

House Calendar

Friday, February 28, 2014

53rd DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 217

An act relating to smoking in partially enclosed structures, lodging establishments, and state lands

H. 497

An act relating to the open meeting law

H. 602

An act relating to municipal budget committees

H. 718

An act relating to approval of amendments to the charter of the Village of Derby Line

H. 864

An act relating to capital construction and State bonding budget adjustment

Favorable with Amendment

H. 227

An act relating to licensing and regulating property inspectors

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

Sec. 1. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

An Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(42) Landscape Architects

(43) Property Inspectors.

Sec. 2. 26 V.S.A. chapter 19 is added to read:

CHAPTER 19. PROPERTY INSPECTORS

Subchapter 1. General Provisions

§ 1051. PURPOSE AND EFFECT

In order to safeguard the life and health of the people of this State, no person shall practice, or offer to practice, property inspecting unless currently licensed under this chapter.

§ 1052. DEFINITIONS

As used in this chapter:

(1) "Director" means the Director of the Office of Professional Regulation.

(2) "License" means a current authorization granted by the Director permitting the practice of property inspecting.

(3) "Practice of property inspecting" means performing or offering to perform services involving the physical inspection of real property structures and other improvements for a fee or other compensation in order to evaluate the condition of the property, including any safety issues or material defects.

(4) "Property inspector" means a person who is licensed under this chapter to engage in the practice of property inspecting.

§ 1053. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person to:

(1) sell or fraudulently obtain or furnish any property inspector degree, diploma, certificate of registration, license, or any other related document or record or to aid or abet in so doing;

(2) practice property inspecting under cover of any degree, diploma, registration, license, or related document or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(3) practice property inspecting unless currently licensed to do so under the provisions of this chapter;

(4) represent himself or herself as being licensed by this State to practice property inspecting or use in connection with a name any words, letters, signs, or figures that imply that a person is a property inspector when not licensed or otherwise authorized under this chapter; or

(5) practice property inspecting during the time a license or authorization issued under this chapter is suspended or revoked.

(b) Any person violating this section shall be subject to the penalties provided in 3 V.S.A. § 127.

§ 1054. EXCEPTIONS

This chapter does not prohibit:

(1) the practice of property inspection that is incidental to his or her program of study by a person enrolled in a property inspection training program approved by the Director; or

(2) the practice of any other occupation or profession by a person duly licensed or otherwise authorized under the laws of this State.

Subchapter 2. Administration

§ 1071. DUTIES OF THE DIRECTOR

(a) The Director shall:

(1) provide general information to applicants for licensure as property inspectors;

(2) receive applications for licensure and issue licenses to applicants qualified under this chapter;

(3) administer fees as established by law;

(4) refer all disciplinary matters to an administrative law officer;

(5) renew, revoke, and reinstate licenses as ordered by an administrative law officer; and

(6) explain appeal procedures to licensed property inspectors and to applicants, and complaint procedures to the public.

(b) The Director may adopt rules necessary to perform his or her duties under this section.

§ 1072. ADVISOR APPOINTEES

(a) The Secretary of State shall appoint two property inspectors for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to property inspection. One of the initial appointments may be for less than a five-year term.

(b) An appointee shall have not less than five years' experience as a property inspector immediately preceding appointment; shall be licensed as a property inspector in Vermont; and shall be actively engaged in the practice of property inspecting in this State during incumbency.

(c) The Director shall seek the advice of the property inspector advisors in

carrying out the provisions of this chapter.

Subchapter 3. Licenses

§ 1091. ELIGIBILITY FOR LICENSURE

Each applicant for licensure as a property inspector shall meet the following minimum requirements:

(1) Be at least 18 years of age and have successfully completed high school or its equivalent.

(2) Complete no less than 80 hours of education approved by the Director covering all of the following real property core components:

(A) heating systems;

(B) cooling systems;

(C) plumbing systems;

(D) electrical systems;

(E) structural components;

(F) foundations;

(G) roof coverings;

(H) exterior and interior components; and

(I) site aspects as they affect the building.

(3) Pass an examination required for licensure. The Director shall identify by rule an eligibility examination required for licensure that is an independent, nationally recognized proctored examination.

(4) Complete a minimum number of property inspections incidental to a program of study in a property inspection training program administered by an independent, nationally recognized organization. The Director shall identify by rule the minimum number of inspections and acceptable organizations required by this subdivision (4).

(5) Provide proof of certification issued by an independent, nationally recognized organization that provides certification for property inspectors. The Director shall identify by rule acceptable organizations for certification.

§ 1092. LICENSE RENEWAL

(a) A license shall be renewed every two years on a schedule determined by the Director upon application and payment of the required fee. Failure to comply with the provisions of this section shall result in suspension of all privileges granted to the licensee, beginning on the expiration date of the

license.

(b) A license that has lapsed may be renewed upon payment of the biennial renewal fee and the late renewal penalty.

(c) The Director may adopt rules necessary for the protection of the public to assure the Director that an applicant whose license has lapsed or who has not worked for more than five years as a property inspector is professionally qualified for license renewal. Conditions imposed under this subsection shall be in addition to the requirements of subsection (a) of this section.

§ 1093. APPLICATIONS

Applications for licensure and license renewal shall be on forms provided by the Director. Each application shall contain a statement under oath showing the applicant's education, experience, and other pertinent information and shall be accompanied by the required fee.

§ 1094. LICENSURE GENERALLY

The Director shall issue a license or renew a license, upon payment of the fees required under this chapter, to an applicant or licensee who has satisfactorily met all the requirements of this chapter.

§ 1095. FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125.

Sec. 3. TRANSITIONAL PROVISIONS

(a) Notwithstanding the provision of Sec. 2 of this act, 26 V.S.A. § 1072(b) (advisor appointees; qualifications), that requires an advisor appointee to be licensed as a property inspector in Vermont, an initial advisor appointee may be in the process of applying for licensure if he or she otherwise meets the requirements for licensure as a property inspector and the other requirements of Sec. 2 of this act, 26 V.S.A. chapter 19.

(b) A person who has been actively engaged in the business of property inspection in this State as the primary means of his or her livelihood for at least five years preceding the effective date of this subsection shall be eligible for licensure without completion of the licensure eligibility requirements of Sec. 2 of this act, 26 V.S.A. § 1091(2)–(5) (eligibility for licensure). Such an applicant shall be issued a license by providing evidence satisfactory to the Director of the knowledge and experience equivalent to the licensure eligibility requirements of Sec. 2 of this act, 26 V.S.A. chapter 19. All applicants shall pay an initial fee and fulfill all other license application requirements.

(c) Effective on July 1, 2016, all applicants for initial licensure or renewal

shall meet the licensure eligibility requirements of Sec. 2 of this act, 26 V.S.A. § 1091.

(d) The Director of the Office of Professional Regulation may adopt rules necessary to perform his or her duties under Sec. 2 of this act, 26 V.S.A. chapter 19, prior to the effective date of that section.

Sec. 4. EFFECTIVE DATES

This act shall take effect on July 1, 2014 except this section and Sec. 3 (transitional provisions), which shall take effect on passage.

(Committee Vote: 11-0-0)

Rep. Branagan of Georgia, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations**.

(Committee Vote: 9-0-2)

H. 631

An act relating to lottery commissions

Rep. Van Wyck of Ferrisburgh, for the Committee on **General, Housing and Military Affairs**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 31 V.S.A. § 658 is amended to read:

§ 658. STATE LOTTERY FUND

* * *

(b) Expenditures for administrative and overhead expenses of the operation of the lottery, except agent and bank commissions, shall be paid from lottery receipts from an appropriation authorized for that purpose. Agent commissions shall be set by the ~~lottery commission~~ Lottery Commission and may not exceed 6.25 percent of gross receipts and bank commissions may not exceed ~~±~~ one percent of gross receipts. Any store that sells a winning draw ticket shall receive its commission in a manner consistent with the rules adopted by the Lottery Commission.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee Vote: 8-0-0)

Favorable

H. 683

An act relating to the income tax checkoff for Vermont Green Up

Rep. Clarkson of Woodstock, for the Committee on **Ways and Means**, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

Action Under Rule 52

H.R. 14

House resolution relating to federal regulation of the propane market

(For text see House Journal 2/27/2014)

H.R. 15

House resolution commemorating the Battle of the Wilderness

(For text see House Journal 2/27/2014)

Action Postponed Until March 11, 2014

Favorable with Amendment

H. 685

An act relating to identification and registration of moorings

NOTICE CALENDAR

Favorable with Amendment

H. 123

An act relating to Lyme disease and other tick-borne illnesses

Rep. Fisher of Lincoln, for the Committee on **Health Care**, 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:

(1) Lyme disease, caused by one or more Borrelia species of spirochete bacteria, is increasingly widespread in Vermont and has become endemic in the State.

(2) Lyme disease is a fast growing vector-borne disease in Vermont.

(3) Lyme disease may be successfully treated with a short-term course

of antibiotics if diagnosed early; however, for patients whose Lyme disease is not identified early, complex and ongoing symptoms may require more aggressive treatment as acknowledged by the Centers for Disease Control and Prevention and the International Lyme and Associated Diseases Society.

(4) Treatment of Lyme disease needs to be tailored to the individual patient, and there is a range of opinions within the medical community regarding proper treatment of Lyme disease.

(5) Coinfection by other tick-borne illnesses may complicate and lengthen the course of treatment.

Sec. 2. PURPOSE

The purpose of this act is to ensure that patients have access to treatment for Lyme disease and other tick-borne illnesses in accordance with their needs and the clinical judgment of their physicians.

Sec. 3. POLICY STATEMENT

A policy statement clearly communicating the following shall be issued by the Vermont State Board of Medical Practice to physicians licensed pursuant to 26 V.S.A. chapter 23 and to physician assistants licensed pursuant to 26 V.S.A. chapter 31; the Vermont Board of Osteopathic Physicians to physicians licensed pursuant to 26 V.S.A. chapter 33; and the Vermont Board of Nursing to advanced practice registered nurses licensed pursuant to 26 V.S.A. chapter 28:

(1) a physician, physician assistant, or nurse practitioner, as appropriate, shall document the basis for diagnosis of and treatment for Lyme disease, other tick-borne illness, or coinfection in a patient's medical record;

(2) a physician, physician assistant, or nurse practitioner, as appropriate, shall obtain a patient's informed consent in writing prior to administering any proposed long-term treatment for Lyme disease, other tick-borne illness, or coinfection; and

(3) the Board shall not pursue disciplinary action against a physician, physician assistant, or nurse practitioner, as appropriate, solely for the use of medical care recognized by the guidelines of the Centers for Disease Control and Prevention, Infectious Diseases Society of America, or International Lyme and Associated Diseases Society for the treatment of a patient's symptoms when the patient is clinically diagnosed with Lyme disease or other tick-borne illness; however, this does not preclude discipline for errors, omissions, or other misconduct when practicing within such guidelines.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee Vote: 11-0-0)

H. 542

An act relating to the taxation of soil amendments

Rep. Stevens of Shoreham, 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. 32 V.S.A. § 9701(48)–(50) are added to read:

(48) Compost: means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management, but does not mean sewage, septage, or materials derived from sewage or septage.

(49) Manipulated animal manure: means manure that is ground, pelletized, mechanically dried, or consists of separated solids.

(50) Perlite: means a lightweight granular material made of volcanic material expanded by heat treatment for use in growing media.

(51) Planting mix: means material that is:

(A) used in the production of plants; and

(B) made substantially from compost, peat moss, or coir and other ingredients that contribute to fertility and porosity, including perlite, vermiculite, and other similar materials.

(52) Vermiculite: means a lightweight mica product expanded by heat treatment for use in growing media.

Sec. 2. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(3) Agriculture feeds; seed; plants; baler twine; silage bags; agricultural wrap; sheets of plastic for bunker covers; liming materials; breeding and other livestock; semen breeding fees; baby chicks; turkey poults; agriculture chemicals other than pesticides; veterinary supplies; ~~and~~ bedding; clean high carbon bulking agents, as that term is used in the Agency

of Natural Resources Solid Waste Management Rules, used for composting; food residuals used for composting or on-farm energy production; and fertilizers and pesticides for use and consumption directly in the production for sale of tangible personal property on farms, including stock, dairy, poultry, fruit and truck farms, orchards, nurseries, or in greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities for sale.

* * *

(49) Sales of compost, animal manure, manipulated animal manure, and potting soil.

Sec. 3. APPLICATION OF SALES TAX; COMPOST

Notwithstanding the imposition under 32 V.S.A. § 9771 of the sales and use tax on the sale of composting for farming, the Department of Taxes shall not impose or collect the sales and use tax on the sale of compost for farming that occurred between January 1, 2012 and July 1, 2014, and taxes paid on such charges shall be refunded upon request if made within the statute of limitations and documented to the satisfaction of the Commissioner of Taxes. As used in this section, “compost” shall have the same meaning as defined in 10 V.S.A. § 1266b(1) and “farming” shall have the same meaning as defined in 10 V.S.A. § 6001(22).

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee Vote: 11-0-0)

Rep. Johnson of Canaan, 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** and when further amended as follows:

First: By striking out Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(49) Clean high carbon bulking agents, as that term is used in the

Agency of Natural Resources' Solid Waste Management Rules, used for commercial or on-farm composting, and food residuals used for commercial or on-farm composting or on-farm energy production;

(50) Compost, animal manure, manipulated animal manure, and planting mix when any of these items are sold in bulk. As used in this subsection, the term "sold in bulk" shall mean sold in a form that is not prepackaged, or sold in a packaged form in volumes greater than one cubic yard.

Second: By striking out Sec. 3 in its entirety and inserting in lieu thereof the following:

Sec. 3. STATUTORY PURPOSE

The statutory purpose of the exemptions for composting materials, compost, animal manure, manipulated animal manure, and planting mix in 32 V.S.A. § 9741(49) and (50) is to support the composting industry, and to further the goals of 2012 Acts and Resolves No. 148. The Office of Legislative Council is authorized to place these statutory purposes in the appropriate statutory sections prior to July 1, 2014.

(Committee Vote: 10-0-1)

H. 650

An act relating to establishing the Ecosystem Restoration and Water Quality Improvement Special Fund

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

Sec. 1. 10 V.S.A. § 1264d is added to read:

§ 1264d. ECOSYSTEM RESTORATION AND WATER QUALITY

IMPROVEMENT SPECIAL FUND

(a) Purpose. The federal and State requirements for the permitting of Municipal Separate Storm Sewer Systems (MS4) require certain communities to collect water flow and precipitation data at monitoring stations on stormwater-impaired waters in order to demonstrate compliance with stormwater Total Maximum Daily Load allocations. The costs, equipment, and expertise to conduct monitoring can be prohibitive to individual communities. The establishment of the Ecosystem Restoration and Water Quality Improvement Special Fund is intended to ensure municipal compliance with the monitoring requirements for MS4 communities while reducing the fiscal and other pressures on these communities.

(b) Creation of fund; purpose. There is created an Ecosystem Restoration and Water Quality Improvement Special Fund, to be managed in accordance with the requirements of 32 V.S.A. chapter 7, subchapter 5, and to be administered by the Secretary of Natural Resources. The Ecosystem Restoration and Water Quality Improvement Special Fund shall be used to provide assistance to municipalities in fulfilling the monitoring, education, and other requirements of the MS4 permitting program. The Secretary is authorized to collect monies for the Fund and to make disbursements from the Fund directly related to the Secretary's oversight of monitoring required under the MS4 program.

(c) Participation by municipalities.

(1) A municipality may through a memorandum of understanding (MOU) with the Secretary of Natural Resources agree to contribute to the Ecosystem Restoration and Water Quality Improvement Special Fund to perform the monitoring and other data collection that a municipality is required to conduct under the MS4 permitting program. Under the MOU, a municipality shall commit to contribute to the Fund the municipalities share of funding required by the Agency of Natural Resources to perform MS4 monitoring and provide oversight and administration. Memoranda of understanding shall serve to coordinate funding and work among municipalities, the State, and any entity contracted with or by a municipality or the State for the purposes of improving water quality.

(2) At a minimum, each memorandum of understanding developed under this section shall contain the following:

(A) the purpose of the memorandum of understanding;

(B) a description of the work to be performed under the memorandum of understanding;

(C) a description of how the coordinated work proposed under the memorandum of understanding will improve water quality;

(D) the entities eligible to participate under the memorandum of understanding; and

(E) the amount of required contribution by the entity, based on a funding formula developed in consultation with entities eligible to participate in the program.

(3) A memorandum of understanding developed under this section shall be posted on the Agency website and subject to a comment period of not less than 30 days.

(4) All participating entities, and the Agency, shall sign any final

memoranda of understanding.

(d) Fund proceeds.

(1) The Ecosystem Restoration and Water Quality Improvement Special Fund Deposits shall consist of:

(A) payment of costs by participating MS4 communities;

(B) monies appropriated by the General Assembly; and

(C) any other source, public or private.

(2) Unexpended balances and interest earned on the Fund shall be retained in the Fund for use in accordance with the purposes of the Fund.

(e) Fund accounts; expenditures.

(1) The Secretary shall maintain separate accounts within the Ecosystem Restoration and Water Quality Improvement Special Fund for each memorandum of understanding. The Secretary may establish within the Fund an account for the purpose of conducting education and outreach related to improvements to water quality.

(2) Expenditures from an account shall be limited to the purposes established by the memorandum of understanding associated with that account. The Secretary is prohibited from disbursing funds on behalf of an entity that failed to contribute its assigned allocation pursuant to the funding formula established by the Secretary or for any purpose not associated with that account.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee Vote: 9-0-0)

Rep. Helm of Fair Haven, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Fish, Wildlife & Water Resources**.

(Committee Vote: 10-0-1)

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)

Rep. Fagan of Rutland City, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Judiciary**.

(Committee Vote: 10-0-1)

H. 799

An act relating to the importation of untreated firewood

Rep. Martin of Springfield, 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. 10 V.S.A. chapter 83, subchapter 8 is added to read:

Subchapter 8. Importation of Firewood

§ 2681. IMPORTATION OF FIREWOOD; PROTECTION FROM

INVASIVE PESTS

(a) Definitions. As used in this section:

(1) “Commissioner” means the Commissioner of Forests, Parks and Recreation.

(2) “Department” means the Department of Forests, Parks and Recreation.

(3) “Firewood” means wood that is sold or transported for residential or recreational consumption in fireplaces, woodstoves, outdoor fireplaces, or campfires. “Firewood” shall not mean wood chips, wood pellets, fuel for biomass boilers, pulpwood, or other wood sold or transported for manufacturing purposes.

(b) Rulemaking. On or before July 1, 2015, the Commissioner, after consultation with the Secretary of Agriculture, Food and Markets, shall adopt rules regulating the importation of firewood into the State. The rules shall address:

(1) whether certain types of firewood should be prohibited from importation due to the potential to spread invasive species;

(2) whether a health certificate or some other approval shall be required to import firewood;

(3) whether persons who produce or sell firewood in the State shall be required to track purchases of firewood from out of State in order to allow for identification of sources of invasive species; and

(4) any other issue the Commissioner identifies as necessary for preventing the importation of invasive species into the State when importing firewood.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(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 2/27/2014.

H.C.R. 235

House concurrent resolution congratulating Alexina Federhen on winning U.S. Senator Bernie Sanders's 2014 State of the Union Essay Contest

H.C.R. 236

House concurrent resolution honoring employees of municipal public works departments and designating May 18–24, 2014 as Public Works Week in Vermont

H.C.R. 237

House concurrent resolution congratulating Stephen A. Sampson on his selection as the 2013 Vermont Assistant Principal of the Year

H.C.R. 238

House concurrent resolution honoring Diane Marcoux-LaClair on her career accomplishments as an elementary school teacher

H.C.R. 239

House concurrent resolution congratulating the Town of Londonderry on its revitalization of Pingree Park

H.C.R. 240

House concurrent resolution honoring Lexa Clark for her leadership as captain of the Jamaica Rescue Squad

H.C.R. 241

House concurrent resolution congratulates CVS Caremark for the decision to terminate the sale of all tobacco products, including cigarettes

H.C.R. 242

House concurrent resolution honoring the federal TRIO programs in Vermont

H.C.R. 243

House concurrent resolution designating March 2014 as Myeloma Awareness Month in Vermont

H.C.R. 244

House concurrent resolution honoring the New Haven Town moderators

H.C.R. 245

House concurrent resolution congratulating Elaine Pinckney on her being named the 2013 Frederick H. Tuttle Superintendent of the Year

H.C.R. 246

House concurrent resolution designating April 2014 as Month of the Military Child in Vermont

H.C.R. 247

House concurrent resolution honoring the retiring Weybridge Selectboard members Gale Hurd, Steven Smith, and Peter James

H.C.R. 248

House concurrent resolution honoring Bridport's Collector of Delinquent Taxes Harry "Boo" Duffany

H.C.R. 249

House concurrent resolution recognizing the significant health care role of the Rutland Area Visiting Nurse Association and Hospice

H.C.R. 250

House concurrent resolution congratulating U.S. Navy Ensign Matthew McVay on his graduation from the U.S. Naval Academy with a 4.0 GPA

H.C.R. 251

House concurrent resolution in memory of former Representative and Senator Merritt S. Hewitt

H.C.R. 252

House concurrent resolution commemorating the 250th anniversary of the Town of Corinth

H.C.R. 253

House concurrent resolution congratulating Edward Koren of Brookfield on his being named Vermont's newest Cartoonist Laureate

H.C.R. 254

House concurrent resolution honoring Laura Soares of Randolph for her contributions to public education policy and governance

For Informational Purposes

The Joint Fiscal Committee recently received the following items:

JFO #2668 – \$36,931,076 grant from the U.S. Department of Education to the Vermont Agency of Human Services. This award is a federal Race to the Top Early Learning Challenge grant. Funds will be used to improve the quality of early learning opportunities and close the achievement

gap for children with high needs. Sixteen (16) limited service positions are associated with this request. In addition to the attached documents, over 400 pages of supporting documents were submitted with this request. This additional information is available on request from the Joint Fiscal Office. Expedited review of this item has been requested. Joint Fiscal Committee members will be contacted by March 14 with a request to waive the balance of the review period and approve this item.

Public Hearings

March 12, 2014 - Room 10 - DR14-742 - Governance Structure for Education
- House Education Committee

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.