

Journal of the Senate

WEDNESDAY, APRIL 28, 2010

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

Devotional Exercises

A moment of silence was observed in lieu of devotions.

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 twenty-seventh day of April, 2010, he approved and signed bills originating in the Senate of the following titles:

S. 272. An act relating to human trafficking.

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

Senate Resolution Placed on Calendar

S.R. 24.

Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Miller,

S.R. 24. Joint resolution supporting continuing implementation of the Inter-Rwandan Dialogue.

Whereas, 20 years ago, Ven Dhyani Ywahoo established the Sunray Peace Village in Lincoln, Vermont, and during the past two decades, she has welcomed many interested visitors and peacemakers, and

Whereas, she imparts to her guests, together with other peacemakers such as Vermont-based international mediator Dr. Louise Diamond, the wise values of compassion, justice, peace and reconciliation that Native American elders have long espoused, and

Whereas, among the peacemakers to the Sunray Peace Village have been two Spanish lawyer-mediators, and

Whereas, since 1990, hundreds of thousands of innocent persons residing in the African nation of Rwanda (Rwandans), and representative of that nation's three primary ethnic groups, Hutu, Tutsi and Twa, as well as Congolese from the neighboring Democratic Republic of the Congo, have perished in one of the most deadly interethnic conflicts since World War II, and

Whereas, both the United Nations and the European Parliament have repeatedly declared the existence of important political, economic and strategic interests in Africa's Great Lakes region where Rwanda is located, and

Whereas, the fissures in Rwandan society remain extremely deep, and an extensive restoration of civil harmony is needed in Rwanda and in Africa's entire Great Lakes Region in order for social, cultural, commercial and political life to function with any degree of long-term sustainability, and

Whereas, despite the legal significance of some international judicial proceedings, a true transformation of Rwandan society will require the establishment of new and enduring bonds of acceptance, cooperation and trust among the different Rwandan ethnic, political and social groups, and

Whereas, with this noble goal in mind, the Brussels-based Hutu president of a victims' association and the Rwandan government's Tutsi former plenipotentiary ambassador to the United Nations initiated an interethnic Rwanda dialogue, and

Whereas, in 2004, subsequent to the dialogue's initiation, ten Rwandan men and women, both Tutsi and Hutu, residing outside Rwanda met in Mallorca, Spain, and

Whereas, in 2006, after this first successful meeting and extensive subsequent planning, a second conclave of 20 mixed ethnic Rwandans, both residents of Rwanda and abroad, and now known as the Inter-Rwandan Dialogue, was convened in Barcelona, Spain under the auspices of the 1980 Noble Peace Prize laureate Aldolfo Pérez-Esquivel, and

Whereas, the 2006 Inter-Rwandan Dialogue in Barcelona laid the foundation for the International Network of Truth and Reconciliation in Central Africa, and the resulting protocol of findings led to five additional Dialogue Platforms during 2007 and 2008 that were held in Washington, D.C. (for Rwandans exiled in the United States and Canada); in Amsterdam (for Rwandans exiled in the Netherlands, Belgium and Germany); in Orleans, France (for Rwandans exiled in France and Italy); in Barcelona - The Platform for Rwandan Women (for Rwandan women exiled in seven European countries); and in Kinshasa, Democratic Republic of the Congo, where the plight of Congolese victims, in relation to Rwanda, was the special focus, and

Whereas, in 2009 the Inter-Rwandan Dialogue returned to Mallorca, Spain where the 30 male and female participants included representatives of the seven editions of Dialogue belonging to the Hutu, Tutsi and Twa ethnic groups, and

Whereas, this five-year process has involved former prime ministers, cabinet ministers, ambassadors and political leaders, as well as representatives from civil society, victims' and human rights organizations, and institutions devoted to peace and economic research, and

Whereas, all of these individuals and organizations have focused on the future and continuing this larger Inter-Rwandan Dialogue as the legitimate foundation upon which to build a new Rwanda that all political, ethnic, social, and economic groups in the country, as well as the international community, can widely accept, and

Whereas, the progress that the Inter-Rwandan Dialogue has achieved to date is largely attributable to the enormous leadership of the Spanish mediators who, in their summer of 2009 visit to the Sunray Peace Village, spoke of the centrality of Ven Dhyani Ywahoo's wise values in reducing, and perhaps ultimately transforming, the extreme animosity that the Hutu, Tutsi and Twa, as well as Congolese from the neighboring Democratic Republic of the Congo, have developed toward each other, and

Whereas, the Inter-Rwandan Dialogue is an exemplary and realistic model for the bringing together of opposing ethnic groups involved in major national and international conflicts, and this unusual and praiseworthy international dialogue should be universally applauded and encouraged, and if possible, this dialogue model should be extended to other countries in conflict, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly supports the implementation of the Inter-Rwandan Dialogue in its development and continuing implementation of the Inter-Rwandan Dialogue that is premised on the teachings of Ven Dhyani Ywahoo of Lincoln, Vermont, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Ven Dhyani Ywahoo at the Sunray Peace Village in Lincoln, Vermont and to the administrative offices of the Inter-Rwandan Dialogue in Barcelona, Spain.

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

Action Reconsidered; Consideration Postponed**H. 243.**

Assuring the Chair that he voted with the majority on a roll call vote by the Senate on the first proposal of amendment recommended by the Committee on Natural Resources and Energy, Senator Campbell moved that the Senate reconsider its vote during its consideration of House bill entitled:

An act relating to the creation of a mentored hunting license.

Thereupon, pending the question, Shall the bill be reconsidered?, on motion of Senator Campbell consideration of the bill was postponed.

Proposal of Amendment; Third Reading Ordered**H. 213.**

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

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

Reported that the bill ought to pass in concurrence.

Senator Campbell, for the Committee on Judiciary, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended by adding a new section to be numbered Sec. 2 to read as follows:

Sec. 2. 9 V.S.A. § 4467 is amended to read:

§ 4467. TERMINATION OF TENANCY; NOTICE

(a) Termination for nonpayment of rent. The landlord may terminate a tenancy for nonpayment of rent by providing actual notice to the tenant of the date on which the tenancy will terminate which shall be at least 14 days after the date of the actual notice. The rental agreement shall not terminate if the tenant pays or tenders rent due through the end of the rental period in which payment is made or tendered. Acceptance of partial payment of rent shall not constitute a waiver of the landlord's remedies for nonpayment of rent or an accord and satisfaction for nonpayment of rent.

* * *

And that when so amended the bill ought to pass in concurrence with proposal of amendment.

Which was agreed to.

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

House Proposal of Amendment Concurred In

S. 237.

House proposal of amendment to Senate bill entitled:

An act relating to operational standards for salvage yards.

Was taken up.

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. 24 V.S.A. §§ 2248 and 2249 are added to read:

§ 2248. SALVAGE YARD OPERATIONAL STANDARDS

(a) Beginning July 1, 2010, a salvage yard shall meet the following operational standards:

(1) The salvage yard shall comply with the screening and fencing requirements of section 2257 of this title.

(2) Motor vehicles shall be drained of all fluids prior to crushing and within 365 days of receipt by the salvage yard, except that a vehicle with visible signs of leaking fluids shall be drained immediately. Fluids shall be drained, collected, and stored according to standards established by the secretary in order to prevent release to the environment. The fluids that shall be drained, collected, and stored under this subdivision include antifreeze, oil, brake fluid, fuel, refrigerants, and transmission fluid.

(3) Vehicles shall be drained and crushed:

(A) on or over a surface that is designed to retain seepage or draining fluids and that is designed to prevent releases to groundwater, discharges to surface waters, or other releases to the environment; or

(B) by a crusher with an onboard fluid-recovery and storage system that prevents releases to groundwater, discharges to surface waters, or other releases to the environment.

(4) A salvage yard issued a certificate of registration under section 2242 of this title after July 1, 2010, shall not be sited or operated within 100 feet of a Class I or Class II wetland as those terms are defined in 10 V.S.A. § 902. This subdivision shall not apply to the renewal of a valid certificate of registration under this subchapter.

(5)(A) A salvage yard issued a certificate of registration under section 2242 of this title after July 1, 2010, shall not be sited or operated within 300 feet of a potable water supply, as that term is defined in 10 V.S.A. § 1972, unless:

(i) the water supply provides water to the salvage yard; or

(ii) the agency of natural resources approves management practices or remedial measures to prevent contamination of the potable water supply.

(B) This subdivision shall not apply to the renewal of a valid certificate of registration under this subchapter.

(b) On or before March 31, 2011, the secretary shall adopt by rule requirements for the siting, operation, and closure of salvage yards. The rules shall establish requirements for:

(1) the siting of salvage yards, including setbacks from surface waters, wetlands, and potable water supplies. Siting requirements under this subdivision may include site-specific conditions for salvage yards operating under a valid certificate of registration under section 2242 of this title, provided that such site-specific conditions are designed to prevent releases to groundwater, discharges to surface waters, or other risks to public health and the environment. A site-specific condition under this subdivision may include the requirement that the owner or operator of a salvage yard obtain an individual certificate of registration under section 2242 of this title instead of operating under a general permit adopted by the secretary under subsection (c) of this section;

(2) exemptions from the requirement to obtain a certificate of registration under section 2242 of this title;

(3) when an instrument of financial responsibility may be required by the secretary in amounts necessary to:

(A) remediate potential or existing environmental contamination caused by the salvage yard; or

(B) assure proper management of salvage materials upon closure of the salvage yard;

(4) removal of solid waste or tires from the salvage yard for proper disposal;

(5) establishment and maintenance of screening or fencing of salvage yards from public view;

- (6) assuring proper closure of a salvage yard facility;
- (7) postclosure environmental monitoring of a salvage yard;
- (8) classes or categories of salvage yards, including those handling total loss vehicles from insurance; and
- (9) additional measures that the secretary determines necessary for the protection of public health, safety, and the environment.

(c)(1) The secretary may issue a general permit for a certificate of registration issued to salvage yards under section 2242 of this title. The general permit may include a provision allowing a holder of a valid certificate of registration issued under this subchapter to self-certify compliance with the applicable standards of this subchapter and rules adopted under this subchapter. A general permit issued under this section shall be adopted by rule and may be incorporated into the rule required under subsection (b) of this section.

(2) If the secretary adopts a general permit for the regulation of salvage yards under subdivision (1) of this subsection, the secretary may require an owner or operator of a salvage yard that is operating under the general permit or that is applying for coverage under the general permit to obtain an individual certificate of registration under section 2242 of this title if any one of the following applies:

- (A) the salvage yard does not qualify for the general permit;
- (B) a salvage yard operating under the general permit is in violation of the terms and conditions of the general permit;
- (C) the size, scope, or nature of the activity of the salvage yard exceeds the parameters of the general permit;
- (D) the owner or operator of the salvage yard has a history of noncompliance; or
- (E) the salvage yard presents a potential risk to public health or the environment.

(d) No person may deliver salvage vehicles to or operate a mobile salvage vehicle crusher at a salvage yard that does not hold a certificate of registration under this subchapter. A salvage yard holding a certificate of registration under this subchapter shall post a copy of its current certificate in a clearly visible location in the proximity of each entrance to the salvage yard.

(e) The requirement under subdivision (a)(2) of this section or rules adopted under this section to drain a vehicle within 365 days of receipt shall

not apply to a salvage yard holding a certificate of registration under this subchapter that, as of January 1, 2010, is conducting business, the primary activity of which is the handling of total loss vehicles from insurance companies.

§ 2249. SALVAGE YARD OPERATOR TRAINING

At least annually, the owner or operator of a salvage yard shall attend a training workshop conducted by or approved by the agency of natural resources regarding the requirements of this subchapter, best management practices, existing and proposed environmental standards, and other applicable federal, state, or municipal requirements.

Sec. 2. 24 V.S.A. § 2241 is amended to read:

§ 2241. DEFINITIONS

For the purposes of this subchapter:

- (1) “Abandoned” means a motor vehicle as defined in 23 V.S.A. § 2151.
- (2) “Board” means the state transportation board, or its duly delegated representative.
- (3) “Highway” means any highway as defined in ~~section 19~~ 19 V.S.A. § 1 of Title 19.
- (4) “Interstate or primary highway” means any highway, including access roads, ramps and connecting links, which have been designated by the state with the approval of the Federal Highway Administration, Department of Transportation, as part of the National System of Interstate and Defense Highways, or as a part of the national system of primary highways.
- (5) “Junk” means old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including but not limited to rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof.
- (6) “Junk motor vehicle” means a discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof, or ~~one a motor vehicle~~, other than an on-premise utility vehicle, which is allowed to remain unregistered or uninspected for a period of ~~ninety~~ 90 days from the date of discovery.
- (7) “Salvage yard” means any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. “Salvage yard” also means any ~~place of outdoor storage or deposit, not in connection with a business which is maintained or used for~~

~~storing or keeping four or more junk motor vehicles which are visible from any portion of a public highway or navigable water, as that term is defined in section 1422 of Title 10 outdoor area used for operation of an automobile graveyard.~~ It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

(8) “Legislative body” means the city council of a city, the board of selectmen of a town, or the board of trustees of a village.

(9) “Main traveled way” means the portion of a highway designed for the movement of motor vehicles, shoulders, auxiliary lanes, and roadside picnic, parking, rest, and observation areas and other areas immediately adjacent and contiguous to the traveled portion of the highway and designated by the transportation board as a roadside area for the use of highway users and generally but not necessarily located within the highway right-of-way.

(10) “Motor vehicle” means any vehicle propelled or drawn by power other than muscular power, including trailers.

(11) “Notice” means by certified mail with return receipt requested.

(12) “Scrap metal processing facility” means a manufacturing business which purchases sundry types of scrap metal from various sources including the following: industrial plants, fabricators, manufacturing companies, railroads, junkyards, auto wreckers, salvage dealers, building wreckers, and plant dismantlers and sells the scrap metal in wholesale shipments directly to foundries, ductile foundries, and steel foundries where the scrap metal is melted down and utilized in their manufacturing process.

(13) “Secretary” means the secretary of natural resources or the secretary’s designee.

(14) “Automobile hobbyist” means a person who is not primarily engaged in the business of:

(A) selling motor vehicles or motor vehicle parts; or

(B) accepting, storing, or dismantling junk motor vehicles.

(15) “Automobile graveyard” means a yard, field, or other outdoor area on a property owned or controlled by a person and used or maintained for storing or depositing four or more junk motor vehicles. “Automobile graveyard” does not include:

(A) an area used by an automobile hobbyist to store, organize, restore, or display motor vehicles or parts of such vehicles, provided that the

hobbyist's activities comply with all applicable federal, state, and municipal law;

(B) an area used for the storage of motor vehicles exempt from registration under chapter 7 of Title 23;

(C) an area owned or used by a dealer registered under 23 V.S.A. § 453 for the storage of motor vehicles; or

(D) an area used or maintained for the parking or storage of operational commercial motor vehicles, as that term is defined in 23 V.S.A. § 4103(4), that are temporarily out of service and unregistered but are expected to be used in the future by the vehicle operator or owner.

Sec. 3. 24 V.S.A. § 2242 is amended to read:

§ 2242. REQUIREMENT FOR OPERATION OR MAINTENANCE

(a) A person shall not operate, establish, or maintain a salvage yard unless he or she:

(1) Holds a certificate of approval for the location of the salvage yard; and

(2) Holds a certificate of registration issued by the secretary to operate, establish, or maintain a salvage yard.

(b) The issuance of a certificate of registration under subsection (a) of this section shall not relieve a salvage yard from the obligation to comply with existing state and federal environmental laws and to obtain all permits required under state or federal environmental law.

(c) The secretary may require a person to obtain a salvage yard certificate of registration under this section upon a determination, based on available information, that the person has taken action to circumvent the requirements of this subchapter.

Sec. 3. 24 V.S.A. § 4454(a) is amended to read:

(a) An action, injunction, or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required municipal land use permit may be instituted under ~~sections~~ section 1974a, 4451, or 4452 of this title against the alleged offender if the action, injunction, or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred and not thereafter, except that the 15-year limitation for instituting an action, injunction, or enforcement proceeding shall not apply to any action, injunction, or enforcement proceeding instituted for a violation of subchapter 10 of chapter 61 of this title. The burden of proving

the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.

Sec. 4. 27 V.S.A. § 612(a) is amended to read:

(a) Notwithstanding the majority decision in *Bianchi v. Lorenz* (1997), for land development, as defined in 24 V.S.A. § 4303~~(3)~~(10), no encumbrance on record title to real estate or effect on marketability shall be created by the failure to obtain or comply with the terms or conditions of any required municipal land use permit as defined in 24 V.S.A. § 4303~~(24)~~(11).

Sec. 5. 24 V.S.A. § 4303(11) is amended to read:

(11) "Municipal land use permit" means any of the following whenever issued:

(A) A zoning, subdivision, site plan, or building permit or approval, any of which relate to "land development" as defined in this section, that has received final approval from the applicable board, commission, or officer of the municipality.

(B) A wastewater system permit issued under any municipal ordinance adopted pursuant to chapter 102 of this title.

(C) Final official minutes of a meeting that relate to a permit or approval described in subdivision (11)(A) or (B) of this section that serve as the sole evidence of that permit or approval.

(D) A certificate of occupancy, certificate of compliance, or similar certificate that relates to the permits or approvals described in subdivision (11)(A) or (B) of this section, if the bylaws so require.

(E) An amendment of any of the documents listed in subdivisions (11)(A) through (D) and (F) of this section.

(F) A certificate of approved location for a salvage yard issued under subchapter 10 of chapter 61 of this title.

Sec. 6. REPEAL

24 V.S.A. § 2248(a) (statutory operational standards for salvage yards) is repealed March 31, 2011.

Sec. 7. EFFECTIVE DATE

This act shall take effect July 1, 2010.

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

Consideration Postponed

Senate bill entitled:

S. 287.

An act relating to the licensing and regulation of loan servicers.

Was taken up.

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

House Proposal of Amendment Concurred In**J.R.S. 50.**

House proposal of amendment to Senate bill entitled:

Joint resolution urging expedited federal initiation of the National Environmental Policy Act process relating to the proposed federal acquisition of Eagle Point Farm in Derby, Vermont.

Was taken up.

The House proposes to the Senate to amend the joint resolution by striking out the resolution in its entirety and inserting in lieu thereof the following:

J.R.S. 50. Joint resolution urging expedited federal initiation of the National Environmental Policy process relating to the proposed federal acquisition of Eagle Point Farm in Derby, Vermont.

Whereas, the late Michael Dunn, the owner of the 800-acre Eagle Point Farm (approximately one-half of which is located in Derby, Vermont, and the balance in Quebec), conditionally donated through his trust the Vermont portion of this exceptional parcel as a gift to the United States of America for purposes of permanent preservation and public enjoyment, and

Whereas, Eagle Point Farm's Vermont acreage includes diverse freshwater wetland, woodland, and riparian habitats, rich agricultural land, and more than a mile of frontage on 27-mile-long Lake Memphremagog, and

Whereas, this impressive acreage provides land for high quality breeding, migratory, and wintering habitats for priority waterfowl and grassland bird species, and

Whereas, many rare plants and unique natural communities are also located at Eagle Point Farm, and

Whereas, for many decades, through the generosity of the Dunn family, many Vermonters have enjoyed Eagle Point Farm for walking, fishing,

hunting, trapping, wildlife observation, and access to Lake Memphremagog, and

Whereas, because Eagle Point Farm is waterfront land, it is valuable monetarily and is at high risk of being developed should the United States not ultimately accept Michael Dunn's generous gift, and

Whereas, not only is this land attractive to developers, but also, in accordance with the terms of Michael Dunn's conditional donation, should the federal government not acquire the Vermont portion of Eagle Point Farm by September 1, 2010, then the trustee must dispose of the property in a manner that would maximize its cash value for the benefit of a secondary institutional beneficiary, and

Whereas, the northeastern office of the United States Fish and Wildlife Service (USFWS), in close collaboration with the state of Vermont, has assessed the conservation value of the Vermont portion of Eagle Point Farm, and

Whereas, there is mutual agreement among federal and state authorities that the optimal disposition of the Vermont portion of Eagle Point Farm is to proceed with a proposal that the Vermont Land Trust has put forward – to wit: that the USFWS should acquire title to the land and that the Vermont Agency of Natural Resources should then administer Eagle Point Farm in Derby as a coordination area for recreational use in accordance with the Wildlife Management Area (WMA) guidelines of the Vermont Department of Fish and Wildlife and a jointly entered memorandum of understanding, and

Whereas, the Province of Quebec is simultaneously working toward accepting a gift of that portion of Michael Dunn's property located in the province, and such an acquisition would provide opportunities for cross-border collaboration, and

Whereas, the Vermont Fish and Wildlife Conservation Group, located in nearby East Charleston, has written to the Vermont congressional delegation, offering its full support for both the federal acquisition and subsequent state management of Eagle Point Farm, and

Whereas, the Memphremagog Watershed Association (MWA) in Derby, whose mission is “the preservation of the environment and natural beauty of the Memphremagog watershed,” has written to public officials that it “cannot overstate the importance of and their support for keeping Michael Dunn's property in the public trust and for public use,” and

Whereas, the MWA has worked collaboratively with Memphremagog Conservation, Inc. for the preservation of Eagle Point Farm on both sides of

the border, and it has reminded public officials that preservation of the property is “consistent with the efforts and goals of the Quebec/Vermont Steering Committee which is charged with the restoration and protection of the international waters of Lake Memphremagog,” and

Whereas, the northeastern office of the USFWS has submitted a proposal to its national office in Washington, D.C., to move forward immediately with the scientific assessment and public comment requirements of the National Environmental Policy Act (NEPA) in order that the acquisition process can occur prior to the September 1, 2010, deadline, and

Whereas, the NEPA process will provide the opportunity for the general public to offer its comments on the proposed federal acquisition and state management of Eagle Point Farm in Derby to help determine the best long-term outcome for this special piece of Vermont, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly urges the United States Fish and Wildlife Service to expedite the National Environmental Policy Act process relating to the proposed federal acquisition of Eagle Point Farm in Derby, Vermont, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the United States Secretary of the Interior, the United States Fish and Wildlife Service Commissioner, the United States Fish and Wildlife Service Northeast Regional Director, the Vermont Congressional Delegation, and the Vermont Secretary of Natural Resources.

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

Bill Passed in Concurrence with Proposal of Amendment

H. 229.

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

An act relating to mausoleums and columbaria.

Consideration Postponed

House bill entitled:

H. 243.

An act relating to the creation of a mentored hunting license.

Was taken up.

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

Proposal of Amendment; Consideration Postponed

H. 281.

House bill entitled:

An act relating to the removal of bodily remains.

Was taken up.

Thereupon, pending third reading of the bill, Senator Illuzzi moved to amend the Senate proposal of amendment in Sec. 7, 18 V.S.A. § 5201(c) in the second sentence after the following: “funeral director” by inserting the following: , the person in charge of the body

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator Illuzzi?, on motion of Senator Sears consideration of the bill was postponed.

Bill Passed in Concurrence with Proposals of Amendment

H. 622.

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

An act relating to solicitation by prescreened trigger lead information.

Bill Passed in Concurrence with Proposals of Amendment

H. 689.

House bill entitled:

An act relating to the Uniform Common Interest Ownership Act.

Was taken up.

Thereupon, pending third reading of the bill, Senator Campbell moved that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, 27A V.S.A., § 1-103 by striking out subsection (7) in its entirety and inserting in lieu thereof a new subsection (7) to read as follows:

(7) “Common interest community” means real estate described in a declaration with respect to which ~~any~~ a person, by virtue of the person’s ownership of a unit, is obligated to pay for a share of real estate taxes on, insurance premiums, ~~on~~ maintenance, ~~of~~ or improvement of, ~~any or services~~ or other expenses related to common elements, other units, or any other real

estate other than that unit described in the declaration. ~~Ownership~~ The term does not include an arrangement described in section 1-207 of this title. For purposes of this subdivision, ownership of a unit does not include holding a leasehold interest of less than five years in a unit, including renewal options.

Second: In Sec. 48 by striking out the following “2011” and inserting in lieu thereof the following 2012

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

Consideration Postponed

H. 767.

House bill entitled:

An act relating to the livestock care standards advisory council.

Was taken up.

Thereupon, pending third reading of the bill, Senators Giard, Campbell and Illuzzi moved to amend the Senate proposal of amendment by adding a new section to be numbered Sec. 2, to read as follows:

Sec. 2. 6 V.S.A. § 3134 is amended to read:

§ 3134. PENALTY

(a) A person who violates this chapter shall be fined not more than ~~\$100.00~~ nor less than ~~\$50.00~~ \$5,000.00 for the first violation, not more than \$10,000.00 for the second violation, and not more than \$25,000.00 for the third violation, or imprisoned not more than ~~90 days~~ two years, or both. In addition to the penalty provided above, the secretary may seek an injunction against a slaughterer, packer, or stockyard operator who engages in practices which are prohibited by section 3132 of this title, by application to the superior court for the county in which such slaughterer, packer or stockyard operator resides, or where such violations occur. The secretary may also take any action authorized under chapter 1 of this title.

(b) The secretary shall permanently revoke the commercial operating license of any person who is found to be in violation of this chapter more than three times.

(c) In addition to the penalties set forth in subsection (a) of this section, the secretary shall require a person who violates this chapter to install video monitoring equipment in all areas in which livestock is handled. The video

equipment shall record continuously while live livestock are handled. As an alternative to video monitoring, a live video stream accessible by the secretary may be provided with prior approval of the secretary. The video tapes or recording files of the video monitoring required by this subsection shall be retained by the facility for 90 days and shall be readily retrievable and available for inspection by the secretary. After the retention period of 90 days has expired, the video tapes or recording files of the live video stream shall be submitted to the secretary by the 15th of the following month, on a monthly basis.

(d) The secretary shall refer a violation of this chapter to the attorney general or the state's attorney for prosecution.

And by renumbering the remaining sections of the bill to be numerically correct.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senators Giard, Campbell and Illuzzi?, Senator Sears moved that the proposal of amendment of Senator Giard, Campbell and Illuzzi be amended in Sec 2. 6 V.S.A. § 3134 subsection (b) by striking out the words "three times" and inserting in lieu thereof the word once

Thereupon, pending the question, Shall the proposal of amendment of Senators Giard, Campbell and Illuzzi be amended as recommended by Senator Sears?, on motion of Senator Campbell consideration was postponed.

Committee of Conference Appointed

H. 647.

An act relating to misclassification of employees to lower premiums for workers' compensation and unemployment compensation.

Was taken up. Pursuant to the request of the Senate, the President *pro tempore* announced the appointment of

Senator Illuzzi
Senator Ashe
Senator Carris

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bills Messaged

On motion of Senator Mazza, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

H. 229, H. 622, H. 689.

Rules Suspended; Action Messaged

On motion of Senator Mazza, the rules were suspended, and the action on the following bill was ordered messaged to the House forthwith:

H.647.

Rules Suspended; Bill Delivered

On motion of Senator Mazza, the rules were suspended, and the following bill was ordered delivered to the Governor forthwith:

S. 237.

Adjournment

On motion of Senator Mazza, the Senate adjourned until four o'clock and thirty minutes in the afternoon.

Called to Order

At 4:30 P.M. the Senate was called to order by the President *pro tempore*.

Message from the House No. 64

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 bills originating in the Senate of the following titles:

S. 97. An act relating to a Vermont state employees' cost-savings incentive program.

S. 122. An act relating to recounts in elections for statewide offices.

S. 295. An act relating to the creation of an agricultural development director.

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

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

J.R.S. 54. Joint resolution related to the payment of dairy hauling costs.

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

The House has considered Senate proposal of amendment to the following House bill:

H. 772. An act relating to alcoholic beverage tastings and other liquor licensing issues.

And has severally concurred therein.

The House has considered Senate proposal of amendment to House bill entitled:

H. 590. An act relating to mediation in foreclosure proceedings.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Koch of Barre Town

Rep. Jewett of Ripton

Rep. Marek of Newfane

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

J.R.S. 63. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

The Governor has informed the House that on the April 24, 2010, he approved and signed a bill originating in the House of the following title:

H. 773. An act relating to approval of amendments to the charter of the city of Burlington.

Consideration Resumed; Proposal of Amendment; Third Reading Ordered

H. 767.

Consideration was resumed on House bill entitled:

An act relating to the livestock care standards advisory council.

Thereupon, pending the question, Shall the proposal of amendment of Senators Giard, Campbell and Illuzzi be amended as recommended by Senator Sears?, Senator Sears requested and was granted leave to withdraw his proposal of amendment.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senators Giard, Campbell and Illuzzi?,

Senators Giard, Campbell, Illuzzi and Sears moved to substitute a proposal of amendment for the proposal of amendment as follows:

By adding two new sections to be numbered Sec. 2 and Sec. 3 to read as follows:

Sec. 2. 6 V.S.A. § 3134 is amended to read:

§ 3134. PENALTY

(a) A person who violates this chapter shall be fined not more than \$100.00 nor less than \$50.00 \$5,000.00 for the first violation, not more than \$10,000.00 for the second violation, and not more than \$25,000.00 for the third violation, or imprisoned not more than 90 days two years, or both. In addition to the penalty provided above, the secretary may seek an injunction against a slaughterer, packer, or stockyard operator who engages in practices which are prohibited by section 3132 of this title, by application to the superior court for the county in which such slaughterer, packer or stockyard operator resides, or where such violations occur. The secretary may also take any action authorized under chapter 1 of this title.

(b) The secretary shall permanently revoke the commercial operating license of any person who is found to be in violation of this chapter more than two times, and the secretary shall not relicense any business which includes as any director or owner of the business any director or owner of a business whose license has been permanently revoked.

(c) In addition to the penalties set forth in subsection (a) of this section, the secretary shall require a person who violates this chapter to install video monitoring equipment in all areas in which livestock is handled. The video equipment shall record continuously while live livestock are handled. As an alternative to video monitoring, a live video stream accessible by the secretary may be provided with prior approval of the secretary. The video tapes or recording files of the video monitoring required by this subsection shall be retained by the facility for 90 days and shall be readily retrievable and available for inspection by the secretary. After the retention period of 90 days has expired, the video tapes or recording files of the live video stream shall be submitted to the secretary by the 15th of the following month, on a monthly basis.

(d) The secretary shall refer a violation of this chapter to the attorney general or the state's attorney for prosecution.

Sec. 3. SUNSET

Sec. 1 of this act shall sunset on January 15, 2013, by which date any final recommendations to the general assembly and the secretary of agriculture shall be submitted by the advisory council.

And by renumbering the remaining sections of the bill to be numerically correct.

Which was agreed to.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senators Giard, Campbell, Illuzzi and Sears, as substituted, Senator Kittell moved to substitute a proposal of amendment of for the proposal of amendment of Senators Giard, Campbell, Illuzzi and Sears?, as follows:

By adding one new section to be numbered Sec. 2 to read as follows:

Sec. 2. 6 V.S.A. § 3134 is amended to read:

§ 3134. PENALTY

A person who violates this chapter shall be fined not more than ~~\$100.00 nor less than \$50.00~~ \$5,000.00 for the first violation, not more than \$10,000.00 for the second violation, and not more than \$25,000.00 for the third violation, or imprisoned not more than ~~90 days~~ two years, or both. In addition to the penalty provided above, the secretary may seek an injunction against a slaughterer, packer, or stockyard operator who engages in practices which are prohibited by section 3132 of this title, by application to the superior court for the county in which such slaughterer, packer or stockyard operator resides, or where such violations occur. The secretary may also take any action authorized under chapter 1 of this title.

Which was disagreed to on a roll call, Yeas 12, Nays 14.

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

Roll Call

Those Senators who voted in the affirmative were: Brock, Carris, Doyle, Flory, Kitchel, Kittell, Lyons, Mullin, Racine, Scott, Starr, White.

Those Senators who voted in the negative were: Ashe, Ayer, Campbell, Cummings, Flanagan, Giard, Hartwell, Illuzzi, MacDonald, Mazza, McCormack, Nitka, Sears, Snelling.

Those Senators absent or not voting were: Bartlett, Choate, Miller, Shumlin (presiding).

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as recommended by Senators Giard, Campbell, Illuzzi and Sears, as substituted?, was agreed to on a roll call, Yeas 24, Nays 2.

Senator Campbell 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, Cummings, Doyle, Flanagan, Flory, Giard, Hartwell, Illuzzi, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Racine, Scott, Sears, Snelling, Starr.

Those Senators who voted in the negative were: Kittell, White.

Those Senators absent or not voting were: Bartlett, Choate, Miller, Shumlin (presiding).

Thereupon, pending third reading of the bill, Senator Ashe moved that the Senate proposal of amendment be amended by adding a new section to be numbered Sec. 1a to read as follows:

Sec. 1a. TRAINING OF SLAUGHTERHOUSE EMPLOYEES;
APPROPRIATIONS

In addition to any other funds appropriated to the agency of agriculture, food and markets in fiscal year 2011, there is transferred to the agency of agriculture, food and markets up to \$50,000.00 from the funds appropriated to the agency of commerce and community development's Vermont training program for use by the agency of agriculture, food and markets for training employees of Vermont-licensed slaughterhouses regarding the humane treatment of animals that is required under state and federal law.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Consideration Resumed; Bill Passed in Concurrence with Proposals of Amendment

H. 243.

House bill of the following title:

An act relating to the creation of a mentored hunting license.

Was taken up.

Thereupon, Senator Campbell moved to withdraw his motion to reconsider.

Which was agreed to.

Senator White Assumes the Chair

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment on a roll call, Yeas 24, Nays 1.

Senator Campbell 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, Cummings, Doyle, Flanagan, Flory, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr.

The Senator who voted in the negative was: McCormack.

Those Senators absent or not voting were: Bartlett, Choate, Miller, Mullin, White, (presiding).

Rules Suspended; Bills Messaged

On motion of Senator Mazza, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

H. 243, H. 767.

Senator Shumlin Assumes the Chair

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 Representatives Lanpher and Clark,

By Senators Ayer and Giard,

H.C.R. 333.

House concurrent resolution congratulating Kelsey Howard as the Boys & Girls Club 2010 Vermont State Youth of the Year.

By Representative Shand and others,
By Senators Campbell, McCormack and Nitka,

H.C.R. 334.

House concurrent resolution honoring Mario Bevacqua on his two decades of exemplary educational leadership in the Weathersfield School District.

By Representative Moran,
By Senators Shumlin and White,

H.C.R. 335.

House concurrent resolution commemorating the bicentennial of the town of Dover.

By Representative Koch and others,

H.C.R. 336.

House concurrent resolution honoring municipal public works departments' employees and designating May 16–22 as Public Works Week in Vermont.

By Representative Botzow and others,
By Senators Doyle, Hartwell, Nitka, Sears and Starr,

H.C.R. 337.

House concurrent resolution congratulating the Woodford Elementary School on its bicentennial anniversary.

By Representative Ram and others,

H.C.R. 338.

House concurrent resolution congratulating the Association of Africans Living in Vermont, Inc. on its 10th anniversary.

By Representative Haas and others,

H.C.R. 339.

House concurrent resolution congratulating the 2010 winning teams of the Jr. Iron Chef Vermont competition.

By Representative Jewett,

By Senators Ayer and Giard,

H.C.R. 340.

House concurrent resolution recognizing the town of Goshen and the Blueberry Management Area in the Moosalamoo National Recreation Area as the Wild Blueberry Capital of Vermont.

By Representative Pellett and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 341.

House concurrent resolution honoring Molly Ferris for her dedicated peace advocacy, her leadership in theatrical circles, and her outstanding community volunteer work.

[The full text of the House concurrent resolutions appeared in the House calendar addendum dated April 23, 2010, and, if adopted in concurrence by the House, will appear in the volume of the Public Acts and Resolves to be published for this session of the sixty-ninth biennial session of the Vermont General Assembly.]

Adjournment

On motion of Senator Mazza, the Senate adjourned until eleven o'clock and thirty minutes in the morning.