

Journal of the Senate

TUESDAY, APRIL 8, 2014

The Senate was called to order by the President.

Devotional Exercises

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

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Rules Suspended; Bill Committed

H. 809.

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

An act relating to designation of new town centers and growth centers.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Economic Development, Housing and General Affairs, Senator Hartwell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Natural Resources and Energy with the report of the Committee on Economic Development, Housing and General Affairs *intact*,

Which was agreed to.

Bill Referred to Committee on Appropriations

House bill of the following title, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, was referred to the Committee on Appropriations:

H. 239.

An act relating to information regarding the rights of landlords and tenants.

Joint Senate Resolution Adopted on the Part of the Senate

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senators Baruth and Benning,

J.R.S. 54. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 11, 2014, it be to meet again no later than Tuesday, April 15, 2014.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 631.

House bill entitled:

An act relating to lottery commissions.

Was taken up.

Thereupon, pending third reading of the bill, Senator Collins moved that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LOTTERY COMMISSION BONUS

(a) Under the State Lottery Commission Lottery Rules and Regulations, the Lottery Commission shall pay a one percent bonus payment to licensed lottery agents who sell any draw game ticket that wins at least \$10,000.00. The one percent bonus payment shall not exceed \$30,000.00, and payment shall be made to lottery agents once the draw game results become official, regardless of whether the ticket is claimed or unclaimed.

(b) On or before July 1, 2015, the Executive Director of the Lottery Commission shall amend the State Lottery Commission Lottery Rules and Regulations to be consistent with the requirements of subsection (a) of this section.

Sec. 2. REPEAL

Sec. 1(a) of this act shall be repealed 45 days after such time as the Lottery Commission has issued a rule updating the State Lottery Commission Lottery Rules and Regulations.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Bill Passed**S. 23.**

Senate bill of the following title was read the third time and passed:

An act relating to access to records in adult protective services investigations.

Bill Passed in Concurrence with Proposal of Amendment**H. 584.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to municipal regulation of parking lots and meters.

Bill Passed in Concurrence with Proposal of Amendment**H. 872.**

House bill of the following title:

An act relating to the State's Transportation Program and miscellaneous changes to the State's transportation laws.

Was taken up.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 27, Nays 0.

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

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Campbell, Cummings, Snelling.

Proposal of Amendment; Consideration Postponed**H. 356.**

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

An act relating to prohibiting littering in or on the waters of the State.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 2201 is amended to read:

§ 2201. THROWING, DEPOSITING, BURNING, AND DUMPING REFUSE; PENALTY; SUMMONS AND COMPLAINT

(a)(1) Prohibition. Every person shall be responsible for proper disposal of his or her own solid waste. A person shall not throw, dump, deposit, cause, or permit to be thrown, dumped, or deposited any solid waste as defined in 10 V.S.A. § 6602, refuse of whatever nature, or any noxious thing outside a solid waste management facility certified by the Agency of Natural Resources in or on lands or waters of the State.

(2) It shall be prima facie evidence that a person who is identifiable from an examination of illegally disposed solid waste is the person who violated a provision of this section.

~~(2)~~(3) No person shall burn or cause to be burned in the open or incinerate in any container, furnace, or other device any solid waste without:

(A) first having obtained all necessary permits from the Agency of Natural Resources, the district environmental commission, and the municipality where the burning is to take place; and

(B) complying with all relevant State and local regulations and ordinances.

(b) Prosecution of violations. A person who violates a provision of this section commits a civil violation and shall be subject to a civil ~~penalty of not more than \$500.00~~ citation under section 8019 of this title. This violation shall be enforceable in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29 in an action that may be brought by a municipal attorney, solid waste management district attorney, environmental enforcement officer employed by the Agency of Natural Resources, grand juror, or designee of the legislative body of the municipality, or by any duly authorized law enforcement officer. If the throwing, placing, or depositing was done from a snowmobile, vessel, or motor vehicle, except a motor bus, it shall be prima facie evidence that the throwing, placing, or depositing was done by the ~~driver~~ operator of such snowmobile, vessel, or motor vehicle. Nothing in this section shall be construed as affecting the operation of an automobile graveyard or salvage yard as defined in section 2241 of this title, nor shall anything in this section be construed as prohibiting the installation and use of appropriate receptacles for solid waste provided by the State or towns.

(c) Roadside cleanup. A person found in violation of this section may be assigned to spend up to 80 hours collecting trash or litter from a specified segment of roadside or from a specified area of public property.

(d) Revocation of motor vehicle operator's license. The Commissioner of Motor Vehicles shall suspend the motor vehicle operator's license or operating privilege of a person found in violation of this section for a period of ten days if the person fails to pay the penalty set forth in subsection (b) of this section. If the person that fails to pay the penalty set forth in subsection (b) violated this section while operating a vessel, the Commissioner of Motor Vehicles shall suspend that person's certificate of boating education that is required by 23 V.S.A. § 3305b for a period of ten days. This provision shall not apply if the only evidence of violation is the presumption set forth in subsection (b) of this section. The Bureau shall immediately notify the Commissioner of Motor Vehicles of the entry of judgment.

(e) Revocation of hunting, fishing, or trapping license. The Commissioner of Fish and Wildlife shall revoke the privilege of a person found in violation of this section from holding a hunting ~~or, fishing, or trapping~~ license, ~~or both,~~ for a period of one year from the date of the conviction, if the person fails to pay the penalty set forth in subsection (b) of this section. The Bureau shall immediately notify the Commissioner of Fish and Wildlife of the entry of judgment.

(f) ~~{Deleted.}~~ [Repealed.]

(g) Amendment of complaint. A person authorized to enforce this section may amend or dismiss a complaint issued by that person by marking the complaint and returning it to the Judicial Bureau. At the hearing, a person authorized to enforce this section may amend or dismiss a complaint issued by that person, subject to the approval of the hearing judge.

(h) ~~{Deleted.}~~ [Repealed.]

(i) Applicability. Enforcement actions taken under this section shall in no way preclude the Agency of Natural Resources, the Attorney General, or an appropriate State prosecutor from initiating other or further enforcement actions under the civil, administrative, or criminal enforcement provisions of 10 V.S.A. chapter 23, 47, 159, 201, or 211. To the extent that enforcement under this section is by an environmental enforcement officer employed by the Agency of Natural Resources, enforcement under this section shall preclude other enforcement by the ~~agency~~ Agency for the same offence.

(j) Definitions. As used in this section:

(1) "Motor vehicle" shall have the same meaning as in 23 V.S.A. § 4(21).

(2) "Snowmobile" shall have the same meaning as in 23 V.S.A. § 3801.

(3) "Vessel" means motor boats, boats, kayaks, canoes, sailboats, and all other types of watercraft.

(4) "Waters" shall have the same meaning as in 10 V.S.A. § 1251(13).

Sec. 2. 1 V.S.A. § 377 is added to read:

§ 377. GREEN UP DAY; RIVER GREEN UP MONTH

(a) The first Saturday in the month of May is designated as Green Up Day.

(b) September of each year is designated as River Green Up Month.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

And that the bill ought to pass in concurrence with such adoption of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?, on motion of Senator Campbell, consideration of the bill was postponed until the next legislative day.

Proposals of Amendment; Third Reading Ordered

H. 589.

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

An act relating to hunting, fishing, and trapping.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 8, 10 V.S.A. § 4705, in subsection (c), by striking the last sentence in its entirety and inserting in lieu thereof the following:

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, except for a person shooting over or across the traveled portion of a Class IV road from a sport shooting range, as that term is defined in section 5227 of this title, established before January 1, 2014.

And in subsection (f), after "means roads" and before "shown on" by inserting , including Class IV roads,

Second: By striking out Sec. 15 in its entirety and inserting in lieu thereof two new sections to be numbered Secs. 15 and 16 to read as follows:

* * * Training Hunting Dogs; Raccoon Season * * *

Sec. 15. 10 V.S.A. § 5001 is amended to read:

§ 5001. HUNTING DOGS; FIELD TRAINING

(a) While accompanying the dog, a person may train a hunting dog to hunt and pursue:

(1) ~~Bear~~ bear during the period from June 1 to September 15 and then only from sunrise to sunset;

(2) ~~Rabbits~~ rabbits and game birds during the period from June 1 to the last Saturday in September and then only from sunrise to sunset;

(3) ~~Raccoon~~ raccoon during the period from June 1 ~~to the last Saturday in September at any time of the day or night~~ through any time of day or night on the day before the opening day of raccoon hunting season; and

(4) ~~Bobcat~~ bobcat and fox during the period June 1 to March 15, except during regular deer season as prescribed in section 4741 of this title.

* * *

Sec. 16. EFFECTIVE DATE

(a) This section and Secs. 1–2 (landowner exception; captive hunt; definitions), 3 (license for disabled veteran), 3a (Joint Fiscal Office report on fiscal impact of issuing hunting licenses to disabled veterans), 8 (shooting from or across highway), and 15 (training hunting dogs; raccoon season) 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.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Nitka, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposals of amendment as recommended by the Committee on Natural Resources and Energy.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senators Mullin and French moved to amend the proposal of amendment of the Committee on Natural Resources and Energy as follows:

First: In the *first* proposal of amendment in Sec. 8, 10 V.S.A. § 4705, in subsection (c), by striking out the last sentence in its entirety and inserting in lieu thereof the following: A person shall not shoot a firearm, muzzle loader, a bow and arrow, or a crossbow ~~over~~ while on or within the traveled portion of a public highway or across the traveled portion of a public highway, except for a person shooting over or across the traveled portion of a Class IV road from a sport shooting range, as that term is defined in section 5227 of this title, established before January 1, 2014.

Second: And that the Senate further propose to the House to amend the bill in Sec. 5, 10 V.S.A. § 4084(a) by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) establish open seasons; however, rules regarding taking of deer adopted under this subdivision shall, unless there is a scientific reason not to do so, make provision for: a regular rifle hunting season ~~pursuant to section 4741 of this title and for~~ of no fewer than 16 consecutive days; an archery season; and a muzzle loader season ~~unless there is a scientific reason not to do so~~;

Which was agreed to.

Thereupon, the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources and Energy, as amended?, was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators Nitka, Campbell and McCormack moved to amend the Senate proposal of amendment as follows:

First: By adding a new section to be numbered Sec. 15a to read as follows:

Sec. 15a. 1 V.S.A. § 509 is amended to read:

§ 509. STATE ~~FOSSIL~~ FOSSILS

(a) The state marine fossil shall be the white whale fossilized skeleton at the University of Vermont's Perkins Geology Museum.

(b) The state terrestrial fossil shall be the Mount Holly mammoth tooth and tusk at the Mount Holly Community Historical Museum.

Second: In Sec. 16, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Secs. 4 (migrating game bird harvest numbers), 10 (conservation registration plates report), 11–13 (cultural and ceremonial use of bird feathers), 14 (State Fly-Fishing Fly), and 15a (State Fossils) shall take effect on July 1, 2014.

Which were collectively agreed to.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 27, Nays 0.

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

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Cummings, Flory, Snelling.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Wednesday, April 9, 2014.