

Journal of the House

Thursday, February 28, 2013

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Paul Sawyer of First Universalist Society of Hartland, Hartland, Vt.

Message from the Senate No. 22

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 19. An act relating to prohibiting intentionally accessing child pornography through the Internet.

S. 31. An act relating to prohibiting a court from consideration of interests in revocable trusts or wills when making a property settlement in a divorce proceeding.

S. 99. An act relating to the standard measure of recidivism.

In the passage of which the concurrence of the House is requested.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred to committee or placed on the Calendar as follows:

H. 404

By Rep. Till of Jericho,

House bill, entitled

An act relating to requiring a notice of intent to file a claim for medical malpractice cases;

To the committee on Judiciary.

H. 405

By Rep. Cheney of Norwich,

House bill, entitled

An act relating to manure management and anaerobic digesters;

To the committee on Natural Resources and Energy.

H. 406

By Reps. Devereux of Mount Holly, Higley of Lowell, Martin of Wolcott, Browning of Arlington, Consejo of Sheldon, Mook of Bennington, Townsend of South Burlington and Wilson of Manchester,

House bill, entitled

An act relating to listers and assessors;

To the committee on Government Operations.

H. 407

By Rep. Wizowaty of Burlington,

House bill, entitled

An act relating to establishing state funding eligibility for for-profit and nonprofit organizations based on income ratios;

To the committee on Government Operations.

H. 408

By Reps. Buxton of Tunbridge, Krowinski of Burlington, McCarthy of St. Albans City, Ram of Burlington, Trieber of Rockingham, Young of Glover and Zagar of Barnard,

House bill, entitled

An act relating to creating a Vermont Student Loan Consolidation and Forgiveness Program;

To the committee on Education.

H. 409

By Reps. McCarthy of St. Albans City, Bissonnette of Winooski, Botzow of Pownal, Campion of Bennington, Cole of Burlington, Connor of Fairfield, Consejo of Sheldon, Gallivan of Chittenden, Masland of Thetford, Potter of Clarendon, Rachelson of Burlington, Stevens of Waterbury, Till of Jericho, Toleno of Brattleboro, Townsend of Randolph, Weed of Enosburgh, Wright of Burlington and Zagar of Barnard,

House bill, entitled

An act relating to stock supply and emergency administration of epinephrine auto-injectors in schools;

To the committee on Education.

H. 410

By Reps. Masland of Thetford, Cheney of Norwich, Botzow of Pownal, Branagan of Georgia, Christie of Hartford, Clarkson of Woodstock, Copeland-Hanzas of Bradford, Deen of Westminster, Emmons of Springfield, Jerman of Essex, Johnson of Canaan, Kitzmiller of Montpelier, Krowinski of Burlington, Lanpher of Vergennes, Macaig of Williston, Marek of Newfane, McCullough of Williston, Miller of Shaftsbury, Pearson of Burlington, Poirier of Barre City, Ram of Burlington, South of St. Johnsbury, Townsend of South Burlington, Weed of Enosburgh, Wizowaty of Burlington, Wright of Burlington and Young of Glover,

House bill, entitled

An act relating to brownfields;

To the committee on Natural Resources and Energy.

H. 411

By Reps. Young of Glover, Buxton of Tunbridge, Christie of Hartford, Clarkson of Woodstock, Masland of Thetford, Ram of Burlington and Zagar of Barnard,

House bill, entitled

An act relating to Vermont Telecommunications Authority revenue bonds;

To the committee on Ways and Means.

H. 412

By Reps. McCullough of Williston, Dakin of Chester, Frank of Underhill, Macaig of Williston, Masland of Thetford, McCormack of Burlington, Mrowicki of Putney, Poirier of Barre City, Sharpe of Bristol, Till of Jericho, Waite-Simpson of Essex and Yantachka of Charlotte,

House bill, entitled

An act relating to shared parental rights and responsibilities and equal parent-child contact;

To the committee on Judiciary.

H. 413

By Reps. Wizowaty of Burlington, Marek of Newfane and Waite-Simpson of Essex,

House bill, entitled

An act relating to the Uniform Collateral Consequences of Conviction Act;

To the committee on Judiciary.

H. 414

By Reps. Ralston of Middlebury, Browning of Arlington, Komline of Dorset and Pearson of Burlington,

House bill, entitled

An act relating to a Director for Consumer Advocacy within the Department of Public Service;

To the committee on Commerce and Economic Development.

H. 415

By Reps. Young of Glover, Botzow of Pownal, Bouchard of Colchester, Carr of Brandon, Cross of Winooski, Dickinson of St. Albans Town, Kupersmith of South Burlington, Marcotte of Coventry, Ralston of Middlebury and Scheuermann of Stowe,

House bill, entitled

An act relating to the continued mission of the Vermont Telecommunications Authority;

To the committee on Commerce and Economic Development.

H. 416

By Reps. Waite-Simpson of Essex, Conquest of Newbury, Goodwin of Weston and Marek of Newfane,

House bill, entitled

An act relating to trespass liability for service of process;

To the committee on Judiciary.

H. 417

By Reps. Russell of Rutland City, Cupoli of Rutland City, Fagan of Rutland City and Gage of Rutland City,

House bill, entitled

An act relating to blighted property improvement programs;
To the committee on Ways and Means.

H. 418

By the committee on Health Care,

An act relating to establishing premium and cost-sharing assistance, a sugar-sweetened beverage tax, and a health care claims tax;

Under the rule, placed on the Calendar for notice.

H. 419

By Rep. Marek of Newfane,

House bill, entitled

An act relating to the taxation of mobile homes in a mobile home park;

To the committee on General, Housing and Military Affairs.

H. 420

By Reps. Keenan of St. Albans City and Branagan of Georgia,

House bill, entitled

An act relating to the annual assessment for home health agencies;

To the committee on Human Services.

H. 421

By Reps. Savage of Swanton and Hebert of Vernon,

House bill, entitled

An act relating to establishing an aggravated DUI offense;

To the committee on Judiciary.

H. 422

By Reps. Savage of Swanton, Beyor of Highgate, Branagan of Georgia, Canfield of Fair Haven, Cupoli of Rutland City, Dickinson of St. Albans Town, Goodwin of Weston, Hebert of Vernon, Juskiewicz of Cambridge, Terenzini of Rutland Town and Wright of Burlington,

House bill, entitled

An act relating to aggravated murder for killing a firefighter or an emergency services provider;

To the committee on Judiciary.

H. 423

By Reps. Hubert of Milton, Beyor of Highgate, Bouchard of Colchester, Brennan of Colchester, Burditt of West Rutland, Myers of Essex and Wright of Burlington,

House bill, entitled

An act relating to retaining proof of work documents at state and municipal contract work sites;

To the committee on Government Operations.

H. 424

By Rep. Botzow of Pownal,

House bill, entitled

An act relating to consecutive public water systems;

To the committee on Fish, Wildlife & Water Resources.

H. 425

By Rep. Greshin of Warren,

House bill, entitled

An act relating to workers' compensation;

To the committee on Commerce and Economic Development.

H. 426

By Reps. Donovan of Burlington, Christie of Hartford, Davis of Washington, Macaig of Williston, Moran of Wardsboro, Pearson of Burlington, Poirier of Barre City, South of St. Johnsbury and Zagar of Barnard,

House bill, entitled

An act relating to unemployment compensation for certain school employees;

To the committee on Commerce and Economic Development.

H. 427

By Reps. Till of Jericho, Bouchard of Colchester and O'Sullivan of Burlington,

House bill, entitled

An act relating to the Vermont Housing Finance Agency;
To the committee on General, Housing and Military Affairs.

H. 428

By Rep. Waite-Simpson of Essex,
House bill, entitled
An act relating to sheriffs and deputy sheriffs;
To the committee on Government Operations.

H. 429

By Rep. Botzow of Pownal,
House bill, entitled
An act relating to enhancing consumer cyber security;
To the committee on Commerce and Economic Development.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 19

Senate bill, entitled
An act relating to prohibiting intentionally accessing child pornography through the Internet;
To the committee on Judiciary.

S. 31

Senate bill, entitled
An act relating to prohibiting a court from consideration of interests in revocable trusts or wills when making a property settlement in a divorce proceeding;
To the committee on Judiciary.

S. 99

Senate bill, entitled
An act relating to the standard measure of recidivism;
To the committee on Corrections and Institutions.

Bills Referred to Committee on Appropriations

House bills of the following titles, appearing on the Calendar, carrying appropriations, under the rule, were referred to the committee on Appropriations:

H. 182

House bill, entitled

An act relating to search and rescue

H. 329

House bill, entitled

An act relating to the Use Value Program

Bill Amended; Third Reading Ordered**H. 71**

Rep. Krowinski of Burlington, for the committee on Human Services, to which had been referred House bill, entitled

An act relating to tobacco products

Reported in favor of its passage when amended as follows:

First: by striking out Sec. 7 in its entirety and inserting in lieu thereof a new Sec. 7 to read:

Sec. 7. 7 V.S.A. § 1010 is amended to read:

§ 1010. INTERNET SALES

(a) As used in this section:

* * *

(2) ~~“Distributor” has the same definition as that found at 32 V.S.A. § 7702(4).~~

* * *

(b) No person shall cause cigarettes, roll-your-own tobacco, little cigars, or snuff, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network, to be shipped to anyone other than a licensed wholesale dealer, ~~distributor~~, or retail dealer in this ~~state~~ State.

* * *

Second: by striking out Sec. 17 in its entirety and inserting in lieu thereof a new Sec. 17 to read:

Sec. 17. 32 V.S.A. § 7777 is amended to read:

§ 7777. RECORDS REQUIRED; INSPECTION AND EXAMINATION;
ASSESSMENT OF TAX DEFICIENCY

(a) Each licensed wholesale dealer and each retail dealer shall keep complete and accurate records of all cigarettes, little cigars, and roll-your-own tobacco manufactured, produced, purchased, transferred, and sold by the dealer. ~~Such~~ The records shall be of such kind and in such form as the ~~commissioner~~ Commissioner may prescribe and shall be safely preserved for six years in such manner as to insure permanency and accessibility for inspection by the commissioner and authorized agents. ~~The commissioner~~ Commissioner or authorized agents of the Commissioner may enter in or upon any premises where the ~~commissioner~~ Commissioner or they have reason to believe that cigarettes, little cigars, or roll-your-own tobacco are possessed, stored, or sold, for the purpose of determining whether the provisions of this chapter or 33 V.S.A. chapter 19, subchapter 1A or 1B ~~of chapter 19 of Title 33~~ are being obeyed and may examine and copy the books, papers, records, and ~~cigarette~~ the stock of any licensed wholesale dealer or retail dealer, for the purpose of determining whether the tax imposed by this chapter has been fully paid.

(b) If the ~~commissioner~~ Commissioner determines that a licensed wholesale dealer has not purchased sufficient stamps to cover sales of cigarettes and little cigars, or that a retail dealer has made sales of unstamped cigarettes or little cigars or untaxed roll-your-own tobacco, the ~~commissioner~~ Commissioner shall thereupon assess the deficiency in tax plus interest and penalties as provided in section 3202 of this title.

(c) In any case ~~where in which~~ a licensed wholesale dealer cannot produce evidence of sufficient stamp purchases to cover the dealer's receipts and sales or other disposition of cigarettes or little cigars, it shall be presumed that ~~such~~ the cigarettes or little cigars were sold without having the proper stamps affixed. In any case in which a licensed wholesale dealer cannot produce proper evidence of payment of the tax on roll-your-own tobacco to cover the dealer's receipts and sales or other disposition of roll-your-own tobacco, it shall be presumed that the roll-your-own tobacco was sold without the proper tax having been paid.

(d) If a ~~wholesale~~ licensed wholesale dealer or retail dealer has failed to timely pay for stamps obtained for payment within 10 days or to pay the tax imposed on roll-your-own tobacco, the dealer shall be subject to assessment, collection, and enforcement in the same manner as provided under subchapter 4 of this chapter.

* * *

Third: by striking out Sec. 20 in its entirety and inserting in lieu thereof a new Sec. 20 to read:

Sec. 20. 32 V.S.A. § 7815 is amended to read:

§ 7815. ~~DISTRIBUTORS~~ LICENSED WHOLESALE DEALERS

All resident licensed wholesale dealers within the ~~state who are also distributors within the meaning of this chapter~~ State are required to pay the tax on tobacco products for which they may be liable. A person without this ~~state~~ State who ships or transports tobacco products to retailers in this ~~state~~ State, to be sold by those retailers, may make application for license as a nonresident ~~distributor~~ licensed wholesale dealer, be granted such license by the ~~commissioner~~ Commissioner, and thereafter be subject to all the provisions of this chapter so far as the same pertain to tobacco products, and be entitled to act as a ~~distributor~~ licensed wholesale dealer, provided he or she files proof with his or her application that he or she has appointed the ~~secretary of state~~ Secretary of State as his or her agent for service of process relating to any matter or issue arising under this chapter. Such nonresident person shall also agree to submit his or her books, accounts, and records to examination during reasonable business hours by the ~~commissioner~~ Commissioner or his or her duly authorized agent.

Fourth: In Sec. 22, 33 V.S.A. § 1918(f), by striking the word “reasonably” in the first sentence and by adding a sentence before subdivision (1) to read: “Proof of the bond shall be submitted with the certification on a form approved by the Attorney General.”

Fifth: In Sec. 22, 33 V.S.A. § 1918(f)(4), by striking the word “may” and inserting in lieu thereof the word “shall”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Human Services agreed to and third reading ordered.

Action on Bill Postponed

H. 395

House bill, entitled

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

Was taken up and pending second reading of the bill, on motion of **Rep. Botzow of Pownal**, action on the bill was postponed until March 13, 2013.

Bill Amended; Third Reading Ordered**H. 205**

Rep. Evans of Essex, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to professions and occupations regulated by the Office of Professional Regulation

Reported in favor of its passage when amended as follows:

First: In Sec. 4, 26 V.S.A. § 1161 (definitions), in subdivision (4), after “construction documents, or” and preceding “surveys” by inserting “engineering”

Second: In Sec. 15, 26 V.S.A. § 1191 (unprofessional conduct), in subdivision (c)(9), after “failing to” and preceding “the trust of engineering clients” by striking “protest” and inserting in lieu thereof “protect”

Third: By striking Sec. 46 (amending 26 V.S.A. § 4104) in its entirety and inserting in lieu thereof the following:

Sec. 46. 26 V.S.A. § 4104 is amended to read:

§ 4104. ADVISORY APPOINTEES

(a)(1) The ~~secretary of state~~ Secretary of State shall appoint:

(A) a professional in the field of public health and medicine, from a list of persons provided by the ~~commissioner of health~~, a Commissioner of Health; and

(B) two registered ~~operator~~ operators who ~~has~~ have been practicing tattooing and body piercing for at least the three years immediately preceding appointment and who shall actively be engaged in the practice of tattooing and body piercing in Vermont during incumbency, ~~and a member of the public~~.

(2) The appointees shall be appointed to serve as advisors in matters relating to tattooing and body piercing. The appointees shall be appointed as set forth in 3 V.S.A. § 129b.

(b) The ~~director~~ Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter. The advisor appointees shall be entitled to compensation and necessary expenses as provided in 32 V.S.A. § 1010 for attendance at any meeting called by the ~~director~~ Director for that purpose.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

Adjournment

At one o'clock and thirty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.