

Journal of the House

Tuesday, May 1, 2012

Rep. Leriche of Hardwick in Chair.

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by the Speaker.

Pledge of Allegiance

Page Lalya Paine of Bristol led the House in the Pledge of Allegiance.

Message from the Senate No. 63

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 747. An act relating to cigarette manufacturers.

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

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

H. 761. An act relating to executive branch fees, including motor vehicle and fish and wildlife fees.

And has concurred therein.

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 61. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

Joint Resolution Placed on Calendar**J.R.S. 58**

By Senator Pollina,

J.R.S. 58. Joint resolution relating to respectful language in the Vermont Statutes Annotated.

Whereas, the State of Vermont is committed to eliminating all forms of abuse and harassment and to protecting the civil rights of all Vermonters, and

Whereas, this commitment includes achieving long-term systemic change to end discrimination against people with disabilities, and

Whereas, deliberate use of disrespectful language directed at people with disabilities is a form of harassment and abuse, and

Whereas, even if a word or phrase was not originally used with discriminatory intent, evolving societal perceptions may now cause the word or phrase to be viewed as showing disrespect to persons with disabilities, and

Whereas, the general assembly enacted Act No. 24 of 2011 directing that a working group under the supervision of the agency of human services identify instances in the Vermont Statutes Annotated of language that is now viewed as disrespectful to persons with disabilities, and

Whereas, the working group prepared a comprehensive inventory of instances where disrespectful language appears in the Vermont Statutes Annotated and recommended alternative words and phrases as replacements, and

Whereas, the general assembly desires that respectful language be used when referring to persons with disabilities, both in legislative deliberations and in the Vermont Statutes Annotated, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly requests that the legislative council prepare a bill that will propose to amend the Vermont Statutes Annotated by replacing words and phrases as recommended by the study group created pursuant to Act No. 24 of 2011.

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

House Resolution Adopted**H.R. 21**

House resolution, entitled

House resolution urging the U.S. Department of Health and Human Services to reconsider its lifetime deferral on blood donation from men who have sex with other men;

Pending the question, Shall the House adopt the resolution in its part? **Rep. Trieber of Rockingham** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House adopt the resolution in its part? was decided in the affirmative. Yeas, 129. Nays, 2.

Those who voted in the affirmative are:

Acinapura of Brandon	Ellis of Waterbury	Lorber of Burlington *
Ancl of Calais	Emmons of Springfield	Macaig of Williston
Andrews of Rutland City	Evans of Essex	Malcolm of Pawlet
Aswad of Burlington	Fagan of Rutland City	Manwaring of Wilmington
Atkins of Winooski	Fisher of Lincoln	Marcotte of Coventry
Bartholomew of Hartland	Frank of Underhill	Marek of Newfane
Batchelor of Derby	French of Shrewsbury	Martin of Springfield
Bissonnette of Winooski	French of Randolph	Martin of Wolcott
Bohi of Hartford	Gilbert of Fairfax	Masland of Thetford
Botzow of Pownal	Grad of Moretown	McAllister of Highgate
Bouchard of Colchester	Haas of Rochester	McCullough of Williston
Branagan of Georgia	Head of South Burlington	McFaun of Barre Town
Browning of Arlington	Heath of Westford	Miller of Shaftsbury
Burditt of West Rutland	Hebert of Vernon	Mook of Bennington
Burke of Brattleboro	Helm of Fair Haven	Moran of Wardsboro
Buxton of Tunbridge	Higley of Lowell	Mrowicki of Putney
Campion of Bennington	Hooper of Montpelier	Munger of South Burlington
Canfield of Fair Haven	Howard of Cambridge	Myers of Essex
Cheney of Norwich	Howrigan of Fairfield	Nuovo of Middlebury
Christie of Hartford	Hubert of Milton	Olsen of Jamaica
Clark of Vergennes	Jerman of Essex	O'Sullivan of Burlington
Clarkson of Woodstock	Jewett of Ripton	Partridge of Windham
Conquest of Newbury	Johnson of South Hero	Pearce of Richford
Consejo of Sheldon	Johnson of Canaan	Peltz of Woodbury
Copeland-Hanzas of Bradford	Kilmartin of Newport City	Perley of Enosburgh
Courcelle of Rutland City	Klein of East Montpelier	Poirier of Barre City
Crawford of Burke	Koch of Barre Town	Potter of Clarendon
Dakin of Chester	Komline of Dorset	Pugh of South Burlington
Davis of Washington	Krebs of South Hero	Ram of Burlington
Deen of Westminster	Krowinski of Burlington	Reis of St. Johnsbury
Devereux of Mount Holly	Kupersmith of South Burlington	Russell of Rutland City
Dickinson of St. Albans Town	Lanpher of Vergennes	Savage of Swanton
Donahue of Northfield	Larocque of Barnet	Scheuermann of Stowe
Donovan of Burlington	Lawrence of Lyndon	Shand of Weathersfield
Eckhardt of Chittenden	Lenes of Shelburne	Sharpe of Bristol
Edwards of Brattleboro	Lewis of Berlin	Shaw of Pittsford
	Lippert of Hinesburg	Smith of New Haven
		South of St. Johnsbury

Stevens of Waterbury	Till of Jericho	Wizowaty of Burlington
Stevens of Shoreham	Toll of Danville	Woodward of Johnson
Strong of Albany	Trieber of Rockingham	Wright of Burlington
Stuart of Brattleboro	Turner of Milton	Yantachka of Charlotte
Sweaney of Windsor	Waite-Simpson of Essex	Young of Glover
Taylor of Barre City	Wilson of Manchester	Zagar of Barnard

Those who voted in the negative are:

Donaghy of Poultney	Winters of Williamstown
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Those members absent with leave of the House and not voting are:

Brennan of Colchester	Kitzmiller of Montpelier	Peaslee of Guildhall
Condon of Colchester	Lewis of Derby	Ralston of Middlebury
Corcoran of Bennington	McNeil of Rutland Town	Smith of Morristown
Degree of St. Albans City	Morrissey of Bennington	Spengler of Colchester
Greshin of Warren	O'Brien of Richmond	Townsend of Randolph
Keenan of St. Albans City	Pearson of Burlington	Webb of Shelburne

Rep. Lorber of Burlington explained his vote as follows:

“Mr. Speaker:

We are a stronger society when science prevails over bias.”

Senate Proposal of Amendment Concurred in

H. 475

The Senate proposed to the House to amend House bill, entitled

An act relating to net metering and definitions of capacity

First: In Sec. 2 (implementation; solar registration), by striking out “30 days” and inserting in lieu thereof 21 days

Second: In Sec. 3, 30 V.S.A. § 219a(e) (net metering systems; electric energy measurement), after subdivision (3), by striking out subdivision (4) and inserting in lieu thereof a new subdivision (4) to read:

(4) For a net metering systems using time-of-day system serving a customer on a demand or other types of metering time-of-use rate schedule, the board shall specify the manner of measurement and the application of bill credits for the electric energy produced or consumed in a manner shall be substantially similar to that specified in this subsection for use with a single nondemand meter. However, if such a net metering system is interconnected directly to the electric company through a separate meter whose primary purpose is to measure the energy generated by the system:

(A) The bill credits shall apply to all kWh generated by the net metering system and shall be calculated as if the customer were charged the kWh rate component of the interconnecting company's general residential rate schedule that consists of two rate components: a service charge and a kWh rate, excluding time-of-use rates and demand rates.

(B) If a company's general residential rate schedule includes inclining block rates, the residential rate used for this calculation shall be the highest of those block rates.

Third: By striking out Sec. 4 (30 V.S.A. § 219a(f)(2) and (3)) and inserting in lieu thereof a new Sec. 4 to read:

Sec. 4. 30 V.S.A. § 219a(f) is amended to read:

(f) Consistent with the other provisions of this title, electric energy measurement for group net metering systems shall be calculated in the following manner:

* * *

(2) Electric energy measurement for group net metering systems shall be calculated by subtracting total usage of all meters included in the group net metering system from total generation by the group net metering system. If the electricity generated by the group net metering system is less than the total usage of all meters included in the group net metering system during the billing period, the group net metering system shall be credited for any accumulated ~~kilowatt-hour~~ credit and then billed for the net electricity supplied by the electric company, in accordance with the procedures in subsection (g)(group net metering) of this section.

* * *

(4) The board shall apply the provisions of subdivision (e)(4) of this section (measurement and credits; nonstandard meters) to group net metering systems that serve one or more customers who are on a demand or time-of-use rate schedule.

Fourth: By striking out Sec. 7 (net metering; study; report) and inserting in lieu thereof a new Sec. 7 to read:

Sec. 7. NET METERING; STUDY; REPORT

No later than January 15, 2013, the department of public service (the department) shall perform a general evaluation of Vermont's net metering statute, rules, and procedures and shall submit the evaluation and any accompanying recommendations to the general assembly. Among any other issues related to net metering that the department may deem relevant, the

report shall include an analysis of whether and to what extent customers using net metering systems under 30 V.S.A. § 219a are subsidized by other retail electric customers who do not employ net metering. The analysis also shall include an examination of any benefits or costs of net metering systems to Vermont's electric distribution and transmission systems and the extent to which customers owning net metering systems do or do not contribute to the fixed costs of Vermont's retail electric utilities. Prior to completing the evaluation and submitting the report, the department shall offer an opportunity for interested persons such as the retail electric utilities and renewable energy developers and advocates to submit information and comment.

Fifth: In Sec. 9 (effective dates; retroactive application), by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Notwithstanding 1 V.S.A. §§ 213 and 214, Sec. 8 of this act (amending the definition of plant capacity) shall apply to solar energy plants that:

(1) have executed a standard offer contract under 30 V.S.A. chapter 89; and

(2) are commissioned, within the meaning of 30 V.S.A. § 8002(11), on or after January 1, 2012.

Which proposal of amendment was considered and concurred in.

**Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested and Appointed**

H. 745

The Senate proposed to the House to amend House bill, entitled

An act relating to the Vermont prescription monitoring system

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

It is the purpose of this act to maximize the effectiveness and appropriate utilization of the Vermont prescription monitoring system, which serves as an important tool in promoting public health by providing opportunities for treatment for and prevention of abuse of controlled substances without interfering with the legal medical use of those substances.

Sec. 1a. 18 V.S.A. § 4201(~~26~~) is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

* * *

(26) "Prescription" means an order for a regulated drug made by a physician, advanced practice registered nurse, dentist, or veterinarian licensed under this chapter to prescribe such a drug which shall be in writing except as otherwise specified ~~herein~~ in this subdivision. Prescriptions for such drugs shall be made to the order of an individual patient, dated as of the day of issue and signed by the prescriber. The prescription shall bear the full name ~~and~~, address, and date of birth of the patient, or if the patient is an animal, the name and address of the owner of the animal and the species of the animal. Such prescription shall also bear the full name, address, and registry number of the prescriber and shall be written with ink, indelible pencil, or typewriter; if typewritten, it shall be signed by the ~~physician~~ prescriber. A written or typewritten prescription for a controlled substance, as defined in 21 C.F.R. Part 1308, shall contain the quantity of the drug written both in numeric and word form.

* * *

Sec. 2. 18 V.S.A. § 4215b is added to read:

§ 4215b. IDENTIFICATION

Prior to dispensing a prescription for a Schedule II, III, or IV controlled substance, a pharmacist shall require the individual receiving the drug to provide a signature and show valid and current government-issued photographic identification as evidence that the individual is the patient for whom the prescription was written, the owner of the animal for which the prescription was written, or the bona fide representative of the patient or animal owner. If the individual does not have valid, current government-issued photographic identification, the pharmacist may request alternative evidence of the individual's identity, as appropriate.

Sec. 3. 18 V.S.A. § 4218 is amended to read:

§ 4218. ENFORCEMENT

* * *

(d) Nothing in this section shall authorize the department of public safety and other authorities described in subsection (a) of this section to have access to VPMS (Vermont prescription monitoring system) created pursuant to chapter 84A of this title, except as provided in that chapter.

(e) Notwithstanding subsection (d) of this section, a drug diversion investigator, as defined in section 4282 of this title, may request VPMS data from the department of health pursuant to subdivision 4284(b)(3) of this title.

(f) The department of public safety shall adopt standard operating guidelines for accessing pharmacy records through the authority granted in this section. Any person authorized to access pharmacy records pursuant to subsection (a) of this section shall follow the department of public safety's guidelines. These guidelines shall be a public record.

Sec. 3a. DEPARTMENT OF PUBLIC SAFETY; REPORTING STANDARD OPERATING GUIDELINES

No later than December 15, 2012, the commissioner of public safety shall submit to the house and senate committees on judiciary, the house committee on human services, and the senate committee on health and welfare the department's written standard operating guidelines used to access pharmacy records at individual pharmacies pursuant to 18 V.S.A. § 4218. Subsequently, if the guidelines are substantively amended by the department, it shall submit the amended guidelines to the same committees as soon as practicable.

Sec. 4. [Deleted.]

Sec. 5. 18 V.S.A. § 4282 is amended to read:

§ 4282. DEFINITIONS

As used in this chapter:

* * *

(5) "Delegate" means an individual employed by a health care facility or pharmacy, in the office of the chief medical examiner, or in the office of the medical director of the department of Vermont health access and authorized by a health care provider or dispenser, the chief medical examiner, or the medical director to request information from the VPMS relating to a bona fide current patient of the health care provider or dispenser, to a bona fide investigation or inquiry into an individual's death, or to a patient for whom a Medicaid claim for a Schedule II, III, or IV controlled substance has been submitted.

(6) "Department" means the department of health.

(7) "Drug diversion investigator" means an employee of the department of public safety whose primary duties include investigations involving violations of laws regarding prescription drugs or the diversion of prescribed controlled substances, and who has completed a training program established by the department of health by rule that is designed to ensure that officers have

the training necessary to use responsibly and properly any information that they receive from the VPMS.

(8) "Evidence-based" means based on criteria and guidelines that reflect high-quality, cost-effective care. The methodology used to determine such guidelines shall meet recognized standards for systematic evaluation of all available research and shall be free from conflicts of interest. Consideration of the best available scientific evidence does not preclude consideration of experimental or investigational treatment or services under a clinical investigation approved by an institutional review board.

Sec. 6. 18 V.S.A. § 4283 is amended to read:

§ 4283. CREATION; IMPLEMENTATION

(a) ~~Contingent upon the receipt of funding, the~~ The department ~~may establish~~ shall maintain an electronic database and reporting system for monitoring Schedules II, III, and IV controlled substances, as defined in 21 C.F.R. Part 1308, as amended and as may be amended, that are dispensed within the state of Vermont by a health care provider or dispenser or dispensed to an address within the state by a pharmacy licensed by the Vermont board of pharmacy.

* * *

(e) It is not the intention of the department that a health care provider or a dispenser shall have to pay a fee or tax or purchase hardware or proprietary software required by the department specifically for the use, establishment, maintenance, or transmission of the data. The department shall seek grant funds and take any other action within its financial capability to minimize any cost impact to health care providers and dispensers.

* * *

Sec. 7. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

(a) The data collected pursuant to this chapter and all related information and records shall be confidential, except as provided in this chapter, and shall not be subject to public records law. The department shall maintain procedures to protect patient privacy, ensure the confidentiality of patient information collected, recorded, transmitted, and maintained, and ensure that information is not disclosed to any person except as provided in this section.

(b)(1) The department shall ~~be authorized to provide data to only~~ provide only the following persons with access to query the VPMS:

~~(1) A patient or that person's health care provider, or both, when VPMS reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.~~

~~(2)(A) A health care provider or, dispenser, or delegate who requests information is registered with the VPMS and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient.~~

~~(B) Personnel or contractors, as necessary for establishing and maintaining the VPMS.~~

~~(C) The medical director of the department of Vermont health access, for the purposes of Medicaid quality assurance, utilization, and federal monitoring requirements with respect to Medicaid recipients for whom a Medicaid claim for a Schedule II, III, or IV controlled substance has been submitted.~~

~~(D) A medical examiner from the office of the chief medical examiner, for the purpose of conducting an investigation or inquiry into the cause, manner, and circumstances of an individual's death.~~

~~(E) A health care provider or medical examiner licensed to practice in another state, to the extent necessary to provide appropriate medical care to a Vermont resident or to investigate the death of a Vermont resident.~~

~~(2) The department shall provide reports of data available to the department through the VPMS only to the following persons:~~

~~(A) A patient or that person's health care provider, or both, when VPMS reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.~~

~~(3)(B) A designated representative of a board responsible for the licensure, regulation, or discipline of health care providers or dispensers pursuant to a bona fide specific investigation.~~

~~(4)(C) A patient for whom a prescription is written, insofar as the information relates to that patient.~~

~~(5)(D) The relevant occupational licensing or certification authority if the commissioner reasonably suspects fraudulent or illegal activity by a health care provider. The licensing or certification authority may report the data that are the evidence for the suspected fraudulent or illegal activity to a ~~trained law enforcement officer~~ drug diversion investigator.~~

~~(6)~~(E)(i) The commissioner of public safety, personally, or the deputy commissioner of public safety, personally, if the commissioner of health, personally, or the deputy commissioner for alcohol and drug abuse programs, personally, makes the disclosure, has consulted with at least one of the patient's health care providers, and believes that the disclosure is necessary to avert a serious and imminent threat to a person or the public.

(ii) The commissioner of public safety, personally, or the deputy commissioner of public safety, personally, when he or she requests data from the commissioner of health, and the commissioner of health believes, after consultation with at least one of the patient's health care providers, that disclosure is necessary to avert a serious and imminent threat to a person or the public.

(iii) The commissioner or deputy commissioner of public safety may disclose such data received pursuant to this subdivision (E) as is necessary, in his or her discretion, to avert the serious and imminent threat.

~~(7) Personnel or contractors, as necessary for establishing and maintaining the VPMS.~~

(F) A prescription monitoring system or similar entity in another state pursuant to a reciprocal agreement to share prescription monitoring information with the Vermont department of health as described in section 4288 of this title.

(3)(A) The department shall provide data available to the department through the VPMS to a drug diversion investigator in accordance with this subdivision (3). The department shall release data pursuant to a request by an officer conducting:

(i) an investigation with a reasonable, good faith belief that it could lead to the filing of criminal proceedings related to a violation of this title; or

(ii) an investigation that is ongoing and continuing and for which there is a reasonable, good faith anticipation of securing an arrest or prosecution related to a violation of this title in the foreseeable future.

(B) An investigation under subdivision (A) of this subdivision (3) shall be based upon a report from a pharmacist or a health care provider.

(C) Upon a request in compliance with subdivision (A) of this subdivision (3), the department shall provide the officer with only the following information:

(i) Name and date of birth of the subject of the request.

(ii) The name and address of any pharmacy that has provided a Schedule II, III, or IV regulated drug to the subject of the request.

(iii) The name and address of any health care provider who has prescribed a Schedule II, III, or IV regulated drug to the subject of the request.

(D) An investigation under this subdivision shall be identified by a law enforcement case number for tracking and documentation purposes.

(c) A person who receives data or a report from VPMS or from the department shall not share that data or report with any other person or entity not eligible to receive that data pursuant to subsection (b) of this section, except as necessary and consistent with the purpose of the disclosure and in the normal course of business. Nothing shall restrict the right of a patient to share his or her own data.

(d) The commissioner shall offer health care providers and dispensers training in the proper use of information they may receive from VPMS. Training may be provided in collaboration with professional associations representing health care providers and dispensers.

~~(e) A trained law enforcement officer who may receive information pursuant to this section shall not have access to VPMS except for information provided to the officer by the licensing or certification authority. [Deleted.]~~

(f) The department is authorized to use information from VPMS for research, trend analysis, and other public health promotion purposes provided that data are aggregated or otherwise de-identified. The department shall post the results of trend analyses on its website for use by health care providers, dispensers, and the general public. When appropriate, the department shall send alerts relating to identified trends to health care providers and dispensers by electronic mail.

(g) Knowing disclosure of transmitted data to a person not authorized by subsection (b) of this section, or obtaining information under this section not relating to a bona fide specific investigation, shall be punishable by imprisonment for not more than one year or a fine of not more than \$1,000.00, or both, in addition to any penalties under federal law.

(h) All information and correspondence relating to the disclosure of information by the commissioner to a patient's health care provider pursuant to subdivision (b)(2)(A) of this section shall be confidential and privileged, exempt from the public access to records law, immune from subpoena or other disclosure, and not subject to discovery or introduction into evidence.

(i) Each request for disclosure of data pursuant to subdivision (b)(2)(B) of this section shall document a bona fide specific investigation and shall specify the name of the person who is the subject of the investigation.

Sec. 8. 18 V.S.A. § 4286 is amended to read:

§ 4286. ADVISORY COMMITTEE

(a)(1) The commissioner shall establish an advisory committee to assist in the implementation and periodic evaluation of VPMS.

(2) The department shall consult with the committee concerning any potential operational or economic impacts on dispensers and health care providers related to transmission system equipment and software requirements.

(3) The committee shall develop guidelines for use of VPMS by dispensers ~~and~~, health care providers, ~~and delegates~~, and shall make recommendations concerning under what circumstances, if any, the department shall or may give VPMS data, including data thresholds for such disclosures, to law enforcement personnel. The committee shall also review and approve advisory notices prior to publication.

(4) The committee shall make recommendations regarding ways to improve the utility of the VPMS and its data.

(5) The committee shall have access to aggregated, de-identified data from the VPMS.

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(d) The committee shall issue a report to the senate and house committees on judiciary, the senate committee on health and welfare, and the house committee on human services no later than January 15th in 2008, 2010, ~~and 2012, and 2014.~~

(e) This section shall sunset on July 1, 2012 2014 and thereafter the committee shall cease to exist.

Sec. 9. 18 V.S.A. § 4287 is amended to read:

§ 4287. RULEMAKING

The department shall adopt rules for the implementation of VPMS as defined in this chapter consistent with 45 C.F.R. Part 164, as amended and as may be amended, that limit the disclosure to the minimum information necessary for purposes of this act ~~and shall keep the senate and house committees on judiciary, the senate committee on health and welfare, and the house committee on human services advised of the substance and progress of initial rulemaking pursuant to this section.~~

Sec. 10. 18 V.S.A. § 4288 is added to read:

§ 4288. RECIPROCAL AGREEMENTS

The department of health may enter into reciprocal agreements with other states that have prescription monitoring programs so long as access under such agreement is consistent with the privacy, security, and disclosure protections in this chapter.

Sec. 11. 18 V.S.A. § 4289 is added to read:

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE PROVIDERS AND DISPENSERS

(a) Each professional licensing authority for health care providers shall develop evidence-based standards to guide health care providers in the appropriate prescription of Schedules II, III, and IV controlled substances for treatment of chronic pain and for other medical conditions to be determined by the licensing authority.

(b)(1) Each health care provider who prescribes any Schedule II, III, or IV controlled substances shall register with the VPMS.

(2) If the VPMS shows that a patient has filled a prescription for a controlled substance written by a health care provider who is not a registered user of VPMS, the commissioner of health shall notify such provider by mail of the provider's registration requirement pursuant to subdivision (1) of this subsection.

(3) The commissioner of health shall develop additional procedures to ensure that all health care providers who prescribe controlled substances are registered in compliance with subdivision (1) of this subsection.

(c) Each dispenser who dispenses any Schedule II, III, or IV controlled substances shall register with the VPMS.

(d)(1) Each professional licensing authority for health care providers and dispensers authorized to prescribe or dispense Schedules II, III, and IV controlled substances shall adopt standards regarding the frequency and circumstances under which their respective licensees shall query the VPMS.

(2) Each professional licensing authority for dispensers shall adopt standards regarding the frequency and circumstances under which its licensees shall report to the VPMS, which shall be no less than once every seven days.

(3) Each professional licensing authority for health care providers and dispensers shall consider the standards adopted pursuant to this section in

disciplinary proceedings when determining whether a licensee has complied with the applicable standard of care.

(4) No later than January 15, 2013, each professional licensing authority subject to this subsection shall submit its standards to the VPMS advisory committee established in section 4286 of this title.

Sec. 12. 18 V.S.A. § 4290 is added to read:

§ 4290. REPLACEMENT PRESCRIPTIONS AND MEDICATIONS

(a) As used in this section, “replacement prescription” means an unscheduled prescription request in the event that the document on which a patient’s prescription was written or the patient’s prescribed medication is reported to the prescriber as having been lost or stolen.

(b) When a patient or a patient’s parent or guardian requests a replacement prescription for a Schedule II, III, or IV controlled substance, the patient’s health care provider shall query the VPMS prior to writing the replacement prescription to determine whether the patient may be receiving more than a therapeutic dosage of the controlled substance.

(c) When a health care provider writes a replacement prescription pursuant to this section, the provider shall clearly indicate as much by writing the word “REPLACEMENT” on the face of the prescription.

(d) When a dispenser fills a replacement prescription, the dispenser shall report the required information to the VPMS and shall indicate that the prescription is a replacement by completing the VPMS field provided for such purpose. In addition, the dispenser shall report to the VPMS the name of the person picking up the replacement prescription, if not the patient.

(e) The VPMS shall create a mechanism by which individuals authorized to access the system pursuant to section 4284 of this title may search the database for information on all or a subset of all replacement prescriptions.

Sec. 13. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY COUNCIL

(a) There is hereby created a unified pain management system advisory council for the purpose of advising the commissioner of health on matters relating to the appropriate use of controlled substances in treating chronic pain and addiction and in preventing prescription drug abuse.

(b) The unified pain management system advisory council shall consist of the following members:

(1) the commissioner of health or designee, who shall serve as chair;

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- (2) the deputy commissioner of health for alcohol and drug abuse programs or designee;
 - (3) the commissioner of mental health or designee;
 - (4) the director of the Blueprint for Health or designee;
 - (5) the chair of the board of medical practice or designee, who shall be a clinician;
 - (6) a representative of the Vermont state dental society, who shall be a dentist;
 - (7) a representative of the Vermont board of pharmacy, who shall be a pharmacist;
 - (8) a faculty member from the academic detailing program at the University of Vermont's College of Medicine;
 - (9) a faculty member from the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management;
 - (10) a representative of the Vermont Medical Society, who shall be a primary care clinician;
 - (11) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician;
 - (12) a representative of the federally qualified health centers, who shall be a primary care clinician selected by the Bi-State Primary Care Association;
 - (13) a representative of the Vermont Ethics Network;
 - (14) a representative of the Hospice and Palliative Care Council of Vermont;
 - (15) a representative of the office of the health care ombudsman;
 - (16) the medical director for the department of Vermont health access;
 - (17) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals;
 - (18) a member of the Vermont board of nursing subcommittee on APRN practice, who shall be an advanced practice registered nurse;
 - (19) a representative from the Vermont Assembly of Home Health and Hospice Agencies;

(20) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who has experience in treating chronic pain, to be selected by the board of psychological examiners;

(21) a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the deputy commissioner of health for alcohol and drug abuse programs; and

(22) a consumer representative who is either a consumer in recovery from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain.

(c) Advisory council members who are not employed by the state or whose participation is not supported through their employment or association shall be entitled to per diem and expenses as provided by 32 V.S.A. § 1010.

(d) A majority of the members of the advisory council shall constitute a quorum. The advisory council shall act only by a majority vote of the members present and voting and only at meetings called by the chair or by any three of the members.

(e) To the extent funds are available, the advisory council shall have the following duties:

(1) to develop and recommend principles and components of a unified pain management system, including the appropriate use of controlled substances in treating noncancer-related chronic pain and addiction and in preventing prescription drug abuse;

(2) to identify and recommend components of evidence-based training modules and minimum requirements for the continuing education of all licensed health care providers in the state who treat chronic pain or addiction or prescribe controlled substances in Schedule II, III, or IV consistent with a unified pain management system;

(3) to identify and recommend evidence-based training modules for all employees of the agency of human services who have direct contact with recipients of services provided by the agency or any of its departments; and

(4) to identify and recommend system goals and planned assessment tools to ensure that the initiative's progress can be monitored and adapted as needed.

(f) The commissioner of health may designate subcommittees as appropriate to carry out the work of the advisory council.

(g) On or before January 15, 2013, the advisory council shall submit its recommendations to the senate committee on health and welfare, the house committee on human services, and the house committee on health care.

Sec. 14. UNUSED DRUG DISPOSAL PROGRAM PROPOSAL

(a) No later than October 15, 2012, the commissioners of health and of public safety shall provide recommendations to the house and senate committees on judiciary, the house committee on human services, and the senate committee on health and welfare regarding implementation of a statewide drug disposal program for unused over-the-counter and prescription drugs at no charge to the consumer. In preparing their recommendations, the commissioners shall consider successful unused drug disposal programs in Vermont, including the Bennington County sheriff's department's program, and in other states.

(b) The commissioners of health and of public safety shall take steps toward implementing a program prior to October 15, 2012, if practicable.

Sec. 14a. TRACK AND TRACE PILOT PROJECT

(a) The departments of health and of Vermont health access shall establish a track and trace pilot project with one or more manufacturers of buprenorphine to create a high-integrity monitoring tool capable of use across disciplines. The tool shall be designed to identify irregularities related to dosing and quality in a manner that disrupts practice operations to the least extent possible. The departments shall work with all willing Medicaid-enrolled prescribing practices and pharmacies to utilize the tool.

(b) No later than January 15, 2013, the commissioners of health and of Vermont health access shall provide testimony on the status of the pilot project established pursuant to this section to the house committees on human services and on judiciary and the senate committees on health and welfare and on judiciary.

Sec. 14b. DEPARTMENT OF HEALTH REPORT; OPIOID ANTAGONISTS

No later than November 15, 2012, the department of health shall report to the general assembly detailed recommendations for permitting a practitioner to lawfully prescribe and dispense naloxone or another opioid antagonist to a person at risk of experiencing an opiate-related overdose or to a family member, friend, or other person in a position to assist a person at risk of experiencing an opiate-related overdose.

Sec. 15. ADVISORY COMMITTEE REPORT

No later than January 15, 2013, the VPMS advisory committee established in 18 V.S.A. § 4286 shall provide recommendations to the house committee on human services and the senate committee on health and welfare regarding ways to maximize the effectiveness and appropriate use of the VPMS database, including adding new reporting capabilities, in order to improve patient outcomes and avoid prescription drug diversion.

Sec. 16. SPENDING AUTHORITY

Providing financial support for the unified pain management system advisory council established in Sec. 13 of this act, upgrading the VPMS software, and implementing enhancements to the VPMS shall all be acceptable uses of the monies in the evidence-based education and advertising fund established in 33 V.S.A. § 2004a. The commissioner of health shall seek excess receipts authority to make expenditures as needed from the evidence-based education and advertising fund for these purposes.

Sec. 17. INTEGRATION; LEGISLATIVE INTENT

It is the intent of the general assembly that the initiatives described in this act should be integrated to the extent possible with the Blueprint for Health and the mental health system of care.

Sec. 17a. INTEGRATED TREATMENT CONTINUUM FOR OPIATE DEPENDENCE (HUB AND SPOKE INITIATIVE)

(a) Prescription drug abuse is Vermont's fastest growing drug problem, with treatment demand growing over 500 percent since 2005 for medication-assisted treatment from physicians and methadone programs.

(b) Increased crime is a community by-product of the increase in untreated addiction. Reducing demand for drugs is an essential component of Vermont's strategy to decrease the crime and health-related problems stemming from prescription drug abuse and opiate addiction.

(c) Current capacity for methadone and buprenorphine treatment for opiate addiction is not sufficient to meet the demand. As a component of the development of health homes, availability of these treatments should be expanded to meet the escalating demand.

(d) The integrated treatment continuum for opiate dependence, also known as the hub and spoke model, that is being developed by the agency of human services in collaboration with community providers will create a coordinated, systemic response to the complex issues of opiate addiction and the use of medication-assisted treatment, including counseling and behavioral therapy.

will provide a holistic approach to address the component of demand reduction.

Sec. 17b. 13 V.S.A. § 1404 is amended to read:

§ 1404. CONSPIRACY

(a) A person is guilty of conspiracy if, with the purpose that an offense listed in subsection (c) of this section be committed, that person agrees with one or more persons to commit or cause the commission of that offense, and at least two of the co-conspirators are persons who are neither law enforcement officials acting in official capacity nor persons acting in cooperation with a law enforcement official.

(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the defendant or by a co-conspirator, other than a law enforcement official acting in an official capacity or a person acting in cooperation with a law enforcement official, and subsequent to the defendant's entrance into the conspiracy. Speech alone may not constitute an overt act.

(c) This section applies only to a conspiracy to commit or cause the commission of one or more of the following offenses:

- (1) Murder in the first or second degree.
- (2) Arson under sections 501-504 and 506 of this title.
- (3) Sexual exploitation of children under sections 7822, 2822, and 2824 of this title.
- (4) Receiving stolen property under sections 2561-2564 of this title.
- (5) An offense involving the sale, delivery, manufacture, or cultivation of a regulated drug or an offense under ~~section 4237, subdivision 4231(e)(1), or subsection 4233(e) or 4234a(e) of Title 18;~~

(A) 18 V.S.A. § 4230(c), relating to trafficking in marijuana.

(B) 18 V.S.A. § 4231(c), relating to trafficking in cocaine.

(C) 18 V.S.A. § 4233(c), relating to trafficking in heroin.

(D) 18 V.S.A. § 4234(b)(3), relating to unlawful selling or dispensing of a depressant, stimulant, or narcotic drug, other than heroin or cocaine.

(E) 18 V.S.A. § 4234a(c), relating to trafficking in methamphetamine.

Sec. 17c. 13 V.S.A. § 1409 is amended to read:

§ 1409. PENALTIES

The penalty for conspiracy is the same as that authorized for the crime which is the object of the conspiracy, ~~except that no term of imprisonment shall exceed five years, and no fine shall exceed \$10,000.00.~~ A sentence imposed under this section shall be concurrent with any sentence imposed for an offense which was an object of the conspiracy.

Sec. 17d. 13 V.S.A. § 4005 is amended to read:

§ 4005. WHILE COMMITTING A CRIME

~~A Except as otherwise provided in 18 V.S.A. § 4253, a person who carries a dangerous or deadly weapon, openly or concealed, while committing a felony or while committing an offense under section 667 of Title 7, or while committing the crime of smuggling of an alien as defined by the laws of the United States, shall be imprisoned not more than five years or fined not more than \$500.00, or both.~~

Sec. 17e. 18 V.S.A. § 4253 is added to read:

§ 4253. USE OF A FIREARM WHILE SELLING OR DISPENSING A REGULATED DRUG

(a) A person who uses a firearm during and in relation to selling or dispensing a regulated drug in violation of subdivision 4230(b)(3), 4231(b)(3), 4232(b)(3), 4233(b)(3), 4234(b)(3), 4234a(b)(3), 4235(c)(3), or 4235a(b)(3) of this title shall be imprisoned not more than three years or fined not more than \$5,000.00, or both, in addition to the penalty for the underlying crime.

(b) A person who uses a firearm during and in relation to trafficking a regulated drug in violation of subsection 4230(c), 4231(c), 4233(c), or 4234a(c) of this title shall be imprisoned not more than five years or fined not more than \$10,000.00, or both, in addition to the penalty for the underlying crime.

(c) For purposes of this section, “use of a firearm” shall include the exchange of firearms for drugs, and this section shall apply to the person who trades his or her firearms for drugs and the person who trades his or her drugs for firearms.

Sec. 17f. **MOBILE ENFORCEMENT TEAM TO COMBAT GANG ACTIVITY**

(a) The Vermont drug task force (task force) was established in 1987 as a multi-jurisdictional, collaborative law enforcement approach to combating drug crime. The task force is composed of state, local, and county officers

who are assigned to work undercover as full-time drug investigators. These investigators receive specialized training, equipment, and resources that enable them to conduct covert drug investigations. There are four units of the task force geographically located to cover all areas of the state. The drug investigators of each of the units are supervised by a state police sergeant. State police commanders of the special investigation section are responsible for overall supervision and oversight of the task force.

(b) Working closely with state, local, county, and federal law enforcement agencies, the task force strives to investigate and apprehend those individuals directly involved in the distribution of dangerous drugs and illegal diversion of prescription opiates. The task force focuses on mid- to upper-level dealers, but also targets street level dealers who are negatively impacting Vermont's communities.

(c) To address the growing concern regarding gang involvement in the illegal drug trade as well as other gang-related criminal activity in Vermont's communities, a mobile enforcement team (team) shall be established consistent with the task force model. According to the U.S. Department of Justice, a gang is defined as a group or association of three or more persons who may have a common identifying sign, symbol, or name and who individually or collectively engage in or have engaged in criminal activity which creates an atmosphere of fear and intimidation.

(d) The team shall be made up of state and local investigators to include uniformed troopers and shall focus on gangs and organized criminal activity to include drug and gun trafficking and associated crimes. The team shall work closely with federal law enforcement agencies, state and federal prosecutors, the Vermont information and analysis center, and the department of corrections in collecting intelligence on gangs and organized criminal groups, to be shared with law enforcement partners throughout Vermont. The team shall not be assigned to a specific geographical area of Vermont but shall act as a rapid response team to specific identified problem areas.

Sec. 17g. GANG ACTIVITY TASK FORCE

(a) The gang activity task force is established for the purpose of raising public awareness about gang activity and organized crime in Vermont and across state and international borders, identifying resources for local, county, and state law enforcement officials, recommending to the public ways to identify and report acts of gang activity and organized crime, and making findings and recommendations regarding those efforts to the general assembly.

(b) The task force shall be composed of the following members:

- (1) The commissioner of public safety or his or her designee, who shall serve as chair.
 - (2) The commissioner of liquor control or his or her designee.
 - (3) Representatives, appointed by the governor, from the following:
 - (A) a municipal police department;
 - (B) a sheriff's department;
 - (C) the department of corrections;
 - (D) the department of education;
 - (E) the business community; and
 - (F) the health care community.
 - (4) The United States' attorney for Vermont.
 - (5) A representative of the Vermont crime victims services.
 - (6) An attorney appointed by the criminal law section of the Vermont Bar Association.
 - (7) A state's attorney appointed by the executive committee of the department of state's attorneys and sheriffs.
 - (8) A senator appointed by the president pro tempore.
 - (9) A representative appointed by the speaker of the house.
- (c) The task force shall perform the following duties:
- (1) Identify ways to raise public awareness about gang activity, including the distribution of dangerous drugs and illegal diversion of prescription opiates.
 - (2) Recommend how the Vermont public, business community, local and state government, and health and education providers can best identify, report, and prevent acts of gang activity in Vermont.
 - (3) Identify the services needed by victims of gang activity and their families and recommend ways to provide those services.
- (d) The task force shall have the assistance and cooperation of all state and local agencies and departments.
- (e) For attendance at meetings, members of the committee who are not employees of the state of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010, plus mileage.

(f) On or before November 15, 2012, the task force shall report to the members of the senate and house committees on judiciary and to the legislative council its recommendations and legislative proposals, if any, relating to its findings.

(g) The task force may meet no more than six times and shall cease to exist on January 15, 2013.

Sec. 17h. ATTORNEY GENERAL REPORT; RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT

The attorney general shall examine the issue of gang activity, including the distribution of dangerous drugs and illegal diversion of prescription opiates, and assess whether Vermont would benefit from a state Racketeer Influenced and Corrupt Organizations Act. The attorney general shall consult with the gang activity task force and the defender general in his or her deliberations. The report shall identify existing Vermont and federal law that addresses organized crime and recommendations for enhancing these laws, including any legislation necessary to implement the recommendations. The attorney general shall issue the report to the general assembly no later than January 15, 2013.

Sec. 17i. APPROPRIATION; MOBILE ENFORCEMENT TEAM TO COMBAT GANG ACTIVITY

(a) The amount of \$150,000.00 is appropriated from the general fund to the department of public safety to provide funding for the mobile enforcement team established in Sec. 17f of this act.

(b) The commissioner of public safety may, at his or her discretion, utilize grants dedicated to fund the work of the drug task force to support the efforts of the gang task force and mobile enforcement team.

Sec. 18. EFFECTIVE DATES

(a) This section and Sec. 8 of this act (18 V.S.A. § 4286) shall take effect on passage and shall apply retroactively as of January 15, 2012.

(b) Secs. 10 (18 V.S.A. § 4288; reciprocal agreements), 11 (18 V.S.A. § 4289; standards and guidelines), and 12 (18 V.S.A. § 4290; replacement prescriptions) and Sec. 7(b)(2)(G) (18 V.S.A. § 4284(b)(2)(G); interstate data sharing) shall take effect on October 1, 2012.

(c) The remaining sections of this act shall take effect on July 1, 2012.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Trieber of Rockingham** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the

Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Pugh of South Burlington

Rep. Lippert of Hinesburg

Rep. Burditt of West Rutland

**Senate Proposal of Amendment Concurred in with
A Further Amendment Thereto**

H. 751

The Senate proposed to the House to amend House bill, entitled
An act relating to jurisdiction of delinquency proceedings

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 5103 is amended to read:

§ 5103. JURISDICTION

(a) The family division of the superior court shall have exclusive jurisdiction over all proceedings concerning a child who is or who is alleged to be a delinquent child or a child in need of care or supervision brought under the authority of the juvenile judicial proceedings chapters, except as otherwise provided in such chapters.

(b) Orders issued under the authority of the juvenile judicial proceedings chapters shall take precedence over orders in other family division proceedings and any order of another court of this state, to the extent they are inconsistent. This section shall not apply to child support orders in a divorce, parentage, or relief from abuse proceedings until a child support order has been issued in the juvenile proceeding.

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child's 18th birthday.

(2)(A) Jurisdiction over a child who has been adjudicated delinquent may be extended until six months beyond the child's 18th birthday if the offense for which the child has been adjudicated delinquent is a nonviolent misdemeanor and the child was 17 years old when he or she committed the offense.

(B) In no case shall custody of a child aged 18 years or older be retained by or transferred to the commissioner for children and families.

(C) Jurisdiction over a child in need of care or supervision shall not

be extended beyond the child's 18th birthday.

(D) As used in this subdivision, "nonviolent misdemeanor" means a misdemeanor offense which is not a listed crime as defined in 13 V.S.A. § 5301(7), an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64, or an offense involving violation of a protection order in violation of 13 V.S.A. § 1030.

(d) The court may terminate its jurisdiction over a child prior to the child's 18th birthday by order of the court. If the child is not subject to another juvenile proceeding, jurisdiction shall terminate automatically in the following circumstances:

(1) Upon the discharge of a child from juvenile probation, providing the child is not in the legal custody of the commissioner.

(2) Upon an order of the court transferring legal custody to a parent, guardian, or custodian without conditions or protective supervision.

(3) Upon the adoption of a child following a termination of parental rights proceeding.

Sec. 2. 33 V.S.A. § 5201 is amended to read:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

* * *

(c) Consistent with applicable provisions of Title 4, any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining the age of 14, but not the age of 18, shall originate in ~~district or~~ the criminal division of the superior court, provided that jurisdiction may be transferred in accordance with this chapter.

* * *

Sec. 3. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a criminal division of the superior court that the defendant was under the age of 16 years at the time the offense charged was alleged to have been committed and the offense charged is not one of those specified in subsection 5204(a) of this title, that court shall forthwith transfer the case to the ~~juvenile~~ family division of the superior court under the authority of this chapter.

(b) If it appears to a criminal division of the superior court that the defendant was over the age of 16 years and under the age of 18 years at the

time the offense charged was alleged to have been committed, or that the defendant had attained the age of 14 but not the age of 16 at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the juvenile family division of the superior court under the authority of this chapter, and the minor shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the state's attorney that the defendant was over the age of 16 and under the age of 18 at the time the offense charged was alleged to have been committed and the offense charged is not an offense specified in subsection 5204(a) of this title, the state's attorney may file charges in a ~~juvenile court~~ or the family or criminal division of the superior court. If charges in such a matter are filed in the criminal division of the superior court, the criminal division of the superior court may forthwith transfer the proceeding to the juvenile family division of the superior court under the authority of this chapter, and the person shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act.

* * *

Sec. 4. 33 V.S.A. § 5204 is amended to read:

§ 5204. TRANSFER FROM JUVENILE COURT

(a) After a petition has been filed alleging delinquency, upon motion of the state's attorney and after hearing, the juvenile family division of the superior court may transfer jurisdiction of the proceeding to the criminal division of the superior court, if the child had attained the age of 16 but not the age of 18 at the time the act was alleged to have occurred and the delinquent act set forth in the petition was not one of those specified in subdivision (1)–(12) of this subsection or if the child had attained the age of 10 but not the age of 14 at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

- (1) arson causing death as defined in 13 V.S.A. § 501;
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. 608(c);
- (4) aggravated assault as defined in 13 V.S.A. § 1024;
- (5) murder as defined in 13 V.S.A. § 2301;
- (6) manslaughter as defined in 13 V.S.A. § 2304;

-
- (7) kidnapping as defined in 13 V.S.A. § 2405;
 - (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
 - (9) maiming as defined in 13 V.S.A. § 2701;
 - (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);
 - (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or
 - (12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).

(b) The state's attorney of the county where the juvenile petition is pending may move in the juvenile family division of the superior court for an order transferring jurisdiction under subsection (a) of this section ~~within 10 days of the filing of the petition alleging delinquency at any time prior to adjudication on the merits.~~ The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the juvenile court may deny the motion to transfer jurisdiction.

(c) Upon the filing of a motion to transfer jurisdiction under subsection (b) of this section, the juvenile court shall conduct a hearing in accordance with procedures specified in subchapter 2 of this chapter to determine whether:

(1) there is probable cause to believe that the child committed an act listed in subsection (a) of this section; and

(2) public safety and the interests of the community would not be served by treatment of the child under the provisions of law relating to juvenile courts and delinquent children.

(d) In making its determination as required under subsection (c) of this section, the court may consider, among other matters:

(1) The maturity of the child as determined by consideration of his or her age, home, environment; emotional, psychological and physical maturity; and relationship with and adjustment to school and the community.

(2) The extent and nature of the child's prior record of delinquency.

(3) The nature of past treatment efforts and the nature of the child's response to them.

(4) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

(5) The nature of any personal injuries resulting from or intended to be caused by the alleged act.

(6) The prospects for rehabilitation of the child by use of procedures, services, and facilities available through juvenile proceedings.

(7) Whether the protection of the community would be better served by transferring jurisdiction from the ~~juvenile court~~ family division to the criminal division of the superior court.

(e) A transfer under this section shall terminate the jurisdiction of the juvenile court over the child only with respect to those delinquent acts alleged in the petition with respect to which transfer was sought.

(f)(1) The ~~juvenile court~~ family division, following completion of the transfer hearing, shall make ~~written~~ findings and, if the court orders transfer of jurisdiction from the ~~juvenile court~~ family division, shall state the reasons for that order. If the ~~juvenile court~~ family division orders transfer of jurisdiction, the child shall be treated as an adult. The state's attorney shall commence criminal proceedings as in cases commenced against adults.

(2) Notwithstanding subdivision (1) of this subsection, the parties may stipulate to a transfer of jurisdiction from the family division at any time after a motion to transfer is made pursuant to subsection (b) of this section. The court shall not be required to make findings if the parties stipulate to a transfer pursuant to this subdivision. Upon acceptance of the stipulation to transfer jurisdiction, the court shall transfer the proceedings to the criminal division and the child shall be treated as an adult. The state's attorney shall commence criminal proceedings as in cases commenced against adults.

(g) The order granting or denying transfer of jurisdiction shall not constitute a final judgment or order within the meaning of Rules 3 and 4 of the Vermont Rules of Appellate Procedure.

(h) If a person who has not attained the age of 16 at the time of the alleged offense has been prosecuted as an adult and is not convicted of one of the acts listed in subsection (a) of this section but is convicted only of one or more lesser offenses, jurisdiction shall be transferred to the ~~juvenile~~ family division of the superior court for disposition. A conviction under this subsection shall be considered an adjudication of delinquency and not a conviction of crime, and the entire matter shall be treated as if it had remained in ~~juvenile court~~ the family division throughout. In case of an acquittal for a matter specified in this subsection and in case of a transfer to ~~juvenile court~~ the family division under this subsection, the court shall order the sealing of all applicable files and records of the court, and such order shall be carried out as provided in subsection 5119(e) of this title.

(i) The record of a hearing conducted under subsection (c) of this section and any related files shall be open to inspection only by persons specified in

subsections 5117(b) and (c) of this title in accordance with section 5119 of this title and by the attorney for the child.

Sec. 5. 33 V.S.A. § 5232 is amended to read:

§ 5232. DISPOSITION ORDER

* * *

(b) In carrying out the purposes outlined in subsection (a) of this section, the court may:

* * *

(7) Refer a child directly to a youth-appropriate community-based provider that has been approved by the department, which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subdivision shall not require the court to place the child on probation. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child shall return to the court for disposition.

* * *

Sec. 6. 33 V.S.A. § 4913 is amended to read:

§ 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL ACTION

(a) Any physician, surgeon, osteopath, chiropractor, or physician's assistant licensed, certified, or registered under the provisions of Title 26, any resident physician, intern, or any hospital administrator in any hospital in this state, whether or not so registered, and any registered nurse, licensed practical nurse, medical examiner, emergency medical personnel as defined in 24 V.S.A. § 2651(6), dentist, psychologist, pharmacist, any other health care provider, child care worker, school superintendent, school teacher, student teacher, school librarian, school principal, school guidance counselor, and any other individual who is regularly employed by a school district, or who is contracted and paid by a school district to provide student services for five or more hours per week during the school year, mental health professional, social worker, probation officer, any employee, contractor, and grantee of the agency of human services who have contact with clients, police officer, camp owner, camp administrator, camp counselor, or member of the clergy who has reasonable cause to believe that any child has been abused or neglected shall report or cause a report to be made in accordance with the provisions of

section 4914 of this title within 24 hours. As used in this subsection, "camp" includes any residential or nonresidential recreational program.

* * *

Sec. 7. REPORT

(a)(1) A committee is established to study the effectiveness of the juvenile justice system in reducing crime and recidivism. The committee shall study changes to the juvenile justice system that could result in reducing recidivism, including the extension of jurisdiction beyond the age of 18 for the purposes of juvenile probation and the automatic expungement of criminal convictions for nonviolent offenses committed by children under 18.

(2) If funding is available, the study shall include consideration of:

(A) the number of 16- and 17-year-olds adjudicated delinquent in the family division during fiscal year 2009 who have been subsequently convicted of an adult offense within three years of the date of disposition of the delinquency;

(B) the number of 16- and 17-year-olds convicted of an adult offense in the criminal division during fiscal year 2009 who have been subsequently convicted of another adult offense; and

(C) the number of children adjudicated delinquent during fiscal year 2009 who are placed in the custody of the department for children and families at disposition, remain in the department's custody for 30 or more days after disposition, and who within three years of the date of sentencing on the first offense become incarcerated or subject to supervision by the department of corrections as a result of another offense.

(b)(1) The committee shall be composed of the following members:

(A) The commissioner for children and families or designee.

(B) The commissioner of corrections or designee.

(C) The administrative judge or designee.

(D) The executive director of state's attorneys and sheriffs or designee.

(E) The defender general or designee.

(2) The committee shall consult with the joint fiscal office regarding the costs and savings associated with the juvenile justice system and monitor the impact on those costs and savings that result from the extension of jurisdiction authorized in this section.

(c) On or before December 1, 2012, the committee shall report its findings.

together with any recommendations for changes in law, to the senate and house committees on judiciary, the house committee on human services, and the senate committee on health and welfare.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Wizowaty of Burlington** moved that the House concur in the Senate proposal of amendment with a further amendment thereto, as follows:

By adding a new Sec. 6 to read as follows:

Sec. 6. 33 V.S.A. § 5225 is amended to read:

§ 5225. PRELIMINARY HEARING; RISK ASSESSMENT

(a) A preliminary hearing shall be held at the time and date specified on the citation or as otherwise ordered by the court. If a child is taken into custody prior to the preliminary hearing, the preliminary hearing shall be at the time of the temporary care hearing.

(b) Prior to the preliminary hearing, the child shall be afforded an opportunity to undergo a risk and needs screening, which shall be conducted by the department or by a community provider that has contracted with the department to provide risk and need screenings for children alleged to have committed delinquent acts. If the child participates in such a screening, the department or the community provider shall report the risk level result of the screening to the state's attorney. If a charge is brought in the family division, the risk level result shall be provided to the child's attorney. Except on agreement of the parties, the results shall not be provided to the court until after a merits finding has been made.

(c) Counsel for the child shall be assigned prior to the preliminary hearing.

(c)(d) At the preliminary hearing, the court shall appoint a guardian ad litem for the child. The guardian ad litem may be the child's parent, guardian, or custodian. On its own motion or motion by the child's attorney, the court may appoint a guardian ad litem other than a parent, guardian or custodian.

(d)(e) At the preliminary hearing, a denial shall be entered to the allegations of the petition, unless the juvenile, after adequate consultation with the guardian ad litem and counsel, enters an admission. If the juvenile enters an admission, the disposition case plan required by section 5230 of this title may be waived and the court may proceed directly to disposition, provided that

the juvenile, the custodial parent, the state's attorney, the guardian ad litem, and the department agree.

(e)(f) The court may order the child to abide by conditions of release pending a merits or disposition hearing.

and by renumbering the remaining sections to be numerically correct.

Which was agreed to.

Senate Proposal of Amendment Concurred in

H. 778

The Senate proposed to the House to amend House bill, entitled

An act relating to structured settlements

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 63, subchapter 5 is added to read:

Subchapter 5. Transfers of Structured Settlements

§ 2480aa. DEFINITIONS

In this subchapter:

(1) "Annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement.

(2) "Dependents" include a payee's spouse and minor children and all other persons for whom the payee is legally obligated to provide support, including alimony.

(3) "Discounted present value" means the present value of future payments determined by discounting such payments to the present using the most recently published Applicable Federal Rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service.

(4) "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from such consideration.

(5) "Independent professional advice" means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser meeting all of the following requirements:

(A) The advisor is engaged by the payee to render advice concerning the legal, tax, or financial implications of a structured settlement or a transfer of structured settlement payment rights;

(B) The adviser's compensation for rendering independent professional advice is not affected by occurrence or lack of occurrence of a settlement transfer; and

(C) A particular adviser is not referred to the payee by the transferee or its agent, except that the transferee may refer the payee to a lawyer referral service or agency operated by a state or local bar association.

(6) "Interested parties" means, with respect to any structured settlement, the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor, and any other party that has continuing rights or obligations relating to the structured settlement payment rights which are the subject of the proposed transfer.

(7) "Net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under subdivision 2480bb(5) of this title.

(8) "Payee" means an individual who is receiving tax-free payments under a structured settlement and proposes to make a transfer of payment rights thereunder.

(9) "Periodic payments" includes both recurring payments and scheduled future lump sum payments.

(10) "Qualified assignment agreement" means an agreement providing for a qualified assignment within the meaning of section 130 of the United States Internal Revenue Code, United States Code Title 26, as amended from time to time.

(11) "Settled claim" means the original tort claim resolved by a structured settlement.

(12) "Structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim but does not refer to periodic payments in settlement of a workers' compensation claim.

(13) "Structured settlement agreement" means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

(14) “Structured settlement obligor” means, with respect to any structured settlement, the party that has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement.

(15) “Structured settlement payment rights” means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, where:

(A) the payee is domiciled in this state; or

(B) the structured settlement agreement was approved by a court in this state.

(16) “Terms of the structured settlement” include, with respect to any structured settlement, the terms of the structured settlement agreement, the annuity contract, any qualified assignment agreement and any order or other approval of any court or other government authority that authorized or approved such structured settlement.

(17) “Transfer” means any sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration.

(18) “Transfer agreement” means the agreement providing for a transfer of structured settlement payment rights.

(19) “Transfer expenses” means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including, without limitation, court filing fees, attorney’s fees, escrow fees, lien recordation fees, judgment and lien search fees, finders’ fees, commissions, and other payments to a broker or other intermediary.

(20) “Transferee” means a party acquiring or proposing to acquire structured settlement payment rights through a transfer.

§ 2480bb. REQUIRED DISCLOSURES TO PAYEE

Not less than ten days prior to the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement in bold type in a size no smaller than 14 points setting forth:

(1) the amounts and due dates of the structured settlement payments to be transferred;

(2) the aggregate amount of such payments;

(3) the discounted present value of the payments to be transferred, which shall be identified as the “calculation of current value of the transferred

structured settlement payments under federal standards for valuing annuities,” and the amount of the Applicable Federal Rate used in calculating such discounted present value;

(4) the gross advance amount and the annual discount rate, compounded monthly, used to determine such figure;

(5) an itemized listing of all applicable transfer expenses, other than attorneys’ fees and related disbursements payable by the payee in connection with the transferee’s application for approval of the transfer, and the transferee’s best estimate of the amount of any such fees and disbursements;

(6) the net advance amount;

(7) the amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee as well as a description of any other financial penalties the payee might incur with the transferee as a result of such a breach; and

(8) a statement that the payee has the right to cancel the transfer agreement, without penalty or further obligation, at any time before either the date on which the transferee files for court approval of the transfer, or ten business days after the payee receives independent professional advice, whichever comes later.

§ 2480cc. APPROVAL OF TRANSFERS OF STRUCTURED SETTLEMENT PAYMENT RIGHTS

(a) No direct or indirect transfer of structured settlement payment rights shall be effective and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been approved in advance in a final court order based on express findings by such court that:

(1) the transfer is in the best interest of the payee, taking into account the welfare and support of the payee’s dependents, considering all relevant factors, including:

(A) the payee’s ability to understand the financial terms and consequences of the transfer;

(B) the payee’s capacity to meet his or her financial obligations, including the potential need for future medical treatment;

(C) the need, purpose, or reason for the transfer; and

(D) whether the transfer is fair and reasonable, considering the discount rate used to calculate the gross advance amount, the fees and expenses

imposed on the payee, and whether the payee obtained more than one quote for the same or a substantially similar transfer.

(2) the payee has been advised in writing by the transferee to seek independent professional advice regarding the financial advisability of the transfer and the other financial options available to the payee, if any, and has either received such advice or knowingly waived the opportunity to seek and receive such advice in writing; and

(3) the transfer does not contravene any applicable statute or the order of any court or other government authority.

(b) Any agreement to transfer future payments arising under a workers' compensation claim is prohibited.

(c) At the hearing on the transfer, if the payee has waived in writing the opportunity to seek and receive independent professional advice regarding the transfer, the court may, in its sole discretion, continue the hearing and require the payee to seek independent professional advice if the court determines that obtaining such advice should be required based on the circumstances of the payee or the terms of the transaction. If the court determines that independent professional advice should be required, the court may order that the costs incurred by a payee for independent professional advice be paid by the transferee, the payee, or another party, provided that the amount to be paid by the transferee shall not exceed \$1,500.00.

§ 2480dd. EFFECTS OF TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS

Following a transfer of structured settlement payment rights under this subchapter:

(1) The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from any and all liability for the transferred payments;

(2) The transferee shall be liable to the structured settlement obligor and the annuity issuer:

(A) if the transfer contravenes the terms of the structured settlement for any taxes incurred by such parties as a consequence of the transfer; and

(B) for any other liabilities or costs, including reasonable costs and attorney's fees, arising from compliance by such parties with the order of the court or arising as a consequence of the transferee's failure to comply with this subchapter;

(3) Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between two or more transferees or assignees; and

(4) Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this subchapter.

§ 2480ee. PROCEDURE FOR APPROVAL OF TRANSFERS

(a) An application under this subchapter for approval of a transfer of structured settlement payment rights shall be made by the transferee and may be brought in the superior court, civil division, of the county in which the payee resides or in which the structured settlement obligor or the annuity issuer maintains its principal place of business or in any court that approved the structured settlement agreement.

(b) Not less than 20 days prior to the scheduled hearing on any application for approval of a transfer of structured settlement payment rights under section 2480cc of this title, the transferee shall file with the court and serve on all interested parties a notice of the proposed transfer and the application for its authorization, including with such notice:

(1) a copy of any court order approving the settlement;

(2) a written description of the underlying basis for the settlement;

(3) a copy of the transferee's application;

(4) a copy of the transfer agreement;

(5) a copy of the disclosure statement required under section 2480bb of this title;

(6) a listing of each of the payee's dependents, together with each dependent's age;

(7) a statement setting forth whether, to the best of the transferee's knowledge after making a reasonable inquiry to the payee, the structured settlement obligor, and the annuity issuer, there have been any previous transfers or applications for transfer of any structured settlement payment rights of the payee and giving details of all such transfers or applications for transfer;

(8) if available to the transferee after making a good faith request of the payee, the structured settlement obligor and the annuity issuer, the following documents, which shall be filed under seal:

(A) a copy of the annuity contract;

(B) a copy of any qualified assignment agreement;

(C) a copy of the underlying structured settlement agreement;

(9) notification that any interested party is entitled to support, oppose, or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or by participating in the hearing; and

(10) notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed, which shall be not less than 15 days after service of the transferee's notice, in order to be considered by the court.

(c) The transferee shall file a copy of the application with the attorney general's office and a copy of the application and the payee's Social Security number with the office of child support, the department of taxes, and the department of financial regulation. The offices and departments receiving copies pursuant to this section shall permit the copies to be filed electronically.

(d) The payee shall attend the hearing unless attendance is excused for good cause.

§ 2480ff. GENERAL PROVISIONS; CONSTRUCTION

(a) The provisions of this subchapter may not be waived by any payee.

(b) Any transfer agreement entered into on or after the effective date of this subchapter by a payee who resides in this state shall provide that disputes under such transfer agreement, including any claim that the payee has breached the agreement, shall be determined in and under the laws of this state. No such transfer agreement shall authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

(c) No transfer of structured settlement payment rights shall extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for:

(1) periodically confirming the payee's survival; and

(2) giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

(d) No payee who proposes to make a transfer of structured settlement payment rights shall incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any

assignee based on any failure of such transfer to satisfy the conditions of this subchapter.

(e) Nothing contained in this subchapter shall be construed to authorize any transfer of structured settlement payment rights in contravention of any law or to imply that any transfer under a transfer agreement entered into prior to the effective date of this subchapter is valid or invalid.

(f) Compliance with the requirements set forth in section 2480bb of this title and fulfillment of the conditions set forth in section 2480cc of this title shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear any responsibility for or any liability arising from noncompliance with such requirements or failure to fulfill such conditions.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Pending the question, Shall the House concur in the Senate proposal of amendmet? **Rep. Koch of Barre Town** moved to that the House concur in the Senate proposal of amendment with a further amendment thereto, as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 4. 9 V.S.A. chapter 63, subchapter 5 is added to read:

Subchapter 5. Transfers of Structured Settlements

§ 2480AA. LEGISLATIVE INTENT; PUBLIC POLICY

Structured settlement agreements, which provide for payments to a person over a period of time, are often used in the settlement of actions such as personal injury or medical claims and serve a number of valid purposes, including protection of persons from economic victimization and assuring a person's ability to provide for his or her future needs and obligations. It is the policy of this state that such agreements, which have often been approved by a court, should not be set aside lightly or without good reason.

§ 2480BB. DEFINITIONS

In this subchapter:

(1) "Annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement.

(2) “Dependents” include a payee’s spouse and minor children and all other persons for whom the payee is legally obligated to provide support, including alimony.

(3) “Discounted present value” means the present value of future payments determined by discounting such payments to the present using the most recently published Applicable Federal Rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service.

(4) “Gross advance amount” means the sum payable to the payee or for the payee’s account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from such consideration.

(5) “Independent professional advice” means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser meeting all of the following requirements:

(A) The advisor is engaged by the payee to render advice concerning the legal, tax, or financial implications of a structured settlement or a transfer of structured settlement payment rights;

(B) The adviser’s compensation for rendering independent professional advice is not affected by occurrence or lack of occurrence of a settlement transfer; and

(C) A particular adviser is not referred to the payee by the transferee or its agent, except that the transferee may refer the payee to a lawyer referral service or agency operated by a state or local bar association.

(6) “Interested parties” means, with respect to any structured settlement, the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee’s death, the annuity issuer, the structured settlement obligor, and any other party that has continuing rights or obligations relating to the structured settlement payment rights which are the subject of the proposed transfer.

(7) “Net advance amount” means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under subdivision 2480cc(5) of this title.

(8) “Payee” means an individual who is receiving tax-free payments under a structured settlement and proposes to make a transfer of payment rights thereunder.

(9) “Periodic payments” includes both recurring payments and scheduled future lump sum payments.

(10) “Qualified assignment agreement” means an agreement providing for a qualified assignment within the meaning of section 130 of the United States Internal Revenue Code, United States Code Title 26, as amended from time to time.

(11) “Settled claim” means the original tort claim resolved by a structured settlement.

(12) “Structured settlement” means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim but does not refer to periodic payments in settlement of a workers’ compensation claim.

(13) “Structured settlement agreement” means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

(14) “Structured settlement obligor” means, with respect to any structured settlement, the party that has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement.

(15) “Structured settlement payment rights” means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, where:

(A) the payee is domiciled in this state; or

(B) the structured settlement agreement was approved by a court in this state.

(16) “Terms of the structured settlement” include, with respect to any structured settlement, the terms of the structured settlement agreement, the annuity contract, any qualified assignment agreement and any order or other approval of any court or other government authority that authorized or approved such structured settlement.

(17) “Transfer” means any sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration.

(18) “Transfer agreement” means the agreement providing for a transfer of structured settlement payment rights.

(19) “Transfer expenses” means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including, without limitation, court filing fees, attorney’s fees, escrow fees, lien recordation fees, judgment and lien search

fees, finders' fees, commissions, and other payments to a broker or other intermediary.

(20) "Transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer.

§ 2480CC. REQUIRED DISCLOSURES TO PAYEE

Not less than ten days prior to the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement in bold type in a size no smaller than 14 points setting forth:

(1) the amounts and due dates of the structured settlement payments to be transferred;

(2) the aggregate amount of such payments;

(3) the discounted present value of the payments to be transferred, which shall be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities," and the amount of the applicable federal rate used in calculating such discounted present value;

(4) the gross advance amount and the annual discount rate, compounded monthly, used to determine such figure;

(5) an itemized listing of all applicable transfer expenses, other than attorneys' fees and related disbursements payable by the payee in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of any such fees and disbursements;

(6) the net advance amount;

(7) the amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee, as well as a description of any other financial penalties the payee might incur with the transferee as a result of such a breach; and

(8) a statement that the payee has the right to cancel the transfer agreement, without penalty or further obligation, at any time before the date on which a court enters a final order approving the transfer agreement

§ 2480DD. APPROVAL OF TRANSFERS OF STRUCTURED SETTLEMENT PAYMENT RIGHTS

(a) No direct or indirect transfer of structured settlement payment rights shall be effective and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been approved in advance in a final court order based on express findings by such court that:

(1) the transfer is in the best interest of the payee taking into account the welfare and support of the payee's dependents, considering all relevant factors, including:

(A) the payee's maturity, responsibility, and ability to understand the financial terms and consequences of the transfer;

(B) the payee's capacity to meet his or her financial obligations, including the potential need for future medical treatment;

(C) the need, purpose, or reason for the transfer; and

(D) whether the transfer is fair and reasonable, considering the discount rate used to calculate the gross advance amount, the fees and expenses imposed on the payee, and whether the payee obtained more than one quote for the same or a substantially similar transfer.

(2)(A) the payee has been advised in writing by the transferee to seek independent professional advice regarding the financial advisability of the transfer and the other financial options available to the payee and

(B)(i) that the payee has in fact received such advice; or

(ii) that such advice is unnecessary for good cause shown.

(3) the transfer does not contravene any applicable statute or the order of any court or other government authority.

(b) Any agreement to transfer future payments arising under a workers' compensation claim is prohibited.

(c) At the hearing on the transfer, if the payee has waived in writing the opportunity to seek and receive independent professional advice regarding the transfer, the court may, in its sole discretion, continue the hearing and require the payee to seek independent professional advice if the court determines that obtaining such advice should be required based on the circumstances of the payee or the terms of the transaction. If the court determines that independent professional advice should be required, the court may order that the costs incurred by a payee for independent professional advice be paid by the transferee, the payee, or another party.

§ 2480EE. EFFECTS OF TRANSFER OF STRUCTURED SETTLEMENT

PAYMENT RIGHTS

Following a transfer of structured settlement payment rights under this subchapter:

(1) The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from any and all liability for the transferred payments;

(2) The transferee shall be liable to the structured settlement obligor and the annuity issuer:

(A) if the transfer contravenes the terms of the structured settlement for any taxes incurred by such parties as a consequence of the transfer; and

(B) for any other liabilities or costs, including reasonable costs and attorney's fees, arising from compliance by such parties with the order of the court or arising as a consequence of the transferee's failure to comply with this subchapter;

(3) Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between two or more transferees or assignees; and

(4) Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this subchapter.

§ 2480FF. PROCEDURE FOR APPROVAL OF TRANSFERS

(a) An application under this subchapter for approval of a transfer of structured settlement payment rights shall be made by the transferee and may be brought in the superior court, civil division, of the county in which the payee resides or in which the structured settlement obligor or the annuity issuer maintains its principal place of business or in any court that approved the structured settlement agreement.

(b) Not less than 20 days prior to the scheduled hearing on any application for approval of a transfer of structured settlement payment rights under section 2480dd of this title, the transferee shall file with the court and serve on all interested parties a notice of the proposed transfer and the application for its authorization, including with such notice:

(1) a copy of any court order approving the settlement;

(2) a written description of the underlying basis for the settlement;

(3) a copy of the transferee's application;

(4) a copy of the transfer agreement;

(5) a copy of the disclosure statement required under section 2481n of this title;

(6) a listing of each of the payee's dependents, together with each dependent's age;

(7) a statement setting forth whether, to the best of the transferee's knowledge after making a reasonable inquiry to the payee, the structured settlement obligor, and the annuity issuer, there have been any previous transfers or applications for transfer of any structured settlement payment rights of the payee and giving details of all such transfers or applications for transfer;

(8) if available to the transferee after making a good faith request of the payee, the structured settlement obligor and the annuity issuer, the following documents, which shall be filed under seal:

(A) a copy of the annuity contract;

(B) a copy of any qualified assignment agreement;

(C) a copy of the underlying structured settlement agreement;

(9) either a certification from an independent professional advisor establishing that the advisor has given advice to the payee on the financial advisability of the transfer and the other financial options available to the payee or a written request that the court determine that such advice is unnecessary pursuant to subdivision 2480dd(a)(2) of this title; and

(10) notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed, which shall be not less than 15 days after service of the transferee's notice, in order to be considered by the court.

(c) The transferee shall file a copy of the application with the attorney general's office and a copy of the application and the payee's social security number with the office of child support, the department of taxes, and the department of financial regulation. The offices and departments receiving copies pursuant to this section shall permit the copies to be filed electronically.

(d) The payee shall attend the hearing unless attendance is excused for good cause.

§ 2480GG. GENERAL PROVISIONS; CONSTRUCTION

(a) The provisions of this subchapter may not be waived by any payee.

(b) Any transfer agreement entered into on or after the effective date of this subchapter by a payee who resides in this state shall provide that disputes under such transfer agreement, including any claim that the payee has breached the agreement, shall be determined in and under the laws of this state. No such

transfer agreement shall authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

(c) No transfer of structured settlement payment rights shall extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for:

(1) periodically confirming the payee's survival; and

(2) giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

(d) No payee who proposes to make a transfer of structured settlement payment rights shall incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on any failure of such transfer to satisfy the conditions of this subchapter.

(e) Nothing contained in this subchapter shall be construed to authorize any transfer of structured settlement payment rights in contravention of any law or to imply that any transfer under a transfer agreement entered into prior to the effective date of this subchapter is valid or invalid.

(f) Compliance with the requirements set forth in section 2480cc of this title and fulfillment of the conditions set forth in section 2480dd of this title shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear any responsibility for or any liability arising from noncompliance with such requirements or failure to fulfill such conditions.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by Rep. Koch of Barre Town? **Rep. Lippert of Hinesburg** moved to amend the proposal of amendment offered by Rep. Koch of Barre Town, as follows:

By adding new Secs. 2, 3, 4, and 5 to read as follows:

Sec. 2. 9 V.S.A. § 2451 is amended to read:

§ 2451. PURPOSE

The purpose of this chapter is to complement the enforcement of federal statutes and decisions governing unfair methods of competition, ~~and~~ unfair or

deceptive acts or practices, and anti-competitive practices in order to protect the public; and to encourage fair and honest competition.

Sec. 3. 9 V.S.A. § 2451a is amended to read:

§ 2451a. DEFINITIONS

For the purposes of this chapter:

(a) “Consumer” means any person who purchases, leases, contracts for, or otherwise agrees to pay consideration for goods or services not for resale in the ordinary course of his or her trade or business but for his or her use or benefit or the use or benefit of a member of his or her household, or in connection with the operation of his or her household or a farm whether or not the farm is conducted as a trade or business, or a person who purchases, leases, contracts for, or otherwise agrees to pay consideration for goods or services not for resale in the ordinary course of his or her trade or business but for the use or benefit of his or her business or in connection with the operation of his or her business.

(b) “Goods” or “services” shall include any objects, wares, goods, commodities, work, labor, intangibles, courses of instruction or training, securities, bonds, debentures, stocks, real estate, or other property or services of any kind. The term also includes bottled liquified petroleum (LP or propane) gas.

* * *

(h) “Collusion” means an agreement, contract, combination in the form of trusts or otherwise, or conspiracy to engage in price fixing, bid rigging, or market division or allocation of goods or services between or among persons.

Sec. 4. 9 V.S.A. § 2453a is added to read:

§ 2453a. PRACTICES PROHIBITED; CRIMINAL ANTITRUST VIOLATIONS

(a) Collusion is hereby declared to be a crime.

(b) Subsection (a) of this section shall not be construed to apply to activities of or arrangements between or among persons which are permitted, authorized, approved, or required by federal or state statutes or regulations.

(c) It is the intent of the general assembly that in construing this section and subsection 2451a(h) of this title, the courts of this state shall be guided by the construction of federal antitrust law and the Sherman Act, as amended, as interpreted by the courts of the United States.

(d) Nothing in this section limits the power of the attorney general or a state's attorney to bring civil actions for antitrust violations under section 2453 of this title.

(e) A violation of this section shall be punished by a fine of not more than \$100,000.00 for an individual or \$1,000,000.00 for any other person or by imprisonment not to exceed five years or both.

Sec. 5. 9 V.S.A. § 2453b is added to read:

§ 2453b. RETALIATION PROHIBITED

No person shall retaliate against, coerce, intimidate, threaten, or interfere with any other person who:

(1) has opposed any act or practice of the person which is collusive or in restraint of trade;

(2) has lodged a complaint or has testified, assisted, or participated in any manner with the attorney general or a state's attorney in an investigation of acts or practices which are collusive or in restraint of trade;

(3) is known by the person to be about to lodge a complaint or testify, assist, or participate in any manner in an investigation of acts or practices which are collusive or in restraint of trade; or

(4) is believed by the person to have acted as described in subdivision (1), (2), or (3) of this subsection.

and by renumbering the remaining sections to be numerically correct.

Thereupon, **Rep. Bouchard of Colchester** raised a Point of Order that the amendment offered by Rep. Lippert of Hinesburg was not germane to the recommendation of proposal of amendment offered by Rep. Koch of Barre Town.

Which Point of Order the Speaker ruled not well taken in that both amendments deal with forms of fraud and consumer protection.

Thereupon, the recommendation of amendment offered by Rep. Lippert of Hinesburg was agreed to and the recommendation of proposal of amendment offered by Rep. Koch of Barre Town, as amended, was agreed to.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

H. 745

House bill, entitled

An act relating to the Vermont prescription monitoring system

H. 751

House bill, entitled

An act relating to jurisdiction of delinquency proceedings

H. 778

House bill, entitled

An act relating to structured settlements

Recess

At ten o'clock and fifty minutes in the forenoon, the Speaker declared a recess until two o'clock and thirty minutes in the afternoon.

At two o'clock and thirty minutes in the afternoon, the Speaker called the House to order.

Recess

At two o'clock and thirty-five minutes in the afternoon, the Speaker declared a recess until five o'clock in the afternoon.

At five o'clock and five minutes in the afternoon, the Speaker called the House to order.

Recess

At five o'clock and ten minutes in the afternoon, the Speaker declared a recess until five o'clock and thirty minutes in the afternoon.

At five o'clock and thirty minutes in the afternoon, the Speaker called the House to order.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra Maclean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the first day of May, 2012, he approved and signed bills originating in the House of the following titles:

H. 752 An act relating to permitting stormwater discharges in impaired watersheds

H. 758 An act relating to divorce and dissolution proceedings

H. 789 An act relating to reapportioning the final representative districts of the House of Representatives and the senatorial districts of the Senate

Message from the Senate No. 64

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The President announced a change by the Committee on Committees in the members on the part of the Senate of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 559. An act relating to health care reform implementation.

Senator Ayer
Senator Mullin
Senator Fox

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

S. 113. An act relating to prevention, identification, and reporting of child abuse and neglect at independent schools.

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

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Mullin
Senator Baruth
Senator Kittell

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

S. 200. An act relating to the reporting requirements of health insurers.

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

The President announced the appointment as members of such Committee on the part of the Senate:

Senator McCormack
Senator Westman
Senator Pollina

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

S. 217. An act relating to closely held benefit corporations.

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

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Brock
Senator McCormack
Senator Carris.

Message from the Senate No. 65

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered the request of the House that the Senate recede from its proposal of amendment to House bill of the following title:

H. 759. An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment.

And has receded from its proposal of amendment.

Message from the Senate No. 66

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

S. 152. An act relating to the definition of line of duty in the workers' compensation statutes.

And has refused to concur therein.

**Senate Proposal of Amendment Concurred in with
A Further Amendment Thereto**

H. 506

The Senate proposed to the House to amend House bill, entitled
An act relating to vinous beverages

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

The following words as used in this title, unless a contrary meaning is required by the context, shall have the following meaning:

* * *

(6) “Caterer’s ~~permit license~~”: a ~~permit license~~ issued by the liquor control board authorizing the holder of a first class license or first and third class licenses for a cabaret, restaurant, or hotel premises to serve malt or vinous beverages or spirituous liquors at a function located on premises other than those occupied by a first, first and third, or second class licensee to sell alcoholic beverages.

* * *

(7) “Club”: an unincorporated association or a corporation authorized to do business in this state, that has been in existence for at least two consecutive years prior to the date of application for license under this title and owns, hires, or leases a building or space in a building that is suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and contains suitable and adequate kitchen and dining room space and equipment implements and facilities. A club may be used or leased by a nonmember as a location for a social event as if it were any other licensed commercial establishment. Such club shall file with the liquor control board, before May 1 of each year, a list of the names and residences of its members and a list of its officers. Its affairs and management shall be conducted by a board of directors, executive committee, or similar body chosen by the members at its annual meeting, and no member or any officer, agent, or employee of the club shall be paid, or directly or indirectly receive, in the form of salary or other compensation, any profits from the disposition or sale of alcoholic liquors to the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at annual meetings by the members or by its directors or other governing body,

and as reported by the club to the liquor control board. An auxiliary member of a club may invite one guest at any one time. An officer or director of a club may perform the duties of a bartender without receiving any payment for that service, provided the officer or director is in compliance with the requirements of this title that relate to service of alcoholic beverages. An officer, member, or director of a club may volunteer to perform services at the club other than serving alcoholic beverages, including seating patrons and checking identification, without receiving payment for those services. An officer, member, or director of a club who volunteers his or her services shall not be considered to be an employee of the club. A bona fide unincorporated association or corporation whose officers and members consist solely of veterans of the armed forces of the United States, or a subordinate lodge or local chapter of any national fraternal order, and which fulfills all requirements of this subdivision, except that it has not been in existence for two years, shall come within the terms of this definition six months after the completion of its organization. A club located on and integrally associated with at least a regulation nine-hole golf course need only be in existence for six months prior to the date of application for license under this title.

* * *

(19) “Second class license”: a license granted by the control commissioners permitting the licensee to export vinous beverages and to sell malt or vinous beverages to the public for consumption off the premises for which the license is granted.

* * *

(28) “Fourth class license” or “farmers’ market license”: the license granted by the liquor control board permitting a manufacturer or rectifier of malt or vinous beverages or spirits to sell by the unopened container and distribute, by the glass with or without charge, beverages manufactured by the licensee. No more than a combined total of ten fourth class and farmers’ market licenses may be granted to a licensed manufacturer or rectifier. At only one fourth class license location, a manufacturer or rectifier of vinous beverages may sell by the unopened container and distribute by the glass, with or without charge, vinous beverages produced by no more than ~~three~~ five additional manufacturers or rectifiers, provided these beverages are purchased on invoice from the manufacturer or rectifier. A manufacturer or rectifier of vinous beverages may sell its product to no more than ~~three~~ five additional manufacturers or rectifiers. A fourth class licensee may distribute by the glass no more than two ounces of malt or vinous beverage with a total of eight ounces to each retail customer and no more than one-quarter ounce of spirits

with a total of one ounce to each retail customer for consumption on the manufacturer's premises or at a farmers' market. A farmers' market license is valid for all dates of operation for a specific farmers' market location.

* * *

(33) "Commercial catering license": A license granted by the board permitting a business licensed by the department of health as a commercial caterer and having a commercial kitchen facility in the home or place of business to sell malt, vinous, or spirituous liquors at a function previously approved by the local licensing authority.

Sec. 1a. 7 V.S.A. § 222 is amended to read:

§ 222. FIRST AND SECOND CLASS LICENSES, GRANTING OF; SALE TO MINORS; CONTRACTING FOR FOOD SERVICE

With the approval of the liquor control board, the control commissioners may grant to a retail dealer for the premises where the dealer carries on business the following:

* * *

(2) Upon making application and paying the license fee provided in section 231 of this title, a second class license for the premises where such dealer shall carry on the business which shall authorize such dealer to export vinous beverages and to sell malt and vinous beverages to the public from such premises for consumption off the premises and upon satisfying the liquor control board that such premises are leased, rented or owned by such retail dealers and are safe, sanitary and a proper place from which to sell malt and vinous beverages. A retail dealer carrying on business in more than one place shall be required to acquire a second class license for each place where he shall so sell malt and vinous beverages. No malt or vinous beverages shall be sold by a second class licensee to a minor.

* * *

Sec. 2. 7 V.S.A. § 66 is amended to read:

§ 66. VINOUS BEVERAGE SHIPPING LICENSE; IN STATE; OUT OF STATE; PROHIBITIONS; PENALTIES

* * *

(c) A manufacturer or rectifier of vinous beverages that is licensed in-state or out-of-state and holds valid state and federal permits and operates a winery in the United States may apply for a retail shipping license by filing with the department of liquor control an application in a form required by the department accompanied by a copy of their in-state or out of state license and

the fee as required by subdivision 231(7)(C) of this title. The retail shipping license may be renewed annually by filing the renewal fee as required by subdivision 231(7)(C) of this title accompanied by the licensee's current in-state or out-of-state manufacturer's license. This license permits the holder, which includes the holder's affiliates, franchises, and subsidiaries, to sell up to ~~2,000~~ 5,000 gallons of vinous beverages a year directly to first or second class licensees and deliver the beverages by common carrier or the manufacturer's or rectifier's own vehicles or the vehicle of an employee of a manufacturer or rectifier, provided that the beverages are sold on invoice, and no more than ~~40~~ 100 gallons per month are sold to any single first or second class licensee. The retail shipping license holder shall ~~provide report~~ to the department documentation of the annual and monthly number of gallons sold.

* * *

(e) A holder of any shipping license granted pursuant to this section shall:

* * *

(4) Report at least twice a year to the department of liquor control if the holder of a direct consumer shipping license and once a year if the holder of a retail shipping license in a manner and form required by the department all the following information:

(A) The total amount of vinous beverages shipped into or within the state for the preceding six months if a holder of a direct consumer shipping license or every twelve months if a holder of a retail shipping license.

(B) The names and addresses of the purchasers to whom the vinous beverages were shipped.

(C) The date purchased, if appropriate, the name of the common carrier used to make each delivery, and the quantity and value of each shipment.

* * *

Sec. 3. 7 V.S.A. § 67 is amended to read:

§ 67. ALCOHOLIC BEVERAGE TASTINGS; PERMIT; PENALTIES

* * *

(b) A wine or beer tasting event held pursuant to subdivisions (a)(1) and (2) of this section, not including an alcohol beverage tasting conducted on the premises of the manufacturer or rectifier, shall comply with the following:

(1) Continue for no more than six hours, with no more than six beverages to be offered at a single event, and no more than two ounces of any

single beverage and no more than a total of eight ounces of various vinous or malt beverages to be dispensed to a customer. No more than eight customers may be served at one time.

(2) Be conducted totally within ~~an area that is clearly cordoned off by barriers that extend~~ a designated area that extends no further than 10 feet from the point of service; and ~~a~~ that is marked by a clearly visible sign that ~~clearly~~ states that no one under the age of 21 may participate in the tasting ~~shall be placed in a visible location at the entrance to the tasting area.~~

* * *

Sec. 4. 7 V.S.A. § 238 is amended to read:

§ 238. CATERER'S ~~PERMIT~~ LICENSE, GRANTING OF; SALE TO MINORS

(a) The liquor control board may issue a caterer's ~~permit~~ license only to those persons who hold a current first ~~and third~~ class license or current first and third class licenses for a restaurant or hotel premises.

(b) The board may issue a commercial catering license only to those persons who hold a first class license or current first and third class licenses.

(c) The liquor control board shall promulgate rules or regulations as it deems necessary to effectuate the purposes of this section.

~~(e)~~(d) No malt or vinous beverages or spirituous liquors shall be sold or served to a minor by a holder of a caterer's ~~permit~~ license.

~~(d)~~(e) Notwithstanding the provisions of subsection (a) of this section, the liquor control board may issue a caterer's ~~permit~~ license to a licensed manufacturer or rectifier who holds a current first class license.

Sec. 5. 7 V.S.A. § 238a is amended to read:

§ 238a. OUTSIDE CONSUMPTION PERMITS; ~~GOLF COURSES;~~ WINERIES FIRST, THIRD, AND FOURTH CLASS LICENSEES

Pursuant to regulations of the liquor control board, an outside consumption permit may be granted to the holder of a first or first and third class ~~license~~ licenses for all or part of the outside premises of a golf course or to the holder of a fourth class license for all or part of the outside premises ~~of a winery for consumption of wine produced on the premises~~ of the license holder, provided that such permit is first obtained from the local control commissioners and approved by the board.

Sec. 6. 7 V.S.A. § 231 is amended to read:

§ 231. FEES FOR LICENSES; DISPOSITION OF FEES

(a) The following fees shall be paid:

* * *

(8)(A) For a caterer's ~~permit~~ license, \$200.00.

(B) For a commercial catering license, \$200.00.

* * *

Sec. 7. 7 V.S.A. § 104 is amended to read:

§ 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

The board shall have supervision and management of the sale of spirituous liquors within the state in accordance with the provisions of this title, and through the commissioner of liquor control shall:

(1) See that the laws relating to intoxicating liquor and to the manufacture, sale, transportation, barter, furnishing, importation, exportation, delivery, prescription and possession of malt and vinous beverages, spirituous liquors and alcohol by licensees and others are enforced, using for that purpose such of the moneys annually available to the liquor control board as may be necessary. However, the liquor control board and its agents and inspectors shall act in this respect in collaboration with sheriffs, deputy sheriffs, constables, officers and members of village and city police forces, control commissioners, the attorney general, state's attorneys, and town and city grand jurors. When the board acts to enforce any section of this title or any administrative rule or regulation relating to sale to minors, its investigation on the alleged violation shall be forwarded to the attorney general or the appropriate state's attorney whether or not there is an administrative finding of wrongdoing. Nothing in this section shall be deemed to affect the responsibility or duties of such enforcement officers or agencies with respect to the enforcement of such laws. The commissioner or his or her designee is authorized to prosecute administrative matters under this section and shall have the authority to enter into direct negotiations with a licensee to reach a proposed resolution or settlement of an alleged violation, subject to board approval, or dismissal with or without prejudice.

* * *

and that after passage the title of the bill be amended to read: "An act relating to commercial catering licenses, the export of malt and vinous beverages, and outside consumption permits".

Thereupon, **Rep. Smith of New Haven** moved that the House concur in the Senate proposal of amendment with a further amendment thereto, as follows:

By adding Secs. 8, 9, and 10 to read:

Sec. 8. 7 V.S.A. § 101 is amended to read:

§ 101. COMPOSITION OF DEPARTMENT; COMMISSIONER OF LIQUOR CONTROL; LIQUOR CONTROL BOARD

(a) The department of liquor control, created by ~~section 3~~ V.S.A. § 212 of Title 3, shall include the commissioner of liquor control and the liquor control board.

(b) The liquor control board shall consist of ~~three~~ five persons, not more than ~~two~~ three members of which shall belong to the same political party. Biennially, with the advice and consent of the senate, the governor shall appoint a person as a member of such board for ~~the term of six years~~ a staggered five-year term, whose term of office shall commence on February 1 of the year in which such appointment is made. The governor shall biennially designate a member of such board to be its ~~chairman~~ chair.

Sec. 9. TRANSITIONAL PROVISIONS

Of the two new member positions on the liquor control board, the governor shall appoint one member for a three-year term and one member for a five-year term.

Sec. 10. EFFECTIVE DATE

This section and Secs. 8 and 9 of this act shall take effect on passage.

Which was agreed to.

Action on Bill Postponed

H. 535

House bill, entitled

An act relating to racial disparities in the Vermont criminal justice system

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Lippert of Hinesburg**, action on the bill was postponed until the next legislative day.

Committee of Conference Appointed

S. 200

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to the reporting requirements of health insurers

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

Rep. Copeland-Hanzas of Bradford
Rep. Pearson of Burlington
Rep. Komline of Dorset

Committee of Conference Appointed

S. 217

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to closely held benefit corporations

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

Rep. Kupersmith of South Burlington
Rep. Dickinson of St. Albans Town
Rep. Young of Glover

Committee of Conference Appointed

S. 113

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to prevention, identification, and reporting of child abuse and neglect at independent schools

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

Rep. Donovan of Burlington
Rep. Gilbert of Fairfax
Rep. Buxton of Tunbridge

Member Replaced on Committee of Conference

H. 745

The Speaker announced that he has appointed **Rep. Trieber of Rockingham** to replace **Rep. Lippert of Hinesburg** on the Committee of Conference on House bill, entitled

An act relating to the Vermont prescription monitoring system

Rules Suspended; Bill Messaged to Senate Forthwith**H. 506**

House bill, entitled

An act relating to vinous beverages

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Message from the Senate No. 67

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

I am directed to inform the House that:

The Senate has considered bills originating in the House of the following titles:

H. 577. An act relating to public water systems.

H. 600. An act relating to mandatory mediation in foreclosure proceedings.

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

Adjournment

At five o'clock and forty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.