

House Calendar

Thursday, April 05, 2012

94th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Third Reading

H. 506

An act relating to vinous beverages

Committee Bill for Second Reading

H. 789

An act relating to reapportioning the final representative districts of the House of Representatives.

(Rep. Atkins of Winooski will speak for the Committee on Government Operations.)

Amendment to be offered by Reps. Browning of Arlington and Malcolm of Pawlet to H. 789

Reps. Browning of Arlington and Malcolm of Pawlet move that the bill be amended as follows:

First: In Sec. 1, before ~~BENNINGTON-3~~, by inserting the following:

BENNINGTON-2-1 That portion of the town of Bennington
not included in BENNINGTON-2-2 or BENNINGTON
3-1 2

* * *

Second: In Sec. 1, by striking districts BENNINGTON-3-1 and BENNINGTON-3-2 in their entirety and inserting in lieu thereof the following:

BENNINGTON-3-1 Glastenbury, Shaftsbury, and that portion of the town of Bennington encompassed within a boundary beginning at the point where the boundary line of Bennington and Shaftsbury intersects with VT Route 7A; then southerly along the eastern side of the centerline of VT 7A to the intersection of the on- and off-ramps of VT Route 7; then easterly along then northern side of the centerline of the on- and off-ramps to the intersection of VT 7; then southerly along the eastern side of the centerline of VT 7 to the intersection with a point representing a straight line extension of the western end of Squaw Hill;

then easterly from that point and then along the northern side of the centerline of Squaw Hill to the intersection of Houghton Lane; then easterly along the northern side of the centerline of Houghton Lane to the intersection of East Road; then northerly along the western side of the centerline of East Road to the boundary of Shaftsbury; then westerly along the Shaftsbury town line to the point of beginning 1

BENNINGTON-3-2 Arlington, Sandgate, Sunderland, and that portion of the town of Rupert encompassed within a boundary beginning at the point where the boundary line of Rupert and the state of New York intersects with VT Route 153; then northeasterly along the southern side of the centerline of VT 153 to the intersection of East Street; then easterly along the southern side of the centerline of East Street to the intersection of Kent Hollow Road; then easterly along the southern side and southerly along the western side of the centerline of Kent Hollow Road to the boundary of Sandgate; then westerly along the Sandgate town line to the boundary of New York; then northerly along the New York state line to the point of beginning 1

Third: In Sec. 1, by striking districts RUTLAND-BENNINGTON and RUTLAND-1 in their entirety and inserting in lieu thereof the following:

RUTLAND-

BENNINGTON Middletown Springs, Pawlet, Tinmouth, that portion of the town of Wells not in RUTLAND-1, and that portion of the town of Rupert not in ~~BENNINGTON-3~~
BENNINGTON-3-2 1

RUTLAND-1 Ira, Poultney, and that portion of the town of Wells encompassed within a boundary beginning at the point where the boundary line of Wells and Poultney intersects with West Lake Road; then southerly along the eastern and Lake St. Catherine side of the centerline of West Lake Road to the intersection of VT Route 30; then northerly along the western and Lake St. Catherine side of the centerline of VT 30 to the boundary of Poultney; then westerly along the Poultney town line to the point of beginning 1

Favorable with Amendment

S. 181

An act relating to school resource officers

Rep. Perley of Enosburgh, for the Committee on Education, recommends that the House propose to the Senate that the bill be amended as follows:

in Sec. 1, 16 V.S.A. § 1167, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read:

(b) A school board or its designee may enter into a memorandum of understanding with a law enforcement agency to define the nature and scope of assistance that a school resource officer will provide to the school system.

(Committee vote: 11-0-0)

(For text see Senate Journal: January 31, 2012 and February 7, 2012)

Favorable

S. 122

An act relating to human trafficking and prostitution

Rep. Waite-Simpson of Essex, for the Committee on **Judiciary**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 11-0-0)

(For text see Senate Journal 2/16/2012)

Senate Proposal of Amendment

H. 634

An act relating to remedies for failure to pay municipal tickets

The Senate proposes to the House to amend the bill by striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATES

(a) Sec. 1 of this act shall take effect on July 1, 2012.

(b) Sec. 2 of this act and this section shall take effect on passage.

(For text see House Journal 2/21/2012)

NOTICE CALENDAR
Favorable with Amendment
H. 762

An act relating to workers' compensation and unemployment compensation

Rep. Botzow of Pownal, for the Committee on **Commerce and Economic Development**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 14 V.S.A. § 1205 is amended to read:

§ 1205. CLASSIFICATION OF CLAIMS

(a) If the applicable assets of the estate are insufficient to pay all claims in full, the executor or administrator shall make payment in the following order:

(1) costs and expenses of administration;

(2) reasonable funeral, burial, and headstone expenses, and perpetual care, not to exceed \$3,800.00 exclusive of governmental payments, and reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him or her;

(3) all outstanding wages due employees ~~which have been earned within three months prior to the death of the decedent, not to exceed \$300.00 to each claimant~~ of the decedent;

(4) ~~all other claims; including the balance of wages due but unpaid under subdivision (3) of this subsection.~~

* * *

Sec. 2. 21 V.S.A. § 342 is amended to read:

§ 342. WEEKLY PAYMENT OF WAGES

(a)(1) Any person having employees doing and transacting business within the state shall pay each week, in lawful money or checks, the wages earned by each employee to a day not more than six days prior to the date of such payment.

(2) After giving written notice to the employees, any person having employees doing and transacting business within the state may, notwithstanding subdivision (1) of this subsection, pay ~~bi-weekly~~ biweekly or ~~semi-monthly~~ semimonthly in lawful money or checks, each employee the wages earned by the employee to a day not more than six days prior to the date of the payment. If a collective bargaining agreement so provides, the payment may be made to a day not more than 13 days prior to the date of payment.

(3) Any person having employees within the state who fails to make timely payment upon separation from employment in accordance with this section may be assessed an administrative penalty of up to \$100.00 for each day that wages remain unpaid, not to exceed \$500.00 per employee. Notice and opportunity for hearing under this section shall be in accordance with 3 V.S.A. chapter 25.

* * *

Sec. 3. 21 V.S.A. § 348 is added to read:

§ 348. RETALIATION PROHIBITED

(a) An employer shall not discharge or in any other manner retaliate against an employee because:

(1) The employee lodged a complaint of a violation of this subchapter.

(2) The employee has cooperated with the commissioner or commissioner's designee in an investigation of a violation of this subchapter.

(3) The employer believes that the employee may lodge a complaint or cooperate in an investigation of a violation of this subchapter.

(b) Any person aggrieved by a violation of this section may bring an action in the civil division of the superior court seeking compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or benefits, reinstatement, costs, reasonable attorney's fees, and other appropriate relief.

Sec. 4. 21 V.S.A. § 397 is added to read:

§ 397. RETALIATION PROHIBITED

(a) An employer shall not discharge or in any other manner retaliate against an employee because:

(1) The employee lodged a complaint of a violation of this subchapter.

(2) The employee has cooperated with the commissioner or commissioner's designee in an investigation of a violation of this subchapter.

(3) The employer believes that the employee may lodge a complaint or cooperate in an investigation of a violation of this subchapter.

(b) Any person aggrieved by a violation of this section may bring an action in the civil division of the superior court seeking compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or benefits, reinstatement, costs, reasonable attorney's fees, and other appropriate relief.

Sec. 5. 21 V.S.A. § 398 is added to read:

§ 398. NOTICE TO PERSONS RECEIVING REMUNERATION AS AN
INDEPENDENT CONTRACTOR

(a) Every employer shall post in a prominent and accessible place on the site where work is performed a legible statement, provided by the commissioner, that describes the responsibility of independent contractors to pay taxes required by state and federal law, the rights of employees to workers' compensation, unemployment benefits, minimum wage, overtime and other federal and state workplace protections, and the protections against retaliation and the penalties in this title if the independent contractor fails to properly classify an individual as an employee. This notice shall also contain contact information for individuals to file complaints or inquire with the commissioner about employment classification status. This information shall be provided in English or other languages required by the commissioner. The posted statement shall be constructed of materials capable of withstanding adverse weather conditions.

(b) Within 30 days of the effective date of this section, the commissioner shall create the notice described in subsection (a) of this section and post the notice on the department's website for downloading by hiring entities.

(c) Employers who violate this section shall be subject to an administrative penalty of up to \$100.00 per violation.

Sec. 6. 21 V.S.A. § 603 is amended to read:

§ 603. WITNESSES, OATHS, BOOKS, PAPERS, RECORDS

(a) So far as it is necessary in his or her examinations, or investigations and in the determination of matters within his or her jurisdiction, the commissioner shall have power to subpoena witnesses, administer oaths, and to demand the production of books, papers, records, and documents for his or her examination. Additionally, the commissioner or designee may, upon presenting appropriate credentials, at reasonable times and without disrupting critical business operations enter and inspect any place of business or employment, question any employees, and investigate any facts, conditions, or matters necessary and material to the administration of this chapter. The employer shall make the employees available to the department on the day of inspection by the commissioner. The commissioner or designee shall inform the employer of his or her right to refuse entry. If entry is refused, the commissioner may apply to the civil division of the superior court for an order to enforce the rights given the commissioner under this section.

* * *

Sec. 7. 21 V.S.A. § 692 is amended to read:

§ 692. PENALTIES; FAILURE TO INSURE; STOP WORK ORDERS

* * *

(b) Stop-work orders. If an employer fails to comply with the provisions of section 687 of this title after investigation by the commissioner, the commissioner shall issue an emergency order to that employer to stop work until the employer has secured workers' compensation insurance. If the commissioner determines that issuing a stop-work order would immediately threaten the safety or health of the public, the commissioner may permit work to continue until the immediate threat to public safety or health is removed. The commissioner shall document the reasons for permitting work to continue, and the document shall be available to the public. In addition, the employer shall be assessed an administrative penalty of not more than \$250.00 for every day that the employer fails to secure workers' compensation coverage after the commissioner issues an order to obtain insurance and may also be assessed an administrative penalty of not more than \$250.00 for each employee for every day that the employer fails to secure workers' compensation coverage as required in section 687 of this title. When a stop-work order is issued, the commissioner shall post a notice at a conspicuous place on the work site of the employer informing the employees that their employer failed to comply with the provisions of section 687 of this title and that work at the work site has been ordered to cease until workers' compensation insurance is secured. An employer that fails to comply with a stop-work order may be enjoined from employing individuals in employment as defined in this chapter, upon complaint of the commissioner in the civil division of the superior court. The stop-work order shall be rescinded as soon as the commissioner determines that the employer is in compliance with section 687 of this title. An employer against whom a stop-work order has been issued, or who has not been in compliance with section 687 of this title, unless the commissioner determines that the failure to comply was inadvertent or excusable is prohibited from contracting, directly or indirectly, with the state or any of its subdivisions for a period of up to three years following the date of the issuance of the stop-work order, as determined by the commissioner in consultation with the commissioner of buildings and general services or the secretary of transportation, as appropriate. ~~Either the secretary or the commissioner, as appropriate, shall be consulted in any contest of the prohibition of the employer from contracting with the state or its subdivisions~~ The consultation may be informal and shall occur within ten days of a referral by the commissioner. The outcome of the referral shall be documented.

* * *

Sec. 8. 21 V.S.A. § 708 is amended to read:

§ 708. PENALTY FOR FALSE REPRESENTATION

(a) Action by the commissioner of labor. A person who ~~willfully~~ purposefully makes a false statement or representation, ~~for the purpose of obtaining to obtain~~ any benefit or payment under the provisions of this chapter, either for herself or himself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than \$20,000.00, and shall forfeit all or a portion of any right to compensation under the provisions of this chapter, as determined to be appropriate by the commissioner after a determination by the commissioner that the person has ~~willfully~~ made a false statement or representation of a material fact. In addition, an employer found to have violated this section is prohibited from contracting, directly or indirectly, with the state or any of its subdivisions for up to three years following the date the employer was found to have made a false statement or misrepresentation of a material fact, as determined by the commissioner in consultation with the commissioner of buildings and general services or the secretary of transportation, ~~as appropriate. Either the secretary or the commissioner, as appropriate, shall be consulted in any contest relating to the prohibition of the employer from contracting with the state or its subdivisions~~ The consultation may be informal and shall occur within ten days of a referral by the commissioner. The outcome of the referral shall be documented.

(b) ~~When~~ In addition to penalties assessed pursuant to subsection (a) of this section, when the department of labor has sufficient reason to believe that an employer has made a false statement or representation for the purpose of obtaining a lower workers' compensation premium, the department shall refer the alleged violation to the commissioner of banking, insurance, securities, and health care administration for the commissioner's consideration of enforcement pursuant to 8 V.S.A. § 3661(c).

* * *

Sec. 9. 21 V.S.A. § 1101 is amended to read:

§ 1101. APPRENTICESHIP DIVISION AND COUNCIL

The apprenticeship division and state apprenticeship council, hereinafter referred to as the "council," shall be located within the department of labor. The commissioner of labor shall supervise the work of the division, and shall be the chair of the council. The council shall consist of ~~10~~ 12 members, four ex officio members and ~~six~~ eight members who shall be appointed by the governor. Of the ex officio members, one shall be the commissioner of labor, or designee, one shall be the commissioner of public safety, or designee, one

shall be the commissioner of education or designee, and one shall be the director of the apprenticeship division who shall act as secretary of the council without vote. The council shall be composed of persons familiar with apprenticeable occupations. Of the ~~appointive~~ appointed members, three shall be individuals who ~~on account of previous vocation, employment, occupation, or affiliation can be classed as~~ represent employers and ~~three, three~~ shall be individuals who ~~on account of previous vocation, employment, occupation, or affiliation can be classed as employees~~ represent employees or employee organizations, and two shall be members of the public. Appointment of the employer and the employee members shall be made for the term of three years except the employer and employee members first appointed shall be appointed for the term of one, two, and three years respectively. The governor shall annually designate one member of the council as chair. Each member of the council who is not a salaried official or employee of the state shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010.

Sec. 10. 21 V.S.A. § 1301a is amended to read:

§ 1301a. DEPARTMENT OF LABOR; COMPOSITION

The department of labor, created by ~~section 3~~ 21 V.S.A. § 212 of Title 3, shall consist of a commissioner of labor, the Vermont employment security board, the Vermont workforce development division, the economic and labor market information division, the workforce development council, the unemployment insurance and wages division, and the workers' compensation and safety division. The chair of the employment security board shall be the commissioner of labor ex officio. The deputy commissioner of labor or a designee chosen by the commissioner may serve as chair in the absence of the commissioner as the commissioner's designee.

Sec. 11. 21 V.S.A. § 1307 is amended to read:

§ 1307. COMMISSIONER OF LABOR, DUTIES AND POWERS OF

The commissioner of labor shall administer this chapter. The commissioner may employ such persons, make such expenditures, require such reports, make such investigations and take such other action as he or she considers necessary or suitable to that end. In the discharge of his or her duties imposed by this chapter, the commissioner may administer oaths, take depositions, certify to official acts and subpoena witnesses and compel the production of books, papers, correspondence, memoranda, and other records necessary and material to the administration of this chapter. Additionally, the commissioner or designee may, upon presenting appropriate credentials, at reasonable times and without disrupting critical business operations enter and inspect any place of business or employment, question any employees, and investigate any facts,

conditions, or matters necessary and material to the administration of this chapter. The employer shall make the employees available to the department on the day of inspection by the commissioner. The commissioner or designee shall inform the employer of his or her right to refuse entry. If entry is refused, the commissioner may apply to the civil division of the superior court for an order to enforce the rights given the commissioner under this section.

Sec. 12. 21 V.S.A. § 1347 is amended to read:

§ 1347. NONDISCLOSURE OR MISREPRESENTATION

* * *

(c) The person liable under this section shall repay such amount to the commissioner for the fund. In addition to the repayment, if the commissioner finds that a person intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits, the person shall pay an additional penalty of 15 percent of the amount of the overpaid benefits. Such amount may be collectible by civil action in a Vermont district or superior court, in the name of the commissioner. ~~No action shall be commenced for the collection of such amount more than five years after the date of such determination under this section or the final decision confirming the liability of such person on an appeal from such determination.~~

(d) In any case in which under this section a person is liable to repay any amount to the commissioner for the fund, the commissioner may withhold, in whole or in part, any future benefits payable to such person, and credit such withheld benefits against the amount due from such person until it is repaid in full, less any penalties assessed under subsection (c) of this section. ~~No benefits shall be withheld after five years from the date of such determination or the date of the final decision confirming the liability of such person on an appeal from such determination.~~

(e) In addition to the foregoing, when it is found by the commissioner that a person intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits and in the event the person is not prosecuted under section 1368 of this title and penalty provided in section 1373 of this title is not imposed, the person shall be disqualified and shall not be entitled to receive benefits to which he or she would otherwise be entitled after the determination for such number of weeks not exceeding 26 as the commissioner shall deem just, ~~provided, however, that no benefits shall be denied to a claimant because of such determination after three years from the date thereof or the date of final decision on an appeal from such determination.~~ The notice of determination shall also specify the period of disqualification imposed hereunder.

* * *

Sec. 13. 21 V.S.A. § 1451 is amended to read:

§ 1451. DEFINITIONS

For the purpose of this subchapter:

(1) “Affected unit” means a specific plan, department, shift, or other definable unit consisting of not less than five employees to which an approved short-time compensation plan applies.

(2) “Short-time compensation” or “STC” means the unemployment benefits payable to employees in an affected unit under an approved short-time compensation plan as distinguished from the unemployment benefits otherwise payable under the conventional unemployment compensation provisions of this chapter.

(3) “Short-time compensation plan” means a plan of an employer under which there is a reduction in the number of hours worked by employees of an affected unit rather than temporary layoffs. The term “temporary layoffs” for this purpose means the total separation of one or more workers in the affected unit for an indefinite period expected to last for more than two months but not more than six months.

(4) “Short-time compensation employer” means an employer who has one or more employees covered by an approved “Short-Time Compensation Plan.” ~~Both employers with experience rating records and employers who make payments in lieu of tax contributions to the UI Trust Fund may become short time compensation employers.~~ “Short-time compensation employer” includes an employer with experience-rating records and an employer who makes payments in lieu of tax contributions to the unemployment compensation trust fund and that meets the following:

(A) Has five or more employees covered by an approved short-time compensation plan.

(B) Is not delinquent in the payment of contributions or reimbursement, or in the reporting of wages.

(C) Is not a negative balance employer. For the purposes of this section, a negative balance employer is an employer who has for three or more consecutive calendar years paid more in unemployment benefits to its employees than it has contributed to its unemployment insurance account. In the event that an employer has been a negative balance for three consecutive years, the employer shall be ineligible for participation unless the commissioner grants a waiver based upon extenuating economic conditions or other good cause.

(5) "Usual weekly hours of work" means the normal hours of work for full-time and regular part-time employees in the affected unit when that unit is operating on its normally full-time basis but not less than 30 hours and not to exceed 40 hours and not including overtime.

(6) "Unemployment compensation" means the unemployment benefits payable under this chapter other than short-time compensation and includes any amounts payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(7) "Fringe benefits" means benefits, including health insurance, retirement benefits, paid vacations and holidays, sick leave, and similar benefits that are incidents of employment.

(8) "Intermittent employment" means employment that is not continuous but may consist of intervals of weekly work and intervals of no weekly work.

(9) "Seasonal employment" means employment in an industry in which because of the seasonal nature of the industry it is customary to operate only during a regularly recurring period or periods of fewer than 26 weeks in a calendar year.

Sec. 14. 21 V.S.A. § 1452 is amended to read:

§ 1452. CRITERIA FOR APPROVAL

An employer wishing to participate in an STC program shall submit a department of labor electronic application or a signed written short-time compensation plan to the commissioner for approval. The commissioner may approve an STC plan only if the following criteria are met:

- (1) the plan identifies the specified affected units to which it applies;
- (2) the employees in the affected unit or units are identified by name, Social Security number, and by any other information required by the commissioner;
- (3) the plan ~~specifies any impact on~~ outlines to the commissioner the extent to which fringe benefits, including health insurance, of employees participating in the plan may be reduced, which shall be factored into the evaluation of the business plan for resolving the conditions that lead to the need for the STC plan;
- (4) the usual total weekly hours of work for employees in the affected unit or units are reduced by not less than 20 percent and not more than 50 percent;

(5) the plan certifies that the aggregate reduction in work hours is in lieu of temporary total layoffs of one or more workers which would have resulted in an equivalent reduction in work hours and which the commissioner finds would have caused an equivalent dollar amount to be payable in unemployment compensation;

(6) the plan certifies that the STC employer will notify the department within 24 hours after any layoff of an employee, at which time the commissioner shall have the right to terminate the STC plan;

(7) the identified workweek reduction is applied consistently throughout the duration of the plan unless otherwise approved by the department;

~~(6)~~(8) the plan applies to at least 10 percent of the employees in the affected unit, and when ~~applicable~~ determined to be applicable by the commissioner applies to all affected employees of the unit equally;

~~(7)~~(9) the plan will not subsidize seasonal employers during the off-season, nor subsidize employers who have traditionally used part-time employees or intermittent employment;

~~(8)~~(10) the employer agrees to maintain records relative to the plan for a period of three years and furnish reports relating to the proper conduct of the plan and agrees to allow the commissioner or his or her authorized representatives access to all records necessary to verify the plan prior to approval and, after approval, to monitor and evaluate application of the plan;

~~(9)~~(11) the plan certifies that the collective bargaining agent or agents for the employees, if any, have agreed to participate in the program. If there is no bargaining unit, the employer specifies how he or she will notify the employees in the affected group and work with them to implement the program once the plan is approved; and

~~(10)~~(12) in addition to subdivisions (1) through ~~(9)~~(11) of this section, the commissioner shall take into account any other factors which may be pertinent to the approval and proper implementation of the plan.

Sec. 15. 21 V.S.A. § 1453 is amended to read:

§ 1453. APPROVAL OR REJECTION; RESUBMISSION

The commissioner shall approve or reject a plan in writing within 30 days of its receipt, and in the case of rejection shall state the reasons therefor. The reasons for rejection shall be final and nonappealable, but the employer shall be allowed to submit another plan for approval, that addresses the reasons that led to the rejection of the original plan.

Sec. 16. 21 V.S.A. § 1454 is amended to read:

§ 1454. EFFECTIVE DATE; DURATION

A plan shall be effective on the date specified in the plan or on a date mutually agreed upon by the employer and the commissioner. It shall expire at the end of the sixth full calendar month after its effective date or on the date specified in the plan if such date is earlier; provided, that the plan is not previously revoked by the commissioner; or on the effective date of any transfer of ownership of the legal business entity. If a plan is revoked or terminated by the commissioner, it shall terminate on the date specified in the commissioner's written order of revocation. No employer shall be eligible for a short-time compensation plan that results in an employee receiving benefits in excess of 26 times the amount of regular unemployment benefits payable to such individual for a week of total unemployment.

Sec. 17. 21 V.S.A. § 1458 is amended to read:

§ 1458. SHORT-TIME COMPENSATION BENEFITS

* * *

(f)(1) If an individual works in the same week for both the short-time employer and another employer and his or her combined hours of work for both employers are equal to or greater than 81 percent of the usual hours of work with the short-time employer, he or she shall not be entitled to benefits under these short-time provisions or the unemployment compensation provisions.

(2) If an individual works in the same week for both the short-time employer and another employer and his or her combined hours of work for both employers are equal to or less than 80 percent of the usual hours of work for the short-time employer, the benefit amount payable for that week shall be the weekly unemployment compensation amount reduced by the same percentage that the combined hours are of the usual hours of work. A week for which benefits are paid under this provision shall count as a week of short-time compensation.

(3) An individual who does not work during a week for the short-time employer, and is otherwise eligible, shall be paid his or her full weekly unemployment compensation benefit amount under the provisions of the regular unemployment compensation program. Such a week shall not be counted as a week for which short-time compensation benefits were received.

(4) An individual who does not work the short-time employer's identified workweek reduction hours as certified by the application due to the use of paid vacation or personal time shall be paid benefits for the week under

the partial unemployment compensation provisions of the regular unemployment compensation program.

~~(4)~~(5) An individual who does not work for the short-time employer during a week but works for another employer and is otherwise eligible, shall be paid benefits for that week under the partial unemployment compensation provisions of the regular UI program. Such a week shall not be counted as a week with respect to which STC benefits were received.

Sec. 18. 33 V.S.A. § 4110 is amended to read:

§ 4110. EMPLOYER OBLIGATIONS

* * *

(c) As used in this section:

(1) "Employee" ~~means~~:

(A) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

(B) does not include an employee of a federal or state agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to this section with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(2) "Employer" has the meaning given such term in Section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity and any labor organization.

(3) "First date of employment" is the first day services are performed for compensation as a new hire.

(4) ~~"New hire" means an employee for whom a W-4 filing is required and whose wages have not been reported by the filing employer to the department of labor during the last reporting quarter~~ means an employee who:

(A) has not previously been employed by the employer; or

(B) was previously employed by the employer but has been separated from that employment for at least 60 consecutive days.

Sec. 19. 21 V.S.A. § 1340a is added to read:

§ 1340a. SELF-EMPLOYMENT ASSISTANCE PROGRAM

(a) The commissioner may establish a pilot project for a self-employment assistance project based on the criteria outlined in this section for a period of up to two years, provided that it conforms to state and federal unemployment

law. The commissioner may terminate the pilot program with approval of the secretary of administration and notice to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs in the event that it presents unintended adverse consequences to the unemployment trust fund. The commissioner may allow up to 20 participants per year, and each individual may participate for up to 26 weeks as determined by the commissioner.

(b) For purposes of this section:

(1) “Full-time basis” means that the individual is devoting such amount of time as is determined by the commissioner to be necessary to establish a business which will serve as a full-time occupation for that individual.

(2) “Regular benefits” has the same meaning as in subdivision 1421(5) of this title.

(3) “Self-employment assistance activities” means activities approved by the commissioner in which an individual participates for the purpose of establishing a business and becoming self-employed, including entrepreneurial training, business counseling, and technical assistance.

(4) “Self-employment assistance allowance” means an allowance payable in lieu of regular benefits from the unemployment compensation fund to an individual who meets the requirements of this section until such time as the employee’s net income is determined by the commissioner, in consultation with the business advisor, to be at least 150 percent of his or her regular weekly benefit for a period of six consecutive weeks.

(5) “Self-employment assistance program” means a program under which an individual who meets the requirements of subsection (e) of this section is eligible to receive an allowance in lieu of regular benefits for the purpose of assisting that individual in establishing a business and becoming self-employed.

(c) The weekly amount of the self-employment assistance allowance payable to an individual shall be equal to the weekly benefit amount for regular benefits otherwise payable under this title.

(d) The maximum amount of the self-employment assistance allowances paid under this section may not exceed the maximum amount of benefits established under section 1340 of this title with respect to any benefit year.

(e)(1) An individual may receive a self-employment assistance allowance if that individual:

(A) Is eligible to receive regular benefits or would be eligible to receive regular benefits except for the requirements described in subdivisions (A) and (B) of subdivision (2) of this subsection;

(B) is identified by a worker profiling system as an individual likely to exhaust regular benefits;

(C) has been accepted into a program approved by the commissioner that will provide self-employment assistance activities, including but not limited to regular counseling and direction from a business advisor;

(D) is actively engaged in a full-time basis in activities, which may include training, related to establishing a business and becoming self-employed; and

(E) has filed a weekly claim for the self-employment assistance allowance and provided the information the commissioner prescribes.

(2) A self-employment allowance shall be payable to an individual at the same interval, on the same terms, and subject to the same conditions as regular benefits under this chapter, except:

(A) the requirements of section 1343 of this title, relating to availability for work, efforts to secure work, and refusal to accept work, are not applicable to the individual;

(B) the individual is not considered to be self-employed pursuant to subdivision 1301(24) of this title;

(C) an individual who meets the requirements of this section shall be considered to be unemployed under section 1338 of this title; and

(D) an individual who fails to participate in self-employment assistance activities or who fails to actively engage on a full-time basis in activities, including training, relating to the establishment of a business and becoming self-employed shall be disqualified from receiving an allowance for the week the failure occurs.

(f) The commissioner may approve not more than 20 persons each year during this pilot project to participate in this program and shall ensure that the aggregate number of individuals receiving a self-employment assistance allowance at any time does not exceed five percent of the number of individuals receiving regular benefits at that time.

(g) The self-employment assistance allowance shall not be charged to an employer in accordance with section 1325 of this title.

(h) The commissioner may adopt rules to implement this section.

Sec. 20. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(12) “Public employment” means the following:

* * *

(K) other municipal workers, including volunteer firefighters and rescue and ambulance ~~squads~~ services while acting ~~in the line of duty~~ in any capacity under the direction and control of the fire department or rescue or ambulance service, after the governing officials of such municipal body so vote;

* * *

(L) members of any regularly organized private volunteer fire department while acting ~~in the line of duty~~ any capacity under the direction and control of the fire department after election by the organization to have its members covered by this chapter;

(M) members of any regularly organized private volunteer rescue or ambulance ~~squad~~ service while acting ~~in the line of duty~~ any capacity under the direction and control of the rescue or ambulance service after election by the organization to have its members covered by this chapter;

* * *

Sec. 21. 21 V.S.A. chapter 23 is added to read:

CHAPTER 23. SOLE CONTRACTOR AUTHORIZATION PROCESS

§ 1801. PURPOSE

(a) An individual who seeks to work as the sole operator of his or her own business and who can meet the standards and criteria set forth in this chapter may voluntarily request an authorization by the department of labor allowing him or her to operate independently and without the benefits and protections afforded employees under chapters 9 and 17 of this title when working within the scope of the sole contractor authorization.

(b) The sole contractor authorization is limited to activities that are within the scope of the certification applied for by the individual. If an authorized sole contractor engages in activities outside the scope of the authorization, the

sole contractor shall be presumed to be the statutory employee of the hiring entity.

(c) This chapter is not intended to change the existing laws governing employees and employers. The chapter applies only to individuals that have received a sole contractor authorization.

(d) Nothing in this chapter shall prohibit an individual from working as an independent contractor without the sole contractor authorization, provided the individual meets the test for an independent contractor under law.

§ 1802. DEFINITIONS

For purposes of this chapter:

(1) “Commissioner” means the commissioner of labor or designee.

(2) “Department” means the department of labor.

(3) “Hiring entity” means any person hiring an authorized sole contractor to perform work.

(4) “Sole contractor” means an individual who is approved by the authorization process established in section 1806 of this chapter. A sole contractor may be an individual, a single-member limited liability company, or a single shareholder corporation.

(5) “Sole contractor authorization review board” means the board established pursuant to this chapter that is responsible for reviewing applications from individuals seeking sole contractor status.

§ 1803. SOLE CONTRACTOR CRITERIA

(a) The authorization review board shall determine if an individual is eligible for sole contractor status. An individual operating an existing business or starting a new business and seeking authorization shall provide the board with information demonstrating that he or she meets the sole contractor criteria. The applicant shall provide:

(1) A notarized statement from the individual seeking authorization affirming that he or she has not been coerced into falsely claiming to be a sole contractor.

(2) Possession of a federal employer identification number (FEIN) that is used for federal tax reporting purposes.

(3) Possession of a Social Security number or a work visa.

(4) Proof of registration with the Vermont secretary of state, either as a single individual with a trade name or as a single member LLC or single shareholder corporation.

(5) An affidavit attesting that he or she is and will be free to control and direct his or her work, hours of work, and the means and manner of the performance of such work, subject only to the broad framework of the project goals and completion date.

(6) An affidavit attesting that he or she has no employees or assistants and will not have any employees or assistants as a sole contractor, whether paid or unpaid, and does not engage in any joint ventures or associations with other sole contractors to perform work.

(7) Demonstrates that he or she is in good standing regarding any outstanding child support or taxes.

(b) The applicant shall provide additional information demonstrating that he or she meets the sole contractor criteria, which may include:

(1) A demonstrated history of having his or her own business, including evidence of tax returns, recurring business expenditures such as equipment purchases, shop rent, or charge accounts for supplies which establish that he or she is customarily engaged in an established trade or business.

(2) Proof that he or she works for multiple employers in the course of his or her business.

(3) Proof of past work, including written contracts or agreements, invoices, or competitive bids, on a per-job basis.

(4) Proof that he or she is fully and solely responsible for the work produced, possesses his or her own tools, equipment, and instruments of trade, and normally provides materials and supplies necessary to complete the work.

§ 1804. PRESUMPTION OF STATUS

(a) An individual who is authorized pursuant to this chapter shall not be presumed to be an employee when operating under the provisions of this chapter, and the entity hiring the sole contractor shall not be considered the statutory employer of the sole contractor. Notwithstanding this presumption, if the sole contractor is working for the employer or a subcontractor in a capacity that does not qualify as an individual sole contractor, then all statutory provisions relating to unemployment, workers' compensation, wage and hour provisions, and employment practices shall apply.

(b) A hiring entity shall not hire multiple sole authorized contractors to do the same work on a project or at a job site.

§ 1805. COMPOSITION OF BOARD

An authorization review board is hereby established consisting of 11 members, five of whom shall represent labor, five of whom shall represent business to be appointed by the governor, and one who shall be an employee of the department appointed by the commissioner. Nominations for members for the review board shall be solicited from organizations representing employer organizations, trade associations, and employee organizations and from the commissioner of labor, as well as from a public notice conducted by the department of labor. The review board members appointed by the governor shall be appointed for a term of two years, with no member serving more than three consecutive terms.

§ 1806. BOARD REVIEW PROCESS

(a) Representatives from the board shall meet weekly in three-member panels at the direction of the commissioner, consisting of one member each representing labor and business and the department representative. The members of the panels shall rotate weekly.

(b) The board shall meet to review pending applications and may schedule in-person reviews with individuals seeking authorization. The board shall review documentation and information and take testimony from the applicants. The board's decision to grant authorization shall be based on the criteria established in this chapter. If additional information is necessary to render a decision, the applicant will be given sufficient time to submit such information. Once the board determines that it has sufficient information, it shall make a recommendation to the commissioner. The commissioner shall review the recommendation and make a decision within ten days. If additional information is needed, the commissioner may remand for additional information, which shall be provided to the commissioner within 14 days. The commissioner shall issue a decision based on the additional information within five days of its receipt. The failure to render a decision within the prescribed time limits shall not result in an individual receiving authorization.

§ 1807. APPEAL

An applicant may appeal a decision of the commissioner to the supreme court within 30 days of the date of the decision.

§ 1808. INFORMATION AND EDUCATION

(a) The commissioner of labor in consultation with the authorization review board shall conduct a comprehensive information and education campaign regarding the provisions of this chapter for a period of not less than 12 months upon instituting this authorization process and shall continue to provide regular

information to the labor and business communities about the authorization program and the issues of misclassification and miscoding.

(b) The commissioner shall create and maintain an on-line sole contractor registry listing the names of currently authorized sole contractors and the names of individuals that had previously been certified.

(c) The department shall provide all employers notice and information of the provisions relating to sole contractor authorization and hiring. The department shall establish a simple method for employers utilizing sole contractors to acknowledge receipt of the information, including by electronic means. An employer shall not hire a sole contractor until acknowledging receipt of the information with the department. An employer hiring a sole contractor shall make the acknowledgment annually.

§ 1809. INVESTIGATION AND ENFORCEMENT

(a) The commissioner is authorized to investigate and enforce the provisions of this chapter, including whether a sole contractor or a hiring entity is in compliance with the provisions of this title, including workers' compensation, unemployment insurance compensation, wage and hour laws, and employment practices.

(b) Upon request, a sole contractor shall provide the department with books, records, or other documentation or evidence establishing his or her qualifications to be a sole contractor and evidence that all work performed as a sole contractor is performed in accordance with this chapter.

(c) Any person or entity found to have engaged in misrepresentation or fraudulent activities in relation to this chapter shall be listed on the department's website and debarment list.

§ 1810. PENALTIES

(a) A person who purposefully makes a false statement or representation to obtain or assist another to obtain sole contractor status may, after notice and opportunity for hearing, be assessed an administrative penalty of up to \$5,000.00 and may lose the authorization for up to two years.

(b) A sole contractor who violates the terms and conditions of his or her authorization may, after notice and opportunity for hearing, be assessed an administrative penalty of up to \$5,000.00 and may lose the authorization for up to one year.

(c) Any person or entity who coerces an employee or prospective employee into becoming a sole contractor for the purpose of avoiding its obligations under this title or Title 32 may, after notice and opportunity for hearing, be assessed an administrative penalty of up to \$5,000.00.

(d) An administrative penalty issued pursuant to this section may be in addition to other penalties authorized by chapters 9 and 17 of this title.

(e) Administrative hearings shall be conducted in accordance with the Administrative Procedure Act, 3 V.S.A. § 801 et seq. Appeals from penalty assessment determinations shall be to the Vermont supreme court.

(f) Penalties collected under this section shall be utilized by the department to offset the expenses of the sole contractor authorization program.

§ 1811. FEES AND COSTS

(a) The application fee for a sole contractor authorization shall be \$100.00, which shall be deposited into a special fund within the department. The department shall utilize the funds to administer the sole contractor program, including for the purposes of providing a per diem and mileage reimbursement for review board members.

(b) The commissioner is authorized to hire and employ one limited service position for a term of three years for program administration. The program shall be funded by the fees and administrative penalties collected pursuant to this chapter and supplemented by the general fund when fees and penalties do not cover the full costs of the positions and program administration.

§ 1812. RULEMAKING

The commissioner may adopt rules to implement the provisions of this chapter.

Sec. 22. 31 V.S.A. § 722 is amended to read:

§ 722. CERTIFICATE OF OPERATION

(a) An amusement ride may not be operated in this state unless the secretary of state has issued a certificate of operation to the owner or operator.

(b) The secretary of state shall issue a “certificate of operation” no later than 15 days before the amusement ride is first operated in the state, if the owner or operator submits all the following:

(1) Certificate of insurance in the amount of not less than \$1,000,000.00 which insures both the owner and the operator against liability for injury to persons and property arising out of the use or operation of the amusement ride.

(2) Payment of a fee in the amount of \$100.00.

(3) Documentation that the owner has complied with 21 V.S.A. § 687. Upon receiving the documentation, the secretary of state shall forward a copy of the documentation to the department of labor.

(c) The certificate of operation shall be valid for one year from the date of issue, provided that the owner remains in compliance with the requirements of subsection (b) of this section.

(d) A copy of the certificate of operation shall be posted on or near each amusement ride covered by the certificate and shall be in full public view at all times during the operation of the ride.

Sec. 23. INTERAGENCY AND DEPARTMENTAL TASK FORCE

(a) The agency of administration shall create an interagency and departmental task force to coordinate efforts to combat misclassification of workers and to ensure enforcement of all related laws and regulations. The task force shall be overseen by the department of labor and include the secretaries, commissioners, or designees of the following:

(1) The agency of administration.

(2) The agency of transportation.

(3) The department of buildings and general services.

(4) The department of labor.

(5) The department of banking, insurance, securities, and health care administration.

(6) The agency of human services.

(7) The department of taxes.

(8) The office of attorney general.

(9) The department of liquor control.

(10) Any other state licensing agency as determined by the commissioner of labor.

(b) The task force shall meet at least six times per year.

(c) The agency of administration shall enter into a memorandum of understanding with all state agencies to facilitate the coordination and investigation of misclassification and miscoding of workers, including, unless prohibited by state or federal law, the sharing of information concerning the names of businesses found to have misclassified or miscoded workers, the relevant investigation materials, and the number of investigations of misclassification and miscoding.

(d) The department of labor shall pursue entering into a common interest agreement with the United States Department of Labor and the Internal Revenue Service, and any willing states or federal agencies regarding the

sharing of information regarding misclassification and miscoding of workers. The department shall notify the chairs of the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs before entering into a common interest agreement. The department shall consider whether the common interest agreement would result in the disclosure of an individual's personal information, or disclose information in violation of state or federal law.

(e) The department of labor shall report to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs on the progress of the interagency and departmental task force, the memorandum of understanding, the status of the common interest agreement, and any other information regarding misclassification and miscoding annually by January 15 in 2013, 2014, and 2015.

Sec. 24. WORKERS' COMPENSATION PREMIUMS

(a) The department of banking, insurance, securities, and health care administration (BISHCA) in consultation with the department of labor shall study the issue of workers' compensation premiums increasing as a result of an employee completing a job-related safety course. BISHCA shall investigate how workers' compensation premiums can be decreased or kept at a steady rate for employees who receive job safety training.

(b) The department of banking, insurance, securities, and health care administration shall report its findings and any recommendations to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs no later than January 15, 2013.

Sec. 25. REPORT

The commissioner of labor shall report to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs regarding the implementation and operation of the sole contractor authorization process. The report shall be made on or before January 15, 2013.

Sec. 26. SHORT-TIME COMPENSATION FUNDING

The commissioner of labor is hereby authorized to pursue federal funding for Vermont's short-time compensation program, if after an analysis of the eligibility requirements for receiving such funding, he or she concludes that doing so would be in the best interest of the state of Vermont.

Sec. 27. EFFECTIVE DATE

Sec. 12 (relating to nondisclosure or misrepresentation in order to receive unemployment benefits) of this act shall take effect on July 1, 2013. Sec. 18 (relating to employer obligations) of this act shall take effect on October 1, 2012.

(**Committee Vote: 10-0-1**)

Rep. Sharpe of Bristol, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Commerce and Economic Development** and when further amended as follows:

First: In Sec. 21, 21 V.S.A. § 1810, by striking subsection (f) in its entirety

Second: In Sec. 21, by striking 21 V.S.A. § 1811 and inserting in lieu thereof:

§ 1811. FEES AND COSTS

(a) The application fee for a sole contractor authorization shall be \$100.00, which shall be deposited into the sole contractor registry special fund. The authorization shall be valid for two years and may be renewed for subsequent two-year periods upon reapplication and payment of the fee. The department shall utilize the funds to administer the sole contractor program, including for the purpose of providing a per diem and mileage reimbursement for review board members.

(b) The commissioner is authorized to hire and employ one limited service position for a term of three years for program administration. The program shall be funded by the fees collected pursuant to this chapter and supplemented by the general fund when fees do not cover the full costs of the position and program administration.

(c) There is created a sole contractor registry special fund pursuant to 32 V.S.A. chapter 7, subchapter 5, to be expended by the commissioner consistent with the provisions of this section.

(**Committee Vote: 11-0-0**)

S. 179

An act relating to amending perpetual conservation easements

Rep. Ellis of Waterbury, for the Committee on **Natural Resources and Energy**, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 3, 10 V.S.A. § 6307 (enforcement), by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) Conservation rights. The holder of conservation rights and interests may seek injunctive relief and damages against any person who damages the holder's rights and interests, irrespective of whether the owner of the land is a party to the proceeding. This subsection shall not affect any right of the owner of the land to join or intervene in any proceeding.

Second: By striking Sec. 8 (property transfer return) in its entirety and inserting in lieu thereof the following: "Sec. 8. [Deleted.]"

Third: By striking Sec. 9 (working group) in its entirety and inserting in lieu thereof a new Sec. 9 to read:

Sec. 9. WORKING GROUP ON CONSERVATION EASEMENTS

(a) Creation of working group. There is created a working group on perpetual conservation easements to study the issues relating to the creation of a formal and transparent public process for the amendment of perpetual conservation easements, the criteria for approving such amendments, and the entity most appropriate to review and approve such amendments.

(b) Membership. The conservation easements working group (the working group) shall be composed of the following members:

(1) The secretary of agriculture, food and markets or designee.

(2) A representative of the Vermont housing and conservation board, designated by the board.

(3) The commissioner of forests, parks and recreation or designee.

(4) One member of the legal staff in the Vermont office of the attorney general, designated by the attorney general.

(5) A representative of Vermont Land Trust, designated by its board.

(6) A representative of Upper Valley Land Trust, designated by its board.

(7) A representative of the Vermont Federation of Sportsmen's Clubs, designated by its board.

(8) A representative of the Vermont Green Mountain Club, designated by its board.

(9) A representative of the Vermont chapter of The Nature Conservancy, designated by its director.

(10) A representative of a regional or local land trust in Vermont, appointed by the governor.

(11) An attorney licensed in Vermont and practicing in or

knowledgeable about both federal tax law and real estate law, including land conservation, appointed by the Vermont Bar Association.

(12) A representative from a farming organization who is knowledgeable about agricultural conservation, appointed by the governor.

(13) A representative of the Vermont Association of Snow Travelers, designated by its board;

(14) A Vermont landowner owning land subject to a conservation easement, appointed by the governor.

(15) A representative of the Vermont natural resources board, appointed by the board.

(c) Structure; decision-making. The working group shall elect a chair from its membership. The provisions of 1 V.S.A. § 172 (joint authority to three or more) shall apply to the meetings and decision-making of the working group.

(d) Issues. The working group shall:

(1) Investigate the options for approval of conservation easement amendments contained in S.179 and H.553 of 2012, as introduced, and during the course of consideration of those bills in the relevant standing committees of the general assembly, including the following options:

(A) creating an easement amendment panel within the natural resources board to provide administrative oversight and approval for the amendment of conservation easements;

(B) requiring the housing and conservation board, in conjunction with the agency of agriculture, food and markets, to provide administrative oversight and approval for the amendment of conservation easement amendments;

(C) requiring all qualified holders to individually run a transparent public process for the approval of conservation easement amendments and to issue a written decision. Under this option, the working group should consider whether the decision should be revocable or appealable, and if so, by whom;

(D) requiring all qualified holders to get court approval for amendments that may have a significant effect on the conservation values protected by the easement.

(2) Investigate any other options for conservation easement amendment approval that the working group believes are relevant.

(3) Consider any other issues it identifies as relevant to the amendment of perpetual conservation easements.

(4) Develop a proposal setting out a transparent process or processes for the amendment of perpetual conservation easements held by land trusts, state agencies, and other entities qualified to hold perpetual conservation easements in Vermont.

(5) Develop proposed statutory provisions setting out criteria to be used by an administrative body, a court, or an easement holder in approving proposed amendments to perpetual conservation easements, which will ensure that conservation values protected by easement are protected in perpetuity, and that conservation easement holders in Vermont are in compliance with federal law.

(6) Study the issue and make recommendations as to whether conservation rights and interests should be excluded from the requirements of 27 V.S.A. § 603 concerning the re-recording of interests in land within a 40-year period.

(7) Investigate whether there is an existing online or other database appropriate for the storage of information about conservation easements alongside other information relevant to a specific property or parcel of land. This database should be available to an individual completing a title search.

(e) Report. On or before January 15, 2013, the working group shall submit to the general assembly its findings, recommendations, and proposed statutory revisions regarding the issues identified in subsection (d) of this section. This report shall be distributed to the house and senate committees on agriculture and on natural resources and energy.

(f) Assistance. For the purpose of its study of the issues identified in subsection (d) of this section and the preparation of its recommendations pursuant to subsection (e) of this section, the working group shall have the administrative and technical assistance of the housing and conservation board.

(g) Meetings. The member from the housing and conservation board shall convene the first meeting of the working group no later than July 15, 2012.

(h) Appointments. Within 30 days of the effective date of this section, each entity required to submit a list of names to the governor pursuant to subsection (b) of this section shall make such submission. Within 60 days of this section's effective date, the appointing or designating authority shall appoint or designate each member of the working group under subsection (b) of this section and shall report the member so appointed or designated to the housing and conservation board.

(Committee vote: 10-0-1)

(For text see Senate Journal 3/23/2012)

S. 199

An act relating to immunization exemptions and the immunization pilot program

Rep. Fisher of Lincoln, for the Committee on **Health Care**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 1121(c) is added to read:

(c) Annually, on or before September 15th, schools and child care facilities shall make publicly available the aggregated immunization rates of the student body for each required vaccine to the extent permitted under the federal Health Insurance Portability and Accountability Act, Pub. L. 104-191.

Sec. 2. 18 V.S.A. § 1122 is amended to read:

§ 1122. EXEMPTIONS

(a) ~~A Notwithstanding subsections 1121(a) and (b) of this title, a person may remain in school or in the child care facility without a required immunization:~~

(1) ~~If the person; or, in the case of a minor, the person's parent or guardian presents a written statement, an immunization exemption form from a licensed health care practitioner authorized to prescribe vaccines or a health clinic, or nurse that the person is in the process of being immunized. The person may continue to attend school or the child care facility as long as the immunization process is being accomplished;~~

(2) ~~If a health care practitioner, licensed to practice in Vermont and authorized to prescribe vaccines, certifies in writing that a specific immunization is or may be detrimental to the person's health or is not appropriate; provided that when a particular vaccine is no longer contraindicated, the person shall be required to receive the vaccine; or~~

(3) ~~If the person; or, in the case of a minor, the person's parent or guardian states in writing annually provides a signed statement to the school or child care facility on a form created by the Vermont department of health that the person, parent, or guardian:~~

~~(A) has holds religious beliefs or philosophical convictions opposed to immunization;~~

~~(B) has reviewed and understands evidence-based educational material provided by the department of health regarding immunizations; and~~

(C) understands that failure to complete the required vaccination schedule places the person and others at risk for contracting or carrying a vaccine-preventable infectious disease.

(b) The health department may provide by rule for further exemptions to immunization based upon sound medical practice.

Sec. 3. 18 V.S.A. § 1124 is amended as follows:

§ 1124. ACCESS TO AND REPORTING OF IMMUNIZATION RECORDS

(a) In addition to any data collected in accordance with the requirements of the Centers for Disease Control and Prevention, the Vermont department of health shall annually collect from schools the immunization rates for at least those students in the first and eighth grades for each required vaccine. The data collected by the department shall include the number of medical, philosophical, and religious exemptions filed for each required vaccine and the number of students with a provisional admittance.

(b) Appropriate health personnel, including school nurses, shall have access to immunization records of anyone enrolled in Vermont schools or child care facilities, when access is required in the performance of official duties related to the immunizations required by this subchapter. Access to student immunization records shall only be provided with the prior written consent of parents and students as required by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and any regulations adopted thereunder.

Sec. 4. 18 V.S.A. § 1130(b)(1) is amended to read:

(b)(1) The department of health shall establish an immunization pilot program with the ultimate goal of ensuring universal access to vaccines for all Vermonters at no charge to the individual and to reduce the cost at which the state may purchase vaccines. The pilot program shall be in effect from January 1, 2010, through December 31, ~~2012~~ 2014. During the term of the pilot program, the department shall purchase, provide for the distribution of, and monitor the use of vaccines as provided for in this subsection and subsection (c) of this section. The cost of the vaccines and an administrative surcharge shall be reimbursed by health insurers as provided for in subsections (e) and (f) of this section.

Sec. 5. APPROPRIATION

For the 2013 fiscal year, \$40,395.00 shall be appropriated from the Global Commitment fund to the Vermont department of health for the purpose of improving the immunization rates of communities with low immunization rates or high provisional admittance rates. There shall be appropriated to the agency

of human services \$17,600.00 in general funds and \$22,795.00 in federal funds.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

(Committee vote: 6-4-1)

(For text see Senate Journal 3/1/2012)

Ordered to Lie

H. 775

An act relating to allowed interest rates for installment loans.

Pending Action: Second Reading of the bill.

Consent Calendar

Concurrent Resolutions

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

H.C.R. 328

House concurrent resolution congratulating the Oxbow Union High School Olympians 2012 Division III championship girls' basketball team

H.C.R. 329

House concurrent resolution honoring Diana Pfenning for her outstanding leadership of the Tapestry Program of Rutland County

H.C.R. 330

House concurrent resolution congratulating the 2012 Mount St. Joseph Academy Mounties Division II championship boys' basketball team

H.C.R. 331

House concurrent resolution congratulating Kevin Wang on winning a 2012 Siemens Award for Advanced Placement excellence in science and mathematics

H.C.R. 332

House concurrent resolution congratulating the Hartford High School Hurricanes 2012 Division II championship girls' basketball team

H.C.R. 333

House concurrent resolution joyfully extending birthday wishes to the grande dame of Montpelier, Lola Aiken, who turns 100 on June 24, 2012

H.C.R. 334

House concurrent resolution recognizing Boseung Halliwell, PMHNP, for her efforts to improve the quality of health care delivery in Lamoille County

H.C.R. 335

House concurrent resolution congratulating the 2012 Proctor High School Phantoms Division IV championship girls' basketball team

H.C.R. 336

House concurrent resolution congratulating the Rice Memorial High School 2012 Division I championship girls' basketball team

S.C.R. 41

Senate concurrent resolution honoring Richard Strong for his more than half-century of municipal public service in the village of Ludlow

S.C.R. 42

Senate concurrent resolution congratulating Lyndon Rescue, Inc. on its 40th anniversary

Public Hearings

April 12, 2012 - 6:30-8:30 PM - H. 722 Labeling of Food Produced with Genetic Engineering - House Agriculture Committee

April 11, 2012 - Room 10 - 9:00-12:00 - Increasing the Price of Milk Paid to Vermont Dairy Farmers - Senate Agriculture Committee