House Calendar

Thursday, May 09, 2013

121st DAY OF THE BIENNIAL SESSION

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Amendment to be offered by Rep. Fisher of Lincoln to S. 152

First: By adding Secs. 12a–12d to read as follows:

* * * Health Insurance * * *

Sec. 12a. 8 V.S.A. § 4079 is amended to read:

§ 4079. GROUP INSURANCE POLICIES; DEFINITIONS

Group health insurance is hereby declared to be that form of health insurance covering one or more persons, with or without their dependents, and issued upon the following basis:

(1)(A) Under a policy issued to an employer, who shall be deemed the policyholder, insuring at least one employee of such employer, for the benefit of persons other than the employer. The term "employees," as used herein, shall be deemed to include the officers, managers, and employees of the employer, the partners, if the employer is a partnership, the officers, managers, and employees of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners, and employees of individuals and firms, the business of which is controlled by the insured employer through stock ownership, contract, or otherwise. The term "employer," as used herein, may be deemed to include any municipal or governmental corporation, unit, agency, or department thereof and the proper officers as such, of any unincorporated municipality or department thereof, as well as private individuals, partnerships, and corporations.

(B) In accordance with section 3368 of this title, an employer domiciled in another jurisdiction that has more than 25 certificate-holder employees whose principal worksite and domicile is in Vermont and that is

defined as a large group in its own jurisdiction and under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 1304, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, may purchase insurance in the large group health insurance market for its Vermont-domiciled certificate-holder employees.

* * *

Sec. 12b. 8 V.S.A. § 4089i(d) is amended to read:

(d) For prescription drug benefits offered in conjunction with a high-deductible health plan (HDHP), the plan may not provide prescription drug benefits until the expenditures applicable to the deductible under the HDHP have met the amount of the minimum annual deductibles in effect for self-only and family coverage under Section 223(c)(2)(A)(i) of the Internal Revenue Code of 1986 for self-only and family coverage, respectively, except that a plan may offer first-dollar prescription drug benefits to the extent permitted under federal law. Once the foregoing expenditure amount has been met under the HDHP, coverage for prescription drug benefits shall begin, and the limit on out-of-pocket expenditures for prescription drug benefits shall be as specified in subsection (c) of this section.

Sec. 12c. 18 V.S.A. § 9418 is amended to read:

§ 9418. PAYMENT FOR HEALTH CARE SERVICES

(a) Except as otherwise specified, as used in this subchapter:

* * *

(17) "Product" means, to the extent permitted by state and federal law, one of the following types of categories of coverage for which a participating provider may be obligated to provide health care services pursuant to a health care contract:

(A) ~~Health~~ health maintenance organization;

(B) ~~Preferred~~ preferred provider organization;

(C) ~~Fee-for-service~~ fee-for-service or indemnity plan;

(D) Medicare Advantage HMO plan;

(E) Medicare Advantage private fee-for-service plan;

(F) Medicare Advantage special needs plan;

(G) Medicare Advantage PPO;

(H) Medicare supplement plan;

(I) ~~Workers~~ workers compensation plan; or

(J) ~~Catamount Health; or~~

~~(K)~~ ~~Any~~ any other commercial health coverage plan or product.

(b) No later than 30 days following receipt of a claim, a health plan, contracting entity, or payer shall do one of the following:

(1) Pay or reimburse the claim.

(2) Notify the claimant in writing that the claim is contested or denied. The notice shall include specific reasons supporting the contest or denial and a description of any additional information required for the health plan, contracting entity, or payer to determine liability for the claim.

(3) Pend a claim for services rendered to an enrollee during the second and third months of the consecutive three-month grace period required for recipients of advance payments of premium tax credits pursuant to 26 U.S.C. § 36B. In the event the enrollee pays all outstanding premiums prior to the exhaustion of the grace period, the health plan, contracting entity, or payer shall have 30 days following receipt of the outstanding premiums to proceed as provided in subdivision (1) or (2) of this subsection, as applicable.

* * *

Second: In Sec. 30, applicability and effective dates, by striking out subsections (b) and (c) in their entirety and inserting in lieu thereof the following:

(b) Sec. 12a (interstate employers) of this act shall take effect on October 1, 2013 for the purchase of insurance plans effective for coverage beginning January 1, 2014.

(c) Sec. 12b (prescription drug deductibles) of this act and this section shall take effect on passage.

(d) Secs. 12c (grace period for premium payment), 13–20 (Office of the Health Care Advocate) and 28 (budget) of this act shall take effect on January 1, 2014.

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

Amendment to be offered by Rep. Till of Jericho to S. 152

In Sec. 13, 18 V.S.A. chapter 229, in section 9603, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) The Office of the Health Care Advocate shall be able to speak on behalf

of the interests of health care and health insurance consumers and to carry out all duties prescribed in this chapter without being subject to any disciplinary or retaliatory action; provided, however, that nothing in this subsection shall limit the authority of the Agency of Administration to enforce the terms of the contract.

Favorable with Amendment

H. 112

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

Rep. Zagar of Barnard, 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)

Rep. Conquest of Newbury, for the Committee on **Judiciary,** recommends the bill ought to pass when amended as recommended by the Committee on **Agriculture and Forest Products.**

(Committee Vote: 7-4-0)

S. 129

An act relating to workers' compensation liens

Rep. Marcotte of Coventry, for the Committee on **Commerce and Economic Development,** 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. 21 V.S.A. § 7 is added to read:

§ 7. POWERS OF COMMISSIONER

In addition to all other powers granted the Commissioner by this title, the Commissioner or designee may, upon presenting appropriate credentials, at reasonable times and without disrupting critical business operations, enter and inspect any place of business or employment, question any employees, and investigate any facts, conditions, or matters necessary and material to the administration of chapters 9 and 17 of this title. The Commissioner shall inform the employer of his or her right to refuse entry. If entry is refused, the Commissioner may apply to the Civil Division of the Superior Court of Washington County for an order to enforce the rights given the Commissioner under this section.

Sec. 2. 21 V.S.A. § 397 is added to read:

§ 397. WORKPLACE POSTINGS AND EMPLOYER REQUIREMENTS

(a) The Department of Labor shall develop and include in its workplace posters information regarding the rights of employees to unemployment compensation, workers compensation, wages and overtime pay, workplace safety and protections, and misclassification of employees. The information

shall also contain contact information for individuals to inquire about their rights and obligations and to file complaints or inquire about employment classification status. This information shall be provided in English or other languages required by the Commissioner. The posters shall be posted by employers in a conspicuous location at the worksite.

(b) Employers who violate this section shall be subject to an administrative penalty of up to $100.00 per violation.

Sec. 3. 21 V.S.A. § 643a is amended to read:

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall notify both the ~~commissioner~~ Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the ~~commissioner~~ Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer not already filed, shall be filed with the notice. The liability for the payments shall continue for seven days after the notice is received by the ~~commissioner~~ Commissioner and the employee. If the claimant disputes the discontinuance, the claimant may file with the Commissioner an objection to the discontinuance and seek an extension of the seven-day limit. The Commissioner may grant an extension up to seven days. The request for an extension shall be specific as to the number of days needed and the reason for the extension and must be received by the Commissioner prior to the end of the seven-day limit. A copy of the request for an extension shall be provided to the employer at the time the request is made to the Commissioner. Those payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the ~~commissioner~~ Commissioner determines that the discontinuance is warranted or if otherwise ordered by the ~~commissioner~~ Commissioner. Every notice shall be reviewed by the ~~commissioner~~ Commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the ~~commissioner~~ Commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the ~~commissioner~~ Commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the ~~department~~ Department that

establishes that a preponderance of all evidence now supports the claim. If the ~~commissioner's~~ Commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the ~~commissioner~~ Commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.

Sec. 4. 21 V.S.A. § 655 is amended to read:

§ 655. PROCEDURE IN OBTAINING COMPENSATION; MEDICAL EXAMINATION; VIDEO AND AUDIO RECORDING

After an injury and during the period of disability, if so requested by his or her employer, or ordered by the ~~commissioner~~ Commissioner, the employee shall submit to examination, at reasonable times and places, by a duly licensed physician or surgeon designated and paid by the employer. The employee may make a video or audio recording of any examination performed by the insurer's physician or surgeon or have a licensed health care provider designated and paid by the employee present at the examination. The employer may make an audio recording of the examination. The right of the employee to record the examination shall not be construed to deny to the employer's physician the right to visit the injured employee at all reasonable times and under all reasonable conditions during total disability. If an employee refuses to submit to or in any way obstructs the examination, the employee's right to prosecute any proceeding under the provisions of this chapter shall be suspended until the refusal or obstruction ceases, and compensation shall not be payable for the period which the refusal or obstruction continues. The physician shall provide a report of the examination to the employee at the same time any report is provided to the employer.

Sec. 5. 21 V.S.A. § 678 is amended to read:

§ 678. COSTS; ATTORNEY FEES

(a) Necessary costs of proceedings under this chapter, including deposition expenses, subpoena fees, and expert witness fees, shall be assessed by the ~~commissioner~~ Commissioner against the employer or its workers' compensation carrier when the claimant prevails. The ~~commissioner~~ Commissioner may allow the claimant to recover reasonable ~~attorney~~ attorney's fees when the claimant prevails. Costs shall not be taxed or allowed either party except as provided in this section.

(b) In appeals to the ~~superior or supreme courts~~ Superior or Supreme Court, if the claimant prevails, he or she shall be entitled to reasonable ~~attorney~~ attorney's fees as approved by the ~~court~~ Court, necessary costs, including

deposition expenses, subpoena fees, and expert witness fees, and interest at the rate of 12 percent per annum on that portion of any award the payment of which is contested. Interest shall be computed from the date of the award of the ~~commissioner~~ Commissioner.

* * *

Sec. 6. 21 V.S.A. § 692 is amended to read:

§ 692. PENALTIES; FAILURE TO INSURE; ~~STOP WORK~~ STOP-WORK ORDERS

(a) Failure to insure. If after a hearing under section 688 of this title, the ~~commissioner~~ Commissioner determines that an employer has failed to comply with the provisions of section 687 of this title, the employer shall be assessed an administrative penalty of not more than $100.00 for every day for the first seven days the employer neglected to secure liability and not more than $150.00 for every day thereafter. In addition to any other remedies and proceedings authorized by this chapter, the Commissioner may bring an action in the Civil Division of the Superior Court. The remedies available in a civil action, including attachment and trustee process, shall be available for the collection of any fines, penalties, and amounts assessed under this chapter

(b) Stop-work orders. If an employer fails to comply with the provisions of section 687 of this title after investigation by the ~~commissioner~~ Commissioner, the ~~commissioner~~ Commissioner shall issue an emergency order to that employer to stop work until the employer has secured workers' compensation insurance. If the ~~commissioner~~ Commissioner determines that issuing a stop-work order would immediately threaten the safety or health of the public, the ~~commissioner~~ Commissioner may permit work to continue until the immediate threat to public safety or health is removed. The ~~commissioner~~ Commissioner shall document the reasons for permitting work to continue, and the document shall be available to the public. In addition, the employer shall be assessed an administrative penalty of not more than $250.00 for every day that the employer fails to secure workers' compensation coverage after the ~~commissioner~~ Commissioner issues an order to obtain insurance and may also be assessed an administrative penalty of not more than $250.00 for each employee for every day that the employer fails to secure workers' compensation coverage as required in section 687 of this title. When a stop-work order is issued, the ~~commissioner~~ Commissioner shall post a notice at a conspicuous place on the work site of the employer informing the employees that their employer failed to comply with the provisions of section 687 of this title and that work at the work site has been ordered to cease until workers' compensation insurance is secured. The stop-work order shall be rescinded as soon as the ~~commissioner~~ Commissioner determines that the

employer is in compliance with section 687 of this title. An employer against whom a stop-work order has been issued is prohibited from contracting, directly or indirectly, with the ~~state~~ State or any of its subdivisions for a period of up to three years following the date of the issuance of the stop-work order, as determined by the ~~commissioner~~ Commissioner in consultation with the ~~commissioner of buildings and general services or the secretary of transportation~~ Commissioner of Buildings and General Services or the Secretary of Transportation, as appropriate. Either the ~~secretary or the commissioner~~ Secretary or Commissioner, as appropriate, shall be consulted in any contest of the prohibition of the employer from contracting with the ~~state~~ State or its subdivisions.

(c) The Commissioner may issue an order of conditional release from a stop-work order upon a finding that the employer has secured the required workers' compensation coverage and has agreed to remit periodic payments to satisfy any penalties assessed under this chapter pursuant to a written payment arrangement approved by the Commissioner. If the Commissioner issues an order of conditional release, the employer's failure to meet any term or condition of the order or to make periodic payments shall result in the immediate reinstatement of the stop-work order and the entire unpaid balance of the penalty shall become due immediately.

(d) A stop-work order issued against an employer shall apply to any successor employer that has substantially common ownership, management, or control as the employer on whom the stop-work order was issued and is engaged in the same or similar trade or activity.

(e) The Commissioner may bring an action in the Civil Division of the Superior Court of Washington County or in the county in which the employer has its principal office or is continuing to work in violation of the stop-work order to enjoin any employer from violating a stop-work order until the employer establishes that it is in compliance with this chapter and has paid any penalty assessed by the Commissioner.

(f) Penalty for violation of stop-work order. In addition to any other penalties, an employer who violates a stop-work order described in subsection (b) of this section is subject to:

(1) A civil penalty of not more than $5,000.00 for the first violation and a civil penalty of not more than $10,000.00 for a second or subsequent violation; or

(2) A criminal fine of not more than $10,000.00 or imprisonment for not more than 180 days, or both.

Sec. 7. 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:

* * *

(20) ~~Violations of 21 V.S.A. § 692(c)(1).~~ [Deleted.]

* * *

Sec. 8. 21 V.S.A. § 1253 is amended to read:

§ 1253. ELIGIBILITY

The ~~commissioner~~ Commissioner shall make all determinations for eligibility under this chapter. An individual shall be eligible for up to 26 weekly payments when the ~~commissioner~~ Commissioner determines that the individual voluntarily left work due to circumstances directly resulting from domestic and sexual violence, provided the individual:

(1) Leaves employment for one of the following reasons:

* * *

(D) The individual is physically or emotionally unable to work as a result of experiencing domestic or sexual violence as certified by a medical professional. The certification shall be reviewed by the Commissioner every six weeks and may be renewed until the individual is able to work or the benefits are exhausted.

* * *

Sec. 9. 21 V.S.A. § 1254 is amended to read:

§ 1254. CONDITIONS

An individual shall be eligible to receive payments with respect to any week, only if the ~~commissioner~~ Commissioner finds that the individual complies with all of the following requirements:

(1) ~~Files~~ files a claim certifying that he or she did not work during the week~~.~~;

(2) ~~Is~~ is not eligible for unemployment compensation benefits~~.~~; and

(3) ~~Is taking steps to become employed~~ is working with the Department to determine work readiness and taking reasonable steps as determined by the Commissioner to become employed.

Sec. 10. 21 V.S.A. § 1255 is amended to read:

§ 1255. PROCEDURES

(a) The ~~commissioner~~ Commissioner or designee shall review all claims for payment and shall promptly provide written notification to the individual of any claim that is denied and the reasons for the denial.

(b) Within 30 days after receipt of a denial, the individual may appeal the determination to the ~~commissioner~~ Commissioner by requesting a review of the decision. On appeal to the Commissioner the individual may provide supplementary evidence to the record. The ~~commissioner~~ Commissioner shall review the record within seven working days after the notice of the appeal is filed and promptly notify the individual in writing of the ~~commissioner's~~ Commissioner's decision. The decision of the ~~commissioner~~ Commissioner shall become final unless an appeal to the ~~supreme court~~ Supreme Court is taken within 30 days of the date of the ~~commissioner's~~ Commissioner's decision.

Sec. 11. 21 V.S.A. § 1314a is amended to read:

§ 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION; PENALTIES

* * *

(g) Notwithstanding any other provisions of this section, the ~~commissioner~~ Commissioner may where practicable require of employing units ~~with 25 or more employees~~ that the reports required to be filed pursuant to subsections (a) through (d) of this section be filed in an electronic media form.

Sec. 12. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS; DISCLOSURE TO SUCCESSOR ENTITY~~; EMPLOYEE PAID $1,000.00 OR LESS DURING BASE PERIOD~~

* * *

(d) Notwithstanding any other provision of law, the following shall apply to assignment of rates and transfers of experience:

(1) If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, there is substantially common ownership, management, or control of the two employers, the ~~employment~~ unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. The rates of both employers shall be recalculated and made effective immediately upon the date of the transfer of trade or business.

* * *

Sec. 13. 21 V.S.A. § 1451 is amended to read:

§ 1451. DEFINITIONS

~~For the purpose of this subchapter~~ As used in this subchapter:

(1) "Affected unit" means a specific plan, department, shift, or other definable unit consisting of not less than five employees to which an approved short-time compensation plan applies.

(2) "Defined benefit plan" means a plan described in 26 U.S.C. § 414(j).

(3) "Defined contribution plan" means a plan described in 26 U.S.C. § 414(i).

(4) "Short-time compensation" or "STC" means the unemployment benefits payable to employees in an affected unit under an approved short-time compensation plan as distinguished from the unemployment benefits otherwise payable under the conventional unemployment compensation provisions of this chapter.

~~(3)~~(5) "Short-time compensation plan" means a plan of an employer under which there is a reduction in the number of hours worked by employees of an affected unit rather than ~~temporary~~ layoffs. The term "~~temporary~~ layoffs" for this purpose means the total separation of one or more workers in the affected unit ~~for an indefinite period expected to last for more than two months but not more than six months~~.

~~(4)~~(6) "Short-time compensation employer" means an employer who has one or more employees covered by an approved "Short-Time Compensation Plan." "Short-time compensation employer" ~~includes~~ means an employer with ~~experience-rating records~~ an experience rating record ~~and~~ or an employer who makes payments in lieu of ~~tax~~ contributions to the unemployment compensation trust fund and that meets all of the following criteria:

(A) ~~Has~~ has five or more employees covered by an approved short-time compensation plan~~.~~;

(B) ~~Is~~ is not delinquent in the payment of contributions or reimbursement, or in the reporting of wages~~.~~; and

(C) ~~Is~~ is not a negative balance employer. For the purposes of this section, a negative balance employer is an employer who has for three or more consecutive calendar years immediately prior to applying for the STC plan paid more in unemployment benefits to its employees than it has contributed to its unemployment insurance account. In the event that an employer has been a negative balance employer for three consecutive years, the employer shall be

ineligible for participation unless the ~~commissioner~~ Commissioner grants a waiver based upon extenuating economic conditions or other good cause.

~~(5)~~(7) "Usual weekly hours of work" means the normal hours of work for full-time ~~and regular~~ or part-time employees in the affected unit when that unit is operating on its ~~normally full-time basis not less than 30 hours and~~ regular basis not to exceed 40 hours and not including hours of overtime work.

~~(6)~~(8) "Unemployment compensation" means the unemployment benefits payable under this chapter other than short-time compensation and includes any amounts payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

~~(7)~~(9) "Fringe benefits" means benefits, including health insurance, retirement benefits, paid vacations and holidays, sick leave, and similar benefits that are incidents of employment.

~~(8)~~(10) "Intermittent employment" means employment that is not continuous but may consist of intervals of weekly work and intervals of no weekly work.

~~(9)~~(11) "Seasonal employment" means employment with an employer who experiences at least a 20-percent difference between its highest level of employment during a particular season and its lowest level of employment during the off-season in each of the previous three years as reported to the ~~department~~ Department, or employment with an employer on a temporary basis during a particular season.

Sec. 14. 21 V.S.A. § 1452 is amended to read:

§ 1452. CRITERIA FOR APPROVAL

(a) An employer wishing to participate in an STC program shall submit a ~~department of labor~~ Department of Labor electronic application or a signed written short-time compensation plan to the ~~commissioner~~ Commissioner for approval. The ~~commissioner~~ Commissioner may approve an STC plan only if the following criteria are met:

* * *

(3) the plan ~~outlines to the commissioner the extent to which fringe benefits, including health insurance, of employees participating in the plan may be reduced, which shall be factored into the evaluation of the business plan for resolving the conditions that lead to the need for the STC plan~~ provides that if the employer provides fringe benefits, including health benefits and retirement benefits under a defined benefit plan or contributions under a defined contribution plan, to any employee whose workweek is reduced under

the program, that the benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the workweek had not been reduced. However, reductions in the benefits of short-time compensation plan participants are permitted to the extent that the reductions also apply to nonparticipant employees;

* * *

(5) the plan certifies that the aggregate reduction in work hours is in lieu of ~~temporary total~~ layoffs of one or more workers which would have resulted in an equivalent reduction in work hours and which the c~~ommissioner~~ Commissioner finds would have caused an equivalent dollar amount to be payable in unemployment compensation;

* * *

(7) the identified workweek reduction is applied consistently throughout the duration of the plan unless otherwise approved by the ~~department~~ Department. The plan shall not subsidize seasonal employers during the off-season;

* * *

(11) the plan certifies that the collective bargaining agent or agents for the employees, if any, have agreed to participate in the program. If there is no bargaining unit, the employer specifies how he or she will notify the employees in the affected group and work with them to implement the program once the plan is approved; ~~and~~

(12) ~~in addition to subdivisions (1) through (11) of this section, the commissioner shall take into account any other factors which may be pertinent to the approval and proper implementation of the plan~~ the plan describes the manner in which the requirements of this section will be implemented and where feasible how notice will be given to an employee whose workweek is to be reduced and an estimate of the number of layoffs that would have occurred absent the ability to participate in the short-time compensation program and any other information that the U.S. Secretary of Labor determines is appropriate; and

(13) the employer certifies that the plan is consistent with employer obligations under applicable state and federal laws.

(b) In the event of any conflict between any provisions of sections 1451–1460 of this title, or the regulations implemented pursuant to these sections, and applicable federal law, the federal law shall prevail and the provision shall be deemed invalid.

Sec. 15. 21 V.S.A. § 1457 is amended to read:

§ 1457. ELIGIBILITY

(a) An individual is eligible to receive STC benefits with respect to any week only if, in addition to eligibility for monetary entitlement, the ~~commissioner~~ Commissioner finds that:

(1) the individual is employed during that week as a member of an affected unit under an approved short-time compensation plan which was in effect for that week;

(2) the individual is able to work and is available for the normal work week with the short-time employer;

(3) notwithstanding any other provisions of this chapter to the contrary, an individual is deemed unemployed in any week for which remuneration is payable to him or her as an employee in an affected unit for less than his or her normal weekly hours of work as specified under the approved short-time compensation plan in effect for the week;

(4) notwithstanding any other provisions of this chapter to the contrary, an individual shall not be denied STC benefits for any week by reason of the application of provisions relating to availability for work and active search for work with an employer other than the short-time employer.

(b) Eligible employees may participate, as appropriate, in training, including employer-sponsored training or worker training funded under the Workforce Investment Act of 1998, to enhance job skills if the program has been approved by the Department.

Sec. 16. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(14) "Worker" and "employee" means an individual who has entered into the employment of, or works under contract of service or apprenticeship with, an employer. Any reference to a worker who has died as the result of a work injury shall include a reference to the worker's dependents, and any reference to a worker who is a minor or incompetent shall include a reference to the minor's committee, guardian, or next friend. The term "worker" or "employee" does not include:

* * *

(I) An individual who receives foster care payments excluded from the definition of gross income under Section 131 of Title 26 of the Internal Revenue Code.

* * *

Sec. 17. INFORMATION AND EDUCATION; INDEPENDENT CONTRACTOR STATUS

The Commissioner shall conduct a comprehensive information and education campaign regarding independent contractor status. The campaign shall address the tests for determining independent contractor status under Vermont law, the rights and responsibilities of employers and employees under Vermont law, including wage and hour laws, workers' compensation and unemployment compensation requirements, information regarding the misclassification and miscoding laws, including the requirements for employers to comply with those laws and the penalties for failing to do so, and other information the Commissioner determines is necessary and appropriate.

Sec. 18. STUDY; UNEMPLOYMENT COMPENSATION; WORKERS' COMPENSATION; JOB TRAINING

(a) The Department of Labor in consultation with interested parties shall evaluate and make recommendations regarding:

(1) whether the principles of fairness, equity, proportionality, affordability, and fiscal responsibility embodied in 2010 Acts and Resolves No. 124 would be affected if any changes are made to the act. Specifically, the Department shall study the potential impacts to employers, employees, and the trust fund if changes are made to certain aspects of the unemployment compensation system, including the earnings disregard, the one-week waiting period, the weekly benefit amount, and the taxable wage base. The Department shall study these potential impacts as they relate to paying off the trust fund debt and establishing the fund's solvency.

(2) whether the annual report on trust fund solvency required by 21 V.S.A. § 1309 is providing appropriate and sufficient information regarding the long-term health and solvency of the unemployment compensation trust fund, or whether further measures are required to provide information necessary to achieve and maintain solvency.

(3) whether any structural, administrative, or procedural changes should be made to the workers' compensation system, including changes that would increase the affordability and regional competitiveness of workers' compensation insurance for employers while ensuring fairness for beneficiaries.

(4) whether the agencies and departments of state government are in compliance with required workers' compensation and unemployment compensation coverage related to their contracts with designated agencies and other subcontractors.

(5) whether the current workers' compensation system can better incentivize and promote healthy and safe work environments through information, education, and collaboration with employers, insurers, and employees; and whether private and public training programs and enforcement divisions could be better utilized to achieve improved safety in workplaces.

(6) the benefits and feasibility of developing and implementing a job training program for persons collecting unemployment benefits in Vermont that allows the Department to place persons collecting unemployment into job sites for job training and skill development in order to enhance the individual's job prospects and career development. The Department shall examine conformity issues with federal and state unemployment and wage and hour laws. The Commissioner shall solicit public input and engage interested parties from the business and labor communities in determining the benefits of a job training program.

(7) how workers' compensation cases are resolved under 21 V.S.A. § 624(e), including whether the operation of workers' compensation liens may or may not result in an equitable distribution of third party payments to the employer and employee, and the equities and appropriateness of using third party payments as an advance on any future workers' compensation benefits.

(8) whether there should be any limitations placed on how independent medical examinations are conducted, including their timing and location.

(9) whether school district employees who are not federally exempted from unemployment compensation should be included in Vermont's unemployment compensation system and be eligible for benefits during periods of layoff.

(b) The Department shall examine whether existing state and federal laws would allow a student who is under the age of 18 and enrolled at a regional technical center to gain practical working experience outside the classroom setting. The Department shall make recommendations to enhance the learning experience of students enrolled at regional technical centers by providing practical work experiences while also maintaining adequate health and safety protections.

(c) The Department, in consultation with the Agency of Commerce and Community Development and interested parties, shall evaluate and make recommendations regarding whether the current workers' compensation

system and other relevant employment laws are suited to the needs of an evolving workforce. As part of the evaluation, the Department shall consider Vermont's growing knowledge-based economic sector, the future of the Vermont economy, and changing workforce habits. The Department shall make recommendations regarding how to modernize the employment laws to meet employer and employee needs while maintaining employee protections.

(d) The Department shall report its findings and any recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Finance on or before December 15, 2013.

Sec. 19. WORKERS' COMPENSATION PREMIUMS

The Department of Financial Regulation in consultation with the Department of Labor shall study the issue of workers' compensation premiums increasing as a result of an employee completing a job-related safety course. The Department of Financial Regulation shall investigate how workers' compensation premiums can be decreased or kept at a steady rate for employers who are providing approved safety and health training to employees.

Sec. 20. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

(Committee vote: 11-0-0)

(For text see Senate Journal 3/22/2013 and 3/29/2013)

Action Under Rule 52

J.R.H. 12

Joint resolution expressing concern regarding the public policy implications of the proposed Trans-Pacific Partnership Agreement

(For text see House Journal 5/8/2013)

NOTICE CALENDAR
Favorable with Amendment

S. 20

An act relating to increasing the statute of limitations for certain sex offenses against children

Rep. Grad of Moretown, 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. 13 V.S.A. § 4501 is amended to read:

§ 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN CRIMES

(a) Prosecutions for aggravated sexual assault, aggravated sexual assault of a child, human trafficking, aggravated human trafficking, murder, arson causing death, and kidnapping may be commenced at any time after the commission of the offense.

(b) Prosecutions for manslaughter, sexual assault, lewd and lascivious conduct, sexual exploitation of children under chapter 64 of this title, sexual abuse of a vulnerable adult, grand larceny, robbery, burglary, embezzlement, forgery, bribery offenses, false claims, fraud under 33 V.S.A. § 141(d), and felony tax offenses shall be commenced within six years after the commission of the offense, and not after.

(c) Prosecutions for any of the following offenses alleged to have been committed against a child under 18 years of age may be commenced at any time after the commission of the offense:

(1) sexual assault~~,~~;

(2) lewd and lascivious conduct~~,~~;

(3) sexual exploitation of a minor as defined in subsection ~~3258(b)~~ 3258(c) of this title~~,~~; and

(4) lewd or lascivious conduct with a child~~, alleged to have been committed against a child under 18 years of age shall be commenced within the earlier of the date the victim attains the age of 24 or 10 years from the date the offense is reported, and not after. For purposes of this subsection, an offense is reported when a report of the conduct constituting the offense is made to a law enforcement officer by the victim~~.

(d) Prosecutions for arson shall be commenced within 11 years after the commission of the offense, and not after.

(e) Prosecutions for other felonies and for misdemeanors shall be commenced within three years after the commission of the offense, and not after.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to removing the statute of limitations for certain sex offenses against children."

(Committee vote: 10-0-1)

(No Senate Amendments)

S. 61

An act relating to alcoholic beverages

Rep. O'Sullivan of Burlington, for the Committee on **General, Housing and Military Affairs,** recommends that the House propose to the Senate that the bill be amended as follows:

First: By striking Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read:

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

§ 2. DEFINITIONS

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

* * *

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

* * *

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

* * *

(32) "Art gallery or bookstore permit": a permit granted by the liquor control board permitting an art gallery or bookstore to conduct an event at which malt or vinous beverages or both are served by the glass to the public, provided that the event is approved by the local licensing authority. A permit holder may purchase malt or vinous beverages directly from a licensed retailer. A permit holder shall be subject to the provisions of this title and the rules of the board regarding the service of alcoholic beverages. A request for a permit shall be submitted to the department in a form required by the ~~department~~ Department at least five days prior to the event and shall be accompanied by the permit fee required by subdivision 231(a)(22) of this title. As used in this section, "art gallery" means a fixed establishment whose primary purpose is to exhibit or offer for sale works of art; and "bookstore" means a fixed establishment whose primary purpose is to offer books for sale.

* * *

(34) "Limited first class license": A license granted by the Control Commissioners permitting the licensee to serve malt or vinous beverages to the public for consumption only on the licensed premises and in accord with the requirements of section 222a of this title.

Second: By adding Secs. 3a, 3b, and 3c to read:

Sec. 3a. 7 V.S.A. § 222a is added to read:

§ 222a. LIMITED FIRST CLASS LICENSE

(a) Upon the approval of the Board and payment of the license fee, the Control Commissioners may grant to a person for the premises where the person carries on a retail sales business unrelated to food or beverage service a limited first class license authorizing the person to dispense malt or vinous beverages free of charge for consumption on the licensed premises, provided:

(1) the premises are owned or leased by the person and the premises are used primarily by the person for the production and retail sale and service of handmade artisan products;

(2) the premises have secure, adequate, and sanitary space for storing and serving malt or vinous beverages;

(3) the premises have adequate and sanitary space for storage and service of food;

(4) the premises have a designated, distinct, secure interior space of at least 50 square feet which is not generally accessible by the public and only within which malt or vinous beverages may be served to customers designing

or purchasing handmade artisan products;

(5) malt or vinous will only be served to customers of the underlying business and no more than five customers may be served simultaneously in the designated space;

(6) no person under the age of 18 shall dispense malt or vinous beverages;

(7) malt or vinous beverages shall not be served to a minor; and

(8) any customer offered malt or vinous beverages shall also be offered food.

(b) As used in this section, "Artisan product" means any product fashioned primarily by hand with the final form and its characteristics shaped by hand by the artisan or craftperson in a skilled or artistic process rather than an assembly line technique.

Sec. 3b. 7 V.S.A. § 231 is amended to read:

§ 231. FEES FOR LICENSES; DISPOSITION OF FEES

(a) The following fees shall be paid:

* * *

(23) For a limited first class license, $1,000.00.

* * *

Sec. 3c. 7 V.S.A. § 236 is amended to read:

§ 236. SUSPENSION OR REVOCATION OF LICENSE OR PERMIT; ADMINISTRATIVE PENALTY

* * *

(b) As an alternative to and in lieu of the authority to suspend or revoke any permit or license, the ~~liquor control board~~ Liquor Control Board shall also have the power to impose an administrative penalty of up to $2,500.00 per violation against a holder of a wholesale dealer's license or a holder of a first, second or third class license for a violation of the conditions under which the license was issued or of this title or of any rule or regulation adopted by the ~~board~~ Board. The administrative penalty may be imposed after a hearing before the ~~board~~ Board or after the licensee has been convicted by a court of competent jurisdiction of violating the provisions of this title. The ~~board~~ Board may also impose an administrative penalty under this subsection against a holder of a tobacco license for up to $100.00 for a first violation and up to $1,000.00 for subsequent violations. For the first violation during a tobacco or

alcohol compliance check during any three-year period, a licensee shall receive a warning and be required to attend a department server training class. The Board may also impose an administrative penalty against the holder of a limited first class license of up to $5,000.00 for an initial violation and $10,000.00 for a second and subsequent violation.

* * *

Third: By adding Sec. 2a to read:

Sec. 2a. 7 V.S.A. § 222 is amended to read:

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

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

* * *

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

* * *

Fourth: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read:

Sec. 3. 7 V.S.A. § 230 is amended to read:

§ 230. RESTRICTIONS; FINANCIAL INTERESTS; DISPLAY OF LICENSE; EMPLOYEES

* * *

(b) An individual who is an employee of a wholesale dealer that does not hold a solicitor's permit may also be employed by a first or second class licensee on a paid or voluntary basis, provided that the employee does not exercise any control over, or participate in, the management of the first or

second class licensee's business or business decisions, and that either employment relationship does not result in the exclusion of any competitor wholesale dealer or any brand of alcoholic beverages of a competitor wholesale dealer.

Fifth: By adding Sec. 6a to read:

Sec. 6a. 7 V.S.A. § 561 is amended to read:

§ 561. AUTHORITY OF LIQUOR CONTROL INVESTIGATORS; ARREST FOR UNLAWFULLY MANUFACTURING, POSSESSING, OR TRANSPORTING ALCOHOLIC BEVERAGES; SEIZURE OF PROPERTY

(a) The ~~director of the enforcement division of the department of liquor control~~ Director of the Enforcement Division of the Department of Liquor Control and investigators employed by the ~~liquor control board~~ Liquor Control Board or by the ~~department of liquor control~~ Department of Liquor Control shall be certified as full-time law enforcement officers by the Vermont Criminal Justice Training Council and shall have the same powers and immunities as those conferred on the ~~state police~~ State Police by 20 V.S.A. § 1914.

* * *

(Committee vote: 7-0-1)

(For text see Senate Journal 3/27/2013)

Rep. Ram of Burlington, for the Committee on **Ways and Means,** recommends the bill ought to pass when amended as recommended by the Committee on **General, Housing and Military Affairs.**

(Committee Vote: 7-0-4)

S. 156

An act relating to home visiting standards

Rep. Mrowicki of Putney, for the Committee on **Human Services,** 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. PURPOSE

In recognition of the significant positive contribution that home visiting services make with regard to enhancing family stability, family health, and child development; fostering parenting skills; reducing child maltreatment; promoting social and emotional health; improving school readiness; and promoting economic self-sufficiency, the General Assembly seeks to ensure

that home visiting services to Vermonters are of the highest quality by establishing standards for their administration, delivery, and utilization review that foster the contributions of diverse practice models.

Sec. 2. RULEMAKING

(a) As used in this section, "home visiting services" means regular, voluntary visits with a pregnant woman or a family with a young child for the purpose of providing a continuum of services that improves maternal and child health; prevents child injuries, abuse, or maltreatment; promotes social and emotional health; improves school readiness; reduces crime or domestic violence; improves economic self-sufficiency; or enhances coordination and referrals among community resources and supports, such as food, housing, and transportation.

(b) The Secretary of Human Services, in consultation with interested providers and other stakeholders, shall develop rules establishing standards for the delivery of home visiting services throughout Vermont to be adopted by the Secretary on or before July 1, 2014.

(c) In developing standards for the delivery of home visiting services, the Secretary shall be guided by best family-centered and family-directed practices and evidence-based models. The standards adopted by rule shall address the following:

(1) creation of a system of home visiting services that can respond to diverse family needs;

(2) service provider training and supervision;

(3) a structure for coordinating services at the state and local levels with respect to outreach efforts, family intake methods, referrals, and transitions;

(4) access to supports, resources, and information to address short- and long-term family needs;

(5) criteria identifying which home visiting models and home visiting programs are eligible for funding;

(6) the contributions of organizations that use trained volunteers; and

(7) performance evaluation and quality improvement measures, including mechanisms for tracking funding, utilization, and outcomes for families and children at the state, community, and program levels.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 10-0-1)

(For text see Senate Journal 3/21/2013)

S. 157

An act relating to modifying the requirements for hemp production in the State of Vermont

Rep. Zagar of Barnard, for the Committee on **Agriculture and Forest Products,** 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. 6 V.S.A. chapter 34 is amended to read:

CHAPTER 34. ~~INDUSTRIAL~~ HEMP

§ 561. FINDINGS; INTENT

(a) Findings.

(1) Hemp has been continuously cultivated for millennia, is accepted and available in the global marketplace, and has numerous beneficial, practical, and economic uses, including: high-strength fiber, textiles, clothing, bio-fuel, paper products, protein-rich food containing essential fatty acids and amino acids, biodegradable plastics, resins, nontoxic medicinal and cosmetic products, construction materials, rope, and value-added crafts.

(2) The many agricultural and environmental beneficial uses of hemp include: livestock feed and bedding, stream buffering, erosion control, water and soil purification, and weed control.

(3) The hemp plant, an annual herbaceous plant with a long slender stem ranging in height from four to 15 feet and a stem diameter of one-quarter to three-quarters of an inch is morphologically distinctive and readily identifiable as an agricultural crop grown for the cultivation and harvesting of its fiber and seed.

(4) Hemp cultivation will enable the State of Vermont to accelerate economic growth and job creation, promote environmental stewardship, and expand export market opportunities.

(b) Purpose. The intent of this ~~act~~ chapter is to establish policy and procedures for growing ~~industrial~~ hemp in Vermont so that farmers and other businesses in the Vermont agricultural industry can take advantage of this

market opportunity ~~when federal regulations permit~~.

§ 562. DEFINITIONS

As used in this chapter:

(1) ~~"Grower" means any~~ a ~~person or business entity licensed under this chapter by the secretary as an industrial hemp grower.~~ [Deleted.]

(2) "Hemp products" means all products made from ~~industrial~~ hemp, including ~~but not limited to~~ cloth, cordage, fiber, food, fuel, paint, paper, ~~particle board~~ construction materials, plastics, seed, seed meal, seed oil, and certified seed for cultivation ~~if such seeds originate from industrial hemp varieties~~.

(3) ~~"Industrial hemp" means varieties of the plant cannabis sativa having no more than 0.3 percent tetrahydrocannabinol, whether growing or not, that are cultivated or possessed by a licensed grower in compliance with this chapter.~~ "Hemp" means the plant Cannabis sativa L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(4) "Secretary" means the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets.

§ 563. ~~INDUSTRIAL~~ HEMP: AN AGRICULTURAL PRODUCT

~~Industrial hemp~~ Hemp is an agricultural product which may be grown as a crop, produced, possessed, and commercially traded in Vermont pursuant to the provisions of this chapter. The cultivation of hemp shall be subject to and comply with the requirements of the accepted agricultural practices adopted under section 4810 of this title.

§ 564. ~~LICENSING; APPLICATION~~ REGISTRATION; ADMINISTRATION

~~(a) Any person or business entity wishing to engage in the production of industrial hemp must be licensed as an industrial hemp grower by the secretary. A license from the secretary shall authorize industrial hemp production only at a site or sites specified by the license.~~

~~(b) A license from the secretary shall be valid for 24 months from the date of issuance and may be renewed but shall not be transferable.~~

~~(c)(1) The secretary shall obtain from the Vermont criminal information center a record of convictions in Vermont and other jurisdictions for any applicant for a license who has given written authorization on the application form. The secretary shall file a user's agreement with the center. The user's~~

~~agreement shall require the secretary to comply with all statutes, rules, and policies regulating the release of criminal conviction records and the protection of individual privacy. Conviction records provided to the secretary under this section are confidential and shall be used only to determine the applicant's eligibility for licensure.~~

~~(2) A person who has been convicted in Vermont of a felony offense or a comparable offense in another jurisdiction shall not be eligible for a license under this chapter.~~

~~(d) When applying for a license from the secretary, an applicant shall provide information sufficient to demonstrate to the secretary that the applicant intends to grow and is capable of growing industrial hemp in accordance with this chapter, which at a minimum shall include:~~

~~(1) Filing with the secretary a set of classifiable fingerprints and written authorization permitting the Vermont criminal information center to generate a record of convictions as required by subdivision (c)(1) of this section.~~

~~(2) Filing with the secretary documentation certifying that the seeds obtained for planting are of a type and variety compliant with the maximum concentration of tetrahydrocannabinol set forth in subdivision 560(3) of this chapter.~~

~~(3) Filing with the secretary the location and acreage of all parcels sown and other field reference information as may be required by the secretary.~~

~~(e) To qualify for a license from the secretary, an applicant shall demonstrate to the satisfaction of the secretary that the applicant has adopted methods to ensure the legal production of industrial hemp, which at a minimum shall include:~~

~~(1) Ensuring that all parts of the industrial hemp plant that do not enter the stream of commerce as hemp products are destroyed, incorporated into the soil, or otherwise properly disposed of.~~

~~(2) Maintaining records that reflect compliance with the provisions of this chapter and with all other state laws regulating the planting and cultivation of industrial hemp.~~

~~(f) Every grower shall maintain all production and sales records for at least three years.~~

~~(g) Every grower shall allow industrial hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected by and at the discretion of the secretary or his or her designee.~~

(a) A person who intends to grow hemp shall register with the Secretary

and submit on a form provided by the Secretary the following:

(1) the name and address of the person;

(2) a statement that the seeds obtained for planting are of a type and variety that do not exceed the maximum concentration of tetrahydrocannabinol set forth in subdivision 562(3) of this title; and

(3) the location and acreage of all parcels sown and other field reference information as may be required by the Secretary.

(b) The form provided by the Secretary pursuant to subsection (a) of this section shall include a notice statement that, until current federal law is amended to provide otherwise:

(A) cultivation and possession of hemp in Vermont is a violation of the federal Controlled Substances Act; and

(B) federal prosecution for growing hemp in violation of federal law may include criminal penalties, forfeiture of property, and loss of access to federal agricultural benefits, including agricultural loans, conservation programs, and insurance programs.

(c) A person registered with the Secretary pursuant to this section shall allow hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected and tested by and at the discretion of the Secretary or his or her designee.

(d) The Secretary may assess an annual registration fee of $25.00 for the performance of his or her duties under this chapter.

§ 565. ~~REVOCATION AND SUSPENSION OF LICENSE;~~

~~ENFORCEMENT~~

~~(a) The secretary may deny, suspend, revoke, or refuse to renew the license of any grower who:~~

~~(1) Makes a false statement or misrepresentation on an application for a license or renewal of a license.~~

~~(2) Fails to comply with or violates any provision of this chapter or any rule adopted under it.~~

~~(b) Revocation or suspension of a license may be in addition to any civil or criminal penalties imposed on a grower for a violation of any other state law.~~ [Repealed.]

§ 566. RULEMAKING AUTHORITY

The ~~secretary shall~~ Secretary may adopt rules to provide for the

implementation of this chapter, which ~~shall~~ may include rules to ~~allow~~ require ~~for the industrial~~ hemp to be tested during growth for tetrahydrocannabinol levels and to ~~allow~~ ~~for~~ require inspection and supervision of ~~the industrial~~ hemp during sowing, growing season, harvest, storage, and processing. The Secretary shall not adopt under this or any other section a rule that would prohibit a person to grow hemp based on the legal status of hemp under federal law.

Sec. 2. 18 V.S.A. § 4201(15) is amended to read:

(15) "Marijuana" means any plant material of the genus ~~cannabis~~ Cannabis or any preparation, compound, or mixture thereof except:

(A) sterilized seeds of the plant ~~and~~;

(B) fiber produced from the stalks~~,~~; or

(C) hemp or hemp products, as defined in 6 V.S.A. § 562.

Sec. 3. 18 V.S.A. § 4241(b) is amended to read:

(b) This subchapter shall not apply to any property used or intended for use in an offense involving two ounces or less of marijuana or in connection with hemp or hemp products as defined in 6 V.S.A. § 562.

Sec. 4. 2008 Acts and Resolves No. 212, Sec. 3 is amended to read:

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage~~, except that the secretary shall not issue a license to grow industrial hemp pursuant to Chapter 34 of Title 6 until the United States Congress amends the definition of "marihuana" for the purposes of the Controlled Substances Act (21 U.S.C. 802(16)) or the United States drug enforcement agency amends its interpretation of the existing definition in a manner affording an applicant a reasonable expectation that a permit to grow industrial hemp may be issued in accordance with part C of chapter 13 of Title 21 of the United States Code Annotated, or the drug enforcement agency takes affirmative steps to approve or deny a permit sought by the holder of a license to grow industrial hemp in another state~~.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 11-0-0)

(For text see Senate Journal 3/27/2013)

Rep. Clarkson of Woodstock, for the Committee on **Ways and Means,** recommends the bill ought to pass when amended as recommended by the Committee on **Agriculture and Forest Products.**

(Committee Vote: 9-1-1)

Favorable

S. 40

An act relating to establishing an interim committee that will develop policies to restore the 1980 ratio of state funding to student tuition at Vermont State Colleges and to make higher education more affordable

Rep. Cupoli of Rutland City, for the Committee on **Education**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 10-1-0)

(For text see Senate Journal 3/29/2013)

Senate Proposal of Amendment

H. 26

An act relating to technical corrections

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

First: By inserting a new Sec. 6 as follows:

Sec. 6. 10 V.S.A. § 1106(a) is amended to read:

(a) There is hereby established a special fund to be known as the Vermont ~~unsafe dam revolving loan fund~~ Unsafe Dam Revolving Loan Fund which shall be used to provide grants and loans to municipalities, nonprofit entities, and private individuals, pursuant to rules ~~proposed~~ adopted by the ~~agency of natural resources and enacted by the general assembly~~ Agency of Natural Resources, for the reconstruction, repair, removal, breaching, draining, or other action necessary to reduce the threat of a dam or portion of a dam determined to be unsafe pursuant to section 1095 of this chapter.

* * *

Second: In Sec. 24 by striking out the introductory language "2012 Acts and Resolves No. 40, Sec. 12(b)" and inserting in lieu thereof of the following: 2011 Acts and Resolves No. 40, Sec. 12(b), as amended by 2012 Acts and Resolves No. 104, Sec. 8

Third: By inserting a new Sec. 30 as follows:

Sec. 30. LEGISLATIVE COUNCIL; STATUTORY REVISION;

PHYSICIAN ASSISTANTS

The Office of Legislative Council, in its statutory revision capacity, is directed to make amendments to the Vermont Statutes Annotated as are necessary to change the term "physician's assistant" to "physician assistant" and the term "physician's assistants" to "physician assistants" and to correct any reference to physician assistant certification to refer instead to physician assistant licensure in order to conform with the change in the terminology of the title of physician assistants and their type of regulation as set forth in 2011 Acts and Resolves No. 61, Sec. 4. Such changes may also be made when new legislation is proposed or in preparing an individual act for codification in the Vermont Statutes Annotated or for publication in the Acts and Resolves.

And by renumbering all sections of the bill to be numerically correct.

(No House amendments)

H. 299

An act relating to enhancing consumer protection provisions for propane refunds, unsolicited demands for payment, and failure to comply with civil investigations

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

First: In Sec. 4, in 9 V.S.A. § 4402(1), by striking out subdivision (B) in its entirety and inserting in lieu thereof a new subdivision (B) to read as follows:

(B) "Solicitation" does not include an offer to renew an existing agreement for the purchase of goods or services, provided that the offer specifies the date on which the existing agreement expires.

Second: By striking out Secs. 6–10 in their entirety and inserting in lieu thereof new Sec. 6 and Sec. 7 to read as follows:

Sec. 6. 9 V.S.A. chapter 120 is added to read:

CHAPTER 120. BAD FAITH ASSERTIONS OF PATENT INFRINGEMENT

§ 4195. LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSE

(a) The General Assembly finds that:

(1) Vermont is striving to build an entrepreneurial and knowledge based economy. Attracting and nurturing small and medium sized internet technology ("IT") and other knowledge based companies is an important part of this effort and will be beneficial to Vermont's future.

(2) Patents are essential to encouraging innovation, especially in the IT

and knowledge based fields. The protections afforded by the federal patent system create an incentive to invest in research and innovation, which spurs economic growth. Patent holders have every right to enforce their patents when they are infringed, and patent enforcement litigation is necessary to protect intellectual property.

(3) The General Assembly does not wish to interfere with the good faith enforcement of patents or good faith patent litigation. The General Assembly also recognizes that Vermont is preempted from passing any law that conflicts with federal patent law.

(4) Patent litigation can be technical, complex, and expensive. The expense of patent litigation, which may cost hundreds of thousands of dollars or more, can be a significant burden on small and medium sized companies. Vermont wishes to help its businesses avoid these costs by encouraging the most efficient resolution of patent infringement claims without conflicting with federal law.

(5) In order for Vermont companies to be able to respond promptly and efficiently to patent infringement assertions against them, it is necessary that they receive specific information regarding how their product, service, or technology may have infringed the patent at issue. Receiving such information at an early stage will facilitate the resolution of claims and lessen the burden of potential litigation on Vermont companies.

(6) Abusive patent litigation, and especially the assertion of bad faith infringement claims, can harm Vermont companies. A business that receives a letter asserting such claims faces the threat of expensive and protracted litigation and may feel that it has no choice but to settle and to pay a licensing fee, even if the claim is meritless. This is especially so for small and medium sized companies and nonprofits that lack the resources to investigate and defend themselves against infringement claims.

(7) Not only do bad faith patent infringement claims impose a significant burden on individual Vermont businesses, they also undermine Vermont's efforts to attract and nurture small and medium sized IT and other knowledge based companies. Funds used to avoid the threat of bad faith litigation are no longer available to invest, produce new products, expand, or hire new workers, thereby harming Vermont's economy.

(b) Through this narrowly focused act, the General Assembly seeks to facilitate the efficient and prompt resolution of patent infringement claims, protect Vermont businesses from abusive and bad faith assertions of patent infringement, and build Vermont's economy, while at the same time respecting federal law and being careful to not interfere with legitimate patent

enforcement actions.

§ 4196. DEFINITIONS

In this chapter:

(1) "Demand letter" means a letter, e-mail, or other communication asserting or claiming that the target has engaged in patent infringement.

(2) "Target" means a Vermont person:

(A) who has received a demand letter or against whom an assertion or allegation of patent infringement has been made;

(B) who has been threatened with litigation or against whom a lawsuit has been filed alleging patent infringement; or

(C) whose customers have received a demand letter asserting that the person's product, service, or technology has infringed a patent.

§ 4197. BAD FAITH ASSERTIONS OF PATENT INFRINGEMENT

(a) A person shall not make a bad faith assertion of patent infringement.

(b) A court may consider the following factors as evidence that a person has made a bad faith assertion of patent infringement:

(1) The demand letter does not contain the following information:

(A) the patent number;

(B) the name and address of the patent owner or owners and assignee or assignees, if any; and

(C) factual allegations concerning the specific areas in which the target's products, services, and technology infringe the patent or are covered by the claims in the patent.

(2) Prior to sending the demand letter, the person fails to conduct an analysis comparing the claims in the patent to the target's products, services, and technology, or such an analysis was done but does not identify specific areas in which the products, services, and technology are covered by the claims in the patent.

(3) The demand letter lacks the information described in subdivision (1) of this subsection, the target requests the information, and the person fails to provide the information within a reasonable period of time.

(4) The demand letter demands payment of a license fee or response within an unreasonably short period of time.

(5) The person offers to license the patent for an amount that is not

based on a reasonable estimate of the value of the license.

(6) The claim or assertion of patent infringement is meritless, and the person knew, or should have known, that the claim or assertion is meritless.

(7) The claim or assertion of patent infringement is deceptive.

(8) The person or its subsidiaries or affiliates have previously filed or threatened to file one or more lawsuits based on the same or similar claim of patent infringement and:

(A) those threats or lawsuits lacked the information described in subdivision (1) of this subsection; or

(B) the person attempted to enforce the claim of patent infringement in litigation and a court found the claim to be meritless.

(9) Any other factor the court finds relevant.

(c) A court may consider the following factors as evidence that a person has not made a bad faith assertion of patent infringement:

(1) The demand letter contains the information described in subdivision (b)(1) of this section.

(2) Where the demand letter lacks the information described in subdivision (b)(1) of this section and the target requests the information, the person provides the information within a reasonable period of time.

(3) The person engages in a good faith effort to establish that the target has infringed the patent and to negotiate an appropriate remedy.

(4) The person makes a substantial investment in the use of the patent or in the production or sale of a product or item covered by the patent.

(5) The person is:

(A) the inventor or joint inventor of the patent or, in the case of a patent filed by and awarded to an assignee of the original inventor or joint inventor, is the original assignee; or

(B) an institution of higher education or a technology transfer organization owned or affiliated with an institution of higher education.

(6) The person has:

(A) demonstrated good faith business practices in previous efforts to enforce the patent, or a substantially similar patent; or

(B) successfully enforced the patent, or a substantially similar patent, through litigation.

(7) Any other factor the court finds relevant.

§ 4198. BOND

Upon motion by a target and a finding by the court that a target has established a reasonable likelihood that a person has made a bad faith assertion of patent infringement in violation of this chapter, the court shall require the person to post a bond in an amount equal to a good faith estimate of the target's costs to litigate the claim and amounts reasonably likely to be recovered under § 4199(b) of this chapter, conditioned upon payment of any amounts finally determined to be due to the target. A hearing shall be held if either party so requests. A bond ordered pursuant to this section shall not exceed $250,000.00. The court may waive the bond requirement if it finds the person has available assets equal to the amount of the proposed bond or for other good cause shown.

§ 4199. ENFORCEMENT; REMEDIES; DAMAGES

(a) The Attorney General shall have the same authority under this chapter to make rules, conduct civil investigations, bring civil actions, and enter into assurances of discontinuance as provided under chapter 63 of this title. In an action brought by the Attorney General under this chapter the court may award or impose any relief available under chapter 63 of this title.

(b) A target of conduct involving assertions of patent infringement, or a person aggrieved by a violation of this chapter or by a violation of rules adopted under this chapter, may bring an action in superior court. A court

may award the following remedies to a plaintiff who prevails in an action brought pursuant to this subsection:

(1) equitable relief;

(2) damages;

(3) costs and fees, including reasonable attorney's fees; and

(4) exemplary damages in an amount equal to $50,000.00 or three times the total of damages, costs, and fees, whichever is greater.

(c) This chapter shall not be construed to limit rights and remedies available to the State of Vermont or to any person under any other law and shall not alter or restrict the Attorney General's authority under chapter 63 of this title with regard to conduct involving assertions of patent infringement.

Sec. 7. EFFECTIVE DATE

This 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 amending consumer protection provisions for propane refunds, unsolicited demands for payment, bad faith assertions of patent infringement and failure to comply with civil investigations.

(For text see House Journal 3/19/2013)

H. 395

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

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

First: In Sec. 1, in 10 V.S.A. § 280dd(c)(1), by striking out "traditional"

Second: In Sec. 1, in 10 V.S.A. § 280dd, by adding subsection (d) as follows:

(d) For all sustainable energy loans, the Authority shall maintain records on the projected reductions in greenhouse gas emissions and, for energy efficiency loans, the projected energy savings from the financed improvements and shall provide data on the projected greenhouse gas emissions reductions and projected energy savings to the Department of Public Service, the Public Service Board, and the Agency of Natural Resources on request. The methods used for calculating and reporting this data that shall be the same methods used in programs delivered under 30 V.S.A. § 209(d) and (e). The data provided shall be used for the purpose of tracking progress toward the greenhouse gas reduction goals of section 578 of this title and the building efficiency goals of section 581 of this title.

Third: In Sec. 6, in 10 V.S.A. § 213(b), in the first sentence, after the phrase "each of whom shall serve as" by striking out "a voting" and inserting in lieu thereof an

Fourth: By adding a new section to be numbered Sec. 8a to read as follows:

Sec. 8a. VERMONT STATE TREASURER; CREDIT FACILITY FOR RESIDENTIAL ENERGY EFFICIENCY LOANS

(a) Notwithstanding any other provision of law to the contrary, the Vermont State Treasurer, working in collaboration with the Vermont Housing Finance Agency, the entities appointed to deliver energy efficiency under 30 V.S.A. § 209(d)(2), NeighborWorks of Western Vermont, and other appropriate parties, shall have the authority to establish a credit facility of up to $6,500,000.00, on terms acceptable to the Treasurer.

(b) The credit facility described in subsection (a) of this section shall be used for the purpose of financing energy efficiency improvements throughout Vermont for dwellings the owners of which demonstrate that they are credit-worthy and have a need for access to financing to make energy efficiency

improvements in their dwellings. For the purpose of this section, "dwelling" means a residential structure that contains one or more housing units or that part of a structure that contains one or more residential housing units.

(c) The Treasurer shall take all reasonable steps to minimize the administrative costs of the financing programs supported by the facility described in subsection (a) of this section. On or before December 15, 2013, the Treasurer shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committees on Economic Development, Housing and General Affairs and on Finance detailing the steps taken to implement this subsection.

(d) Entities providing financing supported by the credit facility described in subsection (a) of this section shall:

(1) With respect to each dwelling that seeks financing supported by the facility:

(A) evaluate energy efficiency improvements on a whole-building basis and provide the list of potential improvements resulting from this evaluation to the owner; and

(B) provide information to the owner on other incentives or financial support available for the improvements; and

(2) With respect to each dwelling that receives financing supported by the facility, maintain records on the projected energy savings and projected reductions in greenhouse gas emissions from the financed energy efficiency improvements and provide data on the number of dwellings served, projected energy saved, and projected greenhouse gas emission reductions to the Department of Public Service, the Public Service Board, and the Agency of Natural Resources on request. The methods used for calculating and reporting this data that shall be the same methods used in programs delivered under 30 V.S.A. § 209(d) and (e). The data provided shall be used for the purpose of tracking progress toward the greenhouse gas reduction goals of 10 V.S.A. § 578 and the building efficiency goals of 10 V.S.A. § 581.

Fifth: By adding a new section to be numbered 8b to read as follows:

Sec. 8b. VERMONT CLEAN ENERGY JOBS INITIATIVE

The following shall be known collectively as the Vermont Clean Energy Jobs Initiative: the Vermont Sustainable Energy Loan Fund in Sec. 1 of this act; the Energy Efficiency Loan Guarantee Program under Sec. 2 of this act; the residential energy efficiency loans under Sec. 8a of this act; property-assessed clean energy districts under 24 V.S.A. chapter 87, subchapter 2; the delivery of energy efficiency services by entities appointed under 30 V.S.A. §

209(d)(2); the Clean Energy Development Fund under 30 V.S.A. § 8015; and the Home Weatherization Assistance Program under 33 V.S.A. chapter 25.

(For text see House Journal 4/5/2013)

H. 405

An act relating to manure management and anaerobic digesters

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

In Sec. 1, 30 V.S.A. § 248, in subdivision (q)(1), by striking out the last sentence and inserting in lieu thereof the following:

The certificate shall not be required for the methane digester, the digester influents and non-gas effluents, the buildings and equipment used to handle such influents and non-gas effluents, or the on-farm use of heat and exhaust produced by the generation of electricity, and these components shall not be subject to jurisdiction under this section.

(For text see House Journal 3/20/2013)

H. 522

An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

(a) This act is intended to provide a comprehensive approach to combating opioid addiction and methamphetamine abuse in Vermont through strategies that address prevention, treatment, and recovery, and increase community safety by reducing drug-related crime.

(b) It is the intent of the General Assembly that the initiatives described in this act should be integrated to the extent possible with the Blueprint for Health and Vermont's health care system and health care reform initiatives.

* * * Preventing Abuse of Prescription Drugs * * *

Sec. 2. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

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

* * *

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

* * *

Sec. 2a. 18 V.S.A. § 4202(d) is amended to read:

(d) The regulations adopted by the ~~board of health~~ Board of Health under section 4201 of this title for the purpose of determining those drugs defined under that section may be adopted only after prior written notice to the ~~board of pharmacy~~ Board of Pharmacy and the ~~board of medical practice~~ Board of Medical Practice and after the ~~board of pharmacy~~ Board of Pharmacy and the ~~board of medical practice~~ Board of Medical Practice have had an opportunity to advise the ~~board of health~~ Board of Health with respect to the form and substance of those regulations or amendments and to recommend revisions thereof, except with respect to emergency rules adopted pursuant to 3 V.S.A. § 844, which may be adopted without notice by the Commissioner of Health.

Sec. 3. 18 V.S.A. § 4215b is added to read:

§ 4215b. IDENTIFICATION

Only a patient for whom a prescription was written, the owner of an animal for which a prescription was written, or a bona fide representative of the patient or animal owner, as defined by the Board of Pharmacy by rule after consultation with the Commissioner of Health, may pick up a prescription for a Schedule II, III, or IV controlled substance. Prior to dispensing a prescription for a Schedule II, III, or IV controlled substance, a pharmacist shall require the individual receiving the drug to provide a signature and show valid and current government-issued photographic identification as evidence that the individual is the patient for whom the prescription was written, the owner of the animal for which the prescription was written, or the bona fide representative of the patient or animal owner. If the individual does not have valid, current

government-issued photographic identification, the pharmacist may request alternative evidence of the individual's identity, as appropriate.

Sec. 3a. BOARD OF PHARMACY; RULEMAKING

The Board of Pharmacy shall adopt rules pursuant to 3 V.S.A. chapter 25 to define which persons shall be considered bona fide representatives of a patient or animal owner for the purposes of picking up a prescription for a Schedule II, III, or IV controlled substance pursuant to 18 V.S.A. § 4215b.

Sec. 4. 18 V.S.A. § 4218 is amended to read:

§ 4218. ENFORCEMENT

* * *

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

(e) The Department of Public Safety, in consultation with representatives of licensed Vermont pharmacies, shall adopt standard operating guidelines for accessing pharmacy records through the authority granted in this section. Any person authorized to access pharmacy records pursuant to subsection (a) of this section shall follow the Department of Public Safety's guidelines. These guidelines shall be a public record.

Sec. 5. DEPARTMENT OF PUBLIC SAFETY; REPORTING STANDARD OPERATING GUIDELINES

On or before December 15, 2013, the Commissioner of Public Safety shall submit to the House and Senate Committees on Judiciary, the House Committees on Human Services and on Health Care, and the Senate Committee on Health and Welfare the Department's written standard operating guidelines used to access pharmacy records at individual pharmacies pursuant to 18 V.S.A. § 4218. Subsequently, if the guidelines are substantively amended by the Department, it shall submit the amended guidelines to the same committees as soon as practicable.

Sec. 6. 18 V.S.A. § 4282 is amended to read:

§ 4282. DEFINITIONS

As used in this chapter:

* * *

(3) ~~"Trained law enforcement officer" shall include any officer~~

~~designated by the department of public safety who has completed a training program established by rule by the department of health, which is designed to ensure that officers have the training necessary to use responsibly and properly any information that they receive from VPMS.~~

~~(4)~~ "VPMS" shall mean the Vermont prescription monitoring system established under this chapter.

(4) "Delegate" means an individual employed by a health care provider or pharmacy or in the Office of the Chief Medical Examiner and authorized by a health care provider or dispenser or by the Chief Medical Examiner to request information from the VPMS relating to a bona fide current patient of the health care provider or dispenser or to a bona fide investigation or inquiry into an individual's death.

(5) "Department" means the Department of Health.

(6) "Drug diversion investigator" means an employee of the Department of Public Safety whose primary duties include investigations involving violations of laws regarding prescription drugs or the diversion of prescribed controlled substances, and who has completed a training program established by the Department of Health by rule that is designed to ensure that officers have the training necessary to use responsibly and properly any information that they receive from the VPMS.

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

Sec. 7. 18 V.S.A. § 4283 is amended to read:

§ 4283. CREATION; IMPLEMENTATION

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

* * *

(e) It is not the intention of the ~~department~~ Department that a health care

provider or a dispenser shall have to pay a fee or tax or purchase hardware or proprietary software required by the ~~department~~ Department specifically for the use, establishment, maintenance, or transmission of the data. The ~~department~~ Department shall seek grant funds and take any other action within its financial capability to minimize any cost impact to health care providers and dispensers.

* * *

Sec. 8. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

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

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

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

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

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

(C) The Medical Director of the Department of Vermont Health Access, for the purposes of Medicaid quality assurance, utilization, and federal monitoring requirements with respect to Medicaid recipients for whom a Medicaid claim for a Schedule II, III, or IV controlled substance has been submitted.

(D) A medical examiner or delegate from the Office of the Chief Medical Examiner, for the purpose of conducting an investigation or inquiry into the cause, manner, and circumstances of an individual's death.

(E) A health care provider or medical examiner licensed to practice in another state, to the extent necessary to provide appropriate medical care to

a Vermont resident or to investigate the death of a Vermont resident.

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

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

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

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

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

~~(6)~~(E)(i) The ~~commissioner of public safety~~ Commissioner of Public Safety, personally, or the Deputy Commissioner of Public Safety, personally, if the ~~commissioner of health~~ Commissioner of Health, personally, or a Deputy Commissioner of Health, personally, makes the disclosure~~,~~ and has consulted with at least one of the patient's health care providers, ~~and believes that~~ when the disclosure is necessary to avert a serious and imminent threat to a person or the public.

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

(iii) The Commissioner or Deputy Commissioner of Public Safety may disclose such data received pursuant to this subdivision (E) as is necessary, in his or her discretion, to avert the serious and imminent threat.

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

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

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

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

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

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

(g) Following consultation with the Unified Pain Management System Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to use information from VPMS to determine if individual prescribers and dispensers are using VPMS appropriately.

(h) Following consultation with the Unified Pain Management System Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to evaluate the prescription of regulated drugs by prescribers.

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

(j) All information and correspondence relating to the disclosure of information by the Commissioner to a patient's health care provider pursuant to subdivision (b)(2)(A) of this section shall be confidential and privileged, exempt from public inspection and copying under the Public Records Act,

immune from subpoena or other disclosure, and not subject to discovery or introduction into evidence.

(k) Each request for disclosure of data pursuant to subdivision (b)(2)(B) of this section shall document a bona fide specific investigation and shall specify the case number of the investigation.

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

§ 4287. RULEMAKING

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

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

§ 4288. RECIPROCAL AGREEMENTS

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

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

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

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

(b)(1) Each health care provider who prescribes any Schedule II, III, or IV controlled substances shall register with the VPMS by November 15, 2013.

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

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

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

(d) Health care providers shall query the VPMS with respect to an individual patient in the following circumstances:

(1) at least annually for patients who are receiving ongoing treatment with an opioid Schedule II, III, or IV controlled substance;

(2) when starting a patient on a Schedule II, III, or IV controlled substance for nonpalliative, long-term pain therapy of 90 days or more; and

(3) prior to writing a replacement prescription for a Schedule II, III, or IV controlled substance pursuant to section 4290 of this title.

(e) The Commissioner of Health shall, after consultation with the Unified Pain Management System Advisory Council, adopt rules necessary to effect the purposes of this section. The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS, including whether health care providers should be required to query the VPMS:

(1) the first time the provider prescribes an opioid Schedule II, III, or IV controlled substance written to treat chronic pain; and

(2) when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain.

(f) Each professional licensing authority for dispensers shall adopt standards, consistent with rules adopted by the Department of Health under this section, regarding the frequency and circumstances under which its respective licensees shall:

(1) query the VPMS; and

(2) report to the VPMS, which shall be no less than once every seven days.

(g) Each professional licensing authority for health care providers and dispensers shall consider the statutory requirements, rules, and standards adopted pursuant to this section in disciplinary proceedings when determining whether a licensee has complied with the applicable standard of care.

Sec. 11a. REPORTING OF DISPENSER STANDARDS

No later than March 31, 2014, each professional licensing authority for

dispensers shall submit the standards required by 18 V.S.A. § 4289(e) to the VPMS Advisory Committee established in 18 V.S.A. § 4286.

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

§ 4290. REPLACEMENT PRESCRIPTIONS AND MEDICATIONS

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

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

(c) When a health care provider writes a replacement prescription pursuant to this section, the provider shall clearly indicate as much by writing the word "REPLACEMENT" on the face of the prescription. The health care provider shall document the writing of the replacement prescription in the patient's medical record.

Sec. 13. VPMS ADVISORY COMMITTEE

(a)(1) The Commissioner shall maintain an advisory committee to assist in the implementation and periodic evaluation of the Vermont Prescription Monitoring System (VPMS).

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

(3) The Committee shall have access to aggregated, deidentified data from the VPMS.

(b) The VPMS Advisory Committee shall be chaired by the Commissioner of Health or designee and shall include the following members:

(1) the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;

(2) a representative from the Vermont Medical Society;

(3) a representative from the American College of Emergency Physicians - Vermont Chapter;

(4) a representative from the Vermont State Nurses Association;

(5) a representative from the Vermont Board of Medical Practice;

(6) a representative from the Vermont Board of Pharmacy;

(7) a representative from the Vermont Pharmacists Association;

(8) a representative from the Vermont State Dental Society;

(9) the Commissioner of Public Safety;

(10) a representative of the Vermont Attorney General;

(11) a representative of the Vermont Substance Abuse Treatment Providers Association;

(12) a mental health provider or a certified alcohol and drug abuse counselor;

(13) a consumer in recovery from prescription drug abuse;

(14) a consumer receiving medical treatment for chronic pain; and

(15) any other member invited by the Commissioner.

(c) The Committee shall meet at least once annually but may be convened at any time by the Commissioner or the Commissioner's designee.

(d) On or before January 15, 2014, the Committee shall provide recommendations to the House Committees on Human Services and on Health Care and the Senate Committee on Health and Welfare regarding ways to maximize the effectiveness and appropriate use of the VPMS database, including adding new reporting capabilities, in order to improve patient outcomes and avoid prescription drug diversion. The Committee shall also report on the feasibility of obtaining real-time information from the VPMS and on its evaluation of whether increasing the frequency of dispenser reporting to the VPMS from at least once every seven days to at least once every 24 hours, or more frequently, would yield substantial benefits.

(e) The Committee shall cease to exist on July 1, 2014.

Sec. 13a. REPORT ON INTEGRATION OF ELECTRONIC MEDICAL RECORDS AND THE VERMONT PRESCRIPTION MONITORING SYSTEM

On or before December 1, 2014, the Department of Health shall provide to the House Committees on Human Services and on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary a report evaluating the potential for the integration of electronic medical records with the VPMS. The report shall include an assessment of the feasibility of the integration, identification of potential barriers to the integration, and an estimate of the costs associated with the integration.

Sec. 13b. REPORT ON PREVENTION ACTIVITIES

(a) The Agency of Education and the Department of Health shall use the School Health Profile to survey public and approved independent middle and high schools in Vermont to determine the quality and effectiveness of substance abuse prevention education in Vermont's schools.

(b) On or before January 15, 2015, the Secretary of Education and the Commissioner of Health shall report their evaluation of the quality and effectiveness of substance abuse prevention education in Vermont based on the results of the survey required by this section, as well as their recommendations for evidence-based and data-driven practices to be incorporated into school quality standards in the health education domain, to the House Committees on Human Services and on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Education and on Judiciary.

* * * Improving Access to Treatment and Recovery * * *

Sec. 14. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY COUNCIL

(a) There is hereby created a Unified Pain Management System Advisory Council for the purpose of advising the Commissioner of Health on matters relating to the appropriate use of controlled substances in treating chronic pain and addiction and in preventing prescription drug abuse.

(b) The Unified Pain Management System Advisory Council shall consist of the following members:

(1) the Commissioner of Health or designee, who shall serve as chair;

(2) the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs or designee;

(3) the Commissioner of Mental Health or designee;

(4) the Director of the Blueprint for Health or designee;

(5) the Chair of the Board of Medical Practice or designee, who shall be a clinician;

(6) a representative of the Vermont State Dental Society, who shall be a dentist;

(7) a representative of the Vermont Board of Pharmacy, who shall be a pharmacist;

(8) a faculty member of the academic detailing program at the University of Vermont's College of Medicine;

(9) a faculty member of the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management;

(10) a representative of the Vermont Medical Society, who shall be a primary care clinician;

(11) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician;

(12) a representative from the Vermont Board of Osteopathic Physicians, who shall be an osteopath;

(13) a representative of the Federally Qualified Health Centers, who shall be a primary care clinician selected by the Bi-State Primary Care Association;

(14) a representative of the Vermont Ethics Network;

(15) a representative of the Hospice and Palliative Care Council of Vermont;

(16) a representative of the Office of the Health Care Ombudsman;

(17) the Medical Director for the Department of Vermont Health Access;

(18) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals;

(19) a member of the Vermont Board of Nursing Subcommittee on APRN Practice, who shall be an advanced practice registered nurse;

(20) a representative from the Vermont Assembly of Home Health and Hospice Agencies;

(21) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who has experience in treating chronic pain, to be selected by the Board of Psychological Examiners;

(22) a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;

(23) a retail pharmacist, to be selected by the Vermont Pharmacists Association;

(24) an advanced practice registered nurse full-time faculty member from the University of Vermont's Department of Nursing; and

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

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

(d)(1) The Advisory Council shall provide advice to the Commissioner concerning rules for the appropriate use of controlled substances in treating chronic noncancer pain and addiction and in preventing prescription drug abuse.

(2) The Advisory Council shall evaluate the use of nonpharmacological approaches to treatment for chronic pain, including the appropriateness, efficacy, and cost-effectiveness of using complementary and alternative therapies such as chiropractic, acupuncture, and massage.

(e) The Commissioner of Health may adopt rules pursuant to 3 V.S.A. chapter 25 regarding the appropriate use of controlled substances after seeking the advice of the Council.

Sec. 14a. COMPLEMENTARY AND ALTERNATIVE TREATMENT REPORT

On or before January 15, 2014, the Commissioner of Health shall provide to the House Committees on Human Services and on Health Care and the Senate Committee on Health and Welfare the findings and recommendations of the Unified Pain Management System Advisory Council's initial evaluation of the use of nonpharmacological approaches to treatment for chronic pain, including the use of complementary and alternative therapies. The Commissioner shall provide the Committees with additional recommendations as appropriate as the Advisory Council continues to consider nonpharmacological approaches to treating chronic pain.

Sec. 14b. DEPARTMENT OF HEALTH; ACCESS TO OPIOID TREATMENT

(a) The prevalence of opioid addiction and the lack of sufficient access to opioid treatment in Vermont pose an imminent peril to the public health, welfare, and safety to our citizens.

(b) The Vermont Department of Health shall study how Vermont can increase access to opioid treatment, including methadone and suboxone, by establishing a program whereby state-licensed physicians who are affiliated with a licensed opioid maintenance treatment program may provide methadone or suboxone to opiod-dependent people.

(c) The Commissioner of Health shall consult with the following people:

(1) The Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;

(2) a representative from the Vermont Medical Society;

(3) a representative from the Vermont State Nurses Association;

(4) a representative from the Vermont Board of Medical Practice;

(5) a representative from the Vermont Board of Pharmacy;

(6) a representative from the Vermont Pharmacists Association;

(7) the Commissioner of Public Safety;

(8) a representative of the Vermont Attorney General;

(9) a representative of the Vermont Substance Abuse Treatment Providers Association;

(10) a mental health provider or a certified alcohol and drug abuse counselor;

(11) a consumer in recovery from prescription drug abuse;

(12) a representative from a clinical laboratory providing drug testing and clinical support services to addiction treatment programs;

(13) the Commissioner of Corrections;

(14) The Defender General; and

(15) any other member designated by the Commissioner of Health.

(d)(1) The Department of Health shall adopt rules establishing a program whereby state-licensed physicians who are affiliated with a licensed opioid maintenance treatment program may provide methadone or suboxone to opiod-dependent people. Such rules may be adopted as emergency rules in accordance with 3 V.S.A. chapter 25. The Department may adopt and enforce such reasonable rules and procedures as are deemed necessary to carry out the administration of the provisions of this section.

(2) The Commissioner of Health shall report its findings, including any recommendations or proposed legislation to the House Committees on Health Care and on Human Services and Senate Committees on Judiciary and on Health and Welfare on or before January 15, 2014.

Sec. 14c. 33 V.S.A. § 703 is amended to read:

§ 703. ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS; PER DIEM

(a) The ~~alcohol and drug abuse council~~ Alcohol and Drug Abuse Council is established within the ~~agency of human services~~ Agency of Human Services to promote the reduction of problems arising from alcohol and drug abuse by advising the Secretary on policy areas that can inform agency programs.

(b) The ~~council~~ Council shall consist of ~~eleven~~ 11 members:

(1) the ~~secretary of the agency of human services, commissioner of public safety, commissioner of education, commissioner of liquor control, and commissioner of motor vehicles~~ Secretary of Human Services, Commissioner of Public Safety, Secretary of Education, Commissioner of Liquor Control, and Commissioner of Motor Vehicles or their designees;

(2) one member shall be a member of a mental health or substance abuse agency who shall be appointed by the ~~governor~~ Governor; and

(3) five members shall be appointed by the ~~governor~~ Governor of which every consideration shall be given, if possible, to equal geographic apportionment. ~~One of these~~ Consideration will be given for one of these members ~~shall~~ to be a certified practicing teacher and one of these members ~~shall~~ to be a school administrator.

(c) The term of office of members appointed pursuant to subdivisions (b)(2) and (b)(3) of this section shall be three years.

(d) The ~~secretary of the agency of human services~~ council membership shall annually elect a member to serve as chairperson.

(e) All members shall be voting members.

(f) At the expiration of the term of an appointed member, or in the event of a vacancy during an unexpired term, the new member shall be appointed in the same manner as his or her predecessor. Members of the ~~council~~ Council may be reappointed.

(g) Each member of the ~~council~~ Council not otherwise receiving compensation from the ~~state~~ State of Vermont or any political subdivision thereof shall be entitled to receive per diem compensation ~~of $30.00 for each day~~ as provided in 32 V.S.A. § 1010(b). Each member shall be entitled to his or her actual and necessary expenses.

Sec. 15. OPIOID ADDICTION TREATMENT IN HOSPITALS

Pursuant to 18 V.S.A. § 4240(b)(5), the Department of Health, in collaboration with the Vermont Association of Hospitals and Health Systems, the Vermont Association for Mental Health and Addiction Recovery, and the Vermont Council of Developmental and Mental Health Services, shall, subject to available resources, develop evidence-based guidelines and training for

hospitals regarding:

(1) screening for addiction;

(2) performing addiction interventions;

(3) making referrals to addiction treatment and recovery services for victims admitted to or treated in a hospital emergency department; and

(4) informing hospitals about the specific addiction treatment and recovery services available in the hospital's service area.

Sec. 15a. REPORT ON OPIOID ADDICTION TREATMENT PROGRAMS

(a) On or before December 15, 2013, the Commissioners of Health and of Vermont Health Access shall provide a written report to the House Committees on Health Care and on Human Services, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary regarding opioid addiction treatment and recovery services being provided in Vermont.

(b) The report shall include:

(1) each program's capacity, including the number of persons currently served and the program's maximum capacity;

(2) the number of persons on the waiting list for each program, if applicable, and the average length of time a person spends on the program's waiting list before services become available;

(3) specific information regarding the number of persons served by each program that uses buprenorphine, buprenorphine/naloxone, or methadone for the treatment of opioid addiction and the number of persons on the waiting list for that program, if any;

(4) specific information about the implementation of the Hub and Spoke Opioid Integrated Treatment Initiative, including a description of specialty addiction treatment programs and general medical practices currently providing medication-assisted treatment (MAT) and the number of persons currently being served in specialty addiction treatment programs and in Blueprint primary care practices toward a goal of reducing current waiting lists statewide by 90 percent by January 15, 2015;

(5) how opioid addiction treatment services are integrated with existing recovery and counseling programs in Vermont; and

(6) the Department of Health's plans for addressing the need for additional opioid addiction treatment programs, including a description of the resources that the Department would need to meet the statewide demand for specialty services, of continued barriers to treatment, and of particular

workforce needs.

* * * Safe Disposal of Prescription Medication * * *

Sec. 16. UNUSED DRUG DISPOSAL PROGRAM PROPOSAL

(a) On or before January 15, 2014, the Commissioners of Health and of Public Safety shall provide recommendations to the House and Senate Committees on Judiciary, the House Committees on Human Services and on Health Care, and the Senate Committee on Health and Welfare regarding the design and implementation of a voluntary statewide drug disposal program for unused over-the-counter and prescription drugs at no charge to the consumer. In preparing their recommendations, the Commissioners shall consider successful unused drug disposal programs in Vermont, including the Bennington County Sheriff's Department's program, and programs in other states.

(b) On or before July 1, 2014, the Commissioners of Health and of Public Safety shall implement the voluntary unused drug disposal program developed pursuant to subsection (a) of this section and shall take steps to publicize the program and to make all Vermont residents aware of opportunities to avail themselves of it.

* * * Preventing Deaths from Opioid Overdose * * *

Sec. 17. 18 V.S.A. § 4240 is added to read:

§ 4240. PREVENTION AND TREATMENT OF OPIOID-RELATED OVERDOSES

(a) As used in this section:

(1) "Health care professional" means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, a physician's assistant certified to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 31, or an advanced practice registered nurse authorized to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 28.

(2) "Opioid antagonist" means a drug that, when administered, negates or neutralizes in whole or part the pharmacological effects of an opioid in the body.

(3) "Victim" means the person who has overdosed on an opioid drug or who is believed to have overdosed on an opiate drug.

(b) For the purpose of addressing prescription and nonprescription opioid overdoses in Vermont, the Department shall develop and implement a prevention, intervention, and response strategy, depending on available resources, that shall:

(1) provide educational materials on opioid overdose prevention to the public free of charge, including to substance abuse treatment providers, health care providers, opioid users, and family members of opioid users;

(2) increase community-based prevention programs aimed at reducing risk factors that lead to opioid overdoses;

(3) increase timely access to treatment services for opioid users, including medication-assisted treatment;

(4)(A) educate substance abuse treatment providers on methods to prevent opioid overdoses;

(B) provide education and training on overdose prevention, intervention, and response to individuals living with addiction and participating in opioid treatment programs, syringe exchange programs, residential drug treatment programs, or correctional services;

(5) facilitate overdose prevention, drug treatment, and addiction recovery services by implementing and expanding hospital referral services for individuals treated for an opioid overdose; and

(6) develop a statewide opioid antagonist pilot program that emphasizes access to opioid antagonists to and for the benefit of individuals with a history of opioid use.

(c)(1) A health care professional acting in good faith may directly or by standing order prescribe, dispense, and distribute an opioid antagonist to the following persons, provided the person has been educated about opioid-related overdose prevention and treatment in a manner approved by the Department:

(A) a person at risk of experiencing an opioid-related overdose; or

(B) a family member, friend, or other person in a position to assist a person at risk of experiencing an opioid-related overdose.

(2) A health care professional who prescribes, dispenses, or distributes an opioid antagonist in accordance with subdivision (1) of this subsection shall be immune from civil or criminal liability with regard to the subsequent use of the opioid antagonist, unless the health professional's actions with regard to prescribing, dispensing, or distributing the opioid antagonist constituted recklessness, gross negligence, or intentional misconduct. The immunity granted in this subdivision shall apply whether or not the opioid antagonist is administered by or to a person other than the person for whom it was prescribed.

(d)(1) A person may administer an opioid antagonist to a victim if he or she believes, in good faith, that the victim is experiencing an opioid-related

overdose.

(2) After a person has administered an opioid antagonist pursuant to subdivision (1) of this subsection (d), he or she shall immediately call for emergency medical services if medical assistance has not yet been sought or is not yet present.

(3) A person shall be immune from civil or criminal liability for administering an opioid antagonist to a victim pursuant to subdivision (1) of this subsection unless the person's actions constituted recklessness, gross negligence, or intentional misconduct. The immunity granted in this subdivision shall apply whether or not the opioid antagonist is administered by or to a person other than the person for whom it was prescribed.

(e) A person acting on behalf of a community-based overdose prevention program shall be immune from civil or criminal liability for providing education on opioid-related overdose prevention or for purchasing, acquiring, distributing, or possessing an opioid antagonist unless the person's actions constituted recklessness, gross negligence, or intentional misconduct.

(f) Any health care professional who treats a victim and who has knowledge that the victim has been administered an opioid antagonist within the preceding 30 days shall refer the victim to professional substance abuse treatment services.

Sec. 18. STATEWIDE OPIOID ANTAGONIST PILOT PROGRAM

(a) The Department of Health shall develop and administer a statewide pilot program for the purpose of distributing opioid antagonists to:

(1) individuals at risk of an opioid overdose;

(2) the family and friends of an individual at risk of experiencing an opioid overdose; and

(3) others who may be in a position to assist individuals experiencing an opioid overdose.

(b) In developing and implementing the pilot program, the Department shall collaborate with community-based substance abuse organizations that have experience delivering opioid-related prevention and treatment services as determined by the Commissioner.

(c) The pilot program shall be in effect from July 1, 2013 through June 30, 2016. During the term of the pilot program, the Department shall purchase, provide for the distribution of, and monitor the use of opioid antagonists distributed in accordance with this section.

(d) On or before January 15, 2016, the Department of Health shall submit a

report to the House Committees on Human Services, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary evaluating the statewide opioid antagonist pilot program. The report shall include findings that pertain to the cost and effectiveness of the program and recommendations as to whether the program should be continued after June 30, 2016.

Sec. 18a. 18 V.S.A. § 5208 is amended to read:

§ 5208. HEALTH DEPARTMENT; REPORT ON STATISTICS

(a) ~~Beginning~~ Notwithstanding the provisions of 2 V.S.A. § 20(d), beginning October 1, 2011 and every two years thereafter, the Vermont ~~department of health~~ Department of Health shall report to the ~~house committee on human services and the senate committee on health and welfare~~ House Committees on Human Services and on Health Care and the Senate Committee on Health and Welfare regarding the number of persons who died during the preceding two calendar years in hospital emergency rooms, other hospital settings, in their own homes, in a nursing home, in a hospice facility, and in any other setting for which information is available, as well as whether each decedent received hospice care within the last 30 days of his or her life. Beginning with the 2013 report, the ~~department~~ Department shall include information on the number of persons who died in hospital intensive care units, assisted living facilities, or residential care homes during the preceding two calendar years.

(b) In addition to the report required by subsection (a) of this section and notwithstanding the provisions of 2 V.S.A. § 20(d), beginning March 1, 2014 and annually thereafter, the Department shall report to the House Committees on Human Services and on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary regarding the number of persons who died during the preceding calendar year from an overdose of a Schedule II, III, or IV controlled substance. The report shall list separately the number of deaths specifically related to opioids, including for each death whether an opioid antagonist was administered and whether it was administered by persons other than emergency medical personnel, firefighters, or law enforcement officers. Beginning in 2015, the report shall include similar data from prior years to allow for comparison.

* * * Protecting Communities from
Methamphetamine Abuse * * *

Sec. 19. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

* * *

(b) Sale.

(1) A drug product containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base shall not be distributed at retail to the general public unless it is maintained in a locked display case or behind the counter out of the public's reach.

(2)(A) A retail establishment shall not knowingly ~~sell~~ complete a sale to a person ~~within a calendar day any~~ if the drug product or combination of drug products ~~containing~~ purchased would surpass a total of more than 3.6 grams within a 24-hour period or nine grams within a 30-day period of ephedrine base, pseudoephedrine base, or phenylpropanolamine base or their isomers.

(B) This subdivision shall not apply to drug products dispensed pursuant to a valid prescription.

(3) A person or business which violates this subdivision shall:

(A) for a first violation be assessed a civil penalty of not more than $100.00~~.~~; and

(B) for a second and subsequent violation be assessed a civil penalty of not more than $500.00.

(c) Electronic registry system.

(1)(A) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to subsection (b) of this section. The electronic registry system shall have the capacity to block a sale of nonprescription drug products containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm to his or her person or to another person if the transaction is not completed. The system shall create a record of each use of the override mechanism.

(B) The electronic registry system shall be available free of charge to the State of Vermont, retail establishments, and local law enforcement agencies.

(C) The electronic registry system shall operate in real time to enable communication among in-state users and users of similar systems in neighboring states.

(D) The State shall use the National Precursor Log Exchange

(NPLEx) online portal or its equivalent to host Vermont's electronic registry system.

(2)(A) Prior to completing a sale under subsection (b) of this section, a retail establishment shall require the person purchasing the drug product to present a current, valid government-issued identification document. The retail establishment shall record in the electronic registry system:

(i) the name and address of the purchaser;

(ii) the name of the drug product and quantity of ephedrine, pseudoephedrine, and phenylpropanolamine base sold in grams;

(iii) the date and time of purchase;

(iv) the form of identification presented, the issuing government entity, and the corresponding identification number; and

(v) the name of the person selling or furnishing the drug product.

(B)(i) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until the retail establishment is able to comply fully with this subsection (c).

(ii) If the region of the State where the retail establishment is located does not have broadband Internet access, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until broadband Internet access becomes accessible to that region. At that time, the retail establishment shall come into compliance with this subsection (c).

(C) A retail establishment shall maintain all records of drug product purchases made pursuant to this subsection (c) for a minimum of two years.

(3) A retail establishment shall display a sign at the register provided by NPLEx or its equivalent to notify purchasers of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that:

(A) the purchase of the drug product or products shall result in the purchaser's identity being listed on a national database; and

(B) the purchaser has the right to request the transaction number for any purchase that was denied pursuant to this subsection (c).

(4) Except as provided in subdivision (5) of this subsection (c), a person or retail establishment that violates this subsection shall:

(A) for a first violation be assessed a civil penalty of not more than

$100.00; and

(B) for a second or subsequent violation be assessed a civil penalty of not more than $500.00.

(d) This section shall not apply to a manufacturer ~~which~~ that has obtained an exemption from the Attorney General of the United States under Section 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

~~(d)~~(e) As used in this section:

(1) "Distributor" means a person, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product to any person who is not the ultimate user or consumer of the product.

(2) "Knowingly" means having actual knowledge of the relevant facts.

(3) "Manufacturer" means a person who produces, compounds, packages, or in any manner initially prepares a drug product for sale or use.

(4) "Wholesaler" means a person, other than a manufacturer, who sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold.

Sec. 19a. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

* * *

(c) ~~Electronic registry system.~~

~~(1)(A) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to subsection (b) of this section. The electronic registry system shall have the capacity to block a sale of nonprescription drug products containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm to his or her person or to a co-worker if the transaction is not completed. The system shall create a record of each use of the override mechanism.~~

~~(B) The electronic registry system shall be available free of charge to the State of Vermont, retail establishments, and local law enforcement agencies.~~

~~(C) The electronic registry system shall operate in real time to enable communication among in-state users and users of similar systems in neighboring states.~~

(D) The State shall use the National Precursor Log Exchange (NPLEx) online portal or its equivalent to host Vermont's electronic registry system.

(2)(A) Prior to completing a sale under subsection (b) of this section, a retail establishment shall require the person purchasing the drug product to present a current, valid government-issued identification document. The retail establishment shall record in the electronic registry system:

(i) the name and address of the purchaser;

(ii) the name of the drug product and quantity of ephedrine, pseudoephedrine, and phenylpropanolamine base sold in grams;

(iii) the date and time of purchase;

(iv) the form of identification presented, the issuing government entity, and the corresponding identification number; and

(v) the name of the person selling or furnishing the drug product.

(B)(i) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until the retail establishment is able to comply fully with this subsection (c).

(ii) If the region of the State where the retail establishment is located does not have broadband Internet access, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until broadband Internet access becomes accessible to that region. At that time, the retail establishment shall come into compliance with this subsection (c).

(C) A retail establishment shall maintain all records of drug product purchases made pursuant to this subsection (c) for a minimum of two years.

(3) A retail establishment shall display a sign at the register provided by NPLEx or its equivalent to notify purchasers of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that:

(A) the purchase of the drug product or products shall result in the purchaser's identity being listed on a national database; and

(B) the purchaser has the right to request the transaction number for any purchase that was denied pursuant to this subsection (c).

(4) Except as provided in subdivision (5) of this subsection (c), a person or retail establishment that violates this subsection shall:

~~(A) for a first violation be assessed a civil penalty of not more than $100.00; and~~

~~(B) for a second or subsequent violation be assessed a civil penalty of not more than $500.00.~~ [Repealed]

(d) This section shall not apply to a manufacturer that has obtained an exemption from the Attorney General of the United States under Section 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

(e) As used in this section:

(1) "Distributor" means a person, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product to any person who is not the ultimate user or consumer of the product.

(2) "Knowingly" means having actual knowledge of the relevant facts.

(3) "Manufacturer" means a person who produces, compounds, packages, or in any manner initially prepares a drug product for sale or use.

(4) "Wholesaler" means a person, other than a manufacturer, who sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold.

Sec. 20. THE EFFECT OF METHAMPHETAMINE PRODUCTION ON HOUSING

(a) The Commissioner of Health shall recommend guidance for reoccupancy of a structure that was used in the production of methamphetamine.

(b) The Commissioner shall examine:

(1) Approaches for identifying housing that is or has been used for methamphetamine production and methods for making such housing safe, including:

(A) standards for reoccupancy;

(B) whether purchasers or tenants of housing that has been affected by methamphetamine production should be provided with notification of such, and if so, how; and

(C) methods taken by other states in identifying, quarantining, and cleaning such housing as well as methods used by other states to notify affected parties.

(2) The public health effects of long-term exposure to housing that is or has been contaminated by by-products resulting from production of

methamphetamine.

(c) The Commissioner shall report his or her findings, including any recommendations or proposed legislation to the House Committees on General, Housing and Military Affairs, on Judiciary, on Health Care, and on Human Services and the Senate Committees on Economic Development, Housing and General Affairs, on Judiciary, and on Health and Welfare on or before June 15, 2014.

* * * Community Safety * * *

Sec. 21. 13 V.S.A. § 3705 is amended to read:

§ 3705. UNLAWFUL TRESPASS

(a)(1) A person shall be imprisoned for not more than three months or fined not more than $500.00, or both, if, without legal authority or the consent of the person in lawful possession, he or she enters or remains on any land or in any place as to which notice against trespass is given by:

~~(1)~~(A) ~~Actual~~ actual communication by the person in lawful possession or his or her agent or by a law enforcement officer acting on behalf of such person or his or her agent; ~~or~~

~~(2)~~(B) ~~Signs~~ signs or placards so designed and situated as to give reasonable notice; or

(C) in the case of abandoned property:

(i) signs or placards, posted by the owner, the owner's agent, or a law enforcement officer, and so designed and situated as to give reasonable notice; or

(ii) actual communication by a law enforcement officer.

(2) As used in this subsection, "abandoned property" means:

(A) Real property on which there is a vacant structure that for the previous 60 days has been continuously unoccupied by a person with the legal right to occupy it and with respect to which the municipality has by first class mail to the owner's last known address provided the owner with notice and an opportunity to be heard; and

(i) property taxes have been delinquent for six months or more; or

(ii) one or more utility services have been disconnected.

(B) A railroad car that for the previous 60 days has been unmoved and unoccupied by a person with the legal right to occupy it.

(b) Prosecutions for offenses under subsection (a) of this section shall be

commenced within 60 days following the commission of the offense and not thereafter.

(c) A person who enters a building other than a residence, whose ~~normal~~ access is normally locked, whether or not the access is actually locked, or a residence in violation of an order of any court of competent jurisdiction in this ~~state~~ State shall be imprisoned for not more than one year or fined not more than $500.00, or both.

(d) A person who enters a dwelling house, whether or not a person is actually present, knowing that he or she is not licensed or privileged to do so shall be imprisoned for not more than three years or fined not more than $2,000.00, or both.

Sec. 22. [DELETED]

Sec. 22a. 9 V.S.A. chapter 97 is amended to read:

CHAPTER 97. PAWNBROKERS

* * *

§ 3865. RECORDS OF A PAWNBROKER OR SECONDHAND DEALER

(a) In each year a pawnbroker or secondhand dealer resells over ~~$500.00~~ $2,500.00 of items pawned, pledged, or sold to the pawnbroker or secondhand dealer, he or she shall maintain the following records for each transaction in that year:

(1) a legible statement written at the time of the transaction stating the amount of money lent or paid for the items pawned, pledged, or sold, the time of the transaction, and the rate of interest to be paid on the loan, as applicable;

(2) a legible statement of the name, current address, telephone number, and vehicle license number of the person pawning, pledging, or selling the items;

(3) a legible written description and photograph, or alternatively a video, of the items pawned, pledged, or sold;

(4) a photocopy of a government-issued identification card issued to the person pawning, pledging, or selling the items, if available.

(b) At all reasonable times, the records required under subsection (a) of this section shall be open to the inspection of law enforcement. A law enforcement agency shall make a reasonable effort to notify a dealer before conducting an inspection pursuant to this section unless providing notice would interfere with a criminal investigation or any other legitimate law enforcement purpose.

(c) In this section:

(1) "Precious metal" means gold, silver, platinum, or palladium.

(2) "Secondhand dealer" means a person engaged in the business of purchasing used or estate precious metal, coins, ~~antiques, furniture,~~ jewelry, or similar items for the purpose of resale.

* * *

§ 3871. PENALTIES

(a) A licensee who violates a provision of sections ~~3863-3870~~ 3863–3864 or 3866–3870 of this title~~,~~ shall be fined not more than $100.00 nor less than $10.00 for each offense.

(b) A pawnbroker or precious metal dealer who violates a provision of section 3865 or 3872 of this chapter:

(1) may be assessed a civil penalty not to exceed $1,000.00 for a first violation; and

(2) shall be fined not more than $25,000.00 for a second or subsequent violation.

* * *

Sec. 22b. PUBLIC OUTREACH TO VERMONT PRECIOUS METAL DEALERS

The Department of Public Safety shall design and implement a public outreach campaign to inform and educate pawnbrokers, precious metal dealers, and others affected by 9 V.S.A. chapter 97 of the current statutory provisions governing the purchase and sale of precious metals, including:

(1) the items that should be regulated as "precious metal" or other secondhand goods;

(2) the type of transactions governed by the chapter;

(3) the recordkeeping requirements of the chapter;

(4) the 10-day holding period requirement;

(5) methods for increasing communication with the Department of Public Safety regarding possible suspicious activity within their business transactions; and

(6) other information supporting the purpose of the campaign.

Sec. 22c. INTERIM STUDY COMMITTEE ON THE REGULATION OF PRECIOUS METAL DEALERS

(a) Creation of committee. There is created an Interim Study Committee on the Regulation of Precious Metal Dealers, the purpose of which shall be to

examine the current practices in the trade of precious metals in Vermont, the nexus of that trade to drug-related and other illegal activity, and to provide recommendations to the General Assembly on the most effective means of regulating the trade to decrease the amount of related illegal activity and promote the recovery of stolen property.

(b) Membership. The Committee shall be composed of the following members:

(1) a Vermont-based representative from the New England Jewelers Association;

(2) a representative from the Vermont Antique Dealers Association;

(3) a Vermont-based coin dealer appointed by the Governor;

(4) a representative of local law enforcement from the Vermont Police Association;

(5) a Vermont-based auctioneer appointed by the Governor;

(6) a private citizen who has been affected by the theft of precious metals appointed by the Governor;

(7) a representative from a Vermont-based business that uses precious metal for manufacturing or industrial purposes appointed by the Governor;

(8) a representative from the jewelry manufacturing industry appointed by the Governor;

(9) a representative from the Vermont State's Attorneys and Sheriffs' Association;

(10) the Commissioner of Public Safety or designee, who shall serve as Chair of the Committee, and

(11) the Vermont Attorney General or designee.

(c) Powers and duties.

(1) The Committee shall study methods for increasing cooperation between law enforcement and precious metal dealers in an effort to prevent the theft of these items and retrieve stolen goods, including the following:

(A) the advisability, cost, and effectiveness of creating and maintaining a stolen property database and website for the purpose of posting pictures and information about stolen items;

(B) the creation of a licensing system for precious metal dealers, including what information would be required of applicants, who would be eligible for a license, and how the licensing program would be implemented;

(C) refinement of the recordkeeping requirements for precious metal

dealers, including the possibility of requiring sales of a certain amount to be recorded electronically; and

(D) any other issues related to precious metal as the Committee deems appropriate.

(2) For purposes of its study of these issues, the Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(d) Report. On or before January 1, 2014, the Committee shall report to the Senate Committees on Economic Development, Housing and General Affairs and on Judiciary, and the House Committees on Commerce and Economic Development and on Judiciary its findings and any recommendations for legislative action.

(e) Meetings.

(1) Seven members of the Committee shall be physically present at the same location to constitute a quorum.

(2) Action shall be taken only if there is both a quorum and an affirmative vote of the members physically present and voting.

(3) The Committee may meet no more than five times, and shall cease to exist on January 2, 2014.

(4) Members of the Committee who are not state employees and who are not otherwise compensated for their participation by their employer or association shall be entitled to per diem compensation as provided in 32 V.S.A. § 1010(b).

* * * Effective Dates * * *

Sec. 23. EFFECTIVE DATES; SUNSET

(a) This section and Secs. 2a (emergency rules), 3a (board of pharmacy; rulemaking), 11(e) (Health Department rules), 11(f) (licensing authority standards), 13 (VPMS Advisory Committee), 13b (prevention report), 20 (study committee on the effects of the production of methamphetamine and other illegal drugs on housing), 22a (9 V.S.A. chapter 97A; secondhand dealers), 22b (public outreach; precious metal dealers), and 22c (interim study; precious metal dealers) of this act shall take effect on passage.

(b) Secs. 10 (18 V.S.A. § 4288; reciprocal agreements), 12 (18 V.S.A. § 4290; replacement prescriptions), and 19 (18 V.S.A. § 4234b; ephedrine and pseudoephedrine), and Sec. 8(b)(2)(G) (18 V.S.A. § 4284(b)(2)(G); interstate data sharing) of this act shall take effect on October 1, 2013.

(c) Sec. 11(d) (VPMS query requirements) of this act shall take effect on

November 15, 2013.

(d) Sec. 19a (18 V.S.A. § 4234b; ephedrine and pseudoephedrine) of this act shall take effect on September 30, 2016.

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

(For text see House Journal 3/21/2013 and 3/22/2013)

Senate Proposal of Amendment to House Proposal of Amendment

S. 31

An act relating to prohibiting a court from consideration of interests in revocable trusts or wills when making a property settlement in a divorce proceeding

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

In Sec. 1, in 15 V.S.A. § 751, subdivision (b)(8), by striking out subparagraphs (C) and (D) in their entirety and by relettering the existing subparagraph (E) to be (C) and the existing (F) to be (D)

(For House Proposal of Amendment see House Journal 4/26/2013 and 5/1/2013)

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. 141

House concurrent resolution honoring Dr. Kevin Daniel Crowley

H.C.R. 142

House concurrent resolution honoring Bennington College President Elizabeth Coleman for her visionary academic leadership and scholarship

H.C.R. 143

House concurrent resolution congratulating the Brattleboro Museum & Art Center on its 40th anniversary

H.C.R. 144

House concurrent resolution honoring the military valor of the Shores brothers in defending the Union during the Civil War

H.C.R. 145

House concurrent resolution recognizing the importance for U.S. military personnel of the award-winning documentary film *The Invisible War*

H.C.R. 146

House concurrent resolution honoring Dianne Jaquith for her exemplary career at the Barstow Memorial School in Chittenden

H.C.R. 147

House concurrent resolution honoring Stafford Technical Center Director Lyle Jepson on being named the 2013 Technical Director of the Year

H.C.R. 148

House concurrent resolution commemorating the opening of the new Adult Intensive Unit at the Brattleboro Retreat in partnership with the Department of Mental Health

H.C.R. 149

House concurrent resolution in memory of retired Vermont State Police Sgt. Harold Ackerman

H.C.R. 150

House concurrent resolution congratulating Mikaela Shiffrin on her international alpine ski racing achievements

H.C.R. 151

House concurrent resolution congratulating the Bennington Rural Fire Department on its 60th anniversary

H.C.R. 152

House concurrent resolution congratulating the Green Street School 2012 Vermont State Spelling Bee championship team

H.C.R. 153

House concurrent resolution congratulating the Bennington Children's Chorus on its silver anniversary

H.C.R. 154

House concurrent resolution congratulating the 2013 South Burlington High School Rebels Division I championship boys' ice hockey team

H.C.R. 155

House concurrent resolution congratulating the Vermont Shamrocks on winning the New England and National 2013 USA Hockey Tier II-U16 championships

H.C.R. 156

House concurrent resolution congratulating the Lake Champlain Committee on its 50th anniversary

H.C.R. 157

House concurrent resolution commemorating the bicentennial anniversary of the birth of Stephen A. Douglas, Brandon's most famous native son

H.C.R. 158

House concurrent resolution designating the week of May 5–11 as Vermont Organ Donor Awareness Week in honor of Jason Perry and Christian Stromberg

H.C.R. 159

House concurrent resolution congratulating the Puffer United Methodist Church of Morrisville on its bicentennial anniversary

H.C.R. 160

House concurrent resolution honoring John Hasen on his outstanding career as an attorney dedicated to serving the public

H.C.R. 161

House concurrent resolution honoring the civic and community leadership of the Montagne family of St. Albans

H.C.R. 162

House concurrent resolution designating May 13–19, 2013 as American Craft Beer Week in Vermont and celebrating Gregfest

H.C.R. 163

House concurrent resolution honoring Patricia Rocheleau Harper for her outstanding work on the restoration of the House committee rooms

H.C.R. 164

House concurrent resolution congratulating the Plainfield Fire Department on its centennial anniversary

H.C.R. 165

House concurrent resolution honoring the retiring educators and support staff in the Southwest Vermont Supervisory Union

H.C.R. 166

House concurrent resolution honoring the Civil War-era musical drama *Ransom* on its professional premiere as the opening production of Lost Nation Theater's 25th anniversary season

H.C.R. 167

House concurrent resolution honoring Robert Stannard on his retirement as a legislative lobbyist

H.C.R. 168

House concurrent resolution commemorating the placement of an historic marker at the Rutland fairgrounds honoring aviation pioneer George Schmitt

H.C.R. 169

House concurrent resolution congratulating the Pittsford Fire Department on its 65th anniversary

H.C.R. 170

House concurrent resolution honoring the Giancola family for their foresight in the transformation of the Howe Scale Company to the Howe Center

H.C.R. 171

`House concurrent resolution congratulating Windsor High School boys' Basketball Coach Harry Ladue on his induction into the New England Basketball Hall of Fame

H.C.R. 172

House concurrent resolution honoring the Joslin Memorial Library in Waitsfield on the occasion of its 100th anniversary

S.C.R. 25

Senate concurrent resolution designating May 7, 2013 as Senior Center Awareness Day

S.C.R. 26

Senate concurrent resolution honoring Charles Browne for his extraordinary leadership of the Fairbanks Museum & Planetarium.

S.C.R. 27

Senate concurrent resolution honoring Hanford Biron for exemplary public service in the town of Norton

Information Notice

Michael Chernick is no longer accepting House Concurrent Resolution requests. All requests already submitted will be placed on the Concurrent Calendar for Thursday May 9, 2013.