

# House Calendar

---

Friday, April 19, 2013

101st DAY OF THE BIENNIAL SESSION

House Convenes at 9:30 A.M.

---

## TABLE OF CONTENTS

---

**Page No.**

### **ACTION CALENDAR**

#### **Action Postponed Until April 19, 2013**

##### **Third Reading**

<b>H. 536</b> The Adjutant and Inspector General and the Vermont National Guard .....	1034
Rep. Kilmartin amendment .....	1034

### **NOTICE CALENDAR**

#### **Favorable with Amendment**

<b>H. 54</b> Public Records Act exemptions .....	1035
Rep. Hubert for Government Operations	
<b>H. 226</b> The regulation of underground storage tanks .....	1036
Rep. Krebs for Fish, Wildlife and Water Resources	
Rep. Masland for Ways and Means .....	1043
Rep. Keenan for Appropriations .....	1045
<b>H. 403</b> Community supports for persons with serious functional impairments .....	1045
Rep. Haas for Human Services	
Rep. Manwaring for Appropriations .....	1047
<b>H. 517</b> Approval of the adoption and the codification of the charter of the Town of St. Albans .....	1048
Rep. Consejo for Government Operations	
Rep. Wilson for Ways and Means .....	1048
<b>S. 47</b> An act relating to protection orders and second degree domestic assault .....	1049
Rep. Fay for Judiciary	

**S. 161** An act relating to mitigation of traffic fines and approval of a DLS Diversion Program contract..... 1056  
Rep. Wizowaty for Judiciary

**Favorable**

**H. 152** The Route 102 resurfacing project ..... 1057  
Rep. Deen for Fish, Wildlife and Water Resources

**Consent Calendar**

**H.C.R. 105** Congratulating the 2013 Proctor High School Phantoms Division IV championship girls' basketball team ..... 1057

**H.C.R. 106** Congratulating the 2012 Proctor High School Phantoms Division IV championship boys' soccer team..... 1057

**H.C.R. 107** Congratulating The Palms Restaurant on its 80th anniversary 1057

**H.C.R. 108** Commemorating the 60th anniversary of the Korean War Armistice Agreement..... 1057

**H.C.R. 109** Commemorating the sestercentennial anniversary of the town of Newbury ..... 1057

**H.C.R. 110** Designating April 24, 2013 as National Walk@Lunch Day in Vermont..... 1057

**H.C.R. 111** Commemorating the sestercentennial anniversary of the Town of Essex..... 1058

**H.C.R. 112** Designating April 26 as Long-Term Care Ombudsman Day in Vermont..... 1058

**H.C.R. 113** Congratulating the 2013 Champlain Valley Union High School Redhawks Division I championship girls' basketball team ..... 1058

**H.C.R. 114** Congratulating the Vermont Debate and Forensics League State Tournament champions at Champlain Valley Union High School ..... 1058

**H.C.R. 115** Congratulating the 2013 Champlain Valley Union High School Redhawks Division I championship girls' and boys' Nordic ski teams..... 1058

**S.C.R. 22** Senate concurrent resolution congratulating Margaret Jane Kelly of Barre on her 90th birthday..... 1058

**S.C.R. 23** Senate concurrent resolution designating April 19, 2013 as Vermont Golf Day. .... 1058

---

---

**ORDERS OF THE DAY**

---

---

**ACTION CALENDAR**

**Action Postponed Until April 19, 2013**

**Third Reading**

**H. 536**

An act relating to the Adjutant and Inspector General and the Vermont National Guard

**Amendment to be offered by Rep. Kilmartin of Newport City to H. 536**

First: in Sec. 1, 2 V.S.A. § 12, by striking subsection (c) and inserting in lieu thereof a new subsection (c) to read:

(c) A candidate for Adjutant and Inspector General shall:

(1) be a resident of Vermont;

(2) have served in the U.S. Armed Forces and attained at least the rank of Lieutenant Colonel;

(3) be a commissioned officer or a former commissioned officer of the Army, Air Force, Air National Guard, or Air Force Reserves;

(4) be a current member of the U.S. Armed Forces or be capable of being brought back to active service;

(5) be a graduate of a Senior Service college (SSC) or be able to complete the course of study by the end of the first two-year term;

(6) be recommended by the Adjutant and Inspector General Recommendation Board once having met the criteria in subdivisions (1)-(5) of this subsection pursuant to 20 V.S.A. § 371.

Second: In Sec. 3, 20 V.S.A. § 370, by striking subsection (d) and inserting in lieu thereof a new subsection (d) to read:

(d) The Board shall adopt rules under 3 V.S.A. chapter 25 which shall establish criteria and standards for determining whether candidates for Adjutant and Inspector General have met the qualifications in 2 V.S.A. § 12(c)(1)-(5).

**NOTICE CALENDAR**  
**Favorable with Amendment**  
**H. 54**

An act relating to Public Records Act exemptions

**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. DRAFT PUBLIC RECORDS BILL; OFFICE OF LEGISLATIVE COUNCIL

(a) To advance the objectives of 2011 Acts and Resolves No. 59, Sec. 11, which created a Public Records Legislative Study Committee (“Committee”) charged with reviewing the requirements of the Public Records Act and the numerous exemptions to that Act, staff of the Office of Legislative Council (“staff”) shall prepare and submit to the Committee a draft bill on or before November 1, 2013 that:

(1) lists in one statutory provision in 1 V.S.A. chapter 5, subchapter 3 all exemptions to the public inspection and copying requirements of the Public Records Act that are set forth throughout the Vermont Statutes Annotated;

(2) amends existing exemptions to the Public Records Act set forth throughout the Vermont Statutes Annotated in order to cross-reference the list required under subdivision (1) of this subsection; and

(3) amends exemptions to the Public Records Act as recommended by the Committee in its 2012 and 2013 annual reports, as those recommendations were proposed to be updated in version 3.2 of the House Government Operation Committee’s draft strike-all amendment to House Bill No. 54.

(b) In preparing the draft bill required under subsection (a) of this section, staff shall consolidate exemptions that relate to the same subject matter into a single exemption, if consolidation does not alter the substance of an exemption. Staff shall prepare for the Committee’s review a list of exemptions for which consolidation may be appropriate, but for which consolidation would potentially alter the substance of an exemption.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

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

**H. 226**

An act relating to the regulation of underground storage tanks

**Rep. Krebs of South Hero**, 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. § 1922 is amended to read:

§ 1922. DEFINITIONS

~~For purposes of~~ As used in this chapter:

\* \* \*

(20) “Petroleum Cleanup Fund” or “Fund” means the fund created by section 1941 of this title.

(21) “Motor Fuel Account” means the Motor Fuel Account of the Fund created by section 1941 of this title.

(22) “Heating Fuel Account” means the Heating Fuel Account of the Fund created by section 1941 of this title.

Sec. 2. 10 V.S.A. § 1927 is amended to read:

§ 1927. REGULATION OF CATEGORY ONE TANKS

\* \* \*

(e) The following tank systems shall be closed in accordance with rules adopted by the Secretary:

(1) not later than January 1, 2016, single-wall tank systems; and

(2) not later than January 1, 2018, combination tank systems, except that combination tank systems in which the tank has been lined shall be closed by January 1, 2018 or by ten years from the date by which the tank was lined, whichever is later.

(f) A tank owner may petition the Secretary to allow a lined combination tank system to remain in service an additional five years beyond the date established in subdivision (e)(2) of this section. The Secretary may grant the petition upon a determination that:

(1) no release has occurred from the tank system;

(2) the tank system has passed an inspection for lined tank systems adopted by the Secretary by rule; and

(3) no repairs are suggested or needed to the tank liner.

(g) On and after the effective date of this subsection, a person shall not line a single-wall or combination tank system, unless the single-wall or combination system meets standards for new lined systems adopted by procedure by the Secretary. At a minimum, these standards shall address the tank system's piping, secondary containment for all portions of the system except the tank, leak detection, liquid tight containment sumps on the tank top, and liquid tight dispenser sumps.

(h) Notwithstanding the provisions of subsection (g) of this section, a person shall not line a single-wall or combination tank system after January 1, 2014.

Sec. 3. 10 V.S.A. § 1941 is amended to read:

§ 1941. PETROLEUM CLEANUP FUND

\* \* \*

(b) The ~~secretary~~ Secretary may authorize disbursements from the ~~fund~~ Fund for the purpose of the cleanup and restoration of contaminated soil and groundwater caused by releases of petroleum from underground storage tanks and aboveground storage tanks, including air emissions for remedial actions, and for compensation of third parties for injury and damage caused by a release. This ~~fund~~ Fund shall be used for no other governmental purposes, nor shall any portion of the ~~fund~~ Fund ever be available to borrow from by any branch of government; it being the intent of the ~~legislature~~ General Assembly that this ~~fund~~ Fund and its increments shall remain intact and inviolate for the purposes set out in this chapter. Disbursements under this section may be made only for uninsured costs incurred after January 1, 1987 and for which a claim is made prior to July 1, ~~2014~~ 2019 and judged to be in conformance with prevailing industry rates. This includes:

(1) costs incurred by taking corrective action as directed by the ~~secretary~~ Secretary for any release of petroleum into the environment from:

(A) an underground storage tank defined as a category one tank, provided disbursements on any site shall not exceed \$1,240,000.00 and shall be made from the Motor Fuel Account, as follows:

(i) after the first \$10,000.00 of the cleanup costs have been borne by the owners or operators of ~~tanks~~ double-wall tank systems used for commercial purposes or after the first \$250.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities equal to or less than 1,100 gallons used for farms or residential purposes. Disbursements on any site shall not exceed \$1,240,000.00. These disbursements shall be made from the motor fuel account;

(ii) after the first \$15,000.00 of cleanup costs have been borne by the owners or operators of combination tank systems, whether lined or unlined, used for commercial purposes, unless the system is a lined combination tank system that has been granted a five-year extension under subsection 1927(f) of this title;

(iii) after the first \$25,000.00 of cleanup costs have been borne by the owners or operators of lined combination tank systems that have been granted a five-year extension to operate under subsection 1927(f) of this title;

(iv) after the first \$25,000.00 of cleanup costs have been borne by the owners or operators of single-wall tank systems used for commercial purposes;

(B) an underground motor fuel tank after the first \$250.00 of the cleanup costs have been borne by the owners or operators of tanks with a capacity equal to or less than 1,100 gallons and used for farming or residential purposes. Disbursements on any site shall not exceed \$990,000.00 and shall be made from the Motor Fuel Account;

(C) an underground heating fuel tank used for on-premise heating after the first \$10,000.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities over 1,100 gallons used for commercial purposes, or after the first \$250.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities equal to or less than 1,100 gallons used for commercial purposes, or after the first \$250.00 of the cleanup costs have been borne by the owners or operators of residential and farm tanks. ~~These disbursements~~ Disbursements on any site shall not exceed \$990,000.00 and shall be made from the ~~heating fuel account~~ Heating Fuel Account;

~~(C)(D)~~ (D) an aboveground storage tank site after the first \$1,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes, or after the first \$250.00 of the cleanup costs have been borne by the owners or operators of residential and farm tanks. Disbursements under this subdivision (b)(1)(~~C)(D)~~ on any individual site shall not exceed \$25,000.00. These disbursements shall be made from the ~~motor fuel account or heating fuel account~~ Motor Fuel Account or Heating Fuel Account, depending upon the use or contents of the tank;

~~(D)(E)~~ (E) a bulk storage aboveground motor fuel or heating fuel storage tank site after the first \$10,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes. Disbursements under this subdivision (b)(1)(~~D)(E)~~ on any individual site shall not exceed \$990,000.00. These disbursements shall be made from the ~~motor fuel account~~ Motor Fuel Account;

~~(E)~~(F) ~~where~~ if a site is contaminated by petroleum releases from both heating fuel and motor fuel tanks, or where the source of the petroleum contamination has not been ascertained, the ~~secretary~~ Secretary shall have the discretion to disburse funds from either the ~~heating oil or motor fuel account~~ Heating Fuel or Motor Fuel Account, or both;

\* \* \*

(g) The owner of a farm or residential heating fuel storage tank used for on-premises heating or an underground or aboveground heating fuel storage tank used for on-premises heating by a mobile home park resident, as defined in section 6201 of this title, who desires assistance to close, replace, or upgrade the tank may apply to the ~~secretary~~ Secretary for such assistance. The financial assistance may be in the form of grants of up to \$2,000.00 or the costs of closure, replacement, or upgrade, whichever is less. Grants shall be made only to the current property owners, except at mobile home parks where a grant may be awarded to a mobile home park resident. To be eligible to receive the grant, an environmental site assessment must be conducted by a qualified consultant during the tank closure, replacement, or upgrade if the tank is an underground heating fuel storage tank. In addition, if the closed tank is to be replaced with an underground heating fuel storage tank, the replacement tank and piping shall provide a level of environmental protection at least equivalent to that provided by a double wall tank and secondarily contained piping. Grants shall be awarded on a priority basis to projects that will avoid the greatest environmental or health risks. The ~~secretary~~ Secretary shall also give priority to applicants who are replacing their underground heating fuel tanks with aboveground heating fuel storage tanks that will be installed in accordance with the ~~secretary's~~ Secretary's recommended standards. The ~~secretary~~ Secretary shall also give priority to lower income applicants. To be eligible to receive the grant, the owner must provide the previous year's financial information, and, if the replacement tank is an aboveground tank, must assure that any work to replace or upgrade a tank shall be done in accordance with industry standards (National Fire Protection Association, or NFPA, Code 31), as it existed on July 1, 2004, until another date or edition is specified by rule of the ~~secretary~~ Secretary. The ~~secretary~~ Secretary shall only authorize up to ~~\$300,000.00~~ \$350,000.00 in assistance for underground and aboveground heating fuel tanks in any one fiscal year from the ~~heating fuel account~~ Heating Fuel Account for this purpose. The application must be accompanied by the following information:

\* \* \*

Sec. 4. 10 V.S.A. § 1942 is amended to read:

§ 1942. PETROLEUM DISTRIBUTOR LICENSING FEE



(a) There is hereby established a licensing fee of one cent per gallon of motor fuel sold by a distributor or dealer or used by a user in this ~~state~~ State, which will be assessed against every distributor, dealer, or user as defined in 23 V.S.A. chapters 27 and 28, and which will be deposited into the ~~petroleum cleanup fund~~ Petroleum Cleanup Fund established pursuant to subsection 1941(a) of this title. The ~~secretary~~ Secretary, in consultation with the ~~petroleum cleanup fund advisory committee~~ Petroleum Cleanup Fund Advisory Committee established pursuant to subsection 1941(e) of this title, shall annually report to the ~~legislature~~ General Assembly on the balance of the ~~motor fuel account of the fund~~ Motor Fuel Account and shall make recommendations, if any, for changes to the program. The ~~secretary~~ Secretary shall also determine the unencumbered balance of the ~~motor fuel account of the fund~~ Motor Fuel Account as of May 15 of each year, and if the balance is equal to or greater than \$7,000,000.00, then the licensing fee shall not be assessed in the upcoming fiscal year. The ~~secretary~~ Secretary shall promptly notify all sellers assessing this fee of the status of the fee for the upcoming fiscal year. This fee will be paid in the same manner, at the same time, and subject to the same restrictions or limitations as the tax on motor fuels. The fee will be collected by the ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles and deposited into the ~~petroleum cleanup fund~~ Petroleum Cleanup Fund. This fee requirement shall terminate on April 1, ~~2016~~ 2021.

(b) There is assessed against every seller receiving more than \$10,000.00 annually for the bulk retail sale of heating oil, kerosene, or other dyed diesel fuel sold in this ~~state~~ State a licensing fee of one cent per gallon of such heating oil, kerosene, or other dyed diesel fuel. This fee shall be subject to the collection, administration, and enforcement provisions of 32 V.S.A. chapter 233, and the fees collected under this subsection by the ~~commissioner of taxes~~ Commissioner of Taxes shall be deposited into the ~~petroleum cleanup fund~~ Petroleum Cleanup Fund established pursuant to subsection 1941(a) of this title. The ~~secretary~~ Secretary, in consultation with the ~~petroleum cleanup fund advisory committee~~ Petroleum Cleanup Fund Advisory Committee established pursuant to subsection 1941(e) of this title, shall annually report to the ~~legislature~~ General Assembly on the balance of the ~~heating fuel account of the fund~~ Heating Fuel Account and shall make recommendations, if any, for changes to the program. The ~~secretary~~ Secretary shall also determine the unencumbered balance of the ~~heating fuel account of the fund~~ Heating Fuel Account as of May 15 of each year, and if the balance is equal to or greater than \$3,000,000.00, then the licensing fee shall not be assessed in the upcoming fiscal year. The ~~secretary~~ Secretary shall promptly notify all sellers assessing this fee of the status of the fee for the upcoming fiscal year. This fee provision shall terminate April 1, ~~2016~~ 2021.

Sec. 5. 10 V.S.A § 1943 is amended to read:

§ 1943. PETROLEUM TANK ASSESSMENT

(a) Each owner of a category one tank used for storage of petroleum products shall ~~annually~~ remit to the ~~secretary on October 1 of each year~~ Secretary \$100.00 per double-wall tank system; ~~\$150.00~~ \$250.00 per combination tank system if the single-wall tank has been lined; ~~\$500.00 for all other combination tank systems~~; and ~~\$200.00~~ \$1,000.00 per single-wall tank system, which shall be deposited to the ~~petroleum cleanup fund~~ Petroleum Cleanup Fund established by section 1941 of this title, except that:

~~(1) For retail gasoline outlets that sell less than 40,000 gallons of motor fuel per month, the fee shall be:~~

- ~~(A) \$75.00 per double wall tank system;~~
- ~~(B) \$125.00 per combination tank system; and~~
- ~~(C) \$175.00 per single wall tank system.~~

~~(2)~~ The fee shall be reduced by 50 percent if the owner or permittee provides to the satisfaction of the ~~secretary~~ Secretary evidence of financial responsibility to allow the taking of corrective action in the amount of \$100,000.00 per occurrence and the compensation of third parties for bodily injury and property damage in the amount of \$300,000.00 per occurrence.

~~(3)~~(2) The fee shall be relieved if the owner provides to the satisfaction of the ~~secretary~~ Secretary, evidence of financial responsibility to allow the taking of corrective action and the compensation of third parties for bodily injury and property damage each in the amount of \$1,000,000.00 per occurrence.

~~(4) The fee for retail motor fuel outlets selling 20,000 gallons or less per month shall not exceed \$100.00 per year for all double wall tanks at a single location and shall not exceed \$300.00 for all combination tank systems at a single location. This cap shall not apply to a retail motor fuel outlet utilizing a single wall tank system.~~

~~(5) For any municipality that uses an annual average of less than 40,000 gallons of motor fuel per month, provided that all of the tanks of that municipality meet the requirements of this chapter, the fee shall be:~~

- ~~(A) \$50.00 per double wall tank system;~~
- ~~(B) \$100.00 per combination tank system; and~~
- ~~(C) \$150.00 per single wall tank system.~~

\* \* \*

(c) This tank assessment shall terminate on July 1, ~~2014~~ 2019.

\* \* \*

Sec. 6. 10 V.S.A. § 1944(a) is amended to read:

(a) The ~~secretary~~ Secretary may make individual loans of up to ~~\$75,000.00~~ \$150,000.00 for:

(1) the replacement or removal of category one tanks used for the storage of petroleum products. These loans shall be made from the ~~motor fuel account of the fund established under subsection 1941(a) of this title~~ Motor Fuel Account;

(2) the removal, or the replacement or improvement, or both, of piping, tank-top sumps, and other components of the secondary containment and release detection systems of category one tanks, for the purpose of reducing the likelihood of a release of regulated substance to the environment. These loans shall be made from the ~~motor fuel account of the fund established under subsection 1941(a) of this title~~ Motor Fuel Account;

(3) the removal, replacement, or upgrade of an underground or aboveground storage tank used for the storage of petroleum products for the purpose of reducing the likelihood of a release of petroleum into the environment. These loans shall be made from the ~~motor fuel account or heating fuel account of the fund established under subsection 1941(a) of this title~~ Motor Fuel Account or Heating Fuel Account depending upon the use or contents of the tank.

Sec. 7. 10 V.S.A. § 1941a is added to read:

§ 1941a. SINGLE-WALL AND COMBINATION TANKS; TANK REMOVAL

(a) Notwithstanding the requirements of 10 V.S.A. § 1941(b)(1)(A)(iv), when a release is discovered during the closure and removal of a single-wall underground storage tank, the Fund may pay cleanup costs after the first \$10,000.00, and disbursements on any site shall not exceed \$1,240,000.00.

(b) Notwithstanding the requirements of 10 V.S.A. § 1941(b)(1)(A)(ii), when a release is discovered during the closure and removal of a combination tank system, whether lined or unlined, the Fund may pay cleanup costs after the first \$10,000.00, and disbursements on any site shall not exceed \$1,240,000.00.

Sec. 8. PETROLEUM CLEANUP FUND ADVISORY COMMITTEE REPORT FOR 2014

The annual report of the Petroleum Cleanup Fund Advisory Committee to be submitted to the General Assembly on January 15, 2014 pursuant to 10

V.S.A. § 1941 shall provide recommendations as to whether:

(1) 10 V.S.A. § 1941(b) should enable the Secretary to make disbursements from the Fund for the purpose of removing or remediating underground or aboveground storage tanks that present an actual or imminent threat of release;

(2) there should be an increase in the total annual amount that the Secretary is authorized to disburse pursuant to 10 V.S.A. § 1941(g) (grants to close, replace, or upgrade farm or residential underground or aboveground heating fuel storage tanks); and

(3) there should be an increase in the individual grant amount that the Secretary is authorized to disburse pursuant to 10 V.S.A. § 1941(g) (grants to close, replace, or upgrade farm or residential underground or aboveground heating fuel storage tanks).

Sec. 9. REPEAL

The following are repealed:

(1) 10 V.S.A. § 1941a(a) on January 1, 2016;

(2) 10 V.S.A. § 1941a(b) on January 1, 2018.

Sec. 10. EFFECTIVE DATES

This act shall take effect on passage, except Sec. 5 (petroleum tank assessment) of this act shall take effect on July 1, 2014.

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

**Rep. Masland of Thetford**, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Fish, Wildlife & Water Resources** and when further amended as follows:

First: In Sec. 4, 10 V.S.A. § 1942, in subsection (b), by striking the first sentence and inserting in lieu thereof the following: “There is assessed ~~against every seller receiving more than \$10,000.00 annually for the bulk retail sale of heating oil, kerosene, or other dyed diesel fuel sold in this state~~ a licensing fee of one cent per gallon for the bulk retail sale of such heating oil, kerosene, or other dyed diesel fuel sold in this State.”

Second: By striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read:

Sec. 5. 10 V.S.A. § 1943 is amended to read:

§ 1943. PETROLEUM TANK ASSESSMENT

(a) Each owner of a category one tank used for storage of petroleum products shall annually remit to the ~~secretary on October 1 of each year~~ Secretary \$100.00 per double-wall tank system; ~~\$150.00~~ \$250.00 per combination tank system if the single-wall tank has been lined; ~~\$500.00 for all other combination tank systems~~; and ~~\$200.00~~ \$1,000.00 per single-wall tank system, which shall be deposited to the ~~petroleum cleanup fund~~ Petroleum Cleanup Fund established by section 1941 of this title, except that:

(1) For retail gasoline outlets that sell less than 40,000 gallons of motor fuel per month, the fee shall be:

- (A) \$75.00 per double-wall tank system;
- (B) \$125.00 per combination tank system; and
- (C) \$175.00 per single-wall tank system.

(2) The fee shall be reduced by 50 percent if the owner or permittee provides to the satisfaction of the ~~secretary~~ Secretary evidence of financial responsibility to allow the taking of corrective action in the amount of \$100,000.00 per occurrence and the compensation of third parties for bodily injury and property damage in the amount of \$300,000.00 per occurrence.

(3) The fee shall be relieved if the owner provides to the satisfaction of the ~~secretary~~ Secretary, evidence of financial responsibility to allow the taking of corrective action and the compensation of third parties for bodily injury and property damage each in the amount of \$1,000,000.00 per occurrence.

(4) The fee for retail motor fuel outlets selling 20,000 gallons or less per month shall not exceed \$100.00 per year for all double-wall tanks at a single location and shall not exceed \$300.00 for all combination tank systems at a single location. This cap shall not apply to a retail motor fuel outlet utilizing a single-wall tank system.

(5) For any municipality that uses an annual average of less than 40,000 gallons of motor fuel per month, provided that all of the tanks of that municipality meet the requirements of this chapter, the fee shall be:

- (A) \$50.00 per double-wall tank system;
- (B) \$100.00 per combination tank system; and
- (C) \$150.00 per single-wall tank system.

\* \* \*

(c) This tank assessment shall terminate on July 1, ~~2014~~ 2019.

\* \* \*

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

**Rep. Keenan of St. Albans City**, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Fish, Wildlife & Water Resources and Ways and Means**.

**(Committee Vote: 11-0-0)**

### **H. 403**

An act relating to community supports for persons with serious functional impairments

**Rep. Haas of Rochester**, for the Committee on **Human Services**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. STUDY AND REPORT ON PROVIDING COMMUNITY  
SUPPORTS TO PERSONS WITH SERIOUS FUNCTIONAL  
IMPAIRMENTS

(a) As used in this act, “designated population” shall mean those Vermont residents, regardless of whether they are in the custody of the Commissioner of Corrections, with mental and functional impairments or developmental disorders so severe that they cannot live in the community without substantial supports and who have committed, been charged with, or have been identified as being at risk of committing a criminal offense that renders them a threat to public safety or who pose a risk to their own physical safety, or both.

(b) A legislative study committee is established to identify and examine the needs of the designated population in community-based settings. The Study Committee shall consist of a member from the House Committees on Appropriations, on Corrections and Institutions, on Human Services, and on Judiciary, not all from the same party, appointed by the Speaker of the House, and a member from the Senate Committees on Appropriations, on Health and Welfare, on Judiciary, and one Senator selected at large, not all from the same party, appointed by the Committee on Committees. The Study Committee shall discuss and make recommendations on legislative and nonlegislative solutions for improving the quality and cost-effectiveness of treatment to the designated population while maintaining public safety, in collaboration with the following organizations and individuals or their designee:

- (1) the Secretary of Human Services;
- (2) the Commissioner of Health;
- (3) the Commissioner of Disabilities, Aging, and Independent Living;
- (4) the Commissioner of Mental Health;
- (5) the Commissioner of Corrections;

- (6) the Commissioner of Vermont Health Access;
- (7) the Commissioner for Children and Families;
- (8) the Office of the Attorney General;
- (9) the Mental Health Care Ombudsman;
- (10) the Court Administrator;
- (11) the Vermont Council of Developmental and Mental Health Services;
- (12) Vermont Legal Aid's Mental Health Law Project;
- (13) the Executive Director of the Vermont Developmental Disabilities Council;
- (14) the Executive Director of the Vermont Human Rights Commission;
- (15) Disability Rights Vermont;
- (16) Vermont Psychiatric Survivors;
- (17) Office of the Defender General's Prisoners' Rights Office; and
- (18) other interested stakeholders.

(c)(1) The first meeting of the Study Committee shall be held on or before August 1, 2013. At its first meeting, the Study Committee shall elect two legislative members to serve as co-chairs. The Study Committee shall not meet more than four times.

(2)(A) The Office of Legislative Council shall provide administrative, staff, and legislative drafting support to the Study Committee. The Joint Fiscal Office shall provide staff support to the Study Committee.

(B) Prior to the first meeting of the Study Committee, the Office of Legislative Council shall collect from the Agency of Human Services existing data and background materials relevant to the responsibilities of the Study Committee.

(d) The Study Committee shall consider:

(1) the continuum of appropriate treatment and services and supports for members of the designated population living in the community;

(2) practices for lowering the incarceration rate among the designated population;

(3) how best to protect the legal rights of members of the designated population living in community settings;

(4) approaches for managing public safety risks of the designated population;

(5) cost-saving opportunities for treating members of the designated population outside a correctional facility;

(6) treatment approaches used in other states that cost-effectively manage the public safety risks posed by residents comparable to the designated population; and

(7) any other issues as the Study Committee deems necessary and appropriate.

(e) On or before December 15, 2013, the Study Committee shall provide a written report containing any proposed legislation and its findings and recommendations, including the need for future action, to the House Committees on Appropriations, on Corrections and Institutions, on Human Services, and on Judiciary and to the Senate Committees on Appropriations, on Health and Welfare, and on Judiciary. In addition to the Study Committee's findings and recommendations, the report shall:

(1) develop proposed guidelines specifying how an individual shall be assessed to determine if he or she is a member of the designated population and what benchmarks shall be achieved by the individual prior to declassification from the designated population; and

(2) address the extent to which one or more secure residential recovery facilities are within the appropriate continuum of treatment alternatives for the designated population.

(f) For physical participation at meetings, legislative members of the Study Committee shall be entitled to receive per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

**( Committee Vote: 11-0-0)**

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

First: In Sec. 1, subsection (b), by adding a sentence after the first sentence to read: "The Study Committee shall also be charged with determining how to most effectively allocate funds for the designated population within the constraints of past appropriations made for the purpose of serving this population."



Second: In Sec. 1, subdivision (c)(2)(B), by adding before the period “including past appropriations used to serve the designated population”

Third: In Sec. 1, subsection (e), subdivision (1), by striking “and” after the semicolon

and in subdivision (2), by striking the period and inserting in lieu thereof “and”

and by inserting a subdivision (3) to read as follows:

(3) evaluate the cost of potential treatment opportunities found by the Study Committee to appropriately balance care, legal rights, and public safety.

( Committee Vote: 11-0-0)

### H. 517

An act relating to approval of the adoption and the codification of the charter of the Town of St. Albans

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

In Sec. 2, 24 App. V.S.A. chapter 150, in § 3 (local option tax), by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) If the Selectboard of the Town of St. Albans by a majority vote recommends, the voters of the Town may, at an annual or special meeting warned for the purpose, by a majority vote of those present and voting, assess any or all of the following:

(1) a one-percent sales tax;

(2) a one-percent meals and alcoholic beverages tax;

(3) a one-percent rooms tax.

( Committee Vote: 11-0-0)

**Rep. Wilson of Manchester**, for the Committee on **Ways and Means**, 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. 2, in 24 App. V.S.A. chapter 150, § 3 (local option tax), by striking out subsections (b)–(d) and inserting in lieu thereof the following:

(b) Any local option tax assessed under subsection (a) of this section shall be collected and administered and may be rescinded as provided by the general laws of this State.

( Committee Vote: 8-3-0)

**S. 47**

An act relating to protection orders and second degree domestic assault

**Rep. Fay of St. Johnsbury**, for the Committee on **Judiciary**, 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. 15 V.S.A. § 1105 is amended to read:

§ 1105. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the rules of civil procedure and may be served by any law enforcement officer.

(b) A defendant who attends a hearing held under section 1103 or 1104 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order.

(c) Abuse orders shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders. Orders shall be served in a manner calculated to insure ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the defendant. A defendant who attends a hearing held under section 1103 or 1104 of this title at which a temporary or final order under this chapter is issued, and who receives notice from the court on the record that the order has been issued, shall be deemed to have been served.

~~(b)~~(d) If service of a notice of hearing issued under section 1103 or 1104 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

Sec. 2. 15 V.S.A. § 1105 is amended to read:

§ 1105. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the rules of civil procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.

(b) A defendant who attends a hearing held under section 1103 or 1104 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) Abuse orders shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the defendant.

(d) If service of a notice of hearing issued under section 1103 or 1104 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

Sec. 3. 12 V.S.A. § 5135 is amended to read:

§ 5135. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer.

(b) A defendant who attends a hearing held under section 5133 or 5134 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order.

(c) Orders against stalking or sexual assault shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders, with the exception of abuse prevention orders issued pursuant to 15 V.S.A. chapter 21. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place that the order was delivered personally to the defendant.

~~(b)(d)~~ If service of a notice of hearing issued under section 5133 or 5134

of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

Sec. 4. 12 V.S.A. § 5135 is amended to read:

§ 5135. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.

(b) A defendant who attends a hearing held under section 5133 or 5134 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) Orders against stalking or sexual assault shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders, with the exception of abuse prevention orders issued pursuant to 15 V.S.A. chapter 21. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place that the order was delivered personally to the defendant.

(d) If service of a notice of hearing issued under section 5133 or 5134 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

Sec. 5. 33 V.S.A. § 6937 is amended to read:

§ 6937. SERVICE

(a) A petition or ex parte temporary order or final order issued under this subchapter shall be served by any sheriff or constable or any municipal or state police officer in accordance with the Vermont Rules of Civil Procedure.

(b) A defendant who attends a hearing held under section 6935 of this title

at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order.

(c) The person making service shall file a return of service with the court stating the date, time and place at which the order was delivered personally to the defendant.

Sec. 6. 33 V.S.A. § 6937 is amended to read:

§ 6937. SERVICE

(a) A petition or ex parte temporary order or final order issued under this subchapter shall be served by any sheriff or constable or any municipal or state police officer in accordance with the Vermont Rules of Civil Procedure. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.

(b) A defendant who attends a hearing held under section 6935 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) The person making service shall file a return of service with the court stating the date, time and place at which the order was delivered personally to the defendant.

Sec. 7. 12 V.S.A. § 5136 is amended to read:

§ 5136. PROCEDURE

(a) Except as otherwise specified in this chapter, proceedings commenced under this chapter shall be in accordance with the Vermont Rules of Civil Procedure and shall be in addition to any other available civil or criminal remedies.

(b) ~~The court administrator~~ Court Administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to superior court. Law enforcement agencies shall assist in carrying out the intent of this section.

(c) ~~The office~~ Office of the ~~court administrator~~ Court Administrator shall

ensure that the superior court has procedures in place so that the contents of orders and pendency of other proceedings can be known to all courts for cases in which an order against stalking or sexual assault proceeding is related to a criminal proceeding.

(d) Unless otherwise ordered by the court, an order issued pursuant to sections 5133 and 5134 of this title shall not be stayed pending an appeal.

Sec. 8. 15 V.S.A. § 1103 is amended to read:

§ 1103. REQUESTS FOR RELIEF

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of him or herself or his or her children by filing a complaint under this chapter. The plaintiff shall submit an affidavit in support of the order.

\* \* \*

(c)(1) The court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the court finds that the defendant has abused the plaintiff, and:

\* \* \*

(2) The court order may include the following:

(A) an order that the defendant refrain from abusing the plaintiff, his or her children, or both and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the children in person, by phone, or by mail and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or children are likely to spend time;

(B) an order that the defendant immediately vacate the household and that the plaintiff be awarded sole possession of a residence;

(C) a temporary award of parental rights and responsibilities in accordance with the criteria in section 665 of this title;

(D) an order for parent-child contact under such conditions as are necessary to protect the child or the plaintiff, or both, from abuse. An order for parent-child contact may if necessary include conditions under which the plaintiff may deny parent-child contact pending further order of the court;

(E) if the court finds that the defendant has a duty to support the plaintiff, an order that the defendant pay the plaintiff's living expenses for a fixed period of time not to exceed three months;

(F) if the court finds that the defendant has a duty to support the child or children, a temporary order of child support pursuant to chapter 5 of this title, for a period not to exceed three months. A support order granted under this section may be extended if the relief from abuse proceeding is consolidated with an action for legal separation, divorce, or parentage;

(G) an order concerning the possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household;

(H) an order that the defendant return any personal documentation in his or her possession, including immigration documentation, birth certificates, and identification cards:

(i) pertaining to the plaintiff; or

(ii) pertaining to the plaintiff's children if relief is sought for the children or for good cause shown.

\* \* \*

Sec. 9. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

(a) In accordance with the rules of civil procedure, temporary orders under this chapter may be issued ex parte, without notice to defendant, upon motion and findings by the court that defendant has abused plaintiff, his or her children, or both. The plaintiff shall submit an affidavit in support of the order. Relief under this section shall be limited as follows:

(1) ~~upon~~ Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:

(A) to refrain from abusing the plaintiff, his or her children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household; ~~and~~

(B) to refrain from interfering with the plaintiff's personal liberty, the personal liberty of plaintiff's children, or both; ~~and~~

(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment.

(2) ~~upon~~ Upon a finding that the plaintiff, his or her children, or both have been forced from the household and will be without shelter unless the defendant is ordered to vacate the premises, the court may order the defendant

to vacate immediately the household and may order sole possession of the premises to the plaintiff;

(3) ~~upon~~ Upon a finding that there is immediate danger of physical or emotional harm to minor children, the court may award temporary custody of these minor children to the plaintiff or to other persons.

\* \* \*

Sec. 10. 15 V.S.A. § 1152 is amended to read:

§ 1152. ADDRESS CONFIDENTIALITY PROGRAM; APPLICATION;  
CERTIFICATION

\* \* \*

(f) The Civil or Family Division of Washington County Superior Court shall have jurisdiction over petitions for protective orders filed by program participants pursuant to 12 V.S.A. §§ 5133 and 5134, to sections 1103 and 1104 of this title, and to 33 V.S.A. § 6935. A program participant may file a petition for a protective order in the county in which he or she resides or in Washington County to protect the confidentiality of his or her address.

Sec. 11. 13 V.S.A. § 1044 is amended to read:

§ 1044. SECOND DEGREE AGGRAVATED DOMESTIC ASSAULT

(a) A person commits the crime of second degree aggravated domestic assault if the person:

(1) commits the crime of domestic assault and such conduct violates:

(A) specific conditions of a criminal court order in effect at the time of the offense imposed to protect that other person;

(B) a final abuse prevention order issued under ~~section 15 V.S.A. § 1103 of Title 15~~ or a similar order issued in another jurisdiction.

(C) ~~an a final~~ an a final order against stalking or sexual assault issued under ~~chapter 178 of Title 12~~ V.S.A. § 5133 or a similar order issued in another jurisdiction; or

(D) ~~an a final~~ an a final order against abuse of a vulnerable adult issued under ~~chapter 69 of Title 33~~ V.S.A. § 6935 or a similar order issued in another jurisdiction.

(2) commits the crime of domestic assault; and

(A) has a prior conviction within the last 10 years for violating an abuse prevention order issued under section 1030 of this title; or



(B) has a prior conviction for domestic assault under section 1042 of this title.

(3) For the purpose of this subsection, the term “issued in another jurisdiction” means issued by a court in any other state, in a federally recognized Indian tribe, territory, or possession of the United States, in the Commonwealth of Puerto Rico, or in the District of Columbia.

\* \* \*

#### Sec. 12. EFFECTIVE DATE

(a) Secs. 2, 4, and 6 of this act shall take effect on November 1, 2013.

(b) This section and all remaining sections of this act shall take effect on July 1, 2013.

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

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

#### **S. 161**

An act relating to mitigation of traffic fines and approval of a DLS Diversion Program contract

**Rep. Wizowaty of Burlington**, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended as follows:

By adding Sec. 1a to read as follows:

Sec. 1a. 2012 Acts and Resolves No. 147, Sec. 2(d) is amended to read:

(d) A person with ~~fewer than five~~ violations of 23 V.S.A. § 676 may apply to the DLS ~~diversion program~~ Diversion Program. Upon receipt of an application and determination of eligibility, the ~~diversion program~~ Diversion Program shall send the person a notice to report to the ~~diversion program~~ Diversion Program. The notice to report shall provide that the person is required to meet with diversion staff for the purposes of assessment and to complete all conditions of the diversion contract as provided in subsection (c) of this section.

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

**(No Senate Amendments )**

**Favorable**

**H. 152**

An act relating to the Route 102 resurfacing project

**Rep. Deen of Westminster**, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill ought to pass.

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

**Consent Calendar**

**Concurrent Resolutions for Adoption Under Joint Rule 16a**

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 today's adjournment. 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 of 4/18/2013.

**H.C.R. 105**

House concurrent resolution congratulating the 2013 Proctor High School Phantoms Division IV championship girls' basketball team

**H.C.R. 106**

House concurrent resolution congratulating the 2012 Proctor High School Phantoms Division IV championship boys' soccer team

**H.C.R. 107**

House concurrent resolution congratulating The Palms Restaurant on its 80th anniversary

**H.C.R. 108**

House concurrent resolution commemorating the 60th anniversary of the Korean War Armistice Agreement

**H.C.R. 109**

House concurrent resolution commemorating the sesquicentennial anniversary of the town of Newbury

**H.C.R. 110**

House concurrent resolution designating April 24, 2013 as National Walk@Lunch Day in Vermont

**H.C.R. 111**

House concurrent resolution commemorating the sescentennial anniversary of the Town of Essex

**H.C.R. 112**

House concurrent resolution designating April 26 as Long-Term Care Ombudsman Day in Vermont

**H.C.R. 113**

House concurrent resolution congratulating the 2013 Champlain Valley Union High School Redhawks Division I championship girls' basketball team

**H.C.R. 114**

House concurrent resolution congratulating the Vermont Debate and Forensics League State Tournament champions at Champlain Valley Union High School

**H.C.R. 115**

House concurrent resolution congratulating the 2013 Champlain Valley Union High School Redhawks Division I championship girls' and boys' Nordic ski teams

**S.C.R. 22**

Senate concurrent resolution congratulating Margaret Jane Kelly of Barre on her 90th birthday

**S.C.R. 23**

Senate concurrent resolution designating April 19, 2013 as Vermont Golf Day.