

Journal of the Senate

MONDAY, MAY 5, 2014

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Pledge of Allegiance

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

Message from the House No. 66

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 considered a bill originating in the Senate of the following title:

S. 252. An act relating to financing for Green Mountain Care.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

Message from the House No. 67

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 adopted House concurrent resolutions of the following titles:

H.C.R. 341. House concurrent resolution congratulating Marc Chabot on winning State and national teaching awards.

H.C.R. 342. House concurrent resolution honoring Ron Hance for his leadership of the Heritage Family Credit Union.

H.C.R. 343. House concurrent resolution honoring Betty Kinsman for her pioneering leadership of the Springfield Area Parent Child Center.

H.C.R. 344. House concurrent resolution honoring Francis Whitcomb of Albany as an extraordinary citizen, educator, and as Vermont's active community member of the year.

H.C.R. 345. House concurrent resolution congratulating 10th grade composer Susalina Francy on the Vermont Symphony Orchestra's premier of *Beowulf's Last Battle*.

H.C.R. 346. House concurrent resolution designating April 29, 2014 as Alzheimer's Awareness Day in Vermont.

H.C.R. 347. House concurrent resolution congratulating Lisa Bianconi on being selected as a Grammy Music Educator Award finalist.

H.C.R. 348. House concurrent resolution congratulating the 2013 St. Johnsbury All-Star Babe Ruth 14 and Under Vermont championship baseball team.

H.C.R. 349. House concurrent resolution honoring Prevention Works! VT.

H.C.R. 350. House concurrent resolution celebrating the 25th anniversary of Outright Vermont.

H.C.R. 351. House concurrent resolution honoring Bruce Corwin for his musical leadership of the Brattleboro American Legion Band.

H.C.R. 352. House concurrent resolution congratulating Champlain Valley Union High School on its golden anniversary.

H.C.R. 353. House concurrent resolution honoring Grace Worcester Greene of Berlin for inspiring children to read and discover their local public library.

H.C.R. 354. House concurrent resolution congratulating the Vermont Arts Council on its 50th anniversary and designating 2015 as the Year of the Arts in Vermont.

H.C.R. 355. House concurrent resolution congratulating Jacob Cady and David Gratton on their age group championships in the Elks Vermont and New England Hoop Shoots.

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

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

S.C.R. 56. Senate concurrent resolution designating May 11–17 as Women's Lung Health Week in Vermont.

And has adopted the same in concurrence.

Proposals of Amendment; Third Reading Ordered

H. 656.

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

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

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

First: In Sec. 5, 26 V.S.A. § 1211 (definitions), in subsection (b) subdivision (4), after the words “directly authorized by the immediate family members”, by inserting the words or authorized person

Second: By striking out Sec. 11 (amending 26 V.S.A. § 2022 (definitions)) in its entirety and inserting in lieu thereof the following: [Deleted.]

Third: In Sec. 12, 26 V.S.A. § 2042a (pharmacy technicians; qualifications for registration), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) if required by rules adopted by the Board, be certified or eligible for certification by a national pharmacy technician certification authority; and

Fourth: By adding a new section to be numbered Sec. 25 to read as follows:

* * * Social Workers * * *

Sec. 25. 26 V.S.A. § 3205 is amended to read:

§ 3205. ELIGIBILITY

To be eligible for licensing as a clinical social worker, an applicant must have:

* * *

(3) ~~completed~~ Completed 3,000 hours of supervised practice of clinical social work as defined by rule under the supervision of a licensed physician or a licensed osteopathic physician who has completed a residency in psychiatry, a licensed psychologist, a licensed clinical mental health counselor, a person licensed or certified under this chapter, or a person licensed or certified in another state or Canada in one of these professions or their substantial equivalent. The supervisor must be licensed or certified in the jurisdiction where the supervised practice occurs. Persons engaged in post masters supervised practice in Vermont shall be entered on the roster of nonlicensed, noncertified psychotherapists;

* * *

Fifth: In Sec. 42 (amending 26 V.S.A. § 3319a (appraiser trainee registration)), by adding a new subsection to be subsection (d) to read as follows:

(d) Appraiser trainees registered with the Board as of July 1, 2013 and who continue on to satisfy the requirements specified by the AQB may become State licensed appraisers, notwithstanding the elimination of that license category.

Sixth: By adding a new section to be numbered Sec. 50a to read as follows:

* * * Motor Vehicle Racing * * *

Sec. 50a. 26 V.S.A. § 4811 is amended to read:

§ 4811. SAFETY STANDARDS

Minimum safety standards for the conduct of any race covered by this chapter are established as follows:

* * *

(3) Any driver shall have a legal operator's license. Any driver under the age of majority shall have the written consent of a parent or guardian. A person under 10 years of age shall not be allowed in the pit area.

* * *

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

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

First: By striking out Sec. 7, 26 V.S.A. § 1256 (renewal of registration or license), in its entirety and inserting in lieu thereof the following: [Deleted.]

Second: By striking out Sec. 15, 26 V.S.A. § 2255 (fees), in its entirety and inserting in lieu thereof the following: [Deleted.]

Third: By striking out Sec. 22, 26 V.S.A. § 3010 (fees; licenses), in its entirety and inserting in lieu thereof the following: [Deleted.]

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee

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

Thereupon, the proposals of amendment recommended by the Committee on Government Operations, as amended, were agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 728.

Senator Pollina, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to developmental services' system of care.

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. 18 V.S.A. chapter 204A is amended to read:

CHAPTER 204A. DEVELOPMENTAL DISABILITIES ACT

* * *

§ 8722. DEFINITIONS

As used in this chapter:

* * *

(2) "Developmental disability" means a severe, chronic disability of a person that is manifested before the person reaches ~~the age of 18~~ years of age and results in:

(A) ~~mental retardation~~ intellectual disability, autism, or pervasive developmental disorder; and

(B) deficits in adaptive behavior at least two standard deviations below the mean for a normative comparison group.

* * *

§ 8723. DEPARTMENT OF DISABILITIES, AGING, AND INDEPENDENT LIVING; DUTIES

The ~~department~~ Department shall plan, coordinate, administer, monitor, and evaluate ~~state~~ State and federally funded services for people with developmental disabilities and their families within Vermont. The ~~department of disabilities, aging, and independent living~~ Department shall be responsible for coordinating the efforts of all agencies and services, government and

private, on a statewide basis in order to promote and improve the lives of individuals with developmental disabilities. Within the limits of available resources, the ~~department~~ Department shall:

(1) ~~Promote~~ promote the principles stated in section 8724 of this title and shall carry out all functions, powers, and duties required by this chapter by collaborating and consulting with people with developmental disabilities, their families, guardians, community resources, organizations, and people who provide services throughout the state. State;

(2) ~~Develop and~~ develop, maintain, and monitor an equitably and efficiently allocated statewide system of community-based services that reflect the choices and needs of people with developmental disabilities and their families;

(3) ~~Acquire and~~ acquire, administer, and exercise fiscal oversight over funding for these community-based services and identify needed resources and legislation, including the management of State contracts;

(4) identify resources and legislation needed to maintain a statewide system of community-based services;

(5) ~~Establish~~ establish a statewide procedure for applying for services;

(5)(6) ~~Facilitate~~ facilitate or provide pre-service or in-service training and technical assistance to service providers consistent with the system of care plan;

(6)(7) ~~Provide quality assessment and quality improvement support for the services provided throughout the state.~~ maintain a statewide system of quality assessment and assurance for services provided to people with developmental disabilities and provide quality improvement support to ensure that the principles of service in section 8724 of this title are achieved;

(7)(8) ~~Encourage~~ encourage the establishment and development of locally administered and locally controlled nonprofit services for people with developmental disabilities based on the specific needs of individuals and their families;

(8)(9) ~~Promote~~ promote and facilitate participation by people with developmental disabilities and their families in activities and choices that affect their lives and in designing services that reflect their unique needs, strengths, and cultural values;

(9)(10) ~~Promote~~ promote positive images and public awareness of people with developmental disabilities and their families;

~~(10)~~(11) Certify ~~certify~~ services that are paid for by the ~~department~~.
Department; and

~~(11)~~(12) Establish ~~establish~~ a procedure for investigation and resolution of complaints regarding the availability, quality, and responsiveness of services provided throughout the ~~state~~ State.

* * *

§ 8725. SYSTEM OF CARE PLAN

(a) ~~No later than July 1, 1997, and every~~ Every three years ~~thereafter~~, the ~~department~~ Department shall adopt a plan for the nature, extent, allocation, and timing of services consistent with the principles of service set forth in section 8724 of this title that will be provided to people with developmental disabilities and their families. ~~Notwithstanding any other provision of law, it is not required that the plan be adopted pursuant to 3 V.S.A. chapter 25.~~ Each plan shall include the following categories, which shall be adopted by rule pursuant to 3 V.S.A. chapter 25:

(1) priorities for continuation of existing programs or development of new programs;

(2) criteria for receiving services or funding; ~~and~~

(3) type of services provided; and

(4) a process for evaluating and assessing the success of programs.

(b)(1) ~~Each plan shall be~~ The Commissioner shall determine plan priorities based upon:

(A) information obtained from people with developmental disabilities, their families, guardians, and people who provide the services ~~and shall include:~~

(B) a comprehensive needs assessment; that includes:

(i) demographic information about people with developmental disabilities;

(ii) information about existing services used by individuals and their families;

(iii) characteristics of unserved and ~~under served~~ underserved individuals and populations; and

(iv) the reasons for these gaps in service, and the varying community needs and resources.

~~(2) The commissioner shall determine the priorities of the plan based on funds available to the department~~ Once the plan priorities are determined, the Commissioner may consider funds available to the Department in allocating resources.

(c) No later than 60 days before adopting the proposed plan, the ~~commissioner~~ Commissioner shall submit the ~~proposed plan~~ it to the ~~advisory board~~ Advisory Board, established in section 8733 of this title, for advice and recommendations, except that the Commissioner shall submit those categories within the plan subject to 3 V.S.A. chapter 25 to the Advisory Board at least 30 days prior to filing the proposed plan in accordance with the Vermont Administrative Procedure Act. The Advisory Board shall provide the Commissioner with written comments on the proposed plan. It may also submit public comments pursuant to 3 V.S.A. chapter 25.

(d) The Commissioner may make annual revisions to the plan as deemed necessary in accordance with the process set forth in this section. The Commissioner shall submit any proposed revisions to the Advisory Board established in section 8733 of this title for comment within the time frame established by subsection (c) of this section.

~~(e) The department~~ Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the Department shall report annually to the governor ~~and the general assembly committees of jurisdiction regarding implementation of the plan and shall make annual revisions as needed, the extent to which the principles of service set forth in section 8724 of this title are achieved, and whether people with a developmental disability have any unmet service needs, including the number of people on waiting lists for developmental services.~~

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

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

Senator Cummings, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Health and Welfare with the following amendment thereto:

In Sec. 1, 18 V.S.A § 8725, subdivision (b)(2) by striking out “may” and inserting in lieu thereof shall

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, and the recommendation of proposal of amendment of the Committee on Health and Welfare was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Health and Welfare, as amended, were agreed to and third reading of the bill was ordered.

Bill Passed

S. 308.

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

An act relating to regulating precious metal dealers.

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

H. 225.

House bill entitled:

An act relating to a statewide policy on the use of and training requirements for electronic control devices.

Was taken up.

Thereupon, pending third reading of the bill, Senators Sears and Hartwell moved to amend the Senate proposal of amendment by in Sec. 1, 20 V.S.A. § 2367, by striking out subsection (g) in its entirety and inserting a new subsection (g) to read as follows:

(g) The Law Enforcement Advisory Board shall:

(1) study and make recommendations as to whether officers authorized to carry electronic control devices should be required to wear body cameras;

(2) establish a policy on the calibration and testing of electronic control devices;

(3) on or before January 15, 2015, report to the House and Senate Committees on Government Operations and on Judiciary concerning the recommendations and policy developed pursuant to subdivisions (1) and (2) of this subsection; and

(4) on or before April 15, 2015, ensure that all electronic control devices carried or used by law enforcement officers are in compliance with the policy established pursuant to subdivision (2) of this subsection.

Which was agreed to.

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

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

H. 497.

House bill entitled:

An act relating to the open meeting law.

Was taken up.

Thereupon, pending third reading of the bill, Senator Cummings moved to amend the Senate proposal of amendment by in Sec. 3, 1 V.S.A. § 313, in subsection (a), in subdivision (3), by striking out the words “other than the appointment of a person to a public body or to any elected office”.

Which was disagreed to.

Thereupon, pending third reading of the bill, Senator White moved to amend the Senate proposal of amendment by in Sec. 2, 1 V.S.A. § 312, in subdivision (a)(1), by striking out “~~section 313(a)(2)~~ subdivision 313(b)(1)” and inserting in lieu thereof the following: section subdivision 313(a)(2)

Which was agreed to.

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

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. 790. An act relating to Reach Up eligibility.

H. 877. An act relating to repeal of report requirements that are at least five years old.

Proposal of Amendment; Point of Order; Third Reading Ordered

H. 501.

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

An act relating to operating a motor vehicle under the influence of alcohol or drugs.

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. 23 V.S.A. § 1201 is amended to read:

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR OTHER SUBSTANCE; CRIMINAL REFUSAL; ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person's alcohol concentration is 0.08 or more, or 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(2) when the person is under the influence of intoxicating liquor; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug ~~to a degree which renders the person incapable of driving safely~~; or

(4) when the person's alcohol concentration is 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title.

* * *

(h) As used in subdivision (a)(3) of this section, "under the influence of a drug" means that a drug interferes with a person's safe operation of a vehicle in the slightest degree. This subsection shall not be construed to affect the meaning of the terms "under the influence of intoxicating liquor" or "under the combined influence of alcohol and any other drug."

Sec. 2. DEPARTMENT OF PUBLIC SAFETY REPORTS; DRUG RECOGNITION EXPERTS

(a) On or before November 1, 2014, the Department of Public Safety shall report to the Senate and House Committees on Judiciary the number of Vermont law enforcement officers who are certified drug recognition experts and the number of drug recognition experts needed to provide adequate statewide law enforcement coverage;

(b) On or before November 1, 2015, the Department of Public Safety shall report to the Senate and House Committees on Judiciary on the use of drug

recognition experts in cases involving operating a motor vehicle while under the influence of drugs. The report shall include the following:

(1) the number of motor vehicle stops made by law enforcement in Vermont during the period of July 1, 2014 to June 30, 2015 and accidents that occurred during that period in which the operator of the vehicle was suspected of driving under the influence of drugs;

(2) the number of times an operator of a motor vehicle involved in an accident or stopped by a law enforcement officer during the period of July 1, 2014 to June 30, 2015 was examined by a drug recognition expert and the number of times, after examination by the drug recognition expert, that the operator was:

(A) charged with operating a motor vehicle under the influence of drugs;

(B) not charged with operating a motor vehicle under the influence of drugs; and

(C) convicted of operating a motor vehicle under the influence of drugs.

Sec. 3. 2009 Acts and Resolves No. 58, Sec. 14, as amended by 2010 Acts and Resolves No. 66, Sec. 3, is further amended to read:

Sec. 14. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

* * *

(b) The ~~department~~ Department shall electronically post the following information ~~on~~ regarding sex offenders designated in subsection (a) of this section:

- (1) the offender's name and any known aliases;
- (2) the offender's date of birth;
- (3) a general physical description of the offender;
- (4) a digital photograph of the offender;
- (5) the offender's town of residence;
- (6) the date and nature of the offender's conviction;

(7) except as provided in subsection (1) of this section, the offender's address or, if the offender does not have a fixed address, other information about where the offender habitually lives, if:

(A) the offender has been designated as high risk by the Department of Corrections pursuant to section 5411b of this title;

(B) the offender has not complied with sex offender treatment;

(C) there is an outstanding warrant for the offender's arrest;

(D) the offender is subject to the Registry for a conviction of a sex offense against a child under 13 years of age; or

(E) the offender's name has been electronically posted for an offense committed in another jurisdiction which required the person's address to be electronically posted in that jurisdiction;

(8) if the offender is under the supervision of the Department of Corrections, the name and telephone number of the local Department of Corrections office in charge of monitoring the sex offender;

~~(8)~~(9) whether the offender complied with treatment recommended by the Department of Corrections;

~~(9)~~(10) a statement that there is an outstanding warrant for the offender's arrest, if applicable;

~~(10)~~(11) the reason for which the offender information is accessible under this section;

~~(11)~~(12) whether the offender has been designated ~~high risk~~ high risk by the Department of Corrections pursuant to section 5411b of this title; and

~~(12)~~(13) if the offender has not been subject to a risk assessment, a statement that the offender has not been so assessed and that such a person is presumed to be high risk, provided that the Department of Corrections shall permit a person subject to this subdivision to obtain a risk assessment at the person's own expense.

* * *

(d) ~~An offender's street address shall not be posted electronically.~~ The identity of a victim of an offense that requires registration shall not be released.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Sears? Senator Galbraith raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that Sec. 3 of the proposal of amendment offered by Senator Sears was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that Sec. 3 of the proposal of amendment offered by Senator Sears was *not germane* to the bill.

The President thereupon declared that Sec. 3 of the proposal of amendment offered by Senator Sears could *not* be considered by the Senate and the proposal of amendment was ordered stricken.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Judiciary?, Senator Sears moved to amend the proposal of amendment by inserting a new section to be numbered Sec. 3 to read as follows:

Sec. 3. NALTREXONE INJECTIONS; DEPARTMENT OF HEALTH STUDY

The Department of Health shall evaluate the feasibility, effectiveness, risks, and benefits of using an injectable form of the opioid antagonist naltrexone in the treatment of opioid addiction in Vermont, either instead of or in addition to the use of methadone and buprenorphine. On or before January 15, 2015, the Department shall report its findings and recommendations regarding the use of injectable naltrexone in Vermont's substance abuse treatment programs to the House Committees on Human Services and on Judiciary and the Senate Committees on Health and Welfare and on Judiciary.

Which was agreed to.

Thereupon, the proposal of amendment was agreed to, and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 578.

Senator Hartwell, for the Committee on Finance, to which was referred House bill entitled:

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

Reported recommending that the Senate propose to the House to amend the bill in Sec. 1, 24 V.S.A. § 4753, in subsection (b), in the second sentence, after

“8 V.S.A. § 30101(3)” by inserting the following: , a credit union, as that term is defined in 8 V.S.A. § 30101(5),

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

Senator Snelling, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Finance.

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.

Proposal of Amendment; Third Reading Ordered

H. 645.

Senator Bray, for the Committee on Finance, to which was referred House bill entitled:

An act relating to workers' compensation.

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. 21 V.S.A. § 632 is amended to read:

§ 632. COMPENSATION TO DEPENDENTS; ~~DEATH BENEFITS~~
BURIAL AND FUNERAL EXPENSES

If death results from the injury, the employer shall pay to the persons entitled to compensation or, if there is none, then to the personal representative of the deceased employee, the actual burial and funeral expenses ~~in the amount of \$5,500.00~~ not to exceed \$10,000.00 and the actual expenses for out-of-state transportation of the decedent to the place of burial not to exceed ~~\$1,000.00~~ \$5,000.00. Every two years, the Commissioner of Labor shall evaluate the average burial and funeral expenses in the State and make a recommendation to the House Committee on Commerce and Economic Development and the Senate Committee on Finance as to whether an adjustment in compensation is warranted. The employer shall also pay to or for the benefit of the following persons, for the periods prescribed in section 635 of this title, a weekly compensation equal to the following percentages of the deceased employee's average weekly wages. The weekly compensation payment herein allowed shall not exceed the maximum weekly compensation or be lower than the minimum weekly compensation:

* * *

Sec. 2. 21 V.S.A. § 639 is amended to read:

§ 639. DEATH, PAYMENT TO DEPENDENTS

In cases of the death of a person from any cause other than the accident during the period of payments for disability or for the permanent injury, the remaining payments for disability then due or for the permanent injury shall be made to the person's dependents according to the provisions of sections 635 and 636 of this title, or if there are none, the remaining amount due, but ~~not exceeding \$5,500.00 for burial and funeral expenses~~ no more than the actual burial and funeral expenses not to exceed \$10,000.00 and the actual expenses for out-of-state transportation of the decedent to the place of burial not to exceed \$1,000.00 \$5,000.00, shall be paid in a lump sum to the proper person. Every two years, the Commissioner of Labor shall evaluate the average burial and funeral expenses in the State and make a recommendation to the House Committee on Commerce and Economic Development and the Senate Committee on Finance as to whether an adjustment in compensation is warranted.

Sec. 3. 21 V.S.A. § 640c is added to read:

§ 640c. OPIOID USAGE DETERRENCE

(a) In support of the State's fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly to protect employees from the dangers of prescription drug abuse while maintaining a balance between the employee's health and the employee's expedient return to work.

(b) As it pertains to workers' compensation claims, the Commissioner of Labor, in consultation with the Department of Health, the State Pharmacologist, the Vermont Board of Medical Practice, and the Vermont Medical Society, shall adopt rules consistent with the best practices governing the prescription of opioids, including patient screening, drug screening, and claim adjudication for patients prescribed opioids for chronic pain. In adopting rules, the Commissioner shall consider guidelines and standards such as the Occupational Medicine Practice Guidelines published by the American College of Occupational and Environmental Medicine and other medical authorities with expertise in the treatment of chronic pain. The rules shall be consistent with the standards and guidelines provided under 18 V.S.A. § 4289 and any rules adopted by the Department of Health pursuant to 18 V.S.A. § 4289.

Sec. 4. 21 V.S.A. § 641 is amended to read:

§ 641. VOCATIONAL REHABILITATION

* * *

(e)(1) In support of the State's fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly that, following a workplace accident, an employee returns to work as soon as possible but remains cognizant of the limitations imposed by his or her medical condition.

(2) The Commissioner shall adopt rules promoting development and implementation of cost-effective, early return-to-work programs.

Sec. 5. 21 V.S.A. § 643a is amended to read:

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall notify both the Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer ~~not already filed, shall be filed with the notice~~ shall be provided to the injured worker. With the notice of discontinuance, the employer shall file only evidence relevant to the discontinuance, including evidence that does not support the discontinuance, with the Commissioner. The liability for the payments shall continue for ~~seven~~ 14 days after the notice is received by the ~~commissioner~~ Commissioner and the employee. If the claimant disputes the discontinuance, the claimant may file with the Commissioner an objection to the discontinuance and seek an extension of the 14-day limit. The Commissioner may grant an extension up to 21 days. The request for an extension shall be specific as to the number of days needed and the reason for the extension and must be received by the Commissioner prior to the end of the 14-day limit. A copy of the request for an extension shall be provided to the employer at the time the request is made to the Commissioner. Those payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the Commissioner determines that the discontinuance is warranted or if otherwise ordered by the Commissioner. Every notice shall be reviewed by the Commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the

Commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the Commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the Department that establishes that a preponderance of all evidence now supports the claim. If the Commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the Commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.

Sec. 6. 21 V.S.A. § 696 is amended to read:

§ 696. CANCELLATION OF INSURANCE CONTRACTS

A policy or contract shall not be cancelled within the time ~~limited~~ specified in the policy or contract for its expiration, until at least 45 days after a notice of intention to cancel the policy or contract, on a date specified in the notice, has been filed in the office of the ~~commissioner~~ Commissioner and provided to the employer. The notice shall be filed with the Commissioner in accordance with rules adopted by the Commissioner and provided to the employer by certified mail ~~or certificate of mailing~~. The cancellation shall not affect the liability of an insurance carrier on account of an injury occurring prior to cancellation.

Sec. 7. 21 V.S.A. § 697 is amended to read:

§ 697. NOTICE OF INTENT NOT TO RENEW POLICY

An insurance carrier who does not intend to renew a workers' compensation insurance policy ~~of workers' compensation insurance~~ or guarantee contract covering the liability of an employer under the provisions of this chapter, ~~45 days prior to the expiration of the policy or contract,~~ shall give notice of ~~the~~ its intention to the ~~commissioner of labor~~ Commissioner and ~~to~~ the covered employer at least 45 days prior to the expiration date stated in the policy or contract. The notice shall be given to the employer by certified mail ~~or certificate of mailing~~. An insurance carrier who fails to give notice shall continue the policy or contract in force beyond its expiration date for 45 days from the day the notice is received by the ~~commissioner~~ Commissioner and the employer. However, ~~this latter provision shall not apply if, prior to such expiration date, on or before the expiration of the existing insurance or guarantee contract the insurance carrier has, by delivery of a renewal contract or otherwise, offered to continue the insurance beyond the date by delivery of a renewal contract or otherwise,~~ or if the employer notifies the insurance carrier in writing that the employer does not wish the insurance continued beyond the expiration date, or if the employer complies with the provisions of section 687

of this title, ~~on or before the expiration of the existing insurance or guarantee contract~~ then the policy will expire upon notice to the Commissioner.

Sec. 8. 2013 Acts and Resolves No. 75, Sec. 14 is amended as follows:

Sec. 14. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY COUNCIL

* * *

(b) The Unified Pain Management System Advisory Council shall consist of the following members:

* * *

(4) the Commissioner of Labor or designee;

(5) the Director of the Blueprint for Health or designee;

~~(5)~~(6) the Chair of the Board of Medical Practice or designee, who shall be a clinician;

~~(6)~~(7) a representative of the Vermont State Dental Society, who shall be a dentist;

~~(7)~~(8) a representative of the Vermont Board of Pharmacy, who shall be a pharmacist;

~~(8)~~(9) a faculty member of the academic detailing program at the University of Vermont's College of Medicine;

~~(9)~~(10) a faculty member of the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management;

~~(10)~~(11) a representative of the Vermont Medical Society, who shall be a primary care clinician;

~~(11)~~(12) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician;

~~(12)~~(13) a representative from the Vermont Board of Osteopathic Physicians, who shall be an osteopath;

~~(13)~~(14) a representative of the Federally Qualified Health Centers, who shall be a primary care clinician selected by the Bi-State Primary Care Association;

~~(14)~~(15) a representative of the Vermont Ethics Network;

~~(15)~~(16) a representative of the Hospice and Palliative Care Council of Vermont;

- ~~(16)~~(17) a representative of the Office of the Health Care Ombudsman;
- ~~(17)~~(18) the Medical Director for the Department of Vermont Health Access;
- ~~(18)~~(19) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals;
- ~~(19)~~(20) a member of the Vermont Board of Nursing Subcommittee on APRN Practice, who shall be an advanced practice registered nurse;
- ~~(20)~~(21) a representative from the Vermont Assembly of Home Health and Hospice Agencies;
- ~~(21)~~(22) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who has experience in treating chronic pain, to be selected by the Board of Psychological Examiners;
- ~~(22)~~(23) a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;
- ~~(23)~~(24) a retail pharmacist, to be selected by the Vermont Pharmacists Association;
- ~~(24)~~(25) an advanced practice registered nurse full-time faculty member from the University of Vermont's Department of Nursing; and
- ~~(25)~~(26) a consumer representative who is either a consumer in recovery from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain;
- (27) a clinician who specializes in occupational medicine;
- (28) a clinician who specializes in physical medicine and rehabilitation;
and
- (29) a consumer representative who is or has been an injured worker and has been prescribed opioids.

* * *

Sec. 9. 21 V.S.A. § 678 is amended to read:

§ 678. COSTS; ATTORNEY FEES

(a) Necessary costs of proceedings under this chapter, including deposition expenses, subpoena fees, and expert witness fees, shall be assessed by the ~~commissioner~~ Commissioner against the employer or its workers' compensation carrier when the claimant prevails. The ~~commissioner~~

Commissioner may allow the claimant to recover reasonable ~~attorney~~ attorney's fees when the claimant prevails. Costs shall not be taxed or allowed either party except as provided in this section.

(b) In appeals to the ~~superior or supreme courts~~ Superior or Supreme Court, if the claimant prevails, he or she shall be entitled to reasonable ~~attorney~~ attorney's fees as approved by the ~~court~~ Court, necessary costs, including deposition expenses, subpoena fees, and expert witness fees, and interest at the rate of 12 percent per annum on that portion of any award the payment of which is contested. Interest shall be computed from the date of the award of the ~~commissioner~~ Commissioner.

* * *

Sec. 10. 21 V.S.A. § 655 is amended to read:

§ 655. PROCEDURE IN OBTAINING COMPENSATION; MEDICAL EXAMINATION; VIDEO AND AUDIO RECORDING

After an injury and during the period of disability, if so requested by his or her employer, or ordered by the Commissioner, the employee shall submit to examination, at reasonable times and ~~places~~ within a 50-mile radius of the residence of the injured employee, by a duly licensed physician or surgeon designated and paid by the employer. The Commissioner may in his or her discretion permit an examination outside the 50-mile radius if it is necessary to obtain the services of a provider who specializes in the evaluation and treatment specific to the nature and extent of the employee's injury. The employee may make a video or audio recording of any examination performed by the insurer's physician or surgeon or have a licensed health care provider designated and paid by the employee present at the examination. The employer may make an audio recording of the examination. The right of the employee to record the examination shall not be construed to deny to the employer's physician the right to visit the injured employee at all reasonable times and under all reasonable conditions during total disability. If an employee refuses to submit to or in any way obstructs the examination, the employee's right to prosecute any proceeding under the provisions of this chapter shall be suspended until the refusal or obstruction ceases, and compensation shall not be payable for the period which the refusal or obstruction continues.

Sec. 11. 21 V.S.A. § 624 is amended to read:

§ 624. DUAL LIABILITY; CLAIMS, SETTLEMENT PROCEDURE

* * *

(e)(1) In an action to enforce the liability of a third party, the injured employee may recover any amount which the employee or the employee's personal representative would be entitled to recover in a civil action. Any recovery against the third party for damages resulting from personal injuries or death only, after deducting expenses of recovery, shall first reimburse the employer or its workers' compensation insurance carrier for any amounts paid or payable under this chapter to date of recovery, and the balance shall forthwith be paid to the employee or the employee's dependents or personal representative and shall be treated as an advance payment by the employer on account of any future payment of compensation benefits. Reimbursement required under this subsection, except to prevent double recovery, shall not reduce the employee's recovery of any benefit or payment provided by a plan or policy that was privately purchased by the injured employee, including uninsured-under insured motorist coverage, or any other first party insurance payments or benefits.

(2) In an instance where the recovery amount is less than the full value of the claim for personal injuries or death, the employer or its workers' compensation insurance carrier shall be reimbursed less than the amount paid or payable under this chapter. Reimbursement shall be limited to the proportion which the recovery allowed in the previous subsection bears to the total recovery for all damages. In determining the full value of the claim for personal injuries or death, the Commissioner shall make that administrative determination by considering the same evidence that a Superior Court would consider in determining damages in a personal injury or wrongful death action, or the Commissioner may order that the valuation of the claim be determined by a single arbitrator, which shall be adopted as a decision of the Commissioner. An appeal from the Commissioner's decision shall be made pursuant to section 670 of this title, except that the action shall be tried to the presiding judge of the Superior Court.

* * *

Sec. 12. EFFECTIVE DATES

(a) This section and Secs. 3, 4, 9, 10, and 11 shall take effect on passage.

(b) Secs. 1, 2, and 5–8 shall take effect on July 1, 2014.

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

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Finance.

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.

Proposals of Amendment; Third Reading Ordered

H. 646.

Senator Ashe, for the Committee on Finance, to which was referred House bill entitled:

An act relating to unemployment insurance.

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

First: In Sec. 1, 21 V.S.A. § 342a, in subsection (a), after the words “a response” by inserting the following: to the specific allegation in the complaint filed by the employee or the Department

Second: By striking out Sec. 9, in its entirety and inserting in lieu thereof three new sections to read to be numbered Secs. 9, 10 and 11 to read as follows:

Sec. 9. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS’ EXPERIENCE-RATING RECORDS;
DISCLOSURE TO SUCCESSOR ENTITY

(a)(1) The Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer’s experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

* * *

(F) The individual voluntarily separated from that employer to accompany a spouse who is on active duty with the U.S. Armed Forces or who holds a commission in the foreign service of the United States and is assigned overseas as provided by section 1344(a)(2)(A) of this chapter.

* * *

Sec. 10. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

* * *

(2) For any week benefits are claimed, except as provided in subdivision (a)(3) of this section, until he or she has presented evidence to the satisfaction of the Commissioner that he or she has performed services in employment for a bona fide employer and has had earnings in excess of six times his or her weekly benefit amount if the Commissioner finds that such individual is unemployed because:

(A) He or she has left the employ of his or her last employing unit voluntarily without good cause attributable to such employing unit. An individual shall not suffer more than one disqualification by reason of such separation. However, an individual shall not be disqualified for benefits if the individual left such employment to accompany a spouse who is on active duty with the U.S. Armed Forces or who holds a commission in the foreign service of the United States and is assigned overseas and is required to relocate by the U.S. Armed Forces due to permanent change of station orders, activation orders, or unit deployment orders, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employment unit.

* * *

Sec. 11. EFFECTIVE DATES

(a) This section and Sec. 4(h) (rulemaking for self-employment assistance program) shall take effect on passage.

(b) Secs. 1–3, 4(a)–(g) and (i), and 5–10 shall take effect on July 1, 2014.

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

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Finance.

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

House Proposal of Amendment Concurred In**S. 293.**

House proposal of amendment to Senate bill entitled:

An act relating to reporting on population-level outcomes and indicators and on program-level performance measures.

Were taken up.

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 2, 3 V.S.A. chapter 45, subchapter 5, by striking out in its entirety § 2313 (performance contracts and grants) and inserting in lieu thereof a new § 2313 to read as follows:

§ 2313. PERFORMANCE CONTRACTS AND GRANTS

(a) The Chief Performance Officer shall assist agencies as necessary in developing performance measures for contracts and grants.

(b) Annually, on or before July 30 and as part of any other report requirement to the General Assembly set forth in this subchapter, the Chief Performance Officer shall report to the General Assembly on the progress by rate or percent of how many State contracts and grants have performance accountability requirements and the rate or percent of contractors' and grantees' compliance with those requirements.

Second: By striking out in its entirety Sec. 3 (initial population-level indicators) and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. INITIAL POPULATION-LEVEL INDICATORS

Until any population-level indicators are requested pursuant to the provisions of Sec. 2 of this act, 3 V.S.A. § 2311(c) (requesting population-level indicators), each population-level quality of life outcome set forth in Sec. 2 of this act, 3 V.S.A. § 2311(b) (Vermont population-level quality of life outcomes), and listed in this section shall have the following population-level indicators:

(1) Vermont has a prosperous economy.

(A) percent or rate per 1,000 jobs of nonpublic sector employment;

(B) median household income;

(C) percent of Vermont covered by state-of-the-art telecommunications infrastructure;

(D) median house price;

(E) rate of resident unemployment per 1,000 residents;

(F) percent of structurally-deficient bridges, as defined by the Vermont Agency of Transportation; and

(G) percent of food sales that come from Vermont farms.

(2) Vermonters are healthy.

(A) percent of adults 20 years of age or older who are obese;

(B) percent of adults smoking cigarettes;

(C) number of adults who are homeless;

(D) percent of individuals and families living at different poverty levels;

(E) percent of adults at or below 200 percent of federal poverty level; and

(F) percent of adults with health insurance.

(3) Vermont's environment is clean and sustainable.

(A) cumulative number of waters subject to TMDLs or alternative pollution control plans;

(B) percent of water, sewer, and stormwater systems that meet federal and State standards;

(C) carbon dioxide per capita; and

(D) electricity by fuel or power type.

(4) Vermont's communities are safe and supportive.

(A) rate of petitions granted for relief from domestic abuse per 1,000 residents;

(B) rate of violent crime per 1,000 crimes;

(C) rate of sexual assault committed against residents per 1,000 residents;

(D) percent of residents living in affordable housing;

(E) percent or rate per 1,000 people convicted of crimes of recidivism;

(F) incarceration rate per 100,000 residents; and

(G) percent or rate per 1,000 residents of residents entering the corrections system.

(5) Vermont's families are safe, nurturing, stable, and supported.

(A) number and rate per 1,000 children of substantiated reports of child abuse and neglect;

(B) number of children who are homeless;

(C) number of families that are homeless; and

(D) number and rate per 1,000 children and youth of children and youth in out-of-home care.

(6) Vermont's children and young people achieve their potential, including:

(A) Pregnant women and young people thrive.

(i) percent of women who receive first trimester prenatal care;

(ii) percent of live births that are preterm (less than 37 weeks);

(iii) rate of infant mortality per 1,000 live births;

(iv) percent of children at or below 200 percent of federal poverty level; and

(v) percent of children with health insurance.

(B) Children are ready for school.

(i) percent of kindergarteners fully immunized with all five vaccines required for school;

(ii) percent of first-graders screened for vision and hearing problems;

(iii) percent of children ready for school in all five domains of healthy development; and

(iv) percent of children receiving State subsidy enrolled in high quality early childhood programs that receive at least four out of five stars under State standards.

(C) Children succeed in school.

(i) rate of school attendance per 1,000 children;

(ii) percent of children below the basic level of fourth grade reading achievement under State standards; and

(iii) rate of high school graduation per 1,000 high school students.

(D) Youths choose healthy behaviors.

(i) rate of pregnancy per 1,000 females 15–17 years of age;

-
- (ii) rate of pregnancy per 1,000 females 18–19 years of age;
 - (iii) percent of adolescents smoking cigarettes;
 - (iv) percent of adolescents who used marijuana in the past 30 days;
 - (v) percent of adolescents who reported ever using a prescription drug without a prescription;
 - (vi) percent of adolescents who drank alcohol in the past 30 days; and
 - (vii) number and rate per 1,000 minors of minors who are under the supervision of the Department of Corrections.

(E) Youths successfully transition to adulthood.

- (i) percent of high school seniors with plans for education, vocational training, or employment;
- (ii) percent of graduating high school seniors who continue their education within six months of graduation;
- (iii) percent of all deaths for youths 10–19 years of age;
- (iv) rate of suicide per 100,000 Vermonters;
- (v) percent of adolescents with a suicide attempt that requires medical attention;
- (vi) percent of high school graduates entering postsecondary education, work, or training;
- (vii) percent of completion of postsecondary education; and
- (viii) rate of high school graduates entering a training program per 1,000 high school graduates.

(7) Vermont's elders and people with disabilities and people with mental conditions live with dignity and independence in settings they prefer.

(A) rate of confirmed reports of abuse and neglect of vulnerable adults per 1,000 vulnerable adults;

(B) percent of elders living in institutions versus receiving home care; and

(C) number of people with disabilities and people with mental conditions receiving State services living in each of the following: institutions, residential or group facilities, or independently.

(8) Vermont has open, effective, and inclusive government at the State and local levels.

(A) percent of youth who spoke to their parents about school;

(B) percent of youth who report they help decide what goes on in their school;

(C) percent of eligible population voting in general elections;

(D) percent of students volunteering in their community in the past week;

(E) percent of youth who feel valued by their community; and

(F) percent of youth that report their teachers care about them and give them encouragement.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment?, was decided in the affirmative.

House Proposal of Amendment Concurred In

S. 281.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

The House proposes to the Senate to amend the bill 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 whether provided by a licensed optometrist or by a licensed ophthalmologist, 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 an ophthalmologist.

(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 an optometrist or an ophthalmologist.

(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 an ophthalmologist.

(2) A health insurer shall not require a licensed optometrist or ophthalmologist 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 or ophthalmologist'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) "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 application of the deductible, co-payment, or coinsurance requirements under the member's or subscriber's health insurance plan.

(2) "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.

(3) “Health insurer” shall have the same meaning as in 18 V.S.A. § 9402.

(4) “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.

(5) “Ophthalmologist” means a physician licensed pursuant to 26 V.S.A. chapter 23 or an osteopathic physician licensed pursuant to 26 V.S.A. chapter 33 who has had special training in the field of ophthalmology.

(6) “Optometrist” means a person licensed pursuant to 26 V.S.A. chapter 30.

Sec. 2. EFFECTIVE DATE

This act shall take effect on January 1, 2015.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

House Proposal of Amendment to Senate Proposal of Amendment to House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 299.

House proposal of amendment to Senate proposal of amendment to House proposal of amendment to Senate bill entitled:

An act relating to sampler flights.

Was taken up.

The House concurs in the Senate proposal of amendment to the House proposal of amendment with further proposal of amendment thereto as follows:

By striking out Sec. 8 and inserting in lieu thereof two new sections to read as follows:

Sec. 8. 31 V.S.A. § 654 is amended to read:

§ 654. POWERS AND DUTIES

The ~~commission~~ Commission shall ~~promulgate~~ adopt rules pursuant to 3 V.S.A. chapter 25 of Title 3, governing the establishment and operation of the ~~state lottery~~ State Lottery. The rules may include, ~~but shall not be limited to~~, the following:

* * *

(7) ~~Ticket sales~~ Lottery product sales locations, which may include ~~state~~ State liquor stores and liquor agencies; private business establishments, except establishments holding first- or first- and third-class licenses pursuant to Title 7; fraternal, religious, and volunteer organizations; town clerks' offices; and ~~state~~ State fairs, race tracks and other sporting arenas;

* * *

Sec. 9. EFFECTIVE DATES

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment to the House proposal of amendment?, on motion of Senator Mullin, the Senate refused to concur in the House proposal of amendment to the Senate proposal of amendment to the House proposal of amendment and requested a Committee of Conference.

House Proposal of Amendment; Consideration Postponed

S. 314.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Nondriver Identification Cards * * *

Sec. 1. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

(a) Any Vermont resident may make application to the Commissioner and be issued an identification card which is attested by the Commissioner as to true name, correct age, residential address unless the listing of another address is requested by the applicant or is otherwise authorized by law, and any other identifying data as the Commissioner may require which shall include, in the case of minor applicants, the written consent of the applicant's parent, guardian, or other person standing in loco parentis. Every application for an identification card shall be signed by the applicant and shall contain such evidence of age and identity as the Commissioner may require, consistent with subsection (1) of this section. New and renewal application forms shall include a space for the applicant to request that a "veteran" designation be placed on

his or her identification card. If a veteran, as defined in 38 U.S.C. § 101(2), requests a veteran designation and provides a Department of Defense Form 214 or other proof of veteran status specified by the Commissioner, and the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions, the identification card shall include the term "veteran" on its face. The Commissioner shall require payment of a fee of \$20.00 at the time application for an identification card is made, except that an initial nondriver identification card shall be issued at no charge to a person who surrenders his or her license in connection with a suspension or revocation under subsection 636(b) of this title due to a physical or mental condition.

~~(b) Except as provided in subsection (1) of this section, every~~ Every identification card shall expire, unless earlier canceled, on the fourth birthday of the applicant following the date of original issue, and may be renewed every four years upon payment of a \$20.00 fee. At least 30 days before an identification card will expire, the Commissioner shall mail first class to the cardholder an application to renew the identification card.

* * *

(1)(1) The Commissioner shall issue identification cards to Vermont residents who are not U.S. citizens but are able to establish lawful presence in the United States if an applicant follows the procedures and furnishes documents as required under subsection 603(d) of this title and any policies or rules adopted thereunder, and otherwise satisfies the requirements of this section. The identification cards shall expire consistent with subsection 603(d) of this title.

* * *

(4) A non-REAL ID compliant identification card issued under subdivision (2) or (3) of this subsection shall:

~~(A) bear on its face text indicating that it is not valid for federal identification or official purposes; and~~

~~(B) expire at midnight on the eve of the second birthday of the applicant following the date of issuance.~~

* * * Vehicles Eligible to Display Vanity Plates * * *

Sec. 2. 23 V.S.A. § 304(b) is amended to read:

(b) The authority to issue vanity motor vehicle number plates or special number plates for safety organizations and service organizations shall reside with the Commissioner. Determination of compliance with the criteria contained in this section shall be within the discretion of the Commissioner.

Series of number plates for safety and service organizations which are authorized by the Commissioner shall be issued in order of approval, subject to the operating considerations in the Department as determined by the Commissioner. The Commissioner shall issue vanity and special organization number plates in the following manner:

(1) Vanity plates. Subject to the restrictions of this section, vanity plates shall be issued at the request of the registrant of a motor vehicle ~~registered at the pleasure car rate or of a truck registered for less than 26,001 pounds (but excluding trucks unless the vehicle is registered under the International Registration Plan)~~, upon application and upon payment of an annual fee of \$45.00 in addition to the annual fee for registration. The Commissioner shall not issue two sets of plates bearing the same initials or letters unless the plates also contain a distinguishing number. Vanity plates are subject to reassignment if not renewed within 60 days of expiration of the registration.

* * *

(c) The Commissioner shall issue registration numbers 101 through 9999, which shall be known as reserved registration numbers, for pleasure cars ~~or~~, motor trucks that are registered at the pleasure car rate, and motorcycles in the following manner:

(1) A person holding a reserved registration number ~~between 101 and 9999~~ may retain the number for the ensuing registration period, provided application is made ~~prior to or within~~ at least 60 days of the ~~prior to~~ expiration of the registration.

(2) If the registrant does not renew the registration, the number may be reassigned to a member of the immediate family if application is made ~~within~~ at least 60 days of the ~~prior to~~ expiration of the registration. As used herein, "immediate family" means the spouse, household member, grandparents, parents, siblings, children, or grandchildren of the registrant.

(3) The Commissioner shall restrict the issuance of these registrations to residents of this State and may restrict issuance to applicants who do not already have such a registration issued to them.

(4) A person holding a reserved registration number ~~between 101 and 9999~~ on a pleasure car ~~may also have the same number on a~~, a truck that is registered at the pleasure car rate, ~~and vice versa~~ or a motorcycle may be issued the same reserved registration number for the other authorized vehicle types, provided that the person receives no more than one such plate or set of plates for each authorized vehicle type.

* * *

* * * Registration Validation Stickers; Proof of Temporary Registration * * *

Sec. 3. 23 V.S.A. § 305 is amended to read:

§ 305. REGISTRATION PERIODS

(a) The Commissioner of Motor Vehicles shall issue registration certificates, validation stickers, and number plates upon initial registration, and registration certificates and validation stickers for the each succeeding renewal period of registration, upon payment of the registration fee. ~~Except as otherwise provided, number~~ Number plates so issued will become void one year from the first day of the month following the month of issue unless a longer initial registration period is authorized by law, or unless this period is extended through renewal. Registrations issued for motor trucks shall become void one year from the first day of the month following the month of issue. The fees for annual special excess weight permits issued to these vehicles pursuant to section 1392 of this title shall be prorated so as to coincide with registration expiration dates.

(b) ~~The Commissioner of Motor Vehicles~~ shall issue a registration certificate, validation sticker, and number plates for each motor vehicle owned by the State, that shall be valid for a period of five years. Such motor vehicle shall be considered as properly registered while the plates so issued are attached thereto. The Commissioner may replace such number plates when in his or her discretion their condition requires.

(c) ~~The Commissioner may issue number plates to be used for a period of two or more years. One validating sticker shall be issued by the Department of Motor Vehicles upon payment of the registration fee for the second and each succeeding year the plate is used.~~ Except as otherwise provided in subsection (d) of this section, no plate is valid ~~for the second and succeeding years~~ unless the validation sticker is affixed to the rear plate in the manner prescribed by the Commissioner in section 511 of this title.

(d) When a registration for a motor vehicle, snowmobile, motorboat, or all-terrain vehicle is processed electronically, a receipt shall be available electronically and for printing. ~~The~~ An electronic or printed receipt shall serve as a temporary registration. ~~To be valid, the temporary registration shall be in the possession of the operator at all times, and it shall expire for~~ ten days after the date of the transaction. An electronic receipt may be shown to an enforcement officer using a portable electronic device. Use of a portable electronic device to display the receipt does not in itself constitute consent for an officer to access other contents of the device.

Sec. 4. 23 V.S.A. § 511 is amended to read:

§ 511. MANNER OF DISPLAY

(a) A motor vehicle operated on any highway shall have displayed in a conspicuous place either one or two number plates as the ~~commissioner of motor vehicles~~ Commissioner may require. Such number plates shall be furnished by the ~~commissioner of motor vehicles, showing~~ Commissioner and shall show the number assigned to such vehicle by the ~~commissioner~~ Commissioner. If only one number plate is furnished, the same shall be securely attached to the rear of the vehicle. If two are furnished, one shall be securely attached to the rear and one to the front of the vehicle. The number plates shall be kept entirely unobscured, and the numerals and the letters thereon shall be plainly legible at all times. They shall be kept horizontal, shall be so fastened as not to swing, excepting however, there may be installed on a motor truck or truck tractor a device which would, upon contact with a substantial object, permit the rear number plate to swing toward the front of the vehicle, provided such device automatically returns the number plate to its original rigid position after contact is released, and the ground clearance of the lower edges thereof shall be established by the ~~commissioner~~ Commissioner pursuant to the provisions of 3 V.S.A. chapter 25 of Title 3.

(b) A registration validation sticker shall be unobstructed, and shall be affixed as follows:

(1) for vehicles issued registration plates with dimensions of approximately 12 × 6 inches, in the lower right corner of the rear registration plate; and

(2) for vehicles issued a registration plate with a dimension of approximately 7 × 4 inches, in the upper right corner of the rear registration plate.

(c) A person shall not operate a motor vehicle unless number plates and a validation sticker are displayed as provided in this section.

* * * Reciprocal Recognition of Learner's Permits * * *

Sec. 5. 23 V.S.A. § 411 is amended to read:

§ 411. RECIPROCAL PROVISIONS

As determined by the ~~commissioner of motor vehicles~~ Commissioner, a motor vehicle owned by a nonresident, shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this ~~state,~~ State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits.

Any exemptions provided in this section shall, however, be operative as to an owner or operator of a motor vehicle only to the extent that under the laws of the foreign country or state of his residence like exemptions and privileges are granted to operators duly licensed or permitted and to owners of motor vehicles duly registered under the laws of this ~~state~~ State. If the owner or operator is a resident of a country not adjoining the United States, such exemptions shall be operative for a period of 30 days for vacation purposes, notwithstanding that such country does not grant like privileges to residents of this ~~state~~ State. Such exemptions shall not be operative as to the owner of a motor truck used for the transportation of property for hire or profit between points within the ~~state~~ State or to the owner of any motor vehicle carrying an auxiliary fuel tank or tanks providing an additional supply of motor fuel over and above that provided in the standard equipment of such vehicle.

Sec. 6. 23 V.S.A. § 615 is amended to read:

§ 615. UNLICENSED OPERATORS

(a)(1) An unlicensed person 15 years of age or older may operate a motor vehicle if he or she possesses a valid learner's permit issued to him or her by the Commissioner, or by another jurisdiction in accordance with section 411 of this title, and if his or her licensed parent or guardian, licensed or certified driver education instructor, or licensed person at least 25 years of age rides beside him or her. Nothing in this section shall be construed to permit a person against whom a revocation or suspension of license is in force, or a person ~~less~~ younger than 15 years of age, or a person who has been refused a license by the Commissioner to operate a motor vehicle.

* * * Out-of-state Junior Operators * * *

Sec. 7. 23 V.S.A. § 614 is amended to read:

§ 614. RIGHTS UNDER LICENSE

* * *

(b) A junior operator's license shall entitle the holder to operate a registered motor vehicle with the consent of the owner, but shall not entitle him or her to operate a motor vehicle in the course of his or her employment or for direct or indirect compensation for one year following issuance of the license, except that the holder may operate a farm tractor with or without compensation upon a public highway in going to and from different parts of a farm of the tractor's owner or to go to any repair shop for repair purposes. A junior operator's license shall not entitle the holder to carry passengers for hire.

(c) During the first three months of operation, the holder of a junior operator's license is restricted to driving alone or with a licensed parent or

guardian, licensed or certified driver education instructor, or licensed person at least 25 years of age. During the following three months, a junior operator may additionally transport family members. No person operating with a junior operator's license shall transport more passengers than there are safety belts unless he or she is operating a vehicle that has not been manufactured with a federally approved safety belt system. A person convicted of operating a motor vehicle in violation of this subsection shall be subject to a penalty of not more than \$50.00, and his or her license shall be recalled for a period of 90 days. The provisions of this subsection may be enforced only if a law enforcement officer has detained the operator for a suspected violation of another traffic offense.

(d) A nonresident under 18 years of age who is privileged to operate on Vermont highways under section 411 of this title shall be subject to the restrictions of subsections (b) and (c) of this section.

* * * Driving Privilege Cards * * *

Sec. 8. 23 V.S.A. § 603(h) is amended to read:

(h) A privilege card issued under this section shall:

* * *

(2) expire at midnight on the eve of the second birthday of the applicant following the date of issuance or, at the option of an applicant for an operator's privilege card and upon payment of the required four-year fee, at midnight on the eve of the fourth birthday of the applicant following the date of issuance.

Sec. 9. 23 V.S.A. § 608 is amended to read:

§ 608. FEES

(a) The four-year fee required to be paid the Commissioner for licensing an operator of motor vehicles or for issuing an operator's privilege card shall be \$48.00. The two-year fee required to be paid the Commissioner for licensing an operator or for issuing an operator's privilege card shall be \$30.00 and the two-year fee for licensing a junior operator or for issuing a junior operator's privilege card shall be \$30.00.

Sec. 10. CREDIT FOR PRICE PREMIUM OF TWO-YEAR PRIVILEGE CARDS; SUBSTITUTION OF PRIVILEGE CARDS FOR LICENSES AND PERMITS

(a) If a person issued a two-year operator's privilege card from January 1, 2014 to June 30, 2014 applies and qualifies for a four-year REAL ID-compliant operator's license or a four-year operator's privilege card upon expiration of the two-year privilege card, he or she shall be entitled upon

request to a credit of \$6.00 toward the fee of the four-year operator's license or four-year operator's privilege card.

(b) If a person issued a two-year operator's privilege card from January 1, 2014 to June 30, 2014 applies and qualifies for a four-year REAL ID-compliant operator's license prior to expiration of his or her privilege card, the Department of Motor Vehicles shall issue him or her the four-year REAL ID-compliant license at a charge of \$18.00. The four-year REAL-ID compliant license shall expire at midnight on the eve of the fourth birthday of the applicant following the date of issuance of the privilege card.

(c)(1) If a person issued a two-year operator's privilege card, junior operator's privilege card, or learner's privilege card from January 1, 2014 to December 31, 2015 applies and qualifies for a two-year REAL ID-compliant operator's license, junior operator's license, or learner's permit prior to expiration of his or her privilege card, the Department of Motor Vehicles shall issue the applicant at no charge a REAL ID-compliant license or permit that expires on the same date as the applicant's privilege card.

(2) If a person issued a four-year operator's privilege card from July 1, 2014 to December 31, 2015 applies and qualifies for a four-year REAL ID-compliant operator's license prior to expiration of his or her privilege card, the Department of Motor Vehicles shall issue at no charge a REAL ID-compliant license that expires on the same date as the applicant's privilege card.

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

Sec. 11. 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 new and renewal 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~~
A carrier who insures an applicant under this subdivision shall provide the Commissioner and the insured with proof of insurance at the beginning of each policy period. A cancellation or nonrenewal of such insurance may take effect only after notice to the Commissioner and the insured at least 15 days prior to the cancellation or nonrenewal.

* * *

* * * Definition of Business Day or Working Day * * *

Sec. 12. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the law regulating vehicles, as provided in this title and 20 V.S.A. part 5, the following definitions shall apply:

* * *

(83) "Business day" or "working day" means any calendar day except Saturday, Sunday, or any day classified as a holiday under 1 V.S.A. § 371.

* * * Proof of Financial Responsibility * * *

Sec. 13. 23 V.S.A. § 800 is amended to read:

§ 800. MAINTENANCE OF FINANCIAL RESPONSIBILITY

(a) No owner of a motor vehicle required to be registered, or operator required to be licensed or issued a learner's permit, shall operate or permit the operation of the vehicle upon the highways of the State without having in effect an automobile liability policy or bond in the amounts of at least \$25,000.00 for one person and \$50,000.00 for two or more persons killed or injured and \$10,000.00 for damages to property in any one ~~accident~~ crash. In lieu thereof, evidence of self-insurance in the amount of \$115,000.00 must be filed with the Commissioner of Motor Vehicles, and shall be maintained and evidenced in a form prescribed by the Commissioner. The Commissioner may require that evidence of financial responsibility be produced before motor vehicle inspections are performed pursuant to the requirements of section 1222 of this title.

(b) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title.

(c) Every operator of a vehicle required to be registered shall have proof of financial responsibility as required by subsection (a) of this section when operating such vehicle on the highways of this State. A person may prove financial responsibility using a portable electronic device; however, use of a device for this purpose does not in itself constitute consent for an enforcement officer to access other contents of the device. An operator cited for violating this subsection shall not be convicted if he or she sends or produces to the issuing enforcement agency within seven business days of the traffic stop proof of financial responsibility that was in effect at the time of the traffic stop.

(d) A person who violates subsection (c) of this section shall be subject to a fine of not more than \$100.00.

* * * Possession of License Certificate; Grace Period * * *

Sec. 14. 23 V.S.A. § 611 is amended to read:

§ 611. POSSESSION OF LICENSE CERTIFICATE

Every licensee shall have his or her operator's license certificate in his or her immediate possession at all times when operating a motor vehicle. However, ~~no a person charged cited~~ with violating this section or section 610 of this title shall not be convicted if he or she sends a copy of or produces in court or to the enforcement officer to the issuing enforcement agency within seven business days of the traffic stop an operator's license certificate theretofore issued to him or her which, at the time of his or her citation, that was valid or had expired within the prior 14 days prior to the traffic stop.

* * * Out-of-State Fuel User's License; Repeal * * *

Sec. 15. 23 V.S.A. § 415 is amended to read:

§ 415. NONDIESEL FUEL USER'S LICENSE

* * *

~~(c) In addition to any other provision of law relating to registration of motor vehicles, or fees paid for registration, a person owning or operating upon the highways of this state a motor truck with a gross weight of 18,000 pounds or over, powered by gasoline or other nondiesel fuel and not base registered in this state, shall apply to the commissioner for a nondiesel fuel user's license for each motor truck to be so operated. Application shall be made upon a form prescribed by the commissioner and shall set forth such information as he or she may require. The application shall be accompanied by a license fee of \$6.50 for each motor truck listed in the application, the fee being for the purpose of paying the cost of issuing the license, cab card and sticker. The commissioner shall issue a license, cab card and identification tag, plate, or sticker for each motor truck, which tag, plate or sticker shall be of the size and~~

~~design and contain such information as the commissioner shall prescribe. Except as otherwise provided, any license, cab card and tag, plate or sticker shall become void on January 1 next following the date of issue or, when determined by the commissioner, 12 months from the first day of the month of issue. Licenses and cab cards shall be carried in the motor truck and the tag, plate or sticker shall be affixed to the motor truck and at all times be visible and legible. For emergency purposes, the commissioner may by telegram, identifying the motor truck, authorize its operation without the attachment of a tag, plate or sticker for a period not to exceed 21 days from the date of issue of the license. The telegram must be kept with the truck while being so operated. This section shall not apply to motor trucks owned by federal, state, provincial, or municipal governments. [Repealed.]~~

* * *

Sec. 16. 23 V.S.A. § 3007 is amended to read:

§ 3007. DIESEL FUEL USER'S LICENSE

(a) In addition to any other provision of law relating to registration of motor vehicles, or fees paid therefore, a person owning or operating upon the highways of the state State a motor truck, ~~which that~~ is registered in the state, ~~using State and uses~~ fuel as defined in section 3002 of this title, shall, for each motor truck to be so operated, apply to the ~~commissioner~~ Commissioner for a diesel fuel user license, which shall be renewed at the time of renewal of the truck's registration. Application shall be made upon a form prescribed by ~~such commissioner~~ the Commissioner and shall set forth such information as the ~~commissioner~~ Commissioner may require. Applications filed at the time of the initial registration or renewal of a registration shall be accompanied by a \$6.50 annual license fee for each motor truck listed in the application, except that no fee shall be required for motor trucks with a gross weight of less than 26,001 pounds.

~~(b) In addition to any other provisions of law relating to registration of motor vehicles, or fees paid for registration, a person owning or operating upon the highways of the state a motor truck which is not base registered in this state, using fuel as defined in section 3002 of this title shall for each such motor truck apply to the commissioner for a diesel fuel user license. Application shall be made upon a form prescribed by the commissioner and shall set forth such information as the commissioner may require. Except for motor trucks with a gross weight of less than 26,001 pounds, and vehicles licensed under section 415 of this title, the application for issuance of initial and renewal licenses shall be accompanied by a \$6.50 license fee for each motor truck listed in the application, the fee being for the cost of the license, cab card and tag, plate or sticker. The commissioner shall issue a license, cab~~

~~card and an identification tag, plate or sticker for each motor truck which tag, plate or sticker shall be of the size and design and contain such information as the commissioner shall prescribe. Except as otherwise provided any license, cab card and tag, plate or sticker shall become void on each January 1 thereafter or, when determined by the commissioner, 12 months from the first day of the month of issue. Licenses and cab cards shall be carried in the motor vehicle and the tag, plate or sticker shall be affixed to the motor vehicle and at all times be visible and legible. [Repealed.]~~

(c) This section shall not apply to users' vehicles exempt from reporting requirements under section 3014 of this title or to users' vehicles exempt from taxation under ~~subdivisions~~ subdivision 3003(d)(3) and ~~(5)(1)(C)~~ of this title, or to users' vehicles that are being operated under the provisions of ~~sections~~ section 463 or 516 of this title.

* * * Total Abstinence; Out-of-State Applicants * * *

Sec. 17. 23 V.S.A. § 1209a(b) is amended to read:

(b) Abstinence.

(1) Notwithstanding any other provision of this subchapter, a person whose license has been suspended for life under this subchapter may apply to the Driver Rehabilitation School Director and to the Commissioner for reinstatement of his or her driving privilege. The person shall have completed three years of total abstinence from consumption of alcohol or drugs, or both. The beginning date for the period of abstinence shall be no sooner than the effective date of the suspension from which the person is requesting reinstatement and shall not include any period during which the person is serving a sentence of incarceration to include furlough. The application to the Commissioner shall be accompanied by a fee of \$500.00. The Commissioner shall have the discretion to waive the application fee if the Commissioner determines that payment of the fee would present a hardship to the applicant.

(2) If the Commissioner, or a medical review board convened by the Commissioner, is satisfied by a preponderance of the evidence that the applicant has abstained for the required number of years immediately preceding the application and hearing, has successfully completed a therapy program as required under this section, and the person appreciates that he or she cannot drink any amount of alcohol and drive safely, the person's license shall be reinstated immediately, subject to the condition that the person's suspension will be put back in effect in the event any further investigation reveals a return to the consumption of alcohol or drugs and to such additional conditions as the Commissioner may impose and, if the person has not previously operated for three years under an ignition interlock RDL, subject to the additional condition that the person shall operate under an ignition

interlock restricted driver's license for a period of at least one year following reinstatement under this subsection. However, the Commissioner may waive this one-year requirement to operate under an ignition interlock restricted driver's license if the person furnishes proof as prescribed by the Commissioner that he or she is incapable of using an ignition interlock device because of a medical condition that will persist permanently or at least for one year.

* * *

(5) A person shall be eligible for reinstatement under this subsection only once following a suspension for life.

(6)(A) If an applicant for reinstatement under this subsection resides in a jurisdiction other than Vermont, the Commissioner may elect not to conduct an investigation. If the Commissioner elects not to conduct an investigation, he or she shall provide a letter to the applicant's jurisdiction of residence stating that Vermont does not object to the jurisdiction issuing the applicant a license if the applicant is authorized to operate only vehicles equipped with an ignition interlock device and is required to complete any alcohol rehabilitation or treatment requirements of the licensing jurisdiction.

(B) If the applicant's jurisdiction of residence is prepared to issue or has issued a license in accordance with subdivision (A) of this subdivision (6) and the applicant satisfies the requirements of section 675 of this title, the Commissioner shall update relevant State and federal databases to reflect that the applicant's lifetime suspension or revocation in Vermont under chapter 13, subchapter 13 of this title has terminated.

* * * Single Trip Permits * * *

Sec. 18. 23 V.S.A. § 1400 is amended to read:

§ 1400. PERMIT TO OPERATE IN EXCESS OF WEIGHT AND SIZE LIMITS; STATE HIGHWAYS

(a) A person or corporation owning or operating a traction engine, tractor, trailer, motor truck, or other motor vehicle that desires to operate it over ~~state~~ State highways or class 1 town highways in excess of the weight and size limits provided by this subchapter shall ~~make application for such a permit to the commissioner of motor vehicles~~ apply to the Commissioner for a permit. In his or her discretion, with or without hearing, the ~~commissioner~~ Commissioner may issue to the person or corporation a permit authorizing the person to operate the traction engine, tractor, trailer, motor truck, or other motor vehicle upon ~~state~~ State highways and class 1 town highways as he or she may designate and containing the regulation subject to which the traction engine, tractor, trailer, motor truck, or other motor vehicle is to be operated.

The permit shall not be granted until satisfactory proof is furnished to the ~~commissioner~~ Commissioner that the traction engine, tractor, trailer, motor truck, or other motor vehicle has been registered and the prescribed fee paid for a gross weight equal to a maximum legal load limit for its class. No additional registration fee shall be payable to authorize the use of the traction engine, tractor, trailer, motor truck, or other motor vehicle in accordance with the terms of the permit. The approval may be ~~given for a limited or unlimited length of time,~~ may be withdrawn for cause, and may be withdrawn without cause any time after March 31 next following the date of issuance. When approval is withdrawn for cause or on March 31, the ~~commissioner of motor vehicles~~ Commissioner shall forthwith revoke the permit; when approval is withdrawn otherwise he or she shall revoke the permit within one month.

* * *

Sec. 19. 23 V.S.A. § 1402 is amended to read:

§ 1402. OVERWEIGHT, WIDTH, HEIGHT, AND LENGTH PERMITS;
FEES

(a) Overweight, overwidth, indivisible overlength, and overheight permits. Overweight, overwidth, indivisible overlength, and overheight permits shall be signed by the Commissioner or by his or her agent and a copy shall be kept in the Office of the Commissioner or in a location approved by the Commissioner. Except as provided in subsection (c) of this section, a copy shall also be available in the towing vehicle and must be available for inspection on demand of a law enforcement officer. Before operating a traction engine, tractor, trailer, motor truck, or other motor vehicle, the person to whom a permit to operate in excess of the weight, width, indivisible overlength, and height limits established by this title is granted shall pay a fee of \$35.00 for each single trip permit or \$100.00 for a blanket permit, except that the fee for a fleet blanket permit shall be \$100.00 for the first unit and \$5.00 for each unit thereafter. At the option of a carrier, an annual permit for the entire fleet, to operate over any approved route, may be obtained for \$100.00 for the first tractor and \$5.00 for each additional tractor, up to a maximum fee of \$1,000.00. The fee for a fleet permit shall be based on the entire number of tractors owned by the applicant. An applicant for a fleet permit may apply for any number of specific routes, each of which shall be reviewed with regard to the characteristics of the route and the type of equipment operated by the applicant. When the weight or size of the vehicle-load are considered sufficiently excessive for the routing requested, the Agency of Transportation shall, on request of the Commissioner, conduct an engineering inspection of the vehicle-load and route, for which a fee of \$300.00 will be added to the cost of the permit if the load is a manufactured

home. For all other loads of any size or with gross weight limits less than 150,000 pounds, the fee shall be \$800.00 for any engineering inspection that requires up to eight hours to conduct. If the inspection requires more than eight hours to conduct, the fee shall be \$800.00 plus \$60.00 per hour for each additional hour required. If the vehicle and load weigh 150,000 pounds or more but not more than 200,000 pounds, the engineering inspection fee shall be \$2,000.00. If the vehicle and load weigh more than 200,000 pounds but not more than 250,000 pounds, the engineering inspection fee shall be \$5,000.00. If the vehicle and load weigh more than 250,000 pounds, the engineering inspection fee shall be \$10,000.00. The study must be completed prior to the permit being issued. Prior to the issuance of a permit, an applicant whose vehicle weighs 150,000 pounds or more, or is 15 or more feet in width or height, shall file with the Commissioner a special certificate of insurance showing minimum coverage of \$250,000.00 for death or injury to one person, \$500,000.00 for death or injury to two or more persons, and \$250,000.00 for property damage, all arising out of any one ~~accident~~ crash.

(b) Overlength permits. Except as provided in subsections 1432(c) and (e) of this title, it shall be necessary to obtain an overlength permit as follows:

(1) For vehicles with a trailer or semitrailer longer than 75 feet anywhere in the State on highways approved by the Agency of Transportation. In such cases, the vehicle may be operated with a single trip overlength permit issued by the Department of Motor Vehicles for a fee of \$25.00. If the vehicle is 100 feet or more in length, the permit applicant shall file with the Commissioner of Motor Vehicles, a special certificate of insurance showing minimum coverage of \$250,000.00 for death or injury to one person, \$500,000.00 for death or injury to two or more persons, and \$250,000.00 for property damage, all arising out of any one ~~accident~~ crash.

(2) Notwithstanding the provisions of this section, the Agency of Transportation may erect signs at those locations where it would be unsafe to operate vehicles in excess of 68 feet in length.

* * *

~~(d) Permit for shipment of mobile or manufactured homes. The Commissioner may from time to time designate a specific route as being pre-approved for the shipment of mobile or manufactured homes which are greater than 14 feet but not greater than 16 feet in overall width. Any person to whom a permit is issued under subsection (a) of this section, to transport a mobile or manufactured home which is greater than 14 feet but not greater than 16 feet overall width, over routes that have been pre-approved shall pay in lieu of the fees established in that subsection, a single trip permit fee of \$40.00. [Repealed.]~~

* * *

(f) A single trip permit issued under this section shall be valid for seven business days.

* * * Diesel Fuel Sales Reporting * * *

Sec. 20. 23 V.S.A. § 3014(a) is amended to read:

(a) Every distributor or dealer, on or before the ~~last~~ 25th day of each month, shall file with the ~~commissioner~~ Commissioner on forms prescribed by him or her a report for the preceding month which shall include the number of gallons of fuel sold or delivered. A distributor's report shall also include the identity of the person to whom the fuel was sold or delivered, the amount of the tax collected and by whom, and the monthly total of fuel sold or delivered. The report shall be filed even though no fuel was sold or delivered.

* * * Gasoline Distributor Bond Requirement * * *

Sec. 21. 23 V.S.A. § 3102 is amended to read:

§ 3102. LICENSING AND BONDING OF DISTRIBUTORS

(a) Before commencing business, on application, a distributor shall first procure a license from the ~~commissioner of motor vehicles~~ Commissioner permitting him or her to continue or to engage in business as a distributor. Before the ~~commissioner~~ Commissioner issues a license, the distributor shall file with the ~~commissioner~~ Commissioner a surety bond in a ~~sum and~~ form and with sureties as the ~~commissioner~~ Commissioner may require ~~in~~ for a sum based on an estimate of the tax liability for a two-month period, but not to exceed \$400,000.00 \$700,000.00, conditioned upon the issuance of the report, and the payment of the tax and, penalties, and fines provided in this subchapter. Upon approval of the application and bond, the ~~commissioner~~ Commissioner shall issue to the distributor a nonassignable license which shall continue in force until surrendered or revoked.

(b)(1) The amount of the surety bonds required shall be reviewed annually in September. ~~The minimum~~ If the Commissioner retains or reimposes a bond requirement, the amount required shall be the sum of the highest two months' payment during the preceding year or \$1,000.00, whichever is greater, but in no case shall it exceed ~~\$400,000.00 \$700,000.00.~~ For new licenses, the bond amount shall be based on an estimate of the tax liability for a two-month period.

(2) A distributor may request release or reduction of the bond if the distributor has complied with all licensing and reporting requirements for at least the last three consecutive years. If the Commissioner determines that release or reduction of the bond will not unreasonably jeopardize State

revenues, the bond shall be released or reduced, notwithstanding subdivision (1) of this subsection. Upon a finding to the contrary, the Commissioner shall retain the bond. If a bond is released or reduced under this subdivision, the Commissioner may reimpose a bond or increase the bond in accordance with subdivision (1) of this subsection if he or she determines that a material change in circumstances has occurred and State revenues will be unreasonably jeopardized without the reimposition or increase. A distributor aggrieved by a decision of the Commissioner to retain, reimpose, or increase a bond may request a hearing, which shall be conducted in accordance with sections 105–107 of this title, and appeals shall be governed by section 3115 of this chapter.

~~(c) The amount of the bonds as established in accordance with subsection (b) of this section shall be increased whenever the commissioner deems it necessary to protect the revenues of the state. In addition~~ Notwithstanding the limits established in subsection (b) of this section, if payments and reports are delinquent for more than 10 days for more than one reporting period in a calendar year, the bond amount shall be increased to be the sum of the tax liability for the highest four months of the year. A distributor aggrieved by a decision of the Commissioner to increase the bond under this subsection may request a hearing, which shall be conducted in accordance with sections 105–107 of this title, and appeals shall be governed by section 3115 of this chapter.

* * *

* * * Trails Maintenance Assessments * * *

Sec. 22. 23 V.S.A. § 3202 is amended to read:

§ 3202. REGISTRATION AND TMA DECAL REQUIRED; EXCEPTIONS

(a) Registration and decal required. A person shall not operate a snowmobile in this State unless it is registered and numbered by the State of Vermont or another state or province and displays a valid Vermont ~~trails maintenance assessment (“TMA”)~~ Trails Maintenance Assessment (TMA) decal adjacent to the registration decal on the left side of the snowmobile in accordance with this chapter, except when operated:

- (1) ~~on~~ On the property of the owner of the snowmobile;~~or,~~
- (2) ~~off~~ Off the highway, in a ski area while being used for the purpose of packing snow, or in rescue operations;~~or,~~
- (3) ~~for~~ For official use by a federal, ~~state~~ State, or municipal agency and only if the snowmobile is identified with the name or seal of the agency in a manner approved by the Commissioner;~~or,~~

(4) ~~solely~~ Solely on privately owned land when the operator has the written consent of the owner, or his or her agent, of the property; ~~or.~~

(5) ~~on~~ On frozen bodies of water as designated by the Agency of Natural Resources under the provisions of 10 V.S.A. § 2607. For purposes of this subdivision, a snowmobile shall not be required to display a ~~trails maintenance assessment~~ TMA decal if not operating on a portion of the Statewide Snowmobile Trail System. Liability insurance as provided for in subdivision 3206(b)(19) of this title and a valid registration decal are required; ~~or.~~

(6) ~~for~~ For emergency use by fire service personnel.

(7) By a person who possesses a completed TMA form processed electronically and either printed out or displayed on a portable electronic device. The printed or electronic TMA form shall be valid for 10 days after the electronic transaction. Use of a portable electronic device to display a completed TMA form does not in itself constitute consent for an enforcement officer to access other contents of the device.

* * *

* * * Allocation of Snowmobile Registration Proceeds * * *

Sec. 23. 23 V.S.A. § 3214 is amended to read:

§ 3214. ALLOCATION OF FEES AND PENALTIES; LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT SERVICES

(a) The amount of \$5.00 from the sale of every resident and nonresident snowmobile registration shall be allocated to the ~~transportation fund~~ Transportation Fund. The balance of fees and penalties collected under this subchapter, except interest, shall be remitted to the ~~agency of natural resources~~ Agency of Natural Resources, which may retain for its use up to \$11,500.00 during each fiscal year for ~~the oversight of the state snowmobile trail program~~ State Snowmobile Trail Program, and the remainder shall be allocated to VAST for:

(1) ~~development~~ Development and maintenance of the ~~state snowmobile trail program~~ State Snowmobile Trail Program (SSTP);.

(2) ~~procuring~~ Procuring trails' liability insurance in accordance with subsection (b) of this section, ~~and.~~

(3) ~~contracting~~ Contracting for law enforcement services with any constable, sheriff's department, municipal police department, the ~~department of public safety~~ Department of Public Safety, and ~~or the department of fish and wildlife for purposes of trail compliance pursuant to~~ Department of Fish and

Wildlife to ensure compliance with the provisions of this chapter. The allocation for snowmobile law enforcement services shall be an amount equal to \$5.00 from the sale of every resident and nonresident snowmobile registration, and. If this allocation for law enforcement services is not fully expended, the unexpended amount carried forward may be used to purchase capital equipment to aid law enforcement in the provision of services. VAST shall be included include proposed spending on law enforcement services and on capital equipment as a part of the annual expenditure plan required by section 3215 of this chapter. The departments of public safety and fish and wildlife Departments of Public Safety and of Fish and Wildlife are authorized to contract with VAST to provide these law enforcement services.

* * *

(d) Any fees and penalties allocated pursuant to subsection (a) of this section shall not revert but shall be available until spent. Any accrued interest shall be deposited in the ~~transportation fund~~ Transportation Fund.

* * * Commercial Motor Vehicles; Serious Traffic Violations * * *

Sec. 24. 23 V.S.A. § 4103(16) is amended to read:

(16) “Serious traffic violation” means a conviction, when operating a commercial motor vehicle; or, if applicable, when operating a noncommercial motor vehicle when the conviction results in the revocation, cancellation, or suspension of the operator’s license or operating privilege, of:

* * *

(J) using a handheld mobile telephone while driving a commercial motor vehicle in violation of section 4125 of this chapter.

* * * Commercial Motor Vehicles; Disqualifications * * *

Sec. 25. 23 V.S.A. § 4116(k) is amended to read:

(k) A person shall be disqualified for a term concurrent with any disqualification or suspension issued by the administrator of the Federal Motor Carrier Safety Administration ~~pursuant to 49 C.F.R. § 383.52.~~

* * * Vermont Strong Plates * * *

Sec. 26. 2012 Acts and Resolves No. 71, Sec. 1, as amended by 2012 Acts and Resolves No. 143, Sec. 13, is amended to read:

Sec. 1. VERMONT STRONG MOTOR VEHICLE PLATES

* * *

(c) Use. An approved Vermont Strong commemorative plate may be displayed on a motor vehicle registered in Vermont as a pleasure car or on a

motor truck registered in Vermont for less than 26,001 pounds (but excluding vehicles registered under the International Registration Plan) by covering the front registration plate with the commemorative plate any time from the effective date of this act until June 30, ~~2014~~ 2016. The regular front registration plate shall not be removed. The regular rear registration plate shall be in place and clearly visible at all times.

(d) Price and allocation of revenue. The retail price of the plate shall be \$25.00, except that on or after July 1, 2016, plates may be sold by the Commissioner for \$5.00. Funds received from the sale of plates for \$5.00 shall be allocated to the Department; funds received from the sale of the plates for \$25.00 shall be allocated as follows:

- (1) \$5.00 to the ~~department~~ Department;
- (2) \$18.00 to the Vermont Disaster Relief Fund; and
- (3) \$2.00 to the Vermont Foodbank.

* * *

* * * Nonresident Registration; Repeals * * *

Sec. 27. REPEAL

The following sections of Title 23 are repealed:

- (1) § 417 (motor truck trip permits);
- (2) § 418 (collection of tax; regulations);
- (3) § 419 (reciprocal agreements for waiver of motor truck permit fees);
- (4) § 422 (motor bus identification marker).

Sec. 28. 23 V.S.A. § 421 is amended to read:

§ 421. PENALTIES

(a) It shall be unlawful for any person:

(1) to operate a motor truck subject to the provisions of this chapter upon any public highway in the ~~state~~ State without first obtaining the license; ~~emergency telegram, or single trip license~~ and tag, plate, or marker required under section 415 of this title or to so operate without carrying the license; ~~emergency telegram or single trip license~~ and displaying the tag, plate, or marker if issued;

(2) ~~to violate any regulation issued by the commissioner pursuant to the authority granted hereunder;~~ [Repealed.]

(3) to fail to file any return or report required by ~~said commissioner~~ the Commissioner; or

(4) to make a false return or fail to keep records of operations as may be required by the ~~commissioner~~; or

(5) ~~to operate a motor bus subject to the provisions of this chapter upon any public highway in the state without first obtaining the marker or single trip permit required under section 422 of this title or to so operate without displaying said marker or without the single trip permit with the vehicle~~ Commissioner.

* * *

* * * Dealer Plates * * *

Sec. 29. 23 V.S.A. § 453 is amended to read:

§ 453. FEES AND NUMBER PLATES

(a)(1) An application for dealer's registration shall be accompanied by a fee of \$370.00 for each certificate issued in such dealer's name. The Commissioner shall furnish free of charge with each dealer's registration certificate ~~five sets of~~ three number plates showing the distinguishing number assigned such dealer. ~~In his or her discretion, he or she~~ The Commissioner may furnish further sets of additional plates at a fee of \$40.00 per set according to the volume of the dealer's sales in the prior year or, in the case of an initial registration, according to the dealer's reasonable estimate of expected sales, as follows:

(A) under 20 sales: 0 additional plates;

(B) 20-49 sales: 1 additional plate;

(C) 50-99 sales: up to 5 additional plates;

(D) 100-249 sales: up to 12 additional plates;

(E) 250-499 sales: up to 17 additional plates;

(F) 500-749 sales: up to 27 additional plates;

(G) 750-999 sales: up to 37 additional plates;

(H) 1,000-1,499 sales: up to 47 additional plates;

(I) 1,500 or more: up to 57 additional plates.

(2) If the issuance of additional plates is authorized under subdivision (1) of this subsection, up to two plates shall be provided free of charge, and the Commissioner shall collect \$40.00 for each additional plate thereafter.

Sec. 30. TRANSITION PROVISION; DEALER PLATES

The Commissioner may enforce compliance with Sec. 29 of this act on a rolling basis as dealer registrations expire over the 24-month period following the effective date of Sec. 29 of this act. Over this 24-month period, upon receiving the renewal application of a dealer who has been issued plates in excess of the limits established in 23 V.S.A. § 453(a)(1), the Commissioner shall require the dealer to return plates that exceed the limits established in 23 V.S.A. § 453(a)(1).

Sec. 31. MORATORIUM ON ISSUANCE OF DEALER PLATES; REPEAL

(a) Except for replacement of damaged dealer plates, no dealer registration plates may be issued under 23 V.S.A. § 453(a) to an existing dealer in addition to the number of plates already issued to that dealer, unless the dealer would be eligible for additional plates under 23 V.S.A. § 453(a) as amended by Sec. 29 of this act.

(b) This section shall be repealed on July 1, 2014.

Sec. 32. STUDY OF USE OF DEALER PLATES ON TOWING VEHICLES

(a) The Commissioner of Motor Vehicles shall study the use of dealer plates on towing service vehicles and formulate recommendations as to whether the existing law authorizing such use should be repealed, amended, or retained in its existing form. In conducting this study, the Commissioner shall review the laws of other jurisdictions and consult with interested persons, including a cross-section of dealers.

(b) On or before January 15, 2015, the Commissioner shall report his or her findings and recommendations to the House and Senate Committees on Transportation.

* * * Recognition of Licenses Issued by Foreign Jurisdictions * * *

Sec. 33. 23 V.S.A. § 601(a)–(c) are amended to read:

(a)(1) ~~A resident who intends to operate motor vehicles shall procure a proper license~~ Except as otherwise provided by law, a resident shall not operate a motor vehicle on a highway in Vermont unless he or she holds a valid license issued by the State of Vermont. A new resident who has moved into the State from another jurisdiction ~~with~~ and who holds a valid license to operate motor vehicles under section 411 of this title shall procure a Vermont license within 60 days of moving ~~into~~ to the State. ~~Operators~~² Except as provided in subsection 603(d) of this title, licenses shall not be issued to nonresidents.

(2) In addition to any other requirement of law, a nonresident as defined in section 4 of this title shall not operate a motor vehicle on a Vermont highway unless:

(A) he or she holds a valid license or permit to operate a motor vehicle issued by another U.S. jurisdiction; or

(B) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and:

(i) is 18 or more years of age, is lawfully present in the United States, and has been in the United States for less than one year;

(ii) the jurisdiction that issued the license is a party to the 1949 Convention on Road Traffic or the 1943 Convention on the Regulation of Inter-American Motor Vehicle Traffic; and

(iii) he or she possesses an international driving permit.

(b) All operator licenses issued under this chapter shall expire every four years at midnight on the eve of the second or fourth anniversary of the date of birth of the applicant at the end of the term for which following the date they were issued. All junior operator licenses shall expire at midnight on the eve of the second anniversary of the date of birth of the applicant at the end of the term for which following the date they were issued. A person born on February 29 shall, for the purposes of this section, be considered as born on March 1.

~~(b)(c) The Commissioner shall, at At least 30 days before the birth anniversary of each operator licenseholder on which the a license is scheduled to expire and biennially for each junior operator licenseholder, the Commissioner shall mail first class, to the licensee an application for renewal of the license. A person shall not operate a motor vehicle unless properly licensed.~~

~~(e) Notwithstanding the provisions of this section, a licensee may request a two-year license renewal.~~

* * * Autocycles * * *

Sec. 34. 23 V.S.A. § 4(18) is amended to read:

(18)(A) "Motorcycle" shall mean any motor driven vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, and shall include autocycles but excluding exclude motor-driven cycles, golf carts, track driven vehicles, tractors, and electric personal assistive mobility devices, and vehicles on which the operator and passengers ride within an enclosed cab, except that a vehicle which is fully

~~enclosed, has three wheels in contact with the ground, weighs less than 1,500 pounds, has the capacity to maintain posted highway speed limits, and which uses electricity as its primary motive power shall be registered as a motorcycle but the operator of such vehicle shall not be required to have a motorcycle endorsement nor to comply with the provisions of section 1256 of this title (motorcycles headgear) in the operation of such a vehicle.~~

(B) "Autocycle" means a three-wheeled motorcycle:

(i) in which the occupants sit with their legs forward;

(ii) designed to be controlled with a steering wheel and pedals; and

(iii) equipped with safety belts for all occupants.

(C) "Fully enclosed autocycle" means an autocycle equipped with a windshield and that has full top and side enclosures capable of supporting the vehicle's weight and protecting the occupants when the vehicle is resting on the enclosures.

Sec. 35. 23 V.S.A. § 601(f) is added to read:

(f) Operators of autocycles shall be exempt from the requirements to obtain a motorcycle learner's permit or a motorcycle endorsement.

Sec. 36. 23 V.S.A. § 1114(b) is amended to read:

(b) A person shall ride upon a motorcycle or motor-driven cycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle or motor-driven cycle. The requirement of this subsection shall not apply to occupants of autocycles or of side-cars.

Sec. 37. 23 V.S.A. § 1256 is amended to read:

§ 1256. MOTORCYCLES—HEADGEAR

A person may not operate or ride upon a motorcycle upon a highway unless he or she properly wears protective headgear 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 that may be adopted by the U.S. Secretary of Transportation, as may be amended. The requirement of this section shall not apply to occupants of fully enclosed autocycles.

* * * Inspection Mechanics * * *

Sec. 38. 23 V.S.A. § 1227 is amended to read:

§ 1227. CERTIFIED INSPECTION MECHANICS

(a) Periodic inspections may be performed only by mechanics who have been certified by the ~~commissioner~~ Commissioner; provided that an uncertified person employed as an inspection mechanic may perform inspections during the first 30 days that he or she is employed by the inspection station.

(b) A person who applies for certification under this section shall:

(1) complete an application form prescribed by the ~~commissioner~~, shall Commissioner;

(2) be at least 18 years of age, ~~and shall;~~ and

(3) pass an examination based on the official inspection manual for each type of vehicle to be inspected-

~~(c) Applicants for certification under this section shall be examined and~~ on the inspection requirements for each type of vehicle to be inspected.

~~(c) Upon satisfactory completion of the examination, the commissioner an applicant's satisfaction of the requirements of subsection (b) of this section, the Commissioner shall issue a certification which shall remain in effect for a period of five years or until surrendered, suspended, or revoked. Inspection mechanics certified by their employer as competent to perform inspections and who were continuously employed by one or more designated inspection stations for a period of at least one year at any time prior to July 1, 1998 shall not be required to take the examination.~~

(d) To inspect a school bus, a certified inspection mechanic shall not be required to have a commercial driver license if he or she:

(1) uses approved automated brake testing equipment in lieu of an inspection road test; or

(2) only operates the school bus at a safe location that is not a highway as defined in 19 V.S.A. § 1(12) as necessary to conduct an inspection road test.

* * * Use of a Portable Electronic Device While Driving * * *

Sec. 39. 23 V.S.A. § 4(82) is amended to read:

(82) "Portable electronic device" means a portable electronic or computing device, including a cellular telephone, personal digital assistant (PDA), or laptop computer. "Portable electronic device" does not include a two-way or Citizens Band radio, or equipment used by a licensed Amateur Radio operator in accordance with 47 C.F.R. part 97.

Sec. 40. 23 V.S.A. § 1095b is amended to read:

§ 1095b. ~~HANDHELD USE OF PORTABLE ELECTRONIC DEVICE IN~~
~~WORK ZONE PROHIBITED~~

(a) Definition. As used in this section, “hands-free use” means the use of a portable electronic device without use of either hand ~~and outside the immediate proximity of the user’s ear~~, by employing an internal feature of, or an attachment to, the device.

(b) Use of handheld portable electronic device ~~in work zone~~ prohibited. A person shall not use a portable electronic device while operating a moving motor vehicle ~~within~~ on a highway work zone in Vermont. The prohibition of this subsection shall not apply ~~unless the work zone is properly designated with warning devices in accordance with subdivision 4(5) of this title, and shall not apply:~~

(1) to hands-free use; ~~or~~

(2) to activation or deactivation of hands-free use, as long as the device is in a cradle or otherwise securely mounted in the vehicle and the cradle or other accessory for secure mounting is not affixed to the windshield in violation of section 1125 of this title;

~~(2)(3)~~ when use of a portable electronic device is necessary for a person to communicate with law enforcement or emergency service personnel under emergency circumstances; or

(4) to use of an ignition interlock device, as defined in section 1200 of this title.

(c) ~~Penalty Penalties.~~

(1) A person who violates this section commits a traffic violation and shall be subject to a ~~penalty~~ fine of not less than \$100.00 and not more than \$200.00 ~~upon adjudication of~~ for a first violation, and of not less than \$250.00 and not more than \$500.00 ~~upon adjudication of~~ for a second or subsequent violation within any two-year period.

(2) A person convicted of violating this section while operating within a properly designated work zone in which construction, maintenance, or utility personnel are present shall have two points assessed against his or her driving record for a first conviction and five points assessed for a second or subsequent conviction.

(3) A person convicted of violating this section outside a work zone in which personnel are present shall not have points assessed against his or her

driving record for a first conviction, and shall have two points assessed for a second or subsequent conviction within a two-year period.

(d)(1) Operators of commercial motor vehicles shall be governed by the provisions of chapter 39 of this title (Commercial Driver License Act) instead of the provisions of this chapter with respect to the handheld use of mobile telephones and texting while operating a commercial motor vehicle.

(2) A person shall not be issued more than one complaint for any violation of this section, section 1095a of this title (junior operator use of portable electronic devices), or section 1099 of this title (texting prohibited) that arises from the same incident.

Sec. 41. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Any person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

(LL)(i)	§ 1095.	Entertainment picture visible to operator;
(ii)	§ 1095b(c)(2).	Use of portable electronic device in work zone—first offense;
(iii)	<u>§ 1095b(c)(3).</u>	<u>Use of portable electronic device outside work zone—second or subsequent offense within a two-year period;</u>

* * *

(4) Five points assessed for:

* * *

(D)	§ 1095b(c)(2).	Use of portable electronic device in work zone—second and subsequent offenses;
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* * *

Sec. 42. 23 V.S.A. § 1095a is amended to read:

§ 1095a. JUNIOR OPERATOR USE OF PORTABLE ELECTRONIC DEVICES

A person under 18 years of age shall not use any portable electronic device as defined in subdivision 4(82) of this title while operating a moving motor vehicle on a highway. This prohibition shall not apply ~~if it is necessary to place an emergency 911 call~~ when use of a portable electronic device is necessary for a person to communicate with law enforcement or emergency service personnel under emergency circumstances.

and by renumbering the remaining section to be numerically correct.

* * * Effective Dates * * *

Sec. 43. EFFECTIVE DATES

(a) This section, Sec. 10 (credits for and substitution of privilege cards), and Sec. 31 (moratorium on issuance of dealer plates) shall take effect on passage.

(b) Sec. 11 shall take effect on January 1, 2015. The obligation to provide proof of insurance shall apply to all policies delivered, issued for delivery, or renewed in this State on or after January 1, 2015. The obligation to provide notice of cancellation or nonrenewal shall apply to all cancellations or nonrenewals on or after January 1, 2015.

(c) Secs. 39–42 (use of portable electronic device while driving) shall take effect on October 1, 2014.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Campbell, the Senate postponed action until three o'clock and thirty minutes this afternoon.

Rules Suspended; Bills Messaged

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 308, H. 225, H. 497, H. 790, H. 877.

Adjournment

On motion of Senator Campbell, the Senate adjourned until three o'clock and thirty minutes in the afternoon.

Afternoon

The Senate was called to order by the President.

Consideration Resumed; House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 314.

Consideration was resumed on Senate bill entitled:

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

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Flory, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

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

H. 552.

House bill entitled:

An act relating to raising the Vermont minimum wage.

Was taken up.

Thereupon, pending third reading of the bill, Senator Galbraith moved to amend the Senate proposal of amendment by striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 21 V.S.A. § 384 is amended to read:

§ 384. EMPLOYMENT; WAGES

(a) An employer shall not employ ~~an~~ any employee at a rate of less than ~~\$7.25, \$9.15. Beginning on January 1, 2016, an employer shall not employ any employee at a rate of less than \$9.60. Beginning on January 1, 2017, an employer shall not employ any employee at a rate of less than \$10.00. Beginning on January 1, 2018, an employer shall not employ any employee at a rate of less than \$10.50, and, beginning on January 1, 2007, 2019 and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. Beginning on January 1, 2015, an employer who employs 50 or more employees or whose parent company employs 50 or more employees shall not employ any employee at an hourly rate of less than \$10.10, and beginning on January 1, 2016 and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage~~

increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest \$0.01. An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than ~~\$3.65 an hour, and beginning January 1, 2008, and on each January 1 thereafter, this basic tip wage rate shall be increased at the same percentage rate as the minimum wage rate one-half the minimum wage.~~ As used in this subsection, "a service or tipped employee" means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than \$120.00 per month in tips for direct and personal customer service. If the minimum wage rate established by the United States U.S. government is greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the United States U.S. government.

* * *

Which was disagreed to on a roll call, Yeas 10, Nays 18.

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, Benning, Galbraith, Hartwell, MacDonald, McCormack, Pollina, Sears, Sirotkin, Zuckerman.

Those Senators who voted in the negative were: Ayer, Baruth, Bray, Campbell, Cummings, Doyle, Flory, French, Lyons, Mazza, McAllister, Mullin, Nitka, Rodgers, Snelling, Starr, Westman, White.

Those Senators absent and not voting were: Collins, Kitchel.

Thereupon, Senator Flory moved that the Senate proposal of amendment be amended by striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 21 V.S.A. § 384 is amended to read:

§ 384. EMPLOYMENT; WAGES

(a) An employer shall not employ ~~an~~ any employee at a rate of less than ~~\$7.25, \$9.15. Beginning January 1, 2016, an employer shall not employ any~~ employee at a rate of less than \$9.60. Beginning January 1, 2017, an employer

shall not employ any employee at a rate of less than \$10.00. Beginning January 1, 2018, an employer shall not employ any employee at a rate of less than \$10.50, and, beginning January 1, 2007, 2019 and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest \$0.01. An employer may require a 12-week probationary period for new hires. During this probationary period, an employer shall not employ any employee at a rate of less than 85 percent of the minimum wage. An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than ~~\$3.65 an hour, and beginning January 1, 2008, and on each January 1 thereafter, this basic tip wage rate shall be increased at the same percentage rate as the minimum wage rate~~ one-half the minimum wage. For the purposes of As used in this subsection, "a service or tipped employee" means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than \$120.00 per month in tips for direct and personal customer service. If the minimum wage rate established by the ~~United States~~ U.S. government is greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the ~~United States~~ U.S. government.

* * *

Which was disagreed to on a roll call, Yeas 4, Nays 22.

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: Flory, Mazza, McAllister, Westman.

Those Senators who voted in the negative were: Ashe, Baruth, Benning, Bray, Cummings, Doyle, French, Galbraith, Hartwell, Lyons, MacDonald, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, White, Zuckerman.

Those Senators absent and not voting were: Ayer, Campbell, Collins, Kitchel.

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

Proposals of Amendment; Consideration Postponed

H. 413.

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

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

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

First: In Sec.1, 13 V.S.A. § 8002 subdivision (7), by striking out the sentence in its entirety and inserting in lieu thereof the following: “Offense” means any offense that is not a listed crime as defined in section 5301 of this title.

Second: In Sec. 1, 13 V.S.A. § 8003, by inserting a subsection (c) to read:

(c) This chapter shall only apply to a person charged with or convicted of an offense that is not a listed crime as defined in section 5301 of this title.

Third: In Sec. 1, 13 V.S.A. § 8012, by striking out subdivision (4) in its entirety.

Fourth: In Sec. 1, 13 V.S.A. § 8013(d), by striking out the sentence “The Court shall maintain a public record of the issuance and modification of orders of limited relief and certificates of restoration of rights.”

Fifth: By striking out Sec. 2 in its entirety and inserting in lieu thereof the following Secs. 2 and 3:

Sec. 2. 2009 Acts and Resolves No. 58, Sec. 14, as amended by 2010 Acts and Resolves No. 66, Sec. 3, is further amended to read:

Sec. 14. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

* * *

(b) The ~~department~~ Department shall electronically post the following information ~~on~~ regarding sex offenders designated in subsection (a) of this section:

- (1) the offender’s name and any known aliases;
- (2) the offender’s date of birth;
- (3) a general physical description of the offender;
- (4) a digital photograph of the offender;
- (5) the offender’s town of residence;

(6) the date and nature of the offender's conviction;

(7) except as provided in subsection (l) of this section, the offender's address or, if the offender does not have a fixed address, other information about where the offender habitually lives, if:

(A) the offender has been designated as high risk by the Department of Corrections pursuant to section 5411b of this title;

(B) the offender has not complied with sex offender treatment;

(C) there is an outstanding warrant for the offender's arrest;

(D) the offender is subject to the Registry for a conviction of a sex offense against a child under 13 years of age; or

(E) the offender's name has been electronically posted for an offense committed in another jurisdiction which required the person's address to be electronically posted in that jurisdiction;

(8) if the offender is under the supervision of the Department of Corrections, the name and telephone number of the local Department of Corrections office in charge of monitoring the sex offender;

~~(8)~~(9) whether the offender complied with treatment recommended by the Department of Corrections;

~~(9)~~(10) a statement that there is an outstanding warrant for the offender's arrest, if applicable;

~~(10)~~(11) the reason for which the offender information is accessible under this section;

~~(11)~~(12) whether the offender has been designated ~~high-risk~~ high risk by the Department of Corrections pursuant to section 5411b of this title; and

~~(12)~~(13) if the offender has not been subject to a risk assessment, a statement that the offender has not been so assessed and that such a person is presumed to be high risk, provided that the Department of Corrections shall permit a person subject to this subdivision to obtain a risk assessment at the person's own expense.

* * *

(d) ~~An offender's street address shall not be posted electronically.~~ The identity of a victim of an offense that requires registration shall not be released.

* * *

Sec. 3. EFFECTIVE DATES

This act shall take effect on passage except for Sec. 1 (collateral consequences of conviction) which shall take effect on July 1, 2015.

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.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Judiciary?, on motion of Senator Baruth consideration of the bill was postponed until later in the day.

Proposal of Amendment; Third Reading Ordered**H. 661.**

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

An act relating to exhumation requirements and notice.

Reported recommending that the Senate propose to the House to amend the bill by striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 18 V.S.A. § 5212 is amended to read:

§ 5212. PERMIT TO REMOVE DEAD BODIES; NOTICE

* * *

(b) An applicant for a removal permit shall publish notice of his or her intent to remove the remains. This notice shall be published for two successive weeks in a newspaper of general circulation in the municipality in which the body is interred or entombed. The notice shall include a statement that the spouse, child, parent, sibling, or descendant of the deceased, or that the ~~cemetary commissioner~~ Cemetery Commissioner or other municipal authority responsible for cemeteries in the municipality may object to the proposed removal by filing a complaint in the ~~probate division of the superior court~~ Probate Division of the Superior Court of the district in which the body is located as provided in section 5212a of this title. In addition to the published notice, an applicant for a removal permit shall notify directly, by certified mail, the town clerk in the municipality in which the body is interred or entombed and:

(1) the person who buried the deceased, if that person was a relative of the deceased; and

(2)(A) the surviving spouse of the deceased, if any; and

(B) all surviving adult children of the deceased.

* * *

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.

House Proposal of Amendment Concurred In

S. 291.

House proposal of amendment to Senate bill entitled:

An act relating to the establishment of transition units at State correctional facilities.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. TRANSITIONAL FACILITIES; DEPARTMENT OF CORRECTIONS; STUDY

(a) Findings. The General Assembly finds that the Department of Corrections has experienced a rise in costs of \$17,624,076.00 since FY 2012. The General Assembly further finds that there are offenders in the State of Vermont who are eligible for release from State correctional facilities but who are not released due to a lack of suitable housing. The General Assembly further finds that recidivism is reduced and public safety is enhanced when offenders receive supervision as they transition to their home community. Therefore, it is the intent of the General Assembly that the Department of Corrections shall explore the creation of secure transitional facilities so that offenders may return to their home communities. It is also the intent of the General Assembly that the housing in these facilities include programs for employment, training, transportation, and other appropriate services. It is also the intent of the General Assembly that the Department of Corrections work with communities to gain support for these programs and services.

(b) Recommendations. The Commissioner of Corrections shall examine and make recommendations for the establishment of transitional facilities under the supervision of the Department of Corrections. The recommendations shall include an evaluation of costs associated with establishing transitional facilities, a detailed budget for funding transitional facilities, an estimate of

State capital funding needs, potential site locations, a summary of the programming and services that are currently available to transitioning offenders, proposals for programming and services for transitioning offenders that may be needed, and eligibility guidelines for offenders to reside in transitional facilities, including the number of offenders who would be eligible for residence in a transitional facility.

(c) Report. On or before January 15, 2015, the Commissioner of Corrections shall submit the recommendations described in subsection (b) of this section to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

(d) Definitions. As used in this section, "transitional facility" means housing intended to be occupied by offenders granted furloughs to work in the community.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Recess

On motion of Senator Baruth the Senate recessed until 5:00 P.M.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; Proposal of Amendment; Third Reading Ordered

H. 413.

Consideration was resumed on House bill entitled:

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

Thereupon, pending the question, Shall the proposal of amendment of the Committee on Judiciary be amended as recommended by Senator Sears?, Senator Sears moved to substitute the proposal of amendment of the Committee on Judiciary with the following amendments thereto:

First: In Sec. 1, in subsection 8013(d), by striking out in its entirety the sentence "The Court shall maintain a public record of the issuance and modification of orders of limited relief and certificates of restoration of rights."

Second: In Sec. 1, by striking out section 8012 in its entirety and inserting in lieu thereof a new section 8012 to read:

§ 8012. DISCRETIONARY DISQUALIFICATIONS AND MANDATORY SANCTIONS NOT SUBJECT TO ORDER OF LIMITED RELIEF OR CERTIFICATE OF RESTORATION OF RIGHTS

(a) An order of limited relief or certificate of restoration of rights may not be issued to relieve the following mandatory sanctions:

(1) requirements imposed by chapter 167, subchapter 3 of this title (sex offender registration; law enforcement notification);

(2) a motor vehicle license suspension, revocation, limitation, or ineligibility pursuant to Title 23 for which restoration or relief is available; or

(3) ineligibility for employment by law enforcement agencies, including the Office of the Attorney General, State's Attorney, police departments, sheriff's departments, State Police, or the Department of Corrections.

(b) An order of limited relief or certificate of restoration of rights may not be issued to relieve a discretionary disqualification or mandatory sanction imposed due to:

(1) a conviction of a listed crime as defined in section 5301 of this title;
or

(2) a conviction of trafficking of regulated drugs pursuant to 18 VSA chapter 84.

Third: By striking out Sec. 2 in its entirety and inserting in lieu thereof the following Secs. 2-3:

Sec. 2. 2009 Acts and Resolves No. 58, Sec. 14, as amended by 2010 Acts and Resolves No. 66, Sec. 3, is further amended to read:

Sec. 14. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

* * *

(b) The ~~department~~ Department shall electronically post the following information ~~on~~ regarding sex offenders designated in subsection (a) of this section:

- (1) the offender's name and any known aliases;
- (2) the offender's date of birth;
- (3) a general physical description of the offender;
- (4) a digital photograph of the offender;
- (5) the offender's town of residence;

(6) the date and nature of the offender's conviction;

(7) except as provided in subsection (l) of this section, the offender's address or, if the offender does not have a fixed address, other information about where the offender habitually lives, if:

(A) the offender has been designated as high risk by the Department of Corrections pursuant to section 5411b of this title;

(B) the offender has not complied with sex offender treatment;

(C) there is an outstanding warrant for the offender's arrest;

(D) the offender is subject to the Registry for a conviction of a sex offense against a child under 13 years of age; or

(E) the offender's name has been electronically posted for an offense committed in another jurisdiction which required the person's address to be electronically posted in that jurisdiction;

(8) if the offender is under the supervision of the Department of Corrections, the name and telephone number of the local Department of Corrections office in charge of monitoring the sex offender;

~~(8)~~(9) whether the offender complied with treatment recommended by the Department of Corrections;

~~(9)~~(10) a statement that there is an outstanding warrant for the offender's arrest, if applicable;

~~(10)~~(11) the reason for which the offender information is accessible under this section;

~~(11)~~(12) whether the offender has been designated ~~high-risk~~ high risk by the Department of Corrections pursuant to section 5411b of this title; and

~~(12)~~(13) if the offender has not been subject to a risk assessment, a statement that the offender has not been so assessed and that such a person is presumed to be high risk, provided that the Department of Corrections shall permit a person subject to this subdivision to obtain a risk assessment at the person's own expense.

* * *

(d) ~~An offender's street address shall not be posted electronically.~~ The identity of a victim of an offense that requires registration shall not be released.

* * *

Sec. 3. EFFECTIVE DATES

This act shall take effect on passage except for Sec. 1 (collateral consequences of conviction) which shall take effect on July 1, 2015.

Which was agreed to.

Thereupon, the question, Shall Senate propose to the House to amend the bill as recommended by the Committee on Judiciary, as substituted?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

House Proposal of Amendment Concurred In**H. 483.**

House proposal of amendment to Senate bill entitled:

An act relating to adopting revisions to Article 9 of the Uniform Commercial Code.

Was taken up.

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

In Sec. 1, in 9A V.S.A. § 9-805(b)(2)(B), by striking out “2018” and inserting in lieu thereof 2019

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

House Proposal of Amendment Concurred In with Amendment**S. 239.**

House proposal of amendment to Senate bill entitled:

An act relating to the regulation of toxic substances.

Was taken up.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) There are more than 84,000 chemicals used commercially in the United States, and each year approximately 1,000 chemicals are added to the list of registered chemicals.

(2) More than 90 percent of the chemicals in commercial use in the United States have never been fully tested for potential impacts on human health or the environment.

(3) In 1976, the federal government passed the Toxic Substances Control Act (TSCA) in an attempt to improve the regulation of chemicals in the United States. However, TSCA grandfathered approximately 62,000 chemicals from regulation under the Act. Consequently, the U.S. Environmental Protection Agency (EPA) is not required to assess the risk of these chemicals. Since TSCA became law, EPA only has required testing for approximately 200 chemicals, and has banned or restricted the use of five of those chemicals. No chemicals have been banned in over 20 years.

(4) Biomonitoring studies reveal that toxic chemicals are in the bodies of people, including chemicals linked to cancer, brain and nervous damage, birth defects, developmental delays, and reproductive harm. Even newborn babies have chemical body burdens, proving that they are being polluted while in the womb.

(5) Vermont has regulated the use of individual chemicals of concern, including lead, mercury, bisphenol A, phthalates, decabromodiphenyl ether, tris(1,3-dichloro-2-propyl) phosphate, and tris(2-chloroethyl) phosphate, but reviewing chemicals individually, one at a time, is inefficient and inadequate for addressing the issues posed by chemicals of concern.

(6) Other states and countries, including Maine, Washington, California, and the European Union, are already taking a more comprehensive approach to chemical regulation in consumer products, and chemical regulation in Vermont should harmonize with these efforts.

(7) The State has experience monitoring and regulating chemical use through the toxic use and hazardous waste reduction programs.

(8) In order to ensure that the regulation of toxic chemicals is robust and protective, parties affected by the regulation of chemical use shall have ample opportunity to comment on proposed regulation so that the legal and financial risks of regulation are minimized.

Sec. 2. 18 V.S.A. chapter 38A is added to read:

CHAPTER 38A. CHEMICALS OF HIGH CONCERN TO CHILDREN

§ 1771. POLICY

It is the policy of the State of Vermont:

(1) to protect public health and the environment by reducing exposure of its citizens and vulnerable populations, such as children, to toxic chemicals, particularly when safer alternatives exist; and

(2) that the State attempt, when possible, to regulate toxic chemicals in a manner that is consistent with regulation of toxic chemicals in other states.

§ 1772. DEFINITIONS

As used in this chapter:

(1) "Aircraft" shall have the same meaning as in 5 V.S.A. § 202.

(2) "Chemical" means a substance with a distinct molecular composition or a group of structurally related substances and includes the breakdown products of the substance or substances that form through decomposition, degradation, or metabolism. "Chemical" shall not mean crystalline silica in any form, as derived from ordinary sand or as present as a naturally occurring component of any other mineral raw material, including granite, gravel, limestone, marble, slate, soapstone, and talc.

(3) "Chemical of high concern to children" means a chemical listed under section 1773 or designated by the Department as a chemical of high concern by rule under section 1776 of this title.

(4) "Child" or "children" means an individual or individuals under 12 years of age.

(5) "Children's cosmetics" means cosmetics that are made for, marketed for use by, or marketed to children. "Children's cosmetics" includes cosmetics that meet any of the following conditions:

(A) are represented in its packaging, display, or advertising as appropriate for use by children;

(B) are sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children; or

(C) are sold in any of the following:

(i) a retail store, catalogue, or online website, in which a person exclusively offers for sale consumer products that are packaged, displayed, or advertised as appropriate for use by children; or

(ii) a discrete portion of a retail store, catalogue, or online website, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(6) "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to children and shall include jewelry that meets any of the following conditions:

(A) is represented in its packaging, display, or advertising as appropriate for use by children;

(B) is sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children;

(C) is sized for children and not intended for use by adults; or

(D) is sold in any of the following:

(i) a vending machine;

(ii) a retail store, catalogue, or online website, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

(iii) a discrete portion of a retail store, catalogue, or online website, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(7)(A) “Children’s product” means any consumer product, marketed for use by, marketed to, sold, offered for sale, or distributed to children in the State of Vermont, including:

(i) toys;

(ii) children’s cosmetics;

(iii) children’s jewelry;

(iv) a product designed or intended by the manufacturer to help a child with sucking or teething, to facilitate sleep, relaxation, or the feeding of a child, or to be worn as clothing by children; or

(v) child car seats.

(B) “Children’s product” shall not mean or include the following:

(i) batteries;

(ii) consumer electronic products, including personal computers, audio and video equipment, calculators, wireless phones, game consoles, and hand-held devices incorporating a video screen used to access interactive software intended for leisure and entertainment and their associated peripherals;

(iii) interactive software, intended for leisure and entertainment, such as computer games, and their storage media, such as compact discs;

(iv) snow sporting equipment, including skis, poles, boots, snow boards, sleds, and bindings;

(v) inaccessible components of a consumer product that during reasonably foreseeable use and abuse of the consumer product would not come into direct contact with a child's skin or mouth; and

(vi) used consumer products that are sold in second-hand product markets.

(8) "Consumer product" means any product that is regularly used or purchased to be used for personal, family, or household purposes. "Consumer product" shall not mean:

(A) a product primarily used or purchased for industrial or business use that does not enter the consumer product market or is not otherwise sold at retail;

(B) a food or beverage or an additive to a food or beverage;

(C) a tobacco product;

(D) a pesticide regulated by the U.S. Environmental Protection Agency;

(E) a drug, or biologic regulated by the U.S. Food and Drug Administration (FDA), or the packaging of a drug, or biologic that is regulated by the FDA, including over the counter drugs, prescription drugs, dietary supplements, medical devices, or products that are both a cosmetic and a drug regulated by the FDA;

(F) ammunition or components thereof, firearms, air rifles, hunting or fishing equipment or components thereof;

(G) an aircraft, motor vehicle, vessel; or

(H) the packaging in which a product is sold, offered for sale, or distributed.

(9) "Contaminant" means a trace amount of a chemical or chemicals that is incidental to manufacturing and serves no intended function in the children's product or component of the children's product, including an unintended by-product of chemical reactions during the manufacture of the children's product, a trace impurity in feed-stock, an incompletely reacted chemical mixture, and a degradation product.

(10) "Cosmetics" means articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering appearance, and articles intended for use as a component of such an article. "Cosmetics" shall not mean soap, dietary supplements, or food and drugs approved by the U.S. Food and Drug Administration.

(11) “Intentionally added” means the addition of a chemical in a product that serves an intended function in the product component.

(12) “Manufacturer” means:

(A) any person who manufactures a children’s product or whose name is affixed to a children’s product or its packaging or advertising, and the children’s product is sold or offered for sale in Vermont; or

(B) any person who sells a children’s product to a retailer in Vermont when the person who manufactures the children’s product or whose name is affixed to the children’s product or its packaging or advertising does not have a presence in the United States other than the sale or offer for sale of the manufacturer’s products.

(13) “Motor vehicle” means every vehicle intended primarily for use and operation on the public highways and shall include snowmobiles, all-terrain vehicles, and farm tractors and other machinery used in the production, harvesting, and care of farm products.

(14) “Persistent bioaccumulative toxic” means a chemical or chemical group that, based on credible scientific information, meets each of the following criteria:

(A) the chemical can persist in the environment as demonstrated by the fact that:

(i) the half-life of the chemical in water is greater than or equal to 60 days;

(ii) the half-life of the chemical in soil is greater than or equal to 60 days; or

(iii) the half-life of the chemical in sediments is greater than or equal to 60 days; and

(B) the chemical has a high potential to bioaccumulate based on credible scientific information that the bioconcentration factor or bioaccumulation factor in aquatic species for the chemical is greater than 1,000 or, in the absence of such data, that the log-octanol water partition coefficient (log Kow) is greater than five; and

(C) the chemical has the potential to be toxic to children as demonstrated by the fact that:

(i) the chemical or chemical group is a carcinogen, a developmental or reproductive toxicant, or a neurotoxicant;

(ii) the chemical or chemical group has a reference dose or equivalent toxicity measure that is less than 0.003 mg/kg/day; or

(iii) the chemical or chemical group has a chronic no observed effect concentration (NOEC) or equivalent toxicity measure that is less than 0.1 mg/L or an acute NOEC or equivalent toxicity measure that is less than 1.0 mg/L.

(15) “Practical quantification limit (PQL)” means the lowest concentration that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness, and comparability during routine laboratory operating conditions.

(16) “Toy” means a consumer product designed or intended by the manufacturer to be used by a child at play.

(17) “Vessel” means every description of watercraft used or capable of being used as a means of transportation on water.

§ 1773. CHEMICALS OF HIGH CONCERN TO CHILDREN

(a) List of chemicals of high concern to children. The following chemicals are designated as chemicals of high concern to children for the purposes of the requirements of this chapter:

- (1) Formaldehyde.
- (2) Aniline.
- (3) N-Nitrosodimethylamine.
- (4) Benzene.
- (5) Vinyl chloride.
- (6) Acetaldehyde.
- (7) Methylene chloride.
- (8) Carbon disulfide.
- (9) Methyl ethyl ketone.
- (10) 1,1,2,2-Tetrachloroethane.
- (11) Tetrabromobisphenol A.
- (12) Bisphenol A.
- (13) Diethyl phthalate.
- (14) Dibutyl phthalate.
- (15) Di-n-hexyl phthalate.
- (16) Phthalic anhydride.
- (17) Butyl benzyl phthalate (BBP).

- (18) N-Nitrosodiphenylamine.
- (19) Hexachlorobutadiene.
- (20) Propyl paraben.
- (21) Butyl paraben.
- (22) 2-Aminotoluene.
- (23) 2,4-Diaminotoluene.
- (24) Methyl paraben.
- (25) p-Hydroxybenzoic acid.
- (26) Ethylbenzene.
- (27) Styrene.
- (28) 4-Nonylphenol; 4-NP and its isomer mixtures including CAS 84852-15-3 and CAS 25154-52-3.
- (29) para-Chloroaniline.
- (30) Acrylonitrile.
- (31) Ethylene glycol.
- (32) Toluene.
- (33) Phenol.
- (34) 2-Methoxyethanol.
- (35) Ethylene glycol monoethyl ester.
- (36) Tris(2-chloroethyl) phosphate.
- (37) Di-2-ethylhexyl phthalate.
- (38) Di-n-octyl phthalate (DnOP).
- (39) Hexachlorobenzene.
- (40) 3,3'-Dimethylbenzidine and Dyes Metabolized to 3,3'-Dimethylbenzidine.
- (41) Ethyl paraben.
- (42) 1,4-Dioxane.
- (43) Perchloroethylene.
- (44) Benzophenone-2 (Bp-2); 2,2',4,4'-Tetrahydroxybenzophenone.
- (45) 4-tert-Octylphenol; 4(1,1,3,3-Tetramethylbutyl) phenol.

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- (46) Estragole.
 - (47) 2-Ethylhexanoic acid.
 - (48) Octamethylcyclotetrasiloxane.
 - (49) Benzene, Pentachloro.
 - (50) C.I. Solvent yellow 14.
 - (51) N-Methylpyrrolidone.
 - (52) 2,2',3,3',4,4',5,5',6,6'-Decabromodiphenyl ether; BDE-209.
 - (53) Perfluorooctanyl sulphonic acid and its salts; PFOS.
 - (54) Phenol, 4-octyl.
 - (55) 2-Ethyl-hexyl-4-methoxycinnamate.
 - (56) Mercury & mercury compounds including methyl mercury (22967-92-6).
 - (57) Molybdenum and molybdenum compounds.
 - (58) Antimony and Antimony compounds.
 - (59) Arsenic and Arsenic compounds, including arsenic trioxide (1327-53-3) and dimethyl arsenic (75-60-5).
 - (60) Cadmium and cadmium compounds.
 - (61) Cobalt and cobalt compounds.
 - (62) Tris(1,3-dichloro-2-propyl)phosphate.
 - (63) Butylated hydroxyanisole; BHA.
 - (64) Hexabromocyclododecane
 - (65) Diisodecyl phthalate (DIDP).
 - (66) Diisononyl phthalate (DINP).
 - (67) any other chemical designated by the Commissioner as a chemical of high concern to children by rule under section 1776 of this title.

(b) Beginning on July 1, 2017, and biennially thereafter, the Commissioner of Health shall review the list of chemicals of high concern to children to determine if additional chemicals should be added to the list under subsection 1776(b) of this title. In reviewing the list of chemicals of high concern to children, the Commissioner of Health may consider designations made by other states, the federal government, other countries, or other governmental agencies.

(c) Publication of list. The Commissioner shall post the list of chemicals of high concern to children on the Department of Health website by chemical name and Chemical Abstracts Service number.

(d) Addition or removal from list. Under 3 V.S.A. § 806, any person may request that the Commissioner add or remove a chemical from the list of chemicals of high concern to children.

(e) PQL value. A PQL value established under this chapter for individual chemicals shall depend on the analytical method used for each chemical. The PQL value shall be based on scientifically defensible, standard analytical methods as advised by guidance published by the Department.

§ 1774. CHEMICALS OF HIGH CONCERN TO CHILDREN WORKING GROUP

(a) Creation. A Chemicals of High Concern to Children Working Group (Working Group) is created within the Department of Health for the purpose of providing the Commissioner of Health advice and recommendations regarding implementation of the requirements of this chapter.

(b) Membership.

(1) The Working Group shall be composed of the following members who, except for ex officio members, shall be appointed by the Governor after consultation with the Commissioner of Health:

(A) the Commissioner of Health or designee, who shall be the chair of the Working Group;

(B) the Commissioner of Environmental Conservation or designee;

(C) the State toxicologist or designee;

(D) a representative of a public interest group in the State with experience in advocating for the regulation of toxic substances;

(E) a representative of an organization within the State with expertise in issues related to the health of children or pregnant women;

(F) two representatives of businesses in the State that use chemicals in a manufacturing or production process or use chemicals that are used in a children's product manufactured in the State;

(G) a scientist with expertise regarding the toxicity of chemicals; and

(H) a representative of the children's products industry with expertise in existing state and national policies impacting children's products.

(2)(A) In addition to the members of the Working Group appointed under subdivision (1) of this subsection, the Governor may appoint up to three additional adjunct members.

(B) An adjunct member appointed under this subdivision (2) shall have expertise or knowledge of the chemical or children's product under review or shall have expertise or knowledge in the potential health effects of the chemical at issue.

(C) Adjunct members appointed under this subdivision (2) shall have the same authority and powers as a member of the Working Group appointed under subdivision (1) of this subsection (b).

(3) The members of the Working Group appointed under subdivision (1) of this subsection shall serve staggered three-year terms. The Governor may remove members of the Working Group who fail to attend three consecutive meetings and may appoint replacements. The Governor may reappoint members to serve more than one term.

(c) Powers and duties. The Working Group shall:

(1) upon the request of the Chair of the Working Group, review proposed chemicals for listing as a chemical of high concern to children under section 1773 of this title; and

(2) recommend to the Commissioner of Health whether rules should be adopted under section 1776 of this title to regulate the sale or distribution of a children's product containing a chemical of high concern to children.

(d) Commissioner of Health recommendation; assistance.

(1) Beginning on July 1, 2017, and biennially thereafter, the Commissioner of Health shall recommend chemicals of high concern to children in children's products for review by the Working Group. The Commissioner's recommendations shall be based on the degree of human health risks, exposure pathways, and impact on sensitive populations presented by a chemical of high concern to children.

(2) The Working Group shall have the administrative, technical, and legal assistance of the Department of Health and the Agency of Natural Resources.

(e) Meetings.

(1) The Chair of the Working Group may convene the Working Group at any time, but no less frequently than at least once every other year.

(2) A majority of the members of the Working Group, including adjunct members when appointed, shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.

(f) Reimbursement. Members of the Working Group, including adjunct members, whose participation is not supported through their employment or association shall receive per diem compensation pursuant to 32 V.S.A. § 1010 and reimbursement of travel expenses. A per diem authorized by this section shall be paid from the budget of the Department of Health.

§ 1775. DISCLOSURE OF INFORMATION ON CHEMICALS OF HIGH CONCERN

(a) Notice of chemical of high concern to children. Unless the Commissioner adopts by rule a phased-in reporting requirement under section 1776, beginning on July 1, 2015, and biennially thereafter, a manufacturer of a children's product or a trade association representing a manufacturer of children's products shall submit to the Department the notice described in subsection (b) of this section for each chemical of high concern to children in a children's product if a chemical of high concern to children is:

(1) intentionally added to a children's product at a level above the PQL produced by the manufacturer; or

(2) present in a children's product produced by the manufacturer as a contaminant at a concentration of 100 parts per million or greater.

(b) Format for notice. The Commissioner shall specify the format for submission of the notice required by subsection (a) of this section, provided that the required format shall be generally consistent with the format for submission of notice in other states with requirements substantially similar to the requirements of this section. Any notice submitted under subsection (a) shall contain the following information:

(1) the name of the chemical used or produced and its chemical abstracts service registry number;

(2) a description of the product or product component containing the chemical;

(3) the amount of the chemical contained in each unit of the product or product component, reported by weight or parts per million as authorized by the Commissioner;

(4) the name and address of the manufacturer of the children's product and the name, address, and telephone number of a contact person for the manufacturer;

(5) any other information the manufacturer deems relevant to the appropriate use of the product; and

(6) any other information required by the Commissioner under rules adopted pursuant to 3 V.S.A. chapter 25.

(c) Reciprocal data-sharing. In order for the Department to obtain the information required in the notice described in subsection (b) of this section, the Department may enter into reciprocal data-sharing agreements with other states in which a manufacturer of children's products is also required to disclose information related to chemicals of high concern to children in children's products. The Department shall not disclose trade secret information, confidential business information, or other information designated as confidential by law under a reciprocal data-sharing agreement.

(d) Waiver of format. Upon application of a manufacturer on a form provided by the Department, the Commissioner may waive the requirement under subsection (b) of this section that a manufacturer provide notice in a format specified by the Commissioner. The waiver may be granted, provided that:

(1) the manufacturer submitted the information required in a notice under this section to:

(A) a state with which the Department has entered a reciprocal data-sharing agreement; or

(B) a trade association, the Interstate Chemicals Clearinghouse, a federal governmental agency, or other independent third party;

(2) the information required to be reported in a notice under this section is provided to the Department in an alternate format, including reference to information publicly available in other states or by independent third parties; and

(3) the information required to be reported in a notice under this section is available on or accessible from the Department of Health website.

(e) Chemical control program. A manufacturer shall be exempt from the requirements of notice under this section for any chemical of high concern to children that is present in a children's product or component of a children's product only as a contaminant if, during manufacture of the children's product, the manufacturer was implementing a manufacturing control program and exercised due diligence to minimize the presence of the contaminant in the children's product.

(f) Notice of removal of chemical. A manufacturer who submitted the notice required by subsection (a) of this section may at any time submit to the

Department notice that a chemical of high concern to children has been removed from the manufacturer's children's product or that the manufacturer no longer sells, offers for sale, or distributes in the State the children's product containing the chemical of high concern to children. Upon verification of a manufacturer's notice under this subsection, the Commissioner shall promptly remove from the Department website any reference to the relevant children's product of the manufacturer.

(g) Certificate of compliance. A manufacturer required to submit notice under this section to the Commissioner may rely on a certificate of compliance from suppliers for determining reporting obligations.

(h) Products for sale out of State. A manufacturer shall not be required to submit notice under this section for a children's product manufactured, stored in, or transported through Vermont solely for use or sale outside of the State of Vermont.

(i) Publication of information; disclaimer. The Commissioner shall post on the Department of Health website information submitted under this section by a manufacturer. When the Commissioner posts on the Department of Health website information submitted under this section by a manufacturer, the Commissioner shall provide the following notice:

"The reports on this website are based on data provided to the Department. The presence of a chemical in a children's product does not necessarily mean that the product is harmful to human health or that there is any violation of existing safety standards or laws. The reporting triggers are not health-based values."

(j) Fee. A manufacturer shall pay a fee of \$200.00 for each notice required under subsection (a) of this section. If, under subsection (d) of this section, the Commissioner waives the required format for reporting, the fee shall not be waived. Fees collected under this subsection shall be deposited in the Chemicals of High Concern Fund for the purposes of that Fund.

(k) Application of section. The requirements of this section shall apply unless a manufacturer is exempt or unless notice according to the requirements of this section is specifically preempted by federal law. In the event of conflict between the requirements of this section and federal law, federal law shall control.

§ 1776. RULEMAKING; ADDITIONAL CHEMICALS OF CONCERN TO CHILDREN; PROHIBITION OF SALE

(a) Rulemaking authority. The Commissioner shall, after consultation with the Secretary of Natural Resources, adopt rules as necessary for the purposes of implementing, administering, or enforcing the requirements of this chapter.

(b) Additional chemicals of concern to children. The Commissioner may by rule add additional chemicals to the list of chemicals of high concern to children, provided that the Commissioner of Health, on the basis of the weight of credible, scientific evidence, has determined that a chemical proposed for addition to the list meets both of the following criteria in subdivisions (1) and (2) of this subsection:

(1) The Commissioner of Health has determined that an authoritative governmental entity or accredited research university has demonstrated that the chemical:

(A) harms the normal development of a fetus or child or causes other developmental toxicity;

(B) causes cancer, genetic damage, or reproductive harm;

(C) disrupts the endocrine system;

(D) damages the nervous system, immune system, or organs or causes other systemic toxicity; or

(E) is a persistent bioaccumulative toxic.

(2) The chemical has been found through:

(A) biomonitoring to be present in human blood, umbilical cord blood, breast milk, urine, or other bodily tissues or fluids;

(B) sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(C) monitoring to be present in fish, wildlife, or the natural environment.

(c) Removal of chemical from list. The Commissioner may by rule remove a chemical from the list of chemicals of high concern to children established under section 1773 of this title or rules adopted under this section if the Commissioner determines that the chemical no longer meets both of the criteria of subdivisions (b)(1) and (2) of this section.

(d) Rule to regulate sale or distribution.

(1) The Commissioner, upon the recommendation of the Chemicals of High Concern to Children Working Group, may adopt a rule to regulate the sale or distribution of a children's product containing a chemical of high concern to children upon a determination that:

(A) children will be exposed to a chemical of high concern to children in the children's product; and

(B) there is a probability that, due to the degree of exposure or frequency of exposure of a child to a chemical of high concern to children in a children's product, exposure could cause or contribute to one or more of the adverse health impacts listed under subdivision (b)(1) of this section.

(2) In determining whether children will be exposed to a chemical of high concern in a children's product, the Commissioner shall review available, credible information regarding:

(A) the market presence of the children's product in the State;

(B) the type or occurrence of exposures to the relevant chemical of high concern to children in the children's product;

(C) the household and workplace presence of the children's product;

(D) the potential and frequency of exposure of children to the chemical of high concern to children in the children's product.

(3) A rule adopted under this section may:

(A) prohibit the children's product containing the chemical of high concern to children from sale, offer for sale, or distribution in the State; or

(B) require that the children's product containing the chemical of high concern to children be labeled prior to sale, offer for sale, or distribution in the State.

(4) In any rule adopted under this subsection, the Commissioner shall adopt reasonable time frames for manufacturers, distributors, and retailers to comply with the requirements of the rules. No prohibition on sale or manufacture of a children's product in the State shall take effect sooner than two years after the adoption of a rule adopted under this section unless the Commissioner determines that an earlier effective date is required to protect human health and the new effective date is established by rule.

(e) Exemption for chemical management strategy. In adopting a rule under this section, the Commissioner may exempt from regulation a children's product containing a chemical of high concern to children if the manufacturer of the children's product is implementing a comprehensive chemical management strategy designed to eliminate harmful substances or chemicals from the manufacturing process.

(f) Additional rules.

(1) On or before July 1, 2017, the Commissioner of Health shall adopt by rule the process and procedure to be required when the Commissioner of Health adopts a rule under subsection (b) or (c) of this section. The rule shall provide all relevant criteria for evaluation of the chemical, time frames for

labeling or phasing out sale or distribution, and other information or process determined as necessary by the Commissioner for implementation of this chapter.

(2) The Commissioner may, by rule, authorize a manufacturer to report ranges of the amount of a chemical in a children's product, rather than the exact amount, provided that if there are multiple chemical values for a given component in a particular product category, the manufacturer shall use the largest value for reporting.

(3) Notwithstanding the required reporting dates under section 1774 of this title, the Commissioner may adopt by rule phased-in reporting requirements for chemicals of high concern to children in children's products based on the size of the manufacturer, aggregate sales of children's products, or the exposure profile of the chemical of high concern to children in the children's product.

(g) Additional public participation. In addition to the public participation requirements of 3 V.S.A. chapter 25 and prior to submitting a rule authorized under this section to the Secretary of State under 3 V.S.A. § 838, the Commissioner shall make reasonable efforts to consult with interested parties within the State regarding any proposed prohibition of a chemical of high concern to children. The Commissioner may satisfy the consultation requirement of this section through the use of one or more workshops, focused work groups, dockets, meetings, or other forms of communication.

§ 1777. CHEMICALS OF HIGH CONCERN TO CHILDREN FUND

(a) The Chemicals of High Concern to Children Fund is established in the State Treasury, separate and distinct from the General Fund, to be administered by the Commissioner of Health. Interest earned by the Fund shall be credited to the Fund. Monies in the Fund shall be made available to the Department of Health and the Agency of Natural Resources to pay costs incurred in administration of the requirements of this chapter.

(b) The Chemicals of High Concern to Children Fund shall consist of:

(1) fees and charges collected under section 1775 of this chapter;

(2) private gifts, bequests, grants, or donations made to the State from any public or private source for the purposes for which the Fund was established; and

(3) such sums as may be appropriated by the General Assembly.

§ 1778. CONFIDENTIALITY

Information submitted to or acquired by the Department or the Chemicals of High Concern to Children Working Group under this chapter may be subject to public inspection or copying or may be published on the Department website, provided that trade secret information and confidential business information shall be exempt from public inspection and copying under 1 V.S.A. § 317(c)(9) and information otherwise designated confidential by law shall be exempt from public inspection and copying under 1 V.S.A. § 317(c)(1). It shall be the burden of the manufacturer to assert that information submitted under this chapter is a trade secret, confidential business information, or is otherwise designated confidential by law. When a manufacturer asserts under this section that the specific identity of a chemical of high concern to children in a children's product is a trade secret, the Commissioner shall, in place of the specific chemical identity, post on the Department's website the generic class or category of the chemical in the children's product and the potential health effect of the specific chemical of high concern to children.

§ 1779. VIOLATIONS; ENFORCEMENT

A violation of this chapter shall be considered a violation of the Consumer Protection Act in 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions under 9 V.S.A. chapter 63, subchapter 1. Private parties shall not have a private right of action under this chapter.

Sec. 3. REPORT TO GENERAL ASSEMBLY; CHEMICALS OF HIGH CONCERN TO CHILDREN

On or before January 15, 2015, and biennially thereafter, the Commissioner of Health, after consultation with the Secretary of Natural Resources, shall submit to the Senate Committee on Health and Welfare, the House Committee on Human Services, the House Committee on Ways and Means, the Senate Committee on Finance, and the Senate and House Committees on Appropriations, a report concerning implementation, administration, and financing by the Department of Health of the requirements of 18 V.S.A. chapter 38A regarding the chemicals of high concern to children. The report shall include:

(1) Any updates to the list of chemicals of high concern to children required under 18 V.S.A. § 1773.

(2) The number of manufacturers providing notice under 18 V.S.A. § 1775 regarding whether a children's product includes a chemical of high concern to children.

(3) The number of chemicals of high concern to children for which manufacturers asserted trade secret protection for the specific identity of the chemical, and a recommendation of whether a process should be established to review the validity of asserted trade secrets.

(4) An estimate of the annual cost to the Department of Health to implement the chemicals of high concern to children program.

(5) The number of Department of Health employees needed to implement the chemicals of high concern to children program.

(6) An estimate of additional funding that the Department may require to implement the chemicals of high concern to children program.

(7) A recommendation of how the State should collaborate with other states in implementing the requirements of the chemicals of high concern to children program.

(8) A recommendation as to whether the requirements of this chapter should be expanded to consumer products other than children's products.

Sec. 4. 7 V.S.A. § 1012 is added to read:

§ 1012. LIQUID NICOTINE; PACKAGING

(a) As used in this section, "liquid nicotine container" means a bottle or other container that contains liquid nicotine or other substance containing nicotine, where the liquid or other substance is sold, marketed, or intended for use in an electronic delivery device.

(b) Unless specifically preempted by federal law, a liquid nicotine container that is sold at retail in the State shall satisfy the child-resistant effectiveness standards under 16 C.F.R. § 1700.15(b)(1) when tested in accordance with the requirements of 16 C.F.R. § 1700.20.

Sec. 5. EFFECTIVE DATES

(a) Secs. 1–3 and this section shall take effect on passage.

(b) Sec. 4 (liquid nicotine; packaging) shall take effect on January 1, 2015.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Lyons moved that the Senate concur in the House proposal of amendment with an amendment as follows:

First: In Sec. 2, in 18 V.S.A. § 1772, in subdivision (7)(A), after "children in the State of Vermont," and before "including" by inserting the following: or any consumer product whose substantial use or handling by children under 12 years of age is reasonably foreseeable,

and by striking out subdivisions (7)(B)(ii) and (iii) in their entirety

and by renumbering the remaining subdivisions to be numerically correct.

Second: In Sec. 2, in 18 V.S.A. § 1772, in subdivision (8)(G), by striking out “or” where it appears

and by adding new subdivisions (8)(H) and (8)(I) to read as follows:

(H) consumer electronic products, including personal computers, audio and video equipment, calculators, wireless telephones, game consoles, and hand-held devices incorporating a video screen used to access interactive software intended for leisure and entertainment and their associated peripherals;

(I) interactive software, intended for leisure and entertainment, such as computer games, and their storage media, such as compact discs; or

and by relettering the remaining subdivision in subdivision (8) to be alphabetically correct.

Third: In Sec. 2, in 18 V.S.A. § 1772, by striking out subdivision (11) in its entirety and by renumbering the remaining subdivisions to be numerically correct.

Fourth: In Sec. 2, in 18 V.S.A. § 1774, in subdivision (b)(1)(F), by striking out “two representatives” where it appears and inserting in lieu thereof one representative

and in subdivision (d)(1), after “shall recommend” and before “chemicals of high concern” by inserting at least two

and by adding subsection (g) to read as follows:

(g) Right of appeal. Individual members of the Working Group and the Working Group as a whole shall have the right to appeal to the Board of Health an act or omission by the Commissioner in the implementation or administration of the requirements of this chapter.

Fifth: In Sec. 2, in 18 V.S.A. § 1775, in subsection (a), after “on July, 1,” and before “, and biennially thereafter” by striking out “2015” and inserting in lieu thereof 2016

and in subdivision (a)(1), by striking out “intentionally added to” where it appears and inserting in lieu thereof present in

and by striking out subsection (g) in its entirety and by relettering the remaining subsections to be alphabetically correct.

Sixth: In Sec. 2, in 18 V.S.A. § 1776, in subdivision (d)(1), after “The Commissioner” and before “may adopt a rule” by striking out “, upon the recommendation of the Chemicals of High Concern to Children Working Group,”

and in subdivision (d)(2), after “credible information regarding” and before the colon, by inserting one or more of the following

and in subdivision (d)(2)(C), after the semicolon, by inserting or

and in subdivision (f)(1), by striking out the second sentence in its entirety and inserting in lieu thereof the following:

The rule shall provide:

(A) all relevant criteria for evaluation of the chemical;

(B) criteria by which a chemical, due to its presence in the environment or risk of harm, shall be prioritized for addition or removal from the list of chemicals of high concern to children or for regulation under subsection (d) of this section;

(C) time frames for labeling or phasing out sale or distribution; and

(D) other information or process determined as necessary by the Commissioner for implementation of this chapter.

Seventh: In Sec. 2, in 18 V.S.A. § 1778, by adding a sentence at the end of the section to read as follows:

The Commissioner may publish information submitted or acquired under this chapter that is designated a trade secret, confidential business information, or otherwise confidential by law in a summary or aggregate form, provided that any published information shall not directly or indirectly identify an individual manufacturer or a business advantage of an individual manufacturer.

Eighth: By striking out Secs. 4 (liquid nicotine packaging) and 5 (Effective Dates) in their entirety and by inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to on a roll call, Yeas 17, Nays 11.

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: Ashe, Ayer, Baruth, Bray, Campbell, Cummings, Doyle, French, Lyons, MacDonald, Mazza, McCormack, Mullin, Pollina, Sirotkin, White, Zuckerman.

Those Senators who voted in the negative were: Benning, Flory, Galbraith, Hartwell, McAllister, Nitka, Rodgers, Sears, *Snelling, Starr, Westman.

Those Senators absent and not voting were: Collins, Kitchel.

*Senator Snelling explained her vote as follows:

“I respect the work of the Senate Health and Welfare Committee and everyone else who has worked on this legislation.

“However I remain concerned about the unintended consequences on good businesses and the lack of collaboration in developing this further amendment.”

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 287.

House proposal of amendment to Senate bill entitled:

An act relating to involuntary treatment and medication.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 7101 is amended to read;

§ 7101. DEFINITIONS

As used in this part of this title, the following words, unless the context otherwise requires, shall have the following meanings:

* * *

(9) “Interested party” means a guardian, spouse, parent, adult child, close adult relative, a responsible adult friend, or person who has the individual in his or her charge or care. It also means a mental health professional, a law enforcement officer, a licensed physician, or a head of a hospital, ~~a selectman, a town service officer, or a town health officer.~~

* * *

(29) "Peer" means an individual who has a personal experience of living with a mental health condition or psychiatric disability.

(30) "Peer services" means support services provided by trained peers or peer-managed organizations focused on helping individuals with mental health and other co-occurring conditions to support recovery.

Sec. 1a. 18 V.S.A. § 7252 is amended to read:

§ 7252. DEFINITIONS

As used in this chapter:

* * *

~~(10) "Peer" means an individual who has a personal experience of living with a mental health condition or psychiatric disability. [Repealed.]~~

~~(11) "Peer services" means support services provided by trained peers or peer-managed organizations focused on helping individuals with mental health and other co-occurring conditions to support recovery. [Repealed.]~~

* * *

Sec. 2. 18 V.S.A. § 7256 is amended to read:

§ 7256. REPORTING REQUIREMENTS

Notwithstanding 2 V.S.A. § 20(d), ~~the department of mental health~~ Department of Mental Health shall report annually on or before January 15 to ~~the senate committee on health and welfare and the house committee on human services~~ Senate Committee on Health and Welfare and the House Committee on Human Services regarding the extent to which individuals with mental health conditions receive care in the most integrated and least restrictive setting available. The Department shall consider measures from a variety of sources, including the Joint Commission, the National Quality Forum, the Centers for Medicare and Medicaid Services, the National Institute of Mental Health, and the Substance Abuse and Mental Health Services Administration. The report shall address:

(1) ~~Utilization~~ use of services across the continuum of mental health services;

(2) ~~Adequacy~~ adequacy of the capacity at each level of care across the continuum of mental health services;

(3) ~~Individual~~ individual experience of care and satisfaction;

(4) ~~Individual~~ individual recovery in terms of clinical, social, and legal outcomes; ~~and~~

(5) ~~Performance~~ performance of the state's State's mental health system of care as compared to nationally recognized standards of excellence;

(6) ways in which patient autonomy and self-determination are maximized within the context of involuntary treatment and medication;

(7) outcome measures and other data on individuals for whom petitions for involuntary medication are filed; and

(8) progress on alternative treatment options across the system of care for individuals seeking to avoid or reduce reliance on medications, including supported withdrawal from medications.

Sec. 3. 18 V.S.A. § 7257 is amended to read:

§ 7257. REPORTABLE ADVERSE EVENTS

(a) An acute inpatient hospital, an intensive residential recovery facility, a designated agency, or a secure residential facility shall report to the ~~department of mental health~~ Department of Mental Health instances of death or serious bodily injury to individuals with a mental health condition in the custody or temporary custody of the commissioner Commissioner.

(b) An acute inpatient hospital shall report to the Department of Mental Health any staff injuries caused by a person in the custody or temporary custody of the Commissioner that are reported to both the Department of Labor and to the hospital's workers' compensation carrier.

Sec. 4. 18 V.S.A. § 7259 is amended to read:

§ 7259. MENTAL HEALTH CARE OMBUDSMAN

(a) The ~~department of mental health~~ Department of Mental Health shall establish the ~~office of the mental health care ombudsman~~ Office of the Mental Health Care Ombudsman within the agency designated by the ~~governor~~ Governor as the protection and advocacy system for the ~~state~~ State pursuant to 42 U.S.C. § 10801 et seq. The agency may execute the duties of the ~~office of the mental health care ombudsman~~ Office of the Mental Health Care Ombudsman, including authority to assist individuals with mental health conditions and to advocate for policy issues on their behalf; provided, however, that nothing in this section shall be construed to impose any additional duties on the agency in excess of the requirements under federal law.

(b) The agency may provide a report annually to the ~~general assembly~~ General Assembly regarding the implementation of this section.

(c) In the event the protection and advocacy system ceases to provide federal funding to the agency for the purposes described in this section, the

~~general assembly~~ General Assembly may allocate sufficient funds to maintain the ~~office of the mental health care ombudsman~~ Office of the Mental Health Care Ombudsman.

(d) The Department of Mental Health shall provide a copy of the certificate of need for all emergency involuntary procedures performed on a person in the custody or temporary custody of the Commissioner to the Office of the Mental Health Care Ombudsman on a monthly basis.

Sec. 5. 18 V.S.A. § 7504 is amended to read:

§ 7504. APPLICATION AND CERTIFICATE FOR EMERGENCY EXAMINATION

(a) ~~A Upon written application by an interested party made under the pains and penalties of perjury and accompanied by a certificate by a licensed physician who is not the applicant, a person shall be admitted to a designated held for admission to a hospital for an emergency examination to determine if he or she is a person in need of treatment upon written application by an interested party accompanied by a certificate by a licensed physician who is not the applicant.~~ The application and certificate shall set forth the facts and circumstances ~~which that~~ which that constitute the need for an emergency examination and ~~which that~~ which that show that the person is a person in need of treatment.

(b) The application and certificate shall be authority for transporting the person to a ~~designated~~ hospital for an emergency examination, as provided in section 7511 of this title.

(c) For the purposes of admission of an individual to a designated hospital for care and treatment under this section, a head of a hospital, as provided in subsection (a) of this section, may include a person designated in writing by the head of the hospital to discharge the authority granted in this section. A designated person must be an official hospital administrator, supervisory personnel, or a licensed physician on duty on the hospital premises other than the certifying physician under subsection (a) of this section.

Sec. 6. 18 V.S.A. § 7505 is amended to read:

§ 7505. WARRANT AND CERTIFICATE FOR IMMEDIATE EMERGENCY EXAMINATION

(a) In emergency circumstances where a certification by a physician is not available without serious and unreasonable delay, and when personal observation of the conduct of a person constitutes reasonable grounds to believe that the person is a person in need of treatment, and he or she presents an immediate risk of serious injury to himself or herself or others if not restrained, a law enforcement officer or mental health professional may make

an application, not accompanied by a physician's certificate, to any ~~district or superior~~ Superior judge for a warrant for an ~~immediate~~ emergency examination.

(b) The law enforcement officer or mental health professional may take the person into temporary custody and shall apply to the ~~court~~ Court without delay for the warrant.

(c) If the judge is satisfied that a physician's certificate is not available without serious and unreasonable delay, and that probable cause exists to believe that the person is in need of an ~~immediate~~ emergency examination, he or she may order the person to submit to an ~~immediate examination at a designated hospital~~ evaluation by a physician for that purpose.

(d) If necessary, the ~~court~~ Court may order the law enforcement officer or mental health professional to transport the person to a ~~designated~~ hospital for an ~~immediate examination~~ evaluation by a physician to determine if the person should be certified for an emergency examination.

(e) ~~Upon admission to a designated hospital, the person shall be immediately examined by a~~ A person transported pursuant to subsection (d) of this section shall be evaluated as soon as possible after arrival at the hospital. If after evaluation the licensed physician determines that the person is a person in need of treatment, he or she shall issue an initial certificate that sets forth the facts and circumstances constituting the need for an emergency examination and showing that the person is a person in need of treatment. If the physician certifies that the person is a person in need of treatment ~~Once the physician has issued the initial certificate, the person shall be held for an emergency examination in accordance with section 7508 of this title. If the physician does not certify that the person is a person in need of treatment, he or she shall immediately discharge the person and cause him or her to be returned to the place from which he or she was taken, or to such place as the person reasonably directs.~~

Sec. 7. 18 V.S.A. § 7508 is amended to read:

§ 7508. EMERGENCY EXAMINATION AND SECOND CERTIFICATION

(a) ~~When a person is admitted to a designated hospital~~ an initial certification is issued for an emergency examination ~~of a person~~ in accordance with section 7504 or subsection 7505(e) of this title, he or she shall be examined and certified by a psychiatrist as soon as practicable, but not later than ~~one working day~~ 24 hours after ~~admission~~ initial certification.

(b) If the person is ~~admitted~~ held for admission on an application and physician's certificate, the examining psychiatrist shall not be the same physician who signed the certificate.

(c) If the psychiatrist does not ~~certify~~ issue a second certification stating that the person is a person in need of treatment, he or she shall immediately discharge or release the person and cause him or her to be returned to the place from which he or she was taken or to such place as the person reasonably directs.

(d) If the psychiatrist does ~~certify~~ issue a second certification that the person is a person in need of treatment, the ~~person's hospitalization~~ person may continue to be held for an additional 72 hours, at which time ~~hospitalization shall terminate~~ the person shall be discharged or released, unless within that period:

(1) the person has ~~been~~ accepted for voluntary admission under section 7503 of this title; or

(2) an application for involuntary treatment is filed with the appropriate court under section 7612 of this title, in which case the patient shall ~~remain hospitalized~~ continue to be held pending the ~~court's decision on the application~~ Court's finding of probable cause on the application.

(e)(1)(A) A person shall be deemed to be in the temporary custody of the Commissioner when the first of the following occurs:

(i) a physician files an initial certification for the person while the person is in a hospital; or

(ii) a person is certified by a psychiatrist to be a person in need of treatment during an emergency examination.

(B) Temporary custody under this subsection shall continue until the Court issues an order pursuant to subsection 7617(b) of this title or the person is discharged or released.

(2) The Commissioner shall make every effort to ensure that a person held for an emergency examination pending a hospital admission is receiving temporary care and treatment that:

(A) uses the least restrictive manner necessary to protect the safety of both the person and the public;

(B) respects the privacy of the person and other patients; and

(C) prevents physical and psychological trauma.

(3) All persons admitted or held for admission shall receive a notice of rights as provided for in section 7701 of this title, which shall include contact information for Vermont Legal Aid, the Office of the Mental Health Care Ombudsman, and the mental health patient representative. The Department of Mental Health shall develop and regularly update informational material on

available peer-run support services, which shall be provided to all persons admitted or held for admission.

(4) A person held for an emergency examination may be admitted to an appropriate hospital at any time.

Sec. 8. 18 V.S.A. § 7509 is amended to read:

§ 7509. TREATMENT; RIGHT OF ACCESS

(a) Upon admission to the hospital pursuant to section 7503, 7508, 7617, or 7624 of this title, the person shall be treated with dignity and respect and shall be given such medical and psychiatric treatment as is indicated.

(b) ~~The person~~ All persons admitted or held for admission shall be given the opportunity, subject to reasonable limitations, to communicate with others, including visits by a peer support person designated by the person, presence of the presence the peer support person at all treatment team meetings the person is entitled to attend, the reasonable use of a telephone, and the reasonable use of electronic mail and the Internet.

(c) The person shall be requested to furnish the names of persons he or she may want notified of his or her hospitalization and kept informed of his or her status. The head of the hospital shall see that such persons are notified of the status of the patient, how he or she may be contacted and visited, and how they may obtain information concerning him or her.

Sec. 9. 18 V.S.A. § 7612 is amended to read:

§ 7612. APPLICATION FOR INVOLUNTARY TREATMENT

(a) An interested party may, by filing a written application, commence proceedings for the involuntary treatment of an individual by judicial process.

(b) The application shall be filed in the ~~criminal division of the superior court of the proposed patient's residence or, in the case of a nonresident, in any district court~~ Family Division of the Superior Court.

(c) If the application is filed under section 7508 or 7620 of this title, it shall be filed in the ~~criminal division of the superior court~~ unit of the Family Division of the Superior Court in which the hospital is located. In all other cases, it shall be filed in the unit in which the proposed patient resides. In the case of a nonresident, it may be filed in any unit. The Court may change the venue of the proceeding to the unit in which the proposed patient is located at the time of the trial.

(d) The application shall contain:

(1) The name and address of the applicant; ~~and,~~

(2) A statement of the current and relevant facts upon which the allegation of mental illness and need for treatment is based. The application shall be signed by the applicant under penalty of perjury.

(e) The application shall be accompanied by:

(1) ~~A~~ a certificate of a licensed physician, which shall be executed under penalty of perjury stating that he or she has examined the proposed patient within five days of the date the petition is filed, and is of the opinion that the proposed patient is a person in need of treatment, including the current and relevant facts and circumstances upon which the physician's opinion is based; or

(2) ~~A~~ a written statement by the applicant that the proposed patient refused to submit to an examination by a licensed physician.

(f) Before an examining physician completes the certificate of examination, he or she shall consider available alternative forms of care and treatment that might be adequate to provide for the person's needs, without requiring hospitalization. The examining physician shall document on the certificate the specific alternative forms of care and treatment that he or she considered and why those alternatives were deemed inappropriate, including information on the availability of any appropriate alternatives.

Sec. 10. 18 V.S.A. § 7612a is added to read:

§ 7612a. PROBABLE CAUSE REVIEW

(a) Within three days after an application for involuntary treatment is filed, the Family Division of the Superior Court shall conduct a review to determine whether there is probable cause to believe that the person was a person in need of treatment at the time of his or her admission. The review shall be based solely on the application for an emergency examination and accompanying certificate by a licensed physician and the application for involuntary treatment.

(b) If, based on a review conducted pursuant to subsection (a) of this section the Court finds probable cause to believe that the person was a person in need of treatment at the time of his or her admission, the person shall be ordered held for further proceedings in accordance with Part 8 of this title. If probable cause is not established, the person shall be ordered discharged or released from the hospital and returned to the place from which he or she was transported or to such place as the person may reasonably direct.

(c) An application for involuntary treatment shall not be dismissed solely because the probable cause review is not completed within the time period required by this section if there is good cause for the delay.

Sec. 11. 18 V.S.A. § 7615 is amended to read:

§ 7615. HEARING ON APPLICATION FOR INVOLUNTARY TREATMENT

(a)(1) Upon receipt of the application, the ~~court~~ Court shall set a date for the hearing to be held within 10 days from the date of the receipt of the application or 20 days from the date of the receipt of the application if a psychiatric examination is ordered under section 7614 of this title unless the hearing is continued by the ~~court~~ Court pursuant to subsection (b) of this section.

(2)(A) The applicant or a person who is certified as a person in need of treatment pursuant to section 7508 of this title may file a motion to expedite the hearing. The motion shall be supported by an affidavit, and the Court shall rule on the motion on the basis of the filings without holding a hearing. The Court:

(i) shall grant the motion if it finds that the person demonstrates a significant risk of causing the person or others serious bodily injury as defined in 13 V.S.A. § 1021 even while hospitalized, and clinical interventions have failed to address the risk of harm to the person or others;

(ii) may grant the motion if it finds that the person has received involuntary medication pursuant to section 7624 of this title during the past two years and, based upon the person's response to previous and ongoing treatment, there is good cause to believe that additional time will not result in the person establishing a therapeutic relationship with providers or regaining competence.

(B) If the Court grants the motion for expedited hearing pursuant to this subdivision, the hearing shall be held within ten days from the date of the order for expedited hearing.

(b)(1) ~~The court~~ For hearings held pursuant to subdivision (a)(1) of this section, the Court may grant ~~either~~ each party ~~an~~ a onetime extension ~~of time~~ of up to seven days for good cause.

(2) The Court may grant one or more additional seven-day continuances if:

(A) the Court finds that the proceeding or parties would be substantially prejudiced without a continuance; or

(B) the parties stipulate to the continuance.

(c) The hearing shall be conducted according to the ~~rules of evidence~~ Vermont Rules of Evidence ~~applicable in civil actions in the criminal division~~

~~of the superior courts of the state~~, and to an extent not inconsistent with this part, the ~~rules of civil procedure of the state~~ Vermont Rules of Civil Procedure shall be applicable.

(d) The applicant and the proposed patient shall have a right to appear at the hearing to testify. The attorney for the ~~state~~ State and the proposed patient shall have the right to subpoena, present, and cross-examine witnesses, and present oral arguments. The ~~court~~ Court may, at its discretion, receive the testimony of any other person.

(e) The proposed patient may at his or her election attend the hearing, subject to reasonable rules of conduct, and the ~~court~~ Court may exclude all persons, except a peer support person designated by the proposed patient, not necessary for the conduct of the hearing.

Sec. 12. 18 V.S.A. § 7624 is amended to read:

§ 7624. PETITION FOR INVOLUNTARY MEDICATION

(a) The ~~commissioner~~ Commissioner may commence an action for the involuntary medication of a person who is refusing to accept psychiatric medication and meets any one of the following ~~three~~ five conditions:

(1) has been placed in the ~~commissioner's~~ Commissioner's care and custody pursuant to section 7619 of this title or subsection 7621(b) of this title;

(2) has previously received treatment under an order of hospitalization and is currently under an order of nonhospitalization, including a person on an order of nonhospitalization who resides in a secure residential recovery facility; ~~or~~

(3) has been committed to the custody of the ~~commissioner of corrections~~ Commissioner of Corrections as a convicted felon and is being held in a correctional facility which is a designated facility pursuant to section 7628 of this title and for whom the ~~department of corrections~~ Departments of Corrections and the ~~department of mental health~~ Mental Health have jointly determined jointly that involuntary medication would be appropriate pursuant to 28 V.S.A. § 907(4)(H);

(4) has an application for involuntary treatment pending for which the Court has granted a motion to expedite pursuant to subdivision 7615(a)(2)(A)(i) of this title; or

(5)(A) has an application for involuntary treatment pending;

(B) waives the right to a hearing on the application for involuntary treatment until a later date; and

(C) agrees to proceed with an involuntary medication hearing without a ruling on whether he or she is a person in need of treatment.

(b)(1) A Except as provided in subdivision (2) and (3) of this subsection, a petition for involuntary medication shall be filed in the family division of the superior court Family Division of the Superior Court in the county in which the person is receiving treatment.

(2) If the petition for involuntary medication is filed pursuant to subdivision (a)(4) of this section:

(A) the petition shall be filed in the county in which the application for involuntary treatment is pending; and

(B) the Court shall consolidate the application for involuntary treatment with the petition for involuntary medication and rule on the application for involuntary treatment before ruling on the petition for involuntary medication.

(3) If the petition for involuntary medication is filed pursuant to subdivision (a)(5) of this section, the petition shall be filed in the county in which the application for involuntary treatment is pending.

(c) The petition shall include a certification from the treating physician, executed under penalty of perjury, that includes the following information:

(1) the nature of the person's mental illness;

(2) that the person is refusing medication proposed by the physician;

(3) that the person lacks the competence to decide to accept or refuse medication and appreciate the consequences of that decision;

(4) the necessity for involuntary medication, including the person's competency to decide to accept or refuse medication;

~~(3)~~(5) any proposed medication, including the method, dosage range, and length of administration for each specific medication;

~~(4)~~(6) a statement of the risks and benefits of the proposed medications, including the likelihood and severity of adverse side effects and its effect on:

(A) the person's prognosis with and without the proposed medications; and

(B) the person's health and safety, including any pregnancy;

~~(5)~~(7) the current relevant facts and circumstances, including any history of psychiatric treatment and medication, upon which the physician's opinion is based;

~~(6)~~(8) what alternate treatments have been proposed by the doctor, the patient, or others, and the reasons for ruling out those alternatives, including information on the availability of any appropriate alternatives; and

~~(7)~~(9) whether the person has executed a ~~durable power of attorney for health care~~ an advance directive in accordance with the provisions of ~~18 V.S.A. chapter 111, subchapter 2~~ chapter 231 of this title, and the identity of the ~~health care agent or agents~~ designated by the ~~durable power of attorney~~ advance directive.

(d) A copy of the ~~durable power of attorney~~ advance directive, if available, shall be attached to the petition.

Sec. 13. 18 V.S.A. § 7625 is amended to read:

§ 7625. HEARING ON PETITION FOR INVOLUNTARY MEDICATION;
BURDEN OF PROOF

(a) ~~A~~ Unless consolidated with an application for involuntary treatment pursuant to subdivision 7624(b)(2) of this title, a hearing on a petition for involuntary medication shall be held within seven days of filing and shall be conducted in accordance with sections 7613, 7614, ~~7615(b)–(e)~~, and 7616 and subsections 7615(b)–(e) of this title.

(b) In a hearing conducted pursuant to this section, section 7626, or section 7627 of this title, the ~~commissioner~~ Commissioner has the burden of proof by clear and convincing evidence.

(c) In determining whether or not the person is competent to make a decision regarding the proposed treatment, the ~~court~~ Court shall consider whether the person is able to make a decision and appreciate the consequences of that decision.

Sec. 14. 18 V.S.A. § 7626 is amended to read:

§ 7626. ~~DURABLE POWER OF ATTORNEY~~ ADVANCE DIRECTIVE

(a) If a person who is the subject of a petition filed under section 7624 of this title has executed a ~~durable power of attorney~~ an advance directive in accordance with the provisions of ~~18 V.S.A. chapter 111~~ chapter 231 of this title, subchapter 2 for health care, the ~~court~~ Court shall suspend the hearing and enter an order pursuant to subsection (b) of this section, if the ~~court~~ Court determines that:

(1) the person is refusing to accept psychiatric medication;

(2) the person is not competent to make a decision regarding the proposed treatment; and

(3) the decision regarding the proposed treatment is within the scope of the valid, duly executed ~~durable power of attorney for health care~~ advance directive.

(b) An order entered under subsection (a) of this section shall authorize the ~~commissioner~~ Commissioner to administer treatment to the person, including involuntary medication in accordance with the direction set forth in the ~~durable power of attorney~~ advance directive or provided by the ~~health care agent or agents~~ acting within the scope of authority granted by the ~~durable power of attorney~~ advance directive. If hospitalization is necessary to effectuate the proposed treatment, the ~~court~~ Court may order the person to be hospitalized.

~~(c) In the case of a person subject to an order entered pursuant to subsection (a) of this section, and upon the certification by the person's treating physician to the court that the person has received treatment or no treatment consistent with the durable power of attorney for health care for 45 days after the order under subsection (a) of this section has been entered, then the court shall reconvene the hearing on the petition.~~

~~(1) If the court concludes that the person has experienced, and is likely to continue to experience, a significant clinical improvement in his or her mental state as a result of the treatment or nontreatment directed by the durable power of attorney for health care, or that the patient has regained competence, then the court shall enter an order denying and dismissing the petition.~~

~~(2) If the court concludes that the person has not experienced a significant clinical improvement in his or her mental state, and remains incompetent then the court shall consider the remaining evidence under the factors described in subdivisions 7627(c)(1) (5) of this title and render a decision on whether the person should receive medication. [Repealed.]~~

(d)(1) The Commissioner of Mental Health shall develop a protocol for use by designated hospitals for the purpose of educating hospital staff on the use and applicability of advance directives pursuant to chapter 231 of this title and other written or oral expressions of treatment preferences pursuant to subsection 7627(b) of this title.

(2) Prior to a patient's discharge or release, a hospital shall provide information to a patient in the custody or temporary custody of the Commissioner regarding advance directives, including relevant information developed by the Vermont Ethics Network and Office of the Mental Health Care Ombudsman.

Sec. 15. 18 V.S.A. § 7627 is amended to read:

§ 7627. COURT FINDINGS; ORDERS

* * *

(b) If a person who is the subject of a petition filed under section 7625 of this title has not executed a ~~durable power of attorney~~ an advance directive, the ~~court~~ Court shall follow the person's competently expressed written or oral preferences regarding medication, if any, unless the ~~commissioner~~ Commissioner demonstrates that the person's medication preferences have not led to a significant clinical improvement in the person's mental state in the past within an appropriate period of time.

(c) If the ~~court~~ Court finds that there are no medication preferences or that the person's medication preferences have not led to a significant clinical improvement in the person's mental state in the past within an appropriate period of time, the ~~court~~ Court shall consider at a minimum, in addition to the person's expressed preferences, the following factors:

(1) ~~The~~ the person's religious convictions and whether they contribute to the person's refusal to accept medication;

(2) ~~The~~ the impact of receiving medication or not receiving medication on the person's relationship with his or her family or household members whose opinion the ~~court~~ Court finds relevant and credible based on the nature of the relationship;

(3) ~~The~~ the likelihood and severity of possible adverse ~~side effects~~ side effects from the proposed medication;

(4) ~~The~~ the risks and benefits of the proposed medication and its effect on:

(A) the person's prognosis; and

(B) the person's health and safety, including any pregnancy; and

(5) ~~The~~ the various treatment alternatives available, which may or may not include medication.

(d) As a threshold matter, the Court shall consider the person's competency. If the ~~court~~ Court finds that the person is competent to make a decision regarding the proposed treatment or that involuntary medication is not supported by the factors in subsection (c) of this section, the ~~court~~ Court shall enter a finding to that effect and deny the petition.

(e) As a threshold matter, the Court shall consider the person's competency. If the ~~court~~ Court finds that the person is incompetent to make a decision regarding the proposed treatment and that involuntary medication is

supported by the factors in subsection (c) of this section, the ~~court~~ Court shall make specific findings stating the reasons for the involuntary medication by referencing those supporting factors.

(f)(1) If the ~~court~~ Court grants the petition, in whole or in part, the ~~court~~ Court shall enter an order authorizing the ~~commissioner~~ Commissioner to administer involuntary medication to the person. The order shall specify the types of medication, the permitted dosage range, length of administration, and method of administration for each. The order for involuntary medication shall not include electric convulsive therapy, surgery, or experimental medications. A long-acting injection shall not be ordered without clear and convincing evidence, particular to the patient, that this treatment is the most appropriate under the circumstances.

(2) The order shall require the person's treatment provider to conduct ~~monthly~~ weekly reviews of the medication to assess the continued need for involuntary medication, the effectiveness of the medication, the existence of any side effects, and whether the patient has become competent pursuant to subsection 7625(c) of this title, and shall document this review in detail in the patient's chart and provide the person's attorney with a copy of the documentation within five days of its production.

(g) For a person receiving treatment pursuant to an order of hospitalization, the ~~commissioner~~ Commissioner may administer involuntary medication as authorized by this section to the person for up to 90 days, unless the ~~court~~ Court finds that an order is necessary for a longer period of time. Such an order shall not be longer than the duration of the current order of hospitalization. If at any time a treatment provider finds that a person subject to an order for involuntary medication has become competent pursuant to subsection 7625(c) of this title, the order shall no longer be in effect.

* * *

Sec. 16. 18 V.S.A. § 7629 is amended to read:

§ 7629. LEGISLATIVE INTENT

(a) ~~It is the intention of the general assembly to recognize the right of a legally competent person to determine whether or not to accept medical treatment, including involuntary medication, absent an emergency or a determination that the person is incompetent and lacks the ability to make a decision and appreciate the consequences.~~ The State of Vermont recognizes the fundamental right of a person to determine the extent of health care the person will receive, including treatment provided during periods of lack of competency that the person expressed a desire for when he or she was competent.

~~(b) This act protects this right through a judicial proceeding prior to the use of nonemergency involuntary medication and by limiting the duration of an order for involuntary treatment to no more than one year. The least restrictive conditions consistent with the person's right to adequate treatment shall be provided in all cases. The General Assembly adopts the goal of high-quality, patient-centered health care, which the Institute of Medicine defines as "providing care that is respectful of and responsive to individual patient preferences, needs, and values and ensuring that patient values guide all clinical decisions."~~

(c) It is the policy of the ~~general assembly~~ General Assembly to work ~~towards~~ toward a mental health system that does not require coercion or the use of involuntary medication when a person is opposing it. The distress and insult to human dignity that results from compelling a person to participate in medical procedures against his or her will are real regardless of how poorly the person may understand the procedures or how confused or mistaken the person may be about the procedures.

~~(d) This act will render the J. L. v. Miller consent judgment no longer applicable. This chapter protects the rights and values described in this section through a judicial process to determine competence prior to an order for nonemergency involuntary medication and by limiting the duration of an order for involuntary treatment to no more than one year. The least restrictive order consistent with the person's right to adequate treatment shall be provided in all cases.~~

Sec. 17. 18 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

As used in this chapter:

* * *

(21) "Ombudsman" means an individual appointed as a long-term care ombudsman under the Program contracted through the Department of Disabilities, Aging, and Independent Living pursuant to the Older Americans Act of 1965, as amended or the agency designated as the Office of the Mental Health Care Ombudsman pursuant to section 7259 of this title.

* * *

(32) "Patient representative" means the mental health patient representative established by section 7253 of this title.

Sec. 18. 18 V.S.A. § 9703 is amended to read:

§ 9703. FORM AND EXECUTION

* * *

(d) An advance directive shall not be effective if, at the time of execution, the principal is being admitted to or is a resident of a nursing home as defined in 33 V.S.A. § 7102 or a residential care facility unless an ombudsman, a patient representative, a recognized member of the clergy, an attorney licensed to practice in this ~~state~~ State, or a ~~probate division of the superior court~~ Probate Division of the Superior Court designee signs a statement affirming that he or she has explained the nature and effect of the advance directive to the principal. It is the intent of this subsection to ensure that residents of nursing homes and residential care facilities are willingly and voluntarily executing advance directives.

(e) An advance directive shall not be effective if, at the time of execution, the principal is being admitted to or is a patient in a hospital, unless an ombudsman, a patient representative, a recognized member of the clergy, an attorney licensed to practice in this ~~state~~ State, a ~~probate division of the superior court~~ Probate Division of the Superior Court designee, or an individual designated under subsection 9709(c) of this title by the hospital signs a statement that he or she has explained the nature and effect of the advance directive to the principal.

* * *

Sec. 19. 18 V.S.A. § 9706(c) is amended to read:

(c) Upon a determination of need by the principal's clinician, or upon the request of the principal, agent, guardian, ombudsman, a patient representative, health care provider, or any interested individual, the principal's clinician, another clinician, or a clinician's designee shall reexamine the principal to determine whether the principal has capacity. The clinician shall document the results of the reexamination in the principal's medical record and shall make reasonable efforts to notify the principal and the agent or guardian, as well as the individual who initiated the new determination of capacity, of the results of the reexamination, if providing such notice is consistent with the requirements of HIPAA.

Sec. 20. 18 V.S.A. § 9707(h) is amended to read:

(h)(1) An advance directive executed in accordance with section 9703 of this title may contain a provision permitting the agent, in the event that the principal lacks capacity, to authorize or withhold health care over the principal's objection. In order to be valid, the provision shall comply with the following requirements:

(A) An agent shall be named in the provision.

(B) The agent shall accept in writing the responsibility of authorizing or withholding health care over the principal's objection in the event the principal lacks capacity.

(C) A clinician for the principal shall sign the provision and affirm that the principal appeared to understand the benefits, risks, and alternatives to the health care being authorized or rejected by the principal in the provision.

(D)(i) An ombudsman, a patient representative ~~recognized member of the clergy~~, attorney licensed to practice law in this ~~state~~ State, or ~~probate division of the superior court~~ Probate Division of the Superior Court designee shall sign a statement affirming that he or she has explained the nature and effect of the provision to the principal, and that the principal appeared to understand the explanation and be free from duress or undue influence.

(ii) If the principal is a patient in a hospital when the provision is executed, the ombudsman, patient representative ~~recognized member of the clergy~~, attorney, or ~~probate division of the superior court~~ Probate Division of the Superior Court designee shall be independent of the hospital and not an interested individual.

(E) The provision shall specify the treatments to which it applies, and shall include an explicit statement that the principal desires or does not desire the proposed treatments even over the principal's objection at the time treatment is being offered or withheld. The provision may include a statement expressly granting to the health care agent the authority to consent to the principal's voluntary hospitalization, ~~and to agree that the principal's discharge from the hospital may be delayed, pursuant to section 8010 of this title.~~

(F) The provision shall include an acknowledgment that the principal is knowingly and voluntarily waiving the right to refuse or receive treatment at a time of incapacity, and that the principal understands that a clinician will determine capacity.

(2) A provision executed in compliance with subdivision (1) of this subsection shall be effective when the principal's clinician and a second clinician have determined pursuant to subdivision 9706(a)(1) of this title that the principal lacks capacity.

(3) If an advance directive contains a provision executed in compliance with this section:

(A) The agent may, in the event the principal lacks capacity, make health care decisions over the principal's objection, provided that the decisions are made in compliance with subsection 9711(d) of this title.

(B) A clinician shall follow instructions of the agent authorizing or withholding health care over the principal's objection.

Sec. 21. 18 V.S.A. § 9718(a) is amended to read:

(a) A petition may be filed in ~~probate division of the superior court~~ Probate Division of the Superior Court under this section by:

(1) a principal, guardian, agent, ombudsman, a patient representative, or interested individual other than one identified in an advance directive, pursuant to subdivision 9702(a)(10) of this title, as not authorized to bring an action under this section;

(2) a social worker or health care provider employed by or directly associated with the health care provider, health care facility, or residential care facility providing care to the principal;

(3) the ~~defender general~~ Defender General if the principal is in the custody of the ~~department of corrections~~ Department of Corrections;

(4) a representative of the ~~state designated~~ State-designated protection and advocacy system if the principal is in the custody of the ~~department of health~~ Department of Health; or

(5) an individual or entity identified in an advance directive, pursuant to subdivision 9702(a)(10) of this title, as authorized to bring an action under this section.

Sec. 22. Rule 12 of the Vermont Rules for Family Proceedings is amended to read:

Rule 12. STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT

(a) Automatic Stay Prior to Appeal; Exceptions.

(1) Automatic Stay. Except as provided in paragraph (2) of this subdivision and in subdivision (c), no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 30 days after its entry or until the time for appeal from the judgment as extended by Appellate Rule 4 has expired.

(2) Exceptions. Unless otherwise ordered by the court, none of the following orders shall be stayed during the period after its entry and until an appeal is taken:

(A) In an action under Rule 4 of these rules, an order relating to parental rights and responsibilities and support of minor children or to separate support of a spouse (including maintenance) or to personal liberty or to the dissolution of marriage;

(B) An order of involuntary treatment, involuntary medication, nonhospitalization, or hospitalization, in an action pursuant to 18 V.S.A. §§ ~~7611-7623~~ chapter 181;

(C) Any order of disposition in a juvenile case, including an order terminating residual parental rights; or

(D) Any order in an action under Rule 9 of these rules for prevention of abuse, including such an action that has been consolidated or deemed consolidated with a proceeding for divorce or annulment pursuant to Rule 4(n).

The provisions of subdivision (d) of this rule govern the modification or enforcement of the judgment in an action under Rule 4 of these rules, during the pendency of an appeal.

* * *

(d) Stay Pending Appeal.

(1) Automatic Stay. In any action in which automatic stay prior to appeal is in effect pursuant to paragraph (1) or subdivision (a) of this rule, the taking of an appeal from a judgment shall operate as a stay of execution upon the judgment during the pendency of the appeal, and no supersedeas bond or other security shall be required as a condition of such stay.

(2) Other Actions.

(A) When an appeal has been taken from judgment in an action under Rule 4 of these rules in which no stay pursuant to paragraph (1) of subdivision (a) of this rule is in effect, the court in its discretion may, during the pendency of the appeal, grant or deny motions for modification or enforcement of that judgment.

(B)(i) When an appeal has been taken from an order for involuntary treatment, nonhospitalization, or hospitalization ~~or involuntary treatment~~, in an action pursuant to ~~chapter 181 of Title 18 V.S.A.~~ chapter 181, the court in its discretion may, during the pendency of the appeal, grant or deny applications for continued treatment, modify its order, or discharge the patient, as provided in 18 V.S.A. §§ 7617, 7618, 7620, and 7621.

(ii)(I) If an order of involuntary medication is appealed, the appellant may file a motion in the Family Division to stay the order during the pendency of the appeal. A motion to stay filed under this subdivision shall stay the involuntary medication order while the motion to stay is pending.

(II) The Family Division's ruling on a motion to stay filed under subdivision (I) of this subdivision (ii) may be modified or vacated by the Supreme Court upon motion by a party filed within seven days after the ruling

is issued. If the appellant is the moving party, the order for involuntary medication shall remain stayed until the Supreme Court rules on the motion to vacate or modify the stay. A motion to vacate or modify a stay under this subdivision shall be determined by a single Justice of the Supreme Court, who may hear the matter or at his or her discretion refer it to the entire Supreme Court for hearing. No further appeal may lie from the ruling of a single Justice in matters to which this subdivision applies. The motion shall be determined as soon as practicable and to the extent possible shall take priority over other matters.

* * *

Sec. 23. REPORT; EMERGENCY INVOLUNTARY PROCEDURES

On or before January 15, 2015, the Office of Legislative Council shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare that:

(1) identifies provisions in 2012 Acts and Resolves No. 79 which require that protections for psychiatric hospital patients meet or exceed those at the former Vermont State Hospital; and

(2) identifies policies that may require clarification of legislative intent in order for the Department of Mental Health to proceed with rulemaking pursuant to 2012 Acts and Resolves No.79, Sec. 33a.

Sec. 24. AVAILABILITY OF PSYCHIATRISTS FOR EXAMINATIONS

The Agency of Human Services shall ensure that Vermont Legal Aid's Mental Health Law Project has a sufficient number of psychiatrists to conduct psychiatric examinations pursuant to 18 V.S.A. § 7614 in the time frame established by 18 V.S.A. § 7615.

Sec. 25. LEGISLATIVE COUNCIL STATUTORY REVISION AUTHORITY

The Office of Legislative Council, in its statutory revision capacity, is authorized and directed to make such amendments to the Vermont Statutes Annotated as are necessary to effect the purpose of this act, including, where applicable, substituting the words "application for involuntary medication" and "application," as appropriate, for the words "petition for involuntary medication" and "petition."

Sec. 27. 1998 Acts and Resolves No. 114, Sec. 6 is amended to read:

Sec. 6. STUDY AND REPORT

(a) An annual independent study shall be commissioned by the ~~department of developmental and mental health services~~ Department of Mental Health which shall:

(1) evaluate and critique the performance of the institutions and staff of those institutions that are implementing the provisions of this act;

(2) include interviews with persons ~~subjected to orders of involuntary medication~~ subject to proceedings under 18 V.S.A. § 7624, regardless of whether involuntarily medicated, and their families on the outcome and effects of the order;

(3) include the steps taken by the ~~department~~ Department to achieve a mental health system free of coercion; and

(4) include any recommendations to change current practices or statutes.

(b) The person who performs the study shall prepare a report of the results of the study, which shall be filed with the ~~general assembly~~ General Assembly and the ~~department~~ Department annually on or before January 15.

(c) Interviews with patients pursuant to this section may be conducted with the assistance of the mental health patient representative established in 18 V.S.A. § 7253.

Sec. 28. SOTERIA HOUSE

If the Commissioner of Mental Health determines that Soteria House is available to accept residents prior to January 1, 2015 and there are funds available in the Department's budget to do so, the Commissioner shall prioritize the opening of Soteria House.

Sec. 27. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator White, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Rules Suspended; House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 252.

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to financing for Green Mountain Care.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Intent and Principles * * *

Sec. 1. LEGISLATIVE INTENT; FINDINGS; PURPOSE

(a)(1) It is the intent of the General Assembly to continue moving forward toward implementation of Green Mountain Care, a publicly financed program of universal and unified health care.

(2) It is the intent of the General Assembly not to change in any way the benefits provided to Vermont residents by Medicare, the Federal Employees Health Benefit Program, TRICARE, a retiree health program, or any other health benefit program beyond the regulatory authority of the State of Vermont.

(b) The General Assembly finds that:

(1) It has been three years since the passage of 2011 Acts and Resolves No. 48 (Act 48), which established the Green Mountain Care Board, authorized payment reform initiatives, and created the framework for the Vermont Health Benefit Exchange and Green Mountain Care.

(2) The Green Mountain Care Board currently regulates health insurance rates, hospital budgets, and certificates of need. In 2013, the Green Mountain Care Board's hospital budget review limited hospital growth to 2.7 percent, the lowest annual growth rate in Vermont for at least the last 15 years. The Green Mountain Care Board issued four certificates of need and one conceptual development phase certificate of need. It also issued 31 health insurance rate decisions and reduced by approximately five percent the rates proposed by insurers in the Vermont Health Benefit Exchange.

(3) In 2013, Vermont was awarded a three-year State Innovation Model (SIM) grant of \$45 million to improve health and health care and to lower costs for Vermont residents. The grant funds the creation of a sustainable model of multi-payer payment and delivery reform, encouraging providers to change the way they do business in order to deliver the right care at the right time in the right setting. The State has created a 300-person public-private stakeholder group to work collaboratively on creating appropriate payment and delivery system models. Through this structure, care management models are being coordinated across State agencies and health care providers, including the Blueprint for Health, the Vermont Chronic Care Initiative, and accountable care organizations.

(4) From the SIM grant funds, the State recently awarded \$2.6 million in grants to health care providers for innovative pilot programs improving care

delivery or for creating the capacity and infrastructure for care delivery reforms.

(5) Three accountable care organizations (ACOs) have formed in Vermont: one led by hospitals, one led by federally qualified health centers, and one led by independent physicians. The Green Mountain Care Board has approved payment and quality measures for ACOs, which create substantial uniformity across payers and will provide consistent measurements for health care providers.

(6) The Vermont Health Benefit Exchange has completed its first open enrollment period. Vermont has more people enrolled through its Exchange per capita than are enrolled in any other state-based Exchange, but many Vermonters experienced difficulties during the enrollment period and not all aspects of Vermont's Exchange are fully functional.

(7) According to the 2013 Blueprint for Health Annual Report, Vermont residents receiving care from a patient-centered medical home and community health team had favorable outcomes over comparison groups in reducing expenditures and reducing inpatient hospitalizations. As of December 31, 2013, 121 primary care practices were participating in the Blueprint for Health, serving approximately 514,385 Vermonters.

(8) The Agency of Human Services has adopted the modified adjusted gross income standard under the Patient Protection and Affordable Care Act, further streamlining the Medicaid application process.

(9) Vermonters currently spend over \$2.5 billion per year on private funding of health care through health insurance premiums and out-of-pocket expenses. Act 48 charts a course toward replacing that spending with a publicly financed system.

(10) There is no legislatively determined time line in Act 48 for the implementation of Green Mountain Care. A set of triggers focusing on decisions about financing, covered services, benefit design, and the impacts of Green Mountain Care must be satisfied, and a federal waiver received, before launching Green Mountain Care. In addition, the Green Mountain Care Board must be satisfied that reimbursement rates for providers will be sufficient to recruit and retain a strong health care workforce to meet the needs of all Vermonters.

(11) Act 48 required the Secretary of Administration to provide a financing plan for Green Mountain Care by January 15, 2013. The financing plan delivered on January 24, 2013 did not "recommend the amounts and necessary mechanisms to finance Green Mountain Care and any systems improvements needed to achieve a public-private universal health care

system,” or recommend solutions to cross-border issues, as required by Sec. 9 of Act 48. The longer it takes the Secretary to produce a complete financing plan, the longer it will be until Green Mountain Care can be implemented.

(c) In order to implement the next steps envisioned by Act 48 successfully, it is appropriate to update the assumptions and cost estimates that formed the basis for that act, evaluate the success of existing health care reform efforts, and obtain information relating to key outstanding policy decisions. It is the intent of the General Assembly to obtain a greater understanding of the impact of health care reform efforts currently under way and to take steps toward implementation of the universal and unified health system envisioned by Act 48.

(d) Before making final decisions about the financing for Green Mountain Care, the General Assembly must have accurate data on the direct and indirect costs of the current health care system and how the new system will impact individual decisions about accessing care.

(e) The General Assembly also must consider the benefits and risks of a new health care system on Vermont’s businesses when there are new public financing mechanisms in place, when businesses no longer carry the burden of providing health coverage, when employees no longer fear losing coverage when they change jobs, and when business start-ups no longer have to consider health coverage.

(f) The General Assembly must ensure that Green Mountain Care does not go forward if the financing is not sufficient, fair, predictable, transparent, sustainable, and shared equitably.

(g) The General Assembly must be satisfied that an appropriate plan of action is in place in order to accomplish the transitions needed for successful implementation of Green Mountain Care.

Sec. 2. PRINCIPLES FOR HEALTH CARE FINANCING

The General Assembly adopts the following principles to guide the financing of health care in Vermont:

(1) All Vermont residents have the right to high-quality health care.

(2) All Vermont residents shall contribute to the financing for Green Mountain Care through taxes that are levied equitably, taking into account an individual’s ability to pay and the value of the health benefits provided so that access to health care will not be limited by cost barriers.

(3) The financing system shall maximize opportunities to take advantage of federal tax credits and deductions.

(4) As provided in 33 V.S.A. § 1827, Green Mountain Care shall be the payer of last resort for Vermont residents who continue to receive health care through plans provided by an employer, by a federal health benefit plan, by Medicare, by a foreign government, or as a retirement benefit.

(5) Vermont's system for financing health care shall raise revenue sufficient to provide medically necessary health care services to all Vermont residents, including:

(A) ambulatory patient services;

(B) emergency services;

(C) hospitalization;

(D) maternity and newborn care;

(E) mental health and substance use disorder services, including behavioral health treatment;

(F) prescription drugs;

(G) rehabilitative and habilitative services and devices;

(H) laboratory services;

(I) preventive and wellness services and chronic care management; and

(J) pediatric services, including oral and vision care.

* * * Vermont Health Benefit Exchange * * *

Sec. 3. 33 V.S.A. § 1803 is amended to read:

§ 1803. VERMONT HEALTH BENEFIT EXCHANGE

* * *

(b)(1)(A) The Vermont Health Benefit Exchange shall provide qualified individuals and qualified employers with qualified health benefit plans, including the multistate plans required by the Affordable Care Act, with effective dates beginning on or before January 1, 2014. The Vermont Health Benefit Exchange may contract with qualified entities or enter into intergovernmental agreements to facilitate the functions provided by the Vermont Health Benefit Exchange.

* * *

(4) To the extent permitted by the U.S. Department of Health and Human Services, the Vermont Health Benefit Exchange shall permit qualified employers to purchase qualified health benefit plans through the Exchange

website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

* * *

Sec. 4. 33 V.S.A. § 1811(b) is amended to read:

(b)(1) No person may provide a health benefit plan to an individual or small employer unless the plan is offered through the Vermont Health Benefit Exchange and complies with the provisions of this subchapter.

(2) To the extent permitted by the U.S. Department of Health and Human Services, a small employer or an employee of a small employer may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

(3) No person may provide a health benefit plan to an individual or small employer unless the plan complies with the provisions of this subchapter.

Sec. 5. PURCHASE OF SMALL GROUP PLANS DIRECTLY FROM CARRIERS

To the extent permitted by the U.S. Department of Health and Human Services and notwithstanding any provision of State law to the contrary, the Department of Vermont Health Access shall permit employers purchasing qualified health benefit plans on the Vermont Health Benefit Exchange to purchase the plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

Sec. 6. OPTIONAL EXCHANGE COVERAGE FOR EMPLOYERS WITH UP TO 100 EMPLOYEES

(a)(1) If permitted under federal law and notwithstanding any provision of Vermont law to the contrary, prior to January 1, 2016, health insurers may offer health insurance plans through or outside the Vermont Health Benefit Exchange to employers that employed an average of at least 51 but not more than 100 employees on working days during the preceding calendar year. Calculation of the number of employees shall not include a part-time employee who works fewer than 30 hours per week or a seasonal worker as defined in 26 U.S.C. § 4980H(c)(2)(B).

(2) Health insurers may make Exchange plans available to an employer described in subdivision (1) of this subsection if the employer:

(A) has its principal place of business in this State and elects to provide coverage for its eligible employees through the Vermont Health Benefit Exchange, regardless of where an employee resides; or

(B) elects to provide coverage through the Vermont Health Benefit Exchange for all of its eligible employees who are principally employed in this State.

(3) Beginning on January 1, 2016, health insurers may only offer health insurance plans to the employers described in this subsection through the Vermont Health Benefit Exchange in accordance with 33 V.S.A. chapter 18, subchapter 1.

(b)(1) As soon as permitted under federal law and notwithstanding any provision of Vermont law to the contrary, prior to January 1, 2016, employers may purchase health insurance plans through or outside the Vermont Health Benefit Exchange if they employed an average of at least 51 but not more than 100 employees on working days during the calendar year. Calculation of the number of employees shall not include a part-time employee who works fewer than 30 hours per week or a seasonal worker as defined in 26 U.S.C. § 4980H(c)(2)(B).

(2) An employer of the size described in subdivision (1) of this subsection may purchase coverage for its employees through the Vermont Health Benefit Exchange if the employer:

(A) has its principal place of business in this State and elects to provide coverage for its eligible employees through the Vermont Health Benefit Exchange, regardless of where an employee resides; or

(B) elects to provide coverage through the Vermont Health Benefit Exchange for all of its eligible employees who are principally employed in this State.

* * * Health Insurance Rate Review * * *

Sec. 6a. 8 V.S.A. § 4062(h) is amended to read:

(h)(1) This ~~The authority of the Board under this section shall apply only to the rate review process for policies for major medical insurance coverage and shall not apply to the policy forms for major medical insurance coverage or to the rate and policy form review process for policies for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income, long-term care, student health insurance coverage, or other limited benefit coverage; to Medicare supplemental insurance;~~ or to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred.

(2) The policy forms for major medical insurance coverage, as well as the policy forms, premium rates, and rules for the classification of risk for the other lines of insurance described in subdivision (1) of this subsection shall be reviewed and approved or disapproved by the Commissioner. In making his or her determination, the Commissioner shall consider whether a policy form, premium rate, or rule is affordable and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this State. The Commissioner shall make his or her determination within 30 days after the date the insurer filed the policy form, premium rate, or rule with the Department. At the expiration of the 30-day period, the form, premium rate, or rule shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by the Commissioner or found to be incomplete. The Commissioner shall notify an insurer in writing if the insurer files any form, premium rate, or rule containing a provision that does not meet the standards expressed in this subsection. In such notice, the Commissioner shall state that a hearing will be granted within 20 days upon the insurer's written request.

(3) Medicare supplemental insurance policies shall be exempt only from the requirement in subdivisions (a)(1) and (2) of this section for the Green Mountain Care Board's approval on rate requests and shall be subject to the remaining provisions of this section.

* * * Green Mountain Care * * *

Sec. 7. UPDATES ON TRANSITION TO GREEN MOUNTAIN CARE

(a) The Secretary of Administration or designee shall provide updates at least quarterly to the House Committees on Health Care and on Ways and Means and the Senate Committees on Health and Welfare and on Finance regarding the Agency's progress to date on:

(1) determining the elements of Green Mountain Care, such as claims administration and provider relations, for which the Agency plans to solicit bids for administration pursuant to 33 V.S.A. § 1827(a), and preparing a description of the job or jobs to be performed, the bid qualifications, and the criteria by which bids will be evaluated; and

(2) developing a proposal to transition to and fully implement Green Mountain Care as required by Sec. 26 of this act.

(b) The Green Mountain Care Board shall provide updates at least quarterly to the House Committees on Health Care and on Ways and Means and the Senate Committees on Health and Welfare and on Finance regarding the Board's progress to date on:

(1) defining the Green Mountain Care benefit package;

(2) deciding whether to include dental, vision, hearing, and long-term care benefits in Green Mountain Care;

(3) determining whether and to what extent to impose cost-sharing requirements in Green Mountain Care; and

(4) making the determinations required for Green Mountain Care implementation pursuant to 33 V.S.A. § 1822(a)(5).

Sec. 8. 33 V.S.A. § 1825 is amended to read:

§ 1825. HEALTH BENEFITS

(a)(1) Green Mountain Care shall include primary care, preventive care, chronic care, acute episodic care, and hospital services and shall include at least the same covered services as ~~those included in the benefit package in effect for the lowest cost Catamount Health plan offered on January 1, 2011~~ are available in the benchmark plan for the Vermont Health Benefit Exchange.

(2) It is the intent of the General Assembly that Green Mountain Care provide a level of coverage that includes benefits that are actuarially equivalent to at least 87 percent of the full actuarial value of the covered health services.

(3) The Green Mountain Care Board shall consider whether to impose cost-sharing requirements; if so, ~~whether~~ how to make the cost-sharing requirements income-sensitized; and the impact of any cost-sharing requirements on an individual's ability to access care. The Board shall consider waiving any cost-sharing requirement for evidence-based primary and preventive care; for palliative care; and for chronic care for individuals participating in chronic care management and, where circumstances warrant, for individuals with chronic conditions who are not participating in a chronic care management program.

(4)(A) The Green Mountain Care Board established in 18 V.S.A. chapter 220 shall consider whether to include dental, vision, and hearing benefits in the Green Mountain Care benefit package.

(B) The Green Mountain Care Board shall consider whether to include long-term care benefits in the Green Mountain Care benefit package.

(5) Green Mountain Care shall not limit coverage of preexisting conditions.

(6) The Green Mountain Care ~~board~~ Board shall approve the benefit package and present it to the General Assembly as part of its recommendations for the Green Mountain Care budget.

(b)(1)(A) For individuals eligible for Medicaid or CHIP, the benefit package shall include the benefits required by federal law, as well as any

additional benefits provided as part of the Green Mountain Care benefit package.

(B) Upon implementation of Green Mountain Care, the benefit package for individuals eligible for Medicaid or CHIP shall also include any optional Medicaid benefits pursuant to 42 U.S.C. § 1396d or services covered under the State plan for CHIP as provided in 42 U.S.C. § 1397cc for which these individuals are eligible on January 1, 2014. Beginning with the second year of Green Mountain Care and going forward, the Green Mountain Care Board may, consistent with federal law, modify these optional benefits, as long as at all times the benefit package for these individuals contains at least the benefits described in subdivision (A) of this subdivision (b)(1).

(2) For children eligible for benefits paid for with Medicaid funds, the benefit package shall include early and periodic screening, diagnosis, and treatment services as defined under federal law.

(3) For individuals eligible for Medicare, the benefit package shall include the benefits provided to these individuals under federal law, as well as any additional benefits provided as part of the Green Mountain Care benefit package.

Sec. 9. 33 V.S.A. § 1827 is amended to read:

§ 1827. ADMINISTRATION; ENROLLMENT

(a)(1) The Agency shall, under an open bidding process, solicit bids from and award contracts to public or private entities for administration of certain elements of Green Mountain Care, such as claims administration and provider relations.

(2) The Agency shall ensure that entities awarded contracts pursuant to this subsection do not have a financial incentive to restrict individuals' access to health services. The Agency may establish performance measures that provide incentives for contractors to provide timely, accurate, transparent, and courteous services to individuals enrolled in Green Mountain Care and to health care professionals.

(3) When considering contract bids pursuant to this subsection, the Agency shall consider the interests of the State relating to the economy, the location of the entity, and the need to maintain and create jobs in Vermont. The ~~agency~~ Agency may utilize an econometric model to evaluate the net costs of each contract bid.

* * *

(e) [Repealed.]

(f) Green Mountain Care shall be the ~~secondary~~ payer of last resort with respect to any health service that may be covered in whole or in part by any other health benefit plan, including Medicare, private health insurance, retiree health benefits, or federal health benefit plans offered by ~~the Veterans' Administration~~, by the military; or to federal employees.

* * *

Sec. 10. CONCEPTUAL WAIVER APPLICATION

On or before November 15, 2014, the Secretary of Administration or designee shall submit to the federal Center for Consumer Information and Insurance Oversight a conceptual waiver application expressing the intent of the State of Vermont to pursue a Waiver for State Innovation pursuant to Sec. 1332 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, and the State's interest in commencing the application process.

* * * Employer Assessment * * *

Sec. 11. 21 V.S.A. § 2003(b) is amended to read:

(b) For ~~any~~ each quarter in fiscal ~~years 2007 and 2008~~ year 2015, the amount of the Health Care Fund contribution shall be ~~\$91.25~~ \$133.30 for each full-time equivalent employee in excess of ~~eight~~ four. For each fiscal year after fiscal year ~~2008~~, ~~the number of excluded full-time equivalent employees shall be adjusted in accordance with subsection (a) of this section, and~~ 2015, the amount of the Health Care Fund contribution shall be adjusted by a percentage equal to any percentage change in premiums for the second lowest cost silver-level plan in the Vermont Health Benefit Exchange.

* * * Green Mountain Care Board * * *

Sec. 12. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

* * *

(4) Review the Health Resource Allocation Plan created in chapter 221 of this title, including conducting regular assessments of the range and depth of health needs among the State's population and developing a plan for allocating resources over a reasonable period of time to meet those needs.

* * *

Sec. 13. 18 V.S.A. § 9375(d) is amended to read:

(d) Annually on or before January 15, the Board shall submit a report of its activities for the preceding calendar year to the House Committee on Health Care ~~and~~, the Senate Committee on Health and Welfare, and the Joint Fiscal Committee.

* * *

Sec. 14. 2000 Acts and Resolves No. 152, Sec. 117b, as amended by 2013 Acts and Resolves No. 79, Sec, 42, is further amended to read:

Sec. 117b. MEDICAID COST SHIFT REPORTING

* * *

(b) Notwithstanding 2 V.S.A. § 20(d), annually on or before ~~December~~ January 15, the ~~chair~~ Chair of the Green Mountain Care Board, the Commissioner of Vermont Health Access, and each acute care hospital shall file with the Joint Fiscal Committee, the House Committee on Health Care, and the Senate Committee on Health and Welfare, in the manner required by the Joint Fiscal Committee, such information as is necessary to carry out the purposes of this section. Such information shall pertain to the provider delivery system to the extent it is available. The Green Mountain Care Board may satisfy its obligations under this section by including the information required by this section in the annual report required by 18 V.S.A. § 9375(d).

* * *

Sec. 15. 2013 Acts and Resolves No. 79, Sec. 5b is amended to read:

Sec. 5b. STANDARDIZED HEALTH INSURANCE CLAIMS AND EDITS

(a)(1) As part of moving away from fee-for-service and toward other models of payment for health care services in Vermont, the Green Mountain Care Board, in consultation with the Department of Vermont Health Access, health care providers, health insurers, and other interested stakeholders, shall develop a complete set of standardized edits and payment rules based on Medicare or on another set of standardized edits and payment rules appropriate for use in Vermont. The Board and the Department shall adopt by rule the standards and payment rules that health care providers, health insurers, Medicaid, and other payers shall use beginning on ~~January 1, 2015~~ and that Medicaid shall use beginning on January 1, 2017.

* * *

* * * Certificates of Need * * *

Sec. 15a. 18 V.S.A. § 9432 is amended to read:

§ 9432. DEFINITIONS

As used in this subchapter:

* * *

(8) “Health care facility” means all persons or institutions, including mobile facilities, whether public or private, proprietary or not for profit, which offer diagnosis, treatment, inpatient, or ambulatory care to two or more unrelated persons, and the buildings in which those services are offered. The term shall not apply to any institution operated by religious groups relying solely on spiritual means through prayer for healing, but shall include ~~but is not limited to:~~

(A) hospitals, including general hospitals, mental hospitals, chronic disease facilities, birthing centers, maternity hospitals, and psychiatric facilities including any hospital conducted, maintained, or operated by the ~~state~~ State of Vermont, or its subdivisions, or a duly authorized agency thereof; and

(B) nursing homes, health maintenance organizations, home health agencies, outpatient diagnostic or therapy programs, kidney disease treatment centers, mental health agencies or centers, diagnostic imaging facilities, independent diagnostic laboratories, cardiac catheterization laboratories, radiation therapy facilities, ~~or~~ and any inpatient or ambulatory surgical, diagnostic, or treatment center, including non-emergency walk-in centers.

* * *

(15) “Non-emergency walk-in center” means an outpatient or ambulatory diagnostic or treatment center at which a patient without making an appointment may receive medical care that is not of an emergency, life-threatening nature. The term includes facilities that are self-described as urgent care centers, retail health clinics, and convenient care clinics.

Sec. 15b. 18 V.S.A. § 9434 is amended to read:

§ 9434. CERTIFICATE OF NEED; GENERAL RULES

(a) A health care facility other than a hospital shall not develop, or have developed on its behalf a new health care project without issuance of a certificate of need by the board. ~~For purposes of~~ As used in this subsection, a “new health care project” includes the following:

* * *

(6) The construction, development, purchase, lease, or other establishment of an ambulatory surgical center or non-emergency walk-in center.

* * *

Sec. 15c. 18 V.S.A. § 9435 is amended to read:

§ 9435. EXCLUSIONS

(a) Excluded from this subchapter are offices of physicians, dentists, or other practitioners of the healing arts, meaning the physical places which are occupied by such providers on a regular basis in which such providers perform the range of diagnostic and treatment services usually performed by such providers on an outpatient basis unless they are subject to review under subdivision 9434(a)(4) of this title.

* * *

(c) The provisions of subsection (a) of this section shall not apply to offices owned, operated, or leased by a hospital or its subsidiary, parent, or holding company, outpatient diagnostic or therapy programs, kidney disease treatment centers, independent diagnostic laboratories, cardiac catheterization laboratories, radiation therapy facilities, ambulatory surgical centers, non-emergency walk-in centers, and diagnostic imaging facilities and similar facilities owned or operated by a physician, dentist, or other practitioner of the healing arts.

* * *

Sec. 15d. 18 V.S.A. § 9492 is added to read:

§ 9492. NON-EMERGENCY WALK-IN CENTERS; NON-DISCRIMINATION

A non-emergency walk-in center, as defined in subdivision 9432(15) of this title, shall accept patients of all ages for diagnosis and treatment of illness, injury, and disease during all hours that the center is open to see patients. A non-emergency walk-in center shall not discriminate against any patient or prospective patient on the basis of insurance status or type of health coverage.

* * * Pharmacy Benefit Managers * * *

Sec. 16. 18 V.S.A. § 9472 is amended to read:

§ 9472. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES WITH RESPECT TO HEALTH INSURERS

(c) ~~Unless the contract provides otherwise,~~ a A pharmacy benefit manager that provides pharmacy benefit management for a health plan shall:

(1) Provide all financial and utilization information requested by a health insurer relating to the provision of benefits to beneficiaries through that health insurer's health plan and all financial and utilization information relating to services to that health insurer. A pharmacy benefit manager providing information under this subsection may designate that material as confidential. Information designated as confidential by a pharmacy benefit manager and provided to a health insurer under this subsection may not be disclosed by the health insurer to any person without the consent of the pharmacy benefit manager, except that disclosure may be made by the health insurer:

(A) in a court filing under the consumer protection provisions of 9 V.S.A. chapter 63, provided that the information shall be filed under seal and that prior to the information being unsealed, the court shall give notice and an opportunity to be heard to the pharmacy benefit manager on why the information should remain confidential;

(B) when authorized by 9 V.S.A. chapter 63;

(C) when ordered by a court for good cause shown; or

(D) when ordered by the ~~commissioner~~ Commissioner as to a health insurer as defined in subdivision 9471(2)(A) of this title pursuant to the provisions of Title 8 and this title.

(2) Notify a health insurer in writing of any proposed or ongoing activity, policy, or practice of the pharmacy benefit manager that presents, directly or indirectly, any conflict of interest with the requirements of this section.

(3) With regard to the dispensation of a substitute prescription drug for a prescribed drug to a beneficiary in which the substitute drug costs more than the prescribed drug and the pharmacy benefit manager receives a benefit or payment directly or indirectly, disclose to the health insurer the cost of both drugs and the benefit or payment directly or indirectly accruing to the pharmacy benefit manager as a result of the substitution.

(4) ~~If~~ Unless the contract provides otherwise, if the pharmacy benefit manager derives any payment or benefit for the dispensation of prescription drugs within the ~~state~~ State based on volume of sales for certain prescription drugs or classes or brands of drugs within the ~~state~~ State, pass that payment or benefit on in full to the health insurer.

(5) Disclose to the health insurer all financial terms and arrangements for remuneration of any kind that apply between the pharmacy benefit manager and any prescription drug manufacturer that relate to benefits provided to beneficiaries under or services to the health insurer's health plan, including

formulary management and drug-switch programs, educational support, claims processing, and pharmacy network fees charged from retail pharmacies and data sales fees. A pharmacy benefit manager providing information under this subsection may designate that material as confidential. Information designated as confidential by a pharmacy benefit manager and provided to a health insurer under this subsection may not be disclosed by the health insurer to any person without the consent of the pharmacy benefit manager, except that disclosure may be made by the health insurer:

(A) in a court filing under the consumer protection provisions of 9 V.S.A. chapter 63, provided that the information shall be filed under seal and that prior to the information being unsealed, the court shall give notice and an opportunity to be heard to the pharmacy benefit manager on why the information should remain confidential;

(B) when authorized by 9 V.S.A. chapter 63;

(C) when ordered by a court for good cause shown; or

(D) when ordered by the ~~commissioner~~ Commissioner as to a health insurer as defined in subdivision 9471(2)(A) of this title pursuant to the provisions of Title 8 and this title.

(d) At least annually, a pharmacy benefit manager that provides pharmacy benefit management for a health plan shall disclose to the health insurer, the Department of Financial Regulation, and the Green Mountain Care Board the aggregate amount the pharmacy benefit manager retained on all claims charged to the health insurer for prescriptions filled during the preceding calendar year in excess of the amount the pharmacy benefit manager reimbursed pharmacies.

(e) Compliance with the requirements of this section is required for pharmacy benefit managers entering into contracts with a health insurer in this ~~state~~ State for pharmacy benefit management in this ~~state~~ State.

Sec. 17. 18 V.S.A. § 9473 is redesignated to read:

§ ~~9473~~ 9474. ENFORCEMENT

Sec. 18. 18 V.S.A. § 9473 is added to read:

§ 9473. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES WITH RESPECT TO PHARMACIES

(a) Within 14 calendar days following receipt of a pharmacy claim, a pharmacy benefit manager or other entity paying pharmacy claims shall do one of the following:

(1) Pay or reimburse the claim.

(2) Notify the pharmacy in writing that the claim is contested or denied. The notice shall include specific reasons supporting the contest or denial and a description of any additional information required for the pharmacy benefit manager or other payer to determine liability for the claim.

(b) A pharmacy benefit manager or other entity paying pharmacy claims shall:

(1) make available, in a format that is readily accessible and understandable by a pharmacist, a list of the drugs subject to maximum allowable cost, the actual maximum allowable cost for each drug, and the source used to determine the maximum allowable cost; and

(2) update the maximum allowable cost list at least once every seven calendar days.

(c) A pharmacy benefit manager or other entity paying pharmacy claims shall not:

(1) impose a higher co-payment for a prescription drug than the co-payment applicable to the type of drug purchased under the insured's health plan;

(2) impose a higher co-payment for a prescription drug than the maximum allowable cost for the drug; or

(3) require a pharmacy to pass through any portion of the insured's co-payment to the pharmacy benefit manager or other payer.

Sec. 19. 9 V.S.A. § 2466a is amended to read:

§ 2466a. CONSUMER PROTECTIONS; PRESCRIPTION DRUGS

(a) A violation of 18 V.S.A. § 4631 shall be considered a prohibited practice under section 2453 of this title.

(b) As provided in 18 V.S.A. § ~~9473~~ 9474, a violation of 18 V.S.A. § 9472 or ~~9473~~ shall be considered a prohibited practice under section 2453 of this title.

* * *

* * * Adverse Childhood Experiences * * *

Sec. 20. FINDINGS AND PURPOSE

(a) It is the belief of the General Assembly that controlling health care costs requires consideration of population health, particularly Adverse Childhood Experiences (ACEs).

(b) The ACE Questionnaire contains ten categories of questions for adults pertaining to abuse, neglect, and family dysfunction during childhood. It is used to measure an adult's exposure to traumatic stressors in childhood. Based on a respondent's answers to the Questionnaire, an ACE Score is calculated, which is the total number of ACE categories reported as experienced by a respondent.

(c) In a 1998 article entitled "Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults" published in the American Journal of Preventive Medicine, evidence was cited of a "strong graded relationship between the breadth of exposure to abuse or household dysfunction during childhood and multiple risk factors for several of the leading causes of death in adults."

(d) The greater the number of ACEs experienced by a respondent, the greater the risk for the following health conditions and behaviors: alcoholism and alcohol abuse, chronic obstructive pulmonary disease, depression, obesity, illicit drug use, ischemic heart disease, liver disease, intimate partner violence, multiple sexual partners, sexually transmitted diseases, smoking, suicide attempts, and unintended pregnancies.

(e) ACEs are implicated in the ten leading causes of death in the United States and with an ACE score of six or higher, an individual has a 20-year reduction in life expectancy.

(f) An individual with an ACE score of two is twice as likely to experience rheumatic disease. An individual with an ACE score of four has a three-to-four-times higher risk of depression; is five times more likely to become an alcoholic; is eight times more likely to experience sexual assault; and is up to ten times more likely to attempt suicide. An individual with an ACE score of six or higher is 2.6 times more likely to experience chronic obstructive pulmonary disease; is three times more likely to experience lung cancer; and is 46 times more likely to abuse intravenous drugs. An individual with an ACE score of seven or higher is 31 times more likely to attempt suicide.

(g) Physical, psychological, and emotional trauma during childhood may result in damage to multiple brain structures and functions.

(h) ACEs are common in Vermont. In 2011, the Vermont Department of Health reported that 58 percent of Vermont adults experienced at least one adverse event during their childhood, and that 14 percent of Vermont adults have experienced four or more adverse events during their childhood. Seventeen percent of Vermont women have four or more ACEs.

(i) The impact of ACEs is felt across all socioeconomic boundaries.

(j) The earlier in life an intervention occurs for an individual with ACEs, the more likely that intervention is to be successful.

(k) ACEs can be prevented where a multigenerational approach is employed to interrupt the cycle of ACEs within a family, including both prevention and treatment throughout an individual's lifespan.

(l) It is the belief of the General Assembly that people who have experienced adverse childhood experiences can be resilient and can succeed in leading happy, healthy lives.

Sec. 21. VERMONT FAMILY BASED APPROACH PILOT

(a) The Agency of Human Services, through the Integrated Family Services initiative, within available Agency resources and in partnership with the Vermont Center for Children, Youth, and Families at the University of Vermont, shall implement the Vermont Family Based Approach in one pilot region. Through the Vermont Family Based Approach, wellness services, prevention, intervention, and, where indicated, treatment services shall be provided to families throughout the pilot region in partnership with other human service and health care programs. The pilot shall be fully implemented by January 1, 2015 to the extent resources are available to support the implementation.

(b)(1) In the pilot region, the Agency of Human Services, community partner organizations, schools, and the Vermont Center for Children, Youth, and Families shall identify individuals interested in being trained as Family Wellness Coaches and Family Focused Coaches.

(2) Each Family Wellness Coach and Family Focused Coach shall:

(A) complete the training program provided by the Vermont Family Based Approach;

(B) conduct outreach activities for the pilot region; and

(C) serve as a resource for family physicians within the pilot region.

Sec. 22. REPORT; BLUEPRINT FOR HEALTH

On or before December 15, 2014, the Director of the Blueprint for Health shall submit a report to the House Committee on Health Care and to the Senate Committee on Health and Welfare containing recommendations as to how screening for adverse childhood experiences and trauma-informed care may be incorporated into Blueprint for Health medical practices and community health teams, including any proposed evaluation measures and approaches, funding constraints, and opportunities.

Sec. 23. RECOMMENDATION; UNIVERSITY OF VERMONT'S COLLEGE OF MEDICINE AND SCHOOL OF NURSING CURRICULUM

The General Assembly recommends to the University of Vermont's College of Medicine and School of Nursing that they consider adding or expanding information to their curricula about the Adverse Childhood Experience Study and the impact of adverse childhood experiences on lifelong health.

Sec. 24. TRAUMA-INFORMED EDUCATIONAL MATERIALS

(a) On or before January 1, 2015, the Vermont Board of Medical Practice, in collaboration with the Vermont Medical Society Education and Research Foundation, shall develop educational materials pertaining to the Adverse Childhood Experience Study, including available resources and evidence-based interventions for physicians, physician assistants, and advanced practice registered nurses.

(b) On or before July 1, 2016, the Vermont Board of Medical Practice and the Office of Professional Regulation shall disseminate the materials prepared pursuant to subsection (a) of this section to all physicians licensed pursuant to 26 V.S.A. chapters 23 and 33, naturopathic physicians licensed pursuant to 26 V.S.A. chapter 81, physician assistants licensed pursuant to 26 V.S.A. chapter 31, and advanced practice registered nurses licensed pursuant to 26 V.S.A. chapter 28, subchapter 3.

Sec. 25. REPORT; DEPARTMENT OF HEALTH; GREEN MOUNTAIN CARE BOARD

(a) On or before November 1, 2014, the Department of Health, in consultation with the Department of Mental Health, shall submit a written report to the Green Mountain Care Board containing:

(1) recommendations for incorporating education, treatment, and prevention of adverse childhood experiences into Vermont's medical practices and the Department of Health's programs;

(2) recommendations on the availability of appropriate screening tools and evidence-based interventions for individuals throughout their lives, including expectant parents, and the additional resources, if any, that would be necessary to ensure adequate access to the interventions identified as needed as a result of the use of the screening tools; and

(3) information about the costs and availability of, and recommendations on, additional security protections that may be necessary for information related to a patient's adverse childhood experiences.

(b) The Green Mountain Care Board shall review the report submitted pursuant to subsection (a) of this section and attach comments to the report

regarding the report's implications on population health and health care costs. On or before January 1, 2015, the Board shall submit the report with its comments to the Senate Committees on Education and on Health and Welfare and to the House Committees on Education, on Health Care, and on Human Services.

* * * Reports * * *

Sec. 26. GREEN MOUNTAIN CARE FINANCING AND COVERAGE;
REPORT

(a) Notwithstanding the January 15, 2013 date specified in 2011 Acts and Resolves No. 48, Sec. 9, no later than January 15, 2015, the Secretary of Administration shall submit to the House Committees on Health Care and on Ways and Means and the Senate Committees on Health and Welfare and on Finance a proposal to transition to and fully implement Green Mountain Care. The report shall include the following elements, as well as any other topics the Secretary deems appropriate:

(1) a detailed analysis of the direct and indirect financial impacts of moving from the current health care system to a publicly financed system, including the impact by income class and family size for individuals and by business size, economic sector, and total sales or revenue for businesses, as well as the effect on various wage levels and job growth;

(2) recommendations for the amounts and necessary mechanisms to finance Green Mountain Care, including:

(A) proposing the amounts to be contributed by individuals and businesses;

(B) recommending financing options for wraparound coverage for individuals with other primary coverage, including evaluating the potential for using financing tiers based on the level of benefits provided by Green Mountain Care; and

(C) addressing cross-border financing issues;

(3) wraparound benefits for individuals for whom Green Mountain Care will be the payer of last resort pursuant to 33 V.S.A. § 1827(f), including individuals covered by the Federal Employees Health Benefit Program, TRICARE, Medicare, retiree health benefits, or an employer health plan;

(4) recommendations for addressing cross-border health care delivery issues;

(5) establishing provider reimbursement rates in Green Mountain Care;

(6) developing estimates of administrative savings to health care providers and payers from Green Mountain Care; and

(7) information regarding Vermont's efforts to obtain a Waiver for State Innovation pursuant to Section 1332 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, including submission of a conceptual waiver application as required by Sec. 10 of this act; and

(8) proposals for enhancing loan forgiveness programs and other opportunities and incentives for health care workforce development and enhancement

(b) If the Secretary of Administration does not submit the Green Mountain Care financing and coverage proposal required by this section to the General Assembly by January 15, 2015, no portion of the unencumbered funds remaining as of that date in the fiscal year 2015 appropriation to the Agency of Administration for the planning and the implementation of Green Mountain Care shall be expended until the Secretary submits the required proposal.

Sec. 27. CHRONIC CARE MANAGEMENT; BLUEPRINT; REPORT

On or before October 1, 2014, the Secretary of Administration or designee shall provide to the House Committees on Health Care and on Human Services and the Senate Committees on Health and Welfare and on Finance a proposal for modifications of the payment structure to health care providers and community health teams for their participation in the Blueprint for Health; a recommendation on whether to expand the Blueprint to include additional services or chronic conditions such as obesity, mental conditions, and oral health; and recommendations on ways to strengthen and sustain advanced practice primary care.

Sec. 28. HEALTH INSURER SURPLUS; LEGAL CONSIDERATIONS; REPORT

The Department of Financial Regulation, in consultation with the Office of the Attorney General, shall identify the legal and financial considerations involved in the event that a private health insurer offering major medical insurance plans, whether for-profit or nonprofit, ceases doing business in this State, including appropriate disposition of the insurer's surplus funds. On or before July 15, 2014, the Department shall report its findings to the House Committees on Health Care, on Commerce, and on Ways and Means and the Senate Committees on Health and Welfare and on Finance.

Sec. 29. TRANSITION PLAN FOR UNION EMPLOYEES

The Commissioners of Labor and of Human Resources; one representative each from the Vermont League of Cities and Towns, the Vermont School Boards Association, and the Vermont School Board Insurance Trust; and five representatives from a coalition of labor organizations active in Vermont, in consultation with other interested stakeholders, shall develop a plan for transitioning employees with collectively bargained health benefits from their existing health insurance plans to Green Mountain Care, with the goal that union employees shall be enrolled in Green Mountain Care upon implementation, which is currently targeted for 2017. The transition plan shall be consistent with State and federal labor relations laws and public and private sector collective bargaining agreements and shall ensure that total employee compensation does not decrease significantly, nor financial costs to employers increase significantly, as a result of the transition of employees to Green Mountain Care.

Sec. 30. FINANCIAL IMPACT OF HEALTH CARE REFORM INITIATIVES

The Joint Fiscal Committee shall:

(1) determine the distribution of current health care spending by individuals, businesses, and municipalities, including the direct and indirect costs by income class, family size, and other demographic factors for individuals and by business size, economic sector, and total sales or revenue for businesses;

(2) for each proposal for health care system reform, evaluate the direct and indirect impacts on individuals, businesses, and municipalities, including the direct and indirect costs by income class, family size, and other demographic factors for individuals and by business size, economic sector, and total sales or revenue for businesses;

(3) estimate the costs of and savings from current health care reform initiatives; and

(4) update the cost estimates for Green Mountain Care, the universal and unified health care system established in 33 V.S.A. chapter 18, subchapter 2.

Sec. 31. [Deleted.]

Sec. 32. INCREASING MEDICAID RATES; REPORT

On or before January 15, 2015, the Secretary of Administration or designee, in consultation with the Green Mountain Care Board, shall report to the House Committees on Health Care and on Ways and Means and the Senate Committees on Health and Welfare and on Finance regarding the impact of

increasing Medicaid reimbursement rates to providers to match Medicare rates. The issues to be addressed in the report shall include:

- (1) the amount of State funds needed to effect the increase;
- (2) the level of a payroll tax that would be necessary to generate the revenue needed for the increase;
- (3) the projected impact of the increase on health insurance premiums; and
- (4) to the extent that premium reductions would likely result in a decrease in the aggregate amount of federal premium tax credits for which Vermont residents would be eligible, whether there are specific timing considerations for the increase as it relates to Vermont's application for a Waiver for State Innovation pursuant to Section 1332 of the Patient Protection and Affordable Care Act.

Sec. 33. HEALTH CARE EXPENSES IN OTHER FORMS OF INSURANCE

The Secretary of Administration or designee, in consultation with the Departments of Labor and of Financial Regulation, shall collect the most recent available data regarding health care expenses paid for by workers' compensation, automobile, property and casualty, and other forms of non-medical insurance, including the amount of money spent on health care-related goods and services and the percentage of the premium for each type of policy that is attributable to health care expenses. The Secretary of Administration or designee shall consolidate the data and provide it to the General Assembly on or before December 1, 2014.

* * * Health Care Workforce Symposium * * *

Sec. 34. HEALTH CARE WORKFORCE SYMPOSIUM

On or before November 15, 2014, the Secretary of Administration or designee, in collaboration with the Vermont Medical Society, the Vermont Association of Hospitals and Health Systems, and the Vermont Assembly of Home Health and Hospice Agencies, shall organize and conduct a symposium to address the impacts of moving toward universal health care coverage on Vermont's health care workforce and on its projected workforce needs.

* * * Repeal * * *

Sec. 35. REPEAL

3 V.S.A. § 635a (legislators and session-only legislative employees eligible to purchase State Employees Health Benefit Plan at full cost) is repealed.

* * * Effective Dates * * *

Sec. 36. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 11, 21 V.S.A. § 2003(b), shall take effect on passage and shall apply beginning with the calculation of the Health Care Fund contributions payable in the first quarter of fiscal year 2015, which shall be based on the number of an employer's uncovered employees in the fourth quarter of fiscal year 2014.

(2) Sec. 18 (18 V.S.A. § 9473; pharmacy benefit managers) shall take effect on July 1, 2014 and shall apply to contracts entered into or renewed on or after that date.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Ashe, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Committee of Conference Appointed

S. 252.

An act relating to financing for Green Mountain Care.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Ashe
Senator Ayer
Senator Kitchel

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Committee of Conference Appointed

S. 287.

An act relating to involuntary treatment and medication.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator White
Senator Ayer
Senator Sears

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Committee of Conference Appointed**S. 299.**

An act relating to sampler flights.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Mullin
Senator Bray
Senator Collins

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Committee of Conference Appointed**S. 314.**

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

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Mazza
Senator Flory
Senator Sears

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bills Messaged

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 239, S. 252, S. 287, S. 299, S. 314, H. 483.

Adjournment

On motion of Senator Campbell, the Senate adjourned until ten o'clock in the morning.