

# Journal of the House

---

Thursday, March 21, 2013

**Rep. Jewett of Ripton** in Chair.

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

## Devotional Exercises

Devotional exercises were conducted by Rev. Earl Kooperkamp of Good Shepherd Episcopal Church, Barre, Vt.

## House Bill Introduced

### H. 525

Reps. Scheuermann of Stowe introduced a bill, entitled

An act relating to approval of amendments to the charter of the Town of Stowe

Which was read the first time and referred to the committee on Government Operations.

## Senate Bills Referred

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

### S. 85

Senate bill, entitled

An act relating to workers' compensation for firefighters and rescue or ambulance workers;

To the committee on Commerce and Economic Development.

### S. 130

Senate bill, entitled

An act relating to encouraging flexible pathways to secondary school completion;

To the committee on Education.

### S. 148

Senate bill, entitled

An act relating to criminal investigation records and the Vermont Public Records Act;

To the committee on Judiciary.

**Third Reading; Bills Passed**

House bills of the following titles were severally taken up, read the third time and passed:

**H. 105**

House bill, entitled

An act relating to adult protective services reporting requirements;

**H. 178**

House bill, entitled

An act relating to anatomical gifts;

**H. 377**

House bill, entitled

An act relating to neighborhood planning and development for municipalities with designated centers;

**H. 405**

House bill, entitled

An act relating to manure management and anaerobic digesters;

**H. 406**

House bill, entitled

An act relating to listers and assessors;

**H. 518**

House bill, entitled

An act relating to miscellaneous amendments to Vermont retirement laws;

**H. 523**

House bill, entitled

An act relating to jury questionnaires, the filing of foreign child custody determinations, court fees, and judicial record keeping;

**H. 524**

House bill, entitled

An act relating to making technical amendments to education laws;

---

**Action on Bill Postponed****H. 520**

House bill, entitled

An act relating to reducing energy costs and greenhouse gas emissions

Was taken up and pending third reading of the bill, on motion of **Rep. Cheney of Norwich**, action on the bill was postponed until the next legislative day.

**Bill Read Third Time and Passed****H. 510**

House bill, entitled

An act relating to the State's transportation program and miscellaneous changes to the State's transportation laws

Was taken up and pending third reading of the bill, **Rep. Koch of Barre Town** moved to amend the bill as follows:

By striking Sec. 25 in its entirety and inserting in lieu thereof the following:

Sec. 25. 19 V.S.A. § 11a is amended to read:

§ 11a. TRANSPORTATION FUNDS APPROPRIATED FOR THE DEPARTMENT OF PUBLIC SAFETY

(a) No transportation funds shall be appropriated for the support of government other than for the ~~agency of transportation~~ Agency, the ~~transportation board~~ Board, transportation pay act funds, construction of transportation capital facilities ~~used by the agency of transportation~~, transportation debt service, the ~~department of buildings and general services~~ operation of information centers by the Department of Buildings and General Services, and the ~~department of public safety~~ Department of Public Safety. The amount of transportation funds appropriated to the ~~department of public safety~~ Department of Public Safety shall not exceed:

(1) \$25,250,000.00 in fiscal year 2014;

(2) \$22,750,000.00 in fiscal year 2015;

(3) \$20,250,000.00 in fiscal year 2016; and

(4) in fiscal year 2017 and succeeding fiscal years, \$20,250,000.00 minus the cumulative total of any reductions required under subsection (b) of this section.

(b) If the official revenue forecast issued under 32 V.S.A. § 305a in January 2016, and in the January of succeeding years, projects an increase in available sales and use and meals and rooms tax revenues for the following fiscal year over the available sales and use and meals and rooms tax revenues for the then-current fiscal year, the amount of funds appropriated to the Department of Public Safety from the Transportation Fund in the following fiscal year shall be reduced from the then-current amount of the appropriation by the lesser of:

(1) \$1,000,000.00 for each one percent or major fraction thereof that those revenues are projected to increase; or

(2) \$3,000,000.00.

Pending the question, Shall the bill be amended as recommended by Rep. Koch of Barre Town? **Rep. Koch of Barre Town** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Rep. Koch of Barre Town? was decided in the negative. Yeas, 49. Nays, 88.

Those who voted in the affirmative are:

Batchelor of Derby	Feltus of Lyndon	Myers of Essex
Beyor of Highgate	Gage of Rutland City	Poirier of Barre City
Bissonnette of Winooski	Goodwin of Weston	Quimby of Concord
Bouchard of Colchester	Hebert of Vernon	Savage of Swanton
Branagan of Georgia	Higley of Lowell	Scheuermann of Stowe
Browning of Arlington	Hubert of Milton	Shaw of Pittsford
Burditt of West Rutland	Johnson of Canaan	Shaw of Derby
Canfield of Fair Haven	Juskiewicz of Cambridge	Smith of New Haven
Condon of Colchester	Koch of Barre Town	Stevens of Shoreham
Consejo of Sheldon	Komline of Dorset	Strong of Albany
Cupoli of Rutland City	Krebs of South Hero	Terenzini of Rutland Town
Devereux of Mount Holly	Larocque of Barnet	Townsend of Randolph
Dickinson of St. Albans Town	Lawrence of Lyndon	Turner of Milton
Donaghy of Poultney	Marcotte of Coventry	Van Wyck of Ferrisburgh
Donahue of Northfield *	McFaun of Barre Town	Winters of Williamstown
Fagan of Rutland City	Mitchell of Fairfax	Wright of Burlington *
	Morrissey of Bennington	

Those who voted in the negative are:

Ancel of Calais	Carr of Brandon	Copeland-Hanzas of Bradford
Bartholomew of Hartland	Cheney of Norwich	Cross of Winooski
Botzow of Pownal	Christie of Hartford	Davis of Washington
Brennan of Colchester	Clarkson of Woodstock	Deen of Westminster
Burke of Brattleboro	Cole of Burlington	Donovan of Burlington
Buxton of Tunbridge	Connor of Fairfield	Ellis of Waterbury
Campion of Bennington	Conquest of Newbury	

Emmons of Springfield	Macaig of Williston	Ram of Burlington
Evans of Essex	Malcolm of Pawlet	Russell of Rutland City *
Fay of St. Johnsbury	Manwaring of Wilmington	South of St. Johnsbury
Fisher of Lincoln	Marek of Newfane	Stevens of Waterbury
Frank of Underhill	Martin of Springfield	Stuart of Brattleboro
French of Randolph	Masland of Thetford *	Sweaney of Windsor
Gallivan of Chittenden	McCarthy of St. Albans City	Taylor of Barre City
Greshin of Warren	McCormack of Burlington	Till of Jericho
Haas of Rochester	McCullough of Williston	Toleno of Brattleboro
Head of South Burlington	Michelsen of Hardwick	Toll of Danville
Heath of Westford	Miller of Shaftsbury	Townsend of South Burlington
Helm of Fair Haven	Mook of Bennington	Vowinkel of Wilder
Hooper of Montpelier	Moran of Wardsboro	Waite-Simpson of Essex
Huntley of Cavendish	Mrowicki of Putney	Webb of Shelburne
Jerman of Essex	Nuovo of Middlebury	Weed of Enosburgh
Johnson of South Hero	O'Brien of Richmond	Wilson of Manchester
Keenan of St. Albans City	O'Sullivan of Burlington	Wizowaty of Burlington
Klein of East Montpelier	Partridge of Windham	Woodward of Johnson
Krowinski of Burlington	Pearce of Richford	Yantachka of Charlotte
Kupersmith of South Burlington	Pearson of Burlington	Young of Glover
Lanpher of Vergennes *	Peltz of Woodbury	Zagar of Barnard
Lenes of Shelburne	Potter of Clarendon	
Lippert of Hinesburg	Pugh of South Burlington	
	Rachelson of Burlington	

Those members absent with leave of the House and not voting are:

Corcoran of Bennington	Kitzmiller of Montpelier	Sharpe of Bristol
Dakin of Chester	Lewis of Berlin	Smith of Morristown
Grad of Moretown	Martin of Wolcott	Spengler of Colchester
Kilmartin of Newport City	Ralston of Middlebury	Trieber of Rockingham

**Rep. Donahue of Northfield** explained her vote as follows:

“Mr. Speaker:

I remain distressed by the indexing to inflation. However, this amendment at least builds insistence on keeping transportation taxes in the transportation fund. We clearly do need to supplement the drop in transportation revenues. I vote yes so that, if this amendment passes, I will be able to change my vote to a yes on the underlying bill.”

**Rep. Lanpher of Vergennes** explained her vote as follows:

“Mr. Speaker:

I vote No on this amendment, not because I believe Transportation should not consider its responsibility to fund a portion of the state police, but because it has been considered and has been reduced by tens of millions over recent years. I believe it is not a solution to the Transportation funding gap to isolate

a legitimate use of Transportation funds as a problem and then promote a public misconception that this funding of the State Police is a 'raid' or misuse. Thank you."

**Rep Masland of Thetford** explained his vote as follows:

"Mr. Speaker:

I vote no. The member's concern about moving money out of the Transportation Fund notwithstanding, I note that since 1996 there have been transfers from the General Fund to the Transportation Fund totaling over 24 million dollars. Members who would like to verify this fact may be referred to page 18 of the current version of fiscal facts."

**Rep. Russell of Rutland City** explained his vote as follows:

"Mr. Speaker:

As the committee has addressed by incorporating purification of transportation funds through Section 25 of this bill, I will vote no on this amendment. We are listening to our constituents and will continue to ensure our transportation needs are met judiciously and in a financially responsible manner."

**Rep. Wright of Burlington** explained his vote as follows:

"Mr. Speaker:

My yes vote reflects the message that I have been getting from constituents over and over: Keep the Transportation Fund pure. This amendment offered a formula to do that over a period of years and to say to voters, we hear you. It is time for us to solve this problem once and for all."

Pending third reading of the bill, **Rep. Browning of Arlington** moved to amend the bill as follows:

First: By striking Secs. 21 and 24 in their entirety and by renumbering the remaining sections to be numerically correct

Second: In the former Sec. 22, newly renumbered as Sec. 21, in subsection (a), by striking "From May 1, 2013 through June 30, 2014" and inserting in lieu thereof "Notwithstanding 23 V.S.A. § 3106(a), from May 1, 2013 through June 30, 2015"

Third: After the former Sec. 25, newly renumbered as Sec. 23, by inserting a new section to read:

Sec. 23a. STUDY OF TRANSPORTATION FUND RESTORATION

(a) For the purposes of this section, “tax expenditure” means the actual or estimated loss in tax revenue resulting from any exemption, exclusion, deduction, or credit applicable to a tax.

(b) Creation of committee. There is created a Study Committee on Tax and Budget Reform and Transportation Fund Restoration. The purpose of the Committee is to study eliminating transfers from the Transportation Fund for expenditure on activities without a clear nexus to achieving the transportation goals of the State and to make recommendations to restore funding for these activities through tax and budget reform.

(c) Membership. The Committee shall be composed of six members of the General Assembly, three of whom shall be appointed by the Committee on Committees of the Senate and three of whom shall be appointed by the Speaker of the House.

(d) Powers and Duties.

(1) The Committee shall determine the total amount of the following transfers from the Transportation Fund in fiscal year 2014 and projected for the next two succeeding fiscal years:

(A) the transfer to the Department of Public Safety;

(B) the transfer to the Education Fund under 16 V.S.A. § 4025;

(C) the transfer to the DUI Enforcement Special Fund under 23 V.S.A. § 1220a(b);

(D) the transfer to the Fish and Wildlife Fund and Department of Forests, Parks and Recreation under 23 V.S.A. § 3106(d); and

(E) the transfer of any other funds from the Transportation Fund for purposes other than those specified in 19 V.S.A. § 11a.

(2) The Committee shall evaluate potential reforms to Vermont’s budget and tax system, including reforms of tax expenditures, and recommend alternative ways to fund, in whole or in part, the activities identified in subdivision (1) of this subsection so that transfers from the Transportation Fund can be reduced or eliminated.

(e) Assistance. For purposes of its study, the Committee shall have the assistance of the Joint Fiscal Office, the Department of Taxes, and any other individual or entity that the Committee deems appropriate.

(f) Report. The Committee shall issue a written report to the General Assembly on or before December 15, 2013 on its findings and recommendations.

(g) Number of meetings; term of Committee; reimbursement. The Committee may meet no more than four times and shall cease to exist on December 15, 2013. For attendance at meetings during adjournment of the General Assembly, the members of the Committee shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406.

Fourth: In the original Sec. 27, newly renumbered as Sec. 25 (effective dates), by striking subsections (b)–(d) in their entirety and inserting in lieu thereof the following:

(b) Secs. 21–22 of this act shall take effect on May 1, 2013.

(c) All other sections of this act shall take effect on July 1, 2013.

Thereupon, **Rep. Browing of Arlington** asked and was granted leave of the House to withdraw her amendment.

Thereupon, the bill was read the third time and passed.

### **Bill Amended; Third Reading Ordered**

#### **H. 95**

**Rep. Kupersmith of South Burlington**, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to unclaimed life insurance benefits

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 27 V.S.A. § 1244a is added to read:

#### § 1244a. UNCLAIMED LIFE INSURANCE BENEFITS

(a) As used in this section:

(1) “Contract” means an annuity contract. It shall not include an annuity used to fund an employment-based retirement plan or program in which the insurance company is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

(2) “Death Master File” means the U.S. Social Security Administration’s Death Master File or any other database or service that is at least as comprehensive as the Death Master File for determining that a person has reportedly died.

(3) “Death Master File Match” or “match” means a search of the Death Master File that results in a match between a person on the Death Master File and the Social Security Number or name and date of birth of an insured, annuity owner, or retained asset account holder.



(4) "Insurance" shall have the same meaning as in 8 V.S.A. § 3301a.

(5) "Life insurance" shall have the same meaning as in 8 V.S.A. § 3301.

(6) "Policy" means any policy or certificate of life insurance that provides a death benefit. It shall not include any policy or certificate of life insurance that provides a death benefit under:

(A) an employee benefit plan:

(i) subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002, as may be amended; or

(ii) under any federal employee benefit program;

(B) any policy or certificate of life insurance used to fund a preneed funeral contract or prearrangement; or

(C) any policy or certificate of credit life or accidental death insurance.

(b) An insurance company shall perform a comparison of its insureds' in-force life insurance policies, contracts, and retained asset accounts against a Death Master File, on at least a semiannual basis, to identify potential matches. For those potential matches, the insurance company shall:

(1) within 90 days of identifying the match:

(A) complete a good faith effort, which shall be documented by the insurance company, to confirm the death of the insured or retained asset account holder against other available records and information; and

(B) determine whether benefits are due in accordance with the applicable policy or contract; and, if benefits are due in accordance with the applicable policy or contract:

(i) use good faith efforts, which shall be documented by the insurance company, to locate the beneficiary or beneficiaries; and

(ii) provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim, including the need to provide an official death certificate, if applicable under the policy or contract; and

(2) with respect to group life insurance, confirm the possible death of an insured as required in subdivision (1) of this subsection when the insurance company maintains at least the following information of those covered under a policy or certificate:

(A) Social Security Number or name and date of birth;

(B) beneficiary designation information;

(C) coverage eligibility;

(D) benefit amount; and

(E) premium payment status.

(c) To the extent permitted by law, the insurance company may disclose minimum necessary personal information about the insured or beneficiary to a person who the insurance company reasonably believes may be able to assist the insurance company locate the beneficiary or a person otherwise entitled to payment of claims proceeds.

(d) An insurance company or its service provider shall not charge insureds, account holders, or beneficiaries for any fees or costs associated with a search or verification conducted under this section.

(e) The benefits from a life insurance policy or a retained asset account, plus any applicable interest accrued in accordance with 8 V.S.A. § 3665 shall first be payable to the designated beneficiaries or owners and, in the event the beneficiaries or owners cannot be found, shall escheat to the State as unclaimed property under section 1247 of this chapter.

(f) Upon the expiration of the statutory time period for escheat, an insurance company shall notify the Vermont State Treasurer that:

(1) a life insurance policy beneficiary or retained asset account holder has not submitted a claim with the insurance company; and

(2) the insurance company has complied with subsection (b) of this section and has been unable, after good faith efforts documented by the insurance company, to contact the retained asset account holder, beneficiary, or beneficiaries.

(g) Upon such notice, an insurance company shall immediately submit the unclaimed life insurance benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the Vermont State Treasurer.

(h) The Vermont State Treasurer shall notify the Commissioner of Financial Regulation if he or she has reason to believe an insurance company has failed to meet any requirement of this act. The Commissioner shall determine whether such failure constitutes an unfair claim settlement practice under 8 V.S.A. § 4724(9).

## Sec. 2. EFFECTIVE DATE; RETROACTIVE APPLICATION

This act shall take effect on passage and, notwithstanding 1 V.S.A. § 214(b), shall apply to all life insurance policies, annuity contracts, and retained asset accounts in force on or after the effective date.

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

**Bill Amended; Third Reading Ordered**

**H. 280**

**Rep. O'Sullivan of Burlington**, for the committee on General, Housing and Military Affairs, to which had been referred House bill, entitled

An act relating to payment of wages

Reported in favor of its passage when amended as follows:

First: In Sec. 1, 21 V.S.A. § 341, in subdivision (2), by striking out “or agents of an employer”

Second: In Sec. 4, 21 V.S.A. § 345, by striking out “\$ 500.00” and inserting in lieu thereof “\$5,000.00”

Third: In Sec. 5, 21 V.S.A. § 345a, in subdivision (2), by striking out “\$500.00” and inserting in lieu thereof “\$5,000.00”

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be amended as recommended by the committee on General, Housing and Military Affairs? **Rep. O'Sullivan of Burlington** moved to substitute an amendment for that offered by the committee on General, Housing and Military Affairs as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. 341 is amended to read:

§ 341. DEFINITIONS

As used in this subchapter:

~~(a)~~(1) “Employee” ~~as used in this chapter~~ means a person who has entered into the employment of an employer, where the employer is unable to show that:

~~(1)~~(A) the individual has been and will continue to be free from control or direction over the performance of such services, both under the contract of service and in fact; and

~~(2)~~(B) the service is either outside all the usual course of business for which such service is performed, or outside all the places of business of the enterprise for which such service is performed; and

~~(3)(C)~~ the individual is customarily engaged in an independently established trade, occupation, profession or business.

~~(b)(2)~~ “Employer” as used in sections ~~342-345~~ of this title means any person having employees in his or her service.

(3) “Commissioner” means the Commissioner of Labor or designee.

(4) “Department” means the Department of Labor.

(5) “Wages” means all remuneration payable for services rendered by an employee, including salary, commissions, and bonuses.

Sec. 2. 21 V.S.A. § 342 is amended to read:

§ 342. WEEKLY PAYMENT OF WAGES

(a)(1) Any ~~person~~ employer having employees doing and transacting business within the ~~state~~ State shall pay each week, in lawful money or checks, the wages earned by each employee to a day not more than six days prior to the date of such payment.

(2) After giving written notice to the employees, any ~~person~~ employer having employees doing and transacting business within the ~~state~~ State may, notwithstanding subdivision (1) of this subsection, pay biweekly or semimonthly in lawful money or checks, each employee the wages earned by the employee to a day not more than six days prior to the date of the payment. If a collective bargaining agreement so provides, the payment may be made to a day not more than 13 days prior to the date of payment.

\* \* \*

Sec. 3. 21 V.S.A. § 342a is amended to read:

§ 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

~~(a) Upon complaint to the department of labor by an employee that wages have not been paid to the employee by the employer, the commissioner of labor or the commissioner’s agent shall investigate the complaint, examine the employer’s records, attempt to arrange a settlement between the employer and the employee and, if the attempt fails, shall, upon a finding based on clear and convincing evidence that unpaid wages are owed to the employee by the employer, collect from the employer the amounts due and remit them to the employee. An employee or the Department on its own motion may file a complaint that wages have not been paid to an employee, not later than two years from the date the wages were due. The Commissioner shall provide notice and a copy of the complaint to the employer by service, or by certified mail sent to the employer’s last known address, together with an order to file with the Department within 10 calendar days of receipt.~~

~~(b) If the commissioner finds that the unpaid wages were willfully withheld by the employer, the commissioner may collect from the employer an additional amount not to exceed twice the amount of the unpaid wages, one-half of which will be remitted to the employee and one half of which shall be retained by the commissioner to offset estimated administrative and collection costs. The Commissioner shall investigate the complaint, and may examine the employer's records, enter and inspect the employer's business premises, question such employees, subpoena witnesses, and compel the production of books, papers, correspondence, memoranda, and other records necessary and material to investigate the complaint. If a person fails to comply with any lawfully issued subpoena, or a witness refuses to testify to any matter on which he or she may be lawfully interrogated, the Commissioner may seek an order from the Civil Division of the Superior Court compelling testimony or compliance with the subpoena.~~

~~(c) The commissioner shall enforce an order for collection under this section in superior court. The commissioner may authorize an agent to administer oaths and to compel testimony for the purposes of this section. If after the investigation wages are found to be due, the Commissioner shall attempt to settle the matter between the employer and employee. If the attempt fails, the Commissioner shall issue a written determination and order for collection, which shall specify the facts and the conclusions upon which the determination is based. The Department shall collect from the employer the amounts due and remit them to the employee. Notice of the determination and the order for collection to the employer shall be provided to all interested parties by certified mail or service.~~

~~(d) If the Commissioner determines that the unpaid wages were willfully withheld by the employer, the order for collection may provide that the employer is liable to pay an additional amount not to exceed twice the amount of unpaid wages, one-half of which will be remitted to the employee and one-half of which shall be retained by the Commissioner to offset administrative and collection costs.~~

~~(e) Within 30 days after the date of the collection order, the employer or employee may file an appeal from the determination to a departmental administrative law judge. The appeal shall, after notice to the employer and employee, be heard by the administrative law judge within a reasonable time. The administrative law judge shall review the complaint de novo, and after a hearing, the determination and order for collection shall be sustained, modified, or reversed by the administrative law judge. Prompt notice in writing of the decision of the administrative law judge and the reasons for it shall be given to all interested parties.~~

(f) Notwithstanding any other provision of law, the employer or employee may appeal the decision of the administrative law judge within 30 days by filing a written request with the Employment Security Board. The appeal shall be heard by the Board after notice to the employee and employer. The Board may affirm, modify, or reverse the decision of the administrative law judge solely on the basis of evidence in the record or any additional evidence it may direct to be taken. Prompt notice of the decision of the Board shall be given to the employer and employee in the manner provided by section 1357 of this title. The Board's decision shall be final unless an appeal to the Supreme Court is taken. Testimony given at any hearing upon a complaint of unpaid wages shall be recorded, but the record need not be transcribed unless ordered.

(g) The Commissioner may enforce a final order for collection under this section within two years of the date of the final order in the Civil Division of the Superior Court.

(h) Information obtained from any employer, employee, or witness in the course of investigating a complaint of unpaid wages shall be confidential and shall not be disclosed or open to public inspection in any manner that reveals the employee's or employer's identity or be admissible in evidence in any action or proceeding other than one arising under this subchapter. However, such information may be released to any public official for the purposes provided in subdivision 1314(e)(1) of this title.

Sec. 4. 21 V.S.A. § 345 is amended to read:

§ 345. ~~PENALTY FOR NONPAYMENT OF WAGES AND BENEFITS~~

(a) Each employer who violates sections 342 and 343 of this title ~~and the officers of any corporation, cooperative or stock association, who fraudulently permit their corporation, or cooperative association to violate these sections,~~ shall be fined not more than \$ 500.00 ~~or imprisoned not more than one year or both. Upon conviction, the court shall make an order requiring the payment of wages due and not paid \$5,000.00.~~ Where the employer is a corporation, the president or other officers who have control of the payment operations of the corporation shall be considered employers and liable to the employee for actual wages due when the officer has willfully and without good cause participated in knowing violations of this chapter.

(b) In addition to any other penalty or punishment otherwise prescribed by law, any employer who, pursuant to an oral or written employment agreement, is required to provide benefits to an employee shall be liable to the employee for actual damages caused by the failure to pay for the benefits, and where the failure to pay is knowing and willful and continues for 30 days after the payments are due shall be assessed a civil penalty by the Commissioner of not more than \$5,000.00.

(c) The Commissioner may enforce collection of the fines assessed under this section in the civil division of the Superior Court.

Sec. 5. 21 V.S.A. § 345a is amended to read:

~~§ 345a. FAILURE OF ANY EMPLOYER TO PROVIDE BENEFITS FOR EMPLOYEES~~

~~In addition to any other penalty or punishment otherwise prescribed by law, any employer who is party to a written agreement to provide benefits or wage supplements, and who fails to pay the amount required by the agreement:~~

~~(1) shall be liable to the employee for actual damages caused by the failure to pay; and~~

~~(2) where the failure to pay is fraudulently made and continues for 30 days after such payments are required to be made, shall be fined not more than \$500.00 or imprisoned not more than one year, or both. Where the employer is a corporation, the president and other officers who have control of funds of the corporation shall be considered employers for the purposes of this section. The court, in passing sentence, shall make an order requiring the employer to pay over to the employee the benefits or wage supplements to which he or she is entitled.~~

Sec. 6. 21 V.S.A. § 347 is amended to read:

§ 347. FORFEITURE

~~A person~~ An employer who violates section 342 or 343 of this title shall forfeit to the individual injured twice the value thereof, to be recovered in a civil action, and all costs and reasonable attorney's fees. However, ~~no~~ an action may not be maintained under this section unless at the time the action is brought, the wages remain unpaid or improperly paid.

Sec. 7. 3 V.S.A. § 816 is amended to read:

§ 816. EXEMPTIONS

(a) Sections 809-813 of this title shall not apply to:

\* \* \*

(3) Acts, decisions, findings, or determinations by the ~~department of labor or the commissioner of labor~~ Department of Labor or the Commissioner of Labor or his or her, its or their duly authorized agents as to any and all procedures or hearings before and by the ~~department or commissioner~~ Department or Commissioner or his or her or their ~~said~~ agents, arising out of or with respect to 21 V.S.A. chapter 5, subchapter 2, and chapters 9 and 11 of Title 21.

\* \* \*

Sec. 8. 21 V.S.A. § 348 is added to read:

§ 348. RETALIATION PROHIBITED

(a) An employer shall not discharge or in any other manner retaliate against an employee because:

- (1) the employee lodged a complaint of a violation of this subchapter;
- (2) the employee has cooperated with the Commissioner in an investigation of a violation of this subchapter; or
- (3) the employer believes that the employee may lodge a complaint or cooperate in an investigation of a violation of this subchapter.

(b) Any person aggrieved by a violation of this section may bring an action in the Civil Division of the Superior Court seeking compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or benefits, reinstatement, costs, reasonable attorney's fees, and other appropriate relief.

Sec. 9. 21 V.S.A. § 397 is added to read;

§ 397. RETALIATION PROHIBITED

(a) An employer shall not discharge or in any other manner retaliate against an employee because:

- (1) the employee lodged a complaint of a violation of this subchapter;
- (2) the employee has cooperated with the Commissioner in an investigation of a violation of this subchapter; or
- (3) the employer believes that the employee may lodge a complaint or cooperate in an investigation of a violation of this subchapter.

(b) Any person aggrieved by a violation of this section may bring an action in the Civil Division of the Superior Court seeking compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or benefits, reinstatement, costs, reasonable attorney's fees, and other appropriate relief.

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

Which was agreed to, and the report of the committee on Commerce and Economic Development, as substituted, was agreed to and third reading ordered.



---

**Favorable Report; Consideration Interrupted by Recess****H. 513**

**Rep. Botzow of Pownal**, spoke for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to the Department of Financial Regulation;

**Rep. Condon of Colchester**, for the committee on Ways and Means, recommended that the bill ought to pass.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read a third time?

**Recess**

At twelve o'clock and thirteen minutes in the afternoon, the Speaker declared a recess until one o'clock and fifteen minutes in the afternoon.

At one o'clock and twenty minutes in the afternoon, the Speaker called the House to order.

**Consideration Resumed; Third Reading Ordered****H. 513**

Consideration resumed on House bill, entitled

An act relating to the Department of Financial Regulation;

Thereupon, third reading was ordered.

**Bill Read Second Time; Bill Amended and Third Reading Ordered****H. 522**

**Rep. Pugh of South Burlington** spoke for the committee on Human Services.

House bill entitled

An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read a third time? **Rep. Lippert of Hinesburg** moved to amend the bill as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Legislative Intent \* \* \*

Sec. 1. LEGISLATIVE INTENT

(a) This act is intended to provide a comprehensive approach to combating opioid addiction and methamphetamine abuse in Vermont through strategies that address prevention, treatment and recovery, and increase community safety by reducing drug-related crime.

(b) It is the intent of the General Assembly that the initiatives described in this act should be integrated to the extent possible with the Blueprint for Health and Vermont's health care system and health care reform initiatives.

\* \* \* Preventing Abuse of Prescription Drugs \* \* \*

Sec. 2. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

\* \* \*

(26) "Prescription" means an order for a regulated drug made by a physician, physician assistant, advanced practice registered nurse, dentist, or veterinarian licensed under this chapter to prescribe such a drug which shall be in writing except as otherwise specified ~~herein~~ in this subdivision. Prescriptions for such drugs shall be made to the order of an individual patient, dated as of the day of issue and signed by the prescriber. The prescription shall bear the full name ~~and~~, address, and date of birth of the patient, or if the patient is an animal, the name and address of the owner of the animal and the species of the animal. Such prescription shall also bear the full name, address, and registry number of the prescriber and shall be written with ink, indelible pencil, or typewriter; if typewritten, it shall be signed by the ~~physician~~ prescriber. A written or typewritten prescription for a controlled substance, as defined in 21 C.F.R. Part 1308, shall contain the quantity of the drug written both in numeric and word form.

\* \* \*

Sec. 2a. 18 V.S.A. § 4202(d) is amended to read:

(d) The regulations adopted by the ~~board of health~~ Board of Health under section 4201 of this title for the purpose of determining those drugs defined under that section may be adopted only after prior written notice to the ~~board of pharmacy~~ Board of Pharmacy and the ~~board of medical practice~~ Board of Medical Practice and after the ~~board of pharmacy~~ Board of Pharmacy and the ~~board of medical practice~~ Board of Medical Practice have had an opportunity to advise the ~~board of health~~ Board of Health with respect to the form and

substance of those regulations or amendments and to recommend revisions thereof, except with respect to emergency rules adopted pursuant to 3 V.S.A. § 844, which may be adopted without notice by the Commissioner of Health.

Sec. 3. 18 V.S.A. § 4215b is added to read:

§ 4215b. IDENTIFICATION

Prior to dispensing a prescription for a Schedule II, III, or IV controlled substance, a pharmacist shall require the individual receiving the drug to provide a signature and show valid and current government-issued photographic identification as evidence that the individual is the patient for whom the prescription was written, the owner of the animal for which the prescription was written, or the bona fide representative of the patient or animal owner, as defined by the Board of Pharmacy by rule after consultation with the Commissioner of Health. If the individual does not have valid, current government-issued photographic identification, the pharmacist may request alternative evidence of the individual's identity, as appropriate.

Sec. 3a. BOARD OF PHARMACY; RULEMAKING

The Board of Pharmacy shall adopt rules pursuant to 3 V.S.A. chapter 25 to define which persons shall be considered bona fide representatives of a patient or animal owner for the purposes of picking up a prescription for a Schedule II, III, or IV controlled substance pursuant to 18 V.S.A. § 4215b.

Sec. 4. 18 V.S.A. § 4218 is amended to read:

§ 4218. ENFORCEMENT

\* \* \*

(d) Nothing in this section shall authorize the ~~department of public safety~~ Department of Public Safety and other authorities described in subsection (a) of this section to have access to VPMS (~~Vermont prescription monitoring system~~) (Vermont Prescription Monitoring System) created pursuant to chapter 84A of this title, except as provided in that chapter.

(e) The Department of Public Safety, in consultation with representatives of licensed Vermont pharmacies, shall adopt standard operating guidelines for accessing pharmacy records through the authority granted in this section. Any person authorized to access pharmacy records pursuant to subsection (a) of this section shall follow the Department of Public Safety's guidelines. These guidelines shall be a public record.

Sec. 5. DEPARTMENT OF PUBLIC SAFETY; REPORTING STANDARD  
OPERATING GUIDELINES

On or before December 15, 2013, the Commissioner of Public Safety shall submit to the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare the Department's written standard operating guidelines used to access pharmacy records at individual pharmacies pursuant to 18 V.S.A. § 4218. Subsequently, if the guidelines are substantively amended by the Department, it shall submit the amended guidelines to the same committees as soon as practicable.

Sec. 6. 18 V.S.A. § 4282 is amended to read:

§ 4282. DEFINITIONS

As used in this chapter:

\* \* \*

~~(3) "Trained law enforcement officer" shall include any officer designated by the department of public safety who has completed a training program established by rule by the department of health, which is designed to ensure that officers have the training necessary to use responsibly and properly any information that they receive from VPMS.~~

~~(4) "VPMS" shall mean the Vermont prescription monitoring system established under this chapter.~~

(4) "Delegate" means an individual employed by a health care provider or pharmacy or in the Office of the Chief Medical Examiner and authorized by a health care provider or dispenser or by the Chief Medical Examiner to request information from the VPMS relating to a bona fide current patient of the health care provider or dispenser or to a bona fide investigation or inquiry into an individual's death.

(5) "Department" means the Department of Health.

(6) "Drug diversion investigator" means an employee of the Department of Public Safety whose primary duties include investigations involving violations of laws regarding prescription drugs or the diversion of prescribed controlled substances, and who has completed a training program established by the Department of Health by rule that is designed to ensure that officers have the training necessary to use responsibly and properly any information that they receive from the VPMS.

(7) "Evidence-based" means based on criteria and guidelines that reflect high-quality, cost-effective care. The methodology used to determine such

guidelines shall meet recognized standards for systematic evaluation of all available research and shall be free from conflicts of interest. Consideration of the best available scientific evidence does not preclude consideration of experimental or investigational treatment or services under a clinical investigation approved by an institutional review board.

Sec. 7. 18 V.S.A. § 4283 is amended to read:

§ 4283. CREATION; IMPLEMENTATION

(a) ~~Contingent upon the receipt of funding, the department may establish~~  
The Department shall maintain an electronic database and reporting system for monitoring Schedules II, III, and IV controlled substances, as defined in 21 C.F.R. Part 1308, as amended and as may be amended, that are dispensed within the state State of Vermont by a health care provider or dispenser or dispensed to an address within the state State by a pharmacy licensed by the Vermont board of pharmacy Board of Pharmacy.

\* \* \*

(e) It is not the intention of the ~~department~~ Department that a health care provider or a dispenser shall have to pay a fee or tax or purchase hardware or proprietary software required by the ~~department~~ Department specifically for the use, establishment, maintenance, or transmission of the data. The ~~department~~ Department shall seek grant funds and take any other action within its financial capability to minimize any cost impact to health care providers and dispensers.

\* \* \*

Sec. 8. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

(a) The data collected pursuant to this chapter and all related information and records shall be confidential, except as provided in this chapter, and shall not be subject to ~~public records law~~ the Public Records Act. The ~~department~~ Department shall maintain procedures to protect patient privacy, ensure the confidentiality of patient information collected, recorded, transmitted, and maintained, and ensure that information is not disclosed to any person except as provided in this section.

(b)(1) ~~The department shall be authorized to provide data to only~~  
Department shall provide only the following persons with access to query the VPMS:

~~(1)~~ A patient or that person's health care provider, or both, when VPMS reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.

~~(2)~~(A) A health care provider or dispenser, or delegate who requests information is registered with the VPMS and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient.

(B) Personnel or contractors, as necessary for establishing and maintaining the VPMS.

(C) The Medical Director of the Department of Vermont Health Access, for the purposes of Medicaid quality assurance, utilization, and federal monitoring requirements with respect to Medicaid recipients for whom a Medicaid claim for a Schedule II, III, or IV controlled substance has been submitted.

(D) A medical examiner or delegate from the Office of the Chief Medical Examiner, for the purpose of conducting an investigation or inquiry into the cause, manner, and circumstances of an individual's death.

(E) A health care provider or medical examiner licensed to practice in another state, to the extent necessary to provide appropriate medical care to a Vermont resident or to investigate the death of a Vermont resident.

(2) The Department shall provide reports of data available to the Department through the VPMS only to the following persons:

(A) A patient or that person's health care provider, or both, when VPMS reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.

~~(3)~~(B) A designated representative of a board responsible for the licensure, regulation, or discipline of health care providers or dispensers pursuant to a bona fide specific investigation.

~~(4)~~(C) A patient for whom a prescription is written, insofar as the information relates to that patient.

~~(5)~~(D) The relevant occupational licensing or certification authority if the commissioner reasonably suspects fraudulent or illegal activity by a health care provider. The licensing or certification authority may report the data that are the evidence for the suspected fraudulent or illegal activity to a trained law enforcement officer drug diversion investigator.

~~(6)~~(E)(i) The commissioner of public safety Commissioner of Public Safety, personally, or the Deputy Commissioner of Public Safety, personally, if

~~the commissioner of health~~ Commissioner of Health, personally, or a Deputy Commissioner of Health, personally, makes the disclosure, ~~and~~ has consulted with at least one of the patient's health care providers, ~~and believes that when~~ the disclosure is necessary to avert a serious and imminent threat to a person or the public.

(ii) The Commissioner of Public Safety, personally, or the Deputy Commissioner of Public Safety, personally, when he or she requests data from the Commissioner of Health, and the Commissioner of Health believes, after consultation with at least one of the patient's health care providers, that disclosure is necessary to avert a serious and imminent threat to a person or the public.

(iii) The Commissioner or Deputy Commissioner of Public Safety may disclose such data received pursuant to this subdivision (E) as is necessary, in his or her discretion, to avert the serious and imminent threat.

~~(7) Personnel or contractors, as necessary for establishing and maintaining the VPMS.~~

(F) A prescription monitoring system or similar entity in another state pursuant to a reciprocal agreement to share prescription monitoring information with the Vermont Department of Health as described in section 4288 of this title.

(c) A person who receives data or a report from VPMS or from the ~~department~~ Department shall not share that data or report with any other person or entity not eligible to receive that data pursuant to subsection (b) of this section, except as necessary and consistent with the purpose of the disclosure and in the normal course of business. Nothing shall restrict the right of a patient to share his or her own data.

(d) ~~The commissioner~~ Commissioner shall offer health care providers and dispensers training in the proper use of information they may receive from VPMS. Training may be provided in collaboration with professional associations representing health care providers and dispensers.

(e) ~~A trained law enforcement officer~~ drug diversion investigator who may receive information pursuant to this section shall not have access to VPMS except for information provided to the officer by the licensing or certification authority.

(f) ~~The department~~ Department is authorized to use information from VPMS for research, trend analysis, and other public health promotion purposes provided that data are aggregated or otherwise de-identified. The Department shall post the results of trend analyses on its website for use by health care providers, dispensers, and the general public. When appropriate, the

Department shall send alerts relating to identified trends to health care providers and dispensers by electronic mail.

(g) The Department shall use information from VPMS to determine if individual prescribers and dispensers are utilizing VPMS appropriately.

(h) The Department shall use information from VPMS to evaluate the prescription of regulated drugs by prescribers.

(i) Knowing disclosure of transmitted data to a person not authorized by subsection (b) of this section, or obtaining information under this section not relating to a bona fide specific investigation, shall be punishable by imprisonment for not more than one year or a fine of not more than \$1,000.00, or both, in addition to any penalties under federal law.

(j) All information and correspondence relating to the disclosure of information by the Commissioner to a patient's health care provider pursuant to subdivision (b)(2)(A) of this section shall be confidential and privileged, exempt from public inspection and copying under the Public Records Act, immune from subpoena or other disclosure, and not subject to discovery or introduction into evidence.

(k) Each request for disclosure of data pursuant to subdivision (b)(2)(B) of this section shall document a bona fide specific investigation and shall specify the name of the person who is the subject of the investigation.

Sec. 9. 18 V.S.A. § 4287 is amended to read:

§ 4287. RULEMAKING

The ~~department~~ Department shall adopt rules for the implementation of VPMS as defined in this chapter consistent with 45 C.F.R. Part 164, as amended and as may be amended, that limit the disclosure to the minimum information necessary for purposes of this act ~~and shall keep the senate and house committees on judiciary, the senate committee on health and welfare, and the house committee on human services advised of the substance and progress of initial rulemaking pursuant to this section.~~

Sec. 10. 18 V.S.A. § 4288 is added to read:

§ 4288. RECIPROCAL AGREEMENTS

The Department of Health may enter into reciprocal agreements with other states that have prescription monitoring programs so long as access under such agreement is consistent with the privacy, security, and disclosure protections in this chapter.

Sec. 11. 18 V.S.A. § 4289 is added to read:



§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE PROVIDERS AND DISPENSERS

(a) Each professional licensing authority for health care providers shall develop evidence-based standards to guide health care providers in the appropriate prescription of Schedules II, III, and IV controlled substances for treatment of chronic pain and for other medical conditions to be determined by the licensing authority.

(b)(1) Each health care provider who prescribes any Schedule II, III, or IV controlled substances shall register with the VPMS.

(2) If the VPMS shows that a patient has filled a prescription for a controlled substance written by a health care provider who is not a registered user of VPMS, the Commissioner of Health shall notify such provider by mail of the provider's registration requirement pursuant to subdivision (1) of this subsection.

(3) The Commissioner of Health shall develop additional procedures to ensure that all health care providers who prescribe controlled substances are registered in compliance with subdivision (1) of this subsection.

(c) Each dispenser who dispenses any Schedule II, III, or IV controlled substances shall register with the VPMS.

(d) Health care providers shall query the VPMS with respect to an individual patient in the following circumstances:

(1) the first time the provider prescribes an opioid Schedule II, III, or IV controlled substance for a patient with chronic pain;

(2) at least annually following the initial prescription of an opioid Schedule II, III, or IV controlled substance;

(3) when starting a patient on a Schedule II, III, or IV controlled substance for long-term opioid therapy of 90 days or more;

(4) when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain;

(5) prior to writing a replacement prescription for a Schedule II, III, or IV controlled substance pursuant to section 4290 of this title; and

(6) as otherwise required by the Commissioner of Health by rule, after consultation with the Unified Pain Management System Advisory Council.

(e) Each professional licensing authority for dispensers shall adopt standards regarding the frequency and circumstances under which its respective licensees shall:

(1) query the VPMS; and

(2) report to the VPMS, which shall be no less than once every seven days.

(f) Each professional licensing authority for health care providers and dispensers shall consider the statutory requirements, rules, and standards adopted pursuant to this section in disciplinary proceedings when determining whether a licensee has complied with the applicable standard of care.

#### Sec. 11a. REPORTING OF DISPENSER STANDARDS

No later than November 30, 2013, each professional licensing authority for dispensers shall submit the standards required by 18 V.S.A. § 4289(e) to the VPMS advisory committee established in 18 V.S.A. § 4286.

Sec. 12. 18 V.S.A. § 4290 is added to read:

#### § 4290. REPLACEMENT PRESCRIPTIONS AND MEDICATIONS

(a) As used in this section, “replacement prescription” means an unscheduled prescription request in the event that the document on which a patient’s prescription was written or the patient’s prescribed medication is reported to the prescriber as having been lost or stolen.

(b) When a patient or a patient’s parent or guardian requests a replacement prescription for a Schedule II, III, or IV controlled substance, the patient’s health care provider shall query the VPMS prior to writing the replacement prescription to determine whether the patient may be receiving more than a therapeutic dosage of the controlled substance.

(c) When a health care provider writes a replacement prescription pursuant to this section, the provider shall clearly indicate as much by writing the word “REPLACEMENT” on the face of the prescription. The health care provider shall document the writing of the replacement prescription in the patient’s medical record.

#### Sec. 13. VPMS ADVISORY COMMITTEE

(a)(1) The Commissioner shall maintain an advisory committee to assist in the implementation and periodic evaluation of the Vermont Prescription Monitoring System (VPMS).

(2) The Committee shall make recommendations regarding ways to improve the utility of the VPMS and its data.

(3) The Committee shall have access to aggregated, deidentified data from the VPMS.

(b) The VPMS Advisory Committee shall be chaired by the Commissioner of Health or designee and shall include the following members:

(1) the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;

(2) a representative from the Vermont Medical Society;

(3) a representative from the American College of Emergency Physicians - Vermont Chapter;

(4) a representative from the Vermont State Nurses Association;

(5) a representative from the Vermont Board of Medical Practice;

(6) a representative from the Vermont Board of Pharmacy;

(7) a representative from the Vermont Pharmacists Association;

(8) a representative from the Vermont State Dental Society;

(9) the Commissioner of Public Safety;

(10) a representative of the Vermont Attorney General;

(11) a representative of the Vermont Substance Abuse Treatment Providers Association;

(12) a mental health provider or a certified alcohol and drug abuse counselor;

(13) a consumer in recovery from prescription drug abuse;

(14) a consumer receiving medical treatment for chronic pain; and

(15) any other member invited by the Commissioner.

(c) The Committee shall meet at least once annually but may be convened at any time by the Commissioner or the Commissioner's designee.

(d) No later than January 15, 2014, the Committee shall provide recommendations to the House Committee on Human Services and the Senate Committee on Health and Welfare regarding ways to maximize the effectiveness and appropriate use of the VPMS database, including adding new reporting capabilities, in order to improve patient outcomes and avoid prescription drug diversion. The Committee shall also report on the feasibility of obtaining real-time information from the VPMS and on its evaluation of whether increasing the frequency of dispenser reporting to the VPMS from at least once every seven days to at least once every 24 hours, or more frequently, would yield substantial benefits.

(e) The Committee shall cease to exist on July 1, 2014.

\* \* \* Improving Access to Treatment and Recovery \* \* \*

Sec. 14. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY COUNCIL

(a) There is hereby created a Unified Pain Management System Advisory Council for the purpose of advising the Commissioner of Health on matters relating to the appropriate use of controlled substances in treating chronic pain and addiction and in preventing prescription drug abuse.

(b) The Unified Pain Management System Advisory Council shall consist of the following members:

- (1) the Commissioner of Health or designee, who shall serve as chair;
- (2) the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs or designee;
- (3) the Commissioner of Mental Health or designee;
- (4) the Director of the Blueprint for Health or designee;
- (5) the Chair of the Board of Medical Practice or designee, who shall be a clinician;
- (6) a representative of the Vermont State Dental Society, who shall be a dentist;
- (7) a representative of the Vermont Board of Pharmacy, who shall be a pharmacist;
- (8) a faculty member of the academic detailing program at the University of Vermont's College of Medicine;
- (9) a faculty member of the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management;
- (10) a representative of the Vermont Medical Society, who shall be a primary care clinician;
- (11) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician;
- (12) a representative from the Vermont Board of Osteopathic Physicians, who shall be an osteopath;
- (13) a representative of the Federally Qualified Health Centers, who shall be a primary care clinician selected by the Bi-State Primary Care Association;
- (14) a representative of the Vermont Ethics Network;

(15) a representative of the Hospice and Palliative Care Council of Vermont;

(16) a representative of the Office of the Health Care Ombudsman;

(17) the Medical Director for the Department of Vermont Health Access;

(18) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals;

(19) a member of the Vermont Board of Nursing Subcommittee on APRN Practice, who shall be an advanced practice registered nurse;

(20) a representative from the Vermont Assembly of Home Health and Hospice Agencies;

(21) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who has experience in treating chronic pain, to be selected by the Board of Psychological Examiners;

(22) a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs; and

(23) a consumer representative who is either a consumer in recovery from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain.

(c) Advisory Council members who are not employed by the state or whose participation is not supported through their employment or association shall be entitled to a per diem and expenses as provided by 32 V.S.A. § 1010.

(d)(1) The Advisory Council shall provide advice to the Commissioner concerning rules for the appropriate use of controlled substances in treating chronic noncancer pain and addiction and in preventing prescription drug abuse.

(2) The Advisory Council shall evaluate the use of nonpharmacological approaches to treatment for chronic pain, including the appropriateness, efficacy, and cost-effectiveness of using complementary and alternative therapies such as chiropractic, acupuncture, and massage.

(e) The Commissioner of Health may adopt rules pursuant to 3 V.S.A. chapter 25 regarding the appropriate use of controlled substances after seeking the advice of the Council.

Sec. 14a. COMPLEMENTARY AND ALTERNATIVE TREATMENT  
REPORT

On or before January 15, 2014, the Commissioner of Health shall provide to the House Committee on Human Services and the Senate Committee on Health and Welfare the findings and recommendations of the Unified Pain Management System Advisory Council's initial evaluation of the use of nonpharmacological approaches to treatment for chronic pain, including the use of complementary and alternative therapies. The Commissioner shall provide the Committees with additional recommendations as appropriate as the Advisory Council continues to consider nonpharmacological approaches to treating chronic pain.

#### Sec. 15. OPIOID ADDICTION TREATMENT IN HOSPITALS

Pursuant to 18 V.S.A. § 4240(b)(5), the Department of Health, in collaboration with the Vermont Association of Hospitals and Health Systems, the Vermont Association for Mental Health and Addiction Recovery, and the Vermont Council of Developmental and Mental Health Services, shall develop evidence-based guidelines and training for hospitals regarding:

- (1) screening for addiction;
- (2) performing addiction interventions;
- (3) making referrals to addiction treatment and recovery services for victims admitted to or treated in a hospital emergency department; and
- (4) informing hospitals about the specific addiction treatment and recovery services available in the hospital's service area.

\* \* \* Safe Disposal of Prescription Medication \* \* \*

#### Sec. 16. UNUSED DRUG DISPOSAL PROGRAM PROPOSAL

(a) On or before January 15, 2014, the Commissioners of Health and of Public Safety shall provide recommendations to the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare regarding the design and implementation of a statewide drug disposal program for unused over-the-counter and prescription drugs at no charge to the consumer. In preparing their recommendations, the Commissioners shall consider successful unused drug disposal programs in Vermont, including the Bennington County Sheriff's Department's program, and programs in other states.

(b) On or before July 1, 2014, the Commissioners of Health and of Public Safety shall implement the unused drug disposal program developed pursuant to subsection (a) of this section and shall take steps to publicize the program and to make all Vermont residents aware of opportunities to avail themselves of it.

\* \* \* Preventing Deaths from Opioid Overdose \* \* \*

Sec. 17. 18 V.S.A. § 4240 is added to read:

§ 4240. PREVENTION AND TREATMENT OF OPIOID-RELATED OVERDOSES

(a) As used in this section:

(1) “Health care professional” means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, a physician’s assistant certified to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 31, or a nurse authorized to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 28.

(2) “Opioid antagonist” means a drug that, when administered, negates or neutralizes in whole or part the pharmacological effects of an opioid in the body.

(3) “Victim” means the person who has overdosed on an opioid drug or who is believed to have overdosed on an opiate drug.

(b) For the purpose of addressing prescription and nonprescription opioid overdoses in Vermont, the Department shall develop and implement a prevention, intervention, and response strategy, depending on available resources, that shall:

(1) provide educational materials on opioid overdose prevention to the public free of charge, including to substance abuse treatment providers, health care providers, opioid users, and family members of opioid users;

(2) increase community-based prevention programs aimed at reducing risk factors that lead to opioid overdoses;

(3) increase timely access to treatment services for opioid users, including medication-assisted treatment;

(4)(A) educate substance abuse treatment providers on methods to prevent opioid overdoses;

(B) provide education and training on overdose prevention, intervention, and response to individuals living with addiction and participating in opioid treatment programs, syringe exchange programs, residential drug treatment programs, or correctional services;

(5) facilitate overdose prevention, drug treatment, and addiction recovery services by implementing and expanding hospital referral services for individuals treated for an opioid overdose; and

(6) develop a statewide opioid antagonist pilot program that emphasizes access to opioid antagonists to and for the benefit of individuals with a history of opioid use.

(c)(1) A health care professional acting in good faith may directly or by standing order prescribe, dispense, and distribute an opioid antagonist to the following persons, provided he or she has completed an opioid prevention and treatment training program approved by the Department:

(A) a person at risk of experiencing an opioid-related overdose; or

(B) a family member, friend, or other person in a position to assist a person at risk of experiencing an opioid-related overdose.

(2) A health care professional who prescribes, dispenses, or distributes an opioid antagonist in accordance with subdivision (1) of this subsection (c) shall be immune from civil or criminal liability with regard to the subsequent use of the opioid antagonist, unless the health care professional acted recklessly in prescribing, dispensing, or distributing the opioid antagonist. The immunity granted in this subdivision shall apply whether or not the opioid antagonist is administered by or to a person other than the person for whom it was prescribed.

(d)(1) A person may administer an opioid antagonist to a victim if he or she believes, in good faith, that the victim is experiencing an opioid-related overdose.

(2) After a person has administered an opioid antagonist pursuant to subdivision (1) of this subsection (d), he or she shall immediately call for emergency medical services if medical assistance has not yet been sought or is not yet present.

(3) A person shall be immune from civil or criminal liability for administering an opioid antagonist to a victim pursuant to subdivision (1) of this subsection (d) unless the person acted recklessly. The immunity granted in this subdivision shall apply whether or not the opioid antagonist is administered by or to a person other than the person for whom it was prescribed.

(e) A person acting on behalf of a community-based overdose prevention program shall be immune from civil or criminal liability for providing education on opioid-related overdose prevention or for purchasing, acquiring, distributing, or possessing an opioid antagonist.

(f) Any health care professional treating a victim to whom an opioid antagonist has recently been administered shall refer the victim to professional substance abuse treatment services.



---

Sec. 18. STATEWIDE OPIOID ANTAGONIST PILOT PROGRAM

(a) The Department of Health shall develop and administer a statewide pilot program for the purpose of distributing opioid antagonists to:

(1) individuals at risk of an opioid overdose;

(2) the family and friends of an individual at risk of experiencing an opioid overdose; and

(3) others who may be in a position to assist individuals experiencing an opioid overdose.

(b) In developing and implementing the pilot program, the Department shall collaborate with community-based substance abuse organizations that have experience delivering opioid-related prevention and treatment services as determined by the Commissioner.

(c) The pilot program shall be in effect from July 1, 2013 through June 30, 2016. During the term of the pilot program, the Department shall purchase, provide for the distribution of, and monitor the use of opioid antagonists distributed in accordance with this section.

(d) On or before January 15, 2016, the Department of Health shall submit a report to the House Committees on Human Services and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary evaluating the statewide opioid antagonist pilot program. The report shall include findings that pertain to the cost and effectiveness of the program and recommendations as to whether the program should be continued after June 30, 2016.

Sec. 18a. 18 V.S.A. § 5208 is amended to read:

§ 5208. HEALTH DEPARTMENT; REPORT ON STATISTICS

(a) ~~Beginning~~ Notwithstanding the provisions of 2 V.S.A. § 20(d), beginning October 1, 2011 and every two years thereafter, the Vermont ~~department of health~~ Department of Health shall report to the ~~house committee on human services and the senate committee on health and welfare~~ House Committee on Human Services and the Senate Committee on Health and Welfare regarding the number of persons who died during the preceding two calendar years in hospital emergency rooms, other hospital settings, in their own homes, in a nursing home, in a hospice facility, and in any other setting for which information is available, as well as whether each decedent received hospice care within the last 30 days of his or her life. Beginning with the 2013 report, the ~~department~~ Department shall include information on the number of persons who died in hospital intensive care units, assisted living facilities, or residential care homes during the preceding two calendar years.

(b) In addition to the report required by subsection (a) of this section and notwithstanding the provisions of 2 V.S.A. § 20(d), beginning March 1, 2014 and annually thereafter, the Department shall report to the House Committee on Human Services, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary regarding the number of persons who died during the preceding calendar year from an overdose of a Schedule II, III, or IV controlled substance. The report shall list separately the number of deaths specifically related to opioids, including for each death whether an opioid antagonist was administered and whether it was administered by persons other than emergency medical personnel, firefighters, or law enforcement officers. Beginning in 2015, the report shall include similar data from prior years to allow for comparison.

\* \* \* Protecting Communities from  
Methamphetamine Abuse \* \* \*

Sec. 19. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

\* \* \*

(b) Sale.

(1) A drug product containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base shall not be distributed at retail to the general public unless it is maintained in a locked display case or behind the counter out of the public's reach.

(2)(A) A retail establishment shall not knowingly ~~sell~~ complete a sale to a person within a calendar day any if the drug product or combination of drug products containing purchased would surpass a total of more than 3.6 grams within a 24-hour period or nine grams within a 30-day period of ephedrine base, pseudoephedrine base, or phenylpropanolamine base or their isomers.

(B) This subdivision shall not apply to drug products dispensed pursuant to a valid prescription.

(3) A person or business which violates this subdivision shall:

(A) for a first violation be assessed a civil penalty of not more than \$100.00-; and

(B) for a second and subsequent violation be assessed a civil penalty of not more than \$500.00.

(c) Electronic registry system.

(1)(A) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to subsection (b) of this section. The

electronic registry system shall have the capacity to block a sale of nonprescription drug products containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm if the transaction is not completed. The system shall create a record of each use of the override mechanism.

(B) The electronic registry system shall be available free of charge to the State of Vermont, retail establishments, and local law enforcement agencies.

(C) The electronic registry system shall operate in real time to enable communication among in-state users and users of similar systems in neighboring states.

(D) The State shall use the National Precursor Log Exchange (NPLEx) online portal or its equivalent to host Vermont's electronic registry system.

(2)(A) Prior to completing a sale under subsection (b) of this section, a retail establishment shall require the person purchasing the drug product to present a current, valid government-issued photograph identification document. The retail establishment shall record in the electronic registry system:

(i) the name and address of the purchaser;

(ii) the name of the drug product and quantity of ephedrine, pseudoephedrine, and phenylpropanolamine base sold in grams;

(iii) the date and time of purchase;

(iv) the form of identification presented, the issuing government entity, and the corresponding identification number; and

(v) the name of the person selling or furnishing the drug product.

(B)(i) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until the retail establishment is able to comply fully with this subsection (c).

(ii) If the region of the State where the retail establishment is located does not have broadband Internet access, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism

until broadband Internet access becomes accessible to that region. At that time, the retail establishment shall come into compliance with this subsection (c).

(C) A retail establishment shall maintain all records of drug product purchases made pursuant to this subsection (c) for a minimum of two years.

(3) A retail establishment shall display a sign at the register provided by NPLeX or its equivalent to notify purchasers of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that:

(A) the purchase of the drug product or products shall result in the purchaser's identity being listed on a national database; and

(B) the purchaser has the right to request the transaction number for any purchase that was denied pursuant to this subsection (c).

(4) Except as provided in subdivision (5) of this subsection (c), a person or retail establishment that violates this subsection shall:

(A) for a first violation be assessed a civil penalty of not more than \$100.00; and

(B) for a second or subsequent violation be assessed a civil penalty of not more than \$500.00.

(5) A retail establishment shall be immune from civil liability arising from the retail establishment's use of the electronic registry system in accordance with this subsection (c) or the performance of duties required by this subsection. This subsection shall not apply to reckless or intentional misconduct by the retail establishment.

(d) This section shall not apply to a manufacturer ~~which~~ that has obtained an exemption from the Attorney General of the United States under Section 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

(~~d~~)e) As used in this section:

(1) "Distributor" means a person, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product to any person who is not the ultimate user or consumer of the product.

(2) "Knowingly" means having actual knowledge of the relevant facts.

(3) "Manufacturer" means a person who produces, compounds, packages, or in any manner initially prepares a drug product for sale or use.

(4) "Wholesaler" means a person, other than a manufacturer, who sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold.

Sec. 20. THE EFFECT OF ILLEGAL DRUG PRODUCTION ON  
HOUSING STUDY COMMITTEE

(a) A committee is established to study the effects of the production of methamphetamine and other illegal drugs on housing.

(b) The Committee shall examine:

(1) approaches for identifying housing that is or has been used for illegal drug production and methods for making such housing safe, including standards for habitability, notification to purchasers or tenants that housing has been affected by illegal drug production, methods taken by other states in identifying, quarantining, and cleaning such housing as well as methods used by other states to notify affected parties;

(2) the effect of illegal drug production on housing and property values including the cost of rehabilitating or condemning affected properties and its effect on the availability and habitability of affordable housing;

(3) approaches, including those used by other states, to coordinate state and local jurisdiction over housing affected by illegal drug production including efforts to coordinate between law enforcement, the Department of Health, the Department of Public Safety, and local housing authorities;

(4) the public health effects of long-term exposure to housing that is or has been contaminated by by-products used in the production of illegal drugs;

(5) existing state and federal laws regarding illegal drug production and housing contaminated by illegal drug production; and

(6) any other issues related to illegal drugs or the effect of their production on housing.

(c) The Committee shall consist of the following members:

(1) the Commissioner of Health or designee;

(2) the Commissioner of Public Safety or designee;

(3) the Attorney General or designee; and

(4) the Commissioner of Economic Development, Housing and Community Development or designee.

(d) The Committee shall convene its first meeting on or before September 1, 2013. The Commissioner of Health shall be designated Chair of the Committee and shall convene the first and subsequent meetings.

(e) The Committee shall report its findings, including any recommendations or proposed legislation to the House Committees on General, Housing and Military Affairs, on Judiciary, and on Human Services

and the Senate Committees on Economic Development, Housing and General Affairs on Judiciary, and on Health and Welfare on or before January 15, 2014.

(f) The Committee shall cease to function upon transmitting its report.

\* \* \* Community Safety \* \* \*

Sec. 21. 13 V.S.A. § 3705 is amended to read:

§ 3705. UNLAWFUL TRESPASS

(a) A person shall be imprisoned for not more than three months or fined not more than \$500.00, or both, if, without legal authority or the consent of the person in lawful possession, he or she enters or remains on any land or in any place as to which notice against trespass is given by:

(1) ~~Actual~~ actual communication by the person in lawful possession or his or her agent or by a law enforcement officer acting on behalf of such person or his or her agent; or

(2) ~~Signs~~ signs or placards so designed and situated as to give reasonable notice.

(b) Prosecutions for offenses under subsection (a) of this section shall be commenced within 60 days following the commission of the offense and not thereafter.

(c) A person who enters a building other than a residence, whose ~~normal~~ access is normally locked, ~~whether or not the access is actually locked,~~ or a residence in violation of an order of any court of competent jurisdiction in this ~~state~~ State shall be imprisoned for not more than one year or fined not more than \$500.00, or both.

(d) A person who enters a dwelling house, whether or not a person is actually present, knowing that he or she is not licensed or privileged to do so shall be imprisoned for not more than three years or fined not more than \$2,000.00, or both.

(e)(1) A person shall be imprisoned for not more than three months or fined not more than \$500.00, or both, if the person enters or remains on any abandoned property that he or she does not have an ownership interest in and with respect to which notice against trespass is given by:

(A) signs or placards, posted by the owner, the owner's agent, or a law enforcement officer, and so designed and situated as to give reasonable notice; or

(B) actual communication by a law enforcement officer.

(2) As used in this subsection, “abandoned property” means real property on which there is a vacant structure that for the previous 60 days has been continuously unoccupied by a person with the legal right to occupy it and with respect to which:

(A) property taxes have been delinquent for six months or more;

(B) one or more utility services have been disconnected due to nonpayment;

(C) the owner has declared in writing to a municipal officer that the property is abandoned; or

(D) there has been a determination by the municipality under 24 V.S.A. chapter 85 that the vacant structure contributes to housing blight.

Sec. 22. 18 V.S.A. § 4252 is amended to read:

§ 4252. PENALTIES FOR DISPENSING OR SELLING REGULATED DRUGS IN A DWELLING

(a) No person shall knowingly permit a dwelling, building, or structure owned by or under the control of the person to be used for the purpose of illegally dispensing or selling a regulated drug.

(b) A landlord shall be in violation of subsection (a) of this section ~~only if the landlord knew at the time he or she signed the lease agreement~~ has actual knowledge that the tenant intended is using or intends to use the dwelling, building, or structure for the purpose of illegally dispensing or selling a regulated drug.

(c) It shall not be a violation of this section if the landlord notifies a law enforcement officer within 24 hours of becoming aware that the tenant is using or intends to use the dwelling for the purpose of illegally selling drugs.

(d) A person who violates this section shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.

Sec. 22a. 9 V.S.A. § 3865 is amended to read:

§ 3865. RECORDS OF A PAWNBROKER ~~OR SECONDHAND DEALER~~

(a) In each year a pawnbroker ~~or secondhand dealer resells~~ sells over \$500.00 of items pawned, pledged, or sold to the pawnbroker ~~or secondhand dealer~~, he or she shall maintain the following records for each transaction in that year:

\* \* \*

(c) ~~In this section:~~

~~(1) “Precious metal” means gold, silver, platinum, or palladium.~~

~~(2) “Secondhand dealer” means a person engaged in the business of purchasing used or estate precious metal, coins, antiques, furniture, jewelry, or similar items for the purpose of resale. [Repealed.]~~

\* \* \*

Sec. 22b. 9 V.S.A. § 3872 is amended to read:

§ 3872. ~~SECONDHAND DEALERS; RETENTION OF GOODS~~

~~A pawnbroker or secondhand dealer, as defined in section 3865 of this title, shall retain purchased property for no fewer than 10 days before offering it for sale or for scrap. [Repealed.]~~

Sec. 22c. 9 V.S.A. chapter 97A is added to read:

CHAPTER 97A. PRECIOUS METAL DEALERS

§ 3881. DEFINITIONS

As used in this chapter:

(1) “Antique” means an item that is:

(A) collected or desirable due to age, rarity, condition, or other similar unique feature;

(B) purchased for the purpose of resale; and

(C) sold in the same unique form or condition as when it was purchased, and not for scrap.

(2) “Criminal history record” means all information documenting a natural person’s contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

(3) “Disqualifying offense” means:

(A) a felony under:

(i) 13 V.S.A. chapter 47 (fraud);

(ii) 13 V.S.A. chapter 49 (fraud in commercial transaction);

(iii) 13 V.S.A. chapter 57 (larceny and embezzlement);

(iv) 13 V.S.A. chapter 84 (possession and control of regulated drugs);

(B) a violent felony under 18 V.S.A. § 4474g(e);

(C) petit larceny in violation of 13 V.S.A. § 2502;



(D) receipt of stolen property in violation of 13 V.S.A. § 2561;

(E) false pretenses or tokens in violation of 13 V.S.A. § 2002;

(F) false tokens in violation of 13 V.S.A. § 2003;

(G) a conviction for a violation of this chapter punishable under subsection 3890(b) or (c) of this title.

(4) "Precious metal" means used gold, silver, platinum, palladium, coins, jewelry, or similar items, but does not include an antique.

(5) "Precious metal dealer" means a person who:

(A) has a physical presence in this state, whether temporary or permanent;

(B) is engaged in the business of purchasing or selling precious metal; and

(C) purchases or sells \$500.00 or more of precious metal in a consecutive 12-month period exclusive of antiques.

(6) "Principal" means a natural person who is a director, officer, member, manager, partner, or creditor.

#### § 3882. LICENSE REQUIRED

(a) An operating license is required for a precious metal dealer who purchases or sells \$2,000.00 or more of precious metal in a consecutive 12-month period.

(b) The Department of Public Safety:

(1) shall create an application and approval process for the license required in subsection (a) of this section; and

(2) may adopt rules necessary to implement the provisions of this chapter.

(c) An application for a license shall include for each applicant and its principals:

(1) the name of the licensee;

(2) the name of, and the nature of his or her affiliation with, any business involving the purchase or sale of precious metal within the past five years;

(3) the full name, age, and date and place of birth of each natural person;

(4) the residential addresses and places of employment of each natural person; and

(5) any crime of which a natural person has been convicted and the date and place of conviction.

(d)(1) The Department of Public Safety shall not issue or renew a license if an applicant or one its principals has been convicted, on or after October 1, 2013, of a disqualifying offense.

(2)(A) Prior to issuing or renewing a license pursuant to this section, the Department shall obtain a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation for an applicant and each of its principals.

(B) A person for whom a record is requested shall consent to the release of criminal history records to the Department on forms substantially similar to the release forms developed in accordance with 20 V.S.A. § 2056c.

(C) Upon obtaining a criminal history record, the Department shall promptly provide a copy of the record to the person who is the subject of the record and the Department shall inform the person of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Department.

(D) The Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy.

(E) No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter.

#### § 3883. FEES; RENEWAL; BOND; REVOCATION OF LICENSE

(a)(1) A person issued a license pursuant to section 3882 of this title shall pay a license fee of \$200.00.

(2) A license shall expire one year from the date it is issued, and may be renewed on approval of the Department of Public Safety and payment of \$200.00.

(3) A fee collected under this section shall be used to administer the precious metal dealer licensing process established pursuant to section 3882 of this title.

(b) At the time he or she receives a license, a licensee shall file a bond with the Department to be executed by the licensee and by two responsible sureties or a bonding company in the penal sum of \$50,000.00. The bond shall be conditioned for the faithful performance of the duties and obligations required by the license.

(c) The Department may revoke a license for cause at any time during the period of the license after notice and a hearing pursuant to 3 V.S.A. chapter 25.

(d)(1) The Department shall revoke a license upon the conviction, on or after October 1, 2013, for a disqualifying offense by a licensee or one of its principals.

(2) The Department may revoke a license upon the conviction, on or after October 1, 2013, for a disqualifying offense by an employee of a licensee acting within his or her scope of employment when he or she committed the offense.

(e) A licensee shall prominently display his or her license number at his or her place of business, and shall include his or her license number in each advertisement, whether printed or broadcast, that promotes the services of the licensee.

#### § 3884. ACTION ON BOND

If a person is aggrieved by the misconduct of a precious metal dealer and recovers judgment against him or her therefor, after the return, unsatisfied, either in whole or in part, of an execution issued upon the judgment, the aggrieved person may maintain an action in his or her own name upon the bond of the precious metal dealer, provided the court, upon application made for that purpose, shall grant the leave to prosecute.

#### § 3885. RECORDS OF A PRECIOUS METAL DEALER

(a) For each item of precious metal sold to a precious metal dealer, he or she shall:

(1) Assign a distinct entry number or, in the case of a lot of items, an entry number for the lot and a sub-lot number for each item in the lot.

(2) Maintain the following records for each item or lot of items:

(A) The amount of money paid and the date and time of the transaction.

(B) The name, current address, telephone number, and vehicle license number of the seller.

(C) A legible description written at the time of the transaction that includes for each item any distinguishing marks and names of any kind, including brand and model names, model and serial numbers, engravings, etching, affiliation with any institution or organization, dates, initials, color, vintage, or image represented.

(D) A digital photograph or video. Prior to taking the digital photograph or video, the precious metal dealer shall attach a tag to each item

that shall be placed in a visible location and bear the entry number required in subdivision (a)(1) of this section.

(E) A photocopy or digital image of a government-issued identification card issued to the seller that bears his or her photograph, if available. If the seller does not have a government-issued identification card, the precious metal dealer shall take and retain a digital photograph of the seller's face.

(F) Documentation of lawful ownership, such as a bill of sale, receipt, letter of authorization, or similar evidence, but if these forms of documentation are unavailable, an affidavit of ownership.

(b) A precious metal dealer who sells \$50,000.00 or more of precious metal in a consecutive 12-month period shall maintain the records required in this section in a computerized format that can be readily accessed, electronically transmitted, and reproduced in physical form.

(c)(1) A precious metal dealer shall retain the records required in this section for at least six years at his or her normal place of business or other readily accessible and secure location.

(2) At all reasonable times, the records required under this section shall be open to the inspection of law enforcement.

#### § 3886. CERTIFIED SCALES; HOLDING PERIOD

(a) A precious metal dealer shall weigh all precious metal to be sold on a by-weight basis using a scale that meets the requirements of, and is subject to regulation by the Secretary of Agriculture, Food and Markets pursuant to, 9 V.S.A. chapter 73 and regulations adopted thereunder.

(b) A precious metal dealer shall retain precious metal that he or she purchases for no fewer than 10 days before offering an item for sale or for scrap, and he or she shall not remove an item from the State prior to the expiration of this 10-day period.

#### § 3887. PURCHASE OF PRECIOUS METAL FROM PERSONS UNDER 18

A precious metal dealer shall not purchase precious metal offered for sale by a person under 18 years of age without written permission of a parent or guardian of the person.

#### § 3888. METHOD OF PAYMENT

(a) A precious metal dealer shall pay only by check, draft, or money order for precious metal purchased for the purpose of resale.

(b) A precious metal dealer shall mark on each check, draft, or money order the entry number of the item or lot of items assigned in accordance with subdivision 3885(a)(1) of this title.

(c) A precious metal dealer shall retain for at least three years a photo copy or electronic copy of each check, draft, or money order used to purchase precious metal after it is processed and returned by a financial institution. The copy shall be open to inspection by law enforcement.

#### § 3889. SUSPICIOUS ACTIVITY REPORTS

A precious metal dealer who knows, or reasonably should know, of illegal conduct in a sale of precious metal shall file with the local law enforcement agency that has jurisdiction over the municipality in which he or she is located a report that contains the information recorded pursuant to section 3885 of this title.

#### § 3890. PENALTIES

(a) A person who violates a provision of this chapter shall be assessed a civil penalty of not more than \$1,000.00.

(b) Notwithstanding subsection (a) of this section, a person who fails to obtain a license as required by section 3882 of this title, or who violates sections 3885–3889 of this title shall be:

(1) For a first offense, imprisoned for not more than six months or fined not more than \$10,000.00, or both.

(2) For a second or subsequent time, imprisoned not more than three years or fined not more than \$50,000.00, or both.

(c) The State may obtain a violation under subsection (a) of this section or a conviction under subsection (b) of this section, but not both.

(d) The Attorney General or a state's attorney shall have the authority to request an injunction to prohibit any conduct of a person in violation of this chapter.

(e) For purposes of this section, each transaction shall constitute a separate violation.

Sec. 22d. 4 V.S.A. § 1102 is amended to read:

#### § 1102. JUDICIAL BUREAU; JURISDICTION

(a) A ~~judicial bureau~~ Judicial Bureau is created within the ~~judicial branch~~ Judicial Branch under the supervision of the ~~supreme court~~ Supreme Court.

(b) The ~~judicial bureau~~ Judicial Bureau shall have jurisdiction of the following matters:

\* \* \*

(24) Violations of 9 V.S.A. chapter 97A that are subject to civil penalties pursuant to subsection 3890(a), relating to the purchase and sale of precious metal, coins, jewelry, or similar items by a precious metal dealer.

\* \* \*

\* \* \* Effective Dates \* \* \*

### Sec. 23. EFFECTIVE DATES

(a) This section and Secs. 2a (emergency rules), 3a (board of pharmacy; rulemaking), 13 (VPMS Advisory Committee), and 20 (study committee on the effects of the production of methamphetamine and other illegal drugs on housing) of this act shall take effect on passage.

(b) Secs. 10 (18 V.S.A. § 4288; reciprocal agreements), 11 (18 V.S.A. § 4289; standards and guidelines), 12 (18 V.S.A. § 4290; replacement prescriptions), 19 (18 V.S.A. § 4234b; ephedrine and pseudoephedrine), 22a (9 V.S.A. § 3865; records of a pawnbroker), 22b (9 V.S.A. § 3872; secondhand dealers), 22c (9 V.S.A. chapter 97A; precious metal dealers), 22d (4 V.S.A. § 1102; judicial bureau) and Sec. 8(b)(2)(G) (18 V.S.A. § 4284(b)(2)(G); interstate data sharing) of this act shall take effect on October 1, 2013.

(c) The remaining sections of this act shall take effect on July 1, 2013.

Pending the question, Shall the bill be amended as recommended by Rep. Lippert of Hinesburg? **Rep. Malcolm of Pawlet** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Rep. Lippert of Hinesburg? was decided in the affirmative. Yeas, 137. Nays, 1.

Those who voted in the affirmative are:

Ancel of Calais	Canfield of Fair Haven	Cupoli of Rutland City
Bartholomew of Hartland	Carr of Brandon	Davis of Washington
Batchelor of Derby	Cheney of Norwich	Deen of Westminster
Beyor of Highgate	Christie of Hartford	Devereux of Mount Holly
Bissonnette of Winooski	Clarkson of Woodstock	Dickinson of St. Albans Town
Botzow of Pownal	Cole of Burlington	Donahue of Northfield
Bouchard of Colchester	Condon of Colchester	Donovan of Burlington
Branagan of Georgia	Connor of Fairfield	Emmons of Springfield
Brennan of Colchester	Conquest of Newbury	Evans of Essex
Browning of Arlington	Consejo of Sheldon	Fagan of Rutland City
Burditt of West Rutland *	Copeland-Hanzas of Bradford	Fay of St. Johnsbury
Burke of Brattleboro	Corcoran of Bennington	Feltus of Lyndon
Buxton of Tunbridge	Cross of Winooski	Fisher of Lincoln
Campion of Bennington		

Frank of Underhill	Macaig of Williston	Savage of Swanton
French of Randolph	Malcolm of Pawlet	Scheuermann of Stowe
Gage of Rutland City	Manwaring of Wilmington	Shaw of Pittsford
Gallivan of Chittenden	Marcotte of Coventry	Shaw of Derby
Goodwin of Weston	Marek of Newfane	Smith of New Haven
Greshin of Warren	Martin of Springfield	South of St. Johnsbury
Haas of Rochester	Martin of Wolcott	Stevens of Waterbury
Head of South Burlington	Masland of Thetford	Stevens of Shoreham
Heath of Westford	McCarthy of St. Albans City	Stuart of Brattleboro
Hebert of Vernon	McCormack of Burlington	Sweaney of Windsor
Helm of Fair Haven	McCullough of Williston	Taylor of Barre City
Higley of Lowell	McFaun of Barre Town	Terenzini of Rutland Town
Hooper of Montpelier	Michelsen of Hardwick	Till of Jericho
Hubert of Milton	Miller of Shaftsbury	Toleno of Brattleboro
Huntley of Cavendish	Mitchell of Fairfax	Toll of Danville
Jerman of Essex	Mook of Bennington	Townsend of Randolph
Johnson of South Hero	Moran of Wardsboro	Townsend of South Burlington
Johnson of Canaan	Morrissey of Bennington	Trieber of Rockingham
Juskiewicz of Cambridge	Mrowicki of Putney	Turner of Milton
Keenan of St. Albans City	Myers of Essex	Van Wyck of Ferrisburgh
Klein of East Montpelier	Nuovo of Middlebury	Vowinkel of Wilder
Koch of Barre Town	O'Brien of Richmond	Waite-Simpson of Essex
Komline of Dorset	O'Sullivan of Burlington	Webb of Shelburne
Krebs of South Hero	Partridge of Windham	Weed of Enosburgh
Krowinski of Burlington	Pearce of Richford	Wilson of Manchester
Kupersmith of South Burlington	Pearson of Burlington	Winters of Williamstown
Lanpher of Vergennes	Poirier of Barre City	Wizowaty of Burlington
Larocque of Barnet	Potter of Clarendon	Woodward of Johnson
Lawrence of Lyndon	Pugh of South Burlington	Wright of Burlington
Lenes of Shelburne	Quimby of Concord	Yantachka of Charlotte
Lewis of Berlin	Rachelson of Burlington	Young of Glover
Lippert of Hinesburg	Ram of Burlington	Zagar of Barnard
	Russell of Rutland City *	

Those who voted in the negative are:

Donaghy of Poultney

Those members absent with leave of the House and not voting are:

Dakin of Chester	Kitzmillier of Montpelier	Smith of Morristown
Ellis of Waterbury	Peltz of Woodbury	Spengler of Colchester
Grad of Moretown	Ralston of Middlebury	Strong of Albany
Kilmartin of Newport City	Sharpe of Bristol	

**Rep. Burditt of West Rutland** explained his vote as follows:

“Mr. Speaker:

I stand not only in support of this amendment but also in support of the underlying bill. Many times we hear of tools needed to get a job done. This

amendment adds another tool to the box that the main bill will fill. It shows the people we are serious about getting illegal drug problems under control and also the addicted the help they need.”

**Rep. Andy Donaghy of Poultney** explained his vote as follows:

“Mr. Speaker:

We are going through a crisis of epidemic proportions with too many of our Vt. citizens becoming addicted to opiate prescription drugs. While H 522 goes a long way in addressing the problem, it is my opinion that we should go a little further by allowing drug diversion officers, under very controlled circumstances, to search the VPMS data base as part of a bona-fide investigation based upon a reasonable suspicion standard rather than a probable cause standard. This position is supported by our Gov. and by the Commissioner of Public Safety and should be included in this bill. Without its inclusion I cannot support this bill.”

**Rep. Herb Russell of Rutland City** explained his vote as follows:

“Mr. Speaker:

I proudly vote ‘Yes’ to strengthen our Vermont communities and families. This is a big step in taking back our Green Mountain State. I thank all concerned in announcing this vital legislation.”

#### **Message from the Senate No. 29**

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

**S. 150.** An act relating to miscellaneous amendments to laws related to motor vehicles.

**S. 151.** An act relating to miscellaneous changes to the laws governing commercial motor vehicle licensing and operation.

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

The Senate has considered joint resolution originating in the House of the following title:

**J.R.H. 1.** Joint resolution relating to the history and legacy of the Vermont State Hospital and the preservation of its cemetery.



And has adopted the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

**Bill Amended; Third Reading Ordered**

**H. 65**

**Rep. Lippert of Hinesburg**, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to limited immunity from liability for reporting a drug or alcohol overdose

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. INTENT

It is the intent of the General Assembly to encourage a witness or victim of a drug overdose to seek medical assistance in order to save the life of an overdose victim by establishing a state policy of protecting the witness or victim from prosecution and conviction for certain crimes.

Sec. 2. 18 V.S.A. chapter 84, subchapter 3, which shall include §§ 4249–4254, is added to read:

Subchapter 3. Miscellaneous

\* \* \*

§ 4254. IMMUNITY FROM LIABILITY

(a) As used in this section:

(1) “Drug overdose” means an acute condition resulting from or believed to be resulting from the use of a regulated drug which a layperson would reasonably believe requires medical assistance. For purposes of this section, “regulated drug” shall include alcohol.

(2) “Medical assistance” means professional services provided to a person experiencing a drug overdose by a health care professional licensed, registered, or certified under state law who, acting within his or her lawful scope of practice, may provide diagnosis, treatment, or emergency services for a person experiencing a drug overdose.

(3) “Seeks medical assistance” shall include providing care to someone who is experiencing a drug overdose while awaiting the arrival of medical assistance to aid the overdose victim.

(b) A person who, in good faith, seeks medical assistance for someone who is experiencing a drug overdose shall not be cited, arrested, or prosecuted for a

violation of this chapter or cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under age 21 pursuant to 7 V.S.A. §§ 656 and 657 or for providing to or enabling consumption of alcohol by someone under age 21 pursuant to 7 V.S.A. § 658(a)–(c).

(c) A person who is experiencing a drug overdose and, in good faith, seeks medical assistance for himself or herself or is the subject of a good faith request for medical assistance shall not be cited, arrested, or prosecuted for a violation of this chapter or cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under age 21 pursuant to 7 V.S.A. §§ 656 and 657 or for providing to or enabling consumption of alcohol by someone under age 21 pursuant to 7 V.S.A. § 658(a)–(c).

(d) A person who seeks medical assistance for a drug overdose pursuant to subsection (b) or (c) of this section shall not be subject to any of the penalties for violation of 13 V.S.A. § 1030 (violation of a protection order) for a violation of chapter 84 of this title or 7 V.S.A §§ 656 and 657, for being at the scene of the drug overdose, or for being within close proximity to any person at the scene of the drug overdose.

(e) A person who seeks medical assistance for a drug overdose pursuant to subsection (b) or (c) of this section shall not be subject to any sanction for a violation of a condition of pretrial release, probation, furlough, or parole for a violation of chapter 84 of this title or 7 V.S.A §§ 656 and 657, for being at the scene of the drug overdose, or for being within close proximity to any person at the scene of the drug overdose.

(f) The act of seeking medical assistance for or by someone who is experiencing a drug overdose shall be considered a mitigating circumstance at sentencing for a violation of any other offense.

(g) The immunity provisions of this section apply only to the use and derivative use of evidence gained as a proximate result of the person's seeking medical assistance for a drug overdose, and do not preclude prosecution of the person on the basis of evidence obtained from an independent source.

(h) A person who seeks medical assistance for a drug overdose pursuant to subsection (b) or (c) of this section shall not be subject to the provisions of subchapter 2 of this chapter concerning property subject to forfeiture, except that prima facie contraband shall be subject to forfeiture.

(i) Except in cases of reckless or intentional misconduct, law enforcement shall be immune from liability for citing or arresting a person who is later determined to qualify for immunity under this section.

---

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage and shall apply only to a person who seeks medical assistance for a drug overdose in accordance with 18 V.S.A. § 4254 on or after the date of passage.

and that, after passage, the title of the bill be amended to read: “An act relating to limited immunity from liability for reporting a drug overdose”

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

**Adjournment**

At four o'clock and twenty 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.