

Journal of the Senate

FRIDAY, JANUARY 30, 2009

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Melvin Bridge of Ryegate.

Message from the House No. 13

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bill of the following title:

H. 12. An act relating to education property tax rates.

In the adoption of which the concurrence of the Senate is requested.

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

J.R.S. 10. Joint resolution relating to weekend adjournment.

And has passed the same in concurrence.

Message from the House No. 14

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted joint resolution of the following title:

J.R.H. 4. Joint resolution relating to the Canine Good Citizenship program.

In the adoption of which the concurrence of the Senate is requested.

Bills Introduced

Senate bills of the following titles were severally introduced, read the first time and referred:

S. 38.

By Senators Brock, Choate, Flanagan, Giard, Illuzzi, Kittell, Maynard, Nitka and Starr,

An act relating to requiring the Department of Finance and Management to annually publish on its website a report on grants issued by executive branch agencies.

To the Committee on Government Operations.

S. 39.

By Senators White and Shumlin,

An act relating to acceptable dose levels of direct gamma radiation from nuclear power stations.

To the Committee on Health and Welfare.

S. 40.

By Senator White,

An act relating to agritourism.

To the Committee on Agriculture.

S. 41.

By Senator Mullin,

An act relating to increasing Medicaid reimbursement rates.

To the Committee on Health and Welfare.

S. 42.

By Senators Cummings and Ayer,

An act relating to the Department of Banking, Insurance, Securities, and Health Care Administration.

To the Committee on Finance.

S. 43.

By Senator White,

An act relating to property taxation of housing subsidy covenant property.

To the Committee on Finance.

S. 44.

By Senator Doyle,

An act relating to indicating anatomical gifts on a driver's license.

To the Committee on Transportation.

S. 45.

By Senators White and Ayer,

An act relating to noncompliance with the No Child Left Behind Act.

To the Committee on Education.

S. 46.

By Senator Hartwell,

An act relating to the responsibility for providing special education and complying with the No Child Left Behind Act; unfunded mandates; annual adjustments to education property tax rates; and a study concerning consolidation of school districts .

To the Committee on Education.

S. 47.

By Senators Lyons, Snelling and Hartwell,

An act relating to salvage yards.

To the Committee on Natural Resources and Energy.

S. 48.

By Senators Shumlin, Mullin, Choate, Ashe, Ayer, Bartlett, Brock, Campbell, Carris, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Racine, Scott, Sears, Snelling, Starr and White,

An act relating to marketing of prescribed products.

To the Committee on Finance.

S. 49.

By Senator Hartwell,

An act relating to opening the polls up to four days prior to the day of a general election.

To the Committee on Government Operations.

S. 50.

By Senator Hartwell,

An act relating to the contaminant testing requirements for a public water supply that receives water from out-of-state suppliers.

To the Committee on Natural Resources and Energy.

S. 51.

By Senators Shumlin, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Giard, Hartwell, Illuzzi, Kitchel, Lyons, Maynard, Mazza, McCormack, Miller, Mullin, Nitka, Scott, Sears, Snelling and White,

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

To the Committee on Transportation.

S. 52.

By Senators Doyle and Cummings,

An act relating to enhancing the penalty for assault of a nurse.

To the Committee on Judiciary.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 53.

By the Committee on Health and Welfare,

An act relating to restoration of chiropractic services in Medicaid in fiscal year 2009.

Bill Referred

House bill of the following title was read the first time and referred:

H. 12.

An act relating to education property tax rates.

To the Committee on Finance.

Joint Resolution Placed on Calendar**J.R.H. 4**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution relating to the Canine Good Citizenship program.

Whereas, dogs play an important role in the lives of many Vermont citizens by serving as companions, therapy dogs, and assistance dogs, and

Whereas, it is recognized that dog-related problems are most often caused by irresponsible owners, and

Whereas, responsible dog ownership is encouraged in Vermont, and responsible owners should properly control and provide adequate training for their dogs, and

Whereas, “Canine Good Citizen” programs identify and officially recognize those dogs who behave as members in good standing with the community, and

Whereas, the Canine Good Citizen Program, which was developed by the American Kennel Club, teaches pet owners that dogs should exhibit “good citizen” behaviors in the presence of people and other animals, in both the home and the community, and

Whereas, children and adults of all ages participate in Canine Good Citizen classes to learn the skills involved in responsible dog ownership, and

Whereas, with dog bites and animal concerns on the rise, there is a real need for dogs to remain well-behaved community members, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly encourages dog training programs and kennel clubs to provide training and education for community pet owners that result in dogs being “Canine Good Citizens,” and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to Deborah Brown, President of the Vermont Federation of Dog Clubs, in North Hero

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Message from the Governor
Appointments Referred

A message was received from the Governor, by Heidi M. Tringe, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Melville, Alexander Sears of Woodstock - Member of the State Board of Education, - from July 7, 2008, to June 30, 2010.

To the Committee on Education.

Martinez, W. William of Rutland - Member of the Natural Resources Board Water Resources Panel, - from February 1, 2009, to January 31, 2013.

To the Committee on Natural Resources and Energy.

Birmingham, Lisa Nolen of Stowe - Member of the Natural Resources Board Land Use Panel, - from February 1, 2009, to January 31, 2013.

To the Committee on Natural Resources and Energy.

Davies, William of Orleans – Alternate Member of the Natural Resources and Energy, - from February 1, 2009, to January 31, 2013.

To the Committee on Natural Resources and Energy.

Young, Peter F., Jr., Esq. of Northfield – Chair of the Natural Resources Board, - from February 1, 2009, to January 31, 2011.

To the Committee on Natural Resources and Energy.

Alexander, Sonia D. of Wilmington - Member of the Valuation Appeals Board, - from February 1, 2009, to January 31, 2012.

To the Committee on Finance.

Welch, Michael A. of St. Johnsbury - Member of the Valuation Appeals Board, - from February 1, 2009, to January 31, 2012.

To the Committee on Finance.

Bill Ordered to Lie**S. 7.**

Senator Mullin, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

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

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. §§ 1421 and 1426 are 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" The use of lighted tobacco products is prohibited in any "workplace," which, for the purposes of this subchapter, 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. "Workplace" includes a vehicle owned or leased by the employer. Except for schools, workplace does not include areas commonly open to the public nor any portion of a structure which that also serves as the employee's or employer's personal residence. For schools, workplace shall include includes any enclosed location at which where instruction or other school-sponsored functions are occurring and students are present.~~

§ 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.~~

(e) 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).

(c) Nothing in this section shall limit the commissioner's authority under any other provisions of law.

Sec. 2. 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. 3. REPEAL

18 V.S.A. §§ 1422, 1423, 1424, and 1425 (dealing with a smoking policy) are repealed.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Health and Welfare?, on motion of Senator Racine the bill was ordered to lie.

Joint Resolutions Adopted on the Part of the Senate

Joint Senate resolutions entitled:

J.R.S. 11. Joint resolution providing for a Joint Assembly for the election of a Sergeant at Arms, an Adjutant and Inspector General, and three Trustees of the University of Vermont and State Agricultural College.

J.R.S. 12. Joint resolution establishing a procedure for the conduct of the election of UVM trustees by plurality vote by the General Assembly in 2009.

Having been placed on the Calendar for action, were taken up and adopted severally on the part of the Senate.

Message from the House No. 15

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted joint resolution of the following title:

J.R.H. 5. Joint resolution supporting the candidacy of Linda M. Perham to serve as national commander of the American Legion.

In the adoption of which the concurrence of the Senate is requested.

Adjournment

On motion of Senator Shumlin, the Senate adjourned, to reconvene on Tuesday, February 3, 2009, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 10.