

House Calendar

Thursday, April 24, 2014

108th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Third Reading

J.R.H. 21

Joint resolution urging Congress to enact the Blue Water Navy Vietnam Veterans Act of 2013

S. 211

An act relating to permitting of sewage holding and pumpout tanks for public buildings

S. 247

An act relating to the regulation of medical marijuana dispensaries

S. 275

An act relating to the Court's jurisdiction over youthful offenders

S. 283

An act relating to the changing of the name of the Vermont Criminal Information Center

Favorable with Amendment

H.R. 21

House resolution expressing support for the continuation of the Vermont State Fair

Rep. Lawrence of Lyndon, for the Committee on **Agriculture and Forest Products**, recommends the bill be amended as follows:

First: In the 11th Whereas clause, preceding the word "leadership", by inserting the word "new"

Second: In the first Resolved clause, following the word "body", by inserting the phrase "recognizes the importance of Vermont's fairs and field days and"

(Committee Vote: 11-0-0)

S. 70

An act relating to the delivery of raw milk at farmers' markets

Rep. Bartholomew of Hartland, 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. § 2776 is amended to read:

§ 2776. DEFINITIONS

In this chapter:

(1) “Consumer” means a customer who purchases, barter for, receives delivery of, or otherwise acquires unpasteurized milk ~~from the farm or delivered from the farm~~ according to the requirements of this chapter.

* * *

Sec. 2. 6 V.S.A. § 2777 is amended to read:

§ 2777. STANDARDS FOR THE SALE OF UNPASTEURIZED (RAW) MILK

(a) Unpasteurized milk shall be sold directly from the producer to the consumer for personal consumption only and shall not be resold.

(b) Unpasteurized milk shall be sold only from the farm on which it was produced except when delivery is arranged in conformance with section 2778 of this chapter. Unpasteurized milk shall not be sold or offered as free samples at any location other than on the farm on which the milk was produced.

(c) Unpasteurized milk operations shall conform to reasonable sanitary standards, including:

(1) Unpasteurized milk shall be derived from healthy animals which are subject to appropriate veterinary care, including tuberculosis and brucellosis testing and rabies vaccination, according to accepted testing and vaccinations standards as established by the agency. Test results and verification of vaccinations shall be posted on the farm in a prominent place and be easily visible to customers.

(2) The animal’s udders and teats shall be cleaned and sanitized prior to milking.

(3) The animals shall be housed in a clean, dry environment.

(4) Milking equipment shall be of sanitary construction, cleaned after each milking, and sanitized prior to the next milking.

(5) Milking shall be conducted in a clean environment appropriate for maintaining cleanliness.

(6) The farm shall have a potable water supply which is sampled for bacteriological examination according to agency standards every three years

and whenever any alteration or repair of the water supply has been made.

(7) If an animal is treated with antibiotics, that animal's milk shall be tested for and found free of antibiotics before its milk is offered for sale.

(d) Unpasteurized milk shall conform to the following production and marketing standards:

(1) Record keeping and reporting.

(A) A producer shall collect one composite sample of unpasteurized milk each day and keep the previous 14 days' samples frozen. The producer shall provide samples to the ~~agency~~ Agency if requested.

(B) A producer shall maintain a current list of all customers, including addresses, telephone numbers, and email addresses when available.

(C) The producer shall maintain a list of transactions for at least one year which shall include customer names, the date of each purchase, and the amount purchased.

(2) Labeling. Unpasteurized (raw) milk shall be labeled as such, and the label shall contain:

(A) The date the milk was obtained from the animal.

(B) The name, address, zip code, and telephone number of the producer.

(C) The common name of the type of animal producing the milk (~~e.g., such as~~ cattle, goat, sheep) or an image of the animal.

(D) The words "Unpasteurized (Raw) Milk. Not pasteurized. Keep Refrigerated." on the container's principal display panel, and these words shall be clearly readable in letters at least one-eighth inch in height and prominently displayed.

(E) The words "This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, the elderly, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn." on the container's principal display panel and clearly readable in letters at least one-sixteenth inch in height.

(3) Temperature. Unpasteurized milk shall be cooled to 40 degrees Fahrenheit or lower within two hours of the finish of milking and so maintained until it is obtained by the consumer.

(4) Customer inspection and notification.

(A) Prior to selling milk to a new customer, the new customer shall visit the farm and the producer shall provide the customer with a the opportunity to tour of the farm and any area associated with the milking operation. ~~Customers are encouraged and shall be permitted~~ The producer shall permit the customer to return to the farm at a reasonable time and at reasonable intervals to ~~re-inspect~~ reinspect any areas associated with the milking operation.

(B) A sign with the words “Unpasteurized (Raw) Milk. Not pasteurized. Keep Refrigerated.” and “This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, the elderly, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn.” shall be displayed prominently on the farm in a place where it can be easily seen by customers. The lettering shall be at least one inch in height and shall be clearly readable.

(e) Producers selling ~~12.5~~ 87.5 or fewer gallons (~~50~~ 350 quarts) of unpasteurized milk per ~~day~~ week shall meet the requirements of subsections (a) through (d) of this section and shall sell unpasteurized milk only from the farm on which it was produced. A producer selling ~~12.5~~ 87.5 or fewer gallons of unpasteurized milk may choose to meet the requirements of subsection (f) of this section, in which case the producer may deliver in accordance with section 2778 of this ~~chapter~~ title.

(f) Producers selling ~~12.6~~ more than 87.5 gallons to ~~40~~ 280 gallons (~~50.4~~ more than 350 to ~~160~~ 1120 quarts) of unpasteurized milk per ~~day~~ week shall meet the requirements of subsections (a) through (d) of this section as well as the following standards:

(1) Inspection. The ~~agency~~ Agency shall annually inspect the producer’s facility and determine that the producer is in compliance with the sanitary standards listed in subsection (c) of this section.

(2) Bottling. Unpasteurized milk shall be sold in containers which have been filled by the producer. Containers shall be cleaned by the producer except that the producer may allow customers to clean their own containers only if each customer’s container is labeled with the customer’s name and address and the customers use their own containers. Producers shall ensure that only clean bottles are filled and distributed.

(3) Testing.

(A) A producer shall have unpasteurized milk tested twice per month by a U.S. Food and Drug Administration accredited laboratory. Milk shall be tested for the following and the results shall be below these limits:

- (i) ~~Total~~ total bacterial (aerobic) count: 15,000 cfu/ml (cattle and goats);
- (ii) ~~Total~~ total coliform count: 10 cfu/ml (cattle and goats);
- (iii) ~~Somatic~~ somatic cell count: 225,000/ml (cattle); 500,000/ml (goats).

(B) The producer shall assure that all test results are forwarded to the ~~agency~~ Agency, by the laboratory, upon completion of testing or within five days of receipt of the results by the producer.

(C) The producer shall keep test results on file for one year and shall post results on the farm in a prominent place that is easily visible to customers. The producer shall provide test results to the farm's customers if requested.

(4) Registration. Each producer operating under this subsection shall register with the ~~agency~~ Agency.

(5) Reporting. On or before March 1 of each year, each producer shall submit to the ~~agency~~ Agency a statement of the total gallons of unpasteurized milk sold in the previous 12 months.

(6) Prearranged delivery. Prearranged delivery of unpasteurized milk is permitted and shall be in compliance with section 2778 of this ~~chapter~~ title.

(g) The sale of more than ~~40~~ 280 gallons (~~160~~ 1120 quarts) of unpasteurized milk in any one ~~day~~ week is prohibited.

Sec. 3. 6 V.S.A. § 2778 is amended to read:

§ 2778. DELIVERY OF UNPASTEURIZED (RAW) MILK

(a) Delivery of unpasteurized milk is permitted only within the ~~state~~ State of Vermont and only of milk produced by those producers meeting the requirements of subsection 2777(f) of this chapter.

(b) Delivery shall conform to the following requirements:

(1) Delivery shall be to customers who have:

(A) visited the farm as required under subdivision 2777(d)(4) of this title; and

(B) purchased milk in advance either by a one-time payment or through a subscription.

(2) Delivery shall be directly to the customer:

(A) at the customer's home or into a refrigerated unit at the customer's home if such unit is capable of maintaining the unpasteurized milk

at 40 degrees Fahrenheit until obtained by the customer;

(B) at a farmers' market, as that term is defined in section 5001 of this title, where the producer is a vendor.

(3) During delivery, milk shall be protected from exposure to direct sunlight.

(4) During delivery, milk shall be kept at 40 degrees Fahrenheit or lower at all times.

(c) A producer may contract with another individual to deliver the milk in accordance with this section. The producer shall be jointly and severally liable for the delivery of the milk in accordance with this section.

(d) Prior to delivery at a farmers' market under this section, a producer shall submit to the Agency of Agriculture, Food and Markets, on a form provided by the Agency, notice of intent to deliver unpasteurized milk at a farmers' market. The notice shall:

(1) include the producer's name and proof of registration;

(2) identify the farmers' market or markets where the producer will deliver milk; and

(3) specify the day or days of the week on which delivery will be made at a farmers' market.

(e) A producer delivering unpasteurized milk at a farmers' market under this section shall display the registration required under subdivision 2777(f)(4) of this title on the farmers' market stall or stand in a prominent manner that is clearly visible to consumers.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee vote: 9-2-0)

(For text see Senate Journal March 19, 20, 2014)

Favorable

J.R.H. 18

Joint resolution urging Congress to reauthorize the federal terrorism insurance program

Rep. Kitzmiller of Montpelier, for the Committee on **Commerce and Economic Development**, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

S. 177

An act relating to nonjudicial discipline

Rep. Head of South Burlington, for the Committee on **General, Housing and Military Affairs**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 8-0-0)

(For text see Senate Journal February 26, 2014)

Senate Proposal of Amendment

H. 871

An act relating to miscellaneous pension changes

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

By striking out Sec. 2 (repeal) in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. REPEAL

2010 Acts and Resolves No. 139, Sec. 13(a) is repealed.

(No House Amendments)

NOTICE CALENDAR

Favorable with Amendment

H. 892

An act relating to approval of the adoption and the codification of the charter of the Central Vermont Public Safety Authority

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

First: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 4 (sovereign immunity), at the end of the first sentence, after “to the same extent that”, by striking out in its entirety “the State of Vermont does” and inserting in lieu thereof a municipality of the State does.

Second: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 12 (quorum and rules), in subsection (a), by striking out in its entirety the first sentence and inserting in lieu thereof To transact business, a majority of all directors who are not all from the same member shall be present and shall vote in favor of a motion for it to be effective.

Third: Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 26 is redesignated to read:

§ 26. REMOVAL OF OFFICERS

Fourth: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 31 (collection), in subsection (a), after “Annually, on or before”, by striking out “January 1,” and inserting in lieu thereof July 1,

Fifth: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 31 (collection), in subsection (c), at the end of the last sentence, after “determines to be reasonable” by inserting , not exceeding what may be permitted by general law

Sixth: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 32 (limitations of appropriations), by striking out in their entirety subsections (b) and (c) and inserting in lieu thereof a new subsection (b) to read:

(b) The amount of any deficit at the end of the fiscal year shall be included in the next proposed operating budget and paid out of the appropriations for that budget year. At the discretion of the Board, any unencumbered balance may be placed in a reserve fund or returned to the members.

(Committee Vote: 11-0-0)

Favorable

H. 893

An act relating to approval of the adoption and the codification of the charter of the North Branch Fire District No. 1

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

(Committee Vote: 11-0-0)

H. 894

An act relating to approval of amendments to the charter of the City of Montpelier and to merging the Montpelier Fire District No. 1 into the City of Montpelier

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

(Committee Vote: 10-0-1)

H.R. 11

House resolution to amend Rule 25 of the Rules of the House of Representatives pertaining to the jurisdiction of the Committee on Transportation

Rep. Deen of Westminster, for the Committee on **Rules**, recommends the resolution ought to be adopted.

(Committee Vote: 7-0-0)

S. 234

An act relating to Medicaid coverage for home telemonitoring services

Rep. Hoyt of Norwich, for the Committee on **Health Care**, recommends the bill ought to pass.

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

Rep. Johnson of South Hero, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as follows:

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

Sec. 1. 33 V.S.A. § 1901g is added to read:

§ 1901g. MEDICAID COVERAGE FOR HOME TELEMONITORING SERVICES

(a) The Agency of Human Services shall provide Medicaid coverage for home telemonitoring services performed by home health agencies or other qualified providers as defined by the Agency of Human Services for Medicaid beneficiaries who have serious or chronic medical conditions that can result in frequent or recurrent hospitalizations and emergency room admissions. ~~The Agency shall use evidence-based best practices to determine the conditions or risk factors to be covered.~~ Beginning on July 1, 2014, the Agency shall provide coverage for home telemonitoring for one condition or risk factor for which it determines coverage to be cost-neutral. The Agency may expand coverage to include additional conditions or risk factors identified using evidence-based best practices if the expanded coverage will remain cost-neutral or as funds become available.

(b) A home health agency or other qualified ~~providers as defined by the Agency of Human Services~~ provider shall ensure that clinical information gathered by the home health agency or other qualified ~~providers as defined by the Agency of Human Services~~ provider while providing home telemonitoring services is shared with the patient's treating health care professionals. The Agency of Human Services may impose other reasonable requirements on the use of home telemonitoring services.

(c) As used in this section:

(1) "Home health agency" means an entity that has received a certificate of need from the State to provide home health services and is certified to provide services pursuant to 42 U.S.C. § 1395x(o).

(2) "Home telemonitoring service" means a health service that requires scheduled remote monitoring of data related to a patient's health, in

conjunction with a home health plan of care, and access to the data by a home health agency or other qualified providers provider as defined by the Agency of Human Services.

(Committee Vote: 10-0-1)

Senate Proposal of Amendment

H. 123

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

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

First: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

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, the clinical judgment of their physicians, and any of the guidelines referenced in Sec. 3(4) of this act.

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

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; the Office of Professional Regulation to naturopathic physicians licensed pursuant to 26 V.S.A. chapter 81; 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, naturopathic physician, 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, naturopathic physician, or nurse practitioner, as appropriate, shall obtain a patient's informed consent regarding the potential inaccuracy of a diagnostic Lyme disease test prior to its administration;

(3) a physician, physician assistant, naturopathic physician, 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

(4) the Board or Office of Professional Regulation shall not pursue disciplinary action against a physician, physician assistant, naturopathic physician, 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 unprofessional conduct when practicing within such guidelines.

Third: By adding a new section to be numbered Sec. 4 to read as follows:

Sec. 4. REPORT

On or before January 15, 2015 and 2016 the Commissioner of Health shall report to the House Committee on Health Care and to the Senate Committee on Health and Welfare on the following:

(1) the trends in the spread of Lyme disease and other tick-borne illnesses throughout Vermont, including a description of the surveillance criteria used in evaluating the spread of these diseases; and

(2) the Department of Health's public education initiatives to date regarding the prevention and treatment of Lyme disease and other tick-borne illnesses, including an assessment of each initiative's effectiveness.

And by renumbering the remaining section to be numerically correct.

(For text see House Journal 3/11/2014)

Rep. Fisher of Lincoln for the committee on **Health Care** moves that the House concur in the Senate Proposal of Amendment with further amendment thereto in Sec. 3, by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall provide information to assist patients' understanding of the available Lyme disease tests, the meaning of a diagnostic Lyme disease test result, and any limitations to that test result;

H. 765

An act relating to eliminating the part-time certification of law enforcement officers

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

Sec. 1. VERMONT CRIMINAL JUSTICE TRAINING COUNCIL;REPORT; LEVELS OF LAW ENFORCEMENT OFFICER CERTIFICATION; SCOPE OF PRACTICE; TRAINING REQUIREMENTS

On or before January 15, 2015, the Vermont Criminal Justice Training Council shall submit to the Senate and House Committees on Government Operations a report that recommends whether there should be different levels of law enforcement officer certification to replace the current law's full- and part-time certification. Any new recommended levels shall distinguish law enforcement officer certification based on scope of practice and not on practice hours. For each recommended new level of law enforcement officer certification, the Council shall recommend:

(1) the scope of practice for that level of certification;

(2) the scope of the basic and annual in-service training that should be required to obtain and retain, respectively, that level of certification;

(3) the manner in which a law enforcement officer should be able to transition to a different level of certification; and

(4) the manner in which a law enforcement officer certified as a full- or part-time officer under current law should be able to transition to the recommended new level.

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 a report of the Vermont Criminal Justice Training Council's recommended levels of law enforcement officer certification".

(For text see House Journal 3/18/2014)

Ordered to Lie

S. 91

An act relating to privatization of public schools.

Pending Question: Shall the House propose to the Senate to amend the bill as offered by Rep. Turner of Milton?

**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. 330

House concurrent resolution honoring choral conductor, musician, composer, and college music instructor Edwin Lawrence

H.C.R. 331

House concurrent resolution honoring Grace Simonds for her municipal public service as the Town Clerk and Town Service Officer of Whiting

H.C.R. 332

House concurrent resolution congratulating Erica Wallstrom on being awarded an Albert Einstein Distinguished Educator Fellowship

H.C.R. 333

House concurrent resolution congratulating Rutland Senior High School Principal William Olsen on being named the 2014 Vermont Principal of the Year

H.C.R. 334

House concurrent resolution commemorating the publication of *The Vermont Difference: Perspectives from the Green Mountain State*

H.C.R. 335

House concurrent resolution in memory of former Representative Lawrence Powers

H.C.R. 336

House concurrent resolution honoring Vermont National Guard State Command Sergeant Major Forest T. Glodgett on his distinguished military career

H.C.R. 337

House concurrent resolution recognizing all Vermont firefighters, police officers, and emergency medical service (EMS) personnel for the professional level of service they provide to their communities

H.C.R. 338

House concurrent resolution honoring Wayne Hunter for his public service as a U.S. Postal Service employee in Northfield

H.C.R. 339

House concurrent resolution congratulating Sandy Baird on her most-deserved receipt of the 2014 Vermont Bar Association's Pro Bono Service Award

H.C.R. 340

House concurrent resolution honoring the Southwest Vermont Supervisory
Union teachers and staff concluding their careers in 2014