

House Calendar

WEDNESDAY, MARCH 25, 2009

78th DAY OF BIENNIAL SESSION

House Convenes at 1:00 P. M.

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ACTION CALENDAR

Third Reading

H. 34

An act relating to automated external defibrillators.

H. 287

An act relating to the uniform prudent management of institutional funds act.

Committee Bill for Second Reading

H. 431

An act relating to miscellaneous adjustments to the public retirement systems.

(Rep. Atkins of Winooski will speak for the Committee on Government Operations.)

Favorable with Amendment

H. 15

An act relating to aquatic nuisance control.

Rep. Adams of Hartland, 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. chapter 50 is added to read:

CHAPTER 50. AQUATIC NUISANCE CONTROL

§ 1451. FINDINGS

The general assembly finds that:

(1) It is the policy of the state of Vermont that the water resources of the state shall be protected, regulated, and where necessary controlled under the authority of the state in the public interest to promote the general welfare and to protect public health and the environment.

(2) It is the policy of the state of Vermont to prevent the infestation and invasive proliferation of new aquatic species in waters of the state that result in

negative environmental impacts, including habitat loss and a reduction in native biodiversity along with adverse social and economic impacts and impacts to the public health and safety.

(3) The ability to initiate quickly a response to contain and control a new aquatic species introduction before it can spread is critical to reduce future management costs and protect the integrity of Vermont's ecosystems.

(4) Infestations of new aquatic species must be detected early and acted upon swiftly to minimize economic, social, and ecological impacts as well as to increase the probability of a successful eradication effort.

§ 1452. DEFINITIONS

As used in this chapter:

(1) "Agency" means the agency of natural resources.

(2) "Aquatic nuisance" means undesirable or excessive substances or populations that interfere with the recreational potential or aquatic habitat of a body of water. Aquatic nuisances include rooted aquatic plants and animal and algal populations.

(3) "Aquatic plant" means a plant that naturally grows in water, saturated soils, or seasonally saturated soils, including algae and submerged, floating-leafed, floating, or emergent plants.

(4) "Biological controls" mean multi-cellular organisms.

(5) "Board" means the water resources panel of the natural resources board.

(6) "New aquatic species" means an aquatic species that was not known to occur in a surface water of Vermont or in a segment of Lake Champlain as of January 1, 2007.

(7) "Pesticide" means any substance produced, distributed, or used for preventing, destroying, or repelling nuisance aquatic plants, insects, or other aquatic life, including lamprey. Pesticide includes unicellular organisms or extracts from unicellular organisms and does not include biological controls.

(8) "Secretary" means the secretary of natural resources.

(9) "Water resources" means the waters and the values inherent or potential in waters and their uses.

(10) "Waters" means all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, and springs and all bodies of surface waters, artificial or natural.

which are contained within, flow through, or border upon the state or any portion of it.

§ 1453. AQUATIC NUISANCE CONTROL PROGRAM

(a) The agency of natural resources shall establish and maintain an aquatic nuisance control program.

(b) The aquatic nuisance control program shall perform the following services:

(1) receive and respond to aquatic nuisance complaints;

(2) work with municipalities, local interest organizations, private individuals, and agencies of the state to develop long-range programs regarding aquatic nuisance controls;

(3) work with federal, state, and local governments to obtain funding for aquatic nuisance control programs;

(4) implement an aquatic species rapid response program under this chapter;

(5) administer a grant-in-aid program under section 1458 of this title;

(6) place a sign at least 2 feet by 2 feet in size which states that the water is infected with an aquatic nuisance and that a person transporting the nuisance in violation of section 1454 of this title may be subject to a penalty of up to \$1,000.00 pursuant to 23 V.S.A. § 3317, so that the sign is easily visible from a ramp used to launch vessels at any fish and wildlife access area on a body of water infected with an aquatic nuisance;

(7) provide the commissioner of fish and wildlife and the commissioner of motor vehicles with written educational information about aquatic nuisances that can be included in an envelope containing a boat registration and in a department of fish and wildlife publication pertaining to fishing and boating.

§ 1454. TRANSPORT OF AQUATIC PLANTS AND AQUATIC NUISANCE SPECIES

(a) No person shall transport an aquatic plant or aquatic plant part, zebra mussels (*Dreissena polymorpha*), quagga mussels (*Dreissena bugensis*), or other aquatic nuisance species identified by the secretary by rule to or from any Vermont waters on the outside of a vehicle, boat, personal watercraft, trailer, or other equipment. This section shall not restrict proper harvesting or other control activities undertaken for the purpose of eliminating or controlling the growth or propagation of aquatic plants, zebra mussels, quagga mussels, or other aquatic nuisance species.

(b) The secretary may grant exceptions to persons to allow the transport of aquatic plants, zebra mussels, quagga mussels, or other aquatic nuisance species for scientific or educational purposes. When granting exceptions, the secretary shall take into consideration both the value of the scientific or educational purpose and the risk to Vermont surface waters posed by the transport and ultimate use of the specimens. A letter from the secretary authorizing the transport must accompany the specimens during transport.

§ 1455. AQUATIC NUISANCE CONTROL PERMIT

(a) No person may use pesticides, chemicals other than pesticides, biological controls, bottom barriers, structural barriers, structural controls, or powered mechanical devices in waters of the state to control nuisance aquatic plants, insects, or other aquatic nuisances, including lamprey, unless that person has been issued a permit by the secretary.

(b) Notwithstanding other requirements set forth in chapter 47 of this title to the contrary, the secretary may issue permits under this section.

(c) Persons desiring a permit under this section shall make application to the secretary on a form prescribed by the secretary.

(d) The secretary shall issue a permit for the use of pesticides in waters of the state for the control of nuisance aquatic plants, insects, or other aquatic life, including lamprey, when the applicant demonstrates and the secretary finds:

(1) there is no reasonable nonchemical alternative available;

(2) there is acceptable risk to the nontarget environment;

(3) there is negligible risk to public health;

(4) a long-range management plan has been developed which incorporates a schedule of pesticide minimization; and

(5) there is a public benefit to be achieved from the application of a pesticide or, in the case of a pond located entirely on a landowner's property, no undue adverse effect upon the public good.

(e) A landowner applying to use a pesticide on a pond located entirely on the landowner's property is exempt from the requirement of subdivision (d)(4) of this section.

(f) The secretary shall issue a permit for the control of aquatic nuisances by biological controls, bottom barriers, structural barriers, structural controls, powered mechanical devices, or chemicals other than pesticides when the secretary finds:

(1) there is acceptable risk to the nontarget environment;

(2) there is negligible risk to public health; and

(3) there is either benefit to or no undue adverse effect upon the public good.

(g) The use of bottom barriers, structural barriers, structural controls, powered mechanical devices, and copper compounds as an algaecide in waters with a surface area of one acre or less located entirely on a person's property and with an outlet where the flow can be controlled for at least three days is exempt from the permit requirements of this section.

(h) The secretary shall adopt procedures under 3 V.S.A. chapter 25 which will provide an opportunity for public review and comment on permit applications. The procedures shall classify permit applications by degree of environmental risk involved and establish appropriate opportunities for public notice and comment for each class.

(i) An aquatic nuisance control permit issued under this section shall:

(1) specify in writing the secretary's findings under subsection (d) or (f) of this section;

(2) specify the location, manner, nature, and frequency of the permitted activity;

(3) contain additional conditions, requirements, and restrictions as the secretary deems necessary to preserve and protect the quality of the receiving waters, to protect the public health, and to minimize the impact on the nontarget environment. Such conditions may include requirements concerning recording, reporting, and monitoring;

(4) be valid for the period of time specified in the permit, not to exceed three years for chemical control, and not to exceed ten years for nonchemical control.

(j) An aquatic nuisance control permit issued under this chapter may be renewed from time to time upon application to the secretary. The process of permit renewal will be consistent with the requirements of this section.

(k) An applicant for a permit under this section shall pay an application fee as required by 3 V.S.A. § 2822. The agency of natural resources shall be exempt from this fee requirement.

(l) No permit shall be required under this section for mosquito control activities that are regulated by the agency of agriculture, food and markets, provided that:

(1) Prior to authorizing the use of larvicides or pupacides in waters of the state, the secretary of agriculture, food and markets shall designate

acceptable control products and methods for their use and issue permits pursuant to 6 V.S.A. § 1083(5); and

(2) On an annual basis, the secretary of agriculture, food and markets shall notify the secretary of the location of all authorized mosquito control applications to the waters of the state that took place during the reporting year and the type and quantity of larvicide and pupacide used at each location.

(m) The secretary may issue general permits for the use of nonchemical aquatic nuisance control activities provided that the secretary makes the findings required in subsection (f) of this section. A general permit issued under this subsection is not required to specify the exact location or the frequency of the permitted activity.

§ 1456. AQUATIC SPECIES RAPID RESPONSE GENERAL PERMITS

(a) Notwithstanding the requirements of section 1455 of this title, the secretary may issue an aquatic species rapid response general permit under this section for a term not to exceed ten years for the control of a nonindigenous new aquatic species. This general permit shall identify the control technique, including the use of biological controls, pesticides, and any other control techniques for the nonindigenous new aquatic species for which coverage may be sought under the permit.

(b) Applications for coverage under this general permit shall be limited to the commissioner of environmental conservation and the commissioner of fish and wildlife. The application shall state the grounds for declaring an emergency situation as defined in subsection (f) of this section. The application shall identify the nonindigenous new aquatic species and control techniques selected to respond to the emergency.

(c) The secretary shall provide notice of the application to the municipal clerk of the municipality or municipalities in which the proposed control activity will be conducted at the time the request for authorization is filed with the secretary. The secretary shall provide an opportunity for written comment regarding whether the request complies with the terms and conditions of the aquatic species rapid response general permit for 10 days following receipt of the request for authorization.

(d) The secretary may issue an authorization under an aquatic species rapid response general permit only when the secretary finds:

(1) that an emergency exists; and

(2) that the proposed control technique meets the requirements of the general permit and is acceptable when considering the emergency situation.

(e) Authorization to act under the terms of a general permit issued under this section shall not exceed three years.

(f) Prior to determining that a nonindigenous new aquatic species emergency exists, the secretary shall consider the following factors:

(1) the likelihood that the nonindigenous new aquatic species will cause harm to human health, safety, or the environment;

(2) the likelihood that the nonindigenous new aquatic species will cause significant harm to the economy;

(3) the magnitude of the potential adverse impact of the nonindigenous new aquatic species upon public health, safety, the environment, native biodiversity, water bodies, outdoor recreation, or any other use of the state's water resources;

(4) the likelihood that the nonindigenous new aquatic species would naturalize in the state if not immediately controlled;

(5) the rate at which the invasion would spread throughout the state; and

(6) the difficulty to control the spread of the nonindigenous new aquatic species in the state.

§ 1457. ENTRANCE UPON LANDS TO PREVENT THE INTRODUCTION AND SPREAD OF NEW AQUATIC SPECIES

(a) The aquatic nuisance control program shall take reasonable steps to prevent the introduction and spread of new aquatic species that may become invasive in the state. To accomplish this objective, the secretary or his or her agent may, after first obtaining the permission of the landowner or occupant, enter upon lands for the following purposes:

(1) to survey for, inspect, or investigate conditions relating to new aquatic species that may become invasive;

(2) to collect information to issue coverage under rapid response general permits under section 1456 of this title;

(3) to conduct or use control techniques that are available under or authorized by a rapid response general permit issued under section 1456 of this title; and

(4) to determine whether the rules of the agency adopted or issued under this chapter are being complied with.

(b) If a land owner refuses to grant the secretary or his or her agent permission to enter onto the owner's land under this section, the secretary or the duly authorized representative of the secretary may apply for and obtain a

warrant or subpoena to allow such entry, surveying, collection, and control as is necessary to protect human health, safety, and the environment or prevent economic loss.

§ 1458. GRANT-IN-AID TO MUNICIPALITIES AND AGENCIES OF THE STATE

(a) A municipality or agency of the state which desires state assistance to control aquatic nuisances may apply in writing to the agency of natural resources in a manner prescribed by the agency of natural resources.

(b) When the agency finds that a proposed aquatic nuisance control program is suitable to control or minimize the effect an aquatic nuisance has on water quality and water use, it may award a grant of 75 percent or less of the project costs as determined by the agency. Recurring maintenance projects may be awarded grants of 75 percent or less of the annual project cost. In approving requests and determining the amount of any grant, the agency shall consider the following:

(1) the use of the waters by persons outside the municipality in which the waters are located;

(2) the long-range effect of the control project;

(3) the recreational use of the waters; and

(4) the effectiveness of municipal shoreland zoning and other controls in minimizing or preventing existing or new development from having any adverse effects on the waters subject to the control program.

(c) The agency shall make awards to priority projects to the extent funds are available. First priority shall be projects to manage incipient infestations of aquatic nuisances, second priority shall be projects to prevent or control the further spread of aquatic nuisances, and third priority shall be recurring maintenance projects. In establishing priorities for individual projects, the agency shall consider the following:

(1) public accessibility and recreational uses;

(2) the importance to commercial, agricultural, or other interests;

(3) the degree of local interest, as manifested by municipal or other contributions to the project;

(4) local efforts to control aquatic nuisances;

(5) other considerations affecting feasibility, probability of achieving long-term control, and necessity or advantage of the proposed work; and

(6) the extent to which the control project is a developmental rather than a maintenance program.

(d) With the approval of the secretary, the agency may use funds provided under this section as well as other funds for restoration, management, or protection projects or for studies in the best interests of the state when the appropriate municipal applicant is not available or not eligible to receive a grant.

(e) When the agency finds that a proposed aquatic nuisance control program is necessary and involves construction or installation of permanent facilities designed to control or minimize the effect that an aquatic nuisance has on water quality or water use, it may award a grant of up to 50 percent of the nonfederal costs of the project provided that evidence is received that the project applicant has voted funds in a specific amount to undertake the project. The applicant shall demonstrate it has or will acquire adequate interests in the site of the project to provide undisturbed possession and use during the life of the project and shall demonstrate ability to operate and maintain the project. The applicant may enter into agreements with the agency for prosecution of all or any portion of the project. For purposes of this subsection, corporations registered with the secretary of state may be eligible applicants.

(f) The agency may make periodic grant payments upon submission by the grantee showing that costs for which reimbursement is requested have been incurred and paid by the grantee. Partial payments shall be made not more frequently than monthly. After the project has been completed and its costs audited by the agency, the agency shall certify the remainder of the award to the commissioner of finance and management who shall issue his or her warrant for payment. Interest costs incurred in local short-term borrowing of the grant amount may be reimbursed as part of the grant.

§ 1459. JOINT MUNICIPAL PARTICIPATION

Should the shorelands of waters for which funds are requested under sections 1451–1460 of this title be under more than one municipal governmental jurisdiction, the provisions herein shall apply to the respective municipalities under a joint application, except that the required municipal contribution shall be apportioned among the respective municipalities.

§ 1460. RULEMAKING

The secretary may adopt rules to implement the requirements of this chapter.

Sec. 2. 10 V.S.A. § 8003(a) is amended to read:

(a) The secretary may take action under this chapter to enforce the following statutes:

(1) [Deleted.]

(2) 10 V.S.A. chapter 23, relating to air quality;

(3) 10 V.S.A. chapters 37, 47, and 56, relating to water pollution control, water quality standards, water resources management, and public water supply;

(4) 10 V.S.A. chapters 41 and 43, relating to dams and stream alterations;

(5) 10 V.S.A. chapter ~~37~~ 50, relating to the control of aquatic species and introduction of algicides, pesticides, and herbicides;

* * *

Sec. 3. 10 V.S.A. § 8503(a) is amended to read:

(a) This chapter shall govern all appeals of an act or decision of the secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

(A) chapter 23 (air pollution control).

(B) ~~section 922~~ chapter 50 (aquatic ~~nuisance~~ species control grants in aid).

* * *

Sec. 4. REPEAL

Sections 921, 922, 923, 924, 1263a, and 1266 of Title 10 are repealed on the effective date of chapter 50 of Title 10.

Sec. 5. 23 V.S.A. § 3305(k) is amended to read:

(k) The commissioner shall enclose with every permanent and temporary motorboat registration and registration renewal certificate issued pursuant to this chapter ~~the following a statement: "I. Transporting zebra mussels, or Eurasian milfoil to or from any Vermont water surface is illegal (10 V.S.A. § 1266).~~

~~"H. If your boat or equipment is exposed to Lake Champlain or any other zebra mussel or Eurasian milfoil infested water, the following steps should be taken prior to putting your boat or equipment in another Vermont lake, pond or other water body:~~

~~“A. Inspect for and scrape off from your boat’s hull or equipment or any exposed areas any visible mussels or milfoil.~~

~~“B. Carefully flush with clean water all boat hulls, outdrive, live wells, bilge, trailers, anchors, ropes, bait buckets, raw engine cabling systems, and other boat parts or equipment.~~

~~“C. Dry boats, trailers, and equipment thoroughly in the sun.” , based on current aquatic nuisance threats and spread prevention methods, regarding the danger of aquatic nuisances, how aquatic nuisance species are spread, and how spread of aquatic nuisance species may be controlled.~~

Sec. 6. 23 V.S.A. § 3305b is amended to read:

§ 3305b. BOATING SAFETY EDUCATION; RULES

(a) When required. A person born after January 1, 1974 shall not operate a motorboat on the public waters of this state without first obtaining a certificate of boating education.

(b) Possession of certificate. A person who is required to have a certificate of boating education shall:

(1) possess the certificate when operating a motorboat on the public waters of the state; and

(2) show the certificate on the demand of an enforcement officer wearing insignia identifying him or her as such or operating a law enforcement motorboat or vessel. However, no person charged with violating this subsection shall be convicted if the person produces in court, to the officer, or to a state’s attorney a certificate which was valid at the time the violation occurred.

(c) Exemptions. The following persons are exempt from the requirements of this section:

(1) a person who is licensed by the United States Coast Guard to operate a vessel for commercial purposes;

(2) a person operating a vessel on a body of water located on private property; and

(3) any other person exempted by rules of the department of public safety.

(d) Rules. The department of public safety shall:

(1) adopt rules that establish criteria for a course of instruction in boating safety education;

(2) adopt rules relating to transient boaters and persons who hire chartered vessels;

(3) administer a verbal test when appropriate;

(4) coordinate a statewide program of boating safety instruction and certification and ensure that a course of boating safety education is available within each county; ~~and~~

(5) ensure that a course of boating safety education is available at the earliest practicable age for children; and

(6) ensure that the course includes an educational component regarding the environmental harm caused by aquatic nuisance species and how the spread of such species may be controlled when boaters follow specific steps to clean boats and trailers after use in state waters.

(e) Hours of instruction. Any course of boating safety education that is offered shall provide a minimum of eight hours of instruction.

(f) Persons offering courses. The following persons may offer the course of instruction in boating safety education if approved by the department of public safety:

(1) the department of public safety;

(2) the United States Coast Guard Auxiliary;

(3) the United States Power Squadron;

(4) a political subdivision;

(5) a municipal corporation;

(6) a state agency;

(7) a public or nonpublic school;

(8) any group, firm, association, or person.

(g) Issuance of certificate. The department of public safety or its designee, shall issue a certificate of boating safety education to a person who:

(1) passes the departmentally prescribed course in boating safety education; or

(2) passes a boating safety equivalency examination administered by persons authorized to offer the course on boating safety education.

(h) Education materials. Upon request, the department of public safety shall provide, without charge, boating safety education materials to persons who plan to take the boating safety equivalency examination.

(i) Lifetime issuance. Once issued, the certificate of boating safety education is valid for the lifetime of the person to whom it was issued and may not be revoked by the department of public safety or a court of law.

(j) Certificate replacement. The department of public safety shall replace, without charge, a lost or destroyed certificate if the department issued the certificate or has a record that the certificate was issued.

(k) Out-of-state certificate. A boating safety certificate issued in another state or country in accordance with or substantially equivalent to criteria of the National Association of State Boating Law Administrators is sufficient to comply with the requirements of this section.

Sec. 7. 23 V.S.A. § 3319 is amended to read:

§ 3319. FEES COLLECTED; SPECIAL FUND

(a) There is hereby established a special fund to be known as the motorboat registration fund for the purposes of ensuring that the fees and penalties collected under this subchapter are utilized in the protection and maintenance of the state's water resources. Any interest earned on the monies in this fund will be deposited in the general fund.

(b) The fees and penalties collected under the provisions of this subchapter, excluding surcharges collected under subsection 3305(b) and subdivisions 3305(c)(3)(A) and (B) of this title, shall be deposited in the motorboat registration fund and shall be allocated as follows:

(1) 15 percent to the department of public safety, to be used for enforcement of this subchapter and implementation of a boating safety education program;

(2) 50 percent to the department of fish and wildlife, to be used: to match federal funds; for upgrading and expanding boating access areas and facilities located at those areas; for developing and constructing new boating access areas; and for facilitating or establishing and maintaining pump out stations, which may be, in the discretion of the commissioner, constructed or operated either by the department or on a contractual basis by a private person or entity. Users shall be charged reasonable and appropriate fees;

(3) 25 percent to the department of environmental conservation for the purpose of aquatic nuisance control pursuant to ~~10 V.S.A. §§ 921, 922, 923, and 1263a~~ chapter 50 of Title 10;

(4) 10 percent to the agency of agriculture, food and markets for the purpose of mosquito control pursuant to 6 V.S.A. chapter 85.

(c) The surcharges collected under subsection 3305(b) and subdivisions 3305(c)(3)(A) and (B) of this title shall be credited to the special fund established under subdivision (b)(3) of this section for the purpose of an aquatic nuisance control grant program pursuant to ~~sections 921, 922, and 923~~ chapter 50 of Title 10.

Sec. 8. AGENCY OF NATURAL RESOURCES EDUCATIONAL MATERIALS

Educational materials prepared by the agency of natural resources after July 1, 2009 regarding water pollution, use of state waters, hunting, or fishing shall include information regarding the environmental harm caused by aquatic nuisance species and how the spread of such species may be controlled when boaters and other users of state waters follow specific steps to clean boats, trailers, and other equipment after use in state waters.

Sec. 9. DEPARTMENT OF TOURISM AND MARKETING

All brochures prepared by the department of tourism and marketing after July 1, 2009 that address or relate to the use of state surface waters shall include information regarding the environmental harm caused by aquatic nuisance species and how the spread of such species may be controlled when boaters and other users of state waters follow specific steps to clean boats, trailers, and other equipment after use in state waters.

Sec. 10. AGENCY OF NATURAL RESOURCES REPORT ON FINANCING OF AQUATIC NUISANCE CONTROL

On or before January 15, 2010, the agency of natural resources shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy regarding the funding of aquatic nuisance control activities in the state. The report shall include:

(1) A summary of the existing funding available for aquatic nuisance control activities in the state;

(2) A summary of the demand for aquatic nuisance control activities and the demand for funds to finance such activities;

(3) Recommended user fees, permit fees, or other financial mechanisms that could be utilized to fund the demand for aquatic nuisance control activities in the state.

Sec. 11. EFFECTIVE DATE

(a) This section and Secs. 8 (ANR materials), 9 (department of tourism and marketing materials), and 10 (ANR report on financing aquatic nuisance control) of this act shall take effect July 1, 2009.

(b) Secs. 1 (ANR aquatic nuisance control chapter), 2 (ANR enforcement), 3 (ANR appeals), 4 (repeal of existing aquatic nuisance control authority), 5 (agency of transportation aquatic nuisance educational materials), 6 (boating safety rules educational materials) and 7 (special fund for motor vehicle registration) of this act shall take effect July 1, 2010.

(Committee vote: 8-0-1)

H. 80

An act relating to the use of chloramine as a disinfectant in public water systems.

Rep. Webb of Shelburne, 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. FINDINGS

The general assembly finds and declares that the disinfection of public water supplies is acknowledged to be one of the most significant public health accomplishments of all time, and that:

(1) The Champlain water district is the first water system in Vermont to use the disinfectant known as chloramine;

(2) Before using chloramine, the Champlain water district was in compliance with the U.S. Environmental Protection Agency Stage 1 regulations for disinfectants and disinfectant byproducts in public water supplies, which are in effect until October 1, 2012;

(3) Since the Champlain water district began the use of chloramine as a disinfectant in April 2006, more than 80 people who use Champlain water district water have reported adverse human health effects, including rashes, respiratory problems, and digestive problems;

(4) It has been reported that people using water from the Champlain water district cannot filter out all the chemical byproducts;

(5) It has been reported that doctors lack sufficient studies to make diagnoses of the public health effect of chloramine in public water supplies;

(6) There have been no Vermont epidemiological studies on the dermal, respiratory, and digestive effects of human exposure to chloraminated drinking water;

(7) There is considerable controversy about whether the Champlain water district, the department of health and the department of environmental conservation have adequately responded to the public health concerns raised by the use of chloramine;

(8) The agency of natural resources and the department of health should work together to review the health and safety of the use of chloramine as a disinfectant and make efforts to enhance response to public health concerns raised by individuals alleging harm to health due to the use of chloramine as a disinfectant.

Sec. 2. 10 V.S.A. § 1675 is amended to read:

§ 1675. PERMITS; CONDITIONS; DURATION; SUSPENSION OF
REVOCATION

(a) Authority to issue, renew, or deny permit. The secretary may issue, renew, or deny a public water system permit required by this chapter. As part of this authority, the secretary may issue general operating permits for the operation of transient noncommunity water systems.

(b) Avoidance of public health hazard or risk. A public water system permit shall be issued or renewed only upon a finding by the secretary, included in the permit, that operation of the system will comply with the standards adopted under this chapter and will not constitute a public health hazard or a significant public health risk.

(1) In making this finding for the issuance of a permit for a new public water source, the secretary shall consider the probable effects of existing and likely future land use practices, including the effects of the uses of agricultural lands, that may affect the quantity or quality of the water associated with any proposed public water source, and whether such practices are likely to constitute a public health hazard relating to such source. The secretary shall not issue a permit for a new public water source if he or she determines that such existing or likely future land use practices are likely to constitute such a public health hazard.

(2) In making this finding for the issuance of a permit for ~~the addition of a new type of~~ change in type of disinfectant, the secretary shall, after consultation with the department of health, consider the likely effects on health from ~~the use of the new type of~~ a change in type of disinfectant. The secretary shall not issue a permit for a new or existing public water system if he or she

determines that ~~use of a new type of disinfectant~~ the change in the type of disinfectant used will result in a health effect that is likely to constitute a public health hazard. For the purposes of this section, a change in the type of disinfectant used by a public water system does not include increased or decreased dosage of a previously permitted disinfectant.

(c) Notice and hearing.

* * *

(2) The secretary shall give notice to the public of each application by a public community system for the ~~addition of a new type of~~ change in type of disinfectant to be used. Notice shall be by publication in a newspaper of general circulation for the area containing the ~~proposed~~ public water system and by ~~causing a notice to be~~ posted in the clerk's office for the municipality in which the system is located. The secretary shall also give notice to appropriate state agencies. The secretary shall provide an opportunity for written comment and shall, upon request, provide for a public hearing on the application before ruling on the application. The secretary may require the applicant to submit additional information which the secretary considers necessary in order to support the findings required in subsection (b) of this section, and may refuse to grant a permit until the information is furnished and evaluated. The secretary may also consult with the commissioner of health, as necessary, in making decisions regarding health issues raised by the application. The commissioner's response, if any, shall be part of the public record for the application.

* * *

Sec. 3. CHLORAMINE PUBLIC HEALTH IMPACT ~~TRIAL~~ REVIEW

(a) The secretary of natural resources, in consultation with the department of health and the Champlain water district, shall review the public health impact of the use of chloramine and shall continue to consult with the users of the Champlain water district whose health has allegedly been adversely impacted by the use of chloramine as a disinfectant chemical in the water supply of the Champlain water district.

(b) On or before January 15, 2010, the secretary of natural resources shall report to the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, the house committee on human services, and the senate committee on health and welfare with the information generated or collected under the requirements of subsection (a) of this section. The report shall also include a summary of the U.S. Environmental Protection Agency's literature survey of the health impact of chloramine as a disinfectant.

(Committee vote: 8-0-1)

H. 94

An act relating to the collection and recycling of mercury-added lamps.

Rep. Fagan of Rutland City, 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. § 7115 is amended to read:

§ 7115. RULEMAKING

(a) The secretary of the agency of natural resources is authorized to adopt rules necessary to implement this chapter.

(b) The secretary of natural resources may adopt rules or procedures to establish mercury content standards for lamps. If the secretary adopts standards governing mercury content, the standards shall rely upon content standards established in California. If one or more categories of lamps are not covered by the California mercury content standards, the secretary may adopt standards minimizing the mercury content of lamps within such categories, including adoption of a no-mercury standard when non-mercury alternatives are available at comparable cost. Before adopting or amending any standards under this subsection the secretary shall consider mercury reduction controls in other states.

Sec. 2. 10 V.S.A. § 7113(b) is amended to read:

(b) The advisory committee shall be terminated on January 1, ~~2010~~ 2015, unless extended by the general assembly.

(Committee vote: 8-0-1)

H. 147

An act relating to the operation of a motor vehicle by junior operators and primary safety belt enforcement

Rep. Grad of Moretown, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SHORT TITLE

This act shall be known as and may be cited as the “Highway Traffic Safety Act of 2009.”

* * * Legislative Findings * * *

Sec. 2. LEGISLATIVE FINDINGS

The general assembly finds that:

*** General Findings ***

(1) In December 2006, the governor transmitted to the Division Administrator of the Federal Highway Administration the Strategic Highway Plan for Vermont that stated “The first half of 2006 was trending toward a near record-breaking year for highway deaths and incapacitating injuries.” In response to this trend, the Strategic Highway Safety Plan for Vermont was created with the mission to “minimize the occurrence and severity of crashes, related human suffering, and economic losses on the Vermont transportation network.”

(2) According to the governor’s highway safety office, traffic crashes cost the nation about \$230 billion each year in medical expenses, lost productivity, property damage, and related costs. Vermont pays \$221 million of those costs. In 2008, workplace traffic crash injuries cost Vermonters more than \$39 million.

(3) According to the governor’s highway safety program, each highway fatality cost the state of Vermont more than \$900,000.00.

(4) In recognition of the terrible toll in terms of human suffering and financial loss resulting from motor vehicle crashes, on July 6, 2006, the Vermont department of health’s injury prevention program hosted the 2006 Symposium on Preventing Crashes Among Young Drivers at the Inn at Essex, Vermont. The symposium brought together key leaders in highway safety, transportation, public health, and youth development for an in-depth multidisciplinary exploration of the causes of crashes among young drivers and opportunities for prevention.

*** Teen Driving Safety ***

(1) The Strategic Highway Safety Plan for Vermont of 2006, signed by the governor and endorsed by state agencies, stated that “new language” should be added to the existing graduated driver license legislation to achieve:

(A) Restrictions on passengers in cars driven by young drivers.

(B) Nighttime limitations for young drivers.

(C) Primary safety belt enforcement to the age of 18.

(D) No cell phone or electronic device use by junior operators.

(2) From a public health perspective, “motor vehicle crashes are among the most serious problems facing teenagers.” (Anatomy of Crashes Involving Young Drivers-Preventing Teen Motor Crashes.) According to the Centers for Disease Control, highway injuries and deaths constitute the largest reason for

youth injuries and deaths, and therefore constitute a public health risk warranting remedial action.

(3) According to the above sources, the 2002 cost of crashes involving drivers ages 20 through 25 was \$40.8 billion (National Center for Injury Prevention and Control, 2006).

(4) According to the Vermont Safety Education Center (VSEC), junior operator passenger restrictions are essential components of graduated licensing. Crash risks for teenage drivers increases incrementally with one, two, three or more passengers. With three or more passengers, fatal crash risk is about three times higher than when a beginner is driving alone.

(5) According to VSEC, the presence of passengers is a major contributor to the teenage death toll. About two-thirds of all crash deaths of teens that involve 16-year-old drivers occur when the beginners were driving with teen passengers. Studies indicate that passenger restrictions can reduce this problem.

(6) According to VSEC, four out of every 10 deaths of teens in motor vehicles occur between 9 p.m. and 6 a.m. Nighttime is one of the riskiest times of day for junior operators due to DUI, darkness, and sleep deprivation in teens. Midnight to 2 a.m. is the most dangerous nighttime period.

* * * Cell Phones and Electronic Devices * * *

(1) The National Highway Traffic Safety Administration policy on cell phones states, "The primary responsibility of the driver is to operate a motor vehicle safely. The task of driving requires full attention and focus. Cell phone use can distract drivers from this task, risking harm to themselves and others. Therefore, the safest course of action is to refrain from using a cell phone while driving."

(2) Teens, driving, and cell phones are a dangerous mix due to teens' vulnerability to distractions and accidents ("Most Wanted Transportation Safety Improvements," National Transportation Safety Board, November 2008).

(3) In 2008, the National Safety Council called for a ban on cell phones while driving, stating that "drivers talking on a cell phone are four times as likely to have an accident as drivers who are not."

* * * Safety Belts * * *

(1) States with primary enforcement average 10-percent higher usage than states with secondary enforcement.

(2) A crash involving an unrestrained person costs 55 percent more than for someone who was restrained.

(3) Approximately 74 percent of the costs associated with crashes are paid for by society; the victim pays the balance.

(4) Drivers who do not wear safety belts are also most likely to engage in risky behavior such as speeding or drinking and driving.

(5) Traffic crashes are not just an enforcement issue.

* * * Junior Operator Nighttime Restriction * * *

Sec. 3. 23 V.S.A. § 614(c) and (d) are added to read:

(c) A person operating with a junior operator's license shall not operate a motor vehicle between 1:00 a.m. and 5:00 a.m., except when carrying the signed and dated written permission of a parent or guardian that contains the parent's or guardian's contact information, including a home and work address and telephone numbers, or except when:

(1) traveling on a direct route between work and home;

(2) traveling for a school-related activity; or

(3) going to or returning from hunting or fishing, provided the operator has in his or her possession hunting or fishing equipment and a valid hunting or fishing license.

(d) A person in violation of subsection (c) of this section shall be allowed to drive his or her vehicle on a direct route home, following issuance of a traffic ticket by a law enforcement officer.

* * * Safety Restriction on the Use of Wireless Telephones and Handheld Electronic Devices by Junior Operators * * *

Sec. 4. 23 V.S.A. § 1095a is added to read:

§ 1095a. WIRELESS TELEPHONE USE; HANDHELD ELECTRONIC DEVICES; LEARNERS AND JUNIOR OPERATORS

A person operating a motor vehicle with a learner's permit under the provisions of section 617 of this title or with a junior operator's license under the provisions of section 607 of this title shall not use any wireless telephone or handheld electronic device while operating on the traveled portion of the highway. This prohibition shall not apply if it is necessary to place an emergency 911 call.

* * * Use of Wireless Telephones and other Electronic Devices by a Person Operating a Vehicle with an Operator's License * * *

Sec. 5. 23 V.S.A. § 1095b is added to read:

§ 1095b. USE OF HANDS-FREE WIRELESS TELEPHONES AND ELECTRONIC DEVICES BY A PERSON WITH AN OPERATOR'S LICENSE

(a) A person operating a motor vehicle with a valid operator's license shall be restricted to using only a hands-free wireless telephone or hands-free electronic communication device while operating on the traveled portion of the highway. This prohibition shall not apply if it is necessary to place an emergency 911 call.

(b) As used in this section, "hands-free" means a mobile telephone or electronic communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of the mobile telephone or electronic communication device, by which a user engages in a conversation without the use of either hand; provided, however, this definition shall not preclude the use of either hand to activate, deactivate, or initiate a function of the telephone or device.

* * * Primary Enforcement of Safety Belt Law; Federal Funds * * *

Sec. 6. REPEAL; PRIMARY ENFORCEMENT OF SAFETY BELT LAW;
ACCEPTANCE OF FEDERAL FUNDS

(a) 23 V.S.A. § 1259(e) (secondary enforcement of safety belt law) is repealed.

(b) The state is authorized to accept any additional funding available from the federal government attributable to the passage of this section.

* * * Operation by a Junior Operator After Recall is a Civil Violation * * *

Sec. 7. 23 V.S.A. § 676 is amended to read:

§ 676. OPERATION AFTER SUSPENSION, REVOCATION, ~~OR~~ REFUSAL, OR RECALL - CIVIL VIOLATION

(a) A person whose license or privilege to operate a motor vehicle has been revoked, suspended ~~or~~, refused, or recalled by the commissioner of motor vehicles for any reason other than a violation of sections 1091(b), 1094(b), 1128(b) or (c), or 1201 or a suspension under section 1205 of this title and who operates or attempts to operate a motor vehicle upon a public highway before the license or privilege of the person to operate a motor vehicle has been reinstated by the commissioner commits a civil traffic violation.

(b) In establishing a prima facie case against a person accused of violating this section, the judicial bureau shall accept as evidence, a printout attested to

by the law enforcement officer as the person's motor vehicle record showing convictions and resulting license suspensions. The admitted motor vehicle record shall establish a permissive inference that the person was under suspension or had his or her license revoked or recalled on the dates and time periods set forth in the record. The judicial bureau shall not require a certified copy of the person's motor vehicle record from the department of motor vehicles to establish the permissive inference.

Sec. 8. EFFECTIVE DATE

This act shall take effect from passage.

(Committee vote: 8-1-2)

H. 205

An act relating to the Vermont criminal justice training council.

Rep. Townsend of Randolph, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 2362 is amended to read:

§ 2362. REPORTS

(a) Within five working days:

(1) Town, village, and city clerks shall ~~report to~~ notify the council, within five working days, any issuance, termination, revocation or alteration in the terms of appointment of any law enforcement officer or on a form provided by the council, of the election or, appointment to fill a vacancy under section 963 of Title 24, expiration of term, or reelection of any constable.

(2) The legislative body of a municipality or its designee shall notify the council of the appointment or removal of a constable or police chief.

(3) A police chief appointed under section 1931 of Title 24 shall notify the council of the appointment or removal of a police officer under the police chief's direction and control.

(4) The appointing authority of a state agency employing law enforcement officers shall notify the council of the appointment or removal of a law enforcement officer employed by that agency.

(5) A sheriff shall notify the council of the appointment or removal of a deputy or other law enforcement officer employed by that sheriff's department.

(b) ~~The report~~ Notification required by this section shall ~~contain~~ include the name of the ~~officer or~~ constable, police chief, police officer, deputy, or other

law enforcement officer, the date of appointment or ~~election~~ removal, if a constable, and the term of office or length of appointment, if any.

Sec. 2. 24 V.S.A. § 1931(c) is added to read:

(c) The legislative body or town manager shall report the creation of a new police department or the elimination of an existing police department to the Vermont criminal justice training council within five working days of the creation or elimination. The report shall include the effective date of creation or elimination, the mailing address for the police department, and the name of the appointed police chief.

Sec. 3. VERMONT CRIMINAL JUSTICE TRAINING COUNCIL;
NOTIFICATION

On or before August 1, 2009, the Vermont criminal justice training council shall notify all municipal clerks, municipal legislative bodies, sheriffs, and commissioners of state agencies employing law enforcement officers of the requirements set forth in this act.

(Committee vote: 10-0-1)

Favorable

H. 186

An act relating to authorizing the department of fish and wildlife to administer polygraph examination to applicants for law enforcement positions.

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

(Committee Vote: 10-0-1)

NOTICE CALENDAR

Committee Bills for Second Reading

H. 434

An act relating to agency of agriculture, food and markets revenues.

(Rep. Partridge of Windham will speak for the Committee on **Agriculture.**)

H. 435

An act relating to palliative care.

(Rep. Frank of Underhill will speak for the Committee on **Human Services.**)

H. 436

An act relating to decommissioning and decommissioning funds of nuclear energy generation plants.

(Rep. Klein of East Montpelier will speak for the Committee on **Natural Resources and Energy.**)

Favorable

H. 213

An act relating to provide fairness to tenants in cases of contested housing security deposit withholding.

Rep. Stevens of Waterbury, for the Committee on **General, Housing and Military Affairs**, recommends the bill ought to pass.

(Committee Vote: 8-0-0)