

Journal of the Senate

WEDNESDAY, MARCH 19, 2014

In the absence of the President (who was Acting Governor in the absence of the Governor) the Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 32

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 House bills of the following titles:

H. 661. An act relating to exhumation requirements and notice.

H. 823. An act relating to encouraging growth in designated centers and protecting natural resources.

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

Bills Referred to Committee on Finance

Senate bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee on Finance:

S. 302. An act relating to waiving the energy efficiency charge.

S. 308. An act relating to regulating precious metal dealers.

Bills Referred

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

H. 661.

An act relating to exhumation requirements and notice.

To the Committee on Economic Development, Housing and General Affairs.

H. 823.

An act relating to encouraging growth in designated centers and protecting natural resources.

To the Committee on Natural Resources and Energy.

Consideration Resumed; Bill Amended; Third Reading Ordered**S. 100.**

Consideration was resumed on Senate bill entitled:

An act relating to forest integrity.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senator Starr moved to amend the recommendation of amendment of the Committee on Natural Resources and Energy by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds:

(1) Vermont's forests are a unique resource that provides habitat for wildlife, a renewable resource for human use, jobs for Vermonters in timber and other forest-related industries, and economic development through a productive forest products industry.

(2) Large areas of contiguous forest are essential for quality wildlife habitat, to preserve Vermont's scenic qualities, to implement best practices in forest management, and to ensure the continued economic productivity of Vermont's diverse forest products industry.

(3) The division of forests into lots for house sites or other construction fragments Vermont's forests and reduces their value as wildlife habitat, for forest industries, and to Vermont's tourist economy.

Sec. 2. REPORT; FOREST FRAGMENTATION IN VERMONT

On or before January 15, 2015, the Commissioner of the Department of Forests, Parks and Recreation shall submit to the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife, and Water Resources a report assessing the current and projected effects of fragmentation on Vermont's forestlands, and providing recommendations, including regulatory and nonregulatory mechanisms, and legislation if appropriate, for how to best protect the integrity of Vermont's forestlands and preserve large blocks of contiguous forestland.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

Which was agreed to on a roll call, Yeas 22, Nays 6.

Senator Galbraith 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, Benning, Bray, Collins, Cummings, Doyle, Flory, French, Kitchel, Lyons, Mazza, McAllister, Mullin, Nitka, Pollina, Rodgers, Sirotkin, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Baruth, Galbraith, Hartwell, McCormack, Sears, Snelling.

Those Senators absent or not voting were: Campbell (presiding), MacDonald.

Thereupon, the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 29, Nays 0.

Senator Baruth 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, Benning, Bray, Collins, Cummings, Doyle, Flory, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: None.

The Senator absent or not voting was: Campbell (presiding).

Bill Passed**S. 28.**

Senate bill entitled:

An act relating to gender-neutral nomenclature for the identification of parents on birth certificates.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears moved to amend the bill by in Sec. 1 by striking out subsection (b)(1) in its entirety and inserting in lieu thereof a new subsection (b)(1) to read as follows

(b)(1) At the time of the birth of a child, each parent shall furnish the following information on a form provided for that purpose by the ~~department of health~~ Department of Health: the parent's name, address, and ~~social security number~~ and the name and date of birth of the child. The forms and a copy of the birth certificate shall be filed with the ~~department of health~~ not later than 10 days Department of Health on or before the fifth day after the birth of the child.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Sears?, Senator Sears requested and was granted leave to withdraw the recommendation of amendment.

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

Bill Passed

S. 168.

Senate bill entitled:

An act relating to making miscellaneous amendments to laws governing municipalities.

Was taken up.

Thereupon, pending third reading of the bill, Senator Hartwell moved to amend the bill by in Sec. 9, after the sentence "Alternates may be assigned by the legislative body to serve on the planning commission, the board of adjustment, or the development review board in situations when one or more members of the board are disqualified or are otherwise unable to serve." by adding a new sentence to read: A municipal legislative body shall not assign an alternate to hear an ongoing application.

Which was disagreed to on a division of the Senate Yeas 8, Nays 20.

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

Bill Amended; Consideration Interrupted by Adjournment

S. 314.

Senate bill entitled:

An act relating to miscellaneous amendments to laws related to motor vehicles.

Was taken up.

Thereupon, pending third reading of the bill, Senator Flory moved to amend the bill in Sec. 4, 23 V.S.A. § 511, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Validation stickers on pleasure cars and on motor trucks shall be unobstructed and affixed in the lower right corner of the rear number plate.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the bill by striking out Sec. 9 in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

* * * Driver's Training School Licensees * * *

Sec. 9. 23 V.S.A. § 704 is amended to read:

§ 704. QUALIFICATIONS FOR TRAINING SCHOOL LICENSE

~~Each applicant in order to~~ To qualify for a driver's training school license, each applicant shall meet the following requirements:

* * *

(3) ~~provide evidence that he or she maintains~~ maintain bodily injury and property damage liability insurance on each motor vehicle being used in driver training, insuring the liability of the driver training school and the operator of each motor vehicle for each instructor and of any person while using any such motor vehicle with the permission of the named insured in at least the following amount: \$300,000.00 for bodily injury or death of one person in any one accident and, subject to said limit for one person, \$500,000.00 for bodily injury or death of two or more persons in any one accident, and \$100,000.00 for damage to property of others in any one accident. Evidence of such insurance coverage shall be in the form of a certificate from an insurance company authorized to do business in this state filed with the commissioner setting forth the amount of coverage and providing that the policy of insurance shall be noncancelable except after 15 days' ~~written~~ notice to the commissioner;

* * *

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Benning moved to amend the bill by adding two new sections to be numbered Secs. 30-31 to read as follows:

* * * Motorcycle Helmets * * *

Sec. 30. LEGISLATIVE INTENT

The purpose of Sec. 31 of this act is to align Vermont's helmet law for adult motorcyclists with the laws regarding adult motorcyclists of 31 other states, while encouraging safety through rider education and promoting personal responsibility.

Sec. 31. 23 V.S.A. § 1256 is amended to read:

§ 1256. MOTORCYCLES—~~HEADGEAR~~ HELMETS

(a) A Except as provided in subsection (b) of this section, a person may shall not operate or ride upon a motorcycle upon on a highway unless he or she properly wears a protective headgear helmet securely fastened on his or her head of a type that conforms to the federal Motor Vehicle Safety Standards contained in 49 C.F.R. § 571.218 and any amendment or addition to the regulations thereto that may be adopted by the U.S. Secretary of Transportation. The Commissioner shall make available a list of helmets that satisfy these standards and provide the list upon request.

(b) Subsection (a) of this section shall not apply to a person 21 years of age or older who is currently maintaining financial responsibility as required under section 800 of this title and who either:

(1) has successfully completed a motorcycle safety course approved by the Commissioner or by the Motorcycle Safety Foundation; or

(2) has had a valid motorcycle endorsement for at least two years.

(c) This section may be enforced only if a law enforcement officer has detained the operator or rider for a suspected violation of another traffic law. An operator or rider shall not be subject to a penalty under this section unless the operator or rider is required to pay a penalty for the primary violation.

And by renumbering the remaining section to be numerically correct.

Thereupon, pending the question, Shall the bill be amended as moved by Senator Benning? Senator Sears raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Benning was *not germane* to the bill and therefore could not be considered by the Senate.

The President *overruled* the point of order and ruled that the recommendation of amendment was *germane* to the bill.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Benning?, Senator Baruth moved that the Senate adjourn until five o'clock in the afternoon.

Which was agreed to.

Afternoon

The Senate was called to order by the President *pro tempore*.

Message from the House No. 33

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 House bills of the following titles:

H. 413. An act relating to the Uniform Collateral Consequences of Conviction Act.

H. 681. An act relating to the professional regulation for veterans, military service members, and military spouses.

H. 690. An act relating to the definition of serious functional impairment.

H. 852. An act relating to improving workforce education and training.

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

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

J.R.S. 49. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Bills Referred

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

H. 413.

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

To the Committee on Judiciary.

H. 681.

An act relating to the professional regulation for veterans, military service members, and military spouses.

To the Committee on Government Operations.

H. 690.

An act relating to the definition of serious functional impairment.

To the Committee on Institutions.

H. 852.

An act relating to improving workforce education and training.

To the Committee on Economic Development, Housing and General Affairs.

Consideration Resumed; Third Reading Ordered

S. 314.

Consideration was resumed on Senate bill entitled:

An act relating to miscellaneous amendments to laws related to motor vehicles.

Thereupon, the pending question, Shall the bill be amended as recommended by Senator Benning?

Senator Baruth Assumes the Chair

Senator Campbell Assumes the Chair

Senator Zuckerman Assumes the Chair

Senator Baruth Assumes the Chair

Which was disagreed to on a roll call, Yeas 8, Nays 21.

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

Roll Call

Those Senators who voted in the affirmative were: Benning, French, McAllister, McCormack, Mullin, Rodgers, Starr, Zuckerman.

Those Senators who voted in the negative were: Ashe, Ayer, Bray, Campbell, Collins, Cummings, Doyle, Flory, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, Nitka, Pollina, Sears, Sirotkin, Snelling, Westman, White.

The Senator absent or not voting was: Baruth (presiding).

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

Senator Campbell Assumes the Chair

Bill Amended; Third Reading Ordered**S. 191.**

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

An act relating to setbacks and screening for solar generation plants.

Reported recommending that the bill be amended in Sec. 2, 30 V.S.A. § 219a (self-generation and net metering), after the first ellipsis, by striking out subsection (c) and inserting in lieu thereof a new subsection (c) to read as follows:

(c) The Board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of a certificate of public good for net metering systems under the provisions of section 248 of this title. A net metering system shall be deemed to promote the public good of the State if it is in compliance with the criteria of this section, and Board rules or orders. In developing such rules or orders, ~~the Board:~~

(1) With respect to a solar net metering system of ~~40~~ 15 kW or less, the Board shall provide that the system may be installed ten days after the customer's submission to the Board ~~and~~, the interconnecting electric company, and the municipality of a completed registration form and certification of compliance with the applicable interconnection requirements and the setback and screening requirements described in subdivision 248(b)(1) of this title. Within that ten-day period, the interconnecting electric company and the municipality each may deliver to the customer and the Board a letter ~~detailing that, in the case of the interconnecting utility, details~~ any issues concerning the interconnection of the system or, in the case of the municipality, addresses the facility's compliance with the setback and screening requirements. The customer shall not commence construction of the system prior to the passage of this ten-day period and, if applicable, resolution by the Board of any ~~interconnection~~ issues raised by the electric company or the municipality in accordance with this subsection. If the ten-day period passes without delivery by the electric company or the municipality of a letter that raises ~~interconnection~~ issues in accordance with this subsection, a certificate of public good shall be deemed issued on the 11th day without further proceedings, findings of fact, or conclusions of law, and the customer may commence construction of the system. On request, the ~~clerk~~ Clerk of the Board promptly shall provide the customer with written evidence of the system's approval. ~~For the purpose of~~ In this subdivision, the following shall not be included in the computation of time: Saturdays, Sundays, State legal holidays under 1 V.S.A. § 371(a), and federal legal holidays under 5 U.S.C. § 6103(a).

(2) With respect to a net metering system for which a certificate of public good is not deemed issued under subdivision (1) of this subsection, the Board:

(A) may waive the requirements of section 248 of this title that are not applicable to net metering systems, including, ~~but not limited to,~~ criteria that are generally applicable to public service companies as defined in this title, but shall not waive the land use bylaw and screening requirements described in subdivision 248(b)(1)(B) of this title;

(B) may modify notice and hearing requirements of this title as it deems appropriate;

(C) shall seek to simplify the application and review process as appropriate; and

(D) shall find that such rules are consistent with ~~state~~ State power plans.

* * *

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 pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senator Hartwell moved to amend the recommendation of the Committee on Natural Resources and Energy as follows:

By adding a second proposal of amendment to read as follows:

Second: In Sec. 1, 30 V.S.A. § 248(b), in subdivision (1), by striking out subparagraph (B) in its entirety and inserting in lieu thereof a new subparagraph (B) to read as follows:

(B) in addition to the other applicable provisions of this subdivision (1), a ground-mounted solar electric generation facility shall comply with the setback requirements, if any, that apply to other development in the area of the facility under the land use bylaws of the municipality in which the facility is located and shall comply with the screening requirements, if any, contained in the plan of that municipality that do not interfere with the intended functional use of the solar electric generation facility. In this subparagraph (B), "screening" includes landscaping, vegetation, fencing, and topographic features;

Which was agreed to.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy, as amended?, was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Zuckerman moved that the bill be recommitted to the Committee on Natural Resources and Energy which was disagreed to.

Thereupon, third reading of the bill was disagreed to on a roll call, Yeas 8, Nays 21.

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

Roll Call

Those Senators who voted in the affirmative were: Benning, Galbraith, Hartwell, Kitchel, Mullin, Rodgers, Snelling, Starr.

Those Senators who voted in the negative were: Ashe, Ayer, Baruth, Bray, Collins, Cummings, Doyle, Flory, French, Lyons, MacDonald, Mazza, McAllister, McCormack, Nitka, Pollina, Sears, Sirotkin, Westman, White, Zuckerman.

The Senator absent or not voting was: Campbell (presiding).

Rules Suspended; Bill Committed

Appearing on the Calendar for notice, on motion of Senator Sears the rules were suspended and House bill entitled:

H. 62. An act relating to prohibiting the handheld use of a portable electronic device while driving.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Transportation, Senator Sears moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Judiciary with the report of the Committee on Transportation *intact*,

Which was agreed to.

Adjournment

On motion of Senator Baruth, the Senate adjourned until ten o'clock and twenty minutes in the morning.