

House Calendar

Wednesday, April 22, 2015

106th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Action Postponed Until April 22, 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)

Amendment to be offered by Rep. Jewett of Ripton to S. 13

Moves that the House concur in the Senate Proposal of Amendment to the House Proposal of amendment as follows:

In Sec. 9 (Effective Dates), subsection (b), by adding a new subdivision (3) to read as follows:

(3) The certification and reporting requirements of subdivisions (b)(1) and (2) of this section shall not be deemed satisfied until the Departments of Public Safety and of Corrections present testimony on the certification and report to the House and Senate Committees on Judiciary.

NEW BUSINESS

Third Reading

S. 72

An act relating to binding arbitration for State employees

S. 122

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

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**)

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)

Action Under Rule 52

J.R.H. 13

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

(For text see House Journal 4/21/2015)

J.R.H. 14

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

(For text see House Journal 4/21/2015)

NOTICE CALENDAR

Senate Proposal of Amendment

H. 51

An act relating to group-wide supervision of internationally active insurance groups and the establishment of domestic insurers in Vermont

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

In Sec. 4, 8 V.S.A. § 3696, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Notwithstanding any other provision of law to the contrary, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the Commissioner shall acknowledge such official as the supervisor. However, the Commissioner shall make a determination or acknowledgment as to the appropriate supervisor for such group pursuant to subsection (b) of this section in the event of a material change in the group that results in:

(1) the group’s insurers domiciled in Vermont holding the largest share of the group’s premiums, assets, or liabilities; or

(2) Vermont becoming the place of domicile of the top-tiered insurers in the insurance holding company system of the group.

(For text see House Journal 2/4/15)

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