

# House Calendar

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Tuesday, March 12, 2013

63rd DAY OF THE BIENNIAL SESSION

House Convenes at 10:00 A.M.

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**ACTION CALENDAR**

**Third Reading**

**H. 401**

An act relating to municipal and regional planning and flood resilience

**Favorable**

**H. 14**

An act relating to the law enforcement authority of liquor control investigators

**Rep. Weed of Enosburgh**, for the Committee on **General, Housing and Military Affairs**, recommends the bill ought to pass.

( **Committee Vote: 8-0-0**)

**Action Under Rule 52**

**J.R.H. 7**

Joint resolution relating to the reliability of rural telephone service

(**For text see House Journal 3/1/2013**)

**Action Postponed Until March 13, 2013**

**Committee Bill for Second Reading**

**H. 395**

An act relating to the establishment of the Vermont Clean Energy Loan Fund.

(**Rep. Botzow of Pownal** will speak for the Committee on **Commerce and Economic Development**.)

**NOTICE CALENDAR**

**Favorable with Amendment**

**H. 101**

An act relating to the clarification of provisions regarding the posting of land and access to land and water for hunting, fishing, and trapping

**Rep. McCullough of Williston**, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 4047a is added to read:

§ 4047a. RAFFLES; DEPARTMENT AUTHORITY

(a) Notwithstanding the provisions of 13 V.S.A. chapter 51, the Department may organize and execute raffles to dispose of property, and a person may participate in raffles executed by the Department, provided that the proceeds of raffles executed under this section shall be used solely to fund actions fulfilling or consistent with the purposes of the Department.

(b) All moneys received by the Department under this section shall be deposited in the Fish and Wildlife Fund to be used for the purposes of that fund.

Sec. 2. 10 V.S.A. § 4081 is amended to read:

§ 4081. POLICY

\* \* \*

(g) If the ~~board~~ Board finds that an antlerless season is necessary to maintain the health and size of the herd, the ~~department~~ Department shall administer an antlerless deer program. Any open season on antlerless deer shall be held following the regular deer season held pursuant to section 4741 of this title, ~~except as provided in section 4086 of this title.~~ Annually, the ~~board~~ Board shall determine how many antlerless permits to issue in each deer management district. For a nonrefundable fee of \$10.00 for residents and \$25.00 for nonresidents a person may apply for a permit. Each person may submit only one application for a permit. The ~~department~~ Department shall allocate the permits in the following manner:

(1) A Vermont landowner, as defined in section 4253 of this title, who owns 25 or more contiguous acres and who applies shall receive a permit for antlerless hunting in the management unit on which the land is located before any are given to people eligible under subdivision (2) of this subsection. If the land is owned by more than one individual, corporation or other entity, only one permit shall be issued. Landowners applying for antlerless permits under this subdivision shall not, at the time of application or thereafter during the regular hunting season, post their lands except under the provisions of section 4710 of this title. As used in this section, "post" means any signage that would lead a reasonable person to believe that hunting is restricted on the land. If the number of landowners who apply exceeds the number of permits for that district, the ~~department~~ Department shall award all permits in that district to landowners by lottery.

\* \* \*

Sec. 3. 10 V.S.A. § 4082 is amended to read:

§ 4082. VERMONT FISH AND WILDLIFE REGULATIONS

(a) The ~~board~~ Board may adopt rules, under 3 V.S.A. chapter 25 ~~of Title 3~~, to be known as the “Vermont fish and wildlife regulations” for the regulation of fish and wild game and the taking thereof except as otherwise specifically provided by law. The rules shall be designed to maintain the best health, population, and utilization levels of the regulated species and of other necessary or desirable species which are ecologically related to the regulated species. The rules shall be supported by investigation and research conducted by the ~~department~~ Department on behalf of the ~~board~~ Board.

(b) The ~~board~~ Board ~~annually~~ may ~~annually~~ adopt ~~temporary~~ rules relating to the management of migrating game birds, and shall follow the procedures for rulemaking contained in 3 V.S.A. chapter 25 ~~of Title 3 to the extent reasonably possible~~. For each such rule, the ~~board~~ Board shall conduct a hearing but, when necessary, may schedule the hearing for a day before the terms of the rule are expected to be determined.

(c) The Board may set by procedure the annual number of antlerless deer that can be harvested in each wildlife management unit and the annual number of moose that can be harvested in each wildlife management unit without following the procedures for rulemaking contained in 3 V.S.A. chapter 25. The annual numbers of antlerless deer and moose that can be harvested shall be supported by investigation and research conducted by the Department on behalf of the Board. Prior to setting the antlerless deer and moose permit numbers, the Board shall provide a period of not less than 30 days of public notice and shall conduct at least three public informational hearings. The public informational hearings may be conducted simultaneously with the regional antlerless deer meetings required by 10 V.S.A. App. § 2b. The final annual antlerless deer and moose harvest permit numbers shall be enforceable by the Department under its enforcement authority in part 4 of this title. The final annual antlerless deer and moose harvest permit numbers shall be reported to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy as part of the annual deer report required under section 4084 of this title.

Sec. 4. 10 V.S.A. § 4084 is amended to read:

§ 4084. GAME

(a) Rules concerning wild game may:

(1) ~~Establish~~ establish open seasons; however, rules regarding taking of deer adopted under this subdivision shall make provision for a regular rifle

hunting season pursuant to section 4741 of this title and for an archery season and a muzzle loader season unless there is a scientific reason not to do so;

- (2) ~~Establish~~ establish daily, season, and possession limits;
- (3) ~~Establish~~ establish territorial limits for any rule under this subchapter;
- (4) ~~Prescribe~~ prescribe the manner and means of taking any species or variety, ~~and~~ including reporting and tagging of game;
- (5) ~~Establish~~ establish restrictions on taking based upon sex, maturity, or other physical distinction of the species or variety pursued; and
- (6) ~~Designate~~ designate wildlife management districts units for various species or varieties.

(b)(1) On or before July 1 of each year, the ~~commissioner~~ Commissioner shall publish a report showing all the wildlife management districts units and proposed deer seasons. The reports shall include supporting data for the proposed actions.

(2) Each January, the ~~commissioner~~ Commissioner shall publish an annual deer report ~~showing the specific programs, plans, and operational goals of the department and shall include a progress report of each deer management district.~~

(c) ~~After management districts have been established by the board under the authority of this section, the districts shall not thereafter be altered~~ The Board may alter the outer boundary of a wildlife management unit no more frequently than every ten years without approval of the general assembly General Assembly; however, the ~~board~~ Board shall have authority to subdivide established districts wildlife management units. ~~This subsection shall not apply to special management zones created under section 4086 of this title.~~

Sec. 5. 10 V.S.A. 4251 is amended to read:

#### § 4251. TAKING WILD ANIMALS AND FISH; LICENSE

(a) Except as provided in ~~section 4253~~ sections 4253 and 4254b of this title, a person shall not take wild animals or fish without first having procured a license therefor; provided, however, that a person under 15 years of age may take fish in accordance with this part and regulations of the ~~board~~ Board, without first having procured a license therefor.

(b) The ~~commissioner of fish and wildlife~~ Commissioner of Fish and Wildlife may designate ~~one day~~ two days each calendar year as a “free fishing ~~day~~” days” for which no license shall be required. One day shall occur in the

open water fishing season and one day shall occur during the ice fishing season.

Sec. 6. 10 V.S.A. § 4252 is amended to read:

§ 4252. ACTIVITIES PERMITTED UNDER LICENSES

(a) Subject to provisions of this part and regulations of the ~~board~~ Board:

\* \* \*

(5) An archery license shall entitle the holder to take one deer by bow and arrow ~~pursuant to section 4744 of this title.~~

(6) A muzzle loader license shall entitle the holder to take deer with a muzzle loading firearm ~~pursuant to section 4743 of this title.~~

\* \* \*

(9) A second muzzle loader license, which may only be purchased by a holder of a muzzle loader license, shall entitle the holder to take one wild deer, in addition to the number allowed to a holder of a muzzle license, with a muzzle loading firearm ~~pursuant to section 4743 of this title.~~

(10) A second archery license, which may only be purchased by a holder of an archery license, shall entitle the holder to take one deer, in addition to the number allowed to a holder of an archery license, with a bow and arrow ~~pursuant to section 4744 of this title.~~

\* \* \*

(12) A super sport license shall entitle the holder to take fish, shoot pickerel, take wild animals pursuant to chapter 113 of this title, take wild animals as allowed under a combination hunting and fishing license and the following big game licenses: archery, muzzle loader, turkey, second archery, and second muzzle loader. The ~~commissioner~~ Commissioner may establish procedures to encourage purchasers of a super sport license to make a stewardship donation of \$10.00 to the ~~fish and wildlife fund~~ Fish and Wildlife Fund for the purpose of habitat improvement.

\* \* \*

(b) In addition to the activities authorized under subsection (a) of this section and the rules authorized thereunder, the holder of an archery license, second archery license, or super sport license may possess a handgun while archery hunting, provided that the license holder shall not take game by firearm while archery hunting. As used in this section, "handgun" means a pistol or revolver which will expel a projectile by the action of an explosive.

Sec. 7. 10 V.S.A. § 4254(i)(1) is amended to read:

(i)(1) If the ~~board~~ Board establishes a moose hunting season, up to five moose permits shall be set aside to be auctioned. The moose permits set aside for auction shall be in addition to the number of annual moose permits authorized by the Board. The ~~board~~ Board shall adopt rules necessary for the ~~department~~ Department to establish, implement, and run the auction process. The Commissioner annually may establish a minimum dollar amount of not less than \$1,500.00 for any winning bid for a moose permit auctioned under this subdivision. Proceeds from the auction shall be deposited in the ~~fish and wildlife fund~~ Fish and Wildlife Fund and used for conservation education programs run by the ~~department~~ Department. Successful bidders must have a Vermont hunting or combination license in order to purchase a moose permit. ~~Beginning with the 2006 hunting season, the five moose permits set aside for auction shall be in addition to the number of annual moose permits authorized by the board.~~

Sec. 8. 10 V.S.A. § 4254b is added to read:

§ 4254b. THERAPEUTIC GROUP FISHING LICENSE

(a) As used in this section:

(1) “Health care professional” means an individual licensed or certified or otherwise authorized by Vermont law to provide professional health services.

(2) “Health service” means any treatment or procedure delivered by a health care professional to maintain an individual’s physical or mental health or to diagnose or treat an individual’s physical or mental health condition, including services ordered by a health care professional, chronic care management, preventive care, wellness services, and medically necessary services to assist in activities of daily living.

(3) “Individual representing a long-term care facility” means an employee of a long-term care facility or a person recognized as an official volunteer by the long-term care facility.

(4) “Long-term care facility” means any facility required to be licensed under 33 V.S.A. chapter 71.

(b) The Commissioner may issue an annual therapeutic group fishing license to a health care professional or an individual representing a long-term care facility. A therapeutic group fishing license shall allow up to four persons per day to fish at one time provided that:

(1) the persons are under the care of a health care professional or are residing in a long-term care facility; and

(2) while fishing the persons are supervised by the health care professional or the individual representing a long-term care facility who was issued the therapeutic group fishing license.

(c) A person fishing under a therapeutic group fishing license shall not be required to obtain a fishing license under section 4251 of this title but shall be required to comply with all other requirements of this chapter, chapter 111 of this title, and the rules of the Board. When a person or group of persons is fishing under a therapeutic group fishing license, the person or group shall be accompanied at all times by the health care professional or the individual representing a long-term care facility to which the license was issued. The health care professional or individual representing a long-term care facility may assist persons fishing under the license with all aspects of fishing activity. The health professional or individual representing a long-term care facility shall carry the license at all times while a person is fishing under the license and shall produce the license on demand by any fish and wildlife warden.

Sec. 9. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

\* \* \*

(j) If the ~~board~~ Board determines that a moose season will be held in accordance with the rules adopted under sections 4082 and 4084 of this title, the ~~commissioner~~ Commissioner annually may issue three no-cost moose licenses to a ~~child or young adult age 21 years or under~~ person who has a ~~life threatening~~ life-threatening disease or illness and who is sponsored by a qualified charitable organization, provided that at least one of the no-cost annual moose licenses awarded each year shall be awarded to a child or young adult age 21 years of age or under who has a life-threatening illness. The child or young adult ~~must~~ shall comply with all other requirements of this chapter and the rules of the ~~board~~ Board. Under this subsection, a person may receive only one no-cost moose license in his or her lifetime. The ~~commissioner~~ Commissioner shall adopt rules in accordance with 3 V.S.A. chapter 25 ~~of Title 3~~ to implement this subsection. The rules shall define the child or young adult qualified to receive the no-cost license, shall define a qualified sponsoring charitable organization, and shall provide the application process and criteria for issuing the no-cost moose license.

\* \* \*

(m) The fee for a therapeutic group fishing license issued under section 4254b of this title shall be \$50.00 per year, provided that the Commissioner may waive the fee under this section if the applicant for a therapeutic group fishing license completes instructor certification under the Department's Let's

Go Fishing Program. The Commissioner may, at his or her discretion, issue a free therapeutic fishing license to an applicant.

Sec. 10. 10 V.S.A. § 4278 is amended to read:

§ 4278. FALCONRY LICENSE

(a) In this section, “raptor” means species of the orders ~~strigiformes and falconiformes~~ Strigiformes, Falconiformes, and Accipitriformes.

(b)(1) A Vermont resident may obtain, sell, transport, possess, and train raptor species allowable under state and federal laws and regulations for hunting, provided the person has first obtained a state falconry license from the ~~commissioner~~ Commissioner. ~~Possession of a federal license is required to validate a state license. Applicants for~~ The Commissioner may issue a state falconry license shall receive a license, provided that the applicant:

(1)(A) pays an initial licensing fee of \$250.00 for a license valid for three years, or a renewal fee of \$50.00 for a license valid for each year thereafter, as appropriate, to the ~~department~~ Department;

(2)(B) meets the minimum age and experience requirements for each of apprentice, general, or master falconry licenses;

(3)(C) has completed a supervised examination relating to basic biology, care, and handling of raptors, has correctly answered a minimum of ~~80~~ 85 percent of the questions; and

(4)(D) possesses raptor housing facilities and falconry equipment that meet state and federal standards.

(2) The ~~commissioner~~ Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 that will establish requirements for ensuring that holders of falconry licenses will be properly qualified and that the birds will be legally acquired and appropriately cared for. Such rules shall further define required raptor housing facilities and falconry equipment, legal means of taking, lawful species, ages, and numbers of raptors to be taken and possessed, banding requirements, and any other further restrictions on taking and possession.

\* \* \*

Sec. 11. 10 V.S.A. § 4280 is amended to read:

§ 4280. TAKING WILDLIFE DURING A PERIOD OF LICENSE  
SUSPENSION

A person shall not hunt, fish, or trap while a license or right to obtain a license is under suspension, including those persons who could otherwise hunt, fish, or trap pursuant to section 4253 of this title.

Sec. 12. 10 V.S.A. § 4701 is amended to read:

§ 4701. USE OF GUN, BOW AND ARROW, AND CROSSBOW; LEGAL DAY; DOGS

(a) A Unless otherwise provided by statute, a person shall not take game except with:

(1) a gun fired at arm's length ~~or with;~~

(2) a bow and arrow ~~unless otherwise provided; or~~

(3) a crossbow as authorized under section 4711 of this title or as authorized by the rules of the Board.

(b) A person shall not take game between one-half hour after sunset and one-half hour before sunrise unless otherwise provided by statute or by the rules of the Board.

(c) A person may take game and fur-bearing animals during the open season therefor, with the aid of a dog, unless otherwise prohibited by statute or by the rules of the Board.

Sec. 13. 10 V.S.A. § 4502(b) is amended to read:

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in Title 10 of Vermont Statutes Annotated):

(1) Five points shall be assessed for any violation of statutes or rules adopted under this part except those listed in subdivisions (2) and (3) of this subsection.

(2) Ten points shall be assessed for:

\* \* \*

(HH) § 4827. A black bear doing damage

\* \* \*

(MM) § 4827a. Feeding a black bear.

(3) Twenty points shall be assessed for:

\* \* \*

(G) ~~§ 4743(c). Muzzle loader deer season~~ [Repealed.]

\* \* \*

Sec. 14. DEPARTMENT OF FISH AND WILDLIFE WORKING GROUP  
ON ILLEGAL TAKING OF GAME FROM VEHICLES OR  
PUBLIC HIGHWAY

(a) The Commissioner of Fish and Wildlife shall convene a working group to review and recommend methods for addressing illegal taking of game from motor vehicles or public highways in Vermont. The working group shall consist of the Commissioner or his or her designee and the following members to be appointed by the Commissioner:

(1) two members of the Fish and Wildlife Board;

(2) two State Game Wardens, Deputy State Game Wardens, other appropriate law enforcement officers, or a combination thereof; and

(3) two persons who hold a valid Vermont hunting license.

(b) On or before December 15, 2013, the Commissioner shall report to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy with the recommendations of the working group.

(c) The report shall include a summary, based on the number of citations issued and on the number complaints tabulated by the Department, of the incidence of illegal taking of game from motor vehicles or public highways in Vermont and shall make recommendations on potential measures by which to reduce such incidents. The report shall include recommendations regarding:

(1) increasing the distance from the traveled portion of public highways or other roadways at which hunters may take or attempt to take game;

(2) a prohibition on shooting of a firearm or bow and arrow over or across the traveled portion of a public highway or other roadways;

(3) increasing enforcement, increasing fines, or both; and

(4) any other appropriate measures supporting the purpose of the working group.

Sec. 15. 10 V.S.A. § 4709 is amended to read:

§ 4709. IMPORTATION, STOCKING WILD ANIMALS; POSSESSION OF  
WILD BOAR

(a) A person shall not bring into the ~~state~~ State or possess any live wild bird or animal of any kind, unless, upon application in writing therefor, the person obtains from the ~~commissioner~~ Commissioner a permit to do so. The importation permit may be granted under such regulations therefor as the ~~board~~ Board shall prescribe and only after the ~~commissioner~~ Commissioner has made

such investigation and inspection of the birds or animals as she or he may deem necessary. The ~~department~~ Department may dispose of unlawfully imported wildlife as it may judge best, and the ~~state~~ State may collect treble damages from the violator of this subsection for all expenses incurred.

(b) Nothing in this section shall prohibit the ~~commissioner~~ Commissioner or duly authorized agents of the ~~fish and wildlife department~~ Department of Fish and Wildlife from bringing into the ~~state~~ State for the purpose of planting, introducing, or stocking, or from planting, introducing, or stocking in the ~~state~~ State, any wild bird or animal.

(c) Applicants shall pay a permit fee of \$100.00.

(d)(1) The Commissioner shall not issue a permit under this section for the importation or possession of the following live species, a hybrid or genetic variant of the following species, offspring of the following species, or offspring or a hybrid of a genetically engineered variant of the following species: wild boar, wild hog, wild swine, feral pig, feral hog, feral swine, old world swine, razorback, Eurasian wild boar, or Russian wild boar (Sus scrofa Linnaeus).

(2) This subsection shall not apply to the domestic pig (Sus domesticus) involved in domestic hog production and shall not restrict or limit the authority of the Secretary of Agriculture, Food and Markets to regulate the importation or possession of the domestic pig as livestock or as a domestic animal under Title 6 of the Vermont Statutes Annotated.

Sec. 16. 10 V.S.A. § 4827 is amended to read:

§ 4827. BLACK BEAR DOING DAMAGE

(a) A (1) Except as provided in subdivision (2) of this subsection and in subsection 4827a(b) of this title, a person, an authorized member of the person's family, or the person's authorized regular on-premise employee may, after attempting reasonable nonlethal measures to protect his or her property, take, on land owned or occupied by the person, a bear which he or she can prove was doing damage to the following:

~~(1)(A)~~ (A) livestock, a pet, or another domestic animal;

~~(2)(B)~~ (B) bees or bee hives;

~~(3)(C)~~ (C) a vehicle, building, shed, or any dwelling; or

~~(4)(D)~~ (D) a crop or crop-bearing plant other than grass.

(2)(A) The requirements of subdivision (1) of this subsection shall not apply in exigent circumstances. As used in this subdivision, "exigent

circumstances” means the need for immediate protection of a person, livestock, pet, domestic animal, or occupied dwelling.

(B) Landowners or lessees subject to bear damage in unharvested cornfields shall be exempt from having to first use nonlethal control measures prior to taking a black bear doing damage under subdivision (a)(1) of this section.

(b) A person authorized to take a bear under subsection (a) of this section may designate one individual who holds a resident Vermont hunting license as an agent to take a bear doing damage on his or her behalf. The person may not offer or accept any form of payment to or from the agent under this subsection except as allowed in subsection (e) of this section.

\* \* \*

~~(f) If a person has intentionally placed bait or food, which may include fruit, grain, salt, or other materials, including within a bird feeder, to entice or lure wildlife onto the property within the past 30 days:~~

~~(1) the person may not kill a bear causing damage pursuant to this section; and~~

~~(2) the commissioner is authorized to issue an order requiring the person to remove the bait or food if the luring may result in harm to a person, a domestic animal, a crop, or property [Repealed.]~~

\* \* \*

(h) A person who shoots a bear in violation of subsection ~~(f)~~ or (g) of this section or subsection 4827a(b) of this title may be fined up to ~~\$1,000.00~~ \$2,000.00. A person who does not remove bait or contain food following an order issued under subsection ~~(f)~~ or (g) of this section or subsection 4827a(b) may be fined up to ~~\$500.00~~ \$1,000.00.

Sec. 17. 10 V.S.A. § 4827a is added to read:

§ 4827a. FEEDING BEAR; PROHIBITION

(a) A person shall not knowingly feed a bear and shall not knowingly give, place, expose, deposit, distribute, or scatter any bait, food, or other edible material in a manner intended to lure a bear to feed except:

(1) under a license or permit issued under section 4152 of this title by the Commissioner for bona fide scientific research, mitigation of wildlife damage, nuisance problems, or wildlife population reduction program;

(2) by planting, cultivating, or harvesting of crops directly associated with bona fide agricultural practices, including planted wildlife food plots; or

(3) by distribution of feed material for livestock directly associated with bona fide agricultural practices.

(b) A person who has intentionally placed bait, food, or other edible material, including placing food within a bird feeder, to lure wildlife onto the property within the past 30 days shall be prohibited from taking a bear doing damage under the authority set forth in section 4827 of this title. The Commissioner or his or her designee may issue an order requiring a person to remove or contain the bait, food, or edible material if the placing of bait or food results in the feeding of a bear.

(c) As used in this section, "bait, food, or other edible material" means fruit, grain, salt, grease, garbage, or other materials intended to feed or lure wildlife.

Sec. 18. 10 V.S.A. § 4829 is amended to read:

~~§ 4829. PERSON SUFFERING DAMAGE BY DEER OR BLACK BEAR~~

~~A person who suffers damage by deer to the person's crops, fruit trees, or crop-bearing plants on land not posted against the hunting of deer, or a person who suffers damage by black bear to the person's cattle, sheep, swine, poultry, or bees or bee hives on land not posted against hunting or trapping of black bear is entitled to reimbursement for the damage, and may apply to the department of fish and wildlife within 72 hours of the occurrence of the damage for reimbursement for the damage. As used in this section, "post" means any signage that would lead a reasonable person to believe that hunting is prohibited on the land. [Repealed.]~~

Sec. 19. 10 V.S.A. § 4830 is amended to read:

~~§ 4830. REGULATIONS~~

~~The state fish and wildlife board shall adopt rules and regulations relating to application for reimbursement, examination by state fish and wildlife wardens of damage and reimbursement therefor. [Repealed.]~~

Sec. 20. 10 V.S.A. § 4831 is amended to read:

~~§ 4831. REIMBURSEMENT~~

~~Reimbursement under this subchapter shall be made by the state treasurer, on the voucher of the commissioner of fish and wildlife, from money received by the state treasurer under the provisions of this part. [Repealed.]~~

Sec. 21. 10 V.S.A. § 4832 is amended to read:

~~§ 4832. APPEAL~~

~~A person who is denied reimbursement under this subchapter or who is dissatisfied with the amount of the reimbursement granted may appeal to the superior court of the county in which he resides. [Repealed.]~~

Sec. 22. 10 V.S.A. § 5001 is amended to read:

§ 5001. HUNTING DOGS; FIELD TRAINING

(a) While accompanying the dog, a person ~~without a firearm~~ may train a hunting dog to hunt and pursue:

(1) Bear during the period from June 1 to September 15 and then only from sunrise to sunset;

(2) Rabbits and game birds during the period from June 1 to the last Saturday in September and then only from sunrise to sunset;

(3) Raccoon during the period from June 1 to the last Saturday in September at any time of the day or night;

(4) Bobcat and fox during the period June 1 to March 15, except during regular deer season as prescribed in ~~10 V.S.A. § section~~ 4741 of this title.

(b) ~~The commissioner~~ Commissioner may permit a person ~~without a gun~~ to train and condition a hunting dog between the second Monday in March and June 1. ~~The board~~ Board may adopt rules as it considers necessary to control the training and conditioning of hunting dogs.

(c) A person training a hunting dog under this section may possess a handgun while training the hunting dog, provided that the person shall not take game by any method while training the hunting dog. As used in this section, "handgun" means a pistol or revolver which will expel a projectile by the action of an explosive.

Sec. 23. 10 V.S.A. § 5201 is amended to read:

§ 5201. NOTICES; POSTING

~~(a)(1) An owner, or a person having the exclusive right to take fish or wild animals upon land or the waters thereon, who desires to protect his or her land or waters over which he or she has exclusive control, may maintain notices stating, if he or she wishes to prohibit the taking of game and wild animals, that the shooting and trapping are that:~~

~~(A) the shooting, trapping, or taking of game or wild animals is prohibited, or, if he or she wishes to prohibit the taking of fish, that or is by permission only;~~

~~(B) fishing or the taking of fish is prohibited, or, if he or she wishes to prohibit the taking of fish and wild animals, that or is by permission only;~~

(C) fishing, hunting, and trapping, and taking of wild animals and fish are prohibited or are by permission only.

(2) "Permission only signs" authorized under this section shall contain the owner's name and a legitimate method by which to contact the property owner or a person authorized to provide permission to hunt, fish, or trap on the property.

\* \* \*

#### Sec. 24. EFFECTIVE DATES

(a) This section and Sec. 15 (importation, stocking wild animals; possession of wild boar) of this act shall take effect on passage.

(b) Sec. 10 (falconry license) of this act shall take effect on January 1, 2014, provided that the Fish and Wildlife Board may, prior to January 1, 2014, adopt rules to implement 10 V.S.A. § 4278 as effective on January 1, 2014.

(c) All other sections of the act shall take effect on July 1, 2013.

and that after passage the title of the bill be amended to read: "An act relating to hunting, fishing, and trapping"

**( Committee Vote: 9-0-0)**

#### **H. 112**

An act relating to the labeling of food produced with genetic engineering

**Rep. Bartholomew of Hartland**, for the Committee on **Agriculture and Forest Products**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. FINDINGS

The General Assembly finds and declares that:

(1) U.S. federal law does not provide for the regulation of the safety and labeling of food that is produced with genetic engineering, as evidenced by the following:

(A) U.S. federal labeling and food and drug laws do not require manufacturers of food produced with genetic engineering to label such food as genetically engineered.

(B) As indicated by the testimony of Dr. Robert Merker, a U.S. Food and Drug Administration (FDA) Supervisory Consumer Safety Officer, the FDA has statutory authority to require labeling of food products, but does not consider genetically engineered foods to be materially different from their traditional counterparts to justify such labeling.

(C) No formal FDA policy on the labeling of genetically engineered foods has been adopted. Currently, the FDA only provides nonbinding guidance on the labeling of genetically engineered foods, including a 1992 draft guidance regarding the need for the FDA to regulate labeling of food produced from genetic engineering and a 2001 draft guidance for industry regarding voluntary labeling of food produced from genetic engineering.

(D) The FDA regulates genetically engineered foods in the same way it regulates foods developed by traditional plant breeding.

(E) Under its regulatory framework, the FDA does not independently test the safety of genetically engineered foods. Instead, manufacturers may submit safety research and studies, the majority of which the manufacturers finance or conduct. The FDA reviews the manufacturers' research and reports through a voluntary safety consultation, and issues a letter to the manufacturer acknowledging the manufacturer's conclusion regarding the safety of the genetically engineered food product being tested.

(F) The FDA does not use meta-studies or other forms of statistical analysis to verify that the studies it reviews are not biased by financial or professional conflicts of interest.

(G) There is a lack of consensus regarding the validity of the research and science surrounding the safety of genetically engineered foods, as indicated by the fact that there are peer-reviewed studies published in international scientific literature showing negative, neutral, and positive health results.

(H) There have been no long-term or epidemiologic studies in the United States that examine the safety of human consumption of genetically engineered foods.

(I) Independent scientists are limited from conducting safety and risk-assessment research of genetically engineered materials used in food products due to industry restrictions on the use for research of those genetically engineered materials used in food products.

(2) Genetically engineered foods are increasingly available for human consumption, as evidenced by the fact that:

(A) it is estimated that up to 80 percent of the processed foods sold in the United States are at least partially produced from genetic engineering; and

(B) according to the U.S. Department of Agriculture, in 2012, genetically engineered soybeans accounted for 93 percent of U.S. soybean acreage, and genetically engineered corn accounted for 88 percent of U.S. corn acreage.

(3) Genetically engineered foods pose potential risks to health, safety, agriculture, and the environment, as evidenced by the following:

(A) Independent studies in laboratory animals indicate that the ingestion of genetically engineered foods may lead to health problems such as gastrointestinal damage, liver and kidney damage, reproductive problems, immune system interference, and allergic responses.

(B) The genetic engineering of plants and animals may cause unintended consequences. The use of genetic engineering to manipulate genes by inserting them into organisms is an imprecise process. Mixing plant, animal, bacteria, and viral genes through genetic engineering in combinations that cannot occur in nature may produce results that lead to adverse health or environmental consequences.

(C) The use of genetically engineered crops is increasing in commodity agricultural production practices. Genetically engineered crops promote large-scale monoculture production, which contributes to genetic homogeneity, loss of biodiversity, and increased vulnerability of crops to pests, diseases, and variable climate conditions.

(D) Genetically engineered crops that include pesticides may adversely affect populations of bees, butterflies, and other nontarget insects.

(E) Cross-pollination of or cross-contamination by genetically engineered crops may contaminate organic crops and prevent organic farmers and organic food producers from qualifying for organic certification under federal law.

(F) Cross-pollination from genetically engineered crops may have an adverse effect on native flora and fauna. The transfer of unnatural deoxyribonucleic acid to wild relatives can lead to displacement of those native plants, and in turn, displacement of the native fauna dependent on those wild varieties.

(4) For multiple health, personal, cultural, religious, environmental, and economic reasons, the State of Vermont finds that food produced from genetic engineering should be labeled as such, as evidenced by the following:

(A) Public opinion polls conducted by the Center for Rural Studies at the University of Vermont indicate that a large majority of Vermonters want foods produced with genetic engineering to be labeled as such.

(B) Because genetic engineering, as regulated by this act, involves the direct injection of genes into cells, the fusion of cells, or the hybridization of genes that does not occur in nature, labeling foods produced with genetic engineering as “natural,” “naturally made,” “naturally grown,” “all natural,” or

other similar descriptors is inherently misleading, poses a risk of confusing or deceiving consumers, and conflicts with the general perception that “natural” foods are not genetically engineered.

(C) Persons with certain religious beliefs object to producing foods using genetic engineering because of objections to tampering with the genetic makeup of life forms and the rapid introduction and proliferation of genetically engineered organisms and, therefore, need food to be labeled as genetically engineered in order to conform to religious beliefs and comply with dietary restrictions.

(D) Requiring that foods produced through genetic engineering be labeled as such will create additional market opportunities for those producers who are not certified as organic and whose products are not produced from genetic engineering. Such additional market opportunities will also contribute to vibrant and diversified agricultural communities.

(E) Labeling gives consumers information they can use to make informed decisions about what products they would prefer to purchase.

(5) Because both the FDA and the U.S. Congress do not require the labeling of food produced with genetic engineering, the State should require food produced with genetic engineering to be labeled as such in order to serve the interests of the State, notwithstanding limited exceptions, to prevent inadvertent consumer deception, prevent potential risks to human health, promote food safety, protect cultural and religious practices, protect the environment, and promote economic development.

Sec. 2. 9 V.S.A. chapter 82A is added to read:

CHAPTER 82A: LABELING OF FOOD PRODUCED WITH GENETIC ENGINEERING

§ 3041. PURPOSE

It is the purpose of this chapter to:

(1) Public health and food safety. Promote food safety and protect public health by enabling consumers to avoid the potential risks associated with genetically engineered foods, and serve as a risk management tool enabling consumers, physicians, and scientists to identify unintended health effects resulting from the consumption of genetically engineered foods.

(2) Environmental impacts. Assist consumers who are concerned about the potential effects of genetic engineering on the environment to make informed purchasing decisions.

(3) Consumer confusion and deception. Reduce and prevent consumer confusion and deception and promote the disclosure of factual information on food labels to allow consumers to make informed decisions.

(4) Promoting economic development. Create additional market opportunities for those producers who are not certified organic and whose products are not produced using genetic engineering and to enable consumers to make informed purchasing decisions.

(5) Protecting religious and cultural practice. Provide consumers with data from which they may make informed decisions for personal, religious, moral, cultural, or ethical reasons.

#### § 3042. DEFINITIONS

As used in this chapter:

(1) “Consumer” shall have the same meaning as in subsection 2451a(a) of this title.

(2) “Enzyme” means a protein that catalyzes chemical reactions of other substances without itself being destroyed or altered upon completion of the reactions.

(3) “Genetic engineering” is a process by which a food is produced from an organism or organisms in which the genetic material has been changed through the application of:

(A) in vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) techniques and the direct injection of nucleic acid into cells or organelles; or

(B) fusion of cells (including protoplast fusion) or hybridization techniques that overcome natural physiological, reproductive, or recombination barriers, where the donor cells or protoplasts do not fall within the same taxonomic group, in a way that does not occur by natural multiplication or natural recombination.

(4) “In vitro nucleic acid techniques” means techniques, including recombinant DNA or ribonucleic acid techniques, that use vector systems and techniques involving the direct introduction into the organisms of hereditary materials prepared outside the organisms such as micro-injection, chemoporation, electroporation, micro-encapsulation, and liposome fusion.

(5) “Organism” means any biological entity capable of replication, reproduction, or transferring of genetic material.

(6) “Processed food” means any food other than a raw agricultural commodity and includes any food produced from a raw agricultural

commodity that has been subjected to processing such as canning, smoking, pressing, cooking, freezing, dehydration, fermentation, or milling.

(7) "Processing aid" means:

(A) a substance that is added to a food during the processing of the food but that is removed in some manner from the food before the food is packaged in its finished form;

(B) a substance that is added to a food during processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; or

(C) a substance that is added to a food for its technical or functional effect in the processing but is present in the finished food at levels that do not have any technical or functional effect in that finished food.

(8) "Raw agricultural commodity" means any food in its raw or natural state, including any fruit that is washed, colored, or otherwise treated in its unpeeled natural form prior to marketing.

#### § 3043. LABELING OF FOOD PRODUCED WITH GENETIC ENGINEERING

(a) Except as set forth in section 3044 of this title, food shall be labeled as produced entirely or in part from genetic engineering if it is a product:

(1) offered for retail sale in Vermont; and

(2) entirely or partially produced with genetic engineering.

(b) If a food is required to be labeled under subsection (a) of this section, it shall be labeled as follows:

(1) in the case of a raw agricultural commodity, on the package offered for retail sale, with the clear and conspicuous words, "produced with genetic engineering" or "genetically engineered" on the front of the package of the commodity or in the case of any such commodity that is not separately packaged or labeled, on a label appearing on the retail store shelf or bin in which the commodity is displayed for sale; or

(2) in the case of any processed food that contains a product or products of genetic engineering, in clear and conspicuous language on the front or back of the package of the food, with the words "partially produced with genetic engineering" or "may be partially produced with genetic engineering."

(c) Except as set forth under section 3044 of this title, a food produced entirely or in part from genetic engineering shall not be labeled on the product.

in signage, or in advertising as “natural,” “naturally made,” “naturally grown,” “all natural,” or any words of similar import that would have a tendency to mislead a consumer.

(d) This law shall not be construed to require:

(1) the listing or identification of any ingredient or ingredients that were genetically engineered; or

(2) the placement of the term “genetically engineered” immediately preceding any common name or primary product descriptor of a food.

#### § 3044. EXEMPTIONS

The following foods shall not be subject to the labeling requirements of section 3043 of this title:

(1) Food consisting entirely of or derived entirely from an animal which has not itself been produced with genetic engineering, regardless of whether the animal has been fed or injected with any food or drug produced with genetic engineering.

(2) A raw agricultural commodity or processed food derived from it that has been grown, raised, or produced without the knowing and intentional use of food or seed produced with genetic engineering. Food will be deemed to be as described in this subdivision only if the person otherwise responsible for complying with the requirements of subsection 3043(a) of this title with respect to a raw agricultural commodity or processed food obtains, from whomever sold the commodity or food to that person, a sworn statement that the commodity or food has not been knowingly or intentionally produced with genetic engineering and has been segregated from and has not been knowingly or intentionally commingled with food that may have been produced with genetic engineering at any time. In providing such a sworn statement, any person may rely on a sworn statement from his or her own supplier that contains the affirmation set forth in this subdivision.

(3) Any processed food which would be subject to subsection 3043(a) of this title solely because it includes one or more processing aids or enzymes produced with genetic engineering.

(4) Any beverage that is subject to the provisions of Title 7.

(5) Until July 1, 2019, any processed food that would be subject to subsection 3043(a) of this title solely because it includes one or more materials that have been produced with genetic engineering, provided that the genetically engineered materials in the aggregate do not account for more than nine-tenths of one percent of the total weight of the processed food.

(6) Food that an independent organization has verified has not been knowingly and intentionally produced from or commingled with food or seed produced with genetic engineering. The Office of the Attorney General, after consultation with the Department of Health, shall approve by procedure the independent organizations from which verification shall be acceptable under this section.

(7) Food that has been lawfully certified to be labeled, marketed, and offered for sale as “organic” pursuant to the federal Organic Food Products Act of 1990 and the regulations promulgated pursuant thereto by the U.S. Department of Agriculture.

(8) Food that is not packaged for retail sale and that is:

(A) a processed food prepared and intended for immediate human consumption; or

(B) served, sold, or otherwise provided in any restaurant or other food establishment, as defined in 18 V.S.A. § 4301, that is primarily engaged in the sale of food prepared and intended for immediate human consumption.

(9) Medical food, as that term is defined in 21 U.S.C. § 360ee(b)(3).

#### § 3045. RETAILER LIABILITY

(a) A retailer shall not be liable for the failure to label a processed food as required by section 3043 of this title, unless:

(1) the retailer is the producer or manufacturer of the processed food; or

(2) the retailer sells the processed food under a brand it owns, but the food was produced or manufactured by another producer or manufacturer.

(b) A retailer shall not be held liable for failure to label a raw agricultural commodity as required by section 3043 of this title, provided that the retailer, within 20 days of any proposed enforcement action or notice of violation, obtains a sworn statement in accordance with subdivision 3044(2) of this title.

#### § 3046. SEVERABILITY

If any provision of this subchapter or its application to any person or circumstance is held invalid or in violation of the Constitution or laws of the United States or in violation of the Constitution or laws of Vermont, the invalidity or the violation shall not affect other provisions of this section which can be given effect without the invalid provision or application, and to this end, the provisions of this section are severable.

#### § 3047. PENALTIES; ENFORCEMENT

(a) A violation of this chapter is deemed to be a violation of section 2453 of this title.

(b) The Attorney General shall have the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and consumers shall have the same rights and remedies as provided under subchapter 1 of chapter 63 of this title.

Sec. 3. EFFECTIVE DATE

This act shall take effect on the first occurring of the following two dates:

(1) 18 months after two other states enact legislation with requirements substantially comparable to the requirements of this act for the labeling of food produced from genetic engineering; or

(2) July 1, 2015.

**( Committee Vote: 8-3-0)**

**H. 182**

An act relating to search and rescue

**Rep. Hubert of Milton**, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. chapter 112 is amended to read:

**CHAPTER 112. MISSING PERSONS AND SEARCH AND RESCUE**

**Subchapter 1. Missing Persons**

**§ 1820. DEFINITIONS**

As used in this chapter:

(1) “Missing person” means an individual whose whereabouts is unknown and who is either physically disabled, mentally disabled, developmentally disabled, or an unemancipated minor.

(2) “Unemancipated minor” means an individual under the age of majority who has not married and who resides with a parent or legal guardian.

**§ 1821. MISSING PERSON COMPLAINT**

(a) A person filing a missing person complaint with a law enforcement agency shall provide at a minimum the following information:

(1) the name, age, address, and identifying characteristics of the missing person;

- (2) the length of time the person has been missing;
- (3) the name of the complainant and the relationship of the complainant to the missing person; and
- (4) any other relevant information provided by the complainant or requested by the law enforcement agency.

(b) All law enforcement personnel on active duty shall be notified forthwith that the person is missing.

#### § 1822. MISSING PERSON REPORT

Upon receiving a complaint, the law enforcement agency shall forthwith prepare a missing person report. The report shall include all information contained in the missing person complaint and any information or evidence gathered by a preliminary investigation, if one was made.

#### § 1823. DISSEMINATION OF MISSING PERSON REPORT

(a) Upon completion of the report, a copy shall forthwith be forwarded to the ~~commissioner of public safety~~ Commissioner of Public Safety, all law enforcement agencies within the jurisdiction where the missing person lives or was last seen, and other law enforcement agencies that can reasonably be expected to be involved in any investigation.

(b) A copy of the report shall also be forwarded to:

- (1) all law enforcement agencies to which the complainant reasonably requests the report be sent;
- (2) any law enforcement agency requesting a copy of the missing person report; and
- (3) all media in the region in which the missing person lives, or was last seen, unless such disclosure would impede an ongoing investigation or unless otherwise requested by the complainant.

#### § 1824. SEARCHES FOR MISSING PERSONS

(a) A law enforcement agency shall commence a search for a missing person as soon as a report is received.

(b) Any rule specifying an automatic time limitation before commencing a missing person investigation shall be invalid.

(c) Notwithstanding any provision of law to the contrary, the search for a missing person whose whereabouts is unknown within the backcountry, remote areas, or waters of the State shall be conducted as provided in subchapter 2 of this chapter.

§ 1825. MISSING PERSON COMPLAINTS REGARDING  
UNEMANCIPATED MINORS

If a missing person complaint involves an unemancipated minor, including a runaway child as defined in 13 V.S.A. § 1311, the law enforcement agency shall transmit the report, as soon as it is complete, to the ~~department of public safety~~ Department of Public Safety for inclusion in the National Crime Information Center ~~computer~~ database.

§ 1826. FALSE INFORMATION ON MISSING PERSON

A person who knowingly makes a false report of a missing person, or knowingly makes a false statement in the report shall be fined not more than \$1,000.00.

§ 1827. COMMISSIONER OF PUBLIC SAFETY; COOPERATION

The ~~commissioner of public safety~~ Commissioner of Public Safety shall cooperate with and support all law enforcement agencies in this ~~state~~ State in matters relating to missing persons. When necessary to protect a missing person from harm, the ~~commissioner~~ Commissioner shall coordinate local and state efforts to search for and rescue the missing person.

§ 1828. VERMONT AMBER ALERT PROGRAM

The ~~department of public safety~~ Department of Public Safety shall establish the Vermont Amber ~~alert program~~ Alert Program to aid in the identification and location of abducted children. The ~~department~~ Department shall administer the program pursuant to the following:

- (1) A law enforcement agency which verifies the abduction of a child shall notify the ~~department of public safety~~ Department of Public Safety.
- (2) The ~~department~~ Department shall establish a procedure for verifying the need to issue an Amber ~~alert~~ Alert.
- (3) The ~~department of public safety~~ Department of Public Safety shall issue an alert over the Vermont ~~emergency alert system~~ Emergency Alert System if:
  - (A) a law enforcement agency notifies the ~~department~~ Department of the abduction of a child;
  - (B) there is sufficient information about the child or the person suspected of abducting the child that an immediate broadcast might help locate the child; and
  - (C) the child is in danger of imminent death or serious bodily harm.

(4) An ~~alert~~ Alert issued under this section shall be sent to the Federal Communications Commission's designated state ~~emergency alert system~~ Emergency Alert System broadcaster in Vermont. Participating radio and television stations shall broadcast the ~~alert~~ Alert at intervals established by the ~~department~~ Department. The ~~alert~~ Alert shall include all information which the ~~department~~ Department determines may assist in the safe recovery of the abducted child and instructions explaining how a person with information related to the abduction may contact a law enforcement agency.

(5) A law enforcement agency which locates a child who is the subject of an ~~alert~~ Alert issued under this section shall immediately notify the law enforcement agency which requested the Amber ~~alert~~ Alert.

(6) An ~~alert~~ Alert issued under this section shall be canceled:

(A) if the ~~department~~ Department notifies the Federal Communications Commission's designated state ~~emergency alert system~~ Emergency Alert System broadcaster in Vermont that the child has been located; or

(B) at the expiration of a notification period specified by the ~~department~~ Department.

(7) A radio or television station that accurately broadcasts information pursuant to this section shall not be liable for civil damages as a result of the broadcast of such information.

## Subchapter 2. Search and Rescue

### § 1841. DEFINITIONS

As used in this chapter:

(1) "Public safety agency" means any municipal, county, or state agency or organization within the State that specializes in protecting the safety of the public.

(2) "Search and rescue" means the deployment, coordination, and utilization of available resources and personnel in locating, relieving the distress, and preserving the lives of and removing persons who are missing or lost in the backcountry, remote areas, or waters of the State.

### § 1842. COMMISSIONER OF PUBLIC SAFETY; JURISDICTION OVER SEARCH AND RESCUE OPERATIONS; COORDINATION

(a) The Commissioner of Public Safety shall have jurisdiction over all search and rescue operations.

(b)(1) The Commissioner shall cooperate with and support all public safety agencies and any nonpublic entities that specialize in protecting the safety of the public in this State in matters relating to search and rescue operations. When necessary to protect a person missing in the backcountry, remote areas, or waters of the State from harm, the Commissioner shall coordinate local, county, state, and any nonpublic efforts to search for and rescue that person.

(2) The Commissioner shall specifically coordinate with game wardens in the Department of Fish and Wildlife as needed to search for and rescue a person missing or lost in the backcountry, remote areas, or waters of the State.

#### § 1843. INCIDENT COMMAND SYSTEM; TRAINING

(a) The Commissioner shall ensure that all search and rescue operations are conducted using the incident command system in order to provide the seamless integration of all responding search and rescue agencies and organizations. Incident command is a standardized, on-scene approach to incident management that allows all responders to adopt a collaborative, integrated organizational structure while respecting agency and jurisdictional authorities.

(b) All Search and Rescue Team members within the Department of Public Safety shall maintain equipment standards and high-level search and rescue training and training on the incident command system as established by the Search and Rescue Council set forth in section 1847 of this subchapter. The Search and Rescue Team shall regularly conduct search and rescue training with collaborating agencies and organizations with the goal of continually refining search and rescue operations.

#### § 1844. SEARCH AND RESCUE COORDINATOR

(a) The Search and Rescue Coordinator shall be responsible for the general support of search and rescue operations conducted in the State. The Search and Rescue Coordinator shall be a permanent classified position within the Department of Public Safety and shall not be a law enforcement officer.

(b) The duties of the Coordinator shall include:

(1) assessing and populating with resources the database set forth in section 1846 of this subchapter as provided in that section;

(2) maintaining records of all search and rescue operations reported to the Department, including the date of the operation, the resources that assisted in the operation, and the result of the operation;

(3) maintaining records of all training completed by the Search and Rescue Team; and

(4) communicating with public safety agencies and any nonpublic entities that specialize in protecting the safety of the public regarding search and rescue training and equipment standards.

§ 1845. SEARCH AND RESCUE REPORT; RESPONSE

(a) Report of a person missing; response.

(1) A public safety agency taking a report of any person missing in the backcountry, remote areas, or waters of the State shall immediately:

(A) respond and take immediate action to locate the person reported missing; and

(B) notify the Department of Public Safety to advise of the situation.

(2) A nonpublic entity that specializes in protecting the safety of the public and is included in the search and rescue database set forth in section 1846 of this subchapter which takes a report of any person missing in the backcountry, remote areas, or waters of the State:

(A) shall immediately notify the Department of Public Safety to advise of the situation; and

(B) may respond and take immediate action to locate the person reported missing.

(b) Department of Public Safety response.

(1) When provided with a report of a person missing in the backcountry, remote areas, or waters of the State, the Department shall ensure that notification is made to its Search and Rescue Team and the Team, in consultation with the entity providing the report, shall determine the appropriate level of response needed based on best practices in search and rescue operations.

(2) The Department shall ensure that an immediate response to any report of a person missing in the backcountry, remote areas, or waters of the State is made, including immediate action to locate the person reported missing.

§ 1846. SEARCH AND RESCUE DATABASE

The Department of Public Safety shall populate and use a search and rescue database as set forth in this section.

(1) The Search and Rescue Coordinator, on a geographic basis, shall identify all agencies and organizations having specific search and rescue response capability. The points of contact for each agency and organization having specific search and rescue capability shall be compiled and entered into

the search and rescue database. The database shall be updated on a regular basis by the Search and Rescue Coordinator.

(2) When the Search and Rescue Team determines that additional resources are necessary to respond to a search and rescue operation, the Team shall use this database in order to deploy properly those additional resources.

#### § 1847. SEARCH AND RESCUE COUNCIL

(a) Creation of council. There is created a Search and Rescue Council which shall be responsible for analyzing the performance of search and rescue operations conducted in the State.

(b)(1) Membership. The Council shall be composed of eight members who shall serve two-year terms commencing on July 1 of each odd-numbered year. Members of the Council shall be as follows:

(A) the Search and Rescue Coordinator;

(B) the Vermont State Police Search and Rescue Team Leader;

(C) one member of the House of Representatives, appointed by the Speaker of the House;

(D) one member of the Senate, appointed by the Senate Committee on Committees;

(E) one member of the Department of Fish and Wildlife, appointed by the Commissioner of the Department;

(F) one member of the public with experience in search and rescue operations, appointed by the Governor;

(G) one member of the National Ski Patrol or the Green Mountain Club with extensive experience in search and rescue operations, appointed by the Governor; and

(H) one member of a professional or volunteer search and rescue organization, appointed by the Governor.

(2) The appointed members shall be appointed to reflect the different geographic regions of the State.

(c) Powers and duties. The Council shall:

(1) meet quarterly and upon the call of the Chair;

(2) establish the search and rescue training and equipment standards that shall be required of members of the Search and Rescue Team;

(3) review completed search and rescue operations and make recommendations to search and rescue resources on how those operations may be improved; and

(4) at its discretion and subject to the provisions of 32 V.S.A. § 5, apply for and accept contributions, capital grants, gifts, services, and funds from any source.

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

(e) Report. The Council shall report annually to the House and Senate Committees on Government Operations its findings and any recommendations for legislative action.

(f) Reimbursement. Members of the Council who are not employees of the State of Vermont shall be entitled to compensation as provided in 32 V.S.A. § 1010.

#### § 1848. FALSE REPORT OR STATEMENT

A person who knowingly makes a false report of a person missing in the backcountry, remote areas, or waters of the State or knowingly makes a false statement in the report shall be fined not more than \$1,000.00.

Sec. 2. 20 V.S.A. § 2365a is added to read:

#### § 2365a. SEARCH AND RESCUE TRAINING

A person shall receive search and rescue training approved by the Vermont Criminal Justice Training Council and the Vermont Search and Rescue Council as part of basic training in order to become certified as a law enforcement officer.

#### Sec. 3. REALLOCATION OF POSITION WITHIN THE DEPARTMENT OF PUBLIC SAFETY; SEARCH AND RESCUE COORDINATOR

(a) Within its existing financial resources and existing positions, the Department of Public Safety shall reallocate one position and necessary funding to establish by July 1, 2013 the position of Search and Rescue Coordinator set forth in Sec. 1, 20 V.S.A. § 1844, of this act.

(b) Any duties required by this act to be performed by the Search and Rescue Coordinator shall be performed by the Commissioner of Public Safety or his or her designee prior to the establishment of the position of Search and Rescue Coordinator as required by subsection (a) of this section.

Sec. 4. EFFECTIVE DATES

This act shall take effect on passage, except Sec. 1, 20 V.S.A. § 1846 (search and rescue database), which shall take effect no later than 15 days after passage of this act. The search and rescue database shall be established, populated, and used as set forth in 20 V.S.A. § 1846 upon its effective date.

( Committee Vote: 9-0-2)

**Rep. Manwaring of Wilmington**, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations** and when further amended as follows:

amended in Sec. 1, 20 V.S.A. § 1847 (search and rescue council), in subsection (f) (reimbursement), after the first sentence, by adding “Legislative members of the Council shall be entitled to the same per diem compensation and reimbursement for necessary expenses for attendance at a meeting when the General Assembly is not in session as provided to members of standing committees under 2 V.S.A. § 406.”

( Committee Vote: 9-0-2)

**H. 262**

An act relating to establishing a program for the collection and recycling of paint

**Rep. Ellis of Waterbury**, for the Committee on **Natural Resources and Energy**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. chapter 159, subchapter 4 is added to read:

Subchapter 4. Paint Stewardship Program

§ 6671. POLICY

The General Assembly finds and declares that it is in the best interest of Vermont to have an environmentally sound, cost-effective paint stewardship program that will undertake responsibility for the development and implementation of strategies to reduce the generation of postconsumer paint; promote the reuse of postconsumer paint and; and collect, transport, and process postconsumer paint, including reuse, recycling, energy recovery, and disposal. The paint stewardship program will follow the waste management hierarchy for managing and reducing leftover paint in the order as follows: reduce consumer generation of leftover paint, reuse, recycle, provide for energy recovery, and dispose. The paint stewardship program will provide more opportunities for consumers to manage properly their leftover paint;

provide fiscal relief for local government in managing postconsumer paint; keep paint out of the waste stream; and conserve natural resources.

§ 6672. DEFINITIONS

As used in this subchapter:

(1) “Architectural paint” means interior and exterior architectural coatings, including interior or exterior water- and oil-based coatings, primers, sealers, or wood coatings, that are sold in containers of five gallons or less. “Architectural paint” does not mean industrial coatings, original equipment coatings, or specialty coatings.

(2) “Distributor” means a company that has a contractual relationship with one or more producers to market and sell architectural paint to retailers in Vermont.

(3) “Energy recovery” means recovery in which all or a part of the solid waste materials are processed in order to use the heat content or other forms of energy of or from the material.

(4) “Environmentally sound management practices” means policies to be implemented by a producer or a stewardship organization to ensure compliance with all applicable laws and also addressing such issues as adequate record keeping, tracking and documenting the fate of materials within the State and beyond, and adequate environmental liability coverage for professional services and for the operations of the contractors working on behalf of the producer organization.

(5) “Municipality” means a city, town, or a village.

(6) “Paint stewardship assessment” means a one-time charge that is:

(A) added to the purchase price of architectural paint sold in Vermont;

(B) passed from the producer to the wholesale purchaser to the retailer and then to a retail consumer; and

(C) necessary to cover the cost of collecting, transporting, and processing the postconsumer paint managed through the statewide program.

(7) “Postconsumer paint” means architectural paint and its containers not used and no longer wanted by a purchaser.

(8) “Producer” means a manufacturer of architectural paint who sells, offers for sale, or distributes that paint in Vermont under the producer’s own name or brand.

(9) “Recycling” means any process by which discarded products, components, and by-products are transformed into new usable or marketable materials in a manner in which the original products may lose their identity but does not include energy recovery or energy generation by means of combusting discarded products, components, and by-products with or without other waste products.

(10) “Retailer” means any person that offers architectural paint for sale at retail in Vermont.

(11) “Reuse” means the return of a product into the economic stream for use in the same kind of application as originally intended, without a change in the product’s identity.

(12) “Secretary” means the Secretary of Natural Resources.

(13) “Sell” or “sale” means any transfer of title for consideration, including remote sales conducted through sales outlets, catalogues, or the Internet or any other similar electronic means.

(14) “Stewardship organization” means a corporation, nonprofit organization, or other legal entity created by a producer or group of producers to implement the paint stewardship program required under this subchapter.

#### § 6673. PAINT STEWARDSHIP PROGRAM

(a) A producer or a stewardship organization representing producers shall submit a plan for the establishment of a paint stewardship program to the Secretary for approval by March 1, 2014. The plan shall address the following:

(1) Provide a list of participating producers and brands covered by the program.

(2) Provide specific information on the architectural paint products covered under the program, such as interior or exterior water- and oil-based coatings, primers, sealers, or wood coatings.

(3) Describe how the program proposed under the plan will collect, transport, recycle, and process postconsumer paint for end-of-life management, including recycling, energy recovery, and disposal, using environmentally sound management practices.

(4) Describe the program and how it will provide for convenient and available statewide collection of postconsumer architectural paint in urban and rural areas of the State. The producer or stewardship organization shall use the existing household hazardous waste collection infrastructure when selecting collection points for postconsumer architectural paint. A paint retailer shall be

authorized as a paint collection point of postconsumer architectural paint for a paint stewardship program if the paint retailer volunteers to act as a paint collection point and complies with all applicable laws and regulations.

(5) Provide geographic information modeling to determine the number and distribution of sites for collection of postconsumer architectural paint based on the following criteria:

(A) at least 90 percent of Vermont residents shall have a permanent collection site within a 15-mile radius; and

(B) one additional permanent site will be established for every 10,000 residents of a municipality and additional sites shall be distributed to provide convenient and reasonably equitable access for residents within each municipality, unless otherwise approved by the Secretary.

(6) Establish goals to reduce the generation of postconsumer paint, to promote the reuse of postconsumer paint, and for the proper management of postconsumer paint as practical based on current household hazardous waste program information. The goals may be revised by the producer or stewardship organization based on the information collected for the annual report.

(7) Describe how postconsumer paint will be managed in the most environmentally and economically sound manner, including following the waste-management hierarchy of source reduction, reuse, recycling, energy recovery, and disposal.

(8) Describe education and outreach efforts to inform consumers of collection opportunities for postconsumer paint and to promote the source reduction and recycling of architectural paint for each of the following: consumers, contractors, and retailers.

(b) A plan submitted under subsection (a) of this section shall include a funding mechanism under which each architectural paint producer remits to a stewardship organization payment of a paint stewardship assessment for each container of architectural paint it sells in this State. The paint stewardship assessment shall be added to the cost of all architectural paint sold in Vermont. To ensure that the funding mechanism is equitable and sustainable, a uniform paint stewardship assessment shall be established for all architectural paint sold. The paint stewardship assessment shall be approved by the Secretary and shall be sufficient to recover, but not exceed, the costs of the paint stewardship program.

(c) Beginning no later than July 1, 2014, or three months after approval of the plan for a paint stewardship program required under subsection (a) of this

section, whichever occurs later, a producer of architectural paint sold at retail or a stewardship organization of which a producer is a member shall implement the approved plan for a paint stewardship program.

(d) A producer or a stewardship organization of which a producer is a member shall promote a paint stewardship program and provide consumers with educational and informational materials describing collection opportunities for postconsumer paint statewide and promotion of waste prevention, reuse, and recycling. The educational and informational program shall make consumers aware that the funding for the operation of the paint stewardship program has been added to the purchase price of all architectural paint sold in the State.

(e) A plan approved under this section shall provide for collection of postconsumer architectural paint at no cost to the person from whom the architectural paint is collected.

(f) When a plan or amendment to an approved plan is submitted under this section, the Secretary shall make the proposed plan or amendment available for public review and comment for at least 15 days.

(g) A producer or paint stewardship organization shall submit to the Secretary an amendment to an approved plan when there is:

- (1) a change to a paint stewardship assessment under the plan;
- (2) an addition to or removal of a product covered under the program; or
- (3) a revision of the product stewardship organization's goals.

(h) A plan approved by the Secretary under section 6675 of this title shall have a term not to exceed five years, provided that the producer remains in compliance with the requirements of this chapter and the terms of the approved plan.

(i) Upon submission of a plan to the Secretary under this section, a producer or a stewardship organization shall pay the fee required by 3 V.S.A. § 2822(j). Thereafter, the producer or stewardship organization shall pay the fee required by 3 V.S.A. § 2822(j) annually by July 1 of each year.

#### § 6674. RETAILER RESPONSIBILITY

(a) A producer or retailer may not sell or offer for sale architectural paint to any person in Vermont unless the producer of that architectural paint brand or a stewardship program of which the producer of that architectural paint brand is a member is implementing an approved plan for a paint stewardship program as required by section 6673 of this title. A retailer complies with the requirements of this section if, on the date the architectural paint was ordered

from the producer or its agent, the producer or paint brand is listed on the Agency of Natural Resources' website as a producer or brand participating in an approved plan for a paint stewardship program.

(b) At the time of sale to a consumer, a producer, a stewardship organization, or a retailer selling or offering architectural paint for sale shall provide the consumer with information regarding available management options for post-consumer paint collected through the paint stewardship program or a brand of paint being sold under the program.

#### § 6675. AGENCY RESPONSIBILITY

(a) Within 90 days of receipt of a plan submitted under section 6673 of this title, the Secretary shall review the plan and make a determination whether or not to approve the plan. The Secretary shall issue a letter of approval for a submitted plan if it provides for the establishment of a paint stewardship program that meets the requirements of subsections 6673(a) and (b) of this title. If the Secretary does not approve a plan, the Secretary shall issue to the paint stewardship organization a letter listing the reasons for the disapproval of the plan. If the Secretary disapproves a plan, a paint stewardship organization intending to sell or continue to sell architectural paint in the State shall submit a new plan within 60 days of receipt of the letter of disapproval.

(b) The Secretary shall review and approve the stewardship assessment proposed by a producer pursuant to subsection 6673(c) of this title. In approving a proposed stewardship assessment, the Secretary shall determine that the assessment is reasonable and the assessment does not exceed the costs of implementing an approved plan.

(c) Facilities solely collecting paint for the paint stewardship program that would not otherwise be subject to solid waste certification requirements shall not be required to obtain a solid waste certification. Persons solely transporting paint for the paint stewardship program that would not otherwise be subject to solid waste hauler permitting requirements shall not be required to obtain a solid waste hauler's permit.

#### § 6676. ANTICOMPETITIVE CONDUCT

A producer or an organization of producers that manages post-consumer paint, including collection, transport, recycling, and processing of postconsumer paint, as required by this subchapter may engage in anticompetitive conduct to the extent necessary to implement the plan approved by the Secretary and is immune from liability for the conduct under state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

§ 6677. PRODUCER REPORTING REQUIREMENTS

No later than October 15, 2015, and annually thereafter, a producer or a stewardship program of which the producer is a member shall submit to the Secretary a report describing the paint stewardship program that the producer or stewardship program is implementing as required by section 6673 of this title. At a minimum, the report shall include:

- (1) a description of the methods the producer or stewardship program used to reduce, reuse, collect, transport, recycle, and process postconsumer paint statewide in Vermont;
- (2) the volume and type of postconsumer paint collected by the producer or stewardship program at each collection center in all regions of Vermont;
- (3) the volume of postconsumer paint collected by the producer or stewardship program in Vermont by method of disposition, including reuse, recycling, energy recovery, and disposal;
- (4) an independent financial audit of the paint stewardship program implemented by the producer or the stewardship program; and
- (5) samples of the educational materials that the producer or stewardship program provided to consumers of architectural paint.

§ 6678. CONFIDENTIAL BUSINESS INFORMATION

Data reported to the Secretary by a producer or stewardship organization under this subchapter shall be a trade secret exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that the Secretary may use and disclose such information in summary or aggregated form that does not directly or indirectly identify individual producers, distributors, or retailers. The Secretary may require, as a part of the report submitted under section 6677 of this title, that the manufacturer or stewardship organization provide a report that does not contain trade secret information and is available for public inspection and review.

§ 6679. RULEMAKING; PROCEDURE

The Secretary may adopt rules or procedures to implement the requirements of this subchapter.

Sec. 2. 3 V.S.A. § 2822(j) is added to read:

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the agency of natural resources.

\* \* \*

(31) For continuing review of plans required by 10 V.S.A. § 6673:  
\$15,000.00.

Sec. 3. AGENCY OF NATURAL RESOURCES REPORT ON PAINT  
STEWARDSHIP ASSESSMENT

On or before March 15, 2014, the Secretary of Natural Resources shall report to the House and Senate Committees on Natural Resources and Energy, the House Committee on Ways and Means, and the Senate Committee on Finance regarding the paint stewardship assessment proposed by architectural paint producers or stewardship organizations under 10 V.S.A. § 6673. The report shall include:

- (1) a summary of the number of paint producers or stewardship organizations submitting plans;
- (2) the paint stewardship assessment proposed in any submitted plan;
- (3) a recommendation from the Secretary as to whether a proposed paint stewardship assessment is adequate or should be modified; and
- (4) a recommendation from the Secretary whether and at what amount to establish a statutory maximum cap on the amount of a paint stewardship assessment.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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

**Public Hearings**

March 12, 2013 - Room 11 - 6:00-8:00 PM - H. 223, Lake Shore Protection

**Information Notice**

**CROSSOVER DEADLINES**

The following bill reporting deadlines are established for the 2013 session:

(1) From the standing committee of last reference, excluding the Committees on Appropriations and Ways and Means, all House bills must be reported out of committee on or before March 15, 2013.

(2) House bills referred pursuant to House Rule 35a, must be reported out of the Committees on Appropriations and Ways and Means on or before March 22, 2013.