

# Journal of the Senate

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FRIDAY, FEBRUARY 28, 2014

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Reverend Mark Pitton of Montpelier.

## Message from the House No. 27

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. 863.** An act relating to a Public Records Act exemption for the identity of whistleblowers.

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

The House has considered a bill originating in the Senate of the following title:

**S. 317.** An act relating to repealing the unconstitutional Vermont statutes related to the performance of abortions.

And has passed the same in concurrence.

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

**J.R.S. 46.** Joint resolution providing for a Joint Assembly to vote on the retention of six Superior Judges.

And has adopted the same in concurrence.

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

**H.C.R. 235.** House concurrent resolution congratulating Alexina Federhen on winning U.S. Senator Bernie Sanders's 2014 State of the Union Essay Contest.

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**H.C.R. 236.** House concurrent resolution honoring employees of municipal public works departments and designating May 18–24, 2014 as Public Works Week in Vermont.

**H.C.R. 237.** House concurrent resolution congratulating Stephen A. Sampson on his selection as the 2013 Vermont Assistant Principal of the Year.

**H.C.R. 238.** House concurrent resolution honoring Diane Marcoux-LaClair on her career accomplishments as an elementary school teacher.

**H.C.R. 239.** House concurrent resolution congratulating the Town of Londonderry on its revitalization of Pingree Park.

**H.C.R. 240.** House concurrent resolution honoring Lexa Clark for her leadership as captain of the Jamaica Rescue Squad.

**H.C.R. 241.** House concurrent resolution congratulates CVS Caremark for the decision to terminate the sale of all tobacco products, including cigarettes.

**H.C.R. 242.** House concurrent resolution honoring the federal TRIO programs in Vermont.

**H.C.R. 243.** House concurrent resolution designating March 2014 as Myeloma Awareness Month in Vermont.

**H.C.R. 244.** House concurrent resolution honoring the New Haven Town moderators.

**H.C.R. 245.** House concurrent resolution congratulating Elaine Pinckney on her being named the 2013 Frederick H. Tuttle Superintendent of the Year.

**H.C.R. 246.** House concurrent resolution designating April 2014 as Month of the Military Child in Vermont.

**H.C.R. 247.** House concurrent resolution honoring the retiring Weybridge Selectboard members Gale Hurd, Steven Smith, and Peter James.

**H.C.R. 248.** House concurrent resolution honoring Bridport's Collector of Delinquent Taxes Harry "Boo" Duffany.

**H.C.R. 249.** House concurrent resolution recognizing the significant health care role of the Rutland Area Visiting Nurse Association and Hospice.

**H.C.R. 250.** House concurrent resolution congratulating U.S. Navy Ensign Matthew McVay on his graduation from the U.S. Naval Academy with a 4.0 GPA.

**H.C.R. 251.** House concurrent resolution in memory of former Representative and Senator Merritt S. Hewitt.

**H.C.R. 252.** House concurrent resolution commemorating the 250th anniversary of the Town of Corinth.

**H.C.R. 253.** House concurrent resolution congratulating Edward Koren of Brookfield on his being named Vermont's newest Cartoonist Laureate.

**H.C.R. 254.** House concurrent resolution honoring Laura Soares of Randolph for her contributions to public education policy and governance.

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. 43.** Senate concurrent resolution congratulating Mad River Glen ski area on its 65th anniversary.

**S.C.R. 44.** Senate concurrent resolution honoring Gary W. Moore for his accomplishments as an educator, environmentalist, and civic leader.

**S.C.R. 45.** Senate concurrent resolution in memory of former Waitsfield Fire Chief Delbert W. Palmer.

**S.C.R. 46.** Senate concurrent resolution congratulating the People's Health and Wellness Clinic on its 20th anniversary.

**S.C.R. 47.** Senate concurrent resolution in memory of Sister Miriam Ward.

**S.C.R. 48.** Senate concurrent resolution congratulating Marilyn Fuller on her selection as the 2013 Cohase Chamber of Commerce Citizen of the Year.

**S.C.R. 49.** Senate concurrent resolution in memory of former Legislative Council Operations Director Claudette Marinelli.

**S.C.R. 50.** Senate concurrent resolution honoring S. John Osha.

And has adopted the same in concurrence.

### **Joint Resolution Placed on Calendar**

#### **J.R.S. 47.**

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Committee on Institutions,

**J.R.S. 47.** Joint resolution relating to the approval of State land transactions.

*Whereas*, 10 V.S.A. § 2606(b) authorizes the Commissioner of Forests, Parks and Recreation to exchange or lease certain lands, with the approval of the General Assembly, and

*Whereas*, the General Assembly considers the following actions to be in the best interest of the State, *now therefore be it*

***Resolved by the Senate and House of Representatives:***

That the Commissioner of Forests, Parks and Recreation is authorized to:

(1) Convey a limited right-of-way across a portion of Mt. Mansfield State Forest in the Town of Stowe to Eugene Touchette for forest management and seasonal recreation purposes. In exchange for this right-of-way, Mr. Touchette shall convey a right-of-way across his parcel to the State allowing access to Mt. Mansfield State Forest for forest management purposes.

(2) Quitclaim to Amy and Angel Mendel any and all interest in an existing unrestricted State-owned right-of-way in the Town of Victory to the Victory State Forest crossing a parcel of land the Mendels currently own. In exchange for terminating this State-owned right-of-way, the Mendels shall convey a new unrestricted right-of-way to the State across another portion of the Mendels' property providing access to Victory State Forest, and they shall pay for the cost of developing an associated new access road to Victory State Forest, *and be it further*

***Resolved:*** That the Secretary of State be directed to send a copy of this resolution to the Commissioner of Forest, Parks and Recreation.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 275.**

An act relating to unemployment insurance benefits for military spouses.

To the Committee on Finance.

**H. 589.**

An act relating to hunting, fishing, and trapping.

To the Committee on Natural Resources and Energy.

**H. 863.**

An act relating to a Public Records Act exemption for the identity of whistleblowers.

To the Committee on Government Operations.

**Bill Amended; Third Reading Ordered****S. 281.**

Senator Mullin, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to vision riders and a choice of providers for vision and eye care services.

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

Sec. 1. 8 V.S.A. § 4088j is added to read:

§ 4088j. CHOICE OF PROVIDERS FOR VISION CARE AND MEDICAL EYE CARE SERVICES

(a) To the extent a health insurance plan provides coverage for vision care or medical eye care services, it shall cover those services when provided by a physician licensed pursuant to 26 V.S.A. chapter 23, an optometrist licensed pursuant to 26 V.S.A. chapter 30, or an osteopathic physician licensed pursuant to 26 V.S.A. chapter 33, provided the health care professional is acting within his or her authorized scope of practice and participates in the plan's network.

(b) A health insurance plan shall impose no greater co-payment, coinsurance, or other cost-sharing amount for services when provided by an optometrist than for the same service when provided by a physician or osteopathic physician.

(c) A health insurance plan shall provide to a licensed health care professional acting within his or her scope of practice the same level of reimbursement or other compensation for providing vision care and medical eye care services that are within the lawful scope of practice of the professions of medicine, optometry, and osteopathy, regardless of whether the health care professional is a physician, optometrist, or osteopathic physician.

(d)(1) A health insurer shall permit a licensed optometrist to participate in plans or contracts providing for vision care or medical eye care to the same extent as it does a licensed physician or osteopathic physician.

(2) A health insurer shall not require a licensed optometrist to provide discounted materials benefits or to participate as a provider in another medical or vision care plan or contract as a condition or requirement for the optometrist's participation as a provider in any medical or vision care plan or contract.

(e)(1) An agreement between a health insurer or an entity that writes vision insurance and an optometrist or ophthalmologist for the provision of vision

services to plan members or subscribers in connection with coverage under a stand-alone vision plan or other health insurance plan shall not require that an optometrist or ophthalmologist provide services or materials at a fee limited or set by the plan or insurer unless the services or materials are reimbursed as covered services under the contract.

(2) An optometrist or ophthalmologist shall not charge more for services and materials that are noncovered services under a vision plan than his or her usual and customary rate for those services and materials.

(3) Reimbursement paid by a vision plan for covered services and materials shall be reasonable and shall not provide nominal reimbursement in order to claim that services and materials are covered services.

(f) As used in this section:

(1) "Contractual discount" means a percentage reduction from an optometrist's or ophthalmologist's usual and customary rate for covered services and materials required under a participating provider agreement.

(2) "Covered services" means services and materials for which reimbursement from a vision plan or other health insurance plan is provided by a member's or subscriber's plan contract, or for which a reimbursement would be available but for the application of the member's or subscriber's contractual limitations of deductibles, co-payments, or coinsurance.

(3) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer or a subcontractor of a health insurer, as well as Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term includes vision plans but does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

(4) "Health insurer" shall have the same meaning as in 18 V.S.A. § 9402.

(5) "Materials" includes lenses, devices containing lenses, prisms, lens treatments and coatings, contact lenses, and prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or its adnexa.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

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. 316.**

Senate bill entitled:

An act relating to child care providers.

Was taken up.

Thereupon, pending third reading of the bill, Senator McCormack moved to amend the bill by as follows:

First: In Sec. 2, in 33 V.S.A. § 3603 by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

(d) Early care and education providers shall be considered employees, and the State shall be considered the employer, solely for the purpose of collective bargaining under this chapter. Early care and education providers shall be considered State employees for purposes of collective bargaining. Early care and education providers shall not be considered State employees for any other reason, including for purposes of vicarious liability in tort, unemployment compensation, or workers' compensation. Early care and education providers shall not be eligible for participation in the State Employees Retirement System or the health insurance plans available to Executive Branch employees solely by virtue of bargaining under this chapter.

Second: In Sec. 5, by striking out “Sec. 2(b)(1)(D)” and inserting in lieu thereof the following: Sec. 2, 33 V.S.A. § 3603(b)(1)(D)

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Bray moved to amend the bill in Sec. 2, in 33 V.S.A. § 3603, by inserting a new subsection (f) to read as follows:

(f) Agency fees, if successfully bargained, shall be based on the proportionate amount of subsidies an early care and education provider receives.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Bray?, Senator Mullin moved to amend the proposal of amendment by adding a new sentence at the end of the subsection as follows: ; such proportionate amount shall not exceed 100 percent.

Which was disagreed to on a division of the Senate Yeas 12, Nays 13.

Thereupon, the question, Shall the bill be amended as recommended by Senator Bray?, was agreed to on a roll call, Yeas 15, Nays 10.

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

### Roll Call

**Those Senators who voted in the affirmative were:** Ayer, Benning, Bray, Collins, Flory, French, Galbraith, Hartwell, MacDonald, McAllister, Nitka, Rodgers, Snelling, Starr, Westman.

**Those Senators who voted in the negative were:** Baruth, Cummings, Doyle, Lyons, McCormack, \*Mullin, Pollina, Sirotkin, White, Zuckerman.

**Those Senators absent and not voting were:** Ashe, Campbell, Kitchel, Mazza, Sears.

\*Senator Mullin explained his vote as follows:

“While I support the intentions of the amendment, I cannot support a proposal that might unintentionally require someone to pay more than 100 percent of the assessed fee.”

Thereupon, pending third reading of the bill, Senator Collins moved to amend the bill as follows:

First: In Sec. 2, 33 V.S.A. § 3601(c) after the words “conditions of employment” by inserting the words at child care centers

Second: In Sec. 2, 33 V.S.A. § 3601(e) in the second sentence, by striking out the word “individual”

Third: In Sec. 2, 33 V.S.A. § 3602(3) after the following: “a registered child care home provider.” by inserting the following: individuals in supervisory and nonsupervisory roles providing care in or employed by a licensed child care center,

Fourth: In Sec. 2, 33 V.S.A. § 3606(a) after the words “registered home child care providers.” by inserting the following: child care center personnel,

Fifth: In Sec. 2, 33 V.S.A. § 3614(b) in the second sentence, by striking out the word “individual”

Which was disagreed to on a roll call, Yeas 4, Nays 21.

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

### Roll Call

**Those Senators who voted in the affirmative were:** Bray, Collins, Doyle, McAllister.



**Those Senators who voted in the negative were:** Ayer, Baruth, Benning, Cummings, Flory, French, Galbraith, Hartwell, Lyons, MacDonald, McCormack, Mullin, Nitka, Pollina, Rodgers, Sirotkin, Snelling, Starr, Westman, White, Zuckerman.

**Those Senators absent and not voting were:** Ashe, Campbell, Kitchel, Mazza, Sears.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 20, Nays 7.

Senator Bray 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, \*Collins, Cummings, Doyle, French, Galbraith, Hartwell, Lyons, MacDonald, McCormack, Nitka, Pollina, Sirotkin, Starr, Westman, White, Zuckerman.

**Those Senators who voted in the negative were:** Benning, \*Campbell, Flory, McAllister, Mullin, Rodgers, Snelling.

**Those Senators absent and not voting were:** Kitchel, Mazza, Sears.

\*Senator Campbell explained his vote as follows:

“Thank you Mr. President,

“Today I find myself reluctantly having to vote against this bill. Reluctantly because on the surface this bill supports children, the hard working folks that care for them and the ever important right for individuals to organize.

“The reason I have to vote against this bill is because I do not believe it is what it seems. I believe this bill has the potential to adversely affect the State of Vermont, structurally and financially, the workers who provide these services, and most importantly, the children who receive the care.

“This bill creates a legal fiction in the guise of a hybrid employer/employee labor relationship that will inevitably find itself being litigated in our courts. The outcome of this litigation could reasonably lead to the determination that, despite this bill's attempt to limit the State of Vermont's role as an “employer,” that in passing S-316, the state has in fact created, and accepted, its role as employer of those who provide childcare services for subsidized families.

“If this occurs then the state would have to provide the same rights and benefits of Vermont state employees to the childcare workers referred to in this legislation. Additionally, as an employer, the state would then assume liability

for the actions of its new employees. Mr. President, at this time the state cannot accept the potential consequences of this bill, therefore I must vote no.”

\*Senator Collins explained his vote as follows:

“I voted yes because of the numerous providers who contacted me and asked the opportunity to vote as to whether or not a union is necessary or appropriate.”

### **Third Reading Ordered**

#### **S. 211.**

Senator Rodgers, for the Committee on Natural Resources and Energy, to which was referred Senate bill entitled:

An act relating to permitting of sewage holding and pumpout tanks for public buildings.

Reported that the bill ought to pass.

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

### **Bills Amended; Third Readings Ordered**

#### **S. 247.**

Senator White, for the Committee on Government Operations, to which was committed Senate bill entitled:

An act relating to the regulation of medical marijuana dispensaries.

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

Sec. 1. 18 V.S.A. § 4472 is amended to read:

§ 4472. DEFINITIONS

As used in this subchapter:

(1) “Bona fide health care professional-patient relationship” means a treating or consulting relationship of not less than six months’ duration, in the course of which a health care professional has completed a full assessment of the registered patient’s medical history and current medical condition, including a personal physical examination. If a patient has a terminal illness, the six-month requirement shall not apply.

\* \* \*

(6) “Health care professional” means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a

naturopathic physician under 26 V.S.A. chapter 81 who has a special license endorsement authorizing the individual to prescribe, dispense, and administer prescription medicines, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28. This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

\* \* \*

Sec. 2. 18 V.S.A. § 4474 is amended to read:

§ 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS AND PROCEDURES

(a) A person may submit a signed application to the ~~department of public safety~~ Department of Public Safety to become a registered patient's registered caregiver. The ~~department~~ Department shall approve or deny the application in writing within 30 days. The Department shall adopt rules for the issuance of a registry identification card which shall include standards for approval or denial of an application based on an individual's criminal history record. The rules shall address whether an applicant who has been convicted of an offense listed in subsection 4474g(e) of this title has been rehabilitated and should be otherwise eligible for a registry identification card. An applicant shall not be denied solely on the basis of a criminal conviction that is not listed in subsection 4474g(e) of this title. The ~~department~~ Department shall approve a registered caregiver's application and issue the person an authorization card, including the caregiver's name, photograph, and a unique identifier, after verifying:

~~(1) the person will serve as the registered caregiver for one registered patient only; and~~

~~(2) the person has never been convicted of a drug-related crime.~~

(b) Prior to acting on an application, the ~~department~~ Department shall obtain from the Vermont ~~criminal information center~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a criminal record from the Federal Bureau of Investigation for the applicant. ~~For purposes of~~ As used in this subdivision, "criminal record" means a record of whether the person has ever been convicted of a drug-related crime. Each applicant shall consent to release of criminal records to the ~~department~~ Department on forms substantially similar to the release forms developed by the ~~center~~ Center pursuant to 20 V.S.A. § 2056c. The ~~department~~ Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. The Vermont ~~criminal information~~

~~center~~ Crime Information Center shall send to the requester any record received pursuant to this section or inform the ~~department of public safety~~ Department that no record exists. If the ~~department~~ Department disapproves an application, the ~~department~~ Department shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont ~~criminal information center~~ Crime Information Center. No person shall confirm the existence or nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this subchapter.

(c)(1) A Except as provided in subdivision (2) of this subsection, a registered caregiver may serve only one registered patient at a time, and a registered patient may have only one registered caregiver at a time.

(2) A registered patient who is under 18 years of age may have two registered caregivers.

Sec. 3. 18 V.S.A. § 4473(b) is amended to read:

(b) The ~~department of public safety~~ Department of Public Safety shall review applications to become a registered patient using the following procedures:

(1) A patient with a debilitating medical condition shall submit, ~~under oath,~~ a signed application for registration to the ~~department~~ Department. If the patient is under ~~the age of 18 years of age,~~ the application must be signed by both the patient and a parent or guardian. The application shall require identification and contact information for the patient and the patient's registered caregiver applying for authorization under section 4474 of this title, if any, and the patient's designated dispensary under section 4474e of this title, if any. The applicant shall attach to the application a medical verification form developed by the ~~department~~ Department pursuant to subdivision (2) of this subsection.

\* \* \*

Sec. 4. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief. ~~For~~

~~purposes of~~ As used in this section, “transport” shall mean the movement of marijuana or marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, to registered patients and registered caregivers in accordance with delivery protocols, or as otherwise allowed under this subchapter.

\* \* \*

(3) Cultivate and possess at any one time up to 28 mature marijuana plants, 98 immature marijuana plants, and 28 ounces of usable marijuana. However, if a dispensary is designated by more than 14 registered patients, the dispensary may cultivate and possess at any one time two mature marijuana plants, seven immature plants, and ~~two~~ four ounces of usable marijuana for every registered patient for which the dispensary serves as the designated dispensary.

\* \* \*

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in an enclosed, locked facility which is either indoors or otherwise not visible to the public and which can only be accessed by principal officers and employees of the dispensary who have valid registry identification cards. ~~The department of public safety~~ Department of Public Safety shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the ~~department~~ Department may review the dispensary’s confidential records, including its dispensing records, which shall track transactions according to registered patients’ registry identification numbers to protect their confidentiality.

(2)(A) A registered patient or registered caregiver may obtain marijuana from the dispensary ~~facility~~ by appointment only.

(B) A dispensary may deliver marijuana to a registered patient or registered caregiver. The marijuana shall be transported in a locked container. The Department of Public Safety shall adopt rules establishing protocols for the safe delivery of marijuana to patients and caregivers.

(3) The operating documents of a dispensary shall include procedures for the oversight of the dispensary and procedures to ensure accurate record-keeping.

(4) A dispensary shall submit the results of ~~an annual~~ a biennial financial audit to the ~~department of public safety~~ Department of Public Safety no later than 60 days after the end of the dispensary's fiscal year. The ~~annual~~ audit shall be conducted by an independent certified public accountant, and the costs of any such audit shall be borne by the dispensary. The ~~department~~ Department may also periodically require, within its discretion, the audit of a dispensary's financial records by the ~~department~~ Department.

(5) A dispensary shall destroy or dispose of marijuana, marijuana-infused products, clones, seeds, parts of marijuana that are not usable for symptom relief or are beyond the possession limits provided by this subchapter, and marijuana-related supplies only in a manner approved by rules adopted by the ~~department of public safety~~ Department of Public Safety.

\* \* \*

Sec. 4a. 18 V.S.A. § 4474e(b) is amended to read:

(b)(1) A dispensary shall be operated on a nonprofit basis for the mutual benefit of its patients ~~but need~~. A dispensary does not need to be recognized as a tax-exempt organization by the Internal Revenue Service. Notwithstanding any other provision of law, a dispensary shall be exempt from taxes imposed by 32 V.S.A. §§ 5822 and 5832.

(2) A dispensary shall have a sliding-scale fee system that takes into account a registered patient's ability to pay.

Sec. 5. 18 V.S.A. § 4474f is amended to read:

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND REGISTRATION

\* \* \*

(b) Within 30 days of the adoption of rules, the ~~department~~ Department shall begin accepting applications for the operation of dispensaries. Within 365 days of the effective date of this section, the ~~department~~ Department shall grant registration certificates to four dispensaries, provided at least four applicants apply and meet the requirements of this section. No more than ~~four~~ six dispensaries shall hold valid registration certificates at one time. ~~The total statewide number of registered patients who have designated a dispensary shall not exceed 1,000 at any one time.~~ Any time a dispensary registration certificate is revoked, is relinquished, or expires, the ~~department~~ Department shall accept applications for a new dispensary. ~~If at any time after one year after the effective date of this section fewer than four dispensaries hold valid registration certificates in Vermont, the department of public safety shall accept applications for a new dispensary.~~

\* \* \*

(g) After a dispensary is approved but before it begins operations, it shall submit the following to the ~~department of public safety~~ Department:

\* \* \*

(4) A registration fee of \$20,000.00 for the first year of operation, and an annual fee of \$30,000.00 in subsequent years that do not require a biennial audit and \$25,000.00 in subsequent years that require a biennial audit.

#### Sec. 6. EFFECTIVE DATES

(a) This section and Sec. 4a shall take effect on passage.

(b) All remaining sections shall take effect on July 1, 2014.

And that when so amended the bill ought to pass.

Senator Ashe, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Government Operations with the following amendments thereto:

First: By striking out Sec. 4a in its entirety.

Second: In Sec. 5, 18 V.S.A. § 4474f, by striking out subsection (g) in its entirety and inserting in lieu thereof a new subsection (g) to read as follows:

(g) After a dispensary is approved but before it begins operations, it shall submit the following to the ~~department of public safety~~ Department:

\* \* \*

(4) A registration fee of \$20,000.00 for the first year of operation, and an annual fee of \$30,000.00 in subsequent years.

Third: By striking out Sec. 6 in its entirety and inserting in lieu thereof the a new Sec. 6 to read as follows:

#### Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

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 Government Operations was amended as recommended by the Committee on Finance.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?,

Senators White and Flory moved to amend the recommendation of amendment of the Committee on Government Operations, as amended in Sec. 2, 18 V.S.A. § 4474 by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Prior to acting on an application, the ~~department~~ Department shall obtain from the Vermont ~~criminal information center~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a criminal record from the Federal Bureau of Investigation for the applicant. ~~For purposes of this subdivision, "criminal record" means a record of whether the person has ever been convicted of a drug-related crime.~~ Each applicant shall consent to release of criminal records to the ~~department~~ Department on forms substantially similar to the release forms developed by the ~~center~~ Center pursuant to 20 V.S.A. § 2056c. The ~~department~~ Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. The Vermont ~~criminal information center~~ Crime Information Center shall send to the requester any record received pursuant to this section or inform the ~~department of public safety~~ Department that no record exists. If the ~~department~~ Department disapproves an application, the ~~department~~ Department shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont ~~criminal information center~~ Crime Information Center. No person shall confirm the existence or nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this subchapter.

Which was agreed to.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, was agreed to and third reading of the bill was ordered

### **S. 269.**

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

An act relating to business consumer protection and data security breaches.

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

Sec. 1. 9 V.S.A. § 2435(b)(4) is amended to read:

(4)(A) The notice to a consumer required by this subsection shall be delayed upon request of a law enforcement agency. A law enforcement agency



may request the delay if it believes that notification may impede a law enforcement investigation, or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. In the event law enforcement makes the request for a delay in a manner other than in writing, the data collector shall document such request contemporaneously in writing, including the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. A law enforcement agency shall promptly notify the data collector in writing when the law enforcement agency no longer believes that notification may impede a law enforcement investigation, or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. The data collector shall provide notice required by this section without unreasonable delay upon receipt of a written communication, which includes facsimile or electronic communication, from the law enforcement agency withdrawing its request for delay.

(B) A Vermont law enforcement agency with a reasonable belief that a security breach has or may have occurred at a specific business shall notify the business in writing of its belief. The agency shall also notify the business that additional information on the security breach may need to be furnished to the Vermont Office of the Attorney General or the Vermont Department of Financial Regulation and shall include the website and phone number for the Office and the Department in the notice required by this subdivision. Nothing in this subdivision shall alter the responsibilities of a data collector under this section or provide a cause of action against a law enforcement agency that fails, without bad faith, to provide the notice required by this subdivision.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

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.

## **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:

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By Senators Doyle, Cummings and Pollina,

By Representatives Grad and Greshin,

**S.C.R. 43.**

Senate concurrent resolution congratulating Mad River Glen ski area on its 65th anniversary.

By Senators Kitchel and Benning,

By Representative Copeland-Hanzas,

**S.C.R. 44.**

Senate concurrent resolution honoring Gary W. Moore for his accomplishments as an educator, environmentalist, and civic leader.

By Senators Doyle, Cummings and Pollina,

By Representatives Grad and Greshin,

**S.C.R. 45.**

Senate concurrent resolution in memory of former Waitsfield Fire Chief Delbert W. Palmer.

By Senators Doyle, Cummings and Pollina,

By Representative Koch and others,

**S.C.R. 46.**

Senate concurrent resolution congratulating the People's Health and Wellness Clinic on its 20th anniversary.

By Senators Lyons, Ayer, Baruth, Cummings, MacDonald, Mazza and Nitka,

**S.C.R. 47.**

Senate concurrent resolution in memory of Sister Miriam Ward.

By Senators Kitchel and Benning,

By Representative Conquest,

**S.C.R. 48.**

Senate concurrent resolution congratulating Marilyn Fuller on her selection as the 2013 Cohase Chamber of Commerce Citizen of the Year.

By Senators Cummings, Doyle, Pollina and McCormack,

By Representatives Ancel and Klein,

**S.C.R. 49.**

Senate concurrent resolution in memory of former Legislative Council Operations Director Claudette Marinelli.

By Senator MacDonald,

By Representatives French and Ryerson,

**S.C.R. 50.**

Senate concurrent resolution honoring S. John Osha.

**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 Campion and others,

By Senators Hartwell, MacDonald, McCormack, Nitka, Rodgers, Sears and Starr,

**H.C.R. 235.**

House concurrent resolution congratulating Alexina Federhen on winning U.S. Senator Bernie Sanders's 2014 State of the Union Essay Contest.

By Representative Koch and others,

By Senators Ayer, Bray, Collins, Flory, French, Galbraith, Hartwell, Lyons, MacDonald, McAllister, McCormack, Mullin, Nitka, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White and Zuckerman,

**H.C.R. 236.**

House concurrent resolution honoring employees of municipal public works departments and designating May 18–24, 2014 as Public Works Week in Vermont.

By Representative Cupoli and others,

By Senators Flory, French and Mullin,

**H.C.R. 237.**

House concurrent resolution congratulating Stephen A. Sampson on his selection as the 2013 Vermont Assistant Principal of the Year.

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By Representatives Martin and Woodward,

By Senator Westman,

**H.C.R. 238.**

House concurrent resolution honoring Diane Marcoux-LaClair on her career accomplishments as an elementary school teacher.

By Representative Goodwin,

By Senators Campbell, McCormack and Nitka,

**H.C.R. 239.**

House concurrent resolution congratulating the Town of Londonderry on its revitalization of Pingree Park.

By Representative Goodwin,

By Senators Galbraith and White,

**H.C.R. 240.**

House concurrent resolution honoring Lexa Clark for her leadership as captain of the Jamaica Rescue Squad.

By Representative Koch and others,

**H.C.R. 241.**

House concurrent resolution congratulates CVS Caremark for the decision to terminate the sale of all tobacco products, including cigarettes.

By Representative Jerman and others,

**H.C.R. 242.**

House concurrent resolution honoring the federal TRIO programs in Vermont.

By Representative Morrissey and others,

By Senators Hartwell and Sears,

**H.C.R. 243.**

House concurrent resolution designating March 2014 as Myeloma Awareness Month in Vermont.

By Representative Smith,  
By Senators Ayer and Bray,

**H.C.R. 244.**

House concurrent resolution honoring the New Haven Town moderators.  
By Representative Lenex and others,  
By Senators Lyons, Sirotkin, Snelling and Zuckerman,

**H.C.R. 245.**

House concurrent resolution congratulating Elaine Pinckney on her being named the 2013 Frederick H. Tuttle Superintendent of the Year.

By Representative Head and others,

**H.C.R. 246.**

House concurrent resolution designating April 2014 as Month of the Military Child in Vermont.

By Representative Smith,  
By Senators Ayer and Bray,

**H.C.R. 247.**

House concurrent resolution honoring the retiring Weybridge Selectboard members Gale Hurd, Steven Smith, and Peter James.

By Representative Smith,  
By Senators Ayer and Bray,

**H.C.R. 248.**

House concurrent resolution honoring Bridport's Collector of Delinquent Taxes Harry "Boo" Duffany.

By Representative Cupoli and others,  
By Senators Flory, French and Mullin,

**H.C.R. 249.**

House concurrent resolution recognizing the significant health care role of the Rutland Area Visiting Nurse Association and Hospice.

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By Representative Miller and others,

By Senators Hartwell and Sears,

**H.C.R. 250.**

House concurrent resolution congratulating U.S. Navy Ensign Matthew McVay on his graduation from the U.S. Naval Academy with a 4.0 GPA.

By Representative Miller and others,

By Senators Hartwell and Sears,

**H.C.R. 251.**

House concurrent resolution in memory of former Representative and Senator Merritt S. Hewitt.

By Representatives Davis and Winters,

**H.C.R. 252.**

House concurrent resolution commemorating the 250th anniversary of the Town of Corinth.

By Representatives Ryerson and French,

By Senator MacDonald,

**H.C.R. 253.**

House concurrent resolution congratulating Edward Koren of Brookfield on his being named Vermont's newest Cartoonist Laureate.

By Representatives French and Ryerson,

By Senator MacDonald,

**H.C.R. 254.**

House concurrent resolution honoring Laura Soares of Randolph for her contributions to public education policy and governance.

**Adjournment**

On motion of Senator Baruth, the Senate adjourned, to reconvene on Tuesday, March 11, 2014, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 35.