

Senate Calendar

WEDNESDAY, MARCH 30, 2011

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ACTION CALENDAR

UNFINISHED BUSINESS OF TUESDAY, MARCH 29, 2011

Third Reading

S. 77.

An act relating to water testing of private wells.

UNFINISHED BUSINESS OF THURSDAY, MARCH 24, 2011

Committee Bill for Second Reading

S. 52.

An act to protect employees from abuse at work.

PENDING QUESTION: Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs? (For text of Report of Economic Development, Housing and General Affairs, see Senate Journal for March 23, page 267)

UNFINISHED BUSINESS OF FRIDAY, MARCH 25, 2011

Second Reading

Favorable with Recommendation of Amendment

S. 15.

An act relating to insurance coverage for midwifery services and home births.

Reported favorably with recommendation of amendment by Senator Miller for the Committee on Health and Welfare.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4099d is added to read:

§ 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

(a) A health insurance plan or health benefit plan providing maternity benefits shall also provide coverage for services rendered by a midwife licensed pursuant to chapter 85 of Title 26 or an advanced practice registered nurse licensed pursuant to chapter 28 of Title 26 who is certified as a nurse midwife for services within the licensed midwife's or certified nurse midwife's

scope of practice and provided in a hospital or other health care facility or at home.

(b) Coverage for services provided by a licensed midwife or certified nurse midwife shall not be subject to any greater co-payment, deductible, or coinsurance than is applicable to any other similar benefits provided by the plan.

Sec. 2. DATA SUBMISSION

Each midwife licensed pursuant to chapter 85 of Title 26 and each advanced practice registered nurse licensed pursuant to chapter 28 of Title 26 who is certified as a nurse midwife shall submit data to the database maintained by the Division of Research of the Midwives Alliance of North America regarding each home birth in Vermont for which he or she is the attending midwife.

Sec. 3. DEPARTMENT OF HEALTH; REPORTING REQUIREMENT

(a) The department of health shall access the database maintained by the Division of Research of the Midwives Alliance of North America to obtain information relating to care provided in Vermont by midwives licensed pursuant to chapter 85 of Title 26 and by advanced practice registered nurses licensed pursuant to chapter 28 of Title 26 who are certified as nurse midwives.

(b) No later than March 15 of each year from 2012 through 2016, inclusive, the commissioner of health or designee shall provide testimony to the house committee on health care and the senate committee on health and welfare regarding the activities of licensed midwives and certified nurse midwives performing home births and providing prenatal and postnatal care in a nonmedical environment during the preceding year. The testimony shall include the number of home births in Vermont, the number of hospital transports associated with home births, the treatment of high-risk patients, and other relevant data, as well as the level of compliance of the licensed midwives and certified nurse midwives with the laws and rules governing their scope of practice.

Sec. 4. EFFECTIVE DATES

(a) Sec. 1 of this act shall take effect on October 1, 2011, and shall apply to all health insurance plans and health benefit plans on and after October 1, 2011, on such date as a health insurer issues, offers, or renews the plan, but in no event later than October 1, 2012.

(b) The remaining sections of this act shall take effect on passage.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Fox for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare, with the following amendment thereto:

In Sec. 1. 8 VSA §4099d by adding a subsection (c) to read as follows:

(c) As used in this section, "health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid, the Vermont health access plan, and any other public health care assistance program offered or administered by the state or by any subdivision or instrumentality of the state. The term shall not include policies or plans providing coverage for specific disease or other limited benefit coverage.

(Committee vote: 6-1-0)

Reported favorably by Senator Miller for the Committee on Appropriations.

(Committee vote: 6-0-1)

CONSIDERATION POSTPONED TO MARCH 31, 2011

Second Reading

S. 34.

An act relating to the collection and disposal of mercury-containing lamps.

PENDING QUESTION: Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?. (For text of Report of Natural Resources and Energy, see Senate Journal for March 23, 2011, page 273)

AMENDMENT TO S. 34 TO BE OFFERED BY SENATOR ILLUZZI

Senator Illuzzi moves to amend the bill as follows:

First: In Sec. 1, 10 V.S.A. § 7151, by inserting subdivision (10) to read:

(10) "Stewardship organization" means an organization, association, or entity that has developed a system, method, or other mechanism which assumes the responsibilities, obligations, and liabilities under this chapter of multiple manufacturers of mercury-containing lamps.

Second: In Sec. 1, 10 V.S.A. § 7154(a), by striking the first full sentence and inserting in lieu thereof the following:

Prior to October 1, 2011, a manufacturer, individually or as a participant in a stewardship organization, shall submit a collection plan to the secretary for review.

AMENDMENT TO S. 34 TO BE OFFERED BY SENATOR ILLUZZI

Senator Illuzzi moves to amend the bill in Sec. 1, 10 V.S.A. § 7154, by adding subsection (c) to read:

(c) A manufacturer may submit to the secretary for review a collection plan that does not include municipal collection locations or retailers as required under subdivision (a)(2) of this section. The secretary shall approve a collection plan submitted under this subsection if the collection plan complies with all other requirements of this section and the secretary determines that the proposed collection plan will provide acceptable opportunities or locations for the convenient collection of mercury-containing lamps.

AMENDMENT TO S. 34 TO BE OFFERED BY SENATOR ILLUZZI

Senator Illuzzi moves to amend the bill as follows:

First: By adding a new Sec. 1 to read:

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) Extended producer responsibility programs are an effective method of managing certain types of potentially hazardous waste, such as mercury-containing lamps;

(2) In implementing extended producer responsibility programs, states are often faced with the issue of how to regulate products sold in the state by a manufacturer with no corporate presence in Vermont or the United States.

(3) Under *Huey v. Bates*, 135 Vt. 160 (1977), *Northern Aircraft, Inc. v. Reed*, 154 Vt. 36 (1990), and *Hedges Western Auto Supply Co.*, 161 Vt. 614 (1994), a clear intention by a manufacturer or a distributor to participate in the Vermont market through the sale or purposeful utilization of an in-state distribution system is sufficient to provide the state with jurisdiction over the manufacturer or distributor.

(4) Thus, an extended producer responsibility program for the collection and disposal of mercury containing lamps may regulate a manufacturer or distributor that purposefully and intentionally sells or distributes mercury-containing lamps in Vermont.

and by renumbering the subsequent sections to be numerically correct

Second: In Sec. 1, as proposed for amendment, 10 V.S.A. § 7151, by adding a new subdivision (8) to read:

(8) “RoHS Directive” means Directive 2002/95/EC as adopted by the European Parliament and the Council of the European Union on January 27, 2003, concerning the restriction of certain hazardous substances in electrical and electronic equipment, as amended thereafter by the Commission of European Communities.

and by renumbering the subdivisions to be numerically correct

Third: In Sec. 1, by striking 10 V.S.A. § 7159 in its entirety and inserting in lieu thereof the following:

§ 7159. MERCURY CONTENT STANDARDS

(a) Mercury content standards for lamps. Beginning January 1, 2012, a mercury-containing lamp sold in this state shall satisfy the mercury-content standard set under the RoHS Directive for such a lamp. The agency shall post on its website the numeric content standard of the RoHS Directive for mercury-containing lamps.

(b) Rulemaking; implementation. The agency of natural resources may adopt rules to implement the requirements of this chapter, including exemptions from the mercury content standards established under subsection (a) of this section.

(c) Certificate of compliance.

(1) Beginning April 1, 2012, the secretary may request a manufacturer of a lamp or lamps to submit a certification, supported by technical information, that the manufacturer’s lamp or lamps that are sold or offered for sale in the state comply with the standard established under subsection (a) of this section. A manufacturer shall submit a certificate of compliance within 30 days of the secretary’s request. If a manufacturer fails to provide a requested certification within 30 days of the request, the manufacturer shall be prohibited from selling lamps or offering lamps for sale in the state.

(2) Upon request of a retailer or other person selling a manufacturer’s lamps, a manufacturer shall provide a certification that the manufacturer’s lamp or lamps comply with the standard established under subsection (a) of this section. A manufacturer shall provide a certificate of compliance within 30 days of the retailer’s request. The certification must specify that the lamp or lamps are not prohibited from sale in the state. If a manufacturer fails to provide a certification under this subdivision (c)(2), the manufacturer shall be prohibited from selling lamps or offering lamps for sale in the state.

AMENDMENT TO S. 34 TO BE OFFERED BY SENATOR SEARS

Senator Sears moves to amend the bill in Sec. 1, by striking 10 V.S.A. § 7158 in its entirety and inserting in lieu thereof the following:

§ 7158. FEES; DISPOSITION

(a) A manufacturer or stewardship organization shall pay \$10,000.00 for each collection plan submitted to the agency for review under section 7154 of this title.

(b) Of the fees collected under subsection (a) of this section, no more than \$20,000.00 shall be retained by the agency annually for the performance of its responsibilities under section 7156 of this title. All fees collected by the agency in a year under subsection (a) of this section in excess of \$20,000.00 a year shall be deposited in the general fund.

NEW BUSINESS

Third Reading

S. 53.

An act relating to the number of prekindergarten children included within a school district's average daily membership.

**AMENDMENT TO S. 53 TO BE OFFERED BY SENATOR ILLUZZI
BEFORE THIRD READING**

Senator Illuzzi moves to amend the bill by striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read:

Sec. 2. EFFECTIVE DATE; FISCAL YEAR 2012 IMPACT

(a) This section shall take effect on passage.

(b) Sec. 1 of this act shall take effect on July 1, 2011.

(c) Notwithstanding 16 V.S.A. § 4010(h), this act shall be implemented so that the fiscal year 2012 equalized pupil calculation is revised to reflect the amendments in Sec. 1 of this act.

(d) Upon passage of this act, school districts may take all necessary actions to prepare to offer prekindergarten education by or through public schools as authorized under this act and 16 V.S.A. § 829.

Second Reading

Favorable

H. 85.

An act relating to recognition of the Nulhegan Band of the Coosuk Abenaki Nation as a Native American Indian tribe.

Reported favorably by Senator Illuzzi for the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 5-0-0)

H. 86.

An act relating to recognition of the Elnu Abenaki tribe as a Native American Indian tribe.

Reported favorably by Senator Illuzzi for the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 5-0-0)

Favorable with Proposal of Amendment

H. 236.

An act relating to limitation of prosecutions for sexual abuse of a vulnerable adult.

Reported favorably with recommendation of proposal of amendment by Senator Snelling for the Committee on Judiciary.

The Committee recommends that the Senate propose to the House to amend the bill that after passage the title of the bill be amended to read: "An act relating to extending the limitation of prosecutions for sexual abuse of a vulnerable adult"

(Committee vote: 5-0-0)

(No House amendments)

NOTICE CALENDAR

Committee Bill for Second Reading

Favorable

S. 100.

An act relating to making miscellaneous amendments to education laws. (By the Committee on Education) (Senator Doyle for the Committee)

Reported favorably by Senator Westman for the Committee on Finance.

(Committee vote: 7-0-0)

Reported favorably by Senator Starr for the Committee on Appropriations.

(Committee vote: 6-0-1)

ORDERED TO LIE

S. 38.

An act relating to the Uniform Collateral Consequences of Conviction Act.

PENDING ACTION: Third Reading

H. 46.

An act relating to youth athletes with concussions participating in athletic activities.

PENDING QUESTION: Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Education?

(For text of Report of the Committee on Education, see Senate Journal for March 29, 2011, page 309)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Kate Duffy of Williston – Commissioner of the Department of Human Resources– By Sen. Flory for the Committee on Government Operations. (1/25/11)

Jim Reardon of Essex Junction – Commissioner of the Department of Finance and Management – By Sen. White for the Committee on Government Operations. (1/28/11)

Chuck Ross of Hinesburg – Secretary of the Agency of Agriculture – By Sen. Kittell for the Committee on Agriculture. (1/28/11)

Robert D. Ide of Peacham – Commissioner of the Department of Motor Vehicles – By Sen. Kitchel for the Committee on Transportation. (1/28/11)

Jeb Spaulding of Montpelier – Secretary of the Agency of Administration – By Sen. Pollina for the Committee on Government Operations. (1/28/11)

Mary Peterson of Williston – Commissioner of the Department of Taxes – By Sen. Westman for the Committee on Finance. (1/28/11)

Steve Kimbell of Tunbridge – Commissioner of the Department of Banking, Insurance, Securities and Health Care Administration – By Sen. Cummings for the Committee on Finance. (1/28/11)

Brian Searles of Burlington – Secretary of the Agency of Transportation – By Sen. Mazza for the Committee on Transportation. (2/1/11)

Bruce Post of Essex Junction – Member of the Board of Libraries – By Sen. Baruth for the Committee on Education. (2/4/11)

Jason Gibbs of Duxbury – Member of the Community High School of Vermont Board – By Sen. Doyle for the Committee on Education. (2/15/11)

John Fitzhugh of West Berlin – Member of the Board of Libraries – By Sen. Doyle for the Committee on Education. (2/15/11)

Susan Wehry of Burlington – Commissioner of the Department of Disabilities, Aging and Independent Living – By Sen. Pollina for the Committee on Health and Welfare. (2/15/11)

Dave Yacavone of Morrisville – Commissioner of the Department of Children and Families – By Sen. Fox for the Committee on Health and Welfare. (2/15/11)

Christine Oliver of Montpelier – Commissioner of the Department of Mental Health – By Sen. Mullin for the Committee on Health and Welfare. (2/15/11)

Doug Racine of Richmond – Secretary of the Agency of Human Services – By Sen. Ayer for the Committee on Health and Welfare. (2/15/11)

Michael Obuchowski of Montpelier – Commissioner of the Department of Buildings and General Services – By Sen. Hartwell for the Committee on Institutions. (2/17/11)

Susan Besio of Jericho – Commissioner of the Department of Vermont Health Access – By Sen. Miller for the Committee on Health and Welfare. (2/18/11)

Susan Besio of Jericho – Commissioner of the Department of Vermont Health Access – By Sen. Miller for the Committee on Health and Welfare.

(2/18/11)

Harry Chen of Mendon – Commissioner of the Department of Health – By Sen. Mullin for the Committee on Health and Welfare. (2/18/11)

Andrew Pallito of Jericho – Commissioner of the Department of Corrections – By Sen. Hartwell for the Committee on Institutions. (2/18/11)

Keith Flynn of Derby Line – Commissioner of the Department of Public Safety – By Sen. Flory for the Committee on Transportation. (2/22/11)

Elizabeth Strano of Bennington – Member of the State Board of Education – By Sen. Baruth for the Committee on Education. (2/24/11)

Amy W. Grillo of Dummerston – Member of the Community High School of Vermont Board – By Sen. Baruth for the Committee on Education. (2/24/11)

Deb Markowitz of Montpelier – Secretary of the Agency of Natural Resources – By Sen. Lyons for the Committee on Natural Resources and Energy. (3/17/11)

David Mears of Montpelier – Commissioner of the Department of Environmental Conservation – By Sen. Brock for the Committee on Natural Resources and Energy. (3/23/11)

Michael Snyder of Stowe – Commissioner of the Department of Forests, Parks and Recreation – By Sen. MacDonald for the Committee on Natural Resources and Energy. (3/23/11)

Annie Noonan of Montpelier – Commissioner of the Department of Labor – By Sen. Doyle for the Committee on Economic Development, Housing and General Affairs. (3/28/11)

Patrick Berry of Middlebury – Commissioner of the Department of Fish and Wildlife – By Sen. McCormack for the Committee on Natural Resources and Energy. (3/28/11)

Kathryn T. Boardman of Shelburne of Shelburne – Director of the Vermont Municipal Bond Bank – By Sen. Ashe for the Committee on Finance. (3/29/11)

David R. Coates of Colchester – Director of the Vermont Municipal Bond Bank – By Sen. Fox for the Committee on Finance. (3/29/11)

Thomas Pelletier of Montpelier – Member of the Vermont Housing Finance Agency – By Sen. Cummings for the Committee on Finance. (3/29/11)

PUBLIC HEARINGS

Wednesday, March 30, 2011 – Room 11 – 6:00-8:00 P.M. – Re: Energy Planning – Senate Committee on Natural Resources and Energy.

Thursday, April 7, 2011 – Room 11 – 6:00-8:00 P.M. – Re: S. 57 – Health reform bill, business and provider hearing – Senate Committee on Health and Welfare.