

Journal of the Senate

TUESDAY, APRIL 22, 2014

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Lisa Ramson of Barre.

Pledge of Allegiance

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

Bill Referred to Committee on Appropriations

H. 552.

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:

An act relating to raising the Vermont minimum wage.

Bills Referred to Committee on Finance

House 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:

H. 656. An act relating to professions and occupations regulated by the Office of Professional Regulation.

H. 740. An act relating to transportation impact fees.

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. 56. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 25, 2014, it be to meet again no later than Tuesday, April 29, 2014.

Bills Passed in Concurrence with Proposal of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposal of amendment:

H. 765. An act relating to eliminating the part-time certification of law enforcement officers.

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

Third Readings Ordered**H. 886.**

Senator Ayer, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of the adoption and the codification of the charter of the Town of Panton.

Reported that the bill ought to pass in concurrence.

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

H. 887.

Senator Pollina, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of the adoption and the codification of the charter of the Town of East Montpelier.

Reported that the bill ought to pass in concurrence.

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

Proposal of Amendment; Third Reading Ordered**H. 890.**

Senator French, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the City of Burlington regarding the redistricting of City election areas.

Reported that the bill ought to pass in concurrence.

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

Thereupon, pending the question, Shall the bill be read third time?, Senators French, Ayer, McAllister, Pollina and White moved that the Senate propose to the House to amend the bill in Sec. 2, 24 App. V.S.A. chapter 3, in § 2 (election boundaries), in subsection (a) (City districts described), in subdivision (2) (Central District), in the geographic description of the district, after the following: “Central Vermont Railway bridge downstream of the Lower Winooski Falls and Salmon Hole; thence southerly along the East District”, by striking out the following: eastern boundary and inserting in lieu thereof the following: western boundary to its intersection with the centerline of Main Street; continuing southerly along the centerline of South Winooski Avenue.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 875.

Senator Sears, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to the elimination of a defendant’s right to a trial by jury in traffic appeals and fines for driving with license suspended.

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. 4 V.S.A. § 1109 is amended to read:

§ 1109. REMEDIES FOR FAILURE TO PAY

(a) As used in this section:

(1) “Amount due” means all financial assessments contained in a ~~judicial-bureau~~ Judicial Bureau judgment, including penalties, fines, surcharges, court costs, and any other assessment authorized by law.

(2) “Designated collection agency” means a collection agency designated by the ~~court administrator~~ Court Administrator.

(3) ~~“Designated credit bureau” means a credit bureau designated by the court administrator or the court administrator’s designee. [Repealed.]~~

(b) A ~~judicial-bureau~~ Judicial Bureau judgment shall provide notice that a \$30.00 fee shall be assessed for failure to pay within 30 days. If the defendant fails to pay the amount due within 30 days, the fee shall be added to the

judgment amount and deposited in the ~~court technology special fund~~ Court Technology Special Fund established pursuant to section 27 of this title.

(c) Civil contempt proceedings. If an amount due remains unpaid for 75 days after the ~~judicial bureau~~ Judicial Bureau provides the defendant with a notice of judgment, the ~~judicial bureau~~ Judicial Bureau may initiate civil contempt proceedings pursuant to this subsection.

(1) Notice of hearing. The ~~judicial bureau~~ Judicial Bureau shall provide notice by first class mail sent to the defendant's last known address that a contempt hearing will be held pursuant to this subsection, and that failure to appear at the contempt hearing may result in the sanctions listed in subdivision (2) of this subsection.

(2) Failure to appear. If the defendant fails to appear at the contempt hearing, the hearing officer may direct the clerk of the ~~judicial bureau~~ Judicial Bureau to:

(A) cause the matter to be reported to one or more designated ~~credit bureaus~~ collection agencies; or

(B) refer the matter to ~~criminal division of the superior court~~ the Criminal Division of the Superior Court for contempt proceedings; or

(C) provide electronic notice thereof to the Commissioner of Motor Vehicles who shall suspend the person's operator's license or privilege to operate. However, the person shall become eligible for reinstatement if the amount due is paid or otherwise satisfied.

(3) Hearing. The hearing shall be conducted in a summary manner. The hearing officer shall examine the defendant and any other witnesses and may require the defendant to produce documents relevant to the defendant's ability to pay the amount due. The ~~state~~ State or municipality shall not be a party except with the permission of the hearing officer. The defendant may be represented by counsel at the defendant's own expense.

(4) Contempt.

(A) The hearing officer may conclude that the defendant is in contempt if the hearing officer states in written findings a factual basis for concluding that:

(i) the defendant knew or reasonably should have known that he or she owed an amount due on a ~~judicial bureau~~ Judicial Bureau judgment;

(ii) the defendant had the ability to pay all or any portion of the amount due; and

(iii) the defendant failed to pay all or any portion of the amount due.

(B) In the contempt order, the hearing officer may do one or more of the following:

(i) Set a date by which the defendant shall pay the amount due.

(ii) Assess an additional penalty not to exceed ten percent of the amount due.

~~(iii) Direct the clerk of the judicial bureau to cause the matter to be reported to one or more designated credit bureaus. The court administrator or the court administrator's designee is authorized to contract with one or more credit bureaus for the purpose of reporting information about unpaid judicial bureau judgments.~~ Order that the Commissioner of Motor Vehicles suspend the person's operator's license or privilege to operate. However, the person shall become eligible for reinstatement if the amount due is paid or otherwise satisfied.

(iv) ~~Recommend that the eriminal division of the superior court~~ Criminal Division of the Superior Court incarcerate the defendant until the amount due is paid. If incarceration is recommended pursuant to this subdivision (4), the ~~judicial bureau~~ Judicial Bureau shall notify the ~~eriminal division of the superior court~~ Criminal Division of the Superior Court that contempt proceedings should be commenced against the defendant. The ~~eriminal division of the superior court~~ Criminal Division of the Superior Court proceedings shall be de novo. If the defendant cannot afford counsel for the contempt proceedings in ~~eriminal division of the superior court~~ the Criminal Division of the Superior Court, the ~~defender general~~ Defender General shall assign counsel at the ~~defender general's~~ Defender General's expense.

(d) Collections.

(1) If an amount due remains unpaid after the issuance of a notice of judgment, the ~~court administrator~~ Court Administrator may authorize the clerk of the ~~judicial bureau~~ Judicial Bureau to refer the matter to a designated collection agency.

(2) The ~~court administrator~~ Court Administrator or the ~~court administrator's~~ Court Administrator's designee is authorized to contract with one or more collection agencies for the purpose of collecting unpaid ~~judicial bureau~~ Judicial Bureau judgments pursuant to 13 V.S.A. § 7171.

(e) For purposes of civil contempt proceedings, venue shall be statewide.

(f) Notwithstanding 32 V.S.A. § 502, the ~~court administrator~~ Court Administrator is authorized to contract with a third party to collect fines,

penalties, and fees by credit card, debit card, charge card, prepaid card, stored value card, and direct bank account withdrawals or transfers, as authorized by 32 V.S.A. § 583, and to add on and collect, or charge against collections, a processing charge in an amount approved by the ~~court administrator~~ Court Administrator.

Sec. 2. 23 V.S.A. § 674 is amended to read:

§ 674. OPERATING AFTER SUSPENSION OR REVOCATION OF LICENSE; PENALTY; REMOVAL OF REGISTRATION PLATES; TOWING

(a)(1) Except as provided in section 676 of this title, a person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of this section or ~~subsections~~ subsection 1091(b), 1094(b), or 1128(b) or (c) of this title and who operates or attempts to operate a motor vehicle upon a public highway before the suspension period imposed for the violation has expired shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

(2) A person who violates section 676 of this title for the sixth or subsequent time shall, if the five prior offenses occurred after July 1, 2003, be imprisoned not more than two years or fined not more than \$5,000.00, or both.

(3) Violations of section 676 of this title that occurred prior to the date a person successfully completes the driving with license suspended diversion program or prior to the date that a person pays the amount due to the Judicial Bureau in accordance with subsection 2307(b) of this chapter shall not be counted as prior offenses under subdivision (2) of this subsection.

(b) Except as authorized in section 1213 of this title, a person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of section 1201 of this title or has been suspended under section 1205 of this title and who operates or attempts to operate a motor vehicle upon a public highway before reinstatement of the license shall be imprisoned not more than two years or fined not more than \$5,000.00, or both. The sentence shall be subject to the following mandatory minimum terms:

* * *

Sec. 3. 23 V.S.A. § 2307 is amended to read:

§ 2307. REMEDIES FOR FAILURE TO PAY TRAFFIC VIOLATIONS

~~As used in this section,~~

(a) ~~“Amount due”~~ Definition. As used in this section, “amount due” means all financial assessments contained in a Judicial Bureau judgment, including

penalties, fines, surcharges, court costs, and any other assessment authorized by law.

(b) Notice of risk of suspension. A judgment for a traffic violation shall contain a notice that failure to pay or otherwise satisfy the amount due within 30 days of the notice will result in suspension of the person's operator's license or privilege to operate, and the denial, if the person is the sole registrant, of the person's application for renewal of a motor vehicle registration, until the amount due is paid or otherwise satisfied. If the defendant fails to pay the amount due within 30 days of the notice, or by a later date as determined by a judicial officer, and the case is not pending on appeal, the Judicial Bureau shall provide electronic notice thereof to the Commissioner of Motor Vehicles ~~who~~, after. After 20 days from the date of receiving the electronic notice, the Commissioner shall:

(1) ~~suspend~~ Suspend the person's operator's license or privilege to operate for a period of 120 days. However, the person shall become eligible for reinstatement prior to expiration of the 120 days if the amount due is paid or otherwise satisfied.

(2) ~~and deny, if the person is the sole registrant,~~ Deny the person's application for renewal of a motor vehicle registration, if the person is the sole registrant, until the amount due is paid or otherwise satisfied.

(c) During proceedings conducted pursuant to 4 V.S.A. § 1109, the hearing officer may apply the following mitigation remedies when the judgment is based upon a traffic violation. The hearing officer also may apply the remedies with or without a hearing when acting on a motion to approve a proposed DLS Diversion Program contract and related payment plan pursuant to 2012 Acts and Resolves No. 147, Sec. 2. Notwithstanding any other law, no entry fee shall be required and venue shall be statewide for motions to approve.

(1) The hearing officer may waive the reinstatement fee required by section 675 of this title or reduce the amount due on the basis of:

(A) the defendant's driving history, ability to pay, or service to the community;

(B) the collateral consequences of the violation; or

(C) the interests of justice.

(2) The hearing officer may specify a date by which the defendant shall pay the amount due and may notify the Commissioner of Motor Vehicles to reinstate the defendant's operator's license or privilege subject to payment of the amount due by the specified date. If the defendant fails to pay the amount due by the specified date, the Judicial Bureau may notify the Commissioner to

suspend the defendant's operator's license or privilege. A license may be reinstated under this subdivision only if the defendant's license is suspended solely for failure to pay a judgment of the Judicial Bureau.

(3) The judicial officer shall have sole discretion to determine mitigation remedies pursuant to this subdivision, and the judicial officer's determination shall not be subject to review or appeal in any court, tribunal, or administrative office.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

And that after passage the title of the bill be amended to read:

An act relating to fines for driving with license suspended.

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

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

Joint Resolution Adopted in Concurrence

J.R.H. 20.

Joint House resolution entitled:

Joint resolution authorizing Green Mountain Boys State educational program to use the State House.

Having been placed on the Calendar for action, was taken up and adopted in concurrence.

Message from the House No. 53

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. 870. An act relating to the merger of the Town of Pittsford and the Pittsford Fire District No. 1.

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

The House has adopted joint resolution of the following title:

J.R.H. 22. Joint resolution authorizing the use of the State House on June 18, 2014 for the 2014 Green Mountain Girls State Day.

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

The Governor has informed the House that on the February 12, 2014, he approved and signed a bill originating in the House of the following title:

H. 593. An act relating to the Winooski School District Charter's term of office for the District Treasurer.

The Governor has informed the House that on the February 14, 2014, he approved and signed a bill originating in the House of the following title:

H. 524. An act relating to making technical amendments to education laws.

The Governor has informed the House that on the February 19, 2014, he approved and signed a bill originating in the House of the following title:

H. 198. An act relating to the Legacy Insurance Management Act.

The Governor has informed the House that on the February 25, 2014, he approved and signed a bill originating in the House of the following title:

H. 655. An act relating to fiscal year 2014 budget adjustments.

The Governor has informed the House that on the April 1, 2014, he approved and signed a bill originating in the House of the following title:

H. 702. An act relating to self-generation and net metering.

The Governor has informed the House that on the April 8, 2014, he approved and signed a bill originating in the House of the following title:

H. 559. An act relating to membership on the Building Bright Futures Council.

H. 577. An act relating to ski tramways.

H. 718. An act relating to approval of amendments to the charter of the Village of Derby Line.

The Governor has informed the House that on the April 14, 2014, he approved and signed bills originating in the House of the following titles:

H. 441. An act relating to changing provisions within the Vermont Common Interest Ownership Act related to owners of time-shares.

H. 563. An act relating to captive insurance laws and accreditation standards.

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

The Governor has informed the House that on the April 18, 2014, he approved and signed bills originating in the House of the following titles:

- H. 576.** An act relating to applications for the Lifeline program.
- H. 602.** An act relating to municipal budget committees.
- H. 676.** An act relating to regulation of land uses within flood hazard areas.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Wednesday, April 23, 2014.