

House Calendar

Tuesday, April 21, 2015

105th DAY OF THE BIENNIAL SESSION

House Convenes at 10:00 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

Action Postponed Until April 21, 2015

Senate Proposal of Amendment to House Proposal of Amendment

S. 13 An act relating to the Vermont Sex Offender Registry 1656

ACTION CALENDAR

Favorable with Amendment

S. 72 An act relating to binding arbitration for State employees 1656
Rep. Lucke for General, Housing and Military Affairs

S. 122 An act relating to miscellaneous changes to laws related to motor
vehicles, motorboats, and other vehicles 1660

Rep. Brennan for Transportation

Rep. Brennan amendment 1692

Senate Proposal of Amendment

H. 270 Definitions for pretrial screenings and assessments 1697

H. 304 Making miscellaneous amendments to Vermont's retirement laws 1698

NOTICE CALENDAR

Favorable with Amendment

H. 8 The oversight of the transfer of military equipment to law enforcement
agencies 1701

Rep. Hubert for Government Operations

H. 187 Absence from work for health care and safety 1702
Rep. Head for General, Housing and Military Affairs

H. 497 Approval of amendments to the charter of the Town of Colchester 1709
Rep. Lewis for Government Operations

Favorable

H. 280 Amending the State Board of Education rules on school lighting requirements 1710
Rep. Christie for Education

H. 494 Approval of the adoption and codification of the charter of the Town of Weybridge 1710
Rep. Lewis for Government Operations

H. 496 Approval of the adoption and codification of the charter of the Town of West Fairlee..... 1710
Rep. Lewis for Government Operations

H. 499 Approval of the adoption and codification of the charter of the Town of Salisbury 1710
Rep. Lewis for Government Operations

Senate Proposal of Amendment

H. 141 The Organ and Tissue Donation Working Group 1710

ORDERS OF THE DAY

ACTION CALENDAR

Action Postponed Until April 21, 2015

Senate Proposal of Amendment to House Proposal of Amendment

S. 13

An act relating to the Vermont Sex Offender Registry

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

In Sec. 9, (Effective Dates), subsection (b), by striking out subdivision (3) in its entirety.

(For House Proposal of Amendment see House Journal 3/31/2015)

NEW BUSINESS

Favorable with Amendment

S. 72

An act relating to binding arbitration for State employees

Rep. Lucke of Hartford, for the Committee on **General, Housing & Military Affairs**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 926 is amended to read:

§ 926. GRIEVANCES

(a) The ~~board~~ Board shall hear and make a final determination on the grievances of all employees who are eligible to appeal grievances to the ~~board~~ Board. Grievance hearings at the ~~board~~ Board level shall be conducted in accordance with the rules and regulations ~~promulgated~~ adopted by the ~~board~~ Board. The right to institute grievance proceedings extends to individual employees, groups of employees, and collective bargaining units.

(b) A collective bargaining agreement may provide for binding arbitration as a final step of a grievance procedure, rather than a hearing by the Board. An agreement that includes a binding arbitration provision shall also include the procedure for selecting an arbitrator.

(c) If a collective bargaining agreement provides for binding arbitration as a final step of a grievance procedure, the agreement may also establish:

- (1) procedural rules for conducting grievance arbitration proceedings;
- (2) whether grievance arbitration proceedings will be confidential; and
- (3) whether arbitrated grievance determinations will have precedential value.

(d) An arbitrator chosen or appointed under this section shall have no authority to add to, subtract from, or modify the collective bargaining agreement.

(e) Any collective bargaining agreement that contains a binding arbitration provision pursuant to this section shall include an acknowledgement of arbitration that provides substantially the following:

ACKNOWLEDGEMENT OF ARBITRATION

(The parties) understand that this agreement contains a provision for binding arbitration as a final step of the grievance process. After the effective date of this agreement, no grievance, submitted to binding arbitration, may be brought to the Vermont Labor Relations Board. An employee who has declined representation by the employee organization or whom the employee organization has declined to represent or is unable to represent, shall be entitled, either by representing himself or herself or with the assistance of independent legal counsel, to appeal his or her grievance to the Vermont Labor Relations Board as the final step of the grievance process in accordance with the rules and regulations adopted by the Board.

(f) This section shall not apply to labor interest arbitration, which as used in this chapter means the method of concluding labor negotiations by means of a disinterested person to determine the terms of a labor agreement.

(g) A party may apply to the arbitrator for a modification of an award if the application is made within 30 days after delivery of a copy of the award to the applicant. An arbitrator may modify an award only if the arbitrator finds any one of the following:

(1) There was an evident miscalculation of figures or an evident mistake in the description of any person, thing, or property referred to in the award.

(2) The award was based on a matter not submitted to the arbitrator, and the award may be corrected without affecting the merits of the decision on the issues submitted.

(3) The award was imperfect in form and the award may be corrected without affecting the merits of the controversy.

(h) A party may apply to the Civil Division of the Superior Court for review of the award provided the application is made within 30 days after

delivery of a copy of the award to the applicant or, in the case of a claim of corruption, fraud, or other undue means, the application is made within 30 days after those grounds are known or should have been known. The Civil Division of the Superior Court shall vacate an arbitration award based on any of the following:

(1) The award was procured by corruption, fraud, or other undue means.

(2) There was partiality or prejudicial misconduct by the arbitrator.

(3) The arbitrator exceeded his or her power or rendered an award requiring a person to commit an act or engage in conduct prohibited by law.

(i) The ~~board~~ Board shall hear and make a final determination on the grievances of all retired individual employees of the University of Vermont, groups of such retired individuals, and retired collective bargaining unit members of the University of Vermont. Grievances shall be limited to those relating to compensation and benefits that were accrued during active employment but are received after retirement. ~~For the purposes of~~ As used in this subsection, "grievance" means an allegation of a violation of a collective bargaining agreement, employee handbook provision, early retirement plan, individual separation agreement or other documented agreement, or rule or regulation of the University of Vermont.

Sec. 2. 3 V.S.A. § 904 is amended as follows:

§ 904. SUBJECTS FOR BARGAINING

(a) All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining except those matters which are prescribed or controlled by statute. Such matters appropriate for collective bargaining to the extent they are not prescribed or controlled by statute include:

* * *

(7) grievance procedures, including whether an appeal to the Vermont Labor Relations Board or binding arbitration, or both, will constitute the final step in a grievance procedure;

* * *

Sec. 3. 3 V.S.A. § 928 is amended as follows:

§ 928. RULES AND REGULATIONS

* * *

(b) Notwithstanding the provisions of subsection (a) of this section, rules and regulations adopted by the ~~board~~ Board as they relate to grievance appeals shall provide:

(1) ~~All~~ If a collective bargaining agreement provides that an appeal to the Board will constitute the final step in the grievance procedure, all employees and other persons authorized by this chapter shall have the right to appeal to the ~~board~~ Board in accordance with the rules and regulations of the ~~board~~ Board.

* * *

Sec. 4. 3 V.S.A. § 941 is amended as follows:

§ 941. UNIT DETERMINATION, CERTIFICATION, AND REPRESENTATION

* * *

(i) The Board, by rule, shall prescribe a uniform procedure for the resolution of employee grievances submitted through the collective bargaining machinery. ~~The~~ If the collective bargaining agreement does not provide that binding arbitration will be the final step of the negotiated grievance procedure pursuant to section 926 of this chapter, the final step of any the negotiated grievance procedure, if required, shall be a hearing and final determination by the Board. Grievance hearings conducted by the Board shall be informal and not subject to the rules of pleading procedure, and evidence of the courts of the State. Any employee or group of employees included in a duly certified bargaining unit may be represented before the Board by ~~their~~ its bargaining representative's counsel or designated executive staff employees or by any individual the Board may permit at its discretion.

* * *

Sec. 5. 3 V.S.A. § 975 is amended as follows:

§ 975. ENFORCEMENT AND PREEMPTION

* * *

(b) A ~~state~~ State employee who files a claim of retaliation for protected activity with the Vermont ~~labor relations board~~ Labor Relations Board or through binding arbitration under a grievance procedure or similar process available to the employee may not bring such a claim in ~~superior court~~ Superior Court.

* * *

Sec. 6. 3 V.S.A. § 1001 is amended as follows:

§ 1001. GRIEVANCES; APPLICANTS AND EXCLUDED PERSONNEL

* * *

(c) Any dispute concerning the amount of a collective bargaining service fee may be grieved as set forth in the collective bargaining agreement through

either an appeal to the state labor relations board Vermont Labor Relations Board in accordance with the board's Board's rules concerning grievances, or through binding arbitration.

Sec. 7. 3 V.S.A. § 1002 is amended as follows:

§ 1002. ENFORCEMENT

(a) Orders of the ~~board~~ Board or an arbitrator issued under this chapter may be enforced by any party or by the ~~board~~ Board by filing a petition with the Superior Court in Washington superior-court County or the ~~superior-court~~ Superior Court in the county in which the action before the ~~board~~ Board originated. The petition shall be served on the adverse party as provided for service of process under the Vermont Rules of Civil Procedure. If, after hearing, the ~~court~~ Court determines that the ~~board~~ Board or arbitrator had jurisdiction over the matter and that a timely appeal was not filed, or that an appeal was timely filed and a stay of the ~~board~~ Board or arbitrator's order or any part of it was not granted, or that a ~~board~~ Board order was affirmed on appeal in pertinent part by the ~~supreme-court~~ Supreme Court or that an arbitrator's order was affirmed on appeal in pertinent part by the Superior Court, the court Court shall incorporate the order of the ~~board~~ Board or arbitrator as a judgment of the ~~court~~ Court. There is no appeal from that judgment except that a judgment reversing a ~~board~~ decision by the Board or an arbitrator on jurisdiction may be appealed to the ~~supreme-court~~ Supreme Court.

* * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 8-0-0)

(For text see Senate Journal 2/20/15)

S. 122

An act relating to miscellaneous changes to laws related to motor vehicles, motorboats, and other vehicles

Rep. Brennan of Colchester, for the Committee on **Transportation**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Dealers and Transporters * * *

Sec. 1. 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:

* * *

~~(8)(A)(i) “Dealer” shall mean means a person, partnership, or corporation who is, or other entity engaged in the business of buying, selling, or exchanging new or used motor vehicles, as well as other types of motor vehicle dealers, except a finance and auction dealer and transporter:~~

~~(A) Who snowmobiles, motorboats, or all-terrain vehicles. A dealer may, as part of or incidental to such business, repair such vehicles or motorboats, sell parts and accessories, or lease or rent ~~motor~~ such vehicles and ~~who:~~~~

~~(i) Has had no previous record of willful violations of dealer laws or regulations in this or any other jurisdiction.~~

~~(ii) For initial applications only, has had no previous record of criminal convictions for extortion, forgery, fraud, larceny, or embezzlement in this or any other jurisdiction.~~

~~(iii) Has no unsatisfied judgments against him or her arising out of violations of consumer protection laws in this or any other jurisdiction.~~

~~(iv) Presents proof of compliance with the provisions of section 800 of this title at the time application for registration is made.~~

~~(v) Is open for business at least 146 days during the calendar year. When the application for registration as a new car dealer or used car dealer is made, the applicant shall provide the Commissioner with the hours of operation of the business which the person shall maintain during the registration period.~~

~~(vi) Owns real estate (as defined in 1 V.S.A. § 132) as his or her place of business or has a lease with an expiration date not earlier than the last day of the registration year for which registration is sought under the provisions of subchapter 4 of chapter 7 of this title which includes a building of at least 1,200 square feet in size used primarily for the business of the dealership. The building shall have adequate facilities for the maintenance of the records required by law to be kept including those required by section 466 of this title and for the transfer of motor vehicles or motorboats. “Dealer” shall not include a finance or auction dealer or a transporter.~~

~~(ii)(I) For a dealer in new or used cars or motor trucks, “engaged in the business” means having sold or exchanged at least 12 cars or motor trucks, or a combination thereof, in the immediately preceding year, or 24 in~~

the two immediately preceding years.

(II) For a dealer in snowmobiles, motorboats, or all-terrain vehicles, “engaged in the business” means having sold or exchanged at least one snowmobile, motorboat, or all-terrain vehicle, respectively, in the immediately preceding year or two in the two immediately preceding years.

(III) For a dealer in trailers, semi-trailers, or trailer coaches, “engaged in the business” means having sold or exchanged at least one trailer, semi-trailer, or trailer coach in the immediately preceding year or a combination of two such vehicles in the two immediately preceding years.

(IV) For a dealer in motorcycles or motor-driven cycles, “engaged in the business” means having sold or exchanged at least one motorcycle or motor-driven cycle in the immediately preceding year or a combination of two such vehicles in the two immediately preceding years.

(V) For the purposes of this subdivision (8)(A)(ii), the sale or exchange of vehicles or motorboats owned but not registered by the dealer, or that have been in lease or rental services, shall count as sales or exchanges. Vehicles or motorboats that are to be scrapped, dismantled, or destroyed shall not count as sales or exchanges.

~~(B) “New car dealer” shall mean a person, in addition to satisfying all of the requirements set forth in subdivision (8)(A) of this section, has a valid sales and service agreement, franchise, or contract with a manufacturer, assembler, importer, or distributor of new motor vehicles for the retail sale of new motor vehicles. [Repealed.]~~

* * *

~~(E) As used in this subdivision (8), “person” shall include any individual or, in the case of partnerships, corporations, or other entities, the directors, shareholders, officers, or partners in these entities. The term “business use of the dealer” shall only mean the motor vehicle business of the motor vehicle dealer to which number plates have been issued pursuant to section 453 of this title.~~

~~(F) For new and used car dealers, “engaged in the business” means selling 12 or more pleasure cars or motor trucks owned but not registered by the seller except for vehicles that are to be scrapped, dismantled, or destroyed. “Engaged in the business” shall also mean selling, during the immediately preceding registration year, 12 or more pleasure cars or motor trucks which have been in lease or rental services, and persons so engaged shall meet all obligations required of dealers. [Repealed.]~~

* * *

(42)(A) “Transporter” ~~shall mean means~~ means:

(i) a person engaged in the business of delivering vehicles of a type required to be registered ~~hereunder~~ from a manufacturing, assembling, or distributing plant to dealers or sales agents of a manufacturer, ~~and includes persons;~~

(ii) a person regularly engaged in the business of towing trailer coaches, owned by them or temporarily in their custody, on their own wheels over public highways, ~~persons~~ or towing office trailers owned by them or temporarily in their custody, on their own wheels over public highways, ~~persons;~~

(iii) a person regularly engaged and properly licensed for the short-term rental of “storage trailers” owned by them and who move these storage trailers on their own wheels over public highways, ~~and persons;~~

(iv) a person regularly engaged in the business of moving modular homes over public highways ~~and shall also include;~~

(v) dealers, owners of motor vehicle auction sites, and automobile repair shop owners when engaged in the transportation of motor vehicles to and from their place of business for repair purposes. ~~“Transporter” shall also include;~~

(vi) the following, provided that the transportation and delivery of motor vehicles is a common and usual incident to their business:

(I) persons towing overwidth trailers owned by them in connection with their business;

(II) persons whose business is the repossession of motor vehicles; and

(III) persons whose business involves moving vehicles from the place of business of a registered dealer to another registered dealer, or between a motor vehicle auction site and a registered dealer or another motor vehicle auction site, leased vehicles to the lessor at the expiration of the lease, or vehicles purchased at the place of auction of an auction dealer to the purchaser.

(B) As used in this subdivision, 4(42):

(i) ~~“short term~~ “Short-term rental” shall mean means a period of less than one year. ~~Additionally, as used in this subdivision, “repossession” shall include~~

(ii) “Repossession” includes the transport of a repossessed vehicle to a location specified by the lienholder or owner at whose direction the

vehicle was repossessed. ~~Before a person may become licensed as a transporter, he or she shall present proof of compliance with section 800 of this title. He or she shall also either own or lease a permanent place of business located in this State where business shall be conducted during regularly established business hours and the required records stored and maintained.~~

* * *

Sec. 2. 23 V.S.A. chapter 7, subchapter 4 is amended to read:

Subchapter 4. Registration of Dealers and Transporters

ARTICLE 1.

DEALERS

§ 450. DEFINITION

As used in this subchapter, “vehicle or motorboat” means a motor vehicle, snowmobile, motorboat, or all-terrain vehicle.

§ 450a. DEALER REGISTRATION; ELIGIBILITY

(a) A person shall not be eligible to register as dealer unless the person:

(1) Has no previous record of willful violations of dealer laws or regulations in this or any other jurisdiction.

(2) For initial and renewal applicants, has not had a conviction or been incarcerated for a conviction for extortion, forgery, fraud, larceny, or embezzlement in this or any other jurisdiction within the 10 years prior to the application.

(3) Has no unsatisfied judgments against the person arising out of violations of consumer protection laws in Vermont or any other jurisdiction.

(4) Owns real estate (as defined in 1 V.S.A. § 132) as his or her place of business or has a lease with an expiration date not earlier than the last day of the registration year for which registration is sought under the provisions of this subchapter, which includes a building of at least 1,200 square feet in size used primarily for the business of the dealership. The building shall have adequate facilities for the maintenance of the records required by law to be kept including those required by section 466 of this title.

(b) In addition to the requirements of subsection (a) of this section, a person shall not be eligible to register as a dealer in cars, motor trucks, motorcycles, or motor-driven cycles unless the person presents proof of compliance with the provisions of section 800 of this title at the time application for registration is made.

(c) In addition to the requirements of subsections (a) and (b) of this section, a person shall not be eligible to register as a dealer in cars or motor trucks unless the person is open for business at least 146 days during the calendar year. The applicant shall provide the Commissioner with the hours of operation of the business which the person shall maintain during the registration period at the time of the application.

§ 451. DEALER'S CERTIFICATE

(a) Instead of registering each motor vehicle owned by him or her, a dealer may ~~make application~~ apply under oath to the Commissioner, upon forms prescribed and furnished by the Commissioner for that purpose, and accompanied by such additional information and certifications as the Commissioner may reasonably require, for a general distinguishing number for such motor vehicles. If the Commissioner is satisfied that the applicant meets all the requirements of section 4 and chapter 7 of this title and is qualified to engage in such business, the Commissioner may issue to the applicant a certificate of registration containing the name, place of residence, and address of such applicant, the general distinguishing number assigned, and such additional information as the Commissioner may determine. If a dealer has a place of business or agency in more than one city or town, he or she shall file an application and secure a certificate of registration for each place of business or agency. The place of business or agency shall mean a place in any town where motor vehicles owned by a dealer are regularly kept or exposed for sale in the custody or control of the dealer or a salesman, employee, or agent of such dealer. In his or her discretion, the Commissioner may assign the same distinguishing number with more than one certificate to any dealer who has separate places of business within the same or an adjacent city or town within Vermont. The Commissioner may allow a dealer having one distinguishing number with more than one certificate to maintain only one central area for the maintenance of records required by law to be kept, including those required by section 466 of this title and for the transfer of motor vehicles. This location must be in Vermont and must be disclosed on the application prior to approval and may be changed only with the approval of the Commissioner or his or her agent. Dealer registration plates shall contain letters indicating the type of dealer certificate issued before the distinguishing number.

(b) With the prior approval of the Commissioner, a Vermont dealer may display vehicles on a temporary basis, but in no instance for more than 14 consecutive days, at fairs, shows, exhibitions, and other off-site locations a fair, show, exhibition, or other off-site location. New vehicles may only be displayed off-site within the manufacturer's stated area of responsibility in the franchise agreement. No sales may be transacted at these off-site locations. A dealer desiring to display vehicles temporarily at an off-site location shall

notify the Commissioner in a manner prescribed by the Commissioner no less than two days prior to the first day for which approval is requested.

(c) A ~~new or used car~~ dealer in new or used motor vehicles may temporarily transfer possession of a vehicle owned by the dealer on consignment to a registered auction dealer or Vermont licensed auctioneer to be sold at public or private wholesale auction by the auction dealer or Vermont licensed auctioneer.

(d) The issuance of snowmobile, motorboat, and all-terrain vehicle dealer registrations are governed by this chapter and sections 3204, 3305, and 3504 of this title, respectively.

* * *

§ 453. FEES AND NUMBER PLATES

(a)(1) An application for ~~dealer's~~ registration as a dealer in new or used cars or motor trucks 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 three number plates showing the distinguishing number assigned such dealer. The Commissioner may furnish additional plates 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:

* * *

(b) Application by a "dealer in farm tractors or other self-propelled farm implements," which shall mean a person actively engaged in the business of ~~manufacturing, buying,~~ selling, or exchanging new or ~~secondhand~~ used farm tractors or other self-propelled farm implements, for such dealer registration shall annually be accompanied by a fee of \$40.00. The Commissioner shall furnish free of charge with each such dealer registration certificate two sets of number plates showing the distinguishing number assigned such dealer and in his or her discretion may furnish further sets of plates at a fee of \$12.00 per set; such number plates may, however, only be displayed upon a farm tractor or other self-propelled farm implement.

(c) Application by a "dealer in motorized highway building equipment and road making appliances," which shall mean a person actively engaged in the business of ~~manufacturing, buying,~~ selling, or exchanging new or ~~secondhand~~ used motorized highway building equipment or road making appliances, for such dealer registration shall annually be accompanied by a fee of \$90.00. The Commissioner shall furnish free of charge with each such dealer registration certificate two sets of number plates showing the distinguishing number assigned such dealer and in his or her discretion may furnish further sets of

plates at a fee of \$30.00 per set; such number plates may, however, only be displayed upon motorized highway building equipment or road making appliances.

(d) If a dealer is engaged only in the ~~manufacturing, buying,~~ business of selling, or exchanging of motorcycles or motor-driven cycles, the registration fee shall be \$45.00, which shall include three ~~sets of~~ number plates. The Commissioner may, in his or her discretion, furnish further sets of plates at a fee of \$10.00 for each set.

(e) If a dealer is engaged only in the ~~manufacturing, buying,~~ business of selling, or exchanging of trailers, semi-trailers, or trailer coaches, the registration fee shall be \$90.00 which shall include three number plates; such number plates may, however, only be displayed upon a trailer, semi-trailer, or trailer coach. The Commissioner may, in his or her discretion, furnish further plates at a fee of \$10.00 for each such plate.

* * *

(g) The Commissioner of Motor Vehicles shall not issue a dealer's certificate of registration to a ~~new or used car~~ dealer in new or used motor vehicles, unless the dealer has provided the Commissioner with a surety bond, letter of credit, or certificate of deposit issued by an entity authorized to transact business in the same state. The amount of such surety bond, letter of credit, or certificate of deposit shall be between \$20,000.00 and \$35,000.00 based on the number of new or used units sold in the previous year; such schedule is to be determined by the Commissioner of Motor Vehicles. In the case of a certificate of deposit, it shall be issued in the name of the dealer and assigned to the Commissioner or his or her designee. The bond, letter of credit, or certificate of deposit shall serve as indemnification for any monetary loss suffered by the State or by a purchaser of a motor vehicle by reason of the dealer's failure to remit to the Commissioner any fees collected by the dealer under the provisions of chapters 7 and 21 of this title or by a dealer's failure to remit to the Commissioner any tax collected by the dealer under 32 V.S.A. chapter 219. This State or the motor vehicle owner who suffers such loss or damage shall have the right to claim against the surety upon the bond or against the letter of credit or certificate of deposit. The bond, letter of credit, or certificate of deposit shall remain in effect for the pending registration year and one year thereafter. The liability of any such surety or claim against the letter of credit or certificate of deposit shall be limited to the amount of the fees or tax collected by the dealer under chapters 7 and 21 of this title or 32 V.S.A. chapter 219 and not remitted to the Commissioner.

(h) Applications by a snowmobile, motorboat, or all-terrain vehicle dealer shall be accompanied by the fees prescribed in sections 3204, 3305, and 3504

of this title, respectively.

§ 454. DEALER'S USE OF ~~MOTOR~~ VEHICLES OR MOTORBOATS

* * *

(c) A snowmobile, motorboat, or all-terrain vehicle dealer may only use a dealer's number plate or dealer registration number in accordance with sections 3204, 3305, and 3504 of this title, respectively.

* * *

§ 456. EMPLOYEES' USE OF VEHICLES, MOTORBOATS RESTRICTED

Employees of a dealer shall not operate, and a dealer shall not permit them to operate, ~~motor~~ vehicles; or motorboats, ~~snowmobiles, and all terrain vehicles~~ with dealer's registration number plates or registration numbers displayed thereon, except for business purposes of the dealer, or in traveling directly between their homes and the place of their employer's business.

* * *

§ 462. CANCELLATION, REVOCATION, OR SUSPENSION OF
DEALER'S REGISTRATION

(a) The Commissioner may cancel, revoke, or suspend a the registration ~~certificate issued to~~ of a dealer under the provisions of this chapter or section 3204, 3305, or 3504 of this title, whenever, after the dealer has been afforded the opportunity of a hearing before the Commissioner or upon conviction in any court in any jurisdiction, it appears that the dealer has willfully violated any ~~motor~~ vehicle or motorboat law of this State or any lawful regulation of the Commissioner, applying to dealers, or when it appears that the dealer has engaged in fraudulent or unlawful practices related to the purchase, sale, or exchange of ~~motor~~ vehicles or motorboats. In his or her discretion, the Commissioner may suspend a dealer's registration without hearing for a period not exceeding 15 days whenever he or she finds upon full reports submitted by an enforcement officer or motor vehicle inspector that the safety of the public has been or will be imperiled as a result of the dealer's business activities. A dealer whose ~~certificate~~ registration has been canceled, revoked, or suspended shall forthwith return to the Commissioner the registration certificate and any and all number plates, or numbers or decals furnished him or her by the Commissioner, and the privilege to operate, purchase, sell, or exchange ~~motor~~ vehicles or motorboats under his or her dealer's number shall cease. An application for a new dealer's ~~license~~ registration for that dealer will not be considered until ~~the suspension~~ a revocation period has been served.

(b) A fee of \$30.00 shall be paid to the Commissioner prior to the

reinstatement of any dealer's ~~license or registration certificate canceled, revoked, or that has been~~ suspended for cause.

* * *

§ 465. LOANING OF PLATES OR VEHICLES OR MOTORBOATS

PROHIBITED

A dealer shall not lend or lease registration certificates, validation stickers, numbers, ~~or~~ decals, or number plates which have been assigned to him or her under the provisions of this chapter, nor shall he or she lend or lease a ~~motor~~ vehicle or motorboat to which his or her dealer's decals, numbers, or number plates have been attached, nor lend or lease his or her dealer's decals, numbers, or number plates to a subagent.

§ 466. RECORDS; CUSTODIAN

(a) On a form prescribed or approved by the Commissioner, every licensed dealer shall maintain and retain for six years a record containing the following information, which shall be open to inspection by any law enforcement officer or motor vehicle inspector or other agent of the Commissioner during reasonable business hours:

(1) Every ~~motor~~ vehicle or motorboat which is bought, sold, or exchanged by the licensee or received or accepted by the licensee for sale or exchange.

(2) Every ~~motor~~ vehicle or motorboat which is bought or otherwise acquired and dismantled by the licensee.

(3) The name and address of the person from whom such ~~motor~~ vehicle or motorboat was purchased or acquired, the date thereof, the name and address of the person to whom any such ~~motor~~ vehicle or motorboat was sold or otherwise disposed of and the date thereof, and a sufficient description of every such ~~motor~~ vehicle or motorboat by name and identifying numbers thereon to identify the same.

(4) If the ~~motor~~ vehicle or motorboat is sold or otherwise transferred to a consumer, the cash price. ~~For purposes of~~ As used in this section, "consumer" shall be as defined in 9 V.S.A. § 2451a(a) and "cash price" shall be as defined in 9 V.S.A. § 2351(6).

(b) Every licensed dealer shall designate a custodian of documents who shall have primary responsibility for administration of documents required to be maintained under this title. In the absence of the designated custodian, the dealer shall have an ongoing duty to make such records available for inspection by any law enforcement officer or motor vehicle inspector or other

agent of the Commissioner during reasonable business hours.

* * *

§ 467. ~~FAILURE OF DEALER DUTY TO REPORT PURCHASE AND~~
~~SALE OF VEHICLES SALES, RETURN EXPIRED PLATES~~

On a form prescribed by the Commissioner, a dealer shall send the reports of sale to the Commissioner upon the sale and relative to his or her sale or exchange of new or ~~secondhand motor~~ used vehicles or motorboats, and return to the Commissioner number plates coming into his or her possession through the sale or exchange of a motor vehicle, the registration of which has expired under the provisions of section 321 of this title.

§ 468. GENERAL PROHIBITION

A dealer shall not operate a ~~motor~~ vehicle or motorboat nor permit the same to be operated under dealer's registration numbers, except as specifically permitted in this chapter or under section 3204, 3305, or 3504 of this title. No charge shall be made for any permitted use.

* * *

§ 473. WHEN REGISTRATION IS ALLOWED, REQUIRED; PENALTIES

(a) ~~No~~ A person shall not engage in the business of ~~buying, selling, or offering for sale motor or exchanging vehicles or motorboats, as defined in this subchapter except for vehicles that are to be scrapped, dismantled, or destroyed~~ subdivision 4(8) of this title, without a dealer registration and obtaining dealer plates or motorboat registrations in accordance with the provisions of this subchapter and, if applicable, section 3204, 3305, or 3504 of this title. A person may register as a dealer only if he or she is engaged in the business of selling or exchanging vehicles or motorboats, as defined in subdivision 4(8) of this title or, in the case of an initial registration, if the person's reasonable estimate of expected sales or exchanges satisfies the minimum thresholds under subdivision 4(8) of this title. A person who violates this section shall be subject to the penalties established pursuant to section 475 of this title. For the purpose of the subchapter, "engaged in the business" means selling 12 or more pleasure cars or motor trucks owned but not registered by the seller except for vehicles that are to be scrapped, dismantled, or destroyed. "Engaged in the business" shall also mean selling, during the immediately preceding registration year, 12 or more pleasure cars or trucks which have been in lease or rental service and persons so engaged shall meet all obligations required of dealers.

(b) A person who misrepresents himself or herself as a dealer in the purchase, sale, or exchange of a ~~motor~~ vehicle or motorboat without ~~obtaining~~

~~a license registering as a dealer, or after the cancellation, suspension, or revocation of the dealer's license registration, or who makes misrepresentations to the Department in order to qualify for registration,~~ shall be subject to the penalties established pursuant to section 475 of this title.

* * *

ARTICLE 3.

TRANSPORTERS

§ 491. TRANSPORTER APPLICATION; ELIGIBILITY; USE OF TRANSPORTER PLATES

(a) A transporter may apply for and the Commissioner of Motor Vehicles, in his or her discretion, may issue a certificate of registration and a general distinguishing number plate. Before a person may be registered as a transporter, he or she shall present proof:

(1) of compliance with section 800 of this title, and

(2) that he or she either owns or leases a permanent place of business located in this State where business will be conducted during regularly established business hours and the required records stored and maintained.

(b) When he or she displays thereon his or her transporter's registration plate, a transporter or his or her employee or contractor may transport a motor vehicle owned by ~~him or her~~ the transporter, repossessed, or temporarily in ~~his or her~~ the transporter's custody, and it shall be considered to be properly registered under this title. Transporter's registration plates shall not be used for any other purposes and shall not be used by the holder of such number plates for personal purposes.

* * *

Sec. 3. 23 V.S.A. § 3204 is amended to read:

§ 3204. REGISTRATION FEES AND DEALER PLATES

(a) Fees. Annual registration fees for snowmobiles other than as provided for in subsection (b) of this section are \$25.00 for residents and \$32.00 for nonresidents. Duplicate registration certificates may be obtained upon payment of \$5.00.

(b)(1) Dealer registration and plates; manufacturer and repair plates; fees. ~~Unless exempted pursuant to subsection 3205(f) of this title, any~~ A person engaged in the ~~manufacture or sale of~~ business of selling or exchanging snowmobiles as defined in subdivision 4(8) of this title shall register as a dealer and obtain registration certificates and identifying number plates,

subject to such rules as may be adopted by the Commissioner ~~which~~ and to the requirements of chapter 7 this title. A manufacturer of snowmobiles may register and obtain registration certificates and identifying number plates under this section. Plates shall be valid for the following purposes only: testing; adjusting; demonstrating; temporary use of customers for a period not to exceed 14 days; private business or pleasure use of such person or members of his or her immediate family; and use at fairs, shows, or races when no charge is made for such use.

(2) Fees. Fees for dealer registration certificates shall be \$40.00 for the first certificate issued to any person and \$5.00 for any additional certificate issued to the same person within the current registration period. Fees for temporary number plates shall be ~~\$1.00~~ \$3.00 for each plate issued.

* * *

Sec. 4. 23 V.S.A. § 3305 is amended to read:

§ 3305. FEES

(c) A person engaged in the ~~manufacture or sale of~~ business of selling or exchanging motorboats as defined in subdivision 4(8) of this title, of a type otherwise required to be registered by this subchapter, upon application to the Commissioner upon forms prescribed by him or her, may shall register and obtain registration certificates for use as described under subdivision (1) of this subsection, subject to the requirements of chapter 7 this title. A manufacturer of motorboats may register and obtain registration certificates under this section.

* * *

(3) An application for a dealer motorboat registration and registration number shall be accompanied by the following fees:

(A) for the registration and first number applied for, \$25.00 and a surcharge of \$5.00;

(B) for each additional number applied for in the current registration period, \$5.00 and a surcharge of \$5.00.

* * *

(j) The Commissioner, by rules adopted pursuant to 3 V.S.A. chapter 25, may provide for the issuance of temporary registrations of motorboats pending issuance of the permanent registration. Motorboat dealers may issue temporary motorboat registrations. The dealer's fee for the temporary registrations shall be \$3.00 for each registration purchased from the Department of Motor Vehicles. Temporary registrations shall be kept with the

motorboat while being operated and shall authorize operation without the registration number being affixed for a period not to exceed ~~30~~ 60 days from the date of issue.

* * *

Sec. 5. 23 V.S.A. § 3504(b) is amended to read:

(b) Any person engaged in the ~~manufacture or sale of~~ business of selling or exchanging all-terrain vehicles, as defined in subdivision 4(8) of this title, shall register and obtain registration certificates and identifying number plates subject to rules which may be adopted by the Commissioner ~~which~~ and to the requirements of chapter 7 of this title. A manufacturer of all-terrain vehicles may register and obtain registration certificates and identifying number plates under this section. Plates shall be valid for the following purposes only: testing; adjusting; demonstrating; temporary use of customers for a period not to exceed seven days; private business or pleasure use of the person or members of his or her immediate family; and use at fairs, shows, or races when no charge is made. Fees for registration and registration certificates shall be \$45.00 for the first certificate issued to any person and \$5.00 for any additional certificate issued to the same person within the current registration period. Fees for temporary number plates shall be \$3.00 for each plate issued.

* * * Parking for Persons with Disabilities * * *

Sec. 6. 23 V.S.A. § 304a is amended to read:

§ 304a. SPECIAL REGISTRATION PLATES AND PLACARDS FOR PEOPLE WITH DISABILITIES

(a) The following definitions shall apply to this section:

* * *

(3) “Special registration plates” means a registration plate for people with disabilities that displays the International Symbol of Access:

(A) in a color that contrasts with the background; and

(B) in the same size as the letters or numbers on the plate.

(4) “Removable windshield placard” means a two-sided, hanger style placard which includes on each side:

(A) the International Symbol of Access, which is at least three inches in height, centered on the placard, and is ~~white on a blue shield~~ a color that contrasts with the placard’s background color;

(B) an identification number;

(C) a date of expiration; and

(D) the seal or other identification of the issuing authority.

(5) “Temporary removable windshield placard” means a two-sided hanger style placard which includes on each side:

(A) the International Symbol of Access, which is at least three inches in height, centered on the placard, and is ~~white on a red shield~~ a color that contrasts with the placard’s background color;

(B) an identification number;

(C) a date of expiration; and

(D) the seal or other identification of the issuing authority.

(6) “Eligible person” means:

(A) a person who is blind or has an ambulatory disability and has been issued a special registration plate or a windshield placard by this State or another state;

(B) a person who is transporting a person described in subdivision (A) of this subdivision (6); or

(C) a person transporting a person who is blind or has an ambulatory disability on behalf of an organization that has been issued a special registration plate or a windshield placard by this State or another state for the purpose of transporting a person who is blind or has an ambulatory disability.

* * *

(c) ~~Vehicles~~ Eligible persons may park vehicles with special registration plates or removable windshield placards ~~from~~ issued by any state may use the ~~in~~ special parking spaces when:

(1) the placard is displayed:

(A) by hanging it from the front windshield rearview mirror in such a manner that it may be viewed from the front and rear of the vehicle; or

(B) if the vehicle has no rearview mirror, on the dashboard;

(2) the plate is mounted as provided in section 511 of this title; or

(3) the plate is mounted or the placard displayed as provided by the law of the jurisdiction where the vehicle is registered.

(d)(1) A person who has an ambulatory disability or an individual transporting a person who is blind Except as otherwise provided in this subsection, an eligible person shall be permitted to park, and to park without

fee, for at least 10 continuous days in a parking space or area which is restricted as to the length of time parking is permitted or where parking fees are assessed, ~~except that this minimum period shall be,~~

(2) 24 continuous hours for parking in Notwithstanding the 10-day period in subdivision (1) of this subsection, in the case of a State- or municipally operated parking garage, an eligible person shall be permitted to park, and to park without fee, for at least 24 continuous hours.

(3) This section subsection shall not apply to spaces or areas in which parking, standing, or stopping of all vehicles is prohibited by law or by any parking ban, or which are reserved for special vehicles. As a condition to this the privilege conferred by this subsection, the vehicle shall display the registration plate or placard issued by the Commissioner, or a special registration license plate or placard issued by any other jurisdiction, in accordance with subsection (c) of this section.

(e) A person, other than a an eligible person with a disability, who for his or her own purposes parks a vehicle in a space for persons with disabilities shall be fined not less than \$200.00 for each violation and shall be liable for towing charges. He or she shall also be liable for storage charges not to exceed \$12.00 per day, and an artisan's lien may be imposed against the vehicle for payment of the charges assessed. The person in charge of the parking space or spaces for persons with a disability or any duly authorized law enforcement officer shall cause the removal of a vehicle parked in violation of this section. A violation of this section shall be considered a traffic violation within the meaning of 4 V.S.A. chapter 29.

* * *

* * * Multifunction School Activity Buses * * *

Sec. 7. 23 V.S.A. § 1072(a) is amended to read:

~~(a)(1) The driver of any motor vehicle carrying passengers for hire except for jitneys designed to carry not more than seven passengers including the driver, of any school bus, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before~~ Before crossing at grade any track or tracks of a railroad, the drivers of the following vehicles shall stop within 50 feet, but not less than 15 feet, from the nearest rail of the railroad and while so stopped shall look and listen in both directions along the track for any approaching train and for signals indicating the approach of a train, and may not proceed until he or she can do so safely;

(A) any motor vehicle carrying passengers for hire except for jitneys designed to carry not more than seven passengers including the driver;

(B) any school bus or multifunction school activity bus; and

(C) any vehicle carrying explosive substances or flammable liquids as cargo or part of its cargo.

(2) After stopping as required herein and upon proceeding when it is safe to do so, the driver of any ~~said~~ such vehicle shall cross so that there will be no necessity for changing gears while traversing the crossing, and the driver may not shift gears while crossing the track or tracks.

Sec. 8. 23 V.S.A. § 1287 is amended to read:

§ 1287. MULTIFUNCTION SCHOOL ACTIVITY BUS

(a) A “multifunction school activity bus” is a vehicle which is used to transport students on trips other than on a fixed route between home and school, and which meets the construction and safety standards for a “multifunction school activity bus” adopted by rule by the National Highway Traffic Safety Administration.

(b) If a school owns a multifunction school activity bus or leases one other than as provided in subdivision 4(34)(A)(vi) of this title, the driver shall be required to hold a license which includes a school bus driver’s endorsement. The A school bus endorsement road test may be taken in a multifunction school activity bus, but the resulting endorsement shall be restricted to the operation of the appropriately sized multifunction school activity bus. Otherwise, the endorsement shall be a Type I or Type II endorsement as appropriate to the size of the vehicle.

(c) A multifunction school activity bus may be a color other than national school bus yellow.

Sec. 9. 23 V.S.A. § 4121 is amended to read:

§ 4121. APPLICANTS FOR SCHOOL BUS ENDORSEMENTS

(a) An applicant for a school bus endorsement shall satisfy the following requirements:

(1) ~~pass~~ Pass the knowledge and skills test for obtaining a passenger vehicle endorsement;

(2) ~~have~~ Have knowledge covering the following topics, at minimum:

(A) ~~loading~~ Loading and unloading children, including the safe operation of stop signal devices, external mirror systems, flashing lights, and other warning and passenger safety devices required for school buses by State or federal law or regulation;

(B) ~~emergency~~ Emergency exits and procedures for safely evacuating

passengers in an emergency;

(C) State and federal laws and regulations related to traversing safely highway rail grade crossings;

(D) ~~a~~ A skills test in a school bus of the same vehicle group as the applicant will operate. As used in this subdivision (a)(2)(D), "school bus" may include a "multifunction school activity bus" as defined in section 1287 of this title.

* * *

Sec. 10. 23 V.S.A. § 1095b is amended to read:

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE
PROHIBITED

* * *

(b) Use of handheld portable electronic device prohibited. A person shall not use a portable electronic device while operating a moving motor vehicle on a highway in Vermont. The prohibition of this subsection shall not apply:

(1) to hands-free use;

(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~~ any accessory for ~~secure~~ mounting the device is not affixed to the windshield in violation of section 1125 of this title;

(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; ~~or~~

(5) to use of a global positioning or navigation system if it is installed by the manufacturer or securely mounted in the vehicle in a manner that does not violate section 1125 of this title. As used in this subdivision (b)(5), "securely mounted" means the device is placed in an accessory or location in the vehicle, other than the operator's hands, where the device will remain stationary under typical driving conditions.

* * *

Sec. 11. 23 V.S.A. § 1099 is amended to read:

§ 1099. TEXTING PROHIBITED

(a) As used in this section, “texting” means the reading or the manual composing or sending of electronic communications, including text messages, instant messages, or e-mails, using a portable electronic device as defined in subdivision 4(82) of this title, ~~but shall not be construed to include use.~~ Use of a global positioning or navigation system shall be governed by section 1095b of this title.

(b) A person shall not engage in texting while operating a moving motor vehicle on a highway.

(c) A person who violates this section commits a traffic violation as defined in section 2302 of this title and shall be subject to a penalty 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.

* * * Obstructing Windshields, Windows * * *

Sec. 12. LEGISLATIVE INTENT

(a) In *State v. Hurley*, 2015 VT 46 (March 5, 2015), the Vermont Supreme Court held that the prohibition of 23 V.S.A. § 1125 on objects hanging behind a windshield extends only to an object that “materially obstructs the driver’s view.”

(b) In adding the second sentence to 23 V.S.A. § 1125(a) as provided in Sec. 13 of this bill, the General Assembly intends to codify the holding of the *Hurley* decision and to codify the logical extension of the Court’s holding to objects hanging behind a vent or side window immediately to the left or right of the driver. In only addressing hanging objects in 23 V.S.A. § 1125(a), the General Assembly takes no position on whether the Court’s reasoning should extend further to the statute’s prohibition on painting or adhering material or items to such windows or the windshield.

Sec. 13. 23 V.S.A. § 1125 is amended to read:

§ 1125. OBSTRUCTING WINDSHIELDS, WINDOWS

(a) ~~No person shall paste, stick, or paint advertising matter or other things~~ Except as otherwise provided in this section, a person shall not operate a motor vehicle on which material or items have been painted or adhered on or over, or hung in back of, any transparent part of a motor vehicle windshield, vent windows, or side windows located immediately to the left and right of the operator, ~~nor hang any object, other than a rear view mirror, in back of the windshield except as follows.~~ The prohibition of this section on hanging items shall apply only when a hanging item materially obstructs the driver’s view.

(b) Notwithstanding subsection (a) of this section, a person may operate a

motor vehicle with material or items painted or adhered on or over, or hung in back of, the windshield, vent windows, or side windows:

(1) ~~It~~ is in a space not over four inches high and 12 inches long in the lower right-hand corner of the windshield;

(2) ~~It~~ is in such space as the Commissioner of Motor Vehicles may specify for location of any sticker required by governmental regulation;

(3) ~~It~~ is in a space not over two inches high and two and one-half inches long in the upper left-hand corner of the windshield;

(4) ~~By persons~~ if the operator is a person employed by the federal, state State, or local government ~~and or a volunteer emergency responders responder~~ operating an authorized emergency vehicles vehicle, who ~~may place~~ places any necessary equipment in back of the windshield of the vehicle, provided the equipment does not interfere with the operator's control of the driving mechanism of the vehicle;

(5) ~~On~~ on a motor vehicle that is for sale by a licensed automobile dealer prior to the sale of the vehicle, in a space not over three inches high and six inches long in the upper left-hand corner of the windshield, and in a space not over four inches high and 18 inches long in the upper right-hand corner of the windshield; or

(6) if the object is a rearview mirror, or is an electronic toll-collection transponder located either between the roof line and the rearview mirror post or behind the rearview mirror.

~~(6)(c)~~ The Commissioner may grant an exemption to the prohibition of this section upon application from a person required for medical reasons to be shielded from the rays of the sun and who attaches to the application a document signed by a licensed physician or optometrist certifying that shielding from the rays of the sun is a medical necessity. The physician or optometrist certification shall be renewed every four years. However, when a licensed physician or optometrist has previously certified to the Commissioner that an applicant's condition is both permanent and stable, the exemption may be renewed by the applicant without submission of a form signed by a licensed physician or optometrist. Additionally, the window shading or tinting permitted under this ~~subdivision~~ subsection shall be limited to the vent windows or side windows located immediately to the left and right of the operator. The exemption provided in this ~~subdivision~~ subsection shall terminate upon the sale transfer of the approved vehicle and at that time the applicable window tinting shall be removed by the seller. Furthermore, if the material described in this ~~subdivision~~ subsection tears or bubbles or is otherwise worn to prohibit clear vision, it shall be removed or replaced.

(b)(d) The rear side windows and the back window may be obstructed only if the motor vehicle is equipped on each side with a securely attached mirror, which provides the operator with a clear view of the roadway in the rear and on both sides of the motor vehicle.

* * * Total Abstinence Program; Application Requirements * * *

Sec. 14. 23 V.S.A. § 1209a(b)(1) is amended to read:

(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 shall include the applicant's authorization for a urinalysis examination. 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.

* * * Authorized Use of Colored Signal Lamps * * *

Sec. 15. 23 V.S.A. § 1252 is amended to read:

§ 1252. ISSUANCE OF PERMITS FOR SIRENS OR COLORED LAMPS,
OR BOTH; USE OF AMBER LAMPS

(a) When satisfied as to the condition and use of the vehicle, the Commissioner shall issue and may revoke, for cause, permits for sirens or colored signal lamps in the following manner:

(1)(A) Sirens or blue ~~or blue and~~, red, amber, or white signal lamps, or a combination of these, may be authorized for all law enforcement vehicles owned or leased by a law enforcement agency, a certified law enforcement officer, or the Vermont Criminal Justice Training Council. If the applicant is a constable, the application shall be accompanied by a certification by the town clerk that the applicant is the duly elected or appointed constable and attesting that the town has not voted to limit the constable's authority to engage in enforcement activities under 24 V.S.A. § 1936a.

(B) One blue signal lamp may be authorized for use on a vehicle owned or leased by a fire department or on an emergency medical service vehicle, provided that the Commissioner shall require the lamp to be mounted

so as to be visible primarily from the rear of the vehicle.

(2) Sirens and red or red and white signal lamps may be authorized for all ambulances and other emergency medical service vehicles, fire ~~apparatus~~ department vehicles, vehicles used solely in rescue operations, or vehicles owned or leased by, or provided to, volunteer firefighters and voluntary rescue squad members, including a vehicle owned by a volunteer's employer when the volunteer has the written authorization of the employer to use the vehicle for emergency fire or rescue activities.

~~(3) No vehicle may be authorized a permit for more than one of the combinations described in subdivisions (1) and (2) of this subsection. [Repealed.]~~

(4) No motor vehicle, other than one owned by the applicant, shall be issued a permit until the Commissioner has recorded the information regarding both the owner of the vehicle and the applicant for the permit.

(5) Upon application to the Commissioner, the Commissioner may issue a single permit for all the vehicles owned or leased by the applicant.

(6) Sirens and red or red and white signal lamps, or sirens and blue or blue and white signal lamps, may be authorized for restored emergency or enforcement vehicles used for exhibition purposes. Sirens and lamps authorized under this subdivision may only be activated during an exhibition, such as a car show or parade.

* * *

Sec. 16. 23 V.S.A. § 1255 is amended to read:

§ 1255. EXCEPTIONS

~~(1)(a)~~ The provisions of section 1251 of this title shall not apply to directional signal lamps of a type approved by the ~~commissioner of motor vehicles~~ Commissioner.

~~(2)(b)~~ All persons with motor vehicles equipped as provided in ~~subdivision subdivisions~~ 1252(a)(1) and (2) of this title, shall use the sirens or colored signal lamps, or both, only in the direct performance of their official duties. When any person other than a law enforcement officer, firefighter, or emergency medical service (EMS) responder is operating a motor vehicle equipped as provided in subdivision 1252(a)(1) of this title, the colored signal lamp shall be either removed, covered, or hooded. When any person, other than an authorized ~~ambulance~~ EMS vehicle operator, firefighter, or authorized operator of vehicles used in a rescue operation, is operating a motor vehicle equipped as provided in subdivision 1252(a)(2) of this title, the colored signal lamps shall be either removed, covered, or hooded unless the operator holds a

senior operator license.

* * * Information on Motor Vehicle Certificates of Title * * *

Sec. 17. 23 V.S.A. § 2018 is amended to read:

§ 2018. INFORMATION ON CERTIFICATE

(a) Each certificate of title issued by the Commissioner shall contain:

- (1) The date issued.
- (2) The name and address of the owner.

(3) The names and addresses of any lienholders, in the order of priority as shown on the application or, if the application is based on a certificate of title, as shown on the certificate; however, no more than two lienholders may appear on a certificate. In the event that there are more than two lienholders on the vehicle, the certificate of title shall contain ~~the~~ an appropriate legend ~~“There are more than two lienholders on this vehicle. Contact the Vermont Department of Motor Vehicles for details.”~~ as determined by the Commissioner.

(4) The title number assigned to the vehicle.

(5) A description of the vehicle including, so far as the following data exist, its make, model, identification number, odometer reading, or hubometer reading or clock meter reading on all vehicles, type of body, number of cylinders, whether new or used, and, if a new vehicle, the date of the first sale of the vehicle for use.

(6) Any other data the Commissioner prescribes.

(b) Unless a bond is filed as provided in subdivision 2020(2) of this title, a distinctive certificate of title shall be issued for a vehicle last previously registered in another state or country the laws of which do not require that lienholders be named on a certificate of title to perfect their security interests. The certificate shall contain ~~the~~ an appropriate legend ~~“This vehicle may be subject to an undisclosed lien”~~ as determined by the Commissioner and may contain any other information the Commissioner prescribes. If no notice of a security interest in the vehicle is received by the Commissioner within four months from the issuance of the distinctive certificate of title, he or she shall, upon application and surrender of the distinctive certificate, issue a certificate of title in ordinary form.

* * *

(f) If a vehicle has been returned to the manufacturer after final determination, adjudication, or settlement pursuant to the provisions of

9 V.S.A. chapter 115 or after final determination, adjudication, or settlement under similar laws of any other state, any certificate of title for the vehicle shall contain ~~the following an appropriate~~ legend: ~~“This vehicle was returned to the manufacturer pursuant to motor vehicle arbitration board, or similar proceedings, 9 V.S.A. § 4181”~~ as determined by the Commissioner.

Sec. 18. 23 V.S.A. § 2022(a) is amended to read:

(a) If a certificate is lost, stolen, mutilated, or destroyed or becomes illegible, the first lienholder or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the Commissioner, shall promptly make application for and may obtain a duplicate upon furnishing information satisfactory to the Commissioner. ~~The duplicate certificate of title shall contain the legend “This is a duplicate certificate and may be subject to the rights of a person under the original certificate.”~~ It shall be mailed to the first lienholder named in it or, if none, to the owner.

Sec. 19. 23 V.S.A. § 2093(a) is amended to read:

(a) If a vehicle upon which a salvage certificate of title, a parts-only certificate, or other document indicating the vehicle is not sold for re-registration purposes has been or should have been issued by the Commissioner or by any other jurisdiction or person ~~and or both,~~ or a vehicle that has been declared a totaled motor vehicle is rebuilt and restored for highway operation, the owner thereof shall not apply for a certificate of title or registration, and none shall be issued until the vehicle has been inspected by the Commissioner or his or her authorized representative. The inspection of the vehicle shall be conducted in the manner prescribed by the Commissioner and shall include verification of the vehicle identification number and bills of sale or titles for major component parts used to rebuild the vehicle. When necessary, a new vehicle identification number shall be attached to the vehicle as provided by section 2003 of this title. Any new title issued for such vehicles shall contain the legend “rebuilt ~~vehicle.~~”

* * * Information on Snowmobile, Motorboat, and

All-Terrain Vehicle Titles * * *

Sec. 20. 23 V.S.A. § 3811 is amended to read:

§ 3811. INFORMATION ON CERTIFICATE

(a) Each certificate of title issued by the Commissioner shall contain:

- (1) The date issued.
- (2) The name and address of the owner.
- (3) The names and addresses of any lienholders, in the order of priority

as shown on the application or, if the application is based on a certificate of title, as shown on the certificate; however, no more than two lienholders may appear on a certificate. In the event that there are more than two lienholders on the vessel, snowmobile, or all-terrain vehicle, the certificate of title shall contain ~~the~~ an appropriate legend ~~“There are more than two lienholders on this vessel, snowmobile, or all-terrain vehicle. Contact the Vermont Department of Motor Vehicles for details”~~ as determined by the Commissioner.

* * *

(b) Unless a bond is filed as provided in subdivision 3813(2) of this title, a distinctive certificate of title shall be issued for a vessel, snowmobile, or all-terrain vehicle last previously registered in another state or country the laws of which do not require that lienholders be named on a certificate of title to perfect their security interests, or for which a title had not been issued by such other state or country. The certificate shall contain ~~the~~ an appropriate legend ~~“This vessel, snowmobile, or all-terrain vehicle may be subject to an undisclosed lien”~~ as determined by the Commissioner and may contain any other information the Commissioner prescribes. If no notice of a security interest in the vessel, snowmobile, or all-terrain vehicle is received by the Commissioner within four months from the issuance of the distinctive certificate of title, he or she shall, upon application and surrender of the distinctive certificate, issue a certificate of title in ordinary form.

* * *

Sec. 21. 23 V.S.A. § 3815(a) is amended to read:

(a) If a certificate is lost, stolen, mutilated, or destroyed or becomes illegible, the first lienholder or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the Commissioner, shall promptly make application for and may obtain a duplicate upon furnishing information satisfactory to the Commissioner. ~~The duplicate certificate of title shall contain the legend, “This is a duplicate certificate and may be subject to the rights of a person under the original certificate.”~~ It shall be mailed to the first lienholder named in it or, if none, to the owner.

Sec. 22. 23 V.S.A. § 3835(a) is amended to read:

(a) If a vessel, snowmobile, or all-terrain vehicle upon which a salvage certificate of title, a parts-only certificate, or other document indicating the vessel, snowmobile, or all-terrain vehicle is not sold for reregistration purposes has been or should have been issued by the Commissioner, or by any other jurisdiction or person ~~or both,~~ or if a vessel, snowmobile, or all-terrain vehicle that has been declared totaled is rebuilt and restored for operation, the owner shall not apply for a certificate of title or registration, and none shall be issued

until the vessel, snowmobile, or ~~all-terrain~~ all-terrain vehicle has been inspected by the Commissioner or his or her authorized representative. The inspection of the vessel, snowmobile, or all-terrain vehicle shall be conducted in the manner prescribed by the Commissioner and shall include verification of the identification number and bills of sale or titles for major component parts used to rebuild the vessel, snowmobile, or all-terrain vehicle. When necessary, a new identification number shall be attached to the vessel, snowmobile, or all-terrain vehicle as provided by section 2003 of this title. Any new title issued for these vessels, snowmobiles, or all-terrain vehicles shall contain the legend "rebuilt ~~vessel, snowmobile, or all-terrain vehicle.~~"

* * * Towed Vehicles * * *

Sec. 23. 23 V.S.A. § 1102 is amended to read:

§ 1102. REMOVAL OF STOPPED VEHICLES

(a) Any enforcement officer is authorized to:

(1) move a vehicle stopped, parked, or standing contrary to section 1101 of this title, or to require the driver or other person in charge to move the vehicle to a position off the paved or main-traveled part of the highway;

(2) remove an unattended vehicle which is an obstruction to traffic or to maintenance of the highway to a garage or other place of safety;

(3) remove any vehicle found upon a highway, as defined in 19 V.S.A. § 1, to a garage or other place of safety when:

(A) the officer is informed by a reliable source that the vehicle has been stolen or taken without the consent of its owner; or

(B) the person in charge of the vehicle is unable to provide for its removal; or

(C) the person in charge of the vehicle has been arrested under circumstances which require his or her immediate removal from control of the vehicle.

(b) Any enforcement officer causing the removal of a motor vehicle under this section shall notify the ~~Agency of Transportation~~ Department as to the location and date of discovery of the vehicle, date of removal of the vehicle, name of the ~~wrecker~~ towing service removing the vehicle, and place of storage. The officer shall record and remove from the vehicle, if possible, any information which might aid the ~~Transportation Board~~ Department in ascertaining the ownership of the vehicle. ~~All information shall be forwarded and forward it to the Transportation Board in accordance with the provisions of 24 V.S.A. chapter 61~~ Department. A motor vehicle towed under authority of

this section may qualify as an abandoned motor vehicle under subchapter 7 of chapter 21 of this title.

Sec. 24. 24 V.S.A. § 2272 is amended to read:

§ 2272. ~~TAKING TITLE TO~~ REMOVAL OF JUNK MOTOR VEHICLES

(a) A junk motor vehicle discovered in violation of section 2271 of this title shall be removed from view of the main traveled way of the highway by the owner of the land upon which it is discovered, upon receiving written notice from the ~~agency of transportation~~ Agency of Transportation to do so, if such owner holds title to the motor vehicle.

(b) If the owner of the land upon which a junk motor vehicle is discovered in violation of section 2271 of this title, does not hold or disclaims title, and the true owner of the motor vehicle is known or can be ascertained, the motor vehicle owner shall dispose of such motor vehicle in such a manner that it is no longer visible from the main traveled way of the highway upon receiving written notice from the ~~agency of transportation~~ Agency of Transportation to do so.

(c) The owner of land upon which a motor vehicle is left in violation of this section or section 2271 of this title may, without incurring any civil liability or criminal penalty to the owner or lienholders of such ~~vehicles~~ vehicle, ~~remove~~ cause the vehicle to be removed from the place where it is discovered to any other place on any property owned by him, ~~and if so removed, he shall notify the agency of transportation and local or state police, in writing, forthwith. Within ten days after notification, the agency of transportation shall cause the vehicle to be taken under its control and disposed of as hereafter provided or her, or from the property, in accordance with 23 V.S.A. § 2152. The provisions of 23 V.S.A. chapter 21, subchapter 7 (abandoned motor vehicles) shall govern the identification, reclamation, and disposal of such vehicles.~~

(d) [Repealed.]

* * * All-Terrain Vehicles * * *

Sec. 25. 23 V.S.A. § 3501(5) is amended to read:

(5) “All-terrain vehicle” or “ATV” means any nonhighway recreational vehicle, except snowmobiles, having no less than two low pressure tires (10 pounds per square inch, or less), not wider than ~~60~~ 64 inches with two-wheel ATVs having permanent, full-time power to both wheels, and having a dry weight of less than 1,700 pounds, when used for cross-country travel on trails or on any one of the following or a combination thereof: land, water, snow, ice, marsh, swampland, and natural terrain. An ATV on a public highway shall be considered a motor vehicle, as defined in section 4 of this title, only for the

purposes of those offenses listed in subdivisions 2502(a)(1)(H), (N), (R), (U), (Y), (FF), (GG), (II), and (AAA); (2)(A) and (B); (3)(A), (B), (C), and (D); (4)(A) and (B) and (5) of this title and as provided in section 1201 of this title. An ATV shall not include an electric personal assistive mobility device.

Sec. 26. 23 V.S.A. § 3502 is amended to read:

§ 3502. REGISTRATION

(a) An all-terrain vehicle may not be operated unless registered pursuant to this chapter or any other section of this title by the State of Vermont and unless the all-terrain vehicle displays a valid Vermont ATV Sportsman's Association (VASA) Trail Access Decal (TAD) when operating on a VASA trail, except when operated:

(1) ~~on~~ On the property of the owner of the all-terrain vehicle;~~or~~

(2) ~~off~~ Off the highway, in a ski area while being used for the purpose of grooming snow, maintenance, or in rescue operations;~~or~~

(3) ~~for~~ For official use by a federal, State, or municipal agency and only if the all-terrain vehicle 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 is specifically invited to do so by the owner of that property and has on his or her person the written consent of the owner.

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

* * *

(e) An all-terrain vehicle owned by a person who is a resident of any other state or province shall be deemed to be properly registered for the purposes of this chapter if it is registered in accordance with the laws of the state or province in which its owner resides, ~~but only to the extent that a similar exemption or privilege is granted under the laws of that state or province for all-terrain vehicles registered in this State by a resident of this State.~~

* * * Commercial Driver Licenses; Skills Test Waivers * * *

Sec. 27. 23 V.S.A. § 4108(d) is amended to read:

(d) At the discretion of the Commissioner, the skills test required under

49 C.F.R. § 383.113 may be waived for a commercial motor vehicle driver with military commercial motor vehicle experience who is currently licensed at the time of his or her application for a commercial driver license, if the test is substituted with an applicant's driving record in combination with the driving experience specified in this subsection. The Commissioner shall impose conditions and limitations to restrict the applicants from whom alternative requirements for the skills test may be accepted. Such conditions shall include the following:

(1) the applicant must certify that, during the two-year period immediately prior to applying for a commercial driver license, he or she:

(A) has not had more than one license in addition to a military license;

(B) has not had any license suspended, revoked, or cancelled;

(C) has not had any convictions for any type of motor vehicle for the disqualifying offenses specified in subsection 4116(a) of this title;

(D) has not had more than one conviction for any type of motor vehicle for serious traffic violations specified in subdivision 4103(16) of this title; and

(E) has not had any conviction for a violation, other than a parking violation, of military, ~~state~~ State, or local law relating to motor vehicle traffic control arising in connection with any traffic accident, and has no record of an accident in which he or she was at fault; and

(2) the applicant must provide evidence and certify that he or she:

(A) is regularly employed or was regularly employed within the last ~~90 days~~ 12 months in a military position requiring operation of a commercial motor vehicle;

(B) was exempted from the commercial driver license requirements in 49 C.F.R. § 383.3(c); and

(C) was operating for at least the two years immediately preceding discharge from the military a vehicle representative of the commercial motor vehicle the driver applicant operates or expects to operate.

* * * Lists of Registrations and Suspensions * * *

Sec. 28. 23 V.S.A. § 109 is amended to read:

§ 109. ~~LISTS OF REGISTRATIONS TO ENFORCEMENT OFFICERS AND OTHERS;~~ LISTS OF SUSPENSIONS

(a) ~~Annually, the Commissioner shall cause to be prepared a list of~~

~~registered motor vehicles, arranged serially according to the registration numbers assigned thereto which shall contain in addition the names and addresses of registered owners and a brief description of the vehicle registered, and the name and address of each person to whom is assigned a dealer's registration number. One copy of such list shall be furnished, in such form as the Commissioner may determine, free to each inspector of the Motor Vehicle Department, sheriff, State's Attorney, district judge, and police department in the State. The list may be also furnished to any person on request and upon the payment of the required fee. [Repealed.]~~

(b) ~~Each month, the Commissioner shall cause to be prepared a list of all persons whose operating license, nonresident operating privileges, or privilege of an unlicensed operator to operate a vehicle, is suspended or revoked in this State at the time the list is prepared. Names on the list shall be arranged by county of residence or zip code. Notwithstanding 1 V.S.A. chapter 5, subchapter 3, the a list of all persons whose operating license, nonresident operating privileges, or privilege of an unlicensed operator to operate a vehicle is suspended or revoked in this State shall be available on request in such form as the Commissioner may determine. The list shall be available in an electronic format for law enforcement officers with computer access through the Department of Public Safety.~~

* * * Nonresident Motor Truck Registration * * *

Sec. 29. REPEAL

23 V.S.A. § 413 (nonresident motor truck registration) is repealed.

Sec. 30. 23 V.S.A. § 411 is amended to read:

§ 411. RECIPROCAL PROVISIONS

As determined by the 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 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 or her 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. 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. ~~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 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.~~

* * * New Motor Vehicle Arbitration; Uncontested Matters * * *

Sec. 31. 9 V.S.A. § 4173 is amended to read:

§ 4173. PROCEDURE TO OBTAIN REFUND OR REPLACEMENT

* * *

(c)(1) Arbitration of the consumer's complaint, either through the manufacturer's dispute settlement mechanism or the Board, must be held within 45 days of receipt by the manufacturer or the Board of the consumer's notice; electing the remedy of arbitration unless:

(A) the consumer or the manufacturer ~~has~~ shows good cause for an extension of time, not to exceed an additional 30-day period; or

(B) the manufacturer does not contest the consumer's complaint, in which case an arbitration hearing is not required.

(2) If ~~the~~ an extension of time is requested by the manufacturer, the manufacturer shall provide free use of a vehicle to the consumer if the consumer's vehicle is out of service.

(3) ~~In the event~~ If the consumer elects to proceed in accordance with the manufacturer's dispute settlement mechanism, the matter is contested, and the arbitration of the dispute is not held within 45 days of the manufacturer's receipt of the consumer's notice and the manufacturer is not able to establish good cause for the delay, the consumer shall be entitled to receive the relief requested under this chapter.

(d) Within the 45-day period set forth in subsection (c) of this section but at least five days prior to hearing, the manufacturer shall have one final opportunity to correct and repair the defect which the consumer claims entitles him or her to a refund or replacement vehicle. Any right to a final repair attempt is waived if the manufacturer does not complete it at least five days prior to hearing. If the consumer is satisfied with the corrective work done by the manufacturer or his or her delegate, the arbitration proceedings shall be terminated without prejudice to the consumer's right to request arbitration be recommenced if the repair proves unsatisfactory for the duration of the express warranty.

(e) ~~The~~ If an arbitration hearing is required under this section, the vehicle

must be presented at the hearing site for an inspection or test drive, or both, by members of the Board.

* * *

Sec. 32. 9 V.S.A. § 4174(d) is amended to read:

(d) The Board shall render a decision within 30 days of the conclusion of a hearing ~~and in a contested matter, and within 30 days of the manufacturer's answer in an uncontested matter.~~ The Board has authority to issue any and all damages as are provided by this chapter.

* * * Biobus Pilot Extension * * *

Sec. 33. 2013 Acts and Resolves No. 12, Sec. 30a is amended to read:

Sec. 30a. SCHOOL BUS PILOT PROGRAM

(a) Definitions. As used in this section, the term “person” shall have the same meaning as in 1 V.S.A. § 128, and the term “Type II school bus” shall have the same meaning as in 23 V.S.A. § 4(34)(C).

(b) Pilot program. Upon application, the Commissioner of Motor Vehicles shall approve up to three persons who satisfy the requirements of this section to participate in a pilot program. Pilot program participants shall be authorized to operate on Vermont highways Type II school buses registered in this State that are retrofitted with an auxiliary fuel tank to enable the use of biodiesel, waste vegetable oil, or straight vegetable oil, provided the school bus has passed inspection in accordance with subdivision (c)(3) of this section and the bus and its auxiliary tank comply with the Federal Motor Vehicle Safety Standards applicable to Type II school buses. If more than three persons apply to participate in the pilot program, the Commissioner shall give priority to applicants who seek to install the auxiliary fuel tank in connection with a student-led or student-generated school project.

(c) Documentation; requirements. The Commissioner may prescribe that applicants furnish information necessary to implement the pilot program. After an applicant furnishes such information and is approved, the Commissioner shall provide the person with documentation of the person's selection under the pilot program and the expiration date of the program. If the approved person is a municipality or another legal entity, the Commissioner's documentation shall list the specific individuals authorized to operate the Type II school bus. The Commissioner's documentation shall:

(1) be carried in the school bus while it is operated on a highway;

(2) constitute and be recognized by enforcement officers in Vermont as a waiver, until expiration of the pilot program, of those provisions of 23 V.S.A.

§§ 4(37), 1221, and 1283(a)(6) and of any rule that would prohibit school buses retrofitted with auxiliary fuel tanks from lawfully operating on Vermont highways; and

(3) be recognized by authorized inspection stations as a waiver of the prohibition on auxiliary or added fuel tanks, and of the requirement that buses only be equipped with such motor fuel tanks as are regularly installed by the manufacturer, specified in the School Bus Periodic Inspection Manual (“Inspection Manual”); provided, however, that no school bus equipped with an auxiliary or added fuel tank shall pass inspection unless all other requirements of the Inspection Manual regarding fuel systems are satisfied.

(d) Expiration. The pilot program established and the waivers granted under this section shall expire on September 1, ~~2015~~ 2017.

* * * Effective Dates * * *

Sec. 34. EFFECTIVE DATES; APPLICABILITY

(a)(1) This section, Sec. 26 (all-terrain vehicles), Sec. 27 (CDL skills test waiver for military drivers), and Secs. 31–32 (new motor vehicle arbitration; uncontested matters) shall take effect on passage.

(2) Secs. 31–32 shall apply to any matters pending on passage of this act.

(b) All other sections shall take effect on July 1, 2015.

(Committee vote: 10-0-1)

(For text see Senate Journal 3/18/15)

Amendment to be offered by Rep. Brennan of Colchester to the recommendation of amendment of the Committee on Transportation to S. 122

By striking Sec. 34 and the reader assistance thereto in its entirety and inserting in lieu thereof the following:

* * * Exempt Vehicle Title * * *

Sec. 34. 23 V.S.A. chapter 21 is amended to read:

CHAPTER 21. TITLE TO MOTOR VEHICLES

Subchapter 1. General Provisions

§ 2001. DEFINITIONS

Except when the context otherwise requires, as used in this chapter:

* * *

(15) "Title or certificate of title" means a written instrument or document that certifies ownership of a vehicle and is issued by the Commissioner or equivalent official of another jurisdiction. These terms do not include an exempt vehicle title authorized to be issued under subdivision 2013(a)(2) of this chapter.

* * *

§ 2002. FEES

(a) The Commissioner shall be paid the following fees:

(1) for any certificate of title, including a salvage certificate of title, or an exempt vehicle title, \$33.00;

* * *

§ 2012. EXEMPTED VEHICLES

No certificate of title need be obtained for:

(1) ~~A~~ a vehicle owned by the United States, unless it is registered in this State;

(2) ~~A~~ a vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing or demonstration, or used by an educational institution approved by the Agency of Education for driver training purposes, or a vehicle used by a manufacturer solely for testing;

(3) ~~A~~ a vehicle owned by a nonresident of this State and not required by law to be registered in this State;

(4) ~~A~~ a vehicle regularly engaged in the interstate transportation of persons or property for which a currently effective certificate of title has been issued in another state;

(5) ~~A~~ a self-propelled ~~wheel chair~~ wheelchair or invalid tricycle;

(6) ~~A~~ a motorcycle which has less than 300 cubic centimeters of engine displacement or a motorcycle powered by electricity with less than 20 kilowatts of engine power;

(7) ~~Any~~ any trailer with an unladen weight of 1,500 pounds or less;

(8) ~~A~~ a motor-driven cycle;

(9) ~~Any~~ any other type of vehicle designed primarily for off-highway use and deemed exempt by the Commissioner; or

(10) a vehicle that is more than 15 years old.

§ 2013. WHEN CERTIFICATE REQUIRED; ISSUANCE OF EXEMPT
VEHICLE TITLE UPON REQUEST

(a)(1) Except as provided in section 2012 of this title, the provisions of this chapter shall apply to and a title must be obtained for all motor vehicles at the time of first registration or when a change of registration is required under the provisions of section 321 of this title by reason of a sale for consideration; except for vehicles that are more than 15 years old.

(2) In addition, a Vermont resident may apply at any time to the Commissioner to obtain an “exempt vehicle title” for a vehicle that is more than 25 years old. Such titles shall be in a form prescribed by the Commissioner and shall include a legend indicating that the title is issued under the authority of this subdivision. The Commissioner shall issue an exempt vehicle title if the applicant pays the applicable fee and fulfills the requirements of this section, and if the Commissioner is satisfied that:

- (A) the applicant is the owner of the vehicle;
- (B) the applicant is a Vermont resident; and
- (C) the vehicle is not subject to any liens or encumbrances.

(3) Prior to issuing an exempt vehicle title pursuant to subdivision (2) of this subsection, the Commissioner shall require all of the following:

(A) The applicant to furnish one of the following proofs of ownership, in order of preference:

(i) a previous Vermont or out-of-state title indicating the applicant’s ownership;

(ii) an original or a certified copy of a previous Vermont or out-of-state registration indicating the applicant’s ownership;

(iii) sufficient evidence of ownership as determined by the Commissioner, including bills of sale or original receipts for major components of homebuilt vehicles; or

(iv) a notarized affidavit certifying that the applicant is the owner of the vehicle and is unable to produce the proofs listed in subdivisions (i)–(iii) of this subdivision (3)(A) despite reasonable efforts to do so.

(B) A notarized affidavit certifying:

(i) the date the applicant purchased or otherwise took ownership of the vehicle;

(ii) the name and address of the seller or transferor, if known;

(iii) that the applicant is a Vermont resident; and

(iv) that the vehicle is not subject to any liens or encumbrances.

(C) Assignment of a new vehicle identification number pursuant to section 2003 of this title, if the vehicle does not have one.

(b) The ~~commissioner~~ Commissioner shall not require an application for a certificate of title upon the renewal of the registration of a vehicle.

(c) The ~~commissioner~~ Commissioner shall note on the face of the registration of each vehicle for which a certificate of title has been issued a statement to that effect.

* * *

§ 2016. COMMISSIONER TO CHECK IDENTIFICATION NUMBER

The Commissioner, upon receiving application for a first certificate of title or exempt vehicle title, shall check the identification number of the vehicle shown in the application against the records of vehicles required to be maintained by section 2017 of this title and against the record of stolen and converted vehicles required to be maintained by section 2084 of this title.

§ 2017. ISSUANCE OF CERTIFICATE; RECORDS

(a) The Commissioner shall file each application received and, when satisfied as to its genuineness and regularity and that the applicant is entitled to the issuance of a certificate of title, shall issue a certificate of title of the vehicle.

(b) The Commissioner shall maintain at his or her central office a record of all certificates of title issued by him or her for vehicles 15 years old and newer, and of all exempt vehicle titles issued by him or her, under a distinctive title number assigned to the vehicle; under the identification number of the vehicle; alphabetically, under the name of the owner; and, in the discretion of the Commissioner, by any other method he or she determines. The original records may be maintained on microfilm or electronic imaging.

* * *

§ 2021. REFUSAL OF CERTIFICATE

The Commissioner shall refuse issuance of a certificate of title or an exempt vehicle title if any required fee is not paid or if he or she has reasonable grounds to believe that:

- (1) the applicant is not the owner of the vehicle;
- (2) the application contains a false or fraudulent statement; or

(3) the applicant fails to furnish required information or documents or any additional information the Commissioner reasonably requires.

* * *

§ 2029. SUSPENSION OR REVOCATION OF CERTIFICATE

(a) The Commissioner shall suspend or revoke a certificate of title or exempt vehicle title, upon notice and reasonable opportunity to be heard in accordance with section 2004 of this chapter, if he or she finds:

(1) the certificate of title or exempt vehicle title was fraudulently procured or erroneously issued; or

(2) the vehicle has been scrapped, dismantled, or destroyed.

(b) Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.

(c) When the Commissioner suspends or revokes a certificate of title or exempt vehicle title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the Commissioner.

(d) The Commissioner may seize and impound any certificate of title or exempt vehicle title which has been canceled, suspended, or revoked.

* * *

Subchapter 5: Anti-theft Provisions and Penalties

§ 2081. APPLICATION OF SUBCHAPTER

(a) This subchapter does not apply to a self-propelled wheelchair or invalid tricycle.

(b) The provisions of this subchapter that apply to certificates of title shall also apply to salvage certificates of title, exempt vehicle titles, certificates of origin, and secure assignments of title.

* * *

* * * Effective Dates * * *

Sec. 35. EFFECTIVE DATES; APPLICABILITY

(a)(1) This section, Sec. 26 (all-terrain vehicles), Sec. 27 (CDL skills test waiver for military drivers), and Secs. 31–32 (new motor vehicle arbitration; uncontested matters) shall take effect on passage.

(2) Secs. 31–32 shall apply to any matters pending on passage of this act.

(b) Sec. 34 shall take effect on January 1, 2016.

(c) All other sections shall take effect on July 1, 2015.

Senate Proposal of Amendment

H. 270

An act relating to definitions for pretrial screenings and assessments

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

First: By adding two new sections to be numbered Sec. 2 and Sec.3 to read as follows:

Sec. 2. 13 V.S.A. § 7554c is amended to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

* * *

(d)(1) In consideration of the assessment and screening, the court may order the person to comply with any of the following conditions:

(A) meet with a pretrial monitor on a schedule set by the court;

(B) participate in a clinical assessment by a substance abuse or mental health treatment provider; and

(C) comply with any level of treatment or recovery support recommended by the provider;

~~(D) provide confirmation to the pretrial monitor of the person's attendance and participation in the clinical assessment and any recommended treatment; and~~

~~(E) provide confirmation to the pretrial monitor of the person's compliance with any other condition of release.~~

* * *

Sec. 3. 12 V.S.A. § 701 is amended to read:

§ 701. SUMMONS

(a) Any law enforcement officer authorized to serve criminal process or a ~~state's attorney~~ State's Attorney may summon a person who commits an offense to appear before a ~~district or superior court~~ District or Superior Court by a summons in such form as prescribed by the ~~court administrator~~ Court Administrator, stating the time when, and the place where, the person shall appear, signed by the enforcement officer or ~~state's attorney~~ State's Attorney and delivered to the person.

(b) When an individual accepts a precharge services contract, the State's Attorney may issue a new citation ordering the individual to court in the event the individual fails to comply with the terms of the contract. The pretrial monitor may provide the citation to the individual at the time the individual accepts the precharge contract. This shall be considered effective service.

(c) A person so summoned shall appear at the time and place stated in the summons delivered to him or her. A person who does not so appear shall be fined not more than \$100.00 or be imprisoned not more than 90 days, or both.

(e)(d) A person who does not so appear in response to a summons for a traffic offense as defined in section 23 V.S.A. § 2201 of Title 23 shall be fined not more than \$100.00.

Second: By striking out the original Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 4 EFFECTIVE DATE

This act shall take effect upon passage.

And by renumbering the remaining section to be numerically correct

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

An act relating to pretrial screenings and assessments.

(No House Amendments)

H. 304

An act relating to making miscellaneous amendments to Vermont's retirement laws

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

First: By inserting a new Sec. 11 to read as follows:

Sec. 11. 3 V.S.A. § 462 is amended to read:

§ 462. REEXAMINATION OF DISABILITY BENEFICIARY

* * *

(b) Should the medical board report and certify to the retirement board that any disability beneficiary has a residual functional capacity which might enable the beneficiary to return to work, and should the retirement board reasonably conclude that the beneficiary is engaged in or is, as a result of specific findings made by a certified vocational counselor, able to engage in a gainful occupation paying more than the difference between the beneficiary's retirement allowance and his or her average final compensation at retirement,

the beneficiary's pension shall be reduced to an amount which, together with his or her annuity and the amount earnable by him or her, shall equal the beneficiary's average final compensation at retirement, adjusted for inflation each year following retirement on the same basis as for beneficiaries as provided in section 470 of this title. ~~Should the beneficiary's earning capacity be later changed, his or her pension may be further modified; provided that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by the beneficiary together with his or her annuity, equals the beneficiary's average final compensation at retirement. For the purposes of this subsection, "retirement allowance" shall mean the allowance payable without modification as provided in section 468 of this title. provided that:~~

(1) The retirement board shall provide written notice and an opportunity to be heard to the beneficiary prior to any reduction of the beneficiary's pension under this subsection (b).

(2) If the beneficiary has engaged in a gainful occupation subsequent to receiving disability retirement, the retirement board in its discretion may reject in whole or in part a vocational assessment of the beneficiary's ability to engage in a more gainful occupation and may rely in whole or in part on evidence of the beneficiary's actual earnings in determining the amount earnable by the beneficiary. In addition, if the retirement board's determination is based in whole or in part on a vocational assessment of ability to engage in a gainful occupation, the beneficiary shall be notified of his or her entitlement to the same reemployment rights as are available to State employees under the existing collective bargaining agreement entered into between the State and the applicable bargaining representative, or extension of such contractual benefits. Such rights shall commence as of the date of the determination and shall be based upon the reemployment rights the beneficiary would have had at the time he or she retired from State service. The reduction of pension amount will be held in abeyance until the reemployment rights have expired. In the event that the beneficiary is subsequently reemployed by the State, the beneficiary's retirement allowance shall cease, effective on the date when reemployment commences. In the event that the beneficiary is not subsequently reemployed by the State, the reduction of the beneficiary's pension shall commence the month following the month in which the beneficiary's reemployment rights expired.

(3) In the event that a beneficiary's pension has been reduced and should the beneficiary's earning capability later change, his or her pension may be further modified; provided that no reemployment rights shall be afforded to the beneficiary in connection with any later change and provided further that the new pension amount, together with the amount earnable by him or her,

shall not exceed the beneficiary's average final compensation at retirement, adjusted for inflation.

(4) As used in this subsection, "retirement allowance" shall mean the allowance payable without modification as provided in section 468 of this title.

(c) Every recipient of disability benefits shall, annually on a date determined by the retirement board, file with the State Treasurer a statement certifying, under penalty of perjury and in such form as the retirement board shall prescribe, the full amount of his or her earnings from earned income during the preceding calendar year. The State Treasurer may request, and the beneficiary shall provide within 60 days of such request, additional financial information and records pertinent to the beneficiary's earned income. The beneficiary's statement and accompanying forms and schedules, and any other financial information and records provided by the beneficiary to the State Treasurer shall be confidential. In the event that a beneficiary fails to submit the certification or any required or requested financial information or records pertinent to the beneficiary's earned income, the beneficiary's retirement allowance shall be suspended until all such information and records have been submitted, and in the event that the failure continues for one year, all the beneficiary's rights in and to his or her pension and any pending reemployment rights under this section may be revoked by the board. Notwithstanding any provision of this section to the contrary, if the beneficiary's earned income for the preceding year exceeded the difference between the beneficiary's retirement allowance and his or her average final compensation at retirement, the beneficiary shall refund the portion of the preceding year's retirement allowance that is equal to the amount of the reduction specified in subsection (b), and the refund amount may be offset against the beneficiary's monthly pension benefits. Prior to suspension or revocation of the beneficiary's retirement allowance, reemployment rights, or inception of any offset under this subsection (c), the retirement board shall provide the beneficiary with written notice and an opportunity to be heard.

Second: By inserting a new section to be Sec. 12 to read as follows:

Sec. 12. 3 V.S.A. § 463 is amended to read:

§ 463. REINSTATEMENT

(a) ~~Should a disability beneficiary be restored to service and should his or her annual earnable compensation then or at any time thereafter be equal to or greater than his or her average final compensation at retirement, or should any other beneficiary be restored to service, his or her retirement allowance shall cease, and the beneficiary shall again become a member of the retirement system, and he or she shall contribute thereafter at the same rate he or she paid~~

~~prior to retirement.~~ Anything in this subchapter to the contrary notwithstanding, upon his or her subsequent retirement, he or she shall be credited with all the service creditable to him or her at the time of his or her former retirement. However, if such beneficiary is restored to membership after the attainment of ~~the age of 55 years~~ of age, his or her pension upon subsequent retirement shall not exceed the sum of the pension which he or she was receiving immediately prior to his or her last restoration to membership and the pension that may have accrued on account of membership service since his or her last restoration to membership, provided that the rate percent of his or her total pension on his or her subsequent retirement shall not exceed the rate he or she would have received had he or she remained in service during the period of prior retirement.

* * *

Third: By renumbering Sec. 11 (effective date) to be Sec. 13.

(For text see House Journal 3/17/2015)

NOTICE CALENDAR

Favorable with Amendment

H. 8

An act relating to the oversight of the transfer of military equipment to law enforcement agencies

Rep. Hubert of Milton, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 1943 is added to read:

§ 1943. TRANSFERS OF FEDERAL MILITARY PROPERTY TO LAW ENFORCEMENT AGENCIES

(a) Any municipal police department that applies to receive from the federal government a dangerous or deadly weapon as defined in 13 V.S.A. § 4016(a)(2) or any armored or mine-protected vehicle shall notify each legislative body of a municipality for which it provides law enforcement services within 15 days of the application.

(b) Within 7 days of receiving notification from the federal government of an award of a dangerous or deadly weapon as defined in 13 V.S.A. § 4016(a)(2) or any armored or mine-protected vehicle, a sheriff's department shall notify each legislative body of a municipality within the department's designated county of the award.

Sec. 2. 32 V.S.A. § 810 is added to read:

§ 810. AUDITING OF FEDERAL MILITARY PROPERTY TRANSFERS TO LAW ENFORCEMENT AGENCIES

Annually, the Commissioner of Public Safety shall examine the records of all property acquired by a State or local law enforcement agency transferred through the U.S. Department of Defense excess personal property program established in 10 U.S.C. § 2576a, and shall send a copy of the results to the Office of the Attorney General.

and that after passage the title of the bill be amended to read: “An act relating to the oversight of the transfer of federal military property to law enforcement agencies”

(Committee Vote: 10-0-1)

H. 187

An act relating to absence from work for health care and safety

Rep. Head of South Burlington, for the Committee on **General, Housing & Military Affairs**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds:

(1) According to the Vermont Department of Labor’s 2013 Fringe Benefits Study, roughly one-half of all private sector employers provide some form of paid leave to their employees.

(2) Based on information provided by the 2013 Fringe Benefits Study, it is estimated that slightly less than 50 percent of private sector workers employed by companies with fewer than 20 workers have access to paid leave, while approximately 78 percent of workers employed by larger companies have access to paid leave time.

(3) Based on information provided by the 2013 Fringe Benefits Study, it is estimated that more than 60,000 working Vermonters lack access to paid leave.

Sec. 2. PURPOSE

The purpose of this act is to promote a healthier environment at work, school, and in public by ensuring that employees are provided with paid leave time for purposes of health care and safety.

Sec. 3. 21 V.S.A. § 384 is amended to read:

§ 384. EMPLOYMENT; WAGES

* * *

(d) For the purposes of earned sick time, an employer shall comply with the provisions required under subchapter 4B of this chapter.

Sec. 4. 21 V.S.A. chapter 5, subchapter 4B is added to read:

Subchapter 4B. Earned Sick Time

§ 481. DEFINITIONS

As used in this subchapter:

(1) “Combined time off” means a policy wherein the employer provides time off from work for vacation, sickness, or personal reasons, and the employee has the option to use all of the leave for whatever purpose he or she chooses.

(2) “Commissioner” means the Commissioner of Labor.

(3) “Differential” means compensation paid in addition to the usual compensation paid to an employee of a health care facility as defined in 18 V.S.A. § 9432(8) who does not work on a regular schedule and who works only when he or she indicates that he or she is available to work and has no obligation to work when he or she does not indicate availability.

(4) “Earned sick time” means discretionary time earned and accrued under the provisions of this subchapter and used by an employee to take time off from work for the purposes listed in subdivisions 483(a)(1)–(5) of this subchapter.

(5) “Employee” has the same meaning as set forth in section 341 of this title. However, the term “employee” shall not include:

(A) An individual who is employed by the federal government.

(B) An individual who is employed by an employer:

(i) for 20 weeks or fewer in a calendar year;

(ii) in a job scheduled to last 20 weeks or fewer; and

(iii) for the purpose of supporting or supplementing the employer’s workforce in certain situations, including employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects.

(C) An individual who is employed by the State and is exempt or excluded from the State classified service pursuant to 3 V.S.A § 311.

(D) An employee of a health care facility as defined in 18 V.S.A. § 9432(8) if the employee:

(i) is under no obligation to work a regular schedule;

(ii) works only when he or she indicates that he or she is available to work and has no obligation to work when he or she does not indicate availability; and

(iii) receives higher pay in the form of a differential as defined in subdivision (3) of this section, or some other increased compensation than that paid to an employee of a health care facility performing the same job on a regular schedule.

(E) An employee of a school district, supervisory district, or supervisory union as defined in 16 V.S.A. § 11 that:

(i) is employed pursuant to a school district or supervisory union policy on substitute educators as required by the Vermont Standards Board for Professional Educators Rule 5381;

(ii) is under no obligation to work a regular schedule; and

(iii) is not under contract or written agreement to provide at least one period of long-term substitute coverage which is defined as 30 or more consecutive calendar days in the same assignment.

(6) “Employer” means an individual, organization, or governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air, or express company doing business in or operating within this State.

(7) “Paid time off policy” means any policy under which the employer provides paid time off from work to the employee that includes a combination of one or more of the following:

(A) annual leave;

(B) combined time off;

(C) vacation leave;

(D) personal leave;

(E) sick leave; or

(F) any similar type of leave.

§ 482. EARNED SICK TIME

(a) An employee shall accrue not less than one hour of earned sick time for

every 40 hours worked.

(b) An employer may require a waiting period for new hires. During this waiting period, an employee shall accrue earned sick time pursuant to this section but cannot use the earned sick time until after he or she has worked for the employer for one year or 1,400 hours, whichever occurs first.

(c) An employer may:

(1) limit the amount of earned sick time accrued pursuant to this section to:

(A) from January 1, 2016, until December 31, 2017, a maximum of 24 hours in a 12-month period; and

(B) after December 31, 2017, a maximum of 40 hours in a 12-month period; or

(2) limit to 40 hours the number of hours in each workweek for which full-time employees not subject to the overtime provisions of the Federal Fair Labor Standards Act, 29 U.S.C. § 213(a)(1), may accrue earned sick time pursuant to this section.

(d)(1) Earned sick time shall be compensated at a rate that is equal to the greater of either:

(A) the normal hourly wage rate of the employee; or

(B) the minimum wage rate for an employee pursuant to section 384 of this title.

(2) Employment benefits shall continue during an employee's use of earned sick time at the same level and conditions that coverage would be provided as for normal work hours. The employer may require that the employee contribute to the cost of the benefits during the use of earned sick time at the existing rate of employee contribution.

(e) Except as otherwise provided by subsection 484(a) of this subchapter, an employer shall calculate the amount of earned sick time that an employee has accrued pursuant to this section:

(1) as it accrues during each pay period; or

(2) on a quarterly basis, provided that an employee may use earned sick time as he or she accrues it during each quarter.

§ 483. USE OF EARNED SICK TIME

(a) An employee may use earned sick time accrued pursuant to section 482 of this subchapter for any of the following reasons:

(1) The employee is ill or injured.

(2) The employee obtains professional diagnostic, preventive, routine, or therapeutic health care.

(3) The employee cares for a sick or injured parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, foster child, person residing with the employee, or family member for whom the employee is primarily responsible to arrange or provide care for, including helping that individual obtain diagnostic, preventive, routine, or therapeutic health treatment.

(4) The employee is arranging for social or legal services or obtaining medical care or counseling for the employee or for the employee's parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, foster child, person residing with the employee, or family member for whom the employee is primarily responsible to arrange or provide care for, who is a victim of domestic violence, sexual assault, or stalking or who is relocating as the result of domestic violence, sexual assault, or stalking. As used in this section, "domestic violence," "sexual assault," and "stalking" shall have the same meaning as in 15 V.S.A. § 1151.

(5) The employee cares for a parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, foster child, person residing with the employee, or family member for whom the employee is primarily responsible to arrange or provide care for, because the school or business where that individual is normally located during the employee's workday is closed for public health or safety reasons.

(b) If an employee's absence is shorter than a normal workday, the employee shall use earned sick time accrued pursuant to section 482 of this subchapter in the smallest time increments that the employer's payroll system uses to account for other absences.

(c) An employer may limit the amount of earned sick time accrued pursuant to section 482 of this subchapter that an employee may use to:

(1) from January 1, 2016, until December 31, 2017, no more than 24 hours of earned sick time accrued pursuant to section 482 of this subchapter in a 12-month period; and

(2) after December 31, 2017, no more than 40 hours of earned sick time accrued pursuant to section 482 of this subchapter in a 12-month period.

(d)(1) Except as otherwise provided in subsection 484(a) of this subchapter, earned sick time that remains unused at the end of an annual period shall be carried over to the next annual period and the employee has the right to earn the balance between the unused portion and the maximum allowed.

(2) If, at an employer's discretion, an employer pays an employee for unused earned sick time accrued pursuant to section 482 of this subchapter at the end of an annual period, then the amount for which the employee was compensated does not carry over to the next annual period.

(e) Upon separation from employment, an employee shall not be entitled to payment for unused earned sick time accrued pursuant to section 482 of this subchapter unless agreed upon by the employer.

(f) An employee who is rehired by the same employer within 12 months after separation from employment shall begin to accrue and may use earned sick time without any waiting period, but shall not be entitled to retain any unused earned sick time that had accrued pursuant to section 482 of this subchapter before the time of separation unless agreed upon by the employer.

(g) An employer shall not require an employee to find a replacement for absences, including absences for professional diagnostic, preventive, routine, or therapeutic health care.

(h) An employer may require an employee planning to take earned sick time accrued pursuant to section 482 of this subchapter to:

(1) make reasonable efforts to avoid scheduling routine or preventive health care during regular work hours; or

(2) notify the employer as soon as practicable of the intent to take earned sick time accrued pursuant to section 482 of this subchapter and the expected duration of the employee's absence.

(i) If an employee is absent from work for one of the reasons listed in subsection (a) of this section, the employee shall not be required to use earned sick time accrued pursuant to section 482 of this subchapter and the employer will not be required to pay for the time that the employee was absent if the employer and the employee mutually agree that either:

(1) the employee will work an equivalent number of hours as the number of hours for which the employee is absent during the same pay period; or

(2) the employee will trade hours with a second employee so that the second employee works during the hours for which the employee is absent and the employee works an equivalent number of hours in place of the second employee during the same pay period.

(j) An employer shall post notice of the provisions of this section in a form provided by the Commissioner in a place conspicuous to employees at the employer's place of business. An employer shall also notify an employee of the provisions of this section at the time of the employee's hiring.

(k) An employee who uses earned sick time accrued pursuant to section 482 of this subchapter shall not diminish his or her rights under sections 472 and 472a of this title.

(l) The provisions against retaliation set forth in section 397 of this title shall apply to this subchapter.

(m) An employer who violates this section shall be subject to the penalty provisions of section 345 of this title.

(n) The Commissioner shall enforce this section in accordance with the procedures established in section 342a of this title.

§ 484. COMPLIANCE WITH EARNED SICK TIME REQUIREMENT

(a) An employer shall be in compliance with this subchapter if either of the following occurs:

(1) The employer offers a paid time off policy or is a party to a collective bargaining agreement that provides the employee with paid time off from work that:

(A) he or she may use for all of the reasons set forth in subsection 483(a) of this subchapter; and

(B) accrues and may be used at a rate that is equal to or greater than the rate set forth in sections 482 and 483 of this subchapter.

(2) The employer offers a paid time off policy or is a party to a collective bargaining agreement that provides the employee with at least the full amount of paid time off from work required pursuant to sections 482 and 483 of this subchapter at the beginning of each annual period and the employee may use it at any time during the annual period for the reasons set forth in subsection 483(a) of this subchapter. If the employer provides an employee with the full amount of paid time off at the beginning of each annual period, the paid time off shall not carry over from one annual period to the next as provided in subdivision 483(d)(1) of this subchapter.

(b) Nothing in this subchapter shall be construed to prevent an employer from providing a paid time off policy or agreeing to a collective bargaining agreement that provides a paid time off policy that is more generous than the earned sick time provided by this subchapter.

(c) Nothing in this subchapter shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or paid time off policy that provides greater earned sick time rights than the rights provided by this subchapter.

(d) A collective bargaining agreement or paid time off policy may not

diminish the rights provided by this subchapter.

§ 485. SEVERABILITY OF PROVISIONS

If any provision of this subchapter or the application of such provision to any person or circumstances shall be held invalid, the remainder of the subchapter and the application of such provisions to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Sec. 5. 21 V.S.A. § 345 is amended to read:

§ 345. NONPAYMENT OF WAGES AND BENEFITS

(a) Each employer who violates sections ~~342 and 343~~ 342, 343, 482, and 483 of this title shall be fined not more than \$5,000.00. Where the employer is a corporation, the president or other officers who have control of the payment operations of the corporation shall be considered employers and liable to the employee for actual wages due when the officer has willfully and without good cause participated in knowing violations of this chapter.

* * *

Sec. 6. DEPARTMENT OF LABOR REPORT

The Department of Labor shall, on or before January 15, 2017, report to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding the number of inquiries and complaints submitted to the Department in relation to this act and the number of investigations and enforcement actions undertaken by the Department in relation to this act during the first year after its effective date.

Sec. 7. EFFECTIVE DATE

This act shall take effect on January 1, 2016.

(Committee Vote: 5-3-0)

H. 497

An act relating to approval of amendments to the charter of the Town of Colchester

Rep. Lewis of Berlin, for the Committee on **Government Operations**, recommends the bill be amended as follows:

In Sec. 2, in 24 App. V.S.A. chapter 113, § 703, by striking out subsection (a) in its entirety and by relettering the remaining subsections to be alphabetically correct

(Committee Vote: 8-0-3)

Favorable

H. 280

An act relating to amending the State Board of Education rules on school lighting requirements

Rep. Christie of Hartford, for the Committee on **Education**, recommends the bill ought to pass.

(**Committee Vote: 11-0-0**)

H. 494

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

Rep. Lewis of Berlin, for the Committee on **Government Operations**, recommends the bill ought to pass.

(**Committee Vote: 9-0-2**)

H. 496

An act relating to approval of the adoption and codification of the charter of the Town of West Fairlee

Rep. Lewis of Berlin, for the Committee on **Government Operations**, recommends the bill ought to pass.

(**Committee Vote: 10-0-1**)

H. 499

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

Rep. Lewis of Berlin, for the Committee on **Government Operations**, recommends the bill ought to pass.

(**Committee Vote: 9-1-1**)

Senate Proposal of Amendment

H. 141

An act relating to the Organ and Tissue Donation Working Group

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

In Sec. 1, subsection (f), by striking out “2017” and inserting in lieu thereof 2020.

(For text see House Journal 2/18/15)

Public Hearings

April 22, 2015 - Room 11 - 5:00-7:00 pm - H.361 - An act relating to making amendments to education funding, education spending and education governance