

House Calendar

WEDNESDAY, APRIL 22, 2009

106th DAY OF BIENNIAL SESSION

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ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 446

An act relating to renewable energy and energy efficiency.

Amendment to be offered by Rep. Helm of Castleton to H. 446

Moves the bill be amended as follows:

First: In Sec. 8, 30 V.S.A. § 2840, in the catch line, by inserting “AND WATERS” after “LANDS”

Second: In Sec. 8, 30 V.S.A. § 2840(a), by inserting “and waters” after each occurrence of “lands”

Third: In Sec. 8, 30 V.S.A. § 2840(b), by inserting “or waters” after the second and third occurrences of “lands”

Fourth: In Sec. 8, 30 V.S.A. § 2840(c) and (d), by inserting “or waters” after each occurrence of “lands”

S. 26

An act relating to recovery of profits from crime.

NOTICE CALENDAR

Favorable with Amendment

S. 7

An act to prohibit the use of lighted tobacco products in the workplace.

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

Sec. 1. 18 V.S.A. § 1421 is amended to read:

§ 1421. ~~DEFINITIONS~~ SMOKING IN THE WORKPLACE; PROHIBITION

~~As used in this subchapter:~~

(1) ~~“Smoking area” means an area that nonsmoking employees are not required to visit on a regular basis where smoking is permitted pursuant to a~~

~~policy established under this subchapter. Up to 30 percent of employee cafeteria and lounge areas may be designated as a smoking area.~~

~~(2) “Workplace”~~ (a) The use of lighted tobacco products is prohibited in any workplace.

(b)(1) For the purposes of this subchapter, “workplace” means an enclosed structure where employees perform services for an employer or, in the case of an employer who assigns employees to departments, divisions, or similar organizational units, the enclosed portion of a structure where the unit to which the employee is assigned is located.

(2) Except for schools, workplace does not include areas commonly open to the public nor or any portion of a structure which that also serves as the employee’s or employer’s personal residence.

(3) For schools, workplace shall include includes any enclosed location at which where instruction or other school-sponsored functions are occurring and students are present.

(c) Nothing in this section shall be construed to restrict the ability of residents of the Vermont veterans’ home to use lighted tobacco products in the indoor area of the facility in which smoking is permitted until June 30, 2014. Beginning July 1, 2014, the use of lighted tobacco products shall be prohibited in all indoor areas of the Vermont veterans’ home.

Sec. 2. 18 V.S.A. § 1426 is amended to read:

§ 1426. ENFORCEMENT

(a) An employee aggrieved by an employer’s failure to comply with the provisions of this subchapter may file a complaint with the department of health.

~~(b) If the complaint is based on an employer’s alleged failure to establish a smoking policy or post the policy and summary as required under section 1424 of this title, the department shall not initiate an action under this section until it has given the employer written notice of the alleged violation and ten days to come into voluntary compliance with the provisions of this subchapter.~~

~~(c) The commissioner of health or a hearing officer designated by the commissioner may, after notice and an opportunity for hearing, impose an administrative penalty of \$100.00 against an employer who violates a provision of this chapter. The hearing before the commissioner shall be a contested case subject to the provisions of chapter 25 of Title 3 (Administrative Procedure Act).~~

Sec. 3. 18 V.S.A. § 1743 is amended to read:

§ 1743. EXCEPTIONS

The restrictions in this chapter on possession of lighted tobacco products ~~shall do~~ not apply to:

~~(1) Workplace smoking areas designated under subchapter 2 of chapter 28 of this title.~~

~~(2) Areas~~ areas not commonly open to the public of owner-operated businesses with no employees.

Sec. 4. REPEAL

18 V.S.A. §§ 1422, 1423, 1424, and 1425 (relating to employer smoking policies) are repealed.

(Committee vote: 5-3-3)

(For text see Senate Journal January 30, 2009, P. 108; March 17, 2009 P. 291; March 20, 2009, P. 319)

S. 27

An act relating to tastings and sale of wines, fortified wines and spirits.

Rep. Baker of West Rutland, for the Committee on **General, Housing and Military Affairs**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 2(15), (16), (27), and (28) are amended to read:

(15) "Manufacturer's or rectifier's license": a license granted by the liquor control board that permits the holder to manufacture or rectify, as the case may be, malt beverages and vinous beverages for export and for sale to bottlers or wholesale dealers, or spirituous liquors for export and for sale to the liquor control board, upon application of a manufacturer or rectifier and the payment to the liquor control board of the license fee as required by subdivision 231(1) of this title for either license. The liquor control board may grant to a licensed manufacturer or rectifier a first class restaurant or cabaret license or first and third class restaurant or cabaret license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer's premises. A manufacturer of malt beverages who also holds a first class restaurant or cabaret license may serve to a customer malt beverages by the glass, not to exceed eight glasses at one time and not to exceed four ounces in each glass. The liquor control board may grant to a licensed manufacturer or a rectifier of malt or vinous beverages a second class license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer's or rectifier's premises. A licensed manufacturer or rectifier of vinous beverages

may serve, with or without charge, at an event held on premises of the licensee or the vineyard property, vinous and malt beverages, provided the licensee gives the department written notice of the event, including details required by the department, at least 15 days before the event. Any beverages not manufactured by the licensee and served at the event shall be purchased on invoice from a licensed manufacturer or wholesale dealer. Upon application and payment of the license fee as required by subdivision 231(11) of this title, the liquor control board may grant to a licensed manufacturer or rectifier of vinous beverages fourth class or farmers' market licenses permitting the licensee to sell ~~these~~ fortified wines and vinous beverages by the bottle to the public at the licensed premises or at a farmers' market, provided that the beverages were produced by the manufacturer or rectifier. No more than a combined total of ten fourth class and farmers' market licenses may be granted to any licensed manufacturer or rectifier. An application for a farmers' market license shall include copies of the farmers' market regulations, the agreement between the farmers' market and the applicant, and the location and dates of operation of the farmers' market. A farmers' market license shall be valid for all dates of operation for a specific farmers' market location. However, in no case may a person with an interest in more than one manufacturer's or rectifier's license have an interest in more than four fourth class licenses. The manufacturer or rectifier shall pay directly to the commissioner of taxes the sum of \$0.265 cents per gallon for every gallon of malt beverage and the sum of \$0.55 cents per gallon for each gallon of vinous beverage manufactured by the manufacturer or rectifier and provided for sale pursuant to the first class license or the second class license or the fourth class license or combination thereof held by the manufacturer or rectifier. Holders of a manufacturer's or rectifier's second class license for malt beverages may distribute, with or without charge, malt beverages by the glass, not to exceed two ounces per product and eight ounces in total, to all persons of legal drinking age. The malt beverages must be consumed upon the premises of the holder of the license. At the request of a person holding a first class or second class license, a holder of a manufacturer's or rectifier's license for malt beverages may distribute without charge to the management and staff of the license holder, provided they are of legal drinking age, no more than four ounces per person of a malt beverage for the purpose of promoting the beverage. Written notice shall be provided to the department of liquor control at least 10 days prior to the date of the tasting. A licensed manufacturer or rectifier of spirits may do either or both of the following only on the manufacturer's or rectifier's premises:

(A) Sell by the glass or bottle to the public spirits manufactured by the licensee.

(B) Dispense by the glass, with or without charge, spirits manufactured by the licensee, provided that no more than one-quarter ounce per product and no more than one ounce in total is dispensed to each individual of legal age.

(16) “Person,” as applied to licensees: , means individuals who are both citizens and residents of the state of the United States, partnerships composed solely of individuals, a majority of whom are both citizens and residents of the state United States, and to corporations organized under the laws of this or another state whereof in which a majority of the directors are both citizens of the United States and residents of this state, or to corporations subject to the jurisdiction of the public service board, and to limited liability companies organized under the laws of this or another state in which a majority of the members or managers are both citizens of the United States and residents of this state.

(27) “Special events permit”: a permit granted by the liquor control board permitting a person holding a manufacturer’s or rectifier’s license to attend an event open to the public, which has been approved by the local licensing authority, to sell by the glass or by unopened bottle ~~the spirits, malt,~~ or vinous ~~beverage~~ beverages manufactured or rectified by the license holder. The permit holder may distribute, with or without charge, beverages manufactured by the permit holder, provided that the permit holder distributes no more than two ounces per product and eight ounces total of malt or vinous beverages and no more than one ounce in total of spirits to individuals of legal age. No more than 12 special events’ permits shall be issued to a holder of a manufacturer’s or rectifier’s license during a year. The fee for the permit is as required by subdivision 231(13) of this title, and shall be paid to the department of liquor control. Requests for a special events’ permit shall be submitted to the department of liquor control and received by the department at least 15 days prior to the date of the event. Each manufacturer or rectifier planning to attend a single special event under this permit may be listed on a single permit. However, each attendance at a special event shall count toward the manufacturer’s or rectifier’s 12 special-event-permit limitation.

(28) “Fourth class license”: the license granted by the liquor control board permitting a manufacturer or rectifier of vinous beverages to sell fortified wines manufactured by the licensed manufacturer or rectifier and vinous beverages by the bottle and distribute, with or without charge, vinous those beverages by the glass as hereinbefore defined.

Sec. 2. 7 V.S.A. § 223 is amended to read:

§ 223. ~~FIRST AND SECOND CLASS LICENSES; RESIDENCE REQUIREMENTS; LICENSES TO ENFORCEMENT OFFICER OR CONTROL BOARD MEMBER; EXCEPTIONS~~

~~(a) No first or second class license for the sale of malt or vinous beverages shall be granted to an individual, unless the individual is, at the time of application, a legal resident of the town or city in which the application is made. No first or second class license shall be granted to a partnership unless one or more of its general partners is a legal resident of the town or city in which the application is made and a majority of the partners are both legal residents of Vermont and U.S. citizens. No license of any class shall be granted to any enforcement officer or to any person or corporation acting in his or her the officer's behalf. A member of a local control board to whom or in behalf of whom a first or second class license was issued by that board shall not participate in any control board action regarding any first or second class license. If a majority of the members of a local control board is unable to participate in a control board action regarding any first or second class license, that action shall be referred to the state liquor control board for investigation and action. An application for a first or second class license by or in behalf of a member of the local control board or a complaint or disciplinary action regarding a first or second class license issued by a board on which any member is a licensee shall be referred to the state liquor control board for investigation and action. The provisions of this section, however, shall not apply where application is made by a citizen and legal resident of a town or city in Vermont for a license to sell malt or vinous beverages in a town or city wherein he or she is not a legal resident, provided such applicant owns improved real estate or personal property other than stock of goods for sale in the town wherein such license is to be issued upon which he or she pays taxes appraised by the listers at not less than \$2,500.00 on real estate or \$1,000.00 on personal property. The provisions of this title shall not apply to an individual who applies for a license to be used at the site of flood control projects or national guard encampments whose application is approved by the commanding officer thereof.~~

~~(b) A second class license may be granted, however, where an application is made by a citizen and legal resident of any town or city in the state and who has openly conducted a place of business in such town or city in which the application is made for one year next prior to the making of the application, or who has purchased a going business which has been conducted openly in such town or city for a period of one year next prior to the making of the application, and who is a legal resident of the town or city in which he resides~~

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 7-0-1)

Rep. Zuckerman of Burlington, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **General, Housing and Military Affairs**.

(Committee Vote: 8-0-3)

(For text see Senate Journal March 17, 2009 – P. 299; 303)

S. 94

An act relating to licensing state forestland for maple sugar production.

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

Sec. 1. 10 V.S.A. § 2606b is added to read:

§ 2606b. LICENSE OF FORESTLANDS FOR MAPLE SUGAR PRODUCTION

(a) The general assembly finds and declares that:

(1) Maple sugaring is an important cultural tradition of Vermont life that should be maintained and encouraged.

(2) Maple sugaring is an important component of the agricultural and forest products economy in Vermont and is increasingly necessary for farmers that must diversify in order to continue to farm in Vermont.

(3) Maple sugaring is a sustainable use of forestland.

(4) State forestland should be managed and used for multiple uses including maple sugar production.

(5) It is hereby adopted as state policy to permit limited use of designated state-owned land under the jurisdiction of the department for maple sugar production.

(b) Beginning on July 1, 2009, pursuant to guidelines developed jointly by the department of forests, parks and recreation and the Vermont maple sugar makers' association, the department shall issue licenses for the use of state forestland for the tapping of maple trees, the collection of maple sap, and the right to transport such sap to a processing site located off state forest land or to sites located on state forest land if approved by the commissioner. All tapping of maple trees authorized under a license shall be conducted according to the guidelines for tapping maple trees agreed to by the department and the

Vermont maple sugar makers' association. Each person awarded a license under this section shall maintain and repair any road, water crossing, or work area according to requirements set by the department in the license. Each license shall include such additional terms and conditions set by the department as may be necessary to preserve forest health and to assure compliance with the requirements of this chapter and applicable rules. A license shall be issued for a fixed term not to exceed five years and shall be renewable for two five-year terms subsequent to the initial license. Subsequent renewals shall be allowed where agreed upon by the department and the licensee. The department shall have power to terminate or modify a license for cause, including damage to forest health.

(c) The commissioner may adopt rules to implement the requirements of this section.

(d) There is hereby established a maple advisory board to provide the commissioner of forests, parks and recreation with guidance on licensing of state forest land for maple sugar production, including identification of potential sites on state lands for licensure. The board shall be composed of:

(1) Three employees of the department of forests, parks and recreation, appointed by the commissioner.

(2) Three members of the maple sugar makers association designated by the association.

(3) One member of either the University of Vermont Proctor maple research center or the University of Vermont agricultural extension service, appointed by the commissioner.

(e) There shall be an annual license fee imposed based on the number of taps installed in the license area. The per tap fee for a license issued under this section shall be one-quarter of the average of the per pound price of Vermont fancy grade syrup and the per pound price of Vermont commercial grade syrup as those prices are set on May 1 of each year. The fee set each May 1 shall apply to licenses issued by the department for the succeeding period beginning June 1 and ending May 31. Fees collected under this section shall be deposited in the forest parks revolving fund established under 10 V.S.A. § 2609 and shall be used by the department to implement the license program established by this section.

(Committee vote: 9-0-2)

(For text see Senate Journal April 7, 2009, P. 654 - 655)

Senate Proposal of Amendment

H. 287

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

The Senate proposes to the House to amend the bill in Sec. 2, by striking out 14 V.S.A. § 3419 in its entirety and inserting in lieu thereof the following:

§ 3419. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103 of that act, 15 U.S.C. Section 7003.

(For text see House Journal March 24, 2009 – P. 442)