

Journal of the Senate

FRIDAY, FEBRUARY 7, 2014

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Kim Kie of Barre.

Bill Referred

House bill of the following title was read the first time and referred:

H. 260.

An act relating to insurance notices by electronic means.

To the Committee on Finance.

Bill Amended; Third Reading Ordered

S. 296.

Senator Flory, for the Committee on Institutions, to which was referred Senate bill entitled:

An act relating to the Defender General's duty to investigate issues related to the health, safety, and welfare of inmates in correctional facilities.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 5259 is added to read:

§ 5259. DUTY TO INVESTIGATE

(a) The Defender General shall investigate issues related to the health, safety, and welfare of inmates in correctional facilities and shall receive the cooperation of all State agencies in carrying out this duty. Issues that require an investigation by the Defender General shall, at a minimum, include:

(1) the death of an inmate;

(2) a suicide attempt that requires more than 24 hours of emergency hospitalization; and

(3) a critical incident that results in injury to an inmate from an assault, use of force, or accident in a correctional facility that requires more than 24 hours of emergency hospitalization.

(b)(1) When an incident enumerated in subdivisions (a)(1)–(3) of this section occurs, the Department of Corrections shall notify the Defender General as soon as reasonably practicable.

(2) The Commissioner shall report weekly to the Defender General regarding any critical incident that negatively impacts the health, safety, or welfare of an inmate, the conditions of confinement, or the adequacy of care provided to inmates.

(c) In carrying out the duties under this section, the Defender General:

(1) Shall be given reasonable unaccompanied access to the correctional facility and inmates and is authorized to speak with any relevant personnel from the Department of Corrections and other State agencies subject to the individual’s constitutional rights and to legitimate law enforcement concerns regarding preservation of a criminal investigation, if any.

(2) Shall be given broad access to records concerning the incident and any inmates involved in the incident. In response to a request for records from the Defender General, the Commissioner of Corrections shall provide the records promptly and no subpoena or public records request shall be required. Records subject to this section include video or audio recordings.

(d) The Defender General is authorized to protect the confidentiality of sources in the course of an investigation pursuant to this section. Work product generated in the course of representation of a client that contains confidential communication between an inmate and the Defender General shall not be discoverable and records of communications between inmates and the Defender General may be redacted.

(e) Where appropriate, the Defender General shall report to the Department of Corrections and the Joint Committee on Corrections Oversight identifying any concerns and suggested policy changes that arise from an incident that resulted in an investigation.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Amended; Bill Passed**S. 215.**

Senate bill entitled:

An act relating to administering, implementing, and financing water quality improvement in Vermont.

Was taken up.

Thereupon, pending third reading of the bill, Senator Zuckerman moved to amend the bill in Sec. 1, subsection (c), by striking "2013" where it appears and inserting in lieu thereof 2014

Which was agreed to.

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

Bill Passed in Concurrence with Proposals of Amendment**H. 526.**

House bill of the following title:

An act relating to the establishment of lake shoreland protection standards.

Was taken up.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment on a roll call, Yeas 22, Nays 6.

Senator Flory having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Bray, Campbell, Collins, Cummings, Doyle, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McCormack, Pollina, Rodgers, Sears, Snelling, Starr, Zuckerman.

Those Senators who voted in the negative were: Benning, Flory, McAllister, Mullin, Nitka, Westman.

The Senator absent and not voting was: Fox (deceased), White.

Bill Amended; Third Reading Ordered**S. 299.**

Senator Mullin, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to service of malt beverages by the glass.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

§ 2. DEFINITIONS

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

* * *

(37) "Sampler flight" means a flight, ski, paddle, or any similar device by design or name intended to hold alcoholic beverage samples for the purpose of comparison.

Sec. 2. 7 V.S.A. § 222 is amended to read:

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

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

* * *

(5)(A) The holder of a first-class license may serve a sampler flight of up to 32 ounces in the aggregate of malt beverages to a single customer at one time;

(B) The holder of a first-class license may serve a sampler flight of up to 12 ounces in the aggregate of vinous beverages to a single customer at one time; and

(C) The holder of a third-class license may serve a sampler flight of up to four ounces in the aggregate of spirituous liquors to a single customer at one time.

Sec. 3. 7 V.S.A. § 421 is amended to read:

§ 421. TAX ON MALT AND VINOUS BEVERAGES

(a) Every bottler and wholesaler shall pay to the Commissioner of Taxes the sum of 26 and one-half cents per gallon for every gallon or its equivalent of malt beverage containing not more than ~~six~~ eight percent of alcohol by volume at 60 degrees Fahrenheit sold by them to retailers in the State and the sum of 55 cents per gallon for each gallon of malt beverage containing more than ~~six~~ eight percent of alcohol by volume at 60 degrees Fahrenheit and each gallon of vinous beverages sold by them to retailers in the ~~state~~ State and shall also pay

to the Liquor Control Board all fees for bottler's and wholesaler's licenses. A manufacturer or rectifier of malt or vinous beverages shall pay the taxes required by this subsection to the Commissioner of Taxes for all malt and vinous beverages manufactured or rectified by them and sold at retail.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

After passage, the title of the bill is to be amended to read:

AN ACT RELATING TO SAMPLER FLIGHTS.

And that when so amended the bill ought to pass.

Senator Mullin, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, with the following amendment thereto:

By striking out Sec. 3 (tax on malt and vinous beverages) in its entirety and renumbering the remaining section to be numerically correct.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Finance.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Message from the House No. 17

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 578. An act relating to administering State funds for loans to individuals for replacement of failed wastewater systems and potable water supplies.

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

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 214. House concurrent resolution in memory of Franklin County civic leader Lawrence Joseph Handy.

H.C.R. 215. House concurrent resolution commemorating the 50th anniversary of the Wilderness Act of 1964 and the 30th anniversary of the Vermont Wilderness Act of 1984.

H.C.R. 216. House concurrent resolution in memory of former Windsor Fire Chief Bruce W. Stearns.

H.C.R. 217. House concurrent resolution designating the week of February 3–7 as Vermont School Counseling Week.

H.C.R. 218. House concurrent resolution honoring nonprofit organizations and Common Good Vermont.

H.C.R. 219. House concurrent resolution in memory of Juanita Cook of Pownal.

H.C.R. 220. House concurrent resolution honoring Champlain College President Dr. David F. Finney for his higher education leadership.

H.C.R. 221. House concurrent resolution extending congratulations and best wishes for success to the Vermonters selected to represent the United States at the 2014 Winter Olympics.

In the adoption of which the concurrence of the Senate is requested.

The House has considered concurrent resolutions originating in the Senate of the following titles:

S.C.R. 32. Senate concurrent resolution congratulating the *Montpelier Bridge* on its 20th anniversary.

S.C.R. 33. Senate concurrent resolution congratulating radio station WDEV in Waterbury, as the first electronic media winner of the Matthew Lyon Award.

S.C.R. 34. Senate concurrent resolution congratulating Sarducci's restaurant and bar on its 20th anniversary.

S.C.R. 35. Senate concurrent resolution in memory of former Eagleton Institute Director Alan Rosenthal.

S.C.R. 36. Senate concurrent resolution congratulating Bear Pond Books in Montpelier on its 40th anniversary.

S.C.R. 37. Senate concurrent resolution congratulating the 2012 Montpelier High School Solons Division II championship girls' soccer team.

S.C.R. 38. Senate concurrent resolution congratulating the Hunger Mountain Coop on the 20th anniversary of its Annual Food and Wellness Expo.

S.C.R. 39. Senate concurrent resolution in memory of former Senator Frank Smallwood.

S.C.R. 40. Senate concurrent resolution congratulating the 2013 Montpelier High School Division II championship girls' tennis team.

S.C.R. 41. Senate concurrent resolution congratulating the Reverend Jay Sprout on being named the Northeast Kingdom Chamber of Commerce's 2013 Citizen of the Year.

And has adopted the same in concurrence.

Senate Concurrent Resolutions

The following joint concurrent resolutions, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted on the part of the Senate:

By Senators Doyle, Cummings and Pollina,

By Representatives Hooper and Kitzmiller,

S.C.R. 32.

Senate concurrent resolution congratulating the *Montpelier Bridge* on its 20th anniversary.

By Senators Doyle, Cummings and Pollina,

By Representatives Ellis and Stevens,

S.C.R. 33.

Senate concurrent resolution congratulating radio station WDEV in Waterbury, as the first electronic media winner of the Matthew Lyon Award.

By Senators Doyle, Cummings and Pollina,

By Representative Ancel and others,

S.C.R. 34.

Senate concurrent resolution congratulating Sarducci's restaurant and bar on its 20th anniversary.

By Senator Doyle,

S.C.R. 35.

Senate concurrent resolution in memory of former Eagleton Institute Director Alan Rosenthal.

By Senators Doyle, Cummings and Pollina,

By Representatives Hooper and Kitzmiller,

S.C.R. 36.

Senate concurrent resolution congratulating Bear Pond Books in Montpelier on its 40th anniversary.

By Senators Doyle, Cummings and Pollina,

By Representatives Hooper and Kitzmiller,

S.C.R. 37.

Senate concurrent resolution congratulating the 2012 Montpelier High School Solons Division II championship girls' soccer team.

By Senators Doyle, Cummings and Pollina,

By Representatives Hooper and Kitzmiller,

S.C.R. 38.

Senate concurrent resolution congratulating the Hunger Mountain Coop on the 20th anniversary of its Annual Food and Wellness Expo.

By Senators Doyle, Campbell, Cummings, McCormack, Nitka and Pollina,

S.C.R. 39.

Senate concurrent resolution in memory of former Senator Frank Smallwood.

By Senators Doyle, Cummings and Pollina,

By Representatives Hooper and Kitzmiller,

S.C.R. 40.

Senate concurrent resolution congratulating the 2013 Montpelier High School Division II championship girls' tennis team.

By Senators Kitchel and Benning,

By Representative Fay and others,

S.C.R. 41.

Senate concurrent resolution congratulating the Reverend Jay Sprout on being named the Northeast Kingdom Chamber of Commerce's 2013 Citizen of the Year.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Representative Keenan and others,

By Senator Collins,

H.C.R. 214.

House concurrent resolution in memory of Franklin County civic leader Lawrence Joseph Handy.

By Representative Deen,

H.C.R. 215.

House concurrent resolution commemorating the 50th anniversary of the Wilderness Act of 1964 and the 30th anniversary of the Vermont Wilderness Act of 1984.

By Representatives Sweaney and Bartholomew,

By Senators Campbell, McCormack and Nitka,

H.C.R. 216.

House concurrent resolution in memory of former Windsor Fire Chief Bruce W. Stearns.

By Representative Frank and others,

H.C.R. 217.

House concurrent resolution designating the week of February 3–7 as Vermont School Counseling Week.

By Representative Rachelson and others,

H.C.R. 218.

House concurrent resolution honoring nonprofit organizations and Common Good Vermont.

By Representative Botzow and others,

By Senators Hartwell and Sears,

H.C.R. 219.

House concurrent resolution in memory of Juanita Cook of Pownal.

By Representatives Rachelson and Donovan,

H.C.R. 220.

House concurrent resolution honoring Champlain College President Dr. David F. Finney for his higher education leadership.

By All Members of the House,

By All Members of the Senate,

H.C.R. 221.

House concurrent resolution extending congratulations and best wishes for success to the Vermonters selected to represent the United States at the 2014 Winter Olympics.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, February 11, 2014, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 43.