

Journal of the Senate

WEDNESDAY, MARCH 21, 2012

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

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 37

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 272. An act relating to maintenance of private roads.

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

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

Joint Resolution Placed on Calendar

J.R.S. 52.

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

By Senators McCormack, Ashe, Ayer, Baruth, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman and White,

J.R.S. 52. Joint resolution relating to the issuance of a commemorative United States postage stamp in honor of former United States Senator George D. Aiken.

Whereas, George D. Aiken served his state and nation as a distinguished public servant with honor and humility for over four decades, and

Whereas, he began his elected career in the Vermont House of Representatives and rose to the positions of House Speaker, Lieutenant Governor, and then Governor of Vermont, and ultimately from 1941 to 1975 served as United States Senator from the State of Vermont, and

Whereas, United States Senator George D. Aiken served Vermont and the nation well with his support of such measures as the St. Lawrence Seaway, Aid for Women, Infants, and Children, Rural Electrification, the 1964 Civil Rights Act, and other legislation which improved our lives and our country, and

Whereas, his independence and candor as a United States Senator, exemplified by his early and politically courageous criticism of public policies during both the McCarthy era and the Vietnam War, won him respect and admiration from Americans across the political spectrum, and

Whereas, George D. Aiken was a pioneering environmentalist through his numerous botanical contributions to Vermont, and

Whereas, his love for Vermont was best demonstrated by his lifelong devotion to his native Putney, and

Whereas, a man of truth and simplicity, George D. Aiken represented the best qualities of Vermont, and

Whereas, he dedicated his life to the betterment of Vermont, and

Whereas, George D. Aiken strove to elevate American public life and policy to a height that would merit dignity and respect both at home and abroad, and

Whereas, when Vermonters tackle the issues of today, his commonsense approach to problems and wise counsel are sorely missed, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly respectfully requests that the Vermont Congressional Delegation make every possible effort to secure the issuance of a United States postage stamp in honor of the life and accomplishments of former United States Senator George D. Aiken, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the United States Postal Service's Citizens Stamp Advisory Committee in Washington, D.C. and to the Vermont Congressional Delegation.

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

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 272.

An act relating to maintenance of private roads.

To the Committee on Judiciary.

H. 600.

An act relating to mandatory mediation in foreclosure proceedings.

To the Committee on Judiciary.

Bill Passed

Senate bill of the following title was read the third time and passed:

S. 201. An act relating to expanding public school choice for elementary and high school students.

Third Reading Ordered**S. 252.**

Senate committee bill entitled:

An act relating to the repeal or revision of reporting requirements.

Having appeared on the Calendar for notice for one day, was taken up.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senators Sears and Fox moved to amend the bill as follows:

First: In Sec. 38, by striking out subsection (a) (repeal of joint corrections oversight committee report under 2 V.S.A. § 802(b)) in its entirety and inserting in lieu thereof the following:

(a) [DELETED]

Second: In Sec. 38, by striking out subdivision (z)(3) (repeal of joint corrections oversight committee recommendations under Sec. 25(b) of No. 58 of the Acts of 2009) and inserting in lieu thereof the following:

(3) [DELETED]

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Bill Amended; Third Reading Ordered**S. 211.**

Senator Lyons, for the Committee on Natural Resources and Energy, to which was referred Senate bill entitled:

An act relating to securing propane tanks in natural disasters.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 34 is added to read:

§ 34. PUBLIC EDUCATION ON PROPANE TANK SAFETY

The general assembly finds that there is a need for a coordinated public safety message on the storage, handling, and recovery of propane tanks that are displaced by natural disaster, such as flooding. The department of public service and the division of fire safety shall cooperate with the Vermont League of Cities and Towns and the Vermont Fuel Dealers Association, Inc. to develop a variety of educational materials for distribution to the public to provide information on any special treatment of propane tanks that might be required in the case of a natural disaster, such as flooding.

And that when so amended the bill ought to pass.

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

Joint Resolutions Adopted in Concurrence

Joint House resolutions entitled:

J.R.H. 30. Joint resolution authorizing 2012 Green Mountain Girls' State to conduct a civic education program at the State House.

J.R.H. 31. Joint resolution urging Congress to designate March 29 as Vietnam Veterans Day.

Having been placed on the Calendar for action, were taken up.

Thereupon, the resolutions were severally adopted in concurrence.

Bill Passed

Senate bill of the following title was read the third time and passed:

S. 148. An act relating to a pilot project on expediting development of small hydroelectric plants.

Bill Amended; Third Reading Ordered**S. 93.**

Senator Kittell, for the Committee on Agriculture, to which was referred Senate bill entitled:

An act relating to labeling maple products.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

§ 481. DEFINITIONS

As used in this chapter:

(1) "Advertisement" means any method used to call attention to a product which is intended to arouse a desire to purchase that product. It shall include, but is not limited to, signs, displays, radio and television broadcasts, newspapers and periodicals, direct mail, other printed forms, and any electronic media.

(2) "Bulk maple syrup" means maple syrup packed in containers of more than five gallons.

(3) "Secretary" means the secretary for the Vermont agency of agriculture, food and markets or his or her designee.

(4) "Dealer" means a person who annually buys, or otherwise acquires from another person, 1,000 gallons of maple syrup or more for purposes of packaging for resale, or for resale in bulk.

(5) "Agency" means the Vermont agency of agriculture, food and markets.

(6) "Grade" or "grades" means the standards for maple syrup promulgated through regulation by the secretary. Those standards shall be the official grades of maple syrup for the state of Vermont.

(7) "Inspector" means any person designated by the secretary to carry out the secretary's duties under this chapter.

(8) "Maple products" means only maple syrup, maple sugar, maple cream, or any other product in which the sugar content is entirely derived from pure maple sap and to which nothing has been added.

(9) "Maple sap" means the unprocessed liquid derived from the maple tree (*Acer*).

(10) "Maple sap hydrometer" means a floating instrument which measures the specific gravity of a liquid and which contains a scale designed to determine the sugar content of maple sap.

(11) "Maple sugar" means the solid, crystalline produce of maple tree sap only.

(12) "Maple syrup" means pure maple syrup which is the liquid derived by concentration and heat treatment of the sap of the maple tree (*Acer*). Maple syrup shall not be processed in any manner which adds or removes naturally occurring soluble materials. This limitation does not preclude the use of approved filter aids used for the sole purpose of assisting the removal of suspended material or the use of defoaming agents approved by the secretary. Maple syrup shall comply with Vermont state grades, density, and flavor requirements.

(13) "Maple syrup hydrometer" means a floating instrument which measures the specific gravity of a liquid and which contains a scale designed to determine the density of maple syrup.

(14) "Packaged maple syrup" means maple syrup packed in containers of five gallons or less.

(15) "Person" means individuals, groups of individuals, partnerships, limited partnerships, corporations, companies, cooperatives, and associations.

(16) "Principal display panel" shall be construed to mean that part of a label that is so designed as to most likely be displayed, presented, shown, or examined under normal and customary conditions of display and purchase. Wherever a principal display panel appears more than once on a package, all requirements pertaining to the "principal display panel" shall pertain to all such "principal display panels."

(17) "Produced in Vermont" shall mean only that maple syrup or other maple products which are manufactured in their entirety from pure, unprocessed maple sap within the state of Vermont pursuant to standards established by this chapter and the regulations promulgated hereunder.

(18) "Public eating place" means any person or establishment engaged in the business of preparing and selling food for the general public's consumption on premises and who is subject to the license requirement of 18 V.S.A. § 4351.

(19) "Processor" means a person who annually buys, or otherwise acquires from another person, 2,500 gallons of maple syrup or more for purposes of packaging for resale, processing into associated products, or for resale in bulk.

* * *

§ 487. ~~STANDARDS~~ CLASSIFICATIONS AND STANDARDS

(a) ~~Grade standards~~ Color classification. The secretary shall establish by rule ~~grade standards~~ consumer-friendly color classifications for maple syrup. In establishing ~~grade standards~~ color classifications, the secretary may, in his or her discretion, utilize the ~~color standards and grade designations~~ classifications established by the ~~United States Department of Agriculture~~ International Maple Syrup Institute for the testing and ~~grading~~ classification of maple syrup, ~~or develop different color standards and designations~~. The secretary may also establish flavor and clarity requirements as a part of the ~~grading standards~~ classification rule.

(b) Density standards. The secretary may establish by rule the density standards for maple syrup. The density standards must be at least as stringent as existing density requirements for comparable color classification standards.

§ 488. CERTIFICATION OF SAMPLING, TESTING, AND GRADING CLASSIFICATION DEVICES; ~~CERTIFICATION AND VOLUNTARY MAPLE SYRUP PRODUCTION AND INSPECTION CERTIFICATION PROGRAM~~

(a) The secretary may procure accurate sampling, testing, and ~~grading~~ classification devices in a quantity sufficient to meet the anticipated requirements under this chapter.

(b) In addition to the mandatory inspection program conducted under this chapter, the secretary may ~~provide~~ establish by rule, a voluntary program for maple syrup production and inspection certification which shall be made available upon request of a dealer, processor, or person engaged in producing maple syrup or maple products. The secretary may obtain from the ~~dealer, processor, or person engaged in producing maple syrup or maple products,~~ reimbursement for the cost of the inspection certification incurred by the agency.

* * *

§ 490. LABELS

(a) Maple syrup. Every shipment, package, or container of maple syrup packed, sold, offered, or exposed for sale or distribution by any person shall be plainly marked in accordance with 9 V.S.A. § 2633(c), for packaging and labeling regulations and shall include:

- ~~(1) the name, address, and zip code of the packer;~~
- ~~(2) the true name of the product;~~
- ~~(3) the grade; and~~

~~(4) the volume of the contents at 68 degrees Fahrenheit or 20 degrees Celsius.~~

(1) the words "grade A" and "pure maple syrup";

(2) the name;

(3) the name, address, and zip code of the packer;

(4) the color classification;

(5) the words "no additives";

(6) the intensity of the flavor.

(b) All other pure maple products. Every shipment, package, or container of maple products other than maple syrup packed, sold, offered, or exposed for sale or distribution by any person shall be plainly marked in accordance with 9 V.S.A. § 2633(c), for packaging and labeling regulations and shall include:

(1) the name, address, and zip code of the packer;

(2) the true name of the product; and

(3) the volume of the contents at 68 degrees Fahrenheit or 20 degrees Celsius if the product is a liquid or with the net weight if the product is not a liquid.

(c) Any labeling on bulk or packaged maple syrup which indicates "State of Vermont pure maple syrup," "Vermont maple syrup," "Vermont syrup," or any other words which imply that the syrup so marked was produced in Vermont shall be used exclusively upon 100 percent maple syrup which is entirely produced within the state of Vermont in compliance with the terms of this chapter and the regulations promulgated hereunder.

(d) Any labeling on all other maple products which states or implies that those products were produced in Vermont shall be used exclusively upon 100 percent pure maple products which are entirely produced within the state of Vermont in compliance with the terms of this chapter and the regulations promulgated hereunder.

(e) Notwithstanding any provision of this chapter, a dealer, processor, or person shall not be prohibited from using appropriate market descriptors as the secretary may define by rule.

* * *

And that when so amended the bill ought to pass.

Senator Kittell moved to substitute a recommendation of amendment for the recommendation of amendment of the Committee on Agriculture which was agreed to and is as follows:

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

Sec. 1. 6 V.S.A. § 481 is amended to read:

§ 481. DEFINITIONS

As used in this chapter:

* * *

(6) “~~Grade~~” “Classification” or “~~grades~~” “classifications” means the standards for maple syrup promulgated through regulation by the secretary. Those standards shall be the official ~~grades~~ classifications of maple syrup for the state of Vermont.

* * *

Sec. 2. 6 V.S.A. § 487 is amended to read:

§ 487. ~~STANDARDS~~ CLASSIFICATIONS AND STANDARDS

(a) ~~Grade standards~~ Color classifications. The secretary shall establish by rule ~~grade standards~~ consumer-friendly color classifications for maple syrup. In establishing ~~grade standards~~ color classifications, the secretary may, in his or her discretion, utilize the color ~~standards and grade designations~~ classifications established by the ~~United States Department of Agriculture~~ International Maple Syrup Institute for the testing and ~~grading~~ classification of maple syrup, ~~or develop different color standards and designations~~. The secretary may also establish flavor and clarity requirements as a part of the ~~grading standards~~ classification rule.

(b) Density standards. The secretary may establish by rule the density standards for maple syrup. The density standards must be at least as stringent as existing density requirements for comparable color classification standards.

Sec. 3. 6 V.S.A. § 488 is amended to read:

§ 488. CERTIFICATION OF SAMPLING, TESTING, AND GRADING CLASSIFICATION DEVICES; ~~CERTIFICATION AND VOLUNTARY MAPLE SYRUP PRODUCTION AND INSPECTION CERTIFICATION PROGRAM~~

(a) The secretary may procure accurate sampling, testing, and ~~grading~~ classification devices in a quantity sufficient to meet the anticipated requirements under this chapter.

(b) In addition to the mandatory inspection program conducted under this chapter, the secretary may ~~provide~~ establish by rule a voluntary program for maple syrup production and inspection certification which shall be made

available upon request of a dealer, processor, or person engaged in producing maple syrup or maple products. The secretary may obtain from the dealer, processor, or person engaged in producing maple syrup or maple products reimbursement for the cost of the inspection certification incurred by the agency.

Sec. 4. 6 V.S.A. § 490 is amended to read:

§ 490. LABELS

(a) Maple syrup. Every shipment, package, or container of maple syrup packed, sold, offered, or exposed for sale or distribution by any person shall be plainly marked in accordance with 9 V.S.A. § 2633(c), for packaging and labeling regulations and shall include:

(1) ~~the name, address, and zip code of the packer~~ the words “grade A” and “pure maple syrup”;

(2) ~~the true name of the product~~ the true name of the product;

(3) ~~the grade; and~~ the name, address, and zip code of the packer;

(4) ~~the volume of the contents at 68 degrees Fahrenheit or 20 degrees Celsius.~~ the color classification;

(5) the words “no additives”;

(6) the intensity of the flavor;

(7) the volume of the contents at 68 degrees Fahrenheit or 20 degrees Celsius.

(b) All other pure maple products. Every shipment, package, or container of maple products other than maple syrup packed, sold, offered, or exposed for sale or distribution by any person shall be plainly marked in accordance with 9 V.S.A. § 2633(c), for packaging and labeling regulations and shall include:

(1) the name, address, and zip code of the packer;

(2) the true name of the product; and

(3) the volume of the contents at 68 degrees Fahrenheit or 20 degrees Celsius if the product is a liquid or with the net weight if the product is not a liquid.

(c) Any labeling on bulk or packaged maple syrup which indicates “State of Vermont pure maple syrup,” ~~Vermont maple syrup, Vermont syrup,~~ “Vermont maple syrup,” “Vermont syrup,” or any other words which imply that the syrup so marked was produced in Vermont shall be used exclusively upon 100 percent maple syrup which is entirely produced within the state of

Vermont in compliance with the terms of this chapter and the regulations promulgated hereunder.

(d) Any labeling on all other maple products which states or implies that those products were produced in Vermont shall be used exclusively upon 100 percent pure maple products which are entirely produced within the state of Vermont in compliance with the terms of this chapter and the regulations promulgated hereunder.

(e) Notwithstanding any provision of this chapter, a dealer, processor, or person shall not be prohibited from using appropriate market descriptors as the secretary may define by rule.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1 (definition; classification), 2 (rulemaking; classification), and 3 (voluntary certification) of this act shall take effect upon passage.

(b) Sec. 4 of this act shall take effect 45 days after the agency of agriculture, food and markets adopts rules under 6 V.S.A. § 487 regarding the classification and standards of maple syrup.

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

Bills Amended; Third Readings Ordered

S. 114.

Senator Lyons, for the Committee on Natural Resources and Energy, to which was referred Senate bill entitled:

An act relating to the size of accessory dwelling units.

Reported recommending that the bill be amended in Sec. 1, 24 V.S.A. § 4412(1), in subdivision (E)(ii), by striking out the following: “750” and inserting in lieu thereof the following: 600

And that when so amended the bill ought to pass.

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

S. 151.

Senator Ashe, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to veterans' grave markers.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 86 is added to read:

CHAPTER 86. PURCHASE OF GRAVE MARKERS

§ 3221. GRAVE MARKERS AND ORNAMENTS

(a) A business or metal dealer shall not purchase, accept, or give anything of value in exchange for a metal grave marker, or any ornament or flag holder bearing a description or an emblem from any branch of the United States armed services or a police or fire department or which bears the designation "veteran."

(b) A business or metal dealer that violates this section shall be fined up to \$5,000.00 per violation.

(c) For purposes of this section, "metal dealer" means any individual, firm, corporation, or partnership engaged in the business of purchasing and reselling recyclable metal either at a permanently established place of business or in connection with a business of an itinerant nature, including a junk shop, a junkyard, or a junk store.

After passage, the title of the bill is to be amended to read:

An act relating to grave markers.

And that when so amended the bill ought to pass.

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

S. 215.

Senator Pollina, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to evaluating net costs of government purchasing.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. ECONOMETRIC ANALYSIS PILOT PROJECT

(a) The secretary of administration and the legislative economist shall design and implement a one-year pilot project to conduct an econometric analysis when evaluating government contracts for goods and services by the department of buildings and general services, the agency of natural resources, and the department of corrections. Each agency and department participating in the pilot project shall have the discretion to determine which contracts are appropriate for econometric analysis.

(b) When considering applicable contract bids for goods or services, each agency and department participating in the pilot project shall consider the interests of the state relating to the proximity of the supplier and the costs of transportation, and relating to the economy of the state and the need to maintain and create jobs in the state. The commissioner or secretary, as applicable, shall utilize an econometric model that shall:

(1) account for the net fiscal impact to the state of all significant elements of bids, including the level of local employment, wages and benefits, source of goods, and domicile of bidder;

(2) be designed to be easily updated from year to year; and

(3) be designed such that state employees administering bid processes can easily utilize the model in an expedient fashion.

Sec. 2. REPORT

On or before January 15, 2014, the secretary of administration shall submit a report to the house and senate committees on government operations on the results of the econometric analysis pilot project and any further legislative or policy recommendations for expansion, adaptation, or elimination of econometric analysis in government contracting.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

And that when so amended the bill ought to pass.

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

Adjournment

On motion of Senator Mazza, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Thursday, March 22, 2012.