

# House Calendar

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Thursday, April 11, 2013

93rd DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**Action Postponed Until April 11, 2013**

**Third Reading**

**H. 198**

An act relating to the Legacy Insurance Management Act

**Amendment to be offered by Rep. Wilson of Manchester to H. 198**

In Sec. 3, 8 V.S.A. § 7112, subsection (k), by striking out the word “Any” and by inserting in lieu thereof “Except as provided in subsection 7114(f) of this chapter, any”

**Action Postponed Until April 11, 2013**

**Favorable**

**H. 521**

An act relating to making miscellaneous amendments to education law.

(Rep. Stuart of Brattleboro will speak for the Committee on Education.)

Rep. Manwaring of Wilmington, for the Committee on Appropriations, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

**Amendment to be offered by Rep. Branagan of Georgia to H. 521**

By striking out Secs. 16 through 18 in their entirety and inserting in lieu thereof three new sections to be Secs. 16 through 18 to read:

Sec. 16. INDEPENDENT AND PUBLIC SCHOOLS; RESEARCH

(a) Creation of committee. There is created a committee to research and consider the relationship among and the relative responsibilities, opportunities, and challenges of public schools and approved independent schools that receive publicly funded tuition dollars.

(b) Membership. The members of the Committee shall be as follows:

(1) the Secretary of Education or designee, who shall serve as the Committee’s Chair;

(2) the Executive Director of the Vermont Independent Schools Association or designee;

(3) one head of an approved independent school in Vermont that receives publicly funded tuition, appointed by the Vermont Independent Schools Association;

(4) one trustee of an approved independent school in Vermont that receives publicly funded tuition, appointed by the Vermont Independent Schools Association;

(5) the Executive Director of the Vermont Superintendents Association or designee;

(6) the Executive Director of the Vermont School Boards Association or designee;

(7) the Executive Director of the Vermont–National Education Association or designee;

(8) the Executive Director of the Vermont Council of Special Education Administrators or designee; and

(9) the Chair of the Council on Independent Schools created in 16 V.S.A. § 166(d) or designee.

(c) Committee's charge. The Committee shall:

(1) explore and compare:

(A) the structure of and financial costs of providing education by public schools and approved independent schools receiving publicly funded tuition dollars in Vermont;

(B) the educational opportunities provided and the measurable student outcomes achieved by public schools and approved independent schools receiving publicly funded tuition dollars in Vermont; and

(C) differences in admissions policies, special education services, assessments, school-based meals programs, and teacher licensing in public schools and approved independent schools receiving publicly funded tuition dollars in Vermont; and

(2) consider ways in which either or both systems can be modified to serve the best interests of all students.

(d) Assistance. For purposes of its study of these issues, the Committee shall have the assistance of the Agency of Education.

(e) Report. By November 1, 2013, the Committee shall report its findings to the Senate and House Committees on Education.

(f) Term of Committee. The Committee shall cease to exist on July 1,

2014.

Sec. 17. [Deleted.]

Sec. 18. [Deleted.]

## **NEW BUSINESS**

### **Third Reading**

#### **H. 529**

An act relating to approval of an amendment to the charter of the Winooski Incorporated School District related to the term of district treasurer

#### **S. 3**

An act relating to allowing participation in out-of-state contests requiring a fee to enter

#### **S. 159**

An act relating to various amendments to Vermont's land use control law and related statutes

### **Favorable with Amendment**

#### **S. 104**

An act relating to expedited partner therapy

**Rep. Dakin of Chester**, for the Committee on **Health Care**, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 1, subsection (c), by striking "Centers for Disease Control and Prevention (CDC)" and inserting in lieu thereof "Commissioner"

Second: In Sec. 1, subsection (d), by striking "CDC" and inserting in lieu thereof "Centers for Disease Control and Prevention"

Third: In Sec. 2, subsection (d), by striking "CDC" and inserting in lieu thereof "Centers for Disease Control and Prevention"

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

**(For text see Senate Journal 3/20/2013 )**

## Senate Proposal of Amendment

### H. 131

An act relating to harvesting guidelines and procurement standards

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 4, 30 V.S.A. § 248(b)(11), by striking out subparagraphs (B) and (C) in their entirety and inserting in lieu thereof the following:

(B) ~~incorporate commercially available and feasible designs to achieve a reasonable~~ an optimum design system efficiency for the type and design of the proposed facility, taking into account commercial availability, feasibility, and cost-effectiveness; and

(C) comply with harvesting guidelines procedures and procurement standards that ~~are consistent~~ ensure long-term forest health and sustainability. These procedures and standards at a minimum shall comply with the guidelines and standards developed by the secretary of natural resources pursuant to 10 V.S.A. § 2750 (harvesting guidelines and procurement standards) when adopted under that statute. The requirement to comply with harvesting guidelines and procurement standards under 10 V.S.A. § 2750 when adopted shall apply to any woody biomass facility approved under this section on or after April 15, 2013 regardless of whether that approval is issued prior to the adoption of those guidelines and standards.

Second: By striking out Sec. 5 (period of guideline and standard development; application of Public Service Board criterion) in its entirety.

And by renumbering the remaining section to be numerically correct

(No House Amendments )

**Action Postponed Until April 16, 2013**

**Favorable with Amendment**

### H. 512

An act relating to approval of amendments to the charter of the City of Barre

**Rep. Higley of Lowell**, for the Committee on **Government Operations**, recommends the bill be amended as follows:

amended in Sec. 2, in 24 App. V.S.A. chapter 1, section 407 (appointments), as follows:

First: After “~~and board of aldermen~~”, by striking out “Board of Councilors” and inserting in lieu thereof “City Council”

Second: After “the ~~selectmen~~”, by striking out “selectboard” and inserting in lieu thereof “City Council”

( Committee Vote: 11-0-0)

## NOTICE CALENDAR

### Favorable with Amendment

#### H. 200

An act relating to civil penalties for possession of marijuana

**Rep. Waite-Simpson of Essex**, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) ~~A No~~ person shall knowingly and unlawfully ~~possessing~~ possess more than one ounce of marijuana or cultivate marijuana. For a first offense under this subdivision (A), a person shall be afforded the opportunity to participate in court diversion unless the prosecutor states on the record why a referral to court diversion would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense ~~under this subdivision of knowingly and unlawfully possessing more than one ounce of marijuana or cultivating marijuana~~ shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing ~~marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight~~ of two ounces or more ~~containing any~~ of marijuana or knowingly and unlawfully cultivating more than three plants of

marijuana shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing ~~marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight~~ of one pound or more containing any of marijuana or knowingly and unlawfully cultivating more than 10 plants of marijuana shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing ~~marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight~~ of 10 pounds or more of marijuana or knowingly and unlawfully cultivating more than 25 plants of marijuana shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5) Prior to accepting a plea of guilty or a plea of nolo contendere from a defendant charged with a violation of this subsection, the court shall address the defendant personally in open court, informing the defendant and determining that the defendant understands that admitting to facts sufficient to warrant a finding of guilt or pleading guilty or nolo contendere to the charge may have collateral consequences such as loss of education financial aid, suspension or revocation of professional licenses, and restricted access to public benefits such as housing. If the court fails to provide the defendant with notice of collateral consequences in accordance with this subdivision and the defendant later at any time shows that the plea and conviction may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty.

\* \* \*

(d) Only the portion of a marijuana-infused product that is attributable to marijuana shall count toward the possession limits of this section. The weight of marijuana that is attributable to marijuana-infused products shall be determined according to methods set forth in rule by the Department of Public Safety in accordance with chapter 86 of this title (therapeutic use of cannabis).

Sec. 2. 18 V.S.A. § 4230a is added to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON OVER 21 YEARS  
OF AGE; CIVIL PENALTY

(a) No person shall knowingly and unlawfully possess marijuana. A person 21 years of age or older who violates this section shall be assessed a civil



penalty of not more than \$300.00.

(b)(1) Except as otherwise provided in this section, a person who possesses marijuana in an amount less than the amount in subdivision 4230(a)(1) (criminal possession of marijuana) or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under state law.

(2) A violation of this section shall not result in the creation of a criminal history record of any kind.

(c)(1) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.

(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and subject to seizure and forfeiture, unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).

(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.

(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense.

(e)(1) Upon request by a law enforcement officer who reasonably suspects that a person has committed or is committing a violation of this section, the person shall give his or her name and address to the law enforcement officer and shall produce a Vermont operator's license, a Vermont identification card, a passport, or another suitable form of identification.

(2) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(3) The person may be detained only until the person identifies himself or herself satisfactorily to the officer. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a Criminal Division of the Superior Court judge for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

(f) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be retained by the State for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation which shall be retained by the State. The remaining 50 percent shall be paid to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

Sec. 3. 18 V.S.A. § 4230b is added to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; CIVIL PENALTY

(a) Offense. No person shall knowingly and unlawfully possess marijuana. A person under 21 years of age who violates this section commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, and a civil penalty of \$300.00 for a first or second offense and not more than \$1,000.00 for a third or subsequent offense.

(b) Issuance of Notice of Violation. A law enforcement officer shall issue a person under 21 years of age who violates this section a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty and a 90-day suspension of the person's operator's license and may face substantially increased insurance rates;

(3) no money should be submitted to pay any penalty until after

adjudication; and

(4) the person shall notify the Diversion Program if the person's address changes.

(c) Summons and Complaint. When a person is issued a notice of violation under this section, the law enforcement officer shall complete a summons and complaint for the offense and send it to the Diversion Program in the county where the offense occurred. The summons and complaint shall not be filed with the Judicial Bureau at that time.

(d) Registration in Youth Substance Abuse Safety Program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for the Youth Substance Abuse Safety Program. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(e) Notice to Report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the person's driver's license will be suspended for 90 days, and the person's automobile insurance rates may increase substantially.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

(f)(1) Diversion Program Requirements. Upon being contacted by a person

who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a state-certified or state-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(2) Substance abuse screening required under this subsection shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at his or her own expense.

(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense which the diversion program has imposed, the diversion program shall:

(A) void the summons and complaint with no penalty due; and

(B) send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, or any other information which identifies the person.

(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any required program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(5) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(g) Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the

Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made.

(h) Record of Adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section.

Sec. 4. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR  
POSSESSION OF ALCOHOL

(a) A person shall not consume alcoholic beverages or smoke marijuana while operating a motor vehicle on a public highway. As used in this section, "alcoholic beverages" shall have the same meaning as "intoxicating liquor" as defined in section 1200 of this title.

\* \* \*

(d) A person who violates subsection (a) of this section shall be fined not more than \$500.00. A person who violates subsection (b) of this section shall be fined not more than \$25.00. A person convicted and fined for an offense under subsection (a) of this section shall not be subject to prosecution for the same actions under subsection (b) of this section.

Sec. 5. 23 V.S.A. § 1134(a) is amended to read:

(a) A person shall not consume alcoholic beverages ~~or smoke marijuana~~ while operating a motor vehicle on a public highway. As used in this section, "alcoholic beverages" shall have the same meaning as "intoxicating liquor" as defined in section 1200 of this title.

Sec. 6. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

\* \* \*

(b) The ~~judicial bureau~~ Judicial Bureau shall have jurisdiction of the following matters:

\* \* \*

(24) Violations of 18 V.S.A. §§ 4230a and 4230b , relating to possession of marijuana.

\* \* \*

#### Sec. 7. TASK FORCE

(a) Creation of task force. There is created a Task Force for the purpose of developing recommendations to the General Assembly to address drugged driving in Vermont and whether the penalties for possession of alcohol by a person under 21 years of age should be the same as the penalties for possession of an ounce or less of marijuana by a person under 21 years of age as provided in this act.

(b) Membership. The Task Force shall be composed of four members as follows:

(1) the Commissioner of Public Safety or designee;

(2) the Commissioner of Health or designee;

(3) the Executive Director of State's Attorneys and Sheriffs or designee;  
and

(4) the Defender General or designee.

(c) Report. By November 1, 2013, the Task Force shall report to the House and Senate Committees on Judiciary its findings and any recommendations for legislative action.

#### Sec. 8. EFFECTIVE DATES

(a) This section and Sec. 7 of this act shall take effect on passage.

(b) Sec. 5 of this act shall take effect on July 1, 2014.

(c) The remaining sections of this act shall take effect on July 1, 2013.

**( Committee Vote: 9-2-0)**

#### **S. 7**

An act relating to social networking privacy protection

**Rep. Weed of Enosburgh**, for the Committee on **General, Housing and Military Affairs**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. SOCIAL NETWORKING PRIVACY PROTECTION STUDY COMMITTEE

(a) A Committee is established to study the issue of prohibiting employers from requiring employees or applicants for employment to disclose a means of accessing the employee's or applicant's social network account.

(b) The Committee shall examine:

(1) existing social networking privacy laws and proposed legislation in other states;

(2) the interplay between state law and existing or proposed federal law on the subject of social networking privacy and employment; and

(3) any other issues relevant to social networking privacy or employment.

(c) The Committee shall make recommendations, including proposed legislation.

(d) The Committee shall consist of the following members:

(1) two representatives of employers, one appointed by the Speaker of the House and one by the Committee on Committees;

(2) two representatives from labor organizations, one appointed by the Speaker and one by the Committee on Committees;

(3) the Attorney General or designee;

(4) the Commissioner of Labor or designee;

(5) the Commissioner of Financial Regulation or designee;

(6) the Commissioner of Human Resources or designee;

(7) the Commissioner of Public Safety or designee;

(8) the Executive Director of the Human Rights Commission or designee; and

(9) a representative of the American Civil Liberties Union of Vermont.

(e) The Committee shall convene its first meeting on or before September 1, 2013. The Commissioner of Labor or designee shall be designated Chair of the Committee and shall convene the first and subsequent meetings.

(f) The Committee shall report its findings and recommendations on or before January 15, 2014 to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs.

(g) The Committee shall cease to function upon transmitting its report.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

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

**(For text see Senate Journal 3/20/2013 and 3/21/2013 )**

**Favorable**

**H. 525**

An act relating to approval of amendments to the charter of the Town of Stowe

**Rep. Cole of Burlington**, for the Committee on **Government Operations**, recommends the bill ought to pass.

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

**Consent Calendar**

**Concurrent Resolutions**

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

**H.C.R. 97**

House concurrent resolution honoring Girls on the Run of Vermont, Inc.

**H.C.R. 98**

House concurrent resolution congratulating the 2012 Randolph Union High School Galloping Ghosts Division III championship girls' cross-country team

**H.C.R. 99**

House concurrent resolution honoring Lyndon State College and designating April 17, 2013 as Green and Gold Day

**H.C.R. 100**

House concurrent resolution congratulating the 2013 Mt. Abraham Union High School Eagles Division II championship girls' basketball team



**H.C.R. 101**

House concurrent resolution congratulating Joel Najman on his 30th anniversary as Vermont Public Radio's rock and roll impresario

**H.C.R. 102**

House concurrent resolution congratulating Gandin Brothers, Inc. of South Ryegate on its 100th anniversary

**H.C.R. 103**

House concurrent resolution commemorating the semiquincentennial anniversary of the Town of Westford

**H.C.R. 104**

House concurrent resolution congratulating Christian DeKett of St. Johnsbury Academy on winning the 2013 Vermont State Poetry Out Loud championship

**S.C.R. 21**

Senate concurrent resolution congratulating Brattleboro on its tenth anniversary

**Public Hearings**

**April 18, 2013** - Room 11 - 6:00-8:00 PM - H. 208 Earned Sick Days - House General, Housing and Military Affairs

**April 17, 2013** - Room 11, 5:30-7:30 PM - H. 225, Statewide Policy on Training Requirements for Electronic Control Devices (Tasers) - House Government Operations

**April 16, 2013** - House Chamber, 5:30-7:30 PM - S. 77, Patient Choice and Control at End of Life - Human Services and Judiciary