# House Calendar

Friday, April 03, 2015

87th DAY OF THE BIENNIAL SESSION

House Convenes at 9:00 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Unfinished Business of Thursday, April 2 2015

H.R. 8

House resolution expressing strong opposition to state religious freedom restoration legislation that authorizes discrimination based on sexual orientation

(For text see House Journal 4/2/2015)


By striking all after the title and inserting in lieu thereof the following:

Whereas, on March 26, 2015, Indiana became the latest state to adopt a
Religious Freedom Restoration Act, and

Whereas, this act did not prevent possible discrimination against lesbian, gay, bisexual, and transgender individuals, and

Whereas, in 1992, the State of Vermont prohibited discrimination based on sexual orientation, and

Whereas, in 2000, the State of Vermont established civil unions, becoming the first state to grant legal recognition to same sex couples, and

Whereas, in 2007, the State of Vermont prohibited discrimination based on gender identity, and

Whereas, in 2009, the State of Vermont established full marriage equality, becoming the first state to grant this recognition legislatively, and

Whereas, these legislative actions have benefited the State of Vermont economically, and

Whereas, many organizations and individuals have interpreted the Indiana legislation, and criticized it strongly, as granting private businesses, based on an owner’s religious beliefs, the right to discriminate against individuals who are gay, lesbian, bisexual, or transgender, and

Whereas, the National Collegiate Athletic Association (NCAA), which is headquartered in Indianapolis, has expressed concern how the legislation might affect student-athletes and NCAA employees, and

Whereas, the American Federation of State, County and Municipal Employees has cancelled plans to hold its 2015 Women’s Conference in that city, and

Whereas, on Tuesday, March 31, 2015, the Indianapolis Star newspaper ran a front-page editorial with a bold headline stating “FIX THIS NOW,” and

Whereas, aside from the enacted Indiana law, there is similar legislation under consideration in approximately a dozen states, and

Whereas, on Monday, March 30, 2015, Governor Dannel Malloy of Connecticut signed Executive Order No. 45, restricting “state funded or state sponsored travel to states” that have enacted legislation such as Indiana’s Religious Freedom Act, “unless necessary for the enforcement of state law, to meet contractual obligations or for the protection of public health, welfare and safety;” and also providing the that the travel restriction continues for any state as long as that state’s law remains in effect, and

Whereas, on March 31, 2015, Secretary of Administration Justin Johnson sent an e-mail directing all Executive Branch agencies and departments to not
send employees on State-funded or State-sponsored trips to Indiana until further notice, now therefore be it

Resolved by House of Representatives:

That this legislative body expresses its strong opposition to Indiana’s Religious Freedom Restoration Act as signed into law on March 26, 2015, and expresses its support for, at a minimum, enactment of the proposed clarification and, preferably, for the law’s repeal, and be it further

Resolved: That this legislative body requests Governor Peter Shumlin to broaden the application of the directive issued on March 31, 2015, to apply to any state that adopts a law similar to Indiana’s Religious Freedom Restoration Act, and urges the Judicial and Legislative Branches of State government to adopt a similar policy, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the governors of all 50 states, Chief Justice Paul Reiber, Speaker of the House Shap Smith, and Senate President Pro Tempore John Campbell.

Amendment to be offered by Rep. Donahue of Northfield to H.R. 8

That the Poirier et al amendment be amended by adding a new second Resolve clause to read

Resolved: That this legislative body declares its strong opposition to any federal or state law that discriminates against an individual or group of individuals based on their race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability, and be it further

NEW BUSINESS

Third Reading

H. 367

An act relating to miscellaneous revisions to the municipal plan adoption, amendment, and update process

H. 492

An act relating to capital construction and State bonding
Senate Proposal of Amendment

H. 240

An act relating to miscellaneous technical corrections to laws governing motor vehicles, motorboats, and other vehicles

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

First: In Sec. 12, 23 V.S.A. § 458, by striking out the second sentence in its entirety and inserting in lieu thereof the following:

The purchaser, if a properly licensed, on attaching the number plate with temporary validation stickers, temporary plate or decal purchaser either attaches to the motor vehicle, motorboat, snowmobile, or all-terrain vehicle, or carries in the motorboat such number plate or decal, he or she may operate the same for a period not to exceed 60 consecutive days immediately following the purchase.

Second: By striking out Sec. 21 in its entirety, and by renumbering the remaining sections to be numerically correct.

(No House Amendments)

NOTICE CALENDAR

Favorable with Amendment

H. 481

An act relating to supporting health care initiatives and establishing payroll and sugar-sweetened beverage taxes

(Rep. Lippert of Hinesburg will speak for the Committee on Health Care.)

Rep. Till of Jericho, for the Committee on Ways and Means, recommends the bill be amended as follows:

First: By striking out the applicable reader assistance headings and Secs. 1–7 (increasing access to health care providers and health insurance coverage), 8 (Office of Health Care Advocate), 10 and 11 (investments in future structural reforms in health care), and 21 (appropriation) in their entirety

Second: By striking out the reader assistance heading and Secs. 23 (sugar sweetened beverage tax) and 24 (monitoring), and inserting in lieu thereof the following:

*** Excise Tax on Sweetened Beverages ***

Sec. 23. 32 V.S.A. chapter 227 is added to read:
CHAPTER 227. SWEETENED BEVERAGE TAX

§ 9401. DEFINITIONS

As used in this chapter:

(1) “Beverage for medical use” means a beverage suitable for human consumption and manufactured for use as an oral nutritional therapy for persons who cannot absorb or metabolize dietary nutrients from food or beverages, or for use as an oral rehydration electrolyte solution for infants and children formulated to prevent or treat dehydration due to illness. “Beverage for medical use” shall also mean a “medical food” as defined in Section 5(b)(3) of the Orphan Drug Act at 21 U.S.C. § 360ee(b)(3). “Beverage for medical use” shall not include drinks commonly referred to as “sports drinks” or any other common names that are derivations thereof.

(2) “Commissioner” means the Commissioner of Taxes and his or her authorized agents and employees.

(3) “Consumer” means a person who purchases or otherwise obtains a sweetened beverage for consumption and not for sale to another.

(4) “Department” means the Vermont Department of Taxes.

(5) “Distribution” or “distribute” means the transfer of title or possession from one person to another for consideration, or within a business entity, or between business entities subject to the same ownership or control, such as by a wholesale or warehousing unit to a retail outlet, or between two or more employees or contractors. “Distribution” or “distribute” shall not mean the retail sale to a consumer.

(6) “Distributor” means any person, including a manufacturer and a wholesale dealer, who receives, stores, manufactures, bottles, or distributes syrup, powder, or sweetened beverages for sale to retailers, whether or not that person also sells such products to consumers. “Distributor” also means any person importing or causing to be imported syrup, powder, or sweetened beverages into the State from outside the State for sale to a retailer or consumer.

(7) “Place of business” means any place where syrup, powder, or sweetened beverages are manufactured or received for sale in the State.

(8) “Powder” means any solid mixture of ingredients used in making, mixing, or compounding sweetened beverages by mixing the powder with any one or more other ingredients, including water, ice, syrup, simple syrup, fruits, vegetables, fruit juice, vegetable juice, or carbonation or other gas.

(9) “Retailer” means any person who sells syrup, powder, or sweetened beverages for sale in the State.
beverages to consumers in the State.

(10) “Sale” means the transfer of title or possession for valuable consideration regardless of the manner by which the transfer is completed.

(11) “Sweetened beverage” means any nonalcoholic beverage, carbonated or noncarbonated, that is intended for human consumption as a beverage and contains any added natural or artificial sweetener or sugar substitute. As used in this definition, “nonalcoholic beverage” means any beverage that contains less than one-half of one percent alcohol per volume.

(12) “Sweetener” means any substance suitable for human consumption that humans perceive as sweet and includes sucrose, fructose, glucose, other sugars, fruit juice concentrates, aspartame, sucralose, cyclamate, saccharin, stevia, or other sugar substitutes.

(13) “Syrup” means a liquid mixture of ingredients used in making, mixing, or compounding sweetened beverages using one or more other ingredients, such as water, ice, powder, simple syrup, fruits, vegetables, fruit juice, vegetable juice, or carbonation or other gas.

§ 9402. TAX IMPOSED

(a) There is imposed an excise tax on every distributor of $0.005 per ounce upon sweetened beverages sold in the State.

(b) There is imposed an excise tax on every distributor of $0.005 per ounce of syrup and powder sold in the State. For purposes of calculating the tax under this subsection, the taxable volume of syrup or powder shall be equal to the largest volume of sweetened beverage resulting from use of the syrup or powder according to the manufacturer’s instructions.

§ 9403. RETURNS AND REMITTANCES

(a) Any distributor liable for the tax imposed by this chapter shall, on or before the 15th day of every month, return to the Commissioner, under oath of a person with legal authority to bind the distributor, a statement containing its name and place of business, the quantity of syrup, powder, and sweetened beverages subject to the excise tax imposed by this chapter sold in the preceding month, and any other information required by the Commissioner, along with the tax due.

(b) All of the revenue from the tax imposed by this chapter shall be deposited in the State Health Care Resources Fund established under 33 V.S.A. § 1901d.

§ 9404. RECORDS

Every distributor shall maintain, for not less than three years, accurate
records showing all transactions subject to tax liability under this chapter. These records are subject to inspection by the Commissioner at all reasonable times during normal business hours.

§ 9405. EXEMPTIONS

The following shall be exempt from the tax imposed by section 9402 of this chapter:

1. Syrup, powder, or sweetened beverages sold to the U.S. government, its subdivisions, or under any other circumstances in which the State is without power to impose the tax.

2. Syrup, powder, or sweetened beverages sold by a distributor for resale or consumption outside the State.

3. Syrup, powder, or sweetened beverages sold by a distributor to another distributor and not intended for resale to a consumer if the purchasing distributor holds a license issued under section 9406 of this chapter and if the sales invoice clearly indicates that the sale is exempt.

4. Beverages in which milk, or soy, rice, or similar milk substitute, is the primary ingredient or the first listed ingredient on the label of the beverage.

5. Coffee or tea without added sweetener.

6. Infant formula.


8. Water without any sweeteners.

9. Beverages consisting of 100 percent natural fruit or vegetable juice with no added sweetener. As used in this subdivision, “natural fruit juice” and “natural vegetable juice” mean the original liquid resulting from the pressing of fruits or vegetables or the liquid resulting from the dilution of dehydrated natural fruit juice or natural vegetable juice.

10. Maple syrup, as that term is defined in 6 V.S.A. § 481, or beverages sweetened with maple syrup.

§ 9406. LICENSE REQUIRED

Each distributor shall secure a license from the Commissioner before engaging in the business of selling sweetened beverages in the State.

§ 9407. APPLICATION FOR AND ISSUANCE OF LICENSE

(a) A separate application and license is required for each wholesale outlet when a distributor owns or controls more than one such outlet.
(b) Licenses shall be issued by the Commissioner on application, without charge, on forms prescribed by the Commissioner, stating the name and address of the applicant, the address of the place of business, the type of business, and any other information the Commissioner may require for the proper administration of this chapter.

§ 9408. TERM OF LICENSES

Each license issued under the provisions of this chapter shall be valid as long as the licensee continues to do business at the place named, unless the license is revoked or suspended by the Commissioner as provided in section 9409 of this chapter. If the business is sold or transferred or if the licensee ceases to do business at the place named, the license shall immediately be returned to the Commissioner for cancellation.

§ 9409. REVOCATION AND SUSPENSION OF LICENSES

The Commissioner may revoke or suspend the license of any licensee for failure to comply with any provision of this chapter or for failure to comply with the provisions of 11 V.S.A. chapter 15.

§ 9410. PENALTIES

(a) Any person subject to the provisions of this chapter who fails to pay the tax imposed by this chapter by the date that payment is due or fails to submit a return as required by this chapter is subject to the provisions of section 3202 of this title (interest and penalties).

(b) Any person subject to the provisions of this chapter who sells or offers for sale any syrup, powder, or sweetened beverages in the State without holding a license as required by this chapter is liable for a penalty of up to $100.00 for each day such sales are made or offered.

§ 9411. APPEALS

Any person aggrieved by an action taken by the Commissioner under this chapter may appeal in writing to the Commissioner for a review. The Commissioner shall then grant a hearing under 3 V.S.A. chapter 25 and notify the aggrieved person in writing of his or her determination. The Commissioner’s determination may be appealed within 30 days to the Superior Court of the county of this State in which the taxpayer resides or has a place of business or to the Superior Court of Washington County.

§ 9412. BONDING

When the Commissioner, in his or her discretion, considers it necessary to protect the revenues raised under this chapter, he or she may require any licensee to file with him or her a bond under the terms of section 3114 of this
§ 9413. RULES AND REGULATIONS

The Commissioner is authorized to adopt rules and procedures to accomplish the purposes of this chapter.

Sec. 24. MONITORING

The Department of Health shall develop criteria and components for an independent evaluation to assess the impact that the sweetened beverage tax has on consumption of products affected by the implementation of the tax. Specifically, the evaluation shall seek to determine the impact of the exclusions on consumer purchasing and health outcomes.

Third: By striking out the reader assistance heading and Sec. 25 (payroll tax) in their entirety, and inserting in lieu thereof the following:

* * * Cigarette and Tobacco Taxes * * *

Sec. 25. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

* * *

(d) The tax imposed under this section shall be at the rate of 437.5 150 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 25a. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at $2.29 $2.50 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of $2.29 $2.50 per ounce or, if packaged for sale to a consumer in a package that
contains less than 1.2 ounces of the new smokeless tobacco, at the rate of $2.75 per package, and cigars with a wholesale price greater than $2.17, which shall be taxed at the rate of $2.00 per cigar if the wholesale price of the cigar is greater than $2.17 and less than $10.00, and at the rate of $4.00 per cigar if the wholesale price of the cigar is $10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 25b. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retail dealer at 12:01 a.m. on July 1, 2014, but shall not apply to retail dealers who hold less than $500.00 in wholesale value of such snuff. Each retail dealer subject to the tax shall, on or before July 25, 2014, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. on July 1, 2014, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before August 25, 2014, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this State who is either a wholesaler; or a retailer who at 12:01 a.m. on July 1, 2014, has more than 10,000 cigarettes or little cigars or who has $500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or
control of the wholesaler or retail dealer at 12:01 a.m. on July 1, 2014 2015, and on which cigarette stamps have been affixed before July 1, 2014 2015. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on July 1, 2014 2015, and not yet affixed to a cigarette package, and the tax shall be at the rate of $0.13 $0.25 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before July 25, 2014 2015, file a report to the Commissioner in such form as the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1, 2014 2015, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25, 2014 2015, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

*** Sales Tax ***

Sec. 25c. 32 V.S.A. § 9701(31) is amended to read:

(31) “Food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages or tobacco, or dietary supplements.

Fourth: By striking out Sec. 26 (State Health Care Resources Fund) in its entirety and inserting in lieu thereof the following:

Sec. 26. 33 V.S.A. § 1901d(b) is amended to read:

(b) Into the Fund shall be deposited:

(1) all revenue from the tobacco products tax and from the cigarette tax levied pursuant to 32 V.S.A. chapter 205;

(2) revenue from health care provider assessments pursuant to subchapter 2 of chapter 19 of this title;

(3) revenue from the employer health care premium contribution pursuant to 21 V.S.A. chapter 25;

(4) revenue from the excise tax on sweetened beverages pursuant to 32 V.S.A. chapter 227;

(5) revenue from health care claims assessments pursuant to 32 V.S.A.
§ 10402;

(5)(6) premium amounts paid by individuals unless paid directly to the insurer;

(6)(7) the proceeds from grants, donations, contributions, taxes, and any other sources of revenue as may be provided by statute, rule, or act of the General Assembly; and

(7)(8) any remaining balance in the terminated Catamount Fund as of June 30, 2012.

Fifth: In Sec. 27 (Department of Taxes; appropriation) by striking out “$4,113,000.00” and inserting in lieu thereof “$810,000.00” and by striking out “the payroll and sugar-sweetened beverage taxes” and inserting in lieu thereof “the sweetened beverage tax”

Sixth: By striking out Sec. 28 (Vermont liability as employer) in its entirety and inserting lieu thereof:

Sec. 28. [Deleted.]

Seventh: By striking out subsection (a) of Sec. 29 (repeal of elimination of HIT funding), and inserting in lieu thereof:

(a) [Deleted.]

Eighth: By striking out subsection (b) of Sec. 29 (elimination of employer assessment), and inserting in lieu thereof:

(b) [Deleted.]

Ninth: In Sec. 30 (effective dates), in subsection (a), by striking out “, 28 (State of Vermont payroll tax liability), and 29 (repeals)”, in subsection (b), by striking out “November 1” and inserting in lieu thereof “August 1” and by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c) Secs. 25 (cigarette tax), 25a (other tobacco products), 25b (floor tax), and 25c (sales tax definitions) shall take effect on July 1, 2015.

(d) Sec. 26 (State Health Care Resources Fund) shall take effect on August 1, 2016.

(Committee Vote: 6-5-0)
Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today’s adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary’s office and/or the House Clerk’s office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of 4/2/2015.

H.C.R. 89

House concurrent resolution congratulating Aliah Curry on her record breaking career on the Norwich University women’s basketball team

H.C.R. 90

House concurrent resolution recognizing the centennial anniversary of the Vermont Workers’ Compensation Act

H.C.R. 91

House concurrent resolution congratulating Alexander (AJ) Ginnis on winning a bronze medal in the men’s slalom at the 2015 Junior World Championships

H.C.R. 92

House concurrent resolution designating March as Women’s History Month in Vermont

H.C.R. 93

House concurrent resolution designating April 2015 as the Month of the Military Child in Vermont

H.C.R. 94

House concurrent resolution congratulating the 2014 Proctor High School Phantoms Division IV championship girls’ soccer team

H.C.R. 95

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House concurrent resolution congratulating the 2015 Woodstock Union High School Wasps Division II championship boys’ basketball team

H.C.R. 98
House concurrent resolution recognizing the American Traffic Safety Association and its Foundation for their outstanding public awareness, education, and training programs with respect to safety in highway work zones and designating March 30–April 3, 2015 as Vermont Work Zone Awareness Week

Public Hearings
On Tuesday, April 7, 2015 beginning at 1:30 pm, the Senate Appropriations Committee will be taking testimony from advocates regarding the Fiscal Year 2016 Budget (H.490) in Room 10 of the State House. To schedule time before the Committee contact Becky Buck at the Legislative Joint Fiscal Office located at 1 Baldwin Street; phone: 828-5969 or via email at: rbuck@leg.state.vt.us.