

Journal of the Senate

FRIDAY, APRIL 16, 2010

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Lisa Ramson of Moretown.

Bill Referred to Committee on Appropriations

House bill of the following title, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, was referred to the Committee on Appropriations:

H. 784.

An act relating to the state's transportation program.

Consideration Postponed

House bills entitled:

H. 213.

An act to provide fairness to tenants in cases of contested housing security deposit withholding.

H. 524.

An act relating to interference with or cruelty to a guide dog.

Were taken up.

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

Third Reading Ordered

H. 527.

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

An act relating to municipal recovery of costs of fire department response.

Reported that the bill ought to pass in concurrence.

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

Consideration Postponed

S.R. 17.

Senate resolution of the following title

Senate resolution urging Congress to authorize alternative waivers to the 21-year-old minimum drinking age that do not entail federal highway funding penalties for states.

Was taken up.

Thereupon, pending third reading of the resolution, Senator Sears moved that the Senate resolution be committed to the Committee on Judiciary.

Thereupon, pending the question, Shall the Senate resolution be committed to the Committee on Judiciary?, Senate Sears requested and was granted leave to withdraw his motion.

Thereupon, pending third reading of the resolution, Senator Shumlin moved that consideration of the Senate resolution be postponed.

Bill Passed in Concurrence

H. 680.

House bill of the following title was read the third time and passed in concurrence:

An act relating to termination of occupancy of farm employee housing.

Third Reading Ordered

H. 771.

Senator Doyle, for the Committee on Government Operations, to which was referred House bill entitled:

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

Reported that the bill ought to pass in concurrence.

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

Consideration Postponed

Senate bill entitled:

S. 264.

An act relating to stop and hauling charges.

Was taken up.

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

Proposals of Amendment; Third Reading Ordered**H. 759.**

Senator Cummings, for the Committee on Finance, to which was referred House bill entitled:

An act relating to executive branch fees.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 2, 20 V.S.A. § 2738, in subsection (a), in subdivision (4), by striking out the word “and” in subdivision (5), by adding a the following: :and and saving the old period for the end of a new subdivision (6) which is added to read as follows:

(6) fees relating to licensing elevator mechanics and inspectors, and issuing permits and certificates of operation under subchapter 2A of chapter 3 of Title 21

Second: By striking out Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 20 V.S.A. §§ 2883 and 2884 are amended to read:

§ 2883. ~~INSPECTIONS BY INSURANCE COMPANIES~~ BOILER INSPECTIONS

The commissioner has authority to obtain specific information from ~~boiler insurance companies,~~ boiler inspectors on forms ~~furnished by them,~~ which shall first be approved by the commissioner. The commissioner may authorize qualified inspectors ~~in the employ of insurance companies~~ to conduct inspections ~~under his or her control and~~ under such rules as the commissioner may prescribe. If a boiler or pressure vessel is insured, the inspection may be conducted by a qualified inspector who is employed, or contractually authorized, by the insurer. If a boiler or pressure vessel is not insured, the

inspection may be conducted by any qualified inspector authorized by the commissioner. In case the inspection is made by such an inspector, no fee shall be charged by the division, except a process fee of ~~\$20.00~~ \$30.00 for issuance of an operating certificate. The fee for a person requesting a three-year authorization to conduct inspections shall be \$150.00. A licensed boiler inspector shall carry liability insurance in an amount determined by the department.

§ 2884. QUALIFICATIONS OF INSPECTORS

All boiler inspectors, ~~employed by the state and insurance companies~~, shall have passed the examination required by the National Board of Boiler and Pressure Vessel Inspectors, and hold annual certification from such board.

Third: By inserting an internal caption and a new section to be numbered Sec. 9a to read as follows:

* * * Criminal conviction records * * *

Sec. 9a. 20 V.S.A. § 2056c is amended to read:

§ 2056c. DISSEMINATION OF CRIMINAL CONVICTION RECORDS TO THE PUBLIC

* * *

(c) Criminal conviction records shall be disseminated to the public by the center under the following conditions:

* * *

(10) No person entitled to receive a criminal conviction record pursuant to this section shall require an applicant to obtain, submit personally, or pay for a copy of his or her criminal conviction record, except that this subdivision shall not apply to a local governmental entity with respect to criminal conviction record checks for licenses or vendor permits required by the local governmental entity.

Fourth: By inserting an internal caption and a new section to be numbered Sec. 9b to read as follows:

* * * Fingerprinting fees * * *

Sec. 9b. 20 V.S.A. § 2062 is amended to read:

§ 2062. FINGERPRINTING FEES

State, county and municipal law enforcement agencies may charge a fee of not more than ~~\$15.00~~ \$25.00 for providing persons with a set of classifiable fingerprints. No fee shall be charged to retake fingerprints determined by the

Vermont criminal information center not to be classifiable. Fees collected by the state of Vermont under this section shall be credited to the fingerprint fee special fund established and managed pursuant to ~~32 V.S.A. chapter 7~~, subchapter 5 of chapter 7 of Title 32, and shall be available to the department of public safety to offset the costs of providing these services.

Fifth: By striking out Sec. 6 in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. 26 V.S.A. § 905 is amended to read:

§ 905. APPLICATION; EXAMINATIONS AND FEES

* * *

(d)(1) Three-year electrical license fees shall be:

For a masters license (initial and renewal)	\$120.00 <u>\$150.00</u> ;
For a journeyman’s license (initial and renewal)	\$ 90.00 <u>\$115.00</u> ;
For a type-S journeyman’s license (initial and renewal) per field	\$ 90.00 <u>\$115.00</u> ;

(2) A fee established under this subsection for a license initially obtained under section 906 of this title shall not be less than the fee charged for the same license by the reciprocal state.

(e) For The fee for a certificate for framing shall be \$ 10.00.

~~(e)~~(f) If a license is allowed to lapse, it may be renewed within one year of its expiration date by the payment of \$25.00 in addition to the renewal fee.

~~(f)~~(g) The fee for replacement of a lost or damaged license shall be \$20.00.

Sixth: In Sec. 9, by adding a new subsection (c) to read as follows:

(c) 21 V.S.A. § 157 (elevator safety fund; creation) is repealed.

Seventh: By striking out Sec. 10 in its entirety and inserting in lieu thereof a new Sec. 10 to read as follows:

Sec. 10. 6 V.S.A. § 324(b) is amended to read:

(b) No person shall distribute in this state a commercial feed that has not been registered pursuant to the provisions of this chapter. Application shall be in a form and manner to be prescribed by rule of the secretary. The application for registration of a commercial feed shall be accompanied by a registration fee of ~~\$70.00~~ \$75.00 per product. The registration fees, along with any surcharges collected under subsection (c) of this section, shall be deposited in the special fund created by subsection 364(e) of this title. Funds deposited in this account

shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to fertilizer, lime, or seeds. If the secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

Eighth: In Sec. 18, 9 V.S.A. § 2643, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) The secretary shall, from time to time, test the accuracy and use of laser scanning and other computer assisted check-out systems in stores. The secretary shall compare the programmed computer price with the item price of any consumer commodity offered by a store. The store shall provide access to the computer as is necessary to allow the secretary to conduct the accuracy test.

~~(b) If, upon review, the programmed price of a commodity exceeds the price printed on or the advertised price of the commodity, the store may be subject to license denial, revocation, suspension or the following administrative penalties: ~~\$15.00 per violation identified in more than two percent but less than four percent of the commodities reviewed, rounded to the nearest whole number, \$20.00 per violation in the next two percent reviewed, \$50.00 per violation in the next two percent and \$100.00 for each additional violation. In no event, however, shall the total amount of penalty for the review exceed \$1,000.00~~ allowed by 6 V.S.A. § 15 for overcharge errors identified in two percent or more of the commodities reviewed.~~

~~(c) If a subsequent review within 12 months reveals further violations, the total amount of penalty due may be multiplied by the number of violations discovered.~~

Ninth: By striking out Sec. 20 in its entirety and inserting in lieu thereof a new Sec. 20 to read as follows:

Sec. 20. 8 V.S.A. § 2506 is amended to read:

§ 2506. APPLICATION FOR LICENSE

* * *

(d) A nonrefundable application fee of \$1,000.00 ~~and~~, a license fee of \$500.00 for the applicant, and a license fee of \$25.00 for each authorized delegate location shall accompany an application for a license under this subchapter. The license fee shall be refunded if the application is denied.

* * *

Tenth: By striking out Sec. 21 in its entirety and inserting in lieu thereof a new Sec. 21 to read as follows:

Sec. 21. 8 V.S.A. § 2509 is amended to read:

§ 2509. RENEWAL OF LICENSE AND, ANNUAL REPORT, AND ANNUAL ASSESSMENT

(a) A licensee under this subchapter shall pay an annual license renewal fee of \$500.00, plus an annual renewal fee of \$25.00 for each authorized delegate location, provided that the total renewal fee for all authorized delegate locations shall not exceed \$3,500.00, no later than December 1 for the next succeeding calendar year.

* * *

(c) On or before April 1 of each year, the licensee shall pay the department an annual assessment equal to \$0.0001 per dollar volume of money services activity performed for or sold or issued to Vermont customers for the most recent year ending December 31, which assessment shall not be less than \$100.00 and shall not be greater than \$15,000.00.

(d) If a licensee does not file an annual report on or before April 1, pay its annual assessment on or before April 1, or pay its renewal fee by December 1, or within any extension of time granted by the commissioner, the commissioner shall send the licensee a notice of suspension. The licensee's license shall be suspended 10 calendar days after the commissioner sends the notice of suspension. The licensee has 20 days after its license is suspended in which to file an annual report, pay its annual assessment, or pay the renewal fee, plus \$100.00 for each day after suspension that the commissioner does not receive the annual report, the annual assessment, or the renewal fee. The commissioner for good cause may grant an extension of the due date of the annual report or the renewal date.

~~(e)~~(e) The commissioner may require more frequent reports from any licensee for the purpose of determining the adequacy of the licensee's security.

Eleventh: By striking out Sec. 24 in its entirety and inserting in lieu thereof a new Sec. 24 to read as follows:

Sec. 24. 8 V.S.A. § 2532a is added to read:

§ 2532a. CHANGE OF AUTHORIZED DELEGATES; CHANGE OF LOCATION

A licensee shall notify the commissioner in writing within 30 days of any change in the list of authorized delegates or locations in this state where the

licensee or an authorized delegate of the licensee provides money services, including limited stations and mobile locations. Such notice shall state the name and street address of each authorized delegate or of each location removed or added to the licensee's list. Upon any such change, the licensee shall provide sufficient evidence that it is in compliance with section 2507 of this title. The licensee shall submit with the notice a nonrefundable fee of \$25.00 for each new authorized delegate location and for each change in location. There is no fee to remove authorized delegates or to remove locations.

Twelfth: By inserting an internal caption and nine new sections to be numbered Secs. 24a, 24b, 24c, 24d, 24e, 24f, 24g, 24h, and 24i to read as follows:

* * * Simplified licensing process for certain commercial lenders * * *

Sec. 24a. 8 V.S.A. § 2200(1) is amended to read:

(1) "Commercial loan" means any loan or extension of credit that is described in subdivision 46(1), (2), or (4) of Title 9 ~~and that is in excess of \$25,000.00~~. The term does not include a loan or extension of credit ~~for the purpose of farming, as defined in subdivision 6001(22) of Title 10 and does not include a loan or extension of credit for the purpose of financing secured in whole or in part by an owner occupied one- to four-unit dwelling.~~

Sec. 24b. 8 V.S.A. § 2202(d) is added to read:

(d) This section does not apply to a lender making only commercial loans.

Sec. 24c. 8 V.S.A. § 2202a is added to read:

§ 2202a. APPLICATION FOR COMMERCIAL LENDER LICENSE; FEES

(a) Application for a license for a lender making solely commercial loans shall be in writing, under oath, and in the form prescribed by the commissioner, and shall contain the name and address of the residence and the place of business of the applicant and, if the applicant is a partnership or association, of every member thereof, and, if a corporation, of each officer, director, and control person thereof; the county and municipality with street and number, if any, where the business is to be conducted; and such further information as the commissioner may require.

(b) At the time of making application, the applicant shall pay to the commissioner a \$500.00 fee for investigating the application and a \$500.00 initial license fee for a period terminating on the last day of the current calendar year.

(c) In connection with an application for a commercial lender license, the applicant and each officer, director, and control person of the applicant shall furnish to the Nationwide Mortgage Licensing System and Registry (NMLSR) information concerning the applicant's identity and the identity of each of the applicant's officers, directors, and control persons, including:

(1) Fingerprints for submission to the Federal Bureau of Investigation and for any other governmental agency or entity authorized to receive such information for a state, national, and international criminal history background check.

(2) Personal history and experience in a form prescribed by the NMLSR, including the submission of authorization for the NMLSR and the commissioner to obtain information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(3) Any other information required by the NMLSR or the commissioner.

Sec. 24d. 8 V.S.A. § 2203(f) is added to read:

(f) This section does not apply to a lender making only commercial loans.

Sec. 24e. 8 V.S.A. § 2204(d) is added to read:

(d) This section does not apply to a lender making only commercial loans.

Sec. 24f. 8 V.S.A. § 2204c is added to read:

§ 2204c. APPROVAL OF APPLICATION; ISSUANCE OF COMMERCIAL LENDER LICENSE

(a) Upon the filing of the application and payment of the required fees, the commissioner shall issue and deliver a commercial lender license to the applicant upon findings by the commissioner as follows:

(1) That the experience, character, and general fitness of the applicant are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter. If the applicant is a partnership or association, such findings are required with respect to each partner, member, and control person. If the applicant is a corporation, such findings are required with respect to each officer, director, and control person.

(2) That the applicant and each officer, director, and control person of the applicant has never had a lender license, mortgage broker license, mortgage loan originator license, or similar license revoked in any governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a revocation.

(3) That the applicant and each officer, director, and control person of the applicant has not been convicted of or pled guilty or nolo contendere to a felony in a domestic, foreign, or military court:

(A) During the seven-year period preceding the date of the application for licensing, except a conviction for driving under the influence or a similarly titled offense in this state or in any other jurisdiction;

(B) At any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering; or

(C) Provided that any pardon of a conviction shall not be a conviction for purposes of this subsection.

(b) If the commissioner does not find as set forth in subsection (a) of this section, the commissioner shall not issue a license. Within 60 days of filing of the completed application, the commissioner shall notify the applicant of the denial, stating the reason or reasons therefor. If after the allowable period, no request for reconsideration under subsection 2205(a) of this title is received from the applicant, the commissioner shall return to the applicant the sum paid by the applicant as a license fee, retaining the investigation fee to cover the costs of investigating the application.

(c) If the commissioner makes findings as set forth in subsection (a) of this section, he or she shall issue the license within 60 days of filing the completed application. Provided the licensee annually renews the license, the license shall be in full force and effect until surrendered by the licensee or until revocation, suspension, termination, or refusal to renew by the commissioner.

Sec. 24g. 8 V.S.A. § 2209(a)(6) is added to read:

(6) For the renewal of a lender's license for a lender making only commercial loans, \$500.00.

Sec. 24h. 8 V.S.A. § 2224(b) is amended to read:

(b) Annually, within 90 days of the end of its fiscal year, each licensed lender, mortgage broker, and sales finance company shall file financial statements with the commissioner in a form and substance satisfactory to the commissioner, which financial statements must include a balance sheet and income statement. This subsection does not apply to a lender making only commercial loans.

Sec. 24i. 9 V.S.A. § 46 is amended to read:

§ 46. EXCEPTIONS

Section 43 of this title relating to deposit requirements and section 45 of this title relating to prepayment penalties shall not apply and the parties may contract for a rate of interest in excess of the rate provided in section 41a of this title in the case of:

* * *

(2) obligations incurred by any person, partnership, association or other entity to finance in whole or in part income-producing business or activity, but not including obligations incurred to finance family dwellings of ~~two~~ four units or less when used as a residence by the borrower or to finance real estate which is devoted to agricultural purposes as part of an operating farming unit when used as a residence by the borrower; or

* * *

Thirteenth: By inserting an internal caption and a new section to be numbered Sec. 29a to read as follows:

* * * Moose hunting permit * * *

Sec. 29a. 10 V.S.A. § 4254 is amended to read:

§ 4254. FISHING AND HUNTING LICENSES; ELIGIBILITY, DESIGN, DISTRIBUTION, SALE, AND ISSUE

* * *

(i)(1) If the board establishes a moose hunting season, up to five moose permits shall be set aside to be auctioned. The board shall adopt rules necessary for the department to establish, implement, and run the auction process. Proceeds from the auction shall be deposited in the fish and wildlife fund and used for conservation education programs run by the department. Successful bidders must have a Vermont hunting or combination license in order to purchase a moose permit. Beginning with the 2006 hunting season, the five moose permits set aside for auction shall be in addition to the number of annual moose permits authorized by the board.

* * *

(3) If the board establishes a moose hunting season, there shall be established a program to set aside three moose permits for children with life-threatening illnesses. The department of fish and wildlife shall adopt a procedure to implement the set-aside program for children with life-threatening illnesses.

Fourteenth: In Sec. 30, 3 V.S.A. § 2822(j), in subdivision (2)(B)(i), by striking out the figure “\$210,000.00” and inserting in lieu thereof the figure \$60,000.00

Fifteenth: In Sec. 30, 3 V.S.A. § 2822(j), by adding an ellipsis after subdivision (7)(F)

Sixteenth: In Sec. 30, 3 V.S.A. § 2822(j), by inserting subdivision (26) and amending it to read as follows:

(26) For individual conditional use determinations, for individual wetland permits, for general conditional use determinations issued under 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit, an administrative processing fee assessed under subdivision (2) of this subsection (j) and an application fee of:

(A) ~~\$0.07~~ \$0.14 per square foot of proposed impact to Class I or II wetlands;

(B) ~~\$0.05~~ \$0.10 per square foot of proposed impact to Class I or II wetland buffers;

(C) maximum fee, for the conversion of Class II wetlands or wetland buffers to cropland use, \$200.00 per application. For purposes of this subdivision, “cropland” means land that is used for the production of agricultural crops, including row crops, fibrous plants, pasture, fruit-bearing bushes, trees or vines and the production of Christmas trees;

(D) minimum fee, \$50.00 per application.

* * *

Seventeenth: In Sec. 30, 3 V.S.A. § 2322(j), by adding two new subdivisions (29) and (30) to read as follows:

(29) For salvage yards permitted under subchapter 10 of chapter 61 of Title 24:

(A) facilities that crush or shred junk motor vehicles. \$2,000.00 per facility.

(B) facilities that accept or dismantle junk motor vehicles. \$1,000.00 per facility.

(C) facilities that manage junk on site excluding junk motor vehicles. \$350.00 per facility.

(D) facilities, the primary activity of \$300.00 per facility.
which is handling total-loss vehicles
from insurance companies.

(30) For beverage redemption centers certified under chapter 53 of
Title 10, an annual fee of \$100.00 per certified redemption center.

* * *

Eighteenth: In Sec. 30, 3 V.S.A. § 2822(1), in subdivision (2), by striking the (A) designation, the word “or” and subdivision (B) in its entirety.

Nineteenth: By striking out Sec. 31 in its entirety.

Twentieth: In Sec. 33, by adding a new subsection (c) to read as follows:

(c) 24 V.S.A. § 2263 (annual salvage yard licensing fee) is repealed.

Twenty-first: In Sec. 35, 32 V.S.A. § 605, in subsection (b), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) A report covering all fees in existence on the prior July 1 within the areas of government identified by the department of finance and management accounting system as “general government,” “labor,” “general education,” “development and community affairs” and “transportation” shall be submitted ~~by October 1, 1996 and every three years thereafter on~~ by the third Tuesday of the legislative session ~~beginning with 2000~~ beginning in 2011 and every three years thereafter.

Twenty second: By striking out Sec. 35a in its entirety.

Twenty third: By inserting an internal caption and a new section to be numbered Sec. 34a to read as follows:

* * * Probate fees * * *

Sec. 34a. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE COURTS

(a) The following entry fees shall be paid to the probate court for the benefit of the state, except for subdivision (17) of this subsection which shall be for the benefit of the county in which the fee was collected:

* * *

- | | |
|-------------------------------|------------------------------------|
| (14) Guardianships for minors | \$35.00 <u>\$85.00</u> |
| (15) Guardianships for adults | \$50.00 <u>\$100.00</u> |

(16) Petitions for change of name	\$75.00 <u>\$125.00</u>
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* * *

<u>(23) Petitions for partial decree</u>	<u>\$100.00</u>
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<u>(24) Petitions for license to sell real estate</u>	<u>\$50.00</u>
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* * *

And by renumbering the remaining sections to be numerically correct.

And that the bill ought to pass in concurrence with such proposals of amendment.

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

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the fifteenth day of April, 2010 he approved and signed a bill originating in the Senate of the following title:

S. 288. An act relating to the Vermont recovery and reinvestment act of 2010.

Message from the House No. 54

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. 293. An act relating to state standards for boilers and pressure vessels.

And has passed the same in concurrence.

The House has considered a bill originating in the Senate of the following title:

S. 282. An act relating to updating and clarifying provisions regarding commercial driver licenses and commercial motor vehicles.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The Governor has informed the House that on the April 13, 2010, he approved and signed bills originating in the House of the following titles:

H. 461. An act relating to small estates.

H. 600. An act relating to permitted investments by the state treasurer.

H. 695. An act relating to definition of premises for award of liquor license.

Message from the House No. 55

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 a House bill of the following title:

H. 781. An act relating to renewable energy.

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

Adjournment

On motion of Senator Shumlin, the Senate adjourned, to reconvene on Monday, April 19, 2010, at three o'clock in the afternoon pursuant to J.R.S. 61.