

# Senate Calendar

THURSDAY, MAY 7, 2009

121st DAY OF BIENNIAL SESSION

**SENATE CONVENES AT: 10:00 A.M.**

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**ACTION CALENDAR**

**UNFINISHED BUSINESS OF WEDNESDAY, MARCH 25, 2009**

**Third Reading**

**S. 99**

An act relating to amending the Act 250 criteria relating to traffic, scattered development, and rural growth areas.

**UNFINISHED BUSINESS OF THURSDAY, APRIL 30, 2009**

**J.R.H. 15**

Joint resolution relating to the designation of commemorative observances in concurrent resolutions.

**Pending Question:** Shall the resolution be read the third time?

**NEW BUSINESS**

**Second Reading**

**Favorable**

**H. 222**

An act relating to senior protection and financial services.

**Reported favorably by Senator Hartwell for the Committee on Finance.**

(Committee vote: 6-0-1)

(For House amendments, see House Journal of May 1, 2009, page 1349)

**House Proposal of Amendment**

**S. 51**

An act relating to Vermont's motor vehicle franchise laws.

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

First: In Sec. 1, § 4085(6), by inserting the word "new" before the words "motor vehicle dealer" wherever they appear

Second: In Sec. 1, 9 V.S.A. § 4085, by adding a subdivision (17) to read:

(17) "Motor home" means a motor vehicle that is primarily designed to provide temporary living quarters, built into as an integral part of, or

permanently attached to, a self-propelled motor vehicle chassis or van. The vehicle must contain at least four of the following facilities: cooking, refrigeration or ice box, self-contained toilet, heating or air conditioning or both, a potable water supply system, including a sink and faucet, separate 110-125 volt electrical power supply or an LP gas supply or both.

Third: In Sec. 1, § 4089(e)(3), by substituting the words “line-make” for the words “make, line, or brand” wherever they appear, and by substituting the words “line-make of new motor vehicle” for “line of new motor vehicle”

Fourth: In Sec. 1, 9 V.S.A. § 4090(a)(4), by inserting the word “days” between “180” and “prior to”

Fifth: in Sec. 1, § 4091(a), by inserting the words “or section 4090(a)(4)” between the words “section 4089” and the words “of this title”

Sixth: In Sec. 1, 9 V.S.A. § 4091(a)(4), after the words 500 miles or less on the odometer by adding the following: “, or in the case of a motor home if the vehicle’s odometer has no more than 1,000 miles above the original factory to dealership delivery mileage,”

Seventh: In Sec. 1, § 4091(c), by inserting the word “new” before the words “motor vehicle dealer”

Eighth: In Sec. 1, 9 V.S.A. § 4091, by inserting a subdivision (e) to read:

(e) This section shall not apply to a nonrenewal or termination that is implemented as a result of the sale of the assets or stock of the motor vehicle dealer, unless the franchisor and franchisee otherwise agree in writing.

Ninth: In Sec. 1, § 4096(6), by inserting the word “new” before the words “motor vehicle dealer” wherever they appear

Tenth: In Sec. 1, 9 V.S.A. § 4096, by striking the existing subdivision (8) and inserting in lieu thereof a new (8) and a (9) to read:

(8) to change the location of the dealership or to make any substantial alterations to the dealership premises or facilities when to do so would be unreasonable;

(9) to change the location of the dealership or to make any substantial alterations to the dealership premises or facilities in the absence of written assurance from the manufacturer or distributor of a sufficient supply of new motor vehicles to justify the change in location or the alterations

Eleventh: In Sec. 1, § 4097(13), by inserting the words “new motor vehicle” before the word “dealer” and before the word “dealers”

Twelfth: In Sec. 1, 9 V.S.A. § 4097, by striking the existing subdivision (17) and inserting in lieu thereof a new (17) to read:

(17) to fail or refuse to sell or offer to sell to all motor vehicle franchisees of a line-make, all models manufactured for that line-make, or to require a motor vehicle franchisee to do any of the following as a prerequisite to receiving a model or series of vehicles: requiring the dealer to pay any extra fee; requiring a dealer to execute a separate franchise agreement, purchase unreasonable advertising displays or other materials, or relocate, expand, improve, remodel, renovate, recondition, or alter the dealer's existing facilities; or requiring the dealer to provide exclusive facilities. However, a manufacturer may require reasonable improvements to the existing facility that are necessary to accommodate special or unique features of a specific model or line. The failure to deliver any such motor vehicle, however, shall not be considered a violation of this section if the failure is due to a lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo, or other cause over which the franchisor has no control. This subdivision shall not apply to a manufacturer of a motor home;

Thirteenth: In Sec. 1, § 4097(18), by inserting the word "new" before the words "motor vehicle dealer" wherever they appear

Fourteenth: In Sec. 1, 9 V.S.A. § 4097, by striking the existing subdivision (21) and inserting in lieu thereof a new (21) to read:

(21)(A) to vary the price charged to any of its franchised new motor vehicle dealers located in this state for new motor vehicles based on:

(i) the dealer's purchase of new facilities, supplies, tools, equipment, or other merchandise from the manufacturer;

(ii) the dealer's relocation, remodeling, repair, or renovation of existing dealerships or construction of a new facility;

(iii) the dealer's participation in training programs sponsored, endorsed, or recommended by the manufacturer;

(iv) whether or not the dealer offers for sale more than one line-make of new motor vehicle in the same dealership facility;

(v) the dealer's sales penetration, sales volume, or level of sales or customer service satisfaction;

(vi) the dealer's purchase of advertising materials, signage, nondiagnostic computer hardware or software, communications devices, or furnishings; or

(vii) the dealer's participation in used motor vehicle inspection or certification programs sponsored or endorsed by the manufacturer.

(B) The price of the vehicle, for purposes of this subdivision (21), shall include the manufacturer's use of rebates, credits, or other consideration that has the effect of causing a variance in the price of new motor vehicles offered to its franchised dealers located in the state;

Fifteenth: In Sec. 1, § 4097(22), by substituting the words "new motor vehicle dealer" for the words "new vehicle dealer" wherever they appear

Sixteenth: In Sec. 1, 9 V.S.A. § 4100, by inserting the word "new" before the words "motor vehicle"

Seventeenth: In Sec. 1, 9 V.S.A. § 4100a, by inserting the word "new" before the words "motor vehicle" wherever they appear

Eighteenth: In Sec. 1, § 4100e, by inserting the word "new" before the words "motor vehicle dealer" wherever they appear, and by substituting the words "new motor vehicle dealer" for the words "new vehicle dealer"

Nineteenth: In Sec. 2, § 3(2), by inserting the word "new" before the words "motor vehicle dealer" wherever they appear

Twentieth: By striking Sec. 1a in its entirety

Twenty-first: In Sec. 1, by striking § 4100c in its entirety and inserting in lieu thereof a new § 4100c to read:

§ 4100c. FINANCING; VERMONT TRANSPORTATION BOARD

(a) On July 1, 2009, and every year thereafter, there is imposed an annual fee upon each new motor vehicle dealer of \$60.00 for each dealer license held by that dealer, and there is imposed upon each manufacturer an annual fee of \$600.00 for each line-make of new motor vehicle that the manufacturer sells or distributes within this state.

(b) Upon the filing of a protest under this chapter, the protesting party shall pay to the board a filing fee of \$1,500.00.

(c) The transportation board shall administer the fees imposed under this section, and the fees shall be deposited into the transportation fund.

(d) The amount of the fee imposed by this section is intended to correlate to the amount of funding required by the transportation board to administer its duties under 9 V.S.A. chapter 108.

Twenty-second: In Sec. 3(d), by adding a subdivision (12) at the end thereof, to read:

(12) maintain the accounting functions for the duties imposed by 9 V.S.A. chapter 108 separately from the accounting functions relating to its other duties.

Twenty-third: In Sec. 3(d), by adding a subdivision (12) at the end thereof, to read:

(12) maintain the accounting functions for the duties imposed by 9 V.S.A. chapter 108 separately from the accounting functions relating to its other duties.

Twenty-fourth: By adding new Secs. 4, 5 and 6 to read:

Sec. 4. ALLOCATION TO TRANSPORTATION BOARD FOR DUTIES UNDER 9 V.S.A. CHAPTER 108

The sum of \$50,000.00 is appropriated from the transportation fund to the transportation board for the purpose of implementing the provisions of 9 V.S.A. chapter 108.

Sec. 5. REPORT

By January 15, 2011, the transportation board shall report to the house and senate committees on transportation regarding the cost of administering the provisions of 9 V.S.A. chapter 108, and based on that cost shall make recommendations regarding the amount of the fees imposed under 9 V.S.A. § 4100c. After the initial report is presented by January 15, 2011, the transportation board shall ensure that the ongoing cost of administering 9 V.S.A. chapter 108 and associated fee recommendations are presented to the house and senate committees on transportation under the customary periodic motor vehicle fee review.

Sec. 6. TRANSPORTATION BOARD; ANNUAL BUDGET FOR DUTIES UNDER 9 V.S.A. CHAPTER 108

Each year, the transportation board shall request a line item appropriation for its duties under 9 V.S.A. chapter 108 separate and apart from its budget for its other functions. This request shall be based upon its expenditures for those duties in the prior fiscal year.

### **House Proposal of Amendment**

#### **S. 67**

An act relating to motor vehicles.

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

First: By inserting a Sec. 14 to read:

Sec. 14. 23 V.S.A. § 618a is added to read:

§ 618a. ANATOMICAL GIFT ACT; DONOR; FORM

The commissioner shall provide a form which, upon the licensee's execution, shall serve as a document of an anatomical gift under chapter 109 of Title 18. An indicator shall be placed on the license of any person who has executed an anatomical gift form in accordance with this section.

Second: By inserting a Sec. 15 to read:

Sec. 15. 23 V.S.A. § 4111(a) is amended to read:

(a) Contents of license. A commercial ~~driver~~ driver's license shall be marked "commercial driver license" or "CDL," and shall be, to the maximum extend practicable, tamper proof, and shall include, but not be limited to the following information:

\* \* \*

(11) An indicator that a licensee has executed a document that serves as an anatomical gift pursuant to section 618a of this title.

**Joint Resolution for Action**

**J.R.H. 27**

Joint house resolution urging Congress to enact H.R. 676, the National Health Insurance Act (or the Expanded and Improved Medicare for All Act).

(For text of Resolution, see Senate Journal of May 6, 2009, page 1650)

**NOTICE CALENDAR**

**Favorable**

**H. 75**

An act relating to interim budget and appropriation adjustments.

**Reported favorably by Senator Bartlett for the Committee on Appropriations.**

(Committee vote: 4-0-3)

(For House amendments, see House Journal of April 29, 2009, page 1292; April 30, 2009, page 1307.)

**H. 443**

An act relating to approval of amendments to the charter of the city of South Burlington.

**Reported favorably by Senator Flanagan for the Committee on Government Operations.**

(Committee vote: 3-0-2)

(No House amendments)

**H. 452**

An act relating to approval of amendments to the charter of the village of Essex Junction.

**Reported favorably by Senator Flanagan for the Committee on Government Operations.**

(Committee vote: 3-0-2)

(No House amendments)

**J.R.H. 11**

Joint resolution urging Vermonters and public and private organizations in the state to institute a voluntary 20 percent reduction in energy use.

**Reported favorably by Senator Hartwell for the Committee on Natural Resources and Energy.**

(Committee vote: 4-0-1)

(For House amendment, see House Journal of April 10, 2009, page 642)

**CONFIRMATIONS**

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Susan D. Plaustainer of Brownsville – Member of the Vermont Economic Development Authority – By Sen. Maynard for the Committee on Finance. (1/21)

Rachel Schumacher of North Bennington – Member of the Vermont Economic Development Authority – By Sen. Hartwell for the Committee on Finance. (1/21)

Steven J. Bourgeois of Swanton – Member of the Vermont Economic Development Authority – By Sen. Carris for the Committee on Finance. (1/28)

Thomas Pelletier of Montpelier – Member of the Vermont Housing Finance Agency – By Sen. Cummings for the Committee on Finance. (1/28)

Neale F. Lunderville of Burlington – Secretary of the Agency of Administration – By Sen. Flanagan for the Committee on Government Operations. (2/17)

Neale F. Lunderville of Burlington – Secretary of the Agency of Administration – By Sen. Flanagan for the Committee on Government Operations. (2/17)

Michael Welch of St. Johnsbury – Member of the Valuation Appeals Board – By Sen. McCormack for the Committee on Finance. (2/18/09)

David R. Coates of Colchester – Member of the Vermont Municipal Bond Bank – By Sen. Carris for the Committee on Finance. (2/18/09)

Sonia D. Alexander of Wilmington – Member of the Valuation Appeals Board – By Sen. Hartwell for the Committee on Finance. (2/25/09)

Paulette Thabault of South Burlington – Commissioner of the Department of Banking, Insurance, Securities and Health Care Administration – By Sen. Cummings for the Committee on Finance. (3/3/09)

Kathryn T. Boardman of Shelburne – Member of the Vermont Municipal Bond Bank – By Sen. Maynard for the Committee on Finance. (3/4/09)

John D. Burke of Castleton – Member of the Public Service Board – By Sen. Maynard for the Committee on Finance. (3/24/09)

Kenneth Linsley of Danville – Member of the Vermont Educational and Health Buildings Financing Agency – By Sen. Maynard for the Committee on Finance. (3/26/09)

Gary Moore of Bradford – Member of the Vermont State Colleges Board of Trustees – By Sen. Starr for the Committee on Education. (3/31/09)

Linda R. Milne of Montpelier – Member of the Vermont State Colleges Board of Trustees – By Sen. Doyle for the Committee on Education. (3/31/09)

Mark Young of Orwell – Member of the University of Vermont Board of Trustees – By Sen. Giard for the Committee on Education. (3/31/09)

Donald Collins of Swanton – Member of the State Board of Education – By Sen. Brock for the Committee on Education. (3/31/09)

Matthew F. Valerio of Proctor – Defender General – By Sen. Mullin for the Committee on Judiciary. (4/3/09)

Joseph C. Benning of Lyndonville – Chair, Human Rights Commission - By Sen. Sears for the Committee on Judiciary. (4/3/09)

Shelley J. Gartner of Rutland – Magistrate, Vermont Family Court - By Sen. Nitka for the Committee on Judiciary. (4/3/09)

Mary Gleason Harlow of Clarendon – Magistrate, Vermont Family Court – By Sen. Campbell for the Committee on Judiciary. (4/3/09)

Christine A. Hoyt of Tunbridge – Magistrate, Vermont Family Court – By Sen. Campbell for the Committee on Judiciary. (4/3/09)

Michelle Fairbrother of Rutland – Member of the Vermont State Colleges Board of Trustees – By Sen. Nitka for the Committee on Education. (4/14/09)

John Hall of West Danville – Member of the State Board of Education – By Sen. Doyle for the Committee on Education. (4/14/09)

Judith Livingston of Manchester – Member of the State Board of Education – By Sen. Brock for the Committee on Education. (4/14/09)

Carol Bokan of Shelburne – Member of the Community High School of Vermont Board – By Sen. Nitka for the Committee on Education. (4/14/09)

Benjamin R. O'Brien of South Burlington – Member of the Occupational Safety and Health Review Board – By Sen. Ashe for the Committee on Economic Development, Housing and General Affairs. (4/22/09)

Benjamin R. O'Brien of South Burlington – Member of the Occupational Safety and Health Review Board – By Sen. Ashe for the Committee on Economic Development, Housing and General Affairs. (4/22/09)

Stephanie O'Brien of South Burlington – Member of the Liquor Control Board – By Sen. Miller for the Committee on Economic Development, Housing and General Affairs. (4/22/09)

David Marvin of Hyde Park – Member of the Sustainable Jobs Fund Board of Directors – By Sen. Illuzzi for the Committee on Economic Development, Housing and General Affairs. (4/22/09)

Bruce Shields of Wolcott – Member of the Sustainable Jobs Fund Board of Directors – By Sen. Illuzzi for the Committee on Economic Development, Housing and General Affairs. (4/22/09)

Thomas G. Weaver of Essex Junction – Member of the Vermont Housing and Conservation Board – By Sen. Racine for the Committee on Economic Development, Housing and General Affairs. (4/22/09)

Joan Goldstein of South Royalton – Member of the Sustainable Jobs Fund Board of Directors – By Sen. Carris for the Committee on Economic Development, Housing and General Affairs. (4/23/09)

David Herlihy of Waitsfield – Commissioner of the Department of Human Resources – By Sen. Doyle for the Committee on Government Operations. (4/23/09)

Thomas Murray of Middlesex – Commissioner of the Department of Information and Innovation – By Sen. Doyle for the Committee on Government Operations. (4/23/09)

Thomas M. Crowley of South Burlington – Member of the State Police Advisory Commission – By Sen. White for the Committee on Government Operations. (4/24/09)

Ugo Sartorelli of Barre – Member of the State Police Advisory Commission – By Sen. Doyle for the Committee on Government Operations. (4/24/09)

James Reardon of Essex Junction – Commissioner of the Department of Finance and Management – By Sen. Flanagan for the Committee on Government Operations. (4/24/09)

Roger N. Allbee of Townshend – Secretary of the Agency of Agriculture, Food and Markets – By Sen. Kittell for the Committee on Agriculture. (5/4/09)

Alexander Sears Melville of Woodstock – Member of the State Board of Education – By Sen. Nitka for the Committee on Education. (5/4/09)

David Dill of Lyndonville – Secretary of the Agency of Transportation – By Sen. Kitchel for the Committee on Transportation. (5/5/09)

Jeffrey Larkin of Duxbury – Member of the Travel Information Council – By Sen. Scott for the Committee on Transportation. (5/5/09)

Nancy Sheahan of South Burlington – Member of the State Police Advisory Commission – By Sen. Brock for the Committee on Government Operations. (5/5/09)

John LaBarge of South Hero – Member of the Travel Information Council – By Sen. Mazza for the Committee on Transportation. (5/6/09)

Bartlett H. Frisbie of Colchester – Member of the Vermont Housing Finance Agency – By Sen. Maynard for the Committee on Finance. (5/7/09)

Maurice Germain of Colchester – Member of the Transportation Board – By Sen. Mazza for the Committee on Transportation. (5/7/09)

Bonnie Rutledge of Waterbury – Commissioner of the Department of Motor Vehicles – By Sen. Mazza for the Committee on Transportation. (5/7/09)

Sue Y. Clark of Vergennes – Member of the Children & Family Council for Prevention Programs – By Sen. Choate for the Committee on Health and Welfare. (5/8/09)

Stephen P. Coulman of Waltham, VT – Member of the Children & Family Council for Prevention Programs – By Sen. Kittell for the Committee on Health and Welfare. (5/8/09)

William E. Dailey of South Burlington – Member of the Public Oversight Commission – By Sen. Flanagan for the Committee on Health and Welfare. (5/8/09)

Stephen R. Dale of Montpelier – Commissioner of the Department of Children and Families – By Sen. Choate for the Committee on Health and Welfare. (5/8/09)

Wendy Davis of South Burlington – Commissioner of the Department of Health – By Sen. Lyons for the Committee on Health and Welfare. (5/8/09)

Wendy Davis of South Burlington – Commissioner of the Department of Health – By Sen. Lyons for the Committee on Health and Welfare. (5/8/09)

Hilton H. Dier, Jr. of Middlebury – Member of the Human Services Board – By Sen. Mullin for the Committee on Health and Welfare. (5/8/09)

Paul Gillies of Berlin – Member of the Board of Health – By Sen. Lyons for the Committee on Health and Welfare. (5/8/09)

Crystal Grant of Bristol – Member of the Children & Family Council for Prevention Programs – By Sen. Racine for the Committee on Health and Welfare. (5/8/09)

Michael A. Hartman of Montpelier – Commissioner of the Department of mental Health – By Sen. Mullin for the Committee on Health and Welfare. (5/8/09)

H. Charles Hill, II of South Hero – Member of the Board of Health – By Sen. Choate for the Committee on Health and Welfare. (5/8/09)

Robert D. Hofmann of Waterbury – Secretary of the Agency of Human Services – By Sen. Flanagan for the Committee on Health and Welfare. (5/8/09)

Robert D. Hofmann of Waterbury – Secretary of the Agency of Human Services – By Sen. Flanagan for the Committee on Health and Welfare. (5/8/09)

Russ Hutchins of St. Johnsbury – Member of the Human Services Board – By Sen. Kittell for the Committee on Health and Welfare. (5/8/09)

Russ Hutchins of St. Johnsbury – Member of the Human Services Board – By Sen. Kittell for the Committee on Health and Welfare. (5/8/09)

David A. Jenkins of Burlington – Member of the Board of Medical Practice – By Sen. Flanagan for the Committee on Health and Welfare. (5/8/09)

Margaret F. Martin of Middlebury – Member of the Board of Medical Practice – By Sen. Mullin for the Committee on Health and Welfare. (5/8/09)

Maureen K. Molloy of Shelburne – Member of the Board of Health – By Sen. Choate for the Committee on Health and Welfare. (5/8/09)

John J. Murray of Colchester – Member of the Board of Medical Practice – By Sen. Kittell for the Committee on Health and Welfare. (5/8/09)

Kreig Pinkham of Northfield – Member of the Children and Family Council – By Sen. Flanagan for the Committee on Health and Welfare. (5/8/09)

Jennifer Poehlmann of Richmond – Member of the Children & Family Council – By Sen. Racine for the Committee on Health and Welfare. (5/8/09)

Harvey S. Reich of Mendon – Member of the Board of Medical Practice – By Sen. Lyons for the Committee on Health and Welfare. (5/8/09)

Robert R. Rinaldi of Chelsea – Member of the Board of Medical Practice – By Sen. Racine for the Committee on Health and Welfare. (5/8/09)

Janice E. Ryan of South Burlington – Member of the Board of Medical Practice – By Sen. Lyons for the Committee on Health and Welfare. (5/8/09)

Toby Sadkin of St. Albans – Member of the Board of Medical Practice – By Sen. Choate for the Committee on Health and Welfare. (5/8/09)

Kenneth Schatz of South Burlington – Member of the Children & Family Council – By Sen. Flanagan for the Committee on Health and Welfare. (5/8/09)

Joan K. Senecal of Montpelier – Commissioner of the Department of Disabilities, Aging and Independent Living – By Sen. Kittell for the Committee on Health and Welfare. (5/8/09)

Daniel P. Smith of Burlington – Member of the Children & Family Council – By Sen. Mullin for the Committee on Health and Welfare. (5/8/09)

William H. Stouch of Burlington – Member of the Board of Medical Practice – By Sen. Lyons for the Committee on Health and Welfare. (5/8/09)

Peter Thomashow of Strafford – Member of the Board of Medical Practice  
– By Sen. Kittell for the Committee on Health and Welfare. (5/8/09)

Mary Jean Wasik of Pittsford – Member of the Human Services Board – By  
Sen. Choate for the Committee on Health and Welfare. (5/8/09)

Florence Young of Montpelier – Member of the Board of Medical Practice  
– By Sen. Flanagan for the Committee on Health and Welfare. (5/8/09)