

Journal of the House

Tuesday, February 25, 2014

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Cyndi Simpson of First Church in Barre, Universalist, Barre, Vt.

Pledge of Allegiance

Page Josie Ford of South Burlington led the House in the Pledge of Allegiance.

Message from the Senate No. 24

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 considered a bill originating in the House of the following title:

H. 583. An act relating to the charge of the Vermont Child Poverty Council.

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

House Bill Introduced and Referred to Committee

H. 864

By the committee on Corrections and Institutions,

An act relating to capital construction and State bonding budget adjustment;

The bill was read the first time and carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Bill Referred to Committee on Ways and Means

H. 590

House bill, entitled

An act relating to the safety and regulation of dams

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

Action on Bill Postponed

H. 69

House bill, entitled

An act relating to licensed alcohol and drug abuse counselors as participating providers in Medicaid

Was taken up and pending the reading of the report of the committee on Human Services, on motion of **Rep. Pugh of South Burlington**, action on the bill was postponed until the next legislative day.

Bill Amended; Third Reading Ordered

H. 275

Rep. Vowinkel of Hartford, for the committee on General, Housing and Military Affairs, to which had been referred House bill, entitled

An act relating to professional licensing of members of the Armed Forces

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

Sec. 1. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

DISCLOSURE TO SUCCESSOR ENTITY

(a)(1) The Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

* * *

(F) The individual voluntarily separated from that employer to accompany a spouse who is on active duty with the U.S. Armed Forces as provided by section 1344(a)(2)(A) of this chapter.

* * *

Sec. 2. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

* * *

(2) For any week benefits are claimed, except as provided in subdivision (a)(3) of this section, until he or she has presented evidence to the satisfaction of the Commissioner that he or she has performed services in employment for a bona fide employer and has had earnings in excess of six times his or her weekly benefit amount if the Commissioner finds that such individual is unemployed because:

(A) He or she has left the employ of his or her last employing unit voluntarily without good cause attributable to such employing unit. An individual shall not suffer more than one disqualification by reason of such separation. However, an individual shall not be disqualified for benefits if the individual left such employment to accompany a spouse who is on active duty with the U.S. Armed Forces and is required to relocate by the U.S. Armed Forces due to permanent change of station orders, activation orders, or unit deployment orders, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employment unit.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

and that after passage the title of the bill be amended to read: "An act relating to unemployment insurance benefits for military spouses".

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

Bill Amended; Third Reading Ordered

H. 589

Rep. Huntley of Cavendish, for the committee on Fish, Wildlife & Water Resources, to which had been referred House bill, entitled

An act relating to hunting, fishing, and trapping

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

* * * Transport, Possession, or Fencing of Nonnative or
Native Species * * *

Sec. 1. 10 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

Words and phrases used in this part, unless otherwise provided, shall be construed to mean as follows:

* * *

(38) Captive hunt facility: any enclosure created by the use of fences, man-made structures, or natural barriers where animals are confined for the purpose of taking or attempting to take an animal by hunting. Captive hunt facility shall not mean activities covered by the Commissioner of Fish and Wildlife's rules for the training of dogs or for the regulation of regulated shooting grounds.

(39) Enclosure: means a structure designed to restrict the free movement of animals and the area within that structure.

Sec. 2. 10 V.S.A. § 4253 is amended to read:

§ 4253. LANDOWNER; FAMILY; EXCEPTION

(a) A resident owner of lands, his or her spouse, and their minor children may, without procuring a license under this chapter, take fish from the waters therein, shoot pickerel, and take wild animals or wild birds therein subject to the provisions of this part.

(b) A nonresident owner of lands, his or her spouse, and their minor children, may without procuring a license under this chapter, take fish from the waters therein, shoot pickerel, and take wild animals or wild birds thereon subject to the provisions of this part, except if the lands are posted under provisions other than section 4710 of this title.

(c) As used in this section, "post" means any signage that would lead a reasonable person to believe that hunting is prohibited on the land.

(d) Nothing in this section shall be construed to:

(1) exempt a captive hunt facility from the permitting requirements adopted under the rules of the Fish and Wildlife Board; or

(2) without a permit from the Commissioner of Fish and Wildlife, allow any person, including a hunt club, hunting association, or multiple landowners, to transport, possess, or fence any animal for the purpose of taking or attempting to take the animal by hunting.

* * * Hunting or Fishing License For Disabled Veterans * * *

Sec. 3. 10 V.S.A. § 4255(c) is amended to read:

(c) A permanent or free license may be secured on application to the ~~department~~ Department by a person qualifying as follows:

* * *

(4) A Vermont resident who is a veteran of the ~~armed forces of the United States~~ U.S. Armed Forces and who is, or ever has been, ~~100~~ 60 percent disabled as a result of a service-connected disability may receive a free fishing, hunting, or combination hunting and fishing license which shall include all big game licenses, except for a moose license, upon presentation of a certificate issued by the veterans' administration so certifying. A resident of a state which provides a reciprocal privilege for Vermont veterans and who would qualify for a free license under this subdivision if the person were a Vermont resident, may receive a free one-year fishing, hunting, or combination hunting and fishing license.

* * *

* * * Fish and Wildlife Board Rules; Migratory Game Birds * * *

Sec. 4. 10 V.S.A. § 4082 is amended to read:

§ 4082. VERMONT FISH AND WILDLIFE REGULATIONS

(a) The Board may adopt rules, under 3 V.S.A. chapter 25, to be known as the "Vermont Fish and Wildlife Regulations" for the regulation of fish and wild game and the taking thereof except as otherwise specifically provided by law. The rules shall be designed to maintain the best health, population, and utilization levels of the regulated species and of other necessary or desirable species which are ecologically related to the regulated species. The rules shall be supported by investigation and research conducted by the Department on behalf of the Board.

(b)(1) ~~The~~ Except as provided for under subdivision (2) of this subsection, the Board annually may adopt rules relating to the management of ~~migrating~~ migratory game birds, and shall follow the procedures for rulemaking contained in 3 V.S.A. chapter 25. For each such rule, the Board shall conduct a hearing but, when necessary, may schedule the hearing for a day before the terms of the rule are expected to be determined.

(2) Beginning with the 2015 hunting season, the Board may set by procedure the daily bag and possession limits of migratory game birds that may be harvested in each Waterfowl Hunting Zone annually without following the procedures for rulemaking contained in 3 V.S.A. chapter 25. The annual

daily bag and possession limits of migratory game birds shall be consistent with federal requirements. Prior to setting the migratory game bird daily bag and possession limits, the Board shall provide a period of not less than 30 days of public notice and shall conduct at least two public informational hearings. The final migratory game bird daily bag and possession limits shall be enforceable by the Department under its enforcement authority in part 4 of this title. Annually, on or before January 15, the Department shall submit the final migratory game bird daily bag and possession limits to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy.

(c) The Board may set by procedure the annual number of antlerless deer that can be harvested in each wildlife management unit and the annual number of moose that can be harvested in each wildlife management unit without following the procedures for rulemaking contained in 3 V.S.A. chapter 25. The annual numbers of antlerless deer and moose that can be harvested shall be supported by investigation and research conducted by the Department on behalf of the Board. Prior to setting the antlerless deer and moose permit numbers, the Board shall provide a period of not less than 30 days of public notice and shall conduct at least three public informational hearings. The public informational hearings may be conducted simultaneously with the regional antlerless deer meetings required by 10 V.S.A. App. § 2b. The final annual antlerless deer and moose harvest permit numbers shall be enforceable by the Department under its enforcement authority in part 4 of this title. The final annual antlerless deer and moose harvest permit numbers shall be reported to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy as part of the annual deer report required under section 4084 of this title.

* * * Fish and Wildlife Board Rules; Deer Season * * *

Sec. 5. 10 V.S.A. § 4084 is amended to read:

§ 4084. GAME

(a) Rules concerning wild game may:

(1) establish open seasons; however, rules regarding taking of deer adopted under this subdivision shall make provision for a regular rifle hunting season ~~pursuant to section 4741 of this title and~~, for an archery season, and a muzzle loader season unless there is a scientific reason not to do so;

(2) establish daily, season, and possession limits;

(3) establish territorial limits for any rule under this subchapter;

(4) prescribe the manner and means of taking any species or variety, and including reporting and tagging of game;

(5) establish restrictions on taking based upon sex, maturity, or other physical distinction of the species or variety pursued; and

(6) designate wildlife management units for various species or varieties.

(b)(1) On or before July 1 of each year, the Commissioner shall publish a report showing all the wildlife management units and proposed deer seasons. The reports shall include supporting data for the proposed actions.

(2) Each January, the Commissioner shall publish an annual deer report.

(c) The Board may alter the outer boundary of a wildlife management unit no more frequently than every ten years without approval of the General Assembly; however, the Board shall have authority to subdivide established wildlife management units.

(d), (e) [Repealed.]

Sec. 6. 10 V.S.A. § 4741 is amended to read:

§ 4741. ~~REGULAR DEER SEASON~~

~~For the 16 consecutive calendar days commencing 12 days prior to Thanksgiving day, a person may take by lawful means one wild deer as prescribed by the Vermont fish and wildlife regulations. [Repealed.]~~

Sec. 7. 10 V.S.A. § 4742a is amended to read:

§ 4742a. YOUTH DEER HUNTING WEEKEND

(a) The Saturday and Sunday prior to opening day of the regular deer season established by Board rule shall be youth deer hunting weekend.

(b) A person who is age 15 and years of age or under on the weekend of the hunt, who has successfully completed a hunter safety course, may take one wild deer during youth deer hunting weekend in accordance with the rules of the ~~board~~ Board. In order to hunt under this section, a young person shall also hold a valid hunting license under section 4255 of this title, hold a youth deer hunting tag, and be accompanied by an unarmed adult who holds a valid Vermont hunting license and who is over 18 years of age. An adult accompanying a youth under this section shall accompany no more than two young people at one time.

(c) Each year, the ~~board~~ Board shall determine whether antlerless deer may be taken under this section in any deer management unit or units. A determination under this subsection shall be made by rule, shall be based on the game management study conducted pursuant to section 4081 of this title,

and, notwithstanding subsection (g) of that section, may allow taking of antlerless deer.

(d) No person shall hunt under this section on privately owned land without first obtaining the permission of the owner or occupant.

(e) Before the first youth deer hunting weekend and after each fall hunting season, the ~~department~~ Department shall collect information on youth deer hunting weekend during the regional public hearings held pursuant to subsection 4081(f) of this title. Information relative to the public's knowledge and concerns about the deer herd shall be gathered. The ~~board~~ Board shall administer youth deer hunting weekend, by deer management unit, based on public input and scientific information.

(f) The scheduled amount of a fine under section 4555 of this title shall be doubled for a violation of this section, and the fine shall be assessed against the licensed adult who is accompanying the youth pursuant to subsection (b) of this section and who has the youth hunter in his or her charge.

(g) ~~For the purposes of~~ As used in this section, "accompany," "accompanied," or "accompanying" means direct control and supervision, including the ability to see and communicate with the youth hunter without the aid of artificial devices such as radios or binoculars, except for medically necessary devices such as hearing aids or eyeglasses. While hunting, an individual who holds a valid hunting license under subsection 4254(b) of this title shall accompany no more than two youth hunters at a time.

* * * Shooting From or Across Highway * * *

Sec. 8. 10 V.S.A. § 4705 is amended to read:

§ 4705. SHOOTING FROM MOTOR VEHICLES OR AIRCRAFT;
SHOOTING FROM OR ACROSS HIGHWAY; PERMIT

(a) A person shall not take, or attempt to take, a wild animal by shooting from a motor vehicle, motorboat, airplane, snowmobile, or other motor propelled craft or any vehicle drawn by a motor propelled vehicle except as permitted under subsection (e) of this section.

(b) A person shall not carry or possess while in or on a vehicle propelled by mechanical power or drawn by a vehicle propelled by mechanical power within the right of way of a public highway a rifle or shotgun containing a loaded cartridge or shell in the chamber, mechanism, or in a magazine, or clip within a rifle or shotgun, or a muzzle-loading rifle or shotgun that has been charged with powder and projectile and the ignition system of which has been enabled by having an affixed or attached percussion cap, primer, battery, or priming powder, except as permitted under subsections (d) and (e) of this

section. A person who possesses a rifle or shotgun in or on a vehicle propelled by mechanical power, or drawn by a vehicle propelled by mechanical power within a right of way of a public highway shall upon demand of an enforcement officer exhibit the firearm for examination to determine compliance with this section.

(c) A person while on or within 25 feet of the traveled portion of a public highway, except for public highways designated Class 4 on a town highway map, shall not take or attempt to take any wild animal by shooting a firearm, a muzzle loader, a bow and arrow, or a crossbow. A person shall not shoot a firearm, muzzle loader, a bow and arrow, or a crossbow over or across the traveled portion of a public highway.

(d) This section shall not restrict the possession or use of a loaded firearm by an enforcement officer in performance of his or her duty.

(e) ~~Subsection (a)~~ Subsections (a) and (c) of this section shall not apply to a licensed hunter who is a paraplegic or is certified by a physician to be unable to pursue game because of permanent severe physical disability, if he or she obtains a permit as provided in this subsection. The Commissioner on receipt of satisfactory proof of the disability of an applicant may issue a permit under this subsection. This permit shall be attached to the license, and shall remain in effect until the death of the holder, unless the Commissioner has reason to believe the permit is misused. The holder of the permit shall carry it at all times while hunting, and shall produce it on demand for inspection by any game warden or other law enforcement officer authorized to make arrests. The holder of the permit may take game from a vehicle or boat but only if it is stationary and ~~off~~ is not within 10 feet of the traveled portion of a public highway. In no event shall the holder of a permit shoot across the traveled portion of a public highway.

(f) The phrase "public highway," as used in this section, means roads shown on the highway maps of the respective towns, made by the ~~agency of transportation~~ Agency of Transportation, but does not include foot trails or private roads.

* * * Conservation Motor Vehicle Registration Plates * * *

Sec. 9. 23 V.S.A. § 304b is amended to read:

§ 304b. CONSERVATION MOTOR VEHICLE REGISTRATION PLATES

(a) The Commissioner shall, upon application, issue conservation registration plates for use only on vehicles registered at the pleasure car rate, on trucks registered for less than 26,001 pounds, and on vehicles registered to State agencies under section 376 of this title, but excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted

on the front and rear of the vehicle. The Commissioner of Motor Vehicles and the Commissioner of Fish and Wildlife shall determine the graphic design of the special plates in a manner which serves to enhance the public awareness of the State's interest in restoring and protecting its wildlife and major watershed areas. The Commissioner of Motor Vehicles and the Commissioner of Fish and Wildlife may alter the graphic design of these special plates provided that plates in use at the time of a design alteration shall remain valid subject to the operator's payment of the annual registration fee. Applicants shall apply on forms prescribed by the Commissioner and shall pay an initial fee of \$23.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a conservation plate shall pay a renewal fee of \$23.00. The Commissioner may adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection.

(b) Initial fees collected under subsection (a) of this section shall be allocated as follows:

(1) \$11.00 to the Transportation Fund.

(2) \$6.00 to the Department of Fish and Wildlife for deposit into the Nongame Wildlife Account created in 10 V.S.A. § 4048.

(3) \$6.00 to the Department of Fish and Wildlife for deposit into the Watershed Management Account created in 10 V.S.A. § 4050.

(c) Renewal fees collected under subsection (a) of this section shall be allocated as follows:

(1) \$10.00 to the Department of Fish and Wildlife for deposit into the Nongame Wildlife Account created in 10 V.S.A. § 4048.

(2) \$10.00 to the Department of Fish and Wildlife for deposit into the Watershed Management Account created in 10 V.S.A. § 4050.

(3) \$3.00 to the Transportation Fund.

(d) The Commissioner of Fish and Wildlife is authorized to deposit fees collected under subsections (b) and (c) of this section into the Conservation Camp Fund when the fees collected exceed the annual funding needs of the Nongame Wildlife Account and the Watershed Management Account.

Sec. 10. PROPOSED NEW CONSERVATION MOTOR VEHICLE REGISTRATION PLATES

On or before January 15, 2015, the Commissioner of Motor Vehicles and the Commissioner of Fish and Wildlife under the authority of 23 V.S.A. § 304b shall submit to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, and the

House and Senate Committees on Transportation at least three new graphic designs for proposed conservation registration plates.

* * * Cultural or Ceremonial Use of Migratory Bird Feathers * * *

Sec. 11. 10 V.S.A. § 4152 is amended to read:

§ 4152. PERMITS FOR SCIENTIFIC AND EDUCATIONAL COLLECTIONS

(a) ~~The commissioner~~ Commissioner may issue permits to a properly accredited person or educational institution permitting the holder thereof to collect birds, their nests and eggs, and fish and wild animals or parts thereof, for public scientific research or educational purposes of the institution.

(b) ~~In addition, the commissioner~~ The Commissioner may issue a permit to an individual ~~which~~ that allows the holder to collect fish and wild animals for the purpose of using them as subjects of art or photography.

(c) The Commissioner may issue a permit to a person that allows the holder to collect and possess a dead salvage bird or bird feathers for noncommercial cultural or ceremonial purposes provided that the bird was legally acquired, transferred from an individual who acquired it legally, or found dead and the permittee had no part in the intentional killing of the bird. A permit issued under this section shall comply with federal requirements regarding collection and possession of migratory birds.

Sec. 12. 10 V.S.A. § 5408 is amended to read:

§ 5408. LIMITATIONS

(a) Notwithstanding any provision of this chapter, after obtaining the advice of the Endangered Species Committee, the Secretary may permit, under such terms and conditions as the Secretary may prescribe by rule, any act otherwise prohibited by this chapter if done for any of the following purposes: scientific purposes; to enhance the propagation or survival of a species; economic hardship; zoological exhibition; educational purposes; noncommercial cultural or ceremonial purposes; or special purposes consistent with the purposes of the federal Endangered Species Act.

* * *

Sec. 13. 10 V.S.A. App. § 10 is amended to read:

§ 10. VERMONT ENDANGERED AND THREATENED SPECIES RULE

* * *

4.0 Procedures

* * *

4.2 Permits per 10 V.S.A. § 5408(a) may be granted by the Secretary only if the taking of an endangered or threatened species is:

- 4.2.1 For scientific purposes, or
- 4.2.2 To enhance the propagation of species, or
- 4.2.3 To prevent or mitigate economic hardship, or
- 4.2.4 For zoological exhibition, or
- 4.2.5 For educational purposes, or

4.2.6 For noncommercial cultural or ceremonial purposes to a person for the collection and possession of a dead salvage bird or parts thereof, including bird feathers, provided that the permit issued complies with federal requirements regarding collection and possession of migratory birds and the bird was legally acquired, transferred from an individual who acquired it legally, or found dead and the permittee had no part in the intentional killing of the bird, or

4.2.7 For special purpose consistent with the purpose of the Federal Endangered Species Act (see 16 ~~USCA~~ U.S.C.A. § 1531(b)).

* * *

* * * State Fly-Fishing Fly * * *

Sec. 14. 1 V.S.A. § 517 is added to read:

§ 517. STATE FLY-FISHING FLY

The State Fly-Fishing Fly shall be the Governor Aiken bucktail streamer.

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

(a) This section and Secs. 1–2 (landowner exception; captive hunt; definitions), 3 (license for disabled veteran), and 8 (shooting from or across highway) shall take effect on passage.

(b) Secs. 4 (migrating game bird harvest numbers), 10 (conservation registration plates report), 11–13(cultural and ceremonial use of bird feathers), and 14 (State Fly-Fishing Fly) shall take effect on July 1, 2014.

(c) Secs. 5–7 (deer season rules) and 9 (conservation plates; proceeds) shall take effect on January 1, 2015.

Rep. Helm of Fair Haven, for the committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the committee on Fish, Wildlife and Water Resources.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Fish, Wildlife & Water Resources and Appropriations agreed to and third reading ordered.

Adjournment

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