

Journal of the Senate

TUESDAY, JANUARY 12, 2010

The Senate was called to order by the President *pro tempore*.

Pledge of Allegiance

Pages Nell Sather and Erin Turner then led the members of the Senate in the pledge of allegiance.

Rules Suspended; Committee Relieved of Further Consideration; Bill Committed

S. 173.

On motion of Senator Cummings, the rules were suspended, and S. 173 was taken up for immediate consideration, for the purpose of relieving the Committee on Judiciary from further consideration of the bill. Thereupon, on motion of Senator Cummings, the Committee on Judiciary was relieved of Senate bill entitled:

An act relating to technical corrections to the trust laws,
and the bill was committed to the Committee on Finance.

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. 41. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, January 15, 2010, it be to meet again no later than Tuesday, January 19, 2010.

Consideration Postponed

Senate bill entitled:

S. 99.

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

Was taken up.

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

Third Reading Ordered

S. 163.

Senate committee bill entitled:

An act relating to technical corrections to 2009 sex offender legislation.

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 pending the question, Shall the bill be read a third time?, Senator Campbell, on behalf of the Committee on Judiciary, moved to amend the bill by striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. Sec. 11 of No. 58 of the Acts of 2009 is amended to read:

Sec. 11. APPLICABILITY

Secs. 6, 9, and 14 of this act (sex offender registry and Internet sex offender registry) shall apply only to the following persons:

(1) A person convicted prior to the effective date of this act who is under the supervision of the department of corrections except as provided in subdivision (3)(A) of this section.

(2) A person convicted on or after the effective date of this act.

(3)(A) A person convicted prior to the effective date of this act of a crime committed in this state, who is not under the supervision of the department of corrections and is subject to sex offender registry requirements under subchapter 3 of chapter 167 of Title 13; or a person convicted prior to the effective date of this act of lewd or lascivious conduct with a child in violation of 13 V.S.A. § 2602 or a second or subsequent conviction for voyeurism in violation of 13 V.S.A. § 2605(b) or (c), who is under the supervision of the department of corrections, unless the sex offender review committee determines pursuant to the requirements of this subdivision (3), taking into account whether the person has been charged or convicted of a criminal offense or a probation or parole violation since being placed on the registry, that the person has successfully re-integrated into the community.

(B)(i) No person's name shall be posted electronically pursuant to subdivision (3)(A) of this section before October 1, 2009.

(ii) On or before July 1, 2009, the department of public safety shall provide notice of the right to petition under this subdivision (3)(B) to all persons convicted prior to the effective date of this act who are not under the supervision of the department of corrections and are subject to sex offender registry requirements under subchapter 3 of chapter 167 of Title 13.

(iii) A person seeking a determination from the sex offender review committee that he or she is not subject to subdivision (3)(A) of this section shall file a petition with the committee before October 1, 2009. If a petition is filed before October 1, 2009, the petitioner's name shall not be posted electronically pursuant to subdivision (3)(A) of this section until after the sex offender review committee has ruled on the petition.

(C) All decisions made by the sex offender review committee under subdivision (3)(A) of this section shall be reviewed and approved by the commissioner of the department of corrections. The agency of human services shall adopt emergency rules which establish criteria for the commissioner's decision.

(4)(A) A person convicted prior to July 1, 2009, of a crime committed in any jurisdiction of the United States other than Vermont, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court, who is not under the supervision of the department of corrections and is subject to sex offender registry requirements under subchapter 3 of chapter 167 of Title 13, unless the sex offender review committee determines pursuant to the requirements of this subdivision (4), taking into account whether the person has been charged or convicted of a criminal offense or a probation or parole violation since being placed on the registry, that the person has successfully re-integrated into the community.

(B)(i) No person's name shall be posted electronically pursuant to subdivision (4)(A) of this section before July 1, 2010.

(ii) On or before April 1, 2010, the department of public safety shall provide notice of the right to petition pursuant to this subdivision (4)(B) to all persons with a right to file a petition under subdivision (4)(A) of this section.

(iii) A person seeking a determination from the sex offender review committee that he or she is not subject to subdivision (4)(A) of this section shall file a petition with the committee before July 1, 2010. If a petition is filed before July 1, 2010, the petitioner's name shall not be posted electronically pursuant to subdivision (4)(A) of this section until after the sex offender review committee has ruled on the petition.

(iv) The petition shall be accompanied by available information regarding the nature and circumstances of the offense and sentence from the jurisdiction where the offense occurred. The committee may deny the petition if sufficient available information regarding the nature and circumstances of the offense and sentence are not provided within 90 days after the committee requests the information from the petitioner.

(C) All decisions made by the sex offender review committee under subdivision (4)(A) of this section shall be reviewed and approved by the commissioner of the department of corrections. The agency of human services shall adopt emergency rules which establish criteria for the commissioner's decision.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Appointment Confirmed

The following Gubernatorial appointment was confirmed separately by the Senate, upon full report given by the Committee to which it was referred:

Ide, Robert D of Peacham - Commissioner of the Department of Motor Vehicles, - from August 16, 2009, to February 28, 2011.

Recess

On motion of Senator Mazza the Senate recessed until 2:00 P.M.

Called to Order

At 2:00 P.M. the Senate was called to order by the President.

Message from the House No. 3

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 considered joint resolutions originating in the Senate of the following titles:

J.R.S. 39. Joint resolution to provide for a Joint Assembly to hear the budget message of the Governor.

J.R.S. 40. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Message from the House No. 4

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 considered a bill originating in the Senate of the following title:

S. 93. An act relating to commercial vehicle operation on the interstate system.

And has passed the same in concurrence with proposal of amendment 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. 276.

By Senator Bartlett,

An act relating to operating in the presence of draft animals and livestock.

To the Committee on Transportation.

S. 277.

By Senators Illuzzi, Shumlin and Starr,

An act relating to raising weight limits on interstate highways pursuant to federal legislation.

To the Committee on Transportation.

Rules Suspended; Committee Relieved of Further Consideration; Bill Committed**S. 208.**

On motion of Senator White, the rules were suspended, and S. 208 was taken up for immediate consideration, for the purpose of relieving the Committee on Government Operations from further consideration of the bill. Thereupon, on motion of Senator White, the Committee on Government Operations was relieved of Senate bill entitled:

An act relating to the Vermont agricultural advisory board,

and the bill was committed to the Committee on Agriculture.

Rules Suspended; House Proposal of Amendment Concurred In; Rules Suspended; Bill Delivered

S. 93.

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to commercial vehicle operation on the interstate system.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 1391(c) is amended to read:

(c) ~~On those highways designated as the national system of~~ Unless authorized by federal law, on interstate and defense ~~highways~~ highway 189, no single axle load shall be in excess of 20,000 pounds with no tolerance allowed, nor shall any tandem axle load be in excess of 34,000 pounds, with no tolerance allowed, except in the case of vehicles owned by persons to whom special permits have been issued in accordance with section 1400 of this title.

Sec. 2. 23 V.S.A. § 1392 is amended to read:

§ 1392. GROSS LIMITS ON HIGHWAYS

Except as provided in section 1400 of this title, a person or corporation shall not operate or cause to be operated a motor vehicle in excess of the total weight, including vehicle, object, or contrivance and load, of:

* * *

(11) ~~Subdivisions~~ Unless authorized by federal law, subdivisions (5) and (6) of this section shall not apply to ~~the highways designated as portions of the national system of~~ interstate and defense ~~highways~~ highway 189.

* * *

(13) Despite the axle-load provisions of section 1391 of this title and the maximum gross load of subdivision (4) of this section, a special annual permit, which shall expire coincidentally with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following date of issue, may be issued to a person or corporation ~~transporting unprocessed forest products~~ operating on designated routes on the state highway system and on those highways designated as the national system

of interstate and defense highways for a fee of \$310.00 for each vehicle which must be registered for a weight of 80,000 pounds. ~~“Unprocessed forest products” includes whole trees, parts thereof, logs, wood chips, sawdust, shavings, and bark mulch.~~ This special permit shall be issued only for a combination of vehicle and semi-trailer or trailer equipped with five or more axles, with a distance between axles which meets the minimum requirements of registering the vehicle to 80,000 pounds as allowed under subdivision (4) of this section. The maximum gross load under this special permit shall be 90,000 pounds. ~~The~~ Unless authorized by federal law, the provision of this subdivision shall not apply to operation on ~~the~~ interstate and defense highway system 189.

* * *

(16) Notwithstanding any other provision of law, a five or more axle truck tractor, semi-trailer combination, or truck trailer combination, when the load consists solely of unprocessed milk products as defined in subdivision 4(55) of this title, may be registered for and operated with a maximum gross weight of 90,000 pounds on state highways, without permit, and upon posted state and town highways and on those highways designated as the national system of interstate and defense highways when the vehicle has been issued a permit in compliance with the provisions of section 1400 of this title; however:

(A) Vehicles registered pursuant to this subdivision (16) ~~of this section~~ shall be subject to the same axle spacing restrictions as are applied to five or more axle vehicles registered to 80,000 pounds as set forth in subdivision (4) of this section;

(B) The following shall also apply to vehicles registered pursuant to this subdivision (16):

* * *

(vii) no tolerance shall be allowed on the gross weight of any vehicle registered under the provisions of this subdivision, nor shall the axle tolerance permitted in subdivisions (i) and (ii) of this subdivision apply when the vehicle is being operated upon posted state or town highways pursuant to the provisions of section 1400 of this title. ~~On those highways designated as the national system of interstate and defense highways~~ highway 189, the provisions of subsection 1391(c) of this title shall apply.

* * *

(17) Notwithstanding the gross vehicle weight provisions of subdivision (4) of this section, a truck trailer combination or truck tractor, semi-trailer combination with six or more ~~load-bearing~~ load-bearing axles ~~and~~

~~specialty equipped for hauling unprocessed milk, unprocessed forest or unprocessed quarry products shall be allowed to bear a maximum of 99,000 pounds by special annual permit, which shall expire coincidentally with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following the date of issue, for operating on designated routes on the state and town highways and on those highways designated as the national system of interstate and defense highways, subject to the following:~~

* * *

~~(E) The Unless authorized by federal law, the provisions of this subdivision shall not apply to operation on ~~the~~ interstate and defense highway system 189.~~

~~(F) The fee for the annual permit as provided in this subdivision shall be \$310.00 for vehicles bearing up to 90,000 pounds and \$500.00 for vehicles bearing up to 99,000 pounds.~~

~~(G) For the purposes of this subdivision, the following definitions shall apply:~~

~~(i) unprocessed milk products as defined in subdivision 4(55) of this title;~~

~~(ii) unprocessed forest products as defined in subdivision 1392(13) of this title;~~

~~(iii) unprocessed quarry products shall be quarried rock in block or blocks as it would be removed from the quarry. [Repealed.]~~

* * *

~~(20) Notwithstanding the gross vehicle weight provisions of subdivision (4) of this section, a truck trailer combination or truck tractor, semi-trailer combination with six or more load bearing axles shall be allowed to bear a maximum of 90,000 pounds by special annual permit, which shall expire coincidentally with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following the date of issue, for operating on designated routes on the state and town highways, subject to the following:~~

~~(A) The combination of vehicles must have as a minimum, a distance of 51 feet between extreme axles.~~

~~(B) The following shall also apply to vehicles registered pursuant to this subdivision:~~

~~(i) no single axle load shall be in excess of 22,400 pounds except that a 10 percent tolerance shall be allowed on each single axle;~~

~~(ii) no tandem axle load shall be in excess of 36,000 pounds except that a 10 percent tolerance shall be allowed on each tandem axle;~~

~~(iii) no single axle of a tandem axle unit shall support more than 60 percent of the total weight supported by the tandem unit;~~

~~(iv) no tri axle group, as defined in subdivision (6)(D) of this section, shall support a gross weight in excess of 46,000 pounds; except that a 10 percent tolerance shall be allowed on each tri axle group;~~

~~(v) no single axle of a tri axle group shall support more than 40 percent of the total weight supported by the tri axle group;~~

~~(vi) the maximum load on any axle of the vehicle shall not exceed more than 600 pounds per inch of tire width computed in conformity with the manufacturer's designated width;~~

~~(vii) a tolerance of 1,000 pounds shall be allowed on gross weight for any vehicle permitted under this subdivision.~~

~~(C) The fine for any violation of this subdivision shall be the same as provided in section 1391a of this title.~~

~~(D) The weight permitted by this subdivision shall be allowed for foreign trucks which are registered or permitted for 90,000 pounds in a state or province which recognizes Vermont vehicles for weights consistent with this subdivision.~~

~~(E) The provisions of this subdivision shall not apply to operation on the interstate and defense highway system.~~

~~(F) The fee for the annual permit as provided in this subdivision shall be \$310.00. [Repealed.]~~

* * *

Sec. 3. 23 V.S.A. § 1391(c) is amended to read:

(c) ~~Unless authorized by federal law, on~~ On those highways designated as the national system of interstate and defense highway 189 highways, no single axle load shall be in excess of 20,000 pounds with no tolerance allowed, nor shall any tandem axle load be in excess of 34,000 pounds, with no tolerance allowed, except in the case of vehicles owned by persons to whom special permits have been issued in accordance with section 1400 of this title.

Sec. 4. 23 V.S.A. § 1392 is amended to read:

§ 1392. GROSS LIMITS ON HIGHWAYS

Except as provided in section 1400 of this title, a person or corporation shall not operate or cause to be operated a motor vehicle in excess of the total weight, including vehicle, object, or contrivance and load, of:

* * *

(11) ~~Unless authorized by federal law, subdivisions~~ Subdivisions (5) and (6) of this section shall not apply to the highways designated as portions of the national system of interstate and defense highway 189 highways.

* * *

(13) Despite the axle-load provisions of section 1391 of this title and the maximum gross load of subdivision (4) of this section, a special annual permit, which shall expire coincidentally with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following date of issue, may be issued to a person or corporation operating on designated routes on the state highway system ~~and on those highways designated as the national system of interstate and defense highways~~ for a fee of \$310.00 for each vehicle which must be registered for a weight of 80,000 pounds. This special permit shall be issued only for a combination of vehicle and semi-trailer or trailer equipped with five or more axles, with a distance between axles which meets the minimum requirements of registering the vehicle to 80,000 pounds as allowed under subdivision (4) of this section. The maximum gross load under this special permit shall be 90,000 pounds. ~~Unless authorized by federal law, the~~ The provision of this subdivision shall not apply to operation on the interstate and defense highway 189 system.

* * *

(16) Notwithstanding any other provision of law, a five or more axle truck tractor, semi-trailer combination, or truck trailer combination, when the load consists solely of unprocessed milk products as defined in subdivision 4(55) of this title, may be registered for and operated with a maximum gross weight of 90,000 pounds on state highways, without permit, and upon posted state and town highways and on those highways designated as the national system of interstate and defense highways when the vehicle has been issued a permit in compliance with the provisions of section 1400 of this title; however:

* * *

(vii) no tolerance shall be allowed on the gross weight of any vehicle registered under the provisions of this subdivision, nor shall the axle

tolerance permitted in subdivisions (i) and (ii) of this subdivision apply when the vehicle is being operated upon posted state or town highways pursuant to the provisions of section 1400 of this title. On those highways designated as the national system of interstate and defense highway 189 highways, the provisions of subsection 1391(c) of this title shall apply.

* * *

(17) Notwithstanding the gross vehicle weight provisions of subdivision (4) of this section, a truck trailer combination or truck tractor, semi-trailer combination with six or more load-bearing axles shall be allowed to bear a maximum of 99,000 pounds by special annual permit, which shall expire coincidentally with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following the date of issue, for operating on designated routes on the state and town highways ~~and on those highways designated as the national system of interstate and defense highways~~, subject to the following:

* * *

(E) ~~Unless authorized by federal law, the~~ The provisions of this subdivision shall not apply to operation on the interstate and defense highway 189 system.

* * *

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1 and 2 of this act shall take effect on passage.

(b) Secs. 3 and 4 of this act shall take effect if, and on the day when, the pilot program created by 23 U.S.C. section 127(a)(13) is terminated.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was ordered delivered to the Governor forthwith.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until eight o'clock and thirty minutes in the forenoon on Friday, January 15, 2010.