

Journal of the Senate

TUESDAY, MARCH 31, 2009

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Mr. Regis Cummings of Montpelier.

Pledge of Allegiance

Pages Susanna Billings and Neel Desai then led the members of the Senate in the pledge of allegiance.

Message from the House No. 40

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 bills of the following titles:

H. 80. An act relating to the use of chloramine as a disinfectant in public water systems.

H. 94. An act relating to the collection and recycling of mercury-added lamps.

H. 186. An act relating to authorizing the department of fish and wildlife to administer polygraph examinations to applicants for law enforcement positions.

H. 205. An act relating to reporting to the Vermont criminal justice training council.

H. 431. An act relating to miscellaneous adjustments to the public retirement systems.

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

The House has adopted joint resolution of the following title:

J.R.H. 15. Joint resolution relating to the designation of commemorative observances in concurrent resolutions.

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

Message from the House No. 41

A message was received from the House of Representatives by Mr. William M. McGill, its First 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. 15. An act relating to aquatic nuisance control.

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

Bills Referred to Committee on Appropriations

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

S. 51. An act relating to Vermont's motor vehicle franchise laws.

S. 132. An act relating to agricultural funding education and outreach.

Committee Bills Introduced

Senate committee bills 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. 136.

By the Committee on Education,

An act relating to reducing the drop-out rate in Vermont secondary schools to zero by the year 2020.

Senate committee bills 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. 137.

By the Committee on Economic Development, Housing and General Affairs,

An act relating to the Vermont recovery and reinvestment act of 2009.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 15.

An act relating to aquatic nuisance control.

To the Committee on Natural Resources and Energy.

H. 80.

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

To the Committee on Health and Welfare.

H. 94.

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

To the Committee on Natural Resources and Energy.

H. 186.

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

To the Committee on Government Operations.

H. 205.

An act relating to reporting to the Vermont criminal justice training council.

To the Committee on Government Operations.

H. 431.

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

To the Committee on Government Operations.

Joint Resolution Adopted on the Part of the Senate

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Shumlin,

J.R.S. 27. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 3, 2009, it be to meet again no later than Tuesday, April 7, 2009.

Joint Resolution Referred

J.R.H. 15.

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

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

Offered by: House committee on rules

Whereas, annually, a number of resolutions designating a set period time to commemorate an event, celebrate a festival, or inform the public of a chronic physical condition or illness are presented before the General Assembly, and

Whereas, the Speaker of the House and the President of the Senate often place these resolutions on their respective body's calendar for consideration the next legislative day pursuant to House Rule 52 and Senate Rule 51, and

Whereas, these resolutions, other than their designation of a period of time, meet the general criteria for concurrent resolutions set forth in Joint Rule 16a and their adoption as concurrent resolutions would expedite the legislative process, now therefore be it

Resolved by the Senate and House of Representatives:

That Joint Rule 16a of the Joint Rules of the Senate and House of Representatives is amended to read:

16a. Resolutions that express sentiments of congratulations, commendations, condolences, or the like, or that designate, on a one-time basis, a specified period of time for a commemorative or public education purpose and do not address matters related to public policy, the rules and operations of either or both houses of the General Assembly, or other matters, shall be styled as concurrent resolutions, and may be jointly cosponsored by members of the Senate and House. The Senate and House cosponsors shall appear separately on two distinctive sponsorship lists on the concurrent resolution. ~~If members of the Senate and House cosponsor a concurrent resolution, it shall be introduced initially in the legislative body of the primary sponsor.~~ A concurrent resolution shall be cited by title only in the permanent journals of the Senate and House with a cite to the Acts and Resolves for that session unless it has been treated as a bill or subject of a roll call vote, in which case, the resolution shall be printed in the permanent journal of the voting legislative body.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Rules.

Consideration Postponed

Senate bills entitled:

S. 94.

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

S. 99.

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

S. 109.

An act relating to brominated flame retardants.

S. 127.

An act relating to small school districts that pay tuition for their resident students.

Were taken up.

Thereupon, without objection consideration of the bills was postponed until the next legislative day.

Consideration Postponed

House bills entitled:

H. 11.

An act relating to the disposition of property upon death, transfer of interest in vehicle upon death, and homestead exemption.

H. 31.

An act relating to approval of amendments to the charter of the town of Williston.

H. 95.

An act relating to the approval of an amendment to the charter of the city of Burlington.

Were taken up.

Thereupon, without objection consideration of the bills was postponed until the next legislative day.

Consideration Postponed

Senate Committee bill entitled:

S. 126.

An act relating to digital forensic specialists.

Was taken up.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, without objection consideration was postponed to the next legislative day.

Third Reading Ordered**S. 128.**

Senate committee bill entitled:

An act relating to workers' compensation benefits and misclassification.

Having appeared on the Calendar for notice for one day, was taken up.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Bills Amended; Third Readings Ordered**S. 19.**

Senator Hartwell, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to extension of filing deadlines for homestead declarations and property tax adjustment claims.

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

Sec. 1. DEADLINE FOR CERTAIN 2008 HOMESTEAD DECLARATIONS
AND PROPERTY TAX ADJUSTMENT CLAIMS

Notwithstanding any other provision of law, a claimant residing in a town that sent its 2008 property tax bill on September 15, 2008 and who, within 21 days of such date, filed a declaration of homestead and a property tax adjustment claim for that homestead shall be entitled to any refund resulting from the corrected property classification and education property tax adjustment claim. The commissioner of taxes shall pay any refund due under this section with respect to an education property tax adjustment to a claimant who applies in writing to the commissioner on or before July 17, 2009. A

refund due a claimant due to reclassification of property as homestead property under this section shall be refunded by the town.

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 the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 58.

Senator Carris, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to electronic payment of wages.

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

Sec. 1. 21 V.S.A. §§ 342 and 343 are amended to read:

§ 342. WEEKLY PAYMENT OF WAGES

(a) Any person having employees ~~in his service~~ doing and transacting business within the state shall ~~pay~~:

(1) Pay to those employees each week, in lawful money or checks, ~~each of his employees~~, the wages earned by ~~such~~ each employee to a day not more than six days prior to the date of ~~such~~ payment.

~~(b)(2)~~ After giving written notice to ~~his~~ the employees, ~~any person having employees in his service doing and transacting business within the state may, notwithstanding subsection (a) of this section,~~ pay bi-weekly or semi-monthly in lawful money or checks; ~~each of his employees,~~ employee the wages earned by the employee to a day not more than six days prior to the date of the payment. If a collective bargaining agreement so provides, the payment may be made to a day not more than 13 days prior to the date of payment.

~~(c)(1)~~(b) An employee who ~~voluntarily~~:

(1) Voluntarily leaves ~~his~~ employment shall be paid on the last regular pay day, or if there is no regular pay day, on the following Friday.

(2) ~~An employee who is~~ Is discharged from employment shall be paid within 72 hours of ~~his~~ discharge.

(3) ~~If an employee is~~ Is absent from his or her regular place of employment on the employer's regular scheduled date of wages or salary payment ~~such employee~~ shall be entitled to ~~such~~ payment upon demand.

~~(d)~~(c) With the written authorization of an employee, an employer may pay wages due the employee by ~~deposit~~ any of the following methods:

(1) Deposit through electronic funds transfer or other direct deposit systems to a checking, savings, or other deposit account maintained by or for the employee in any financial institution within or without the state.

(2) Credit to a payroll card account directly or indirectly established by an employer in a financial institution to which electronic fund transfers of the employee's wages, salary, or other employee compensation are made on a recurring basis, other than a checking, savings, or other deposit account described in subdivision (1) of this subsection, provided all the following:

(A) The employer provides the employee written disclosure in plain language, in at least 10-point type of both the following:

(i) All the employee's wage payment options.

(ii) The terms and conditions of the payroll card account option, including a complete list of all known fees that may be deducted from the employee's payroll card account by the employer or the card issuer and whether third parties may assess fees in addition to the fees assessed by the employer or issuer.

(B) The employee voluntarily consents in writing to payment of wages by payroll card account after receiving the disclosures described in subdivision (A) of this subdivision (2), and this consent is not a condition of hire or continued employment.

(C) The employer provides that during each pay period the employee has at least three free withdrawals from the payroll card, one of which permits withdrawal of the full amount of the balance, at a financial institution, credit union, or other location convenient to the place of employment.

(D) None of the employer's costs associated with the payroll card account are passed on to the employee, and the employer shall not receive any financial remuneration for using the pay card at the employee's expense.

(E) At least 21 days before any change takes effect, the employer provides the employee with written notice in plain language, in at least 10 point type, of any change to any of the terms and conditions of the payroll card account, including any changes in the itemized list of fees. The employer may not charge the employee any additional fees until the employer has notified the employee in writing of the changes.

(F) The employer provides the employee the option to discontinue receipt of wages by a payroll card account at any time and without penalty to the employee.

(G) The payroll card issued to the employee shall be a branded-type payroll card that complies with all the following:

(i) Can be used at a PIN-based or a signature-based outlet.

(ii) The payroll card agreement prevents withdrawals in excess of the account balance and to the extent possible protects against the account being overdrawn.

(iii) The payroll card has no expiration date, unless the employer agrees to provide a replacement payroll card at no cost to the employee before the expiration date.

(H) A nonbranded payroll card may be issued for temporary purposes and shall be valid for no more than 60 days.

§ 343. FORM OF PAYMENT

~~Such An~~ employer shall not pay its employees with any form of evidence of indebtedness, including, ~~without limitation,~~ all scrip, vouchers, due bills, or store orders, unless the employer is in compliance with one or both of the following:

(1) ~~the~~ The employer is a cooperative corporation in which the employee is a stockholder. ~~However, such , in which case, the~~ cooperative corporation shall, upon request of any ~~such~~ shareholding employee, pay ~~him~~ the shareholding employee as provided in section 342 of this title; ~~or~~ .

(2) ~~payment~~ Payment is made by check as defined in Title 9A or by electronic fund transfer as provided in section 342 of this title.

Sec. 2. 8 V.S.A. § 2707(6) is added to read:

(6) A payroll card account issued pursuant to and in full compliance with 21 V.S.A. § 342(c).

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

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 the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Passed

Senate bill of the following title was read the third time and passed:

S. 38. 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.

Bill Amended; Bill Passed**S. 125.**

Senate bill entitled:

An act relating to expanding the sex offender registry.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears moved to amend the bill by adding two new sections to be numbered Secs. 10 and 11 to read as follows:

Sec. 10. 13 V.S.A. § 7031 is amended to read:

§ 7031. FORM OF SENTENCES; MAXIMUM AND MINIMUM TERMS

(a) When a respondent is sentenced to any term of imprisonment, other than for life, the court imposing the sentence shall not fix the term of imprisonment, unless such term is definitely fixed by statute, but shall establish a maximum and may establish a minimum term for which such respondent may be held in imprisonment. The maximum term shall not be more than the longest term fixed by law for the offense of which the respondent is convicted and the minimum term shall be not less than the shortest term fixed by law for such offense. If the court suspends a portion of said sentence, the unsuspended portion of such sentence shall be the minimum term of sentence solely for the purpose of any reductions of term for good behavior as provided for in section 811 of Title 28.

(b) The sentence of imprisonment of any person convicted of an offense shall commence to run from the date on which the person is received at the correctional facility for service of the sentence. The court shall give the person credit toward service of his or her sentence for any days spent in custody in connection with the offense for which sentence was imposed. The commissioner of corrections shall award credit for time served as ordered by the court in the mittimus pursuant to any plea agreement approved by the court, except that no such credit shall be awarded for any time not served in a correctional center or residential treatment facility.

(c) If any such person is committed to a jail or other place of detention to await transportation to the place at which his or her sentence is to be served,

his or her sentence shall commence to run from the date on which he or she is received at such jail or such place of detention.

Sec. 11. 13 V.S.A. § 7044 is amended to read:

§ 7044. SENTENCE CALCULATION; NOTICE TO DEFENDANT

(a) Within 30 days after sentencing in all cases where the court imposes a sentence which includes a period of incarceration to be served, the commissioner of corrections shall provide to the court and the office of the defender general a calculation of the potential shortest and longest lengths of time the defendant may be incarcerated taking into account the provisions for reductions of term pursuant to 28 V.S.A. § 811 based on the sentence or sentences the defendant is serving, and the effect of any credit for time served as ordered by the court pursuant to 13 V.S.A. § 7031. The commissioner's calculation shall be a public record.

(b) In all cases where the court imposes a sentence which includes a period of incarceration to be served, the department of corrections shall provide the defendant with a copy and explanation of the sentence calculation made pursuant to subsection (a) of this section.

And by renumbering the remaining sections of the bill to be numerically correct and adjusting the internal references in the Effective Date clause accordingly.

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 29, Nays 0.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Maynard, Mazza, McCormack, Miller, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Bartlett.

Bill Amended; Third Reading Ordered

S. 28.

Senator Ayer, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to the regulation of landscape architects.

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

Sec. 1. 26 V.S.A. chapter 46 is added to read:

Chapter 46. Landscape Architects

Subchapter 1. General Provisions

§ 2611. DEFINITIONS

As used in this chapter:

(1) “Director” means the director of the office of professional regulation.

(2) “Disciplinary action” means any action taken against a licensed landscape architect for unprofessional conduct.

(3) “Landscape architect” means a person who complies with all provisions of this chapter and is licensed by the director to engage in the practice of landscape architecture.

(4) “License” means an authorization granted by the director to practice landscape architecture.

(5) “Practice of landscape architecture” means any service where landscape architectural education, training, experience and the application of mathematical, physical, and social science principles are applied in consultation, evaluation, planning, and design, including the preparation and filing of drawings, plans, specifications and other contract documents and the administration of contracts relative to projects principally directed at the functional and aesthetic development, use, or preservation of land that directly affects the health, safety and welfare of the public. These services include the implementation of land development concepts and natural resource management plans through the design or grading of: land forms; on-site, surface, and storm water drainage; soil conservation and erosion control; small water features; pedestrian, bicycle, and local motor vehicular circulation systems; and related construction details.

§ 2612. PROHIBITION AND ENFORCEMENT

(a) No person shall:

(1) Practice or attempt to practice landscape architecture or hold himself or herself as being able to do so in this state without first obtaining a valid license as required by this chapter.

(2) Use the title “landscape architect,” “landscape architecture,” or “landscape architectural” in connection with the person’s name without being duly licensed under this chapter.

(b) No person licensed under this chapter shall:

(1) Stamp or seal documents with his or her landscape architect seal if his or her license has expired or is revoked or suspended.

(2) Practice or attempt to practice landscape architecture during license revocation or suspension.

(3) Engage in unprofessional conduct.

(4) Violate any provisions of this chapter.

(c) A person who willfully violates any provisions of subsection (a) of this section shall be subject to the penalties provided in subsection 127(c) of Title 3.

(d) The administrative law officer may bring an action for injunctive relief to enforce the provisions of this chapter.

§ 2613. EXEMPTIONS

(a) This chapter shall not affect or prevent:

(1) The practice of architecture, land surveying, engineering, or other licensed profession by persons not licensed under this chapter;

(2) Drafters, clerks, project managers, superintendents, students, and other employees or interns from acting under the instructions, control, or supervision of their employers;

(3) The construction, alteration, or supervision of sites by contractors or superintendents employed by contractors or the preparation of shop drawings in connection with the construction, alteration, or supervision;

(4) Owners or contractors from engaging persons who are not landscape architects to observe and supervise site construction of a project;

(5) The preparation of construction documents showing plantings, other horticulture-related elements, or landscape materials unrelated to horticulture;

(6) Individuals from making plans, drawings, or specifications for any property owned by them and for their own personal use;

(7) The design of irrigation systems; and

(8) Officers or employees of the federal government from working in connection with their employment.

(b) This section shall not be construed to permit a person not licensed as provided in this chapter to use the title landscape architect or any title, sign, card, or device to indicate that the person is a landscape architect.

(c) This chapter shall not be construed to limit or restrict in any manner the right of a practitioner of another profession or occupation from carrying on in the usual manner any of the functions of that profession or occupation as their experience, education, and training allow them to practice, including the professions of landscape design, garden design, planning, forestry, and forestry management.

Subchapter 2. Administration

§ 2621. OFFICE OF PROFESSIONAL REGULATION

(a) The director shall:

(1) Provide general information to applicants for licensure as landscape architects.

(2) Explain appeal procedures to licensed landscape architects and applicants, and complaint procedures to the public.

(3) Administer fees as established by law.

(4) Receive applications for licensure, administer examinations, provide licenses to applicants qualified under this chapter, renew, revoke and reinstate licenses as ordered by an administrative law officer.

(5) Refer all disciplinary matters to an administrative law officer.

(b) The director may adopt rules necessary to perform his or her duties under this section.

§ 2622. ADVISOR APPOINTEES

(a) The secretary of state shall appoint two landscape architects for four-year terms to serve at the secretary's pleasure as advisors in matters relating to landscape architecture. One of the initial appointments may be for less than a four-year term. An appointee shall have not less than three years' experience as a landscape architect immediately preceding appointment, shall be licensed as a landscape architect in Vermont or be in the process of applying for licensure, and shall be actively engaged in the practice of landscape architecture in this state during incumbency.

(b) The director shall seek the advice of the landscape architect advisors in carrying out the provisions of this chapter.

§ 2623. APPLICATIONS

Applications for licensure shall be on forms provided by the director. Each application shall contain a statement under oath showing the applicant's education, experience, and other pertinent information and shall be accompanied by the required fee.

§ 2624. QUALIFICATIONS

(a) A person shall be eligible for licensure as a landscape architect if the person qualifies under one of the following provisions:

(1) Comity or endorsement. A person holding a registration or license to engage in the practice of landscape architecture issued on the basis of an examination administered by the council of landscape architectural registration boards, by the appropriate regulatory authority of a state, territory, or possession of the United States, the District of Columbia, or another country based on requirements and qualifications shown by the application to be equal to or greater than the requirements of this chapter may be examined on landscape architecture matters peculiar to Vermont and granted a license at the discretion of the director. The director shall accept evidence that an applicant holds a valid certificate from the council of landscape architectural registration boards as proof of qualification for licensure under this subdivision.

(2) Graduation and examination. An applicant who has graduated, having completed a landscape architecture curriculum approved by the landscape architectural accreditation board, followed by at least three years of diversified experience in landscape architecture under the supervision of a licensed, registered, or certified landscape architect and who has passed an examination administered by the council of landscape architectural registration boards may be granted a license. The director may accept experience received under the supervision of a licensed or registered architect, professional engineer, or land surveyor for one year of the experience required under this subdivision. All applicants shall have at least two years of experience under the supervision of a licensed, certified, or registered landscape architect.

(3) Experience and examination. An applicant who has completed nine or more years' diversified experience in landscape architecture under the supervision of a licensed, certified, or registered landscape architect and who has passed an examination administered by the council of landscape architectural review boards may be granted a license. Experience received under the supervision of a licensed or registered architect, professional engineer, or land surveyor may be substituted for no more than three years of this requirement. Credits from a landscape architecture program accredited by the landscape architectural accreditation board may be substituted for up to no more than three years of this requirement.

(b) Upon application for licensure, an applicant qualifying for licensure under subdivision (a)(2) or (3) of this section shall file a report with the director certifying the practical experience requirements completed. The director shall certify that, to the best of the director's knowledge, the report is correct.

(c) An applicant may submit experience accrued for a period of three years in the practice of landscape architecture, as defined in subdivision 2612(5) of this title, in order to meet the experience requirements set forth in subsection (a) of this section if the experience was obtained in Vermont on or before December 31, 2011. Evidence of experience shall be reviewed and approved by the director.

(d) An applicant qualifying for licensure under subdivision (a)(2) or (3) of this section shall pass a written examination administered by the council of landscape architectural boards on technical and professional subjects as may be prescribed by the council of landscape architectural boards. Applicants may apply for examination before completing the experience requirement as long as the experience requirements will be fulfilled by the examination date. Notification of the results of examinations shall be mailed to each candidate within 30 days of the date the results are received by the director. A candidate failing to pass the examination may apply for reexamination and may sit for a regularly scheduled examination as many times as the candidate chooses to do so. If an applicant does not pass the entire examination, the applicant shall not be required to retake any section of an examination that the applicant has previously passed. No license shall be granted to an applicant until he or she passes all sections of the exam.

(e) Licensing standards and procedures adopted by the director by rule shall be fair and reasonable. Those standards and procedures shall be designed and implemented to ensure that all applicants are admitted to practice unless there is a good reason to believe that practice by a particular applicant would be inconsistent with the public health, safety, or welfare. Licensing standards shall not be designed or implemented for the purpose of limiting the number of licensed landscape architects.

§ 2625. LICENSURE; GENERALLY

The director shall issue a license, upon payment of the fees required in this chapter, to an applicant who has satisfactorily met all the requirements of this chapter.

§ 2626. LICENSE RENEWAL

(a) A license shall be renewed every two years upon application and payment of the required fee. Failure to comply with the provisions of this

section shall result in suspension of all privileges granted to the licensee, beginning on the expiration date of the license. A license which has lapsed shall be renewed upon payment of the biennial renewal fee and the late renewal penalty.

(b) The director may adopt rules necessary for the protection of the public to assure the director that an applicant whose license has lapsed or who has not worked for more than three years is professionally qualified. Conditions imposed under this subsection shall be in addition to the requirements of subsection (a) of this section.

§ 2627. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

- (1) Application for licensure: \$150.00
- (2) Initial license issuance: \$40.00
- (3) Biennial license renewal: \$250.00

§ 2628. SEAL

Each licensed landscape architect shall obtain a seal of a design as the director shall authorize and direct. Plans and specifications prepared by or under the direct supervision of a licensed landscape architect shall be stamped with the licensed landscape architect's seal.

§ 2629. UNPROFESSIONAL CONDUCT

Unprofessional conduct means the following conduct and the conduct by a licensee or applicant for licensure as set forth in section 129a of Title 3:

(1) Accepting and performing responsibilities which the licensed landscape architect knows or has reason to know that he or she is not competent to perform, or undertaking to perform professional services in specific technical areas in which the licensed landscape architect is not qualified by education, training, and experience;

(2) Failing to practice with reasonable care and competence and to apply the technical knowledge and skill ordinarily applied by licensed landscape architects practicing in the same locality;

(3) Assisting in the application for licensure of a person known by the licensed landscape architect to be unqualified in respect to education, training, or experience;

(4) Accepting compensation for services from more than one party on a project unless the circumstances are fully disclosed and agreed to by all interested parties;

(5) Failing to disclose fully in writing to a client or employer the nature of any business association or direct or indirect financial interest substantial enough to influence the licensed landscape architects judgment in the performance of professional services;

(6) Soliciting or accepting compensation from material or equipment suppliers in return for specifying or endorsing their products;

(7) Failing to disclose compensation for making public statements on landscape architectural questions;

(8) Offering or making a payment or gift to an elected or appointed government official with the intent to influence the official's judgment in connection with a prospective or existing project in which the licensed landscape architect is interested;

(9) Offering or making a gift of other than nominal value, including reasonable entertainment and hospitality, with the intent to influence the judgment of an existing or prospective client in connection with a project in which the licensed landscape architect is interested;

(10) Knowingly designing a project in violation of applicable state and local laws and regulations;

(11) Making a willful material misrepresentation with respect to the qualifications or experience of an applicant or otherwise in the practice of the profession, whether by commission or omission;

(12) Acting, while serving as a advisor to the director, in any way to contravene willfully the provisions of this chapter and thereby artificially restricting the entry of qualified persons into the profession;

(13) Using the licensed landscape architect's seal on drawings prepared by others not in the his or her employ, or using the seal of another;

(14) Inaccurately representing to a prospective or existing client or employer the licensed landscape architect's qualifications and scope of responsibility for work for which he or she claims credit;

(15) Signing or sealing technical submissions unless they were prepared by or under the responsible control of the licensed landscape architect, except that the licensed landscape architect may sign or seal those portions of the technical submissions that were prepared by or under the responsible control of persons who are licensed under this chapter if the licensed landscape architect

has reviewed and adopted in whole or in part those portions and has either coordinated their preparation or integrated them into his or her work; and

(16) In each office maintained for preparation of drawings, specifications, reports, or other professional work, failing to have a licensed landscape architect with direct knowledge and supervisory control of such work resident and regularly employed in that office.

Sec. 2. TRANSITIONAL PROVISIONS

The director shall establish a procedure so that residents of Vermont who have been engaged in the practice of landscape architecture in Vermont, and who are not licensed as landscape architects in other states prior to the effective date of this act, may become licensed without examination. To accomplish this, the director shall establish that these candidates shall provide evidence to the director and a special temporary panel, consisting of five Vermont landscape architects licensed under the provisions of chapter 46 of Title 26, to review the evidence regarding the qualifications for licensure without examination of candidates under this procedure. Only those applicants who can establish a record of landscape architectural practice for nine or more years shall be eligible for licensure under this section. A degree from an accredited landscape architecture program may substitute for years of the experience requirement under this section at the rate of two years of accredited school work for one year of landscape architectural work experience.

Sec. 3. REPEAL

Sec. 2 of this act shall be repealed on July 1, 2014.

And that when so amended the bill ought to pass.

Senator Ayer, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Government Operations with the following amendment thereto::

In Sec. 1, by striking out 26 V.S.A. § 2627 in its entirety and inserting in lieu thereof a new 26 V.S.A. § 2627 to read:

§ 2627. FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in subsection 125(b) of Title 3.

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 the recommendation of amendment of the Committee on Government Operations was amended as recommended by the Committee on Finance.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence:

By Representative Myers and others,

H.C.R. 83.

House concurrent resolution congratulating the 2009 Essex High School Hornets Division I championship girls' ice hockey team.

By Representative Myers and others,

H.C.R. 84.

House concurrent resolution congratulating the 2009 Essex High School Hornets state gymnastics championship team.

By Representative Myers and others,

H.C.R. 85.

House concurrent resolution congratulating Essex High School gymnast Mary Krug on winning four consecutive all-around state championship competitions.

By Representative Potter and others,

H.C.R. 86.

House concurrent resolution congratulating the 2009 Proctor High School Phantoms' Division IV championship boys' basketball team.

By Representative Cheney and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 87.

House concurrent resolution honoring Olympic runner and model sportsman Andrew Wheating of Norwich.

By Representative Mrowicki and others,

H.C.R. 88.

House concurrent resolution celebrating the success of the education-based after-school programs in Vermont.

By Representative Cheney and others,

By Senators Campbell, McCormack, Nitka, Shumlin and White,

H.C.R. 89.

House concurrent resolution commending the leadership of Green Mountain Power Corporation and other electric companies and state offices in restoring electric power in southern Vermont following the December 2008 ice storm.

Consideration Interrupted by Adjournment

S. 77.

Senator MacDonald, for the Committee on Natural Resources and Energy, to which was referred Senate bill entitled:

An act relating to the disposal of electronic waste.

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

Sec. 1. LEGISLATIVE FINDINGS

The general assembly finds:

(1) According to the U.S. Environmental Protection Agency, discarded computers, computer monitors, televisions, and other consumer electronics—collectively referred to as e-waste—are the fastest growing portion of the waste stream growing by approximately eight percent from 2004 to 2005.

(2) Televisions and computers are prevalent in modern society and contribute significantly to the waste generated in Vermont.

(3) Televisions, computers, laptop computers, and computer monitors contain lead, mercury, and other hazardous substances that pose a threat to human health and the environment if improperly disposed of at the end of the useful life of these products.

(4) The state of Vermont has committed to providing its citizens with a safe and healthy environment and has actively undertaken efforts such as mercury reduction programs to reduce the potential for contamination.

(5) The appropriate recycling of televisions and computers protects public health and the environment by reducing the potential for the release of

heavy metals and mercury from landfills into the environment, consistent with other state initiatives, and also conserving valuable landfill space.

(6) The establishment of a system to provide for the collection and recycling of electronic devices in Vermont is consistent with the state's duty to protect the health, safety, and welfare of its citizens; maintain and enhance the quality of the environment; conserve natural resources; prevent pollution of air, water, and land; and stimulate economic growth.

Sec. 2. 10 V.S.A. chapter 166 is added to read:

CHAPTER 166. DISPOSAL OF ELECTRONIC DEVICES

§ 7301. DEFINITIONS

For the purposes of this chapter, the following terms shall have the following meanings:

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

(2) "Cathode-ray tube" or "CRT" means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

(3) "Collection" means the aggregation of covered electronic devices from covered entities and includes all the activities up to the time the covered electronic devices are delivered to a recycler.

(4) "Collector" means a public or private entity that receives covered electronic devices from covered entities and arranges for the delivery of the devices to a recycler on behalf of a manufacturer for the purpose of fulfilling a manufacturer's responsibilities under this chapter.

(5) "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, but does not include an automated typewriter or typesetter, a portable handheld calculator, or other similar device.

(6) "Computer monitor" means a display device without a tuner that can display pictures and sound and is used with a computer. "Computer monitor" includes a laptop computer.

(7) "Covered electronic device" means computers; peripherals; video display devices; personal electronics such as personal digital assistants and personal music players; electronic game consoles; printers; fax machines; cell phones; telephones; answering machines; videocassette recorders; digital versatile disc players; digital converter boxes; stereo equipment; and power supply cords (as used to charge electronic devices) that are sold to a consumer.

(8) “Covered entity” means any household, charity, or school district in the state, business that employs ten or fewer individuals, or any person giving seven or fewer covered electronic devices to a collector at any one time.

(9) “Manufacturer” means a person who:

(A) Has a physical presence and legal assets in the United States of America, and:

(i) Manufactures or manufactured a video display device under its own brand or label;

(ii) Sells under its own brand or label a video display device produced by another supplier; or

(iii) Owns a brand that it licenses or licensed to another person for use on a video display device; or

(B) Imports or imported a video display device into the United States that is manufactured by a person without a presence in the United States.

(10) “Peripheral” means a keyboard, printer, or any other device sold exclusively for external use with a computer that provides input or output into or from a computer.

(11) “Printer” means desktop printers, multifunction printer copiers, and printer ax combinations taken out of service that are designed to reside on a work surface, and include various print technologies, including without limitation laser and LED (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and “multi-function” or “all-in-one” devices that perform different tasks, including without limitation copying, scanning, faxing, and printing. Printers do not include floor-standing printers, printers with optional floor stand, point of sale (POS) receipt printers, household printers such as a calculator with printing capabilities or label makers, or nonstand-alone printers that are embedded into products that are not covered electronic products.

(12) “Program year” means the period from July 1 through June 30.

(13) “Recycler” means a person who accepts covered electronic devices from covered entities and collectors for the purpose of recycling. A person who takes products solely for refurbishment or repair is not a recycler.

(14) “Recycling” means the process of collecting and preparing video display devices or covered electronic devices for use in manufacturing processes or for recovery of useable materials followed by delivery of such materials for use. Recycling does not include destruction by incineration, waste-to-energy incineration, or other such processes; land disposal; or reuse,

repair, or any other process through which video display devices or covered electronic devices are returned to use in their original form.

(15) “Recycling credits” means the number of pounds of covered electronic devices recycled by a manufacturer during a program year, less the product of the number of pounds of video display devices sold during the same program year, multiplied by the proportion of sales a manufacturer is required to recycle. The calculation and uses of recycling credits are as specified in section 7307 of this title.

(16) “Retailer” means a person who sells, rents, or leases to a household, through sales outlets, catalogues, or the Internet a video display device that is not for resale in any form.

(17) “Sell” or “sale” means any transfer for consideration of title or of the right to use by lease or sales contract of a video display device to a consumer in the state. “Sell” or “sale” does not include a manufacturer’s or distributor’s wholesale transaction with a distributor or a retailer.

(18) “Television” means any telecommunications system or device that can broadcast or receive moving pictures and sound over a distance and includes a television tuner or a display device peripheral to a computer that contains a television tuner.

(19) “Transporter” means a person or entity that moves covered electronic devices from a collector to a recycler.

(20) “Video display device” means a printer or a unit capable of presenting images electronically on a screen, with a video display greater than four inches when measured diagonally, that are viewed by the user, and includes televisions, computer monitors, laptop computers, cathode ray tubes, plasma displays, liquid crystal displays, rear and front enclosed projection devices, and other similar displays that may be developed. “Video display device” does not include any of the following:

(A) a video display device that is part of a motor vehicle or any component of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(B) a video display device, including a touch-screen display, that is functionally or physically part of a larger piece of equipment or is designed and intended for use in an industrial, commercial, or retail setting;

(C) a video display device that is contained within a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or

(D) a telephone of any type unless it contains a video display greater than nine inches when measured diagonally.

§ 7302. PROHIBITIONS; REQUIREMENTS FOR THE SALE OF COVERED ELECTRONIC DEVICES; RETAILER OBLIGATIONS

(a) Sale prohibited. No manufacturer shall sell or offer for sale or deliver to retailers for subsequent sale a new video display device unless:

(1) the video display device is labeled with the manufacturer's brand, which label is permanently affixed and readily visible; and

(2) the manufacturer has filed a registration with the agency, as specified in section 7303 of this title.

(b) Retailer obligations.

(1) A retailer who sells or offers for sale a new video display device to a household shall, before the initial offer of sale, review the agency website specified in section 7303(7) of this title to determine that all new video display devices that the retailer is offering for sale are labeled with the manufacturer's brands that are registered with the agency.

(2) A retailer is not responsible for an unlawful sale under this subdivision if the manufacturer's registration expired or was revoked, the retailer took possession of the video display device prior to the expiration or revocation of the manufacturer's registration, and the unlawful sale occurred within six months after the expiration or revocation.

(3) A retailer who sells new video display devices shall provide information to customers describing where and how they may recycle video display devices and advising them of opportunities and locations for the convenient collection of video display devices for the purpose of recycling. This requirement may be met by providing the agency's toll-free number and website address. Retailers selling through catalogues or the Internet may meet this requirement by including the information in a prominent location on the retailer's website.

§ 7303. MANUFACTURER'S PROGRAM RESPONSIBILITY

(a) Manufacturer registration and reporting requirements.

(1)(A) No manufacturer shall sell or offer for sale a video display device in this state without first submitting a registration to the agency on a form provided by the agency. The form shall include:

(i) a list of the manufacturer's brands of video display devices offered for sale by the manufacturer in this state;

(ii) the name, address, and contact information of a person responsible for ensuring compliance with this chapter; and

(iii) a certification that the manufacturer has complied and will continue to comply with the requirements of this chapter.

(B) A renewal of a registration without changes may be accomplished through notifying the agency on a form provided by the agency.

(2)(A) Beginning July 1, 2011, each manufacturer shall report by July 1 of each year to the agency the aggregate total weight of video display devices sold during the previous program year. This information may be provided by one of the following:

(i) the aggregate total weight of its video display devices sold during the previous program year; or

(ii) an estimate of the aggregate total weight of its video display devices sold during the previous program year based on national sales data. A manufacturer shall submit with the report required under this subsection a description of how the information or estimate was calculated.

(B) By July 1 of each year, beginning July 1, 2011, each manufacturer shall report to the agency the aggregate total weight of covered electronic devices the manufacturer recycled during the preceding program year.

(3) A manufacturer who begins to sell or offer for sale video display devices to households and has not filed a registration under this subsection shall submit a registration to the agency within ten days of beginning to sell or offer for sale video display devices.

(4) A registration shall be amended within ten days after a change to any information included in the registration submitted by the manufacturer under this section.

(5) A registration is effective upon receipt by the agency and is valid for a period of five years.

(6) The agency shall notify the manufacturer of any information required by this title that is omitted from the registration. Upon receipt of a notification from the agency, the manufacturer shall submit a revised registration providing the information noted by the agency.

(7) The agency shall maintain on its website the names of manufacturers and the manufacturers' brands listed in registrations filed with the agency. The agency shall update the website information within 10 days of receipt of a complete registration.

(b) Manufacturer's program responsibilities. Manufacturers shall comply with the following:

(1) A manufacturer shall annually recycle or arrange and pay for the collection and recycling of an amount of covered electronic devices equal to the total weight of its video display devices sold during the preceding program year, multiplied by the proportion of sales of video display devices required to be recycled as established by the agency under section 7307(a)(3)(B) of this title. Manufacturers or entities with whom they contract may not charge fees at the time of collecting the unwanted covered electronic devices if those devices will be counted toward the manufacturer's recycling requirement.

(2) Manufacturers may only count covered electronic devices received from covered entities toward their recycling requirements listed under section 7307(a)(3)(B) of this title.

(3) A manufacturer shall certify that a facility recycling covered electronic devices in order to meet the manufacturer's obligation under subdivision (1) of this subsection complies with the recycling standards contained in section 7306(9) of this title. A manufacturer is responsible for maintaining, for a period of three years, documentation of the information relied upon as the basis for the certification under this subdivision.

(4) A manufacturer registered under this section or a collector operating on behalf of a manufacturer under this section shall not charge a fee to covered entities for the collection, transportation, or recycling of covered electronic devices.

§ 7304. RECYCLER PROGRAM RESPONSIBILITY

(a)(1) Recycler registration. No person may recycle a covered electronic device unless that person has submitted a registration with the agency on a form prescribed by the secretary. A registration is effective upon receipt by the agency and is valid for a period not to exceed five years. An electronics recycling facility registered under this section is not required to obtain a solid waste certification pursuant to chapter 159 of this title. Registration information shall include:

(A) the name, address, telephone number, and location of all recycling facilities under the direct control of the recycler that may receive covered electronic devices;

(B) evidence that the financial assurance requirements of section 6611 of this title have been satisfied.

(2) A registration shall be amended within ten days after a change to any information included in the registration submitted by the recycler under this section.

(b) Recycler's reporting requirements. By July 1 of each year, beginning July 1, 2011, a recycler of covered electronic devices shall report to the agency the total weight of covered electronic devices recycled during the preceding program year and shall certify that the recycler has complied with section 7306(8) of this title.

(c) Approved vendors. A recycler of covered electronic devices shall only contract for transport, transport to, or dispose of covered electronic devices through a manufacturer mail back or take back program or with a vendor listed by the agency of natural resources on its approved vendor list.

§ 7305. COLLECTOR AND TRANSPORTER PROGRAM RESPONSIBILITY

(a)(1) Collector and transporter registration. No person may operate as a collector or transporter of covered electronic devices unless that person has submitted a registration with the agency on a form prescribed by the secretary. A registration is effective upon receipt by the agency and is valid for a period not to exceed five years. An electronics collector or transporter registered under this section shall not be required to obtain a solid waste certification or a solid waste hauler permit pursuant to chapter 159 of this title.

(2) A registration shall be amended within ten days after a change to any information included in the registration submitted by the collector under this section.

(b) Transporter's reporting requirements. By July 1 of each year, beginning July 1, 2011, a transporter of covered electronic devices not destined for recycling in Vermont shall report to the agency the total pounds of covered electronic devices collected and the manufacturer who received credits from the covered electronic devices.

§ 7306. AGENCY PROGRAM RESPONSIBILITIES

The agency shall:

(1) Administer this chapter.

(2) Establish procedures for:

(A) the registration statements and certifications filed with the agency under this chapter; and

(B) making the statements and certifications easily available to manufacturers, retailers, and members of the public.

(3) Collect the data submitted annually by each manufacturer on the total aggregate weight of video display devices sold and the total aggregate weight of covered electronic devices collected which are recycled.

(4) Annually review the value of the variables used to calculate a manufacturer's variable recycling fee under section 7307(a)(3) of this title. If the agency determines that any of these values shall be changed in order to improve the efficiency or effectiveness of the activities regulated under this chapter or if the revenues in the account exceed the amount that the agency determines is necessary, the agency shall submit recommended changes to the senate and house committees on natural resources and energy.

(5) Based on the data provided by a manufacturer regarding the sales of video display devices, estimate by July 1 of each year each registered manufacturer's sales of video display devices during the previous year.

(6) Beginning December 1, 2011, report to the senate and house committees on natural resources and energy regarding the implementation of this chapter. For each program year, the report shall provide the total weight of covered electronic devices recycled and a summary of information in the reports submitted by manufacturers, collectors, and recyclers under this chapter. The report shall also discuss the various collection programs used by manufacturers to collect covered electronic devices; information regarding covered electronic devices that are being collected by persons other than registered manufacturers, collectors, and recyclers; and information about covered electronic devices, if any, being disposed of in landfills in this state. The report shall include a description of enforcement actions under this chapter. The agency may include in its report other information received by the agency regarding the implementation of this chapter.

(7) Promote public participation in the activities regulated under this chapter through public education and outreach efforts.

(8) Post on its website the contact information provided by each manufacturer under section 7303(a)(1)(A)(ii) of this title.

(9) In consultation with interested parties, establish guidelines for the environmentally sound management of consumer electronics, including specific requirements for collectors, transporters, and recyclers.

(10) Identify approved transporters, collectors, recyclers, and other downstream vendors of covered electronic devices and list such entities on its website.

§ 7307. MANUFACTURER'S REGISTRATION FEE; CREATION OF ACCOUNT

(a) Registration fee.

(1) By July 1 of each year, all manufacturers who register under section 7303(a) of this title shall pay to the agency an annual registration fee as established under this section. The secretary shall deposit the fee into the account established by this section.

(2) The annual registration fee for a manufacturer who sells video display devices in the state is \$5,000.00 for the initial program year. In years following the initial program year, the annual registration fee for a manufacturer who sells video display devices in the state is \$5,000.00 plus the variable recycling fee calculated according to the formula in subdivision (3) of this subsection. The annual registration fee for a manufacturer who produces fewer than 100 video display devices for sale is \$1,250.00.

(3) Using quantities from the preceding program year, the variable recycling fee shall be calculated according to the formula—variable recycling fee = $(A \times B) - (C + D) \times E$, where:

(A) A = the number of pounds of a manufacturer's video display device sold during the previous program year, as reported to the agency under section 7303 of this title;

(B) B = the proportion of sales of video display devices required to be recycled, set at 0.6 for the first program year and at 0.8 for the second program year and every year thereafter;

(C) C = the number of pounds of covered electronic devices recycled by a manufacturer during the previous program year, as reported to the agency under section 7303 of this title;

(D) D = the number of recycling credits a manufacturer elects to use during the current program year to calculate the variable recycling fee, as reported to the agency under section 7303 of this section;

(E) E = the estimated per-pound cost of recycling used to calculate the variable recycling fee initially set at \$0.50 per pound for manufacturers who recycle less than 50 percent of the product required to be recycled under this chapter $(A \times B)$; \$0.40 per pound for manufacturers who recycle at least 50 percent but less than 90 percent of the product required to be recycled under this chapter $(A \times B)$; and \$0.30 per pound for manufacturers who recycle at least 90 percent of the product required to be recycled under this chapter $(A \times B)$.

(4) For the purpose of calculating a manufacturer's variable recycling fee for a given year, a manufacturer may carry recycling credits forward from any of the three preceding program years to be added, in whole or in part, to the number of pounds reported recycled. Recycling credits are created when the number of pounds reported recycled exceeds the number of pounds required to have been recycled under this chapter according to the formula: credit = C-(A × B), where A, B, and C are defined in subdivision (3) of this subsection. A manufacturer may sell any portion of its recycling credits to another manufacturer, at a price negotiated by the parties, who may use the credits in the same manner and may carry recycling credits forward from any of the three preceding program years.

(b) Creation of electronic waste management fund. The electronic waste management fund is established in the state treasury pursuant to subchapter 5 of chapter 7 of Title 32. The fund shall be administered by the department of environmental conservation to administer and implement the programs authorized by this chapter. This shall include funding administrative costs to the agency, and may include as funding allows providing grants to entities recycling electronics waste and education and outreach costs. The fund shall consist of the fees collected under subsection (a) of this section and any gifts, donations, and appropriations by the general assembly. All balances in the fund at the end of any fiscal year shall be carried forward and remain part of the fund. Interest earned by the fund shall be deposited in the fund.

§ 7308. OTHER RECYCLING PROGRAMS

A municipality or other public agency may not require covered entities to use public facilities to recycle their covered electronic devices to the exclusion of other lawful programs available. A municipality and other public agencies are encouraged to work with manufacturers to assist them in meeting their recycling obligations under this chapter. Nothing in this chapter prohibits or restricts the operation of any program recycling covered electronic devices in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or recycling covered electronic devices, provided that those persons are registered under section 7303 of this title.

§ 7309. ANTICOMPETITIVE CONDUCT

Manufacturers or industry trade groups may work together and pool resources and collection activities to meet the requirements of this chapter.

§ 7310. MULTISTATE IMPLEMENTATION

The agency is authorized to participate in the establishment of a regional multistate organization or compact to assist in carrying out the requirements of this chapter.

§ 7311. LIMITATIONS

If a federal law or combination of federal laws takes effect that is applicable to all video display devices sold in the United States and establishes a program for the collection and recycling or reuse of video display devices that is applicable to all discarded video display devices, the agency will evaluate whether the laws provide a solution that is equal to or better than the program established under this chapter. The agency shall report its findings to the general assembly.

§ 7312. BAN ON PRISON LABOR

No facility that recycles covered electronic products, including downstream recycling operations, shall use prison labor in the state of Vermont to recycle covered electronic products.

Sec. 3. 10 V.S.A. § 6621a(a) is amended to read:

(a) In accordance with the following schedule, no person shall knowingly dispose of the following solid waste in landfills:

* * *

(8) Covered electronic devices, as defined in chapter 166 of this title, after July 1, 2011.

Sec. 4. 10 V.S.A. § 8003(a) is amended to read:

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

* * *

(17) 10 V.S.A. § 2625, relating to heavy cutting of timber; ~~and~~

(18) 10 V.S.A. chapter 164, relating to comprehensive mercury management;

(19) 10 V.S.A. chapter 166, relating to disposal of covered electronic devices.

Sec. 5. 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:

* * *

(O) chapter 166 (disposal of covered electronic devices).

* * *

Sec. 6. EFFECTIVE DATE

This act shall take effect July 1, 2010.

Sec. 7. ANR REPORT ON ADDITIONAL INCENTIVES FOR RECYCLING ELECTRONIC WASTE

On or before January 15, 2011, the secretary of natural resources shall report to the senate and house committees on natural resources and energy with recommended incentives to increase the rate of recycling of covered electronic devices and video display devices, as those terms are defined in 10 V.S.A. § 7301.

And that when so amended the bill ought to pass.

Senator MacDonald, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

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 Natural Resources and Energy?, on motion of Senator Shumlin, the Senate adjourned until one o'clock in the afternoon on Wednesday, April 1, 2009.