petroleum cleanup fund. The secretary, in consultation with the Vermont Petroleum Association and the Vermont Fuel Dealers Association, Inc. shall annually determine whether or not to assess the one-half cent licensing fee for the upcoming year. If the unencumbered balance of heating fuel account of the fund established under subsection 1941(a) of this title is equal to or greater than \$3,000,000.00, then the one-half cent licensing assessment for the upcoming year shall not be assessed. If the unencumbered balance in the fund is less than ~~\$3,000,000~~ \$3,000,000.00, then the annual fee may be assessed. The secretary shall notify all sellers assessing this fee of the

status of the fee for the upcoming year. This fee provision shall terminate April 1, ~~2014~~ 2016.

Fourth: In Sec. 7, by striking Sec. 7 in its entirety and inserting in lieu thereof a new Sec. 7 to read:

Sec. 7. 32 V.S.A. § 3102(d)(3) is amended to read:

(3) to any person who inquires, provided that the information is limited to whether a person is registered to collect Vermont income withholding, sales and use, or meals and rooms tax; whether a person is in good standing with respect to the payment of these taxes; whether a person is authorized to buy or sell property free of tax; or whether a person holds a valid license under ~~chapters 201, chapter 205, or 239~~ or section 1942 of Title 10;

Fifth: In Sec. 8, by striking all after the word “shall” where it first appears, and inserting in lieu thereof the following:

“determine whether the fees assessed pursuant to subsections 1942(a) and (b) of Title 10 should be collected by the department of motor vehicles or the department of taxes, develop a plan for implementing a single-agency collection, and present the plan to the general assembly on or before October 10, 2009.”

Sixth: By adding a Sec. 9 to read:

Sec. 9. 33 V.S.A. § 2503(a) is amended to read:

(a) There is imposed a gross receipts tax of 0.5 percent on the retail sale of the following types of fuel by sellers receiving more than \$10,000.00 annually for the sale of such fuels:

- (1) heating oil and kerosene not used to propel a motor vehicle;
- (2) propane;
- (3) natural gas;
- (4) electricity;
- (5) coal;

(6) low sulfur non-highway diesel fuel not used for agricultural purposes which are exempt under 23 V.S.A. § 3003(d)(1)(B); and

(7) ultra-low sulfur non-highway diesel fuel not used for agricultural purposes which are exempt under 23 V.S.A. § 3003(d)(1)(B).

Seventh: By adding a Sec. 10 to read:

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2009.

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

**Rep. Morley of Barton**, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Ways and Means**.

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

#### **H. 135**

An act relating to wireless communication facilities and project approvals for municipal and cooperative utilities.

**Rep. Shand of Weathersfield**, for the Committee on **Commerce and Economic Development**, recommends the bill be amended as follows:

In Sec. 1, 30 V.S.A. § 248(n)(2) by striking the underlined language: “but do not include system control and data acquisition equipment used by utilities for intra- and interutility communications” and inserting in lieu thereof the following: “but do not include equipment used by utilities exclusively for intra- and inter-utility communications.”

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

#### **H. 145**

An act relating to composting.

**Rep. Spengler of Colchester**, for the Committee on **Fish, Wildlife and Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

When used in this chapter:

\* \* \*

(3)(A) “Development” means:

\* \* \*

(D) The word “development” does not include:

\* \* \*

(vi) The construction of improvements below the elevation of 2,500 feet for the on-site storage, preparation, and sale of compost, provided that:

(I) The compost is produced from no more than 100 cubic yards of material per year;

(II) The compost is principally produced on the farm;

(III) The compost is principally used on the farm where it was produced; or

(IV) The compost is made only from clean, high carbon bulking agents from any source and manure produced on the farm.

(E) When development is proposed to occur on a parcel or tract of land that is devoted to farming activity as defined in subdivision 6001(22) of this section, only those portions of the parcel or the tract that support the development shall be subject to regulation under this chapter. Permits issued under this chapter shall not impose conditions:

(i) on other portions of the parcel or tract of land which do not support the development and ;or

(ii) that restrict or conflict with accepted agricultural practices adopted by the secretary of agriculture, food and markets.

\* \* \*

(31) "Compost" means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management, but shall not mean sewage or septage or materials derived from sewage or septage.

Sec. 2. 10 V.S.A. § 6605h is added to read:

§ 6605h. SOLID WASTE REGISTRATION

(a) Notwithstanding sections 6605, 6605f, and 6611 of this title, the secretary may, by rule, authorize a person engaged in the following activities to register with the secretary instead of obtaining a facility certification under section 6605 or 6605c of this title:

(1) construction, alteration, or operation of a facility managing certain solid waste categories; or

(2) construction, alteration, or operation of a facility producing or managing compost, as that term is defined in subdivision 6001(31) of this title.

(b) This section shall not apply to the storage, treatment, or disposal of:

(1) Municipal solid waste;

(2) Sludge;

(3) Septage; or

(4) Mineral processing waste. For purposes of this section, mineral processing waste means solid waste from an industrial or manufacturing facility that processes materials from a mining activity and where chemicals, as defined by the secretary by rule, are intentionally added as a part of that processing.

Sec. 3. 10 V.S.A. § 6605j is added to read:

§ 6605j. ACCEPTED COMPOSTING PRACTICES

(a) The secretary shall adopt by rule, pursuant to chapter 25 of Title 3, and shall implement and enforce accepted composting practices for the management of composting in the state. These accepted composting practices may include standards for:

(1) Facility operation, including acceptable quantities of product or inputs, vector management, odors, noise, traffic, litter control, contaminant management, operator training and qualifications, recordkeeping, and reporting;

(2) Siting of composting facilities, including siting and operation of compost storage areas, compost bagging areas, and roads and parking areas;

(3) The composting process, including rotation, management of compost piles, compost pile size, and monitoring of compost operations;

(4) Management of runoff from compost facilities, including liquids management from the feedstock area, active composting areas, curing area, and compost storage area; the use of swales or stormwater management around or within a compost facility; vegetative buffer requirements; and run-off management from tipping areas.

(b) A person operating a small scale composting facility or operating a composting facility on a farm who follows the accepted composting practices shall not be required to obtain a discharge permit under section 1263 or 1264 of this title, a solid waste facility certification under chapter 159 of this title, or an air emissions permit under chapter 23 of this title unless a permit is required by federal law or the secretary of natural resources determines that a permit is necessary to protect public health or the environment.

(c) The secretary of natural resources shall coordinate with the secretary of agriculture, food and markets in implementing and enforcing the accepted composting practices. The secretary of agriculture, food and markets and the secretary of natural resources may, after opportunity for public review and comment, develop a memorandum of understanding for implementation and enforcement of the accepted composting practices.

(d) For purposes of this section, “small-scale composting facility” means a facility that:

(1) is located on a tract of land of no more than four acres in size; and

(2) uses no more than 5,000 cubic yards of total organics per year in the production of compost, including no more than 2,000 cubic yards per year of food residuals.

#### Sec. 4. AGENCY OF NATURAL RESOURCES REPORT ON RULES FOR ACCEPTED COMPOSTING PRACTICES

Prior to filing a final proposal of rules under section 841 of Title 3, the agency of natural resources shall submit to the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture the proposed final rules required under 10 V.S.A. § 6605j for accepted composting practices. The house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture shall review the proposed final rules and shall recommend whether the proposed final rules should be amended or whether the proposed final rules should be filed with the secretary of state and the legislative committee on administrative rules under section 841 of Title 3. If the general assembly is not in session when the agency of natural resources is prepared to file a final proposal of rules addressing accepted composting practices, the agency may submit the proposed rules to the secretary of the senate, the clerk of the house, and the chairs of the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture.

#### Sec. 5. COMPOSTING STUDY COMMITTEE

(a) On or before July 1, 2009, the agency of natural resources shall reconvene the composting study committee established by No. 130 of the Acts of the 2007 Adj. Sess. (2008) to review the application of Act 250, 10 V.S.A. chapter 151, to composting facilities in the state and to recommend whether composting facilities or categories of composting facilities should be exempt from Act 250. The committee shall issue a final report of its findings to the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture by January 15, 2010.

(b) For the purposes of this section, the composting study committee shall consist of the members appointed under the requirement of No. 130 of the Acts of the 2007 Adj. Sess. (2008) and:

- (1) a member of the house, appointed by the speaker of the house;  
(2) a member of the senate, appointed by the committee on committees;  
and  
(3) a member of an environmental organization, appointed by the speaker of the house.

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

## **CONSENT CALENDAR**

### **Concurrent Resolutions for Notice Under Joint Rule 16**

The following concurrent resolutions have been introduced for approval by the House and Senate and have been printed in the Senate and House Addendum to today's calendars. These will be adopted automatically unless a member requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration should be communicated to the Clerk of the House or to a member of his staff.

**(For text of Resolutions, see Addendum to House and Senate Notice Calendar for Friday, February 27, 2009)**

#### **H.C.R. 63**

House concurrent resolution congratulating the Pico Ski Club on its 60th anniversary

#### **H.C.R. 64**

House concurrent resolution in memory of John C. Donahue Jr. of Northfield

#### **H.C.R. 65**

House concurrent resolution congratulating the Roxbury Free Library on its 75th anniversary

#### **H.C.R. 66**

House concurrent resolution commemorating the 60th anniversary of U.S. Senator George Aiken's popularizing the geographic designation Northeast Kingdom

#### **H.C.R. 67**

House concurrent resolution honoring retiring Putney town moderator John Caldwell

**H.C.R. 68**

House concurrent resolution recognizing the 62 years of extraordinary school board service of Dr. Harry Rowe

**S.C.R. 12.**

Senate concurrent resolution commemorating the tenth anniversary of the sister-state relationship between the state of Vermont and the province of Taiwan.

**S.C.R. 13.**

Senate concurrent resolution honoring the civic education role of the Bridport Grange's legislative breakfast.

**PUBLIC HEARINGS**

Wednesday, March 4, 2009 – Room 11 – 5:00 – 7:00 PM; Washington County Delegation – Impact of economy on Washington County

Tuesday, March 17, 2009 – Room 11 – 2:45 – 4:30 PM; 6:30-8:00 PM - House Committee on Ways and Means – Vermont's Revenue Situation