

Senate Calendar

TUESDAY, MAY 14, 2013

SENATE CONVENES AT: 10:00 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

NEW BUSINESS

Senate Resolution For Action

S.R. 7 Relating to a committee to study the use of state funds by organizations that lobby the General Assembly or Administration 2116

NOTICE CALENDAR

Second Reading

Favorable

H. 537 An act relating to approval of amendments to the charter of the Town of Brattleboro

Government Operations Report - Sen. White 2116

H. 541 An act relating to approval of amendments to the charter of the Village of Essex Junction

Government Operations Report - Sen. French 2116

Favorable with Proposal of Amendment

H. 524 An act relating to making technical amendments to education laws

Education Report - Sen. Collins 2116

Finance Report - Sen. Galbraith 2122

House Proposal of Amendment

S. 18 Automated license plate recognition systems 2122

S. 41 Water and sewer service 2126

Report of Committee of Conference

S. 61 An Act relating to alcoholic beverages 2127

H.530 Act relating to making Appropriations for the support of govt..... 2134

(For text see Addendum to Senate Calendar for May 14, 2013)

ORDERED TO LIE

- S. 55** Increasing efficiency in state govt finance and lending operations ...2134
- S. 165** Collective bargaining for deputy state's attorneys2134

ORDERS OF THE DAY

ACTION CALENDAR

NEW BUSINESS

Senate Resolution For Action

S.R. 7.

Senate resolution relating to a committee to study the use of state funds by organizations that lobby the General Assembly or Administration.

(For text of resolution see Senate Journal of May 13, 2013, page 1527.)

NOTICE CALENDAR

Second Reading

Favorable

H. 537.

An act relating to approval of amendments to the charter of the Town of Brattleboro.

Reported favorably by Senator White for the Committee on Government Operations.

(Committee vote: 5-0-0)

(No House amendments.)

H. 541.

An act relating to approval of amendments to the charter of the Village of Essex Junction.

Reported favorably by Senator French for the Committee on Government Operations.

(Committee vote: 5-0-0)

(No House amendments.)

Favorable with Proposal of Amendment

H. 524.

An act relating to making technical amendments to education laws.

Reported favorably with recommendation of proposal of amendment by Senator Collins for the Committee on Education.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: By striking out Secs. 16 through 22 in their entirety and inserting in lieu thereof 7 new sections to be Secs. 16 through 22 to read:

Sec. 16. REDESIGNATION; ADDITION OF SUBCHAPTER

16 V.S.A. chapter 1, subchapter 2, which shall include §§ 41–55, is added to read:

Subchapter 2. Federal Funds

* * *

Sec. 17. 16 V.S.A. § 168 is amended to read:

§ ~~168~~ 41. AUTHORITY OF STATE BOARD OF EDUCATION AGENCY TO UTILIZE USE FEDERAL FUNDS TO AID EDUCATION

(a) The ~~state board~~ Agency of Education is designated as the sole state agency to establish and administer ~~through the department of education~~ any statewide plan ~~which is now or hereafter may be required~~ as a condition for receipt of federal funds ~~as may be made available to the state of Vermont by the Congress of the United States, or administrative ruling pursuant thereto, State~~ for any educational purposes, including technical education and adult education and literacy. ~~It~~ The Agency shall also be the agency to accept and administer federal funds ~~which federal legislation requires that require administration by a state education agency having jurisdiction of elementary and secondary education to administer.~~

(b) Subject to the approval of the ~~governor~~ Governor, the ~~board~~ Agency may accept and ~~utilize such~~ use federal funds. It may establish criteria and procedures to conform with any requirements established for the use of ~~such~~ the funds and may take such other action as may be required to comply with any condition for receipt of ~~such~~ federal aid.

Sec. 18. 16 V.S.A. § 169 is amended to read:

§ ~~169~~ 42. ACCEPTANCE, DISTRIBUTION AND ACCOUNTING OF FEDERAL FUNDS

(a) The ~~state treasurer~~ State Treasurer, acting upon the order of the ~~commissioner or his or her authorized representative~~ Secretary, shall accept, distribute, and account for federal funds available for use by the ~~state board~~ Agency. Funds shall be distributed and accounted for by the ~~state treasurer~~ State Treasurer in accordance with the laws of ~~this state~~ Vermont, but if there is a conflict between those laws; and the laws or regulations of the United States, then federal law shall apply. The ~~commissioner~~ Secretary shall ~~cause to~~

~~be submitted to the United States such detailed statements of the amounts so~~
~~prepare and submit federally required statements of funds received and~~
~~disbursed as shall be required by the United States. The commissioner~~
Secretary shall cause an audit to be made of ~~such~~ the federal funds and shall
submit a copy thereof to a properly authorized official of the United States of
the audit as required by the laws or regulations of the United States federal
law. ~~Such~~ The audit shall be supported by any reports from the supervisory
union, local school districts, or other recipients of federal funds as may be
required by the ~~commissioner or the United States Secretary or the federal~~
government.

(b) ~~The state treasurer may deliver to the superintendent or~~ State Treasurer
may directly deposit checks payable to a supervisory union or ~~to~~ any school
district within ~~that supervisory union~~ it or may deliver checks to the
superintendent of the supervisory union.

* * *

Sec. 19. 16 V.S.A. § 144b is amended to read:

§ ~~144b~~ 43. FEDERAL EDUCATION AID FUNDS; ADMINISTRATION;
LOCAL EDUCATION AGENCY

(a) ~~The state board of education~~ Agency, as sole state agency, may
administer ~~such~~ federal funds ~~as may be made available to the state~~ State under
~~Public Law 89-10, known as the Elementary and Secondary Education Act of~~
1965, Public L. No. 89-10, as amended, and ~~Public Law 107-110, known as~~
the No Child Left Behind Act of 2001, Public L. No 107-110. Those funds
may be accepted and shall be distributed and accounted for by the ~~state~~
~~treasurer~~ State Treasurer in accordance with that law and rules and regulations
of the United States issued under it if there is conflict between that law or those
rules and regulations and the laws of this ~~state~~ State.

(b) For purposes of distribution of funds under this section, a supervisory
union ~~or supervisory district~~ shall be a local education agency as that term is
defined in 20 U.S.C. § 7801(26).

(c) For purposes of determining pupil performance and application of
consequences for failure to meet standards and for provision of compensatory
and remedial services pursuant to 20 U.S.C. §§ 6311-6318, a school district
shall be a local education agency.

Sec. 20. [Deleted.]

Sec. 21. 16 V.S.A. § 172 is amended to read:

§ ~~172~~ 44. FEDERAL FUNDS; SCHOOL FOOD PROGRAMS

The ~~state board~~ Agency is authorized to accept and use federal funds made available ~~by legislation of the congress to the several states~~ to the State for school food programs under the National School Lunch Act, ~~The~~ the Child Nutrition Act, and any amendments ~~thereto~~ to those laws.

Sec. 22. REDESIGNATION; ADDITION OF SUBCHAPTER

16 V.S.A. chapter 3, subchapter 2, which shall include §§ 175–178, is added to read:

Subchapter 2. Postsecondary Schools

* * *

Second: In Sec. 113, 16 V.S.A. § 1071, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read:

(e) Regional calendar. Before April 1 of each year, the superintendents of schools and the headmasters of public schools not managed by school boards in an area shall meet, and by majority vote, establish a uniform calendar within that area for the following school year. The calendar shall include student attendance days, periods of vacation, holidays, and teacher in-service education days and shall comply with subsection (a) of this section. Unless permitted by the ~~commissioner~~ Secretary, no area served by a regional technical center shall be divided into two or more calendar regions.

Third: By striking out Sec. 303 (effective date) in its entirety, and inserting seven new sections to be Secs. 303 through 309 and a reader assistance heading to read:

* * * Special Education Employees; Transition to Employment
by Supervisory Unions * * *

Sec. 303. 2010 Acts and Resolves No. 153, Sec. 18, as amended by 2011 Acts and Resolves No. 58, Sec. 18, is further amended to read:

Sec. 18. TRANSITION

(a) Each supervisory union shall provide for any transition of employment of special education and transportation ~~staff~~ employees by member districts to employment by the supervisory union, pursuant to Sec. 9 of this act, 16 V.S.A. § 261a(a)(6), and (8)(E) by:

(1) providing that the supervisory union assumes all obligations of each existing collective bargaining agreement in effect between the member districts and their special education employees and their transportation employees until the agreement's expiration, subject to employee compliance with performance standards and any lawful reduction in force, layoff, nonrenewal, or dismissal;

(2) providing, in the absence of an existing recognized representative of its employees, for the immediate and voluntary recognition by the supervisory union of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the supervisory union;

(3) ensuring that an employee of a member district who is not a probationary employee shall not be considered a probationary employee upon transition to the supervisory union; and

(4) ~~containing an agreement~~ negotiating a collective bargaining agreement, addressing special education employees, with the recognized representatives of the employees of the member districts that is effective on the day the supervisory union assumes obligations of existing agreements regarding how the supervisory union, prior to reaching its first collective bargaining agreement with its special education employees and with its transportation employees, will address issues of seniority, reduction in force, layoff, and recall , which, for the purposes of this section, shall be: the exclusive representative of special education teachers; the exclusive representative of the special education administrators; and the exclusive bargaining agent for special education paraeducators if the supervisory union has elected to employ special education paraeducators pursuant to subdivision (b)(3) of this section. The supervisory union shall become the employer of these employees on the date specified in the ratified agreement.

(b) For purposes of this section and Sec. 9 of this act, “special education employee” shall include a special education teacher, a special education administrator, and a special education paraeducator, which means a teacher, administrator, or paraeducator whose job assignment consists of providing special education services directly related to students’ individualized education programs or to the administration of those services. Provided, however, that “special education employee” shall include a “special education paraeducator” only if the supervisory union board elects to employ some or all special education paraeducators because it determines that doing so will lead to more effective and efficient delivery of special education services to students. If the supervisory union board does not elect to employ all special education paraeducators, it must use objective, nondiscriminatory criteria and identify specific duties to be performed when determining which categories of special education paraeducators to employ.

(c) Education-related parties to negotiations under either Title 16 or 21 shall incorporate in their current or next negotiations matters addressing the terms and conditions of special education employees.

(d) If a supervisory union has not entered into a collective bargaining agreement with the representative of its prospective special education employees by August 15, 2015, it shall provide the Secretary of Education with a report identifying the reasons for not meeting the deadline and an estimated date by which it expects to ratify the agreement.

Sec. 304. 16 V.S.A. § 1981(8) is amended to read:

(8) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union and by the supervisory union board to engage in professional negotiations with a teachers' or administrators' organization.

Sec. 305. 21 V.S.A. § 1722(18) is amended to read:

(18) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union and by the supervisory union board to engage in collective bargaining with their school employees' negotiations council.

Sec. 306. EXCESS SPENDING; TRANSITION

For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12) in fiscal years 2014 through 2017, "education spending" shall not include the portion of a district's proposed budget that is directly attributable to assessments from the supervisory union for special education services that exceeds the portion of the district's proposed budget in the year prior to transition for special education services provided by the district.

Sec. 307. APPLICABILITY

Only school districts and supervisory unions that have not completed the transition of special education employees to employment by the supervisory union or have not negotiated transition provisions into current master agreements as of the effective dates of Secs. 24 through 27 of this act are subject to the employment transition provisions of those sections.

Sec. 308. REPORT

On or before January 1, 2017, the Secretary of Education shall report to the House and Senate Committees on Education regarding the decisions of supervisory unions to exercise or not to exercise the flexibility regarding employment of special education paraeducators provided in Sec. 24 of this act and may propose amendments to Sec. 24 or to related statutes as he or she deems appropriate.

Sec. 309. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(No House amendments.)

Reported favorably with recommendation of proposal of amendment by Senator Galbraith for the Committee on Finance.

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Education with the following amendment thereto:

In the Third Proposal of Amendment, by striking out Sec. 306 (excess spending; transition) in its entirety

And by renumbering the remaining sections to be numerically correct

(Committee vote: 6-0-1)

House Proposal of Amendment

S. 18.

An act relating to automated license plate recognition systems.

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

Sec. 1. 23 V.S.A. § 1607 is added to read:

§ 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

(a) Definitions. As used in this section:

(1) “Active data” is distinct from historical data as defined in subdivision (3) of this subsection and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system in accordance with this section shall be considered collected for a legitimate law enforcement purpose.

(2) “Automated license plate recognition system” or “ALPR system” means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data.

(3) “Historical data” means any data collected by an ALPR system and stored on the statewide ALPR server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data

collected by an ALPR system in accordance with this section shall be considered collected for a legitimate law enforcement purpose.

(4) “Law enforcement officer” means a state police officer, municipal police officer, motor vehicle inspector, capitol police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Training Council as having satisfactorily completed the approved training programs required to meet the minimum training standards applicable to that person under 20 V.S.A. § 2358.

(5) “Legitimate law enforcement purpose” applies to access to active or historical data and means investigation, detection, analysis, or enforcement of a crime, traffic violation, or parking violation or operation of AMBER alerts or missing or endangered person searches.

(6) “Vermont Information and Analysis Center Analyst” means any sworn or civilian employee who through his or her employment with the Vermont Information and Analysis Center (VTIAC) has access to secure databases that support law enforcement investigations.

(b) Operation. A Vermont law enforcement officer shall be certified in ALPR operation by the Vermont Criminal Justice Training Council in order to operate an ALPR system.

(c) ALPR use and data access; confidentiality.

(1)(A) Deployment of ALPR equipment is intended to provide access to law enforcement reports of wanted or stolen vehicles and wanted persons and to further other legitimate law enforcement purposes. Use of ALPR systems and access to active data are restricted to legitimate law enforcement purposes.

(B) Active ALPR data may be accessed by a law enforcement officer operating the ALPR system only if he or she has a legitimate law enforcement purpose for the data. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(C)(i) Requests to review active data shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency’s Originating Agency Identifier (ORI) number. The request shall describe the legitimate law enforcement purpose. The written request and the outcome of the request shall be transmitted to VTIAC and retained by VTIAC for not less than three years.

(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided account access by the department to conduct authorized ALPR stored data

queries. Access to active data shall be restricted to data collected within the past seven days.

(2)(A) A VTiac analyst shall transmit historical data only to a Vermont or out-of-state law enforcement officer who has a legitimate law enforcement purpose for the data. A law enforcement officer to whom historical data are transmitted may use such data only for a legitimate law enforcement purpose. Entry of any data onto the statewide ALPR server other than data collected by an ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(B) Requests for historical data, whether from Vermont or out-of-state law enforcement officers, shall be made in writing to an analyst at VTiac. The request shall include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's ORI number. The request shall describe the legitimate law enforcement purpose. VTiac shall retain all requests and shall record in writing the outcome of the request and any information that was provided to the requester or, if applicable, why a request was denied or not fulfilled. VTiac shall retain the information described in this subdivision (c)(2)(B) for no fewer than three years.

(d) Retention.

(1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2) of this subsection. The Department of Public Safety shall maintain the ALPR storage system for Vermont law enforcement agencies.

(2) Except as provided in section 1608 of this title, information gathered through use of an ALPR system shall only be retained for 18 months after the date it was obtained. When the permitted 18-month period for retention of the information has expired, the Department of Public Safety and any local law enforcement agency with custody of the information shall destroy it and cause to have destroyed any copies or backups made of the original data. Data may be retained beyond the 18-month period pursuant to a preservation request made or disclosure order issued under Section 1608 of this title or pursuant to a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure.

(e) Oversight; rulemaking.

(1) The Department of Public Safety shall establish a review process to ensure that information obtained through use of ALPR systems is used only for the purposes permitted by this section. The Department shall report the results

of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) The total number of ALPR units being operated in the State and the number of units submitting data to the statewide ALPR database.

(B) The total number of ALPR readings each agency submitted to the statewide ALPR database.

(C) The 18-month cumulative number of ALPR readings being housed on the statewide ALPR database.

(D) The total number of requests made to VTIAC for ALPR data.

(E) The total number of requests that resulted in release of information from the statewide ALPR database.

(F) The total number of out-of-state requests.

(G) The total number of out-of-state requests that resulted in release of information from the statewide ALPR database.

(2) The Department of Public Safety may adopt rules to implement this section.

Sec. 2. 23 V.S.A. § 1608 is added to read:

§ 1608. PRESERVATION OF DATA

(a) Preservation request.

(1) A law enforcement agency or the Department of Motor Vehicles may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607(d)(2) of this title if the agency or Department offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation or to a pending court or Judicial Bureau proceeding. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.

(2) A governmental entity making a preservation request under this section shall submit an affidavit stating:

(A) the particular camera or cameras for which captured plate data must be preserved or the particular license plate for which captured plate data must be preserved; and

(B) the date or dates and time frames for which captured plate data must be preserved.

(b) Captured plate data shall be destroyed on the schedule specified in section 1607 of this title if the preservation request is denied or 14 days after the denial, whichever is later.

Sec. 3. EFFECTIVE DATE AND SUNSET

(a) This act shall take effect on July 1, 2013.

(b) Secs. 1–2 of this act, 23 V.S.A. §§ 1607 and 1608, shall be repealed on July 1, 2015.

House Proposal of Amendment

S. 41.

An act relating to water and sewer service.

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

Sec. 1. 24 V.S.A. § 5143 is amended to read:

§ 5143. DISCONNECTION OF SERVICE

* * *

(c) A municipality shall accept payment from any person for any bill or delinquent charge.

Sec. 2. INTENT

It is the intent of the General Assembly that the Vermont League of Cities and Towns, Vermont Legal Aid, and the Vermont Apartment Owners Association work collaboratively on a proposal to present to the House and Senate Committees on Government Operations by January 15, 2014 which addresses the issue of the disconnection of municipal water and sewer service due to delinquent payments.

Sec. 3. REPEAL

Sec. 1 of this act shall be repealed on February 1, 2014.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

Report of Committee of Conference

S. 61.

An act relating to alcoholic beverages.

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S. 61 An act relating to alcoholic beverages

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

§ 2. DEFINITIONS

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

* * *

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

* * *

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

one-quarter ounce of spirits with a total of one ounce to each retail customer for consumption on the manufacturer's premises or at a farmers' market. A farmers' market license is valid for all dates of operation for a specific farmers' market location.

* * *

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

* * *

Sec. 2. 7 V.S.A. § 66 is amended to read:

§ 66. MALT AND VINOUS BEVERAGE SHIPPING LICENSE; IN STATE; OUT OF STATE; PROHIBITIONS; PENALTIES

(a) A manufacturer or rectifier of vinous beverages or malt beverages licensed in Vermont may be granted an in-state consumer shipping license by filing with the ~~department of liquor control~~ Department of Liquor Control an application in a form required by the ~~department~~ Department accompanied by a copy of the applicant's current Vermont manufacturer's license and the fee as required by subdivision 231(7)(A) of this title. This consumer shipping license may be renewed annually by filing the renewal fee as required by subdivision 231(7)(A) of this title accompanied by a copy of the licensee's current Vermont manufacturer's license.

(b) A manufacturer or rectifier of vinous beverages or malt beverages licensed in another state that operates a winery or brewery in the United States and holds valid state and federal permits and licenses may be granted an out-of-state consumer shipping license by filing with the ~~department of liquor control~~ Department an application in a form required by the ~~department~~ Department accompanied by copies of the applicant's current out-of-state manufacturer's license and the fee as required by subdivision 231(7)(B) of this title. This consumer shipping license may be renewed annually by filing the

renewal fee as required by subdivision 231(7)(B) of this title accompanied by the licensee's current out-of-state manufacturer's license. For the purposes of this subsection and subsection (c) of this section, "out-of-state" means any state other than Vermont, any territory or possession of the United States, and does not include a foreign country.

* * *

(d) Pursuant to a consumer shipping license granted under subsection (a) or (b) of this section, the licensee may ship vinous beverages or malt beverages produced by the licensee:

(1) Only to private residents for personal use and not for resale.

(2) No more than 12 cases containing no more than 29 gallons of vinous beverages or no more than 12 cases of malt beverages containing no more than 36 gallons of malt beverages to any one Vermont resident in any calendar year.

(3) Only by common carrier certified by the ~~department~~ Department. The common carrier shall comply with all the following:

(A) ~~Deliver~~ deliver vinous beverages pursuant to an invoice that includes the name of the licensee and the name and address of the purchaser;

(B) ~~On~~ on delivery, require a valid form of photographic identification from a recipient who appears to be under ~~the age of~~ 30;

(C) ~~Require~~ require the recipient to sign an electronic or paper form or other acknowledgement of receipt.

(e) A holder of any shipping license granted pursuant to this section shall:

(1) ~~Ensure~~ ensure that all containers of alcoholic beverages shipped under this section are clearly labeled: "contains alcohol; signature of individual age 21 or older required for ~~delivery.~~" delivery;

(2) ~~Not~~ not ship to any address in a municipality that the ~~department~~ Department identified as having voted to be "~~dry.~~" dry;

(3) ~~Retain~~ retain a copy of each record of sale for a minimum of five years from the date of shipping;

(4) ~~Report~~ report at least twice a year to the ~~department of liquor control~~ Department of Liquor Control if the holder of a direct consumer shipping license and once a year if the holder of a retail shipping license in a manner and form required by the ~~department~~ Department all the following information:

(A) ~~The~~ the total amount of vinous beverages or malt beverages shipped into or within the ~~state~~ State for the preceding six months if a holder of

a direct consumer shipping license or every 12 months if a holder of a retail shipping license;

(B) ~~The~~ the names and addresses of the purchasers to whom the ~~vinous~~ beverages were shipped;

(C) ~~The~~ the date purchased, if appropriate, the name of the common carrier used to make each delivery, and the quantity and value of each shipment.

(5) ~~Pay~~ pay directly to the ~~commissioner of taxes~~ Commissioner of Taxes the amount of tax on the vinous beverages or malt beverages shipped under this section pursuant to subsection 421(a) of this title, and comply with the provisions of 32 V.S.A. chapter 233, 24 V.S.A. § 138, and any other legally authorized local sales taxes. Delivery in this ~~state~~ State shall be deemed to constitute a sale in this ~~state~~ State at the place of delivery and shall be subject to all appropriate taxes levied by the ~~state~~ State of Vermont;

(6) ~~Permit the state treasurer~~ permit the State Treasurer, the ~~department of liquor control~~ Department of Liquor Control, and the ~~department of taxes~~ Department of Taxes, separately or jointly, upon request, to perform an audit of its records;

(7) ~~If~~ if an out-of-state license holder, be deemed to have consented to the jurisdiction of the ~~department of liquor control~~ Department of Liquor Control or any other state agency and the Vermont state courts concerning enforcement of this or other applicable laws and regulations;

(8) ~~Not~~ not have any direct or indirect financial interest in a Vermont wholesale dealer or retail dealer, including a first, second, or third class license;

(9) ~~Comply~~ comply with all ~~liquor control board~~ Liquor Control Board laws and regulations; and

(10) comply with the beverage container deposit redemption system pursuant to 10 V.S.A. chapter 53.

(f) A common carrier shall not deliver vinous beverages or malt beverages until it has complied with the training provisions in subsections 239(a) and (b) of this title and been certified by the ~~department of liquor control~~ Department of Liquor Control. No employee of a certified common carrier may deliver vinous beverages or malt beverages until that employee completes the training provisions in subsection 239(c) of this title. A common carrier shall deliver only vinous beverages or malt beverages that have been shipped by the holder of a license issued under this section or a vinous beverage storage license issued under section 68 of this title.

(g) ~~The department of liquor control and the department of taxes~~ Departments of Liquor Control and of Taxes may adopt rules and forms necessary to implement this section.

(h) Direct shipments of vinous beverages or malt beverages are prohibited if the shipment is not specifically authorized and in compliance with this section. Any person who knowingly makes, participates in, imports, or receives a direct shipment of vinous beverages or malt beverages from a person who is not licensed or certified as required by this section may be fined not more than \$1,000.00 or imprisoned not more than one year, or both.

(i) A licensee under this section or a common carrier that ships vinous beverages or malt beverages to an individual under 21 years of age shall be fined not less than \$1,000.00 or more than \$3,000.00 or imprisoned not more than two years, or both.

(j) For any violation of this section, the ~~liquor control board~~ Liquor Control Board may suspend or revoke a license issued under this section, among all other remedies available to the board.

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

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

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

* * *

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

* * *

Sec. 4. 7 V.S.A. § 230 is amended to read:

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

* * *

(b) An individual who is an employee of a wholesale dealer that does not hold a solicitor's permit may also be employed by a first or second class licensee on a paid or voluntary basis, provided that the employee does not exercise any control over, or participate in, the management of the first or second class licensee's business or business decisions, and that either employment relationship does not result in the exclusion of any competitor wholesale dealer or any brand of alcoholic beverages of a competitor wholesale dealer.

Sec. 5. 7 V.S.A. § 239 is amended to read:

§ 239. LICENSEE EDUCATION

(a) ~~No new first or second class license~~ A new first class, second class, third class, fourth class, or farmer's market license shall not be granted until the applicant has met with a liquor control investigator or training specialist for the purpose of being informed of the Vermont liquor laws, rules, and regulations pertaining to the purchase, storage, and sale of alcohol beverages. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection.

(b) ~~Every first and second class licensee~~ first class, second class, third class, fourth class, or farmer's market licensee and every holder of a manufacturer's license shall complete the ~~department of liquor control~~ Department of Liquor Control licensee enforcement training seminar at least once every ~~three~~ two years. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection. ~~No first or second class license~~ A first class, second class, third class, fourth class, or farmer's market license or manufacturer's license shall not be renewed unless the records of the department of liquor control Department of Liquor Control show that the licensee has complied with the terms of this subsection.

(c) Each licensee shall ensure that every employee who is involved in the sale or serving of alcohol beverages completes a training program approved by the ~~department of liquor control~~ Department of Liquor Control before the employee begins serving or selling alcoholic beverages and at least once every 24 months thereafter. Each licensee shall maintain written documentation, signed by each employee trained, of each training program conducted. A

licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished or approved by the ~~department of liquor control~~ Department of Liquor Control. A licensee who fails to comply with the requirements of this subsection shall be subject to a suspension of no less than one day of the license issued under this title.

Sec. 6. 7 V.S.A. § 602 is amended to read:

§ 602. EXHIBITION OF CARD

An individual shall exhibit “a valid authorized form of identification,” which means a valid photographic operator’s license, enhanced driver’s license, or valid photographic nondriver identification card issued by Vermont or another state or foreign jurisdiction, a United States military identification card, or a valid passport or passport card bearing the photograph and signature of the individual upon demand of a licensee, an employee of a licensee, or a law enforcement officer. On the failure of an individual to produce and exhibit a valid authorized form of identification upon demand of a licensee, the licensee shall be entitled to refuse to sell the individual any alcoholic beverage. Sale or furnishing of any alcoholic beverages by a licensee to an individual exhibiting a valid authorized form of identification shall be prima facie evidence of the licensee’s compliance with the law prohibiting the sale or furnishing of alcoholic beverages to minors.

Sec. 7. REPEAL

The following sections of 2011 Acts and Resolves No. 17 (An act relating to powers and immunities of the liquor control investigators) are repealed:

- (1) Sec. 3 (amending 7 V.S.A. § 561(a), effective July 1, 2013);
- (2) Sec. 4 (amending 23 V.S.A. § 4(11), effective July 1, 2013); and
- (3) Sec. 5(b) (effective date of Secs. 3 and 4).

Sec. 8. 7 V.S.A. § 561 is amended to read:

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

(a) ~~The director of the enforcement division of the department of liquor control~~ Director of the Enforcement Division of the Department of Liquor Control and investigators employed by the ~~liquor control board~~ Liquor Control Board or by the ~~department of liquor control~~ Department of Liquor Control shall be certified as full-time law enforcement officers by the Vermont

Criminal Justice Training Council and shall have the same powers and immunities as those conferred on the ~~state police~~ State Police by 20 V.S.A. § 1914.

* * *

Sec. 9. EFFECTIVE DATE

This section and Secs. 7 and 8 of this act shall take effect on passage. All other sections shall take effect on July 1, 2013.

*KEVIN J. MULLIN
PHILIP E. BARUTH
ANN E. CUMMINGS*

Committee on the part of the Senate

*JOHN T. MORAN
THOMAS S. STEVENS
JEAN D. O'SULLIVAN*

Committee on the part of the House

Report of Committee of Conference

H. 530.

An act relating to making appropriations for the support of government.
(For text see Addendum to Senate Calendar for May 14, 2013)

ORDERED TO LIE

S. 55.

An act relating to increasing efficiency in state government finance and lending operations.

PENDING ACTION: Second reading of the bill.

S. 165.

An act relating to collective bargaining for deputy state's attorneys.

PENDING ACTION: Third reading of the bill.

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Deborah Markowitz of Montpelier – Secretary, Agency of Natural Resources – By Sen. Hartwell for the Committee on Natural Resources and Energy. (5/15/13)