

House Calendar

Friday, February 14, 2014

39th DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 62

An act relating to prohibiting the handheld use of a portable electronic device while driving

Amendment to be offered by Reps. Zagar of Barnard, Donahue of Northfield, Michelsen of Hardwick, and Pearson of Burlington to H. 62

In Sec. 1, in 23 V.S.A. § 1095b(b), by striking subdivisions (1)–(4) in their entirety and inserting in lieu thereof the following:

(1) to hands-free use; ~~or~~

(2) to use of the device to activate or deactivate hands-free use as long as the device is in a cradle or otherwise securely mounted in the vehicle;

~~(2)~~(3) when use of a portable electronic device is necessary for a person to communicate with law enforcement or emergency service personnel under emergency circumstances;

(4) to communications among law enforcement or emergency service personnel in the performance of their official duties; or

(5) to use of an ignition interlock device, as defined at 23 V.S.A. § 1200.

Amendment to be offered by Reps. Van Wyck of Ferrisburgh, Christie of Hartford, and Donahue of Northfield to H. 62

First: In Sec. 1, in 23 V.S.A. § 1095b(b)(3), by striking the word “or” at the end of the sentence

Second: In Sec. 1, in 23 V.S.A. § 1095b(b)(4), by deleting the period at the end of the sentence and inserting in lieu thereof “; or”

Third: In Sec. 1, by inserting 23 V.S.A. § 1095b(b)(5) to read:

(5) to use of a portable electronic device by an operator of a registered farm truck or a farm truck or farm tractor not required to be registered, if:

(A) the farm truck or farm tractor is being used in connection with the operation of a farm; and

(B) the device is used to receive a communication relating to the dispatch of the farm truck or farm tractor to a work location.

Amendment to be offered by Rep. Bouchard of Colchester to H. 62

First: In Sec. 1, by adding 23 V.S.A. § 1095b(e) to read:

(e) A person convicted of violating this section in a work zone properly designated with warning devices in accordance with subdivision 4(5) of this title shall be subject to an assessment of four points against his or her driving record;

Second: In Sec. 2, in 23 V.S.A. § 2502(a)(1)(LL)(ii), by striking the following: “—first offense”

Third: In Sec. 2, by repealing 23 V.S.A. § 2502(a)(4)(D)

Fourth: In Sec. 2, immediately before 23 V.S.A. § 2502(a)(1)(4), by inserting the following:

(3) Four points assessed for:

- (A) § 1012. Failure to obey enforcement officer;
- (B) § 1013. Authority of enforcement officers;
- (C) § 1051. Failure to yield to pedestrian;
- (D) § 1057. Failure to yield to blind persons;
- (E) § 1095b(e) Use of portable electronic device in work zone;

H. 640

An act relating to technical corrections

NOTICE CALENDAR

Favorable with Amendment

H. 589

An act relating to hunting, fishing, and trapping

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

* * * Transport, Possession, or Fencing of Nonnative or Native Species * * *

Sec. 1. 10 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

Words and phrases used in this part, unless otherwise provided, shall be construed to mean as follows:

* * *

(38) Captive hunt facility: any enclosure created by the use of fences, man-made structures, or natural barriers where animals are confined for the purpose of taking or attempting to take an animal by hunting. Captive hunt facility shall not mean activities covered by the Commissioner of Fish and Wildlife's rules for the training of dogs or for the regulation of regulated shooting grounds.

(39) Enclosure: means a structure designed to restrict the free movement of animals and the area within that structure.

Sec. 2. 10 V.S.A. § 4253 is amended to read:

§ 4253. LANDOWNER; FAMILY; EXCEPTION

(a) A resident owner of lands, his or her spouse, and their minor children may, without procuring a license under this chapter, take fish from the waters therein, shoot pickerel, and take wild animals or wild birds therein subject to the provisions of this part.

(b) A nonresident owner of lands, his or her spouse, and their minor children, may without procuring a license under this chapter, take fish from the waters therein, shoot pickerel, and take wild animals or wild birds thereon subject to the provisions of this part, except if the lands are posted under provisions other than section 4710 of this title.

(c) As used in this section, "post" means any signage that would lead a reasonable person to believe that hunting is prohibited on the land.

(d) Nothing in this section shall be construed to:

(1) exempt a captive hunt facility from the permitting requirements adopted under the rules of the Fish and Wildlife Board; or

(2) without a permit from the Commissioner of Fish and Wildlife, allow any person, including a hunt club, hunting association, or multiple landowners, to transport, possess, or fence any animal for the purpose of taking or attempting to take the animal by hunting.

* * * Hunting or Fishing License For Disabled Veterans * * *

Sec. 3. 10 V.S.A. § 4255(c) is amended to read:

(c) A permanent or free license may be secured on application to the ~~department~~ Department by a person qualifying as follows:

* * *

(4) A Vermont resident who is a veteran of the ~~armed forces of the United States~~ U.S. Armed Forces and who is, or ever has been, ~~100~~ 60 percent disabled as a result of a service-connected disability may receive a free fishing, hunting, or combination hunting and fishing license which shall include all big game licenses, except for a moose license, upon presentation of a certificate issued by the veterans' administration so certifying. A resident of a state which provides a reciprocal privilege for Vermont veterans and who would qualify for a free license under this subdivision if the person were a Vermont resident, may receive a free one-year fishing, hunting, or combination hunting and fishing license.

* * *

* * * Fish and Wildlife Board Rules; Migratory Game Birds * * *

Sec. 4. 10 V.S.A. § 4082 is amended to read:

§ 4082. VERMONT FISH AND WILDLIFE REGULATIONS

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

(b)(1) ~~The~~ Except as provided for under subdivision (2) of this subsection, the Board annually may adopt rules relating to the management of ~~migrating~~ migratory game birds, and shall follow the procedures for rulemaking contained in 3 V.S.A. chapter 25. For each such rule, the Board shall conduct a hearing but, when necessary, may schedule the hearing for a day before the terms of the rule are expected to be determined.

(2) Beginning with the 2015 hunting season, the Board may set by procedure the daily bag and possession limits of migratory game birds that may be harvested in each Waterfowl Hunting Zone annually without following the procedures for rulemaking contained in 3 V.S.A. chapter 25. The annual daily bag and possession limits of migratory game birds shall be consistent with federal requirements. Prior to setting the migratory game bird daily bag and possession limits, the Board shall provide a period of not less than 30 days of public notice and shall conduct at least two public informational hearings. The final migratory game bird daily bag and possession limits shall be

enforceable by the Department under its enforcement authority in part 4 of this title. Annually, on or before January 15, the Department shall submit the final migratory game bird daily bag and possession limits to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy.

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

* * * Fish and Wildlife Board Rules; Deer Season * * *

Sec. 5. 10 V.S.A. § 4084 is amended to read:

§ 4084. GAME

(a) Rules concerning wild game may:

(1) establish open seasons; however, rules regarding taking of deer adopted under this subdivision shall make provision for a regular rifle hunting season ~~pursuant to section 4741 of this title and~~, for an archery season, and a muzzle loader season unless there is a scientific reason not to do so;

(2) establish daily, season, and possession limits;

(3) establish territorial limits for any rule under this subchapter;

(4) prescribe the manner and means of taking any species or variety, and including reporting and tagging of game;

(5) establish restrictions on taking based upon sex, maturity, or other physical distinction of the species or variety pursued; and

(6) designate wildlife management units for various species or varieties.

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

(2) Each January, the Commissioner shall publish an annual deer report.

(c) The Board may alter the outer boundary of a wildlife management unit no more frequently than every ten years without approval of the General Assembly; however, the Board shall have authority to subdivide established wildlife management units.

(d), (e) [Repealed.]

Sec. 6. 10 V.S.A. § 4741 is amended to read:

§ 4741. ~~REGULAR DEER SEASON~~

~~For the 16 consecutive calendar days commencing 12 days prior to Thanksgiving day, a person may take by lawful means one wild deer as prescribed by the Vermont fish and wildlife regulations. [Repealed.]~~

Sec. 7. 10 V.S.A. § 4742a is amended to read:

§ 4742a. YOUTH DEER HUNTING WEEKEND

(a) The Saturday and Sunday prior to opening day of the regular deer season established by Board rule shall be youth deer hunting weekend.

(b) A person who is age 15 and years of age or under on the weekend of the hunt, who has successfully completed a hunter safety course, may take one wild deer during youth deer hunting weekend in accordance with the rules of the ~~board~~ Board. In order to hunt under this section, a young person shall also hold a valid hunting license under section 4255 of this title, hold a youth deer hunting tag, and be accompanied by an unarmed adult who holds a valid Vermont hunting license and who is over 18 years of age. An adult accompanying a youth under this section shall accompany no more than two young people at one time.

(c) Each year, the ~~board~~ Board shall determine whether antlerless deer may be taken under this section in any deer management unit or units. A determination under this subsection shall be made by rule, shall be based on the game management study conducted pursuant to section 4081 of this title, and, notwithstanding subsection (g) of that section, may allow taking of antlerless deer.

(d) No person shall hunt under this section on privately owned land without first obtaining the permission of the owner or occupant.

(e) Before the first youth deer hunting weekend and after each fall hunting

season, the ~~department~~ Department shall collect information on youth deer hunting weekend during the regional public hearings held pursuant to subsection 4081(f) of this title. Information relative to the public's knowledge and concerns about the deer herd shall be gathered. The ~~board~~ Board shall administer youth deer hunting weekend, by deer management unit, based on public input and scientific information.

(f) The scheduled amount of a fine under section 4555 of this title shall be doubled for a violation of this section, and the fine shall be assessed against the licensed adult who is accompanying the youth pursuant to subsection (b) of this section and who has the youth hunter in his or her charge.

(g) ~~For the purposes of~~ As used in this section, "accompany," "accompanied," or "accompanying" means direct control and supervision, including the ability to see and communicate with the youth hunter without the aid of artificial devices such as radios or binoculars, except for medically necessary devices such as hearing aids or eyeglasses. While hunting, an individual who holds a valid hunting license under subsection 4254(b) of this title shall accompany no more than two youth hunters at a time.

* * * Shooting From or Across Highway * * *

Sec. 8. 10 V.S.A. § 4705 is amended to read:

§ 4705. SHOOTING FROM MOTOR VEHICLES OR AIRCRAFT;
SHOOTING FROM OR ACROSS HIGHWAY; PERMIT

(a) A person shall not take, or attempt to take, a wild animal by shooting from a motor vehicle, motorboat, airplane, snowmobile, or other motor propelled craft or any vehicle drawn by a motor propelled vehicle except as permitted under subsection (e) of this section.

(b) A person shall not carry or possess while in or on a vehicle propelled by mechanical power or drawn by a vehicle propelled by mechanical power within the right of way of a public highway a rifle or shotgun containing a loaded cartridge or shell in the chamber, mechanism, or in a magazine, or clip within a rifle or shotgun, or a muzzle-loading rifle or shotgun that has been charged with powder and projectile and the ignition system of which has been enabled by having an affixed or attached percussion cap, primer, battery, or priming powder, except as permitted under subsections (d) and (e) of this section. A person who possesses a rifle or shotgun in or on a vehicle propelled by mechanical power, or drawn by a vehicle propelled by mechanical power within a right of way of a public highway shall upon demand of an enforcement officer exhibit the firearm for examination to determine compliance with this section.

(c) A person while on or within 25 feet of the traveled portion of a public highway, except for public highways designated Class 4 on a town highway map, shall not take or attempt to take any wild animal by shooting a firearm, a muzzle loader, a bow and arrow, or a crossbow. A person shall not shoot a firearm, muzzle loader, a bow and arrow, or a crossbow over or across the traveled portion of a public highway.

(d) This section shall not restrict the possession or use of a loaded firearm by an enforcement officer in performance of his or her duty.

(e) ~~Subsection (a)~~ Subsections (a) and (c) of this section shall not apply to a licensed hunter who is a paraplegic or is certified by a physician to be unable to pursue game because of permanent severe physical disability, if he or she obtains a permit as provided in this subsection. The Commissioner on receipt of satisfactory proof of the disability of an applicant may issue a permit under this subsection. This permit shall be attached to the license, and shall remain in effect until the death of the holder, unless the Commissioner has reason to believe the permit is misused. The holder of the permit shall carry it at all times while hunting, and shall produce it on demand for inspection by any game warden or other law enforcement officer authorized to make arrests. The holder of the permit may take game from a vehicle or boat but only if it is stationary and ~~off~~ is not within 10 feet of the traveled portion of a public highway. In no event shall the holder of a permit shoot across the traveled portion of a public highway.

(f) The phrase “public highway,” as used in this section, means roads shown on the highway maps of the respective towns, made by the ~~agency of transportation~~ Agency of Transportation, but does not include foot trails or private roads.

* * * Conservation Motor Vehicle Registration Plates * * *

Sec. 9. 23 V.S.A. § 304b is amended to read:

§ 304b. CONSERVATION MOTOR VEHICLE REGISTRATION PLATES

(a) The Commissioner shall, upon application, issue conservation registration plates for use only on vehicles registered at the pleasure car rate, on trucks registered for less than 26,001 pounds, and on vehicles registered to State agencies under section 376 of this title, but excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle. The Commissioner of Motor Vehicles and the Commissioner of Fish and Wildlife shall determine the graphic design of the special plates in a manner which serves to enhance the public awareness of the State’s interest in restoring and protecting its wildlife and major watershed areas. The Commissioner of Motor Vehicles and the Commissioner of Fish

and Wildlife may alter the graphic design of these special plates provided that plates in use at the time of a design alteration shall remain valid subject to the operator's payment of the annual registration fee. Applicants shall apply on forms prescribed by the Commissioner and shall pay an initial fee of \$23.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a conservation plate shall pay a renewal fee of \$23.00. The Commissioner may adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection.

(b) Initial fees collected under subsection (a) of this section shall be allocated as follows:

(1) \$11.00 to the Transportation Fund.

(2) \$6.00 to the Department of Fish and Wildlife for deposit into the Nongame Wildlife Account created in 10 V.S.A. § 4048.

(3) \$6.00 to the Department of Fish and Wildlife for deposit into the Watershed Management Account created in 10 V.S.A. § 4050.

(c) Renewal fees collected under subsection (a) of this section shall be allocated as follows:

(1) \$10.00 to the Department of Fish and Wildlife for deposit into the Nongame Wildlife Account created in 10 V.S.A. § 4048.

(2) \$10.00 to the Department of Fish and Wildlife for deposit into the Watershed Management Account created in 10 V.S.A. § 4050.

(3) \$3.00 to the Transportation Fund.

(d) The Commissioner of Fish and Wildlife is authorized to deposit fees collected under subsections (b) and (c) of this section into the Conservation Camp Fund when the fees collected exceed the annual funding needs of the Nongame Wildlife Account and the Watershed Management Account.

Sec. 10. PROPOSED NEW CONSERVATION MOTOR VEHICLE REGISTRATION PLATES

On or before January 15, 2015, the Commissioner of Motor Vehicles and the Commissioner of Fish and Wildlife under the authority of 23 V.S.A. § 304b shall submit to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, and the House and Senate Committees on Transportation at least three new graphic designs for proposed conservation registration plates.

* * * Cultural or Ceremonial Use of Migratory Bird Feathers * * *

Sec. 11. 10 V.S.A. § 4152 is amended to read:

§ 4152. PERMITS FOR SCIENTIFIC AND EDUCATIONAL COLLECTIONS

(a) The ~~commissioner~~ Commissioner may issue permits to a properly accredited person or educational institution permitting the holder thereof to collect birds, their nests and eggs, and fish and wild animals or parts thereof, for public scientific research or educational purposes of the institution.

(b) ~~In addition, the commissioner~~ The Commissioner may issue a permit to an individual ~~which~~ that allows the holder to collect fish and wild animals for the purpose of using them as subjects of art or photography.

(c) The Commissioner may issue a permit to a person that allows the holder to collect and possess a dead salvage bird or bird feathers for noncommercial cultural or ceremonial purposes provided that the bird was legally acquired, transferred from an individual who acquired it legally, or found dead and the permittee had no part in the intentional killing of the bird. A permit issued under this section shall comply with federal requirements regarding collection and possession of migratory birds.

Sec. 12. 10 V.S.A. § 5408 is amended to read:

§ 5408. LIMITATIONS

(a) Notwithstanding any provision of this chapter, after obtaining the advice of the Endangered Species Committee, the Secretary may permit, under such terms and conditions as the Secretary may prescribe by rule, any act otherwise prohibited by this chapter if done for any of the following purposes: scientific purposes; to enhance the propagation or survival of a species; economic hardship; zoological exhibition; educational purposes; noncommercial cultural or ceremonial purposes; or special purposes consistent with the purposes of the federal Endangered Species Act.

* * *

Sec. 13. 10 V.S.A. App. § 10 is amended to read:

§ 10. VERMONT ENDANGERED AND THREATENED SPECIES RULE

* * *

4.0 Procedures

* * *

4.2 Permits per 10 V.S.A. § 5408(a) may be granted by the Secretary only if the taking of an endangered or threatened species is:

4.2.1 For scientific purposes, or

- 4.2.2 To enhance the propagation of species, or
- 4.2.3 To prevent or mitigate economic hardship, or
- 4.2.4 For zoological exhibition, or
- 4.2.5 For educational purposes, or

4.2.6 For noncommercial cultural or ceremonial purposes to a person for the collection and possession of a dead salvage bird or parts thereof, including bird feathers, provided that the permit issued complies with federal requirements regarding collection and possession of migratory birds and the bird was legally acquired, transferred from an individual who acquired it legally, or found dead and the permittee had no part in the intentional killing of the bird, or

4.2.7 For special purpose consistent with the purpose of the Federal Endangered Species Act (see 16 ~~USCA~~ U.S.C.A. § 1531(b)).

* * *

* * * State Fly-Fishing Fly * * *

Sec. 14. 1 V.S.A. § 517 is added to read:

§ 517. STATE FLY-FISHING FLY

The State Fly-Fishing Fly shall be the Governor Aiken bucktail streamer.

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

(a) This section and Secs. 1–2 (landowner exception; captive hunt; definitions), 3 (license for disabled veteran), and 8 (shooting from or across highway) shall take effect on passage.

(b) Secs. 4 (migrating game bird harvest numbers), 10 (conservation registration plates report), 11–13(cultural and ceremonial use of bird feathers), and 14 (State Fly-Fishing Fly) shall take effect on July 1, 2014.

(c) Secs. 5–7 (deer season rules) and 9 (conservation plates; proceeds) shall take effect on January 1, 2015.

(Committee Vote: 9-0-0)

H. 795

An act relating to victim's compensation and restitution procedures

Rep. Fay of St. Johnsbury, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 5362 is amended to read:

§ 5362. RESTITUTION UNIT

(a) A Restitution Unit is created within the Center for Crime Victim Services for purposes of ~~assuring~~ ensuring that crime victims receive restitution when it is ordered by the Court.

(b) The Restitution Unit shall administer the Restitution Fund established under section 5363 of this title.

(c) The Restitution Unit shall have the authority to:

(1) Collect restitution from the offender when it is ordered by the ~~court~~ Court under section 7043 of this title.

(2) ~~Bring an action to enforce~~ Enforce a restitution obligation as a civil judgment under section 7043 of this title. The Restitution Unit shall enforce restitution orders issued prior to July 1, 2004 pursuant to the law in effect on the date the order is issued.

(3)(A) Share and access information, including information maintained by the National Criminal Information Center, consistent with Vermont and federal law, from the Court, the Department of Corrections, the Department of Motor Vehicles, the Department of Taxes, ~~and~~ the Department of Labor, and law enforcement agencies in order to carry out its collection and enforcement functions. The Restitution Unit, for purposes of establishing and enforcing restitution payment obligations, is designated as a law enforcement agency for the sole purpose of requesting and obtaining access to information needed to identify or locate a person, including access to information maintained by the National Criminal Information Center.

(B) Provide information to the Department of Corrections concerning supervised offenders, including an offender's restitution payment history and balance, address and contact information, employment information, and information concerning the Restitution Unit's collection efforts.

(C) The Restitution Unit is specifically authorized to collect, record, use, and disseminate Social Security numbers as needed for the purpose of collecting restitution and enforcing restitution judgment orders issued by the Court.

(4) Investigate and verify losses as determined by the Restitution Unit, including losses that may be eligible for advance payment from the Restitution Special Fund, and verify the amount of insurance or other payments paid to or for the benefit of a victim, and reduce the amount collected or to be collected from the offender or disbursed to the victim from the Crime Victims' Restitution Special Fund accordingly. The Restitution Unit, when appropriate, shall submit to the ~~court~~ Court a proposed revised restitution order ~~stipulated to by the victim and the unit,~~ with copies provided to the victim and the offender. No hearing shall be required, ~~and the Court shall amend the judgment order to reflect the amount stipulated to by the victim and the Restitution Unit.~~

(5) Adopt such administrative rules as are reasonably necessary to carry out the purposes set forth in this section.

(6) Report offenders' payment histories to credit reporting agencies; ~~provided that the Unit shall not report information regarding offenders who are incarcerated.~~ The Unit shall not make a report under this subdivision until after it has notified the offender of the proposed report by first class mail or other like means to give actual notice, and provided the offender a period not to exceed 20 days to contest the accuracy of the information with the Unit. The Unit shall immediately notify each credit bureau organization to which information has been furnished of any increases or decreases in the amount of restitution owed by the offender.

(7) Enter into a repayment contract with a juvenile or adult accepted into a diversion program and to bring a civil action to enforce the contract when a diversion program has referred an individual pursuant to 3 V.S.A. § 164a.

(8) Contract with one or more sheriff's departments for the purposes of serving process, warrants, demand letters, and mittimus in restitution cases, and contract with one or more law enforcement agencies or other investigators for the purpose of investigating and locating offenders and enforcing restitution judgment orders.

(9) Collect from an offender subject to a restitution judgment order all fees and direct costs, including reasonable attorney's fees, incurred by the Restitution Unit as a result of enforcing the order and investigating and locating the offender.

Sec. 2. 13 V.S.A. § 5363 is amended to read:

§ 5363. CRIME VICTIM'S RESTITUTION SPECIAL FUND

* * *

(d)(1) The Restitution Unit is authorized to advance up to ~~\$10,000.00~~ \$5,000.00 to a victim or to a deceased victim's heir or legal representative if

the victim:

(A) was first ordered by the Court to receive restitution on or after July 1, 2004;

(B) is a natural person or the natural person's legal representative;

(C) has not been reimbursed under subdivision (2) of this subsection; and

(D) is a natural person and has been referred to the Restitution Unit by a diversion program pursuant to 3 V.S.A. § 164a.

(2) The Restitution Unit may make advances of up to ~~\$10,000.00~~ \$5,000.00 under this subsection to the following persons or entities:

(A) A victim service agency approved by the Restitution Unit if the agency has advanced monies which would have been payable to a victim under subdivision (1) of this subsection.

(B) A victim who is a natural person or the natural person's legal representative in a case where the defendant, before or after an adjudication of guilt, enters into a drug court contract requiring payment of restitution.

(3) An advance under this subsection shall not be made to the government or to any governmental subdivision or agency.

(4) An advance under this subsection shall not be made to a victim who:

(A) fails to provide the Restitution Unit with the documentation necessary to support the victim's claim for restitution; ~~or~~

(B) violated a criminal law of this State which caused or contributed to the victim's material loss; or

(C) has crime-related losses that are eligible for payment from the Victim Compensation Special Fund.

(5) An advance under this subsection shall not be made for the amount of cash loss included in a restitution judgment order.

(6) An advance under this subsection shall not be made for jewelry, precious metals, luxury items, and collectibles identified in rules adopted by the Unit pursuant to subdivision 5362(c)(5) of this title.

* * *

Sec. 3. 13 V.S.A. § 7043 is amended to read:

§ 7043. RESTITUTION

* * *

(e)(1) An order of restitution shall establish the amount of the material loss incurred by the victim, which shall be the restitution judgment order. In the event the offender is unable to pay the restitution judgment order at the time of sentencing, the Court shall establish a restitution payment schedule for the offender based upon the offender's current and reasonably foreseeable ability to pay, subject to modification under subsection (k) of this section. Notwithstanding 12 V.S.A. chapter 113 or any other provision of law, interest shall not accrue on a restitution judgment.

(2)(A) Every order of restitution shall:

(i) include the offender's name, address, telephone number, and Social Security number;

(ii) include the name, address, and telephone number of the offender's employer; and

(iii) require the offender, until his or her restitution obligation is satisfied, to notify the Restitution Unit within 30 days if the offender's address, telephone number, or employment changes, including providing the name, address, and telephone number of each new employer.

(B) [Repealed.]

(3) An order of restitution may require the offender to pay restitution for an offense for which the offender was not convicted if the offender knowingly and voluntarily executes a plea agreement which provides that the offender pay restitution for that offense. A copy of the plea agreement shall be attached to the restitution order.

(f)(1) If not paid at the time of sentencing, restitution may be ordered as a condition of probation, supervised community sentence, furlough, preapproved furlough, or parole if the convicted person is sentenced to preapproved furlough, probation, or supervised community sentence, or is sentenced to imprisonment and later placed on parole. A person shall not be placed on probation solely for purposes of paying restitution. An offender may not be charged with a violation of probation, furlough, or parole for nonpayment of a restitution obligation incurred after July 1, 2004.

(2) The Department of Corrections shall work collaboratively with the Restitution Unit to assist with the collection of restitution. The Department shall provide the Restitution Unit with information about the location and employment status of the offender.

(g)(1) When restitution is requested but not ordered, the Court shall set forth on the record its reasons for not ordering restitution.

(2)(A) If restitution was not requested at the time of sentencing, or if

expenses arose after the entry of a restitution order, ~~the State may file a motion with the sentencing court to reopen the restitution case in order to consider a~~ the victim may request for restitution payable from the Restitution Fund. Restitution ordered paid under this subdivision shall be payable from the Restitution Fund and capped at \$1,000.00, and shall not be payable by the offender.

(B) A motion under this subdivision shall be filed within one year after the imposition of sentence or the entry of the restitution order.

(h) Restitution ordered under this section shall not preclude a person from pursuing an independent civil action for all claims not covered by the restitution order.

(i)(1) ~~The court~~ Court shall transmit a copy of a restitution order and the plea agreement, if any, to the Restitution Unit, which shall make payment to the victim in accordance with section 5363 of this title.

(2) To the extent that the Victims Compensation Board has made payment to or on behalf of the victim in accordance with chapter 167 of this title, restitution, if imposed, shall be paid to the Restitution Unit, which shall make payment to the Victims Compensation Fund.

(j) The Restitution Unit may bring an action, including a small claims procedure, on a form approved by the Court Administrator, to enforce a restitution judgment order entered by the Criminal Division of the Superior Court. The action shall be brought against ~~an~~ the offender in the Civil Division of the Superior Court of the unit where the offender resides or in the unit where the order was issued. In an action under this subsection, a restitution order issued by the Criminal Division of the Superior Court shall be enforceable in the Civil Division of the Superior Court or in a small claims procedure in the same manner as a civil judgment. Superior and Small Claims Court filing fees shall be waived for an action brought under this subsection, ~~and for an action to renew a restitution judgment.~~

* * *

(m)(1) If the offender fails to pay restitution as ordered by the ~~court~~ Court, the Restitution Unit may file an action to enforce the restitution order in Superior or Small Claims Court. After an enforcement action is filed, any further proceedings related to the action shall be heard in the court where it was filed. The court shall set the matter for hearing and shall provide notice to the Restitution Unit, the victim, and the offender. The Court may order the defendant to appear at the hearing and disclose assets and liabilities and produce any documents the Court deems relevant. If the ~~court~~ Court determines the offender has failed to comply with the restitution order, the

~~court~~ Court may take any action the Court deems necessary to ensure the offender will make the required restitution payment, including:

~~(1)~~(A) amending the payment schedule of the restitution order;

~~(2)~~(B) ordering, in compliance with the procedures required in Rule 4.1 of the Vermont Rules of Civil Procedure, the disclosure, attachment, and sale of assets and accounts owned by the offender;

~~(3)~~(C) ordering the offender's wages withheld pursuant to subsection (n) of this section; or

~~(4)~~(D) ordering the suspension of any recreational licenses owned by the offender.

(2) If the Court finds that the offender has an ability to pay and willfully refuses to do so, the offender may be subject to civil contempt proceedings under 12 V.S.A. chapter 5.

* * *

(p) An obligation to pay restitution is part of a criminal sentence and is:

(1) nondischargeable in the United States Bankruptcy Court to the maximum extent provided under 11 U.S.C. § § 523 and 1328;~~and~~

(2) not subject to any statute of limitations;and

(3) not subject to the renewal of judgment requirements of 12 V.S.A. § 506.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014 and shall apply to restitution orders issued after that date.

(Committee Vote: 11-0-0)

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of 2/13/2014.

H.C.R. 222

House concurrent resolution commemorating the placement of a historic marker at Wagon Wheels Farm in South Royalton

H.C.R. 223

House concurrent resolution honoring Windsor civic leader John Tansey

H.C.R. 224

House concurrent resolution congratulating Carole Lacasse on her Vermont State government career

H.C.R. 225

House concurrent resolution designating February 7, 2014 as Wear Red Day

H.C.R. 226

House concurrent resolution honoring Ruth Levin for her community service in the town of Shaftsbury

H.C.R. 227

House concurrent resolution congratulating *Vermont Standard* publisher Phillip Camp on his induction into the New England Newspaper Hall of Fame

H.C.R. 228

House concurrent resolution congratulating Chris Braithwaite on his induction into the New England Newspaper Hall of Fame and the *Barton Chronicle* on its 40th anniversary

H.C.R. 229

House concurrent resolution honoring Vermont Symphony Orchestra Chorus Director Robert De Cormier on his remarkable career in the musical arts

Public Hearings

PUBLIC HEARING

Public Hearing on the Governor's Proposed Fiscal Year 2015 State Budget

For Advocates

House Committee on Appropriations

Tuesday, February 18, 2014, 11:00 a.m. - 12:00 p.m. or Friday, February 21, 2014, 1:00 – 2:30 p.m. – The House Committee on Appropriations will hold a public hearing for advocates in room 11 of the State House on the Governor's proposed FY2015 state budget. Please sign up in advance, with

Theresa Utton-Jerman at (802) 828-5767 or tutton@leg.state.vt.us or in room 40.

The Governor's budget proposal can be viewed at the Department of Finance & Management's website:
http://finance.vermont.gov/state_budget/rec.

Individual department budgets that have been made available can be viewed at the Joint Fiscal Office's website:
http://www.leg.state.vt.us/jfo/dept_budgets_fy_2015.aspx.

February 19, 2014 - Room 11 - 7:00p,- 8:30pm - Judicial retention - Joint Committee on Judicial Retention

Information Notice

Deadline for Introducing Bills

Pursuant to Rule 40(c) during the second year of the biennium, except with the prior consent of the Committee on Rules, no committee, except the Committees on Appropriations, Ways and Means or Government Operations, may introduce a bill drafted in standard form after the last day of March (March 31, 2014). The Committees on Appropriations and Ways and Means bill may be drafted in standard form at any time, and Government Operations bills pertaining to city or town charters, may be drafted in standard form at any time.

If you are planning on a resolution for presentation at your Town Meeting, please see Michael Chernick with your information by February 14th or sooner, if possible. This will allow sufficient time for processing and passage by both bodies. Thank you.

Joint Assembly

February 20, 2014 - 10:30 A.M. – Election of two (2) trustees for the Vermont State Colleges Corporation.

Candidates for the positions of trustee must notify the Secretary of State **in writing** not later than February 13, 2014 , by 4:30 P.M. pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions. Do not use pink mail to deliver notification to the Secretary of State. Hand delivery is the best method to insure notification has been received.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.