

House Calendar

Friday, May 01, 2015

115th DAY OF THE BIENNIAL SESSION

House Convenes at 9:30 A.M.

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ACTION CALENDAR

Action Postponed Until May 1, 2015

Favorable

S. 60

An act relating to payment for medical examinations for victims of sexual assault

Rep. Morris of Bennington, for the Committee on **Health Care**, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

Rep. Hooper of Montpelier, for the Committee on **Appropriations**, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

ACTION CALENDAR

Third Reading

S. 9

An act relating to improving Vermont's system for protecting children from abuse and neglect

Amendment to be offered by Rep. Donahue of Northfield to S. 9

First: In Sec. 10, 33 V.S.A. § 5124, in subdivision (a)(1), after "Families;" by inserting the word "and"

Second: In Sec. 10, 33 V.S.A. § 5124, in subdivision (a)(2), by striking out the following: "and;" and inserting in lieu thereof a period

Third: In Sec. 10, 33 V.S.A. § 5124, by striking out subdivision (a)(3) in its entirety

S. 139

An act relating to pharmacy benefit managers and hospital observation status

Amendment to be offered by Rep. Browning of Arlington to S. 139

First: By adding four new sections and a reader assistance heading to be Secs. 6a–6d to read as follows:

* * * Choice of Providers * * *

Sec. 6a. INTENT

It is the intent of the General Assembly to recruit and retain a highly qualified health care workforce to provide high-quality health care services in this State. Every Vermont resident should have the ability to enter into voluntary financial arrangements with the health care professionals of his or her choice. In addition, every Vermont health care professional should have the ability to establish his or her practice where and when he or she chooses.

Sec. 6b. 18 V.S.A. § 9382 is added to read:

§ 9382. LIMITATIONS ON AUTHORITY

The Green Mountain Care Board shall not:

(1) adopt, by rule or any other mechanism, maximum rates that health care professionals may accept that would interfere with the ability of any Vermont resident to enter into a voluntary financial arrangement with the Vermont-licensed health care professional of his or her choice; or

(2) place any restrictions on the location in which a health care professional practices, unless the restriction is directly related to an agreement with the professional to practice in a specific region in return for full or partial repayment of his or her educational loans.

Sec. 6c. 18 V.S.A. § 9375 is amended to read:

§ 9375. DUTIES

(a) The Board shall execute its duties consistent with the principles expressed in ~~18 V.S.A. § section~~ 9371 of this title.

(b) The Board shall have the following duties:

* * *

(5) Set rates for health care professionals pursuant to section 9376 of this title, to be implemented over time, and make adjustments to the rules on reimbursement methodologies as needed.

* * *

Sec. 6d. 18 V.S.A. § 9376 is amended to read:

§ 9376. PAYMENT AMOUNTS; METHODS

(a) It is the intent of the ~~general assembly~~ General Assembly to:

(1) ensure payments to health care professionals that are consistent with efficiency, economy, and quality of care and will permit them to provide, on a solvent basis, effective and efficient health services that are in the public

interest. ~~It is also the intent of the general assembly to;~~

(2) eliminate the shift of costs between the payers of health services to ensure that the amount paid to health care professionals is sufficient to enlist enough providers to ensure that health services are available to all Vermonters and are distributed equitably; and

(3) protect the ability of each Vermont resident to enter into voluntary financial arrangements with the Vermont-licensed health care professionals of his or her choice.

(b)(1) ~~The board~~ To the extent permitted under federal law, the Board shall set reasonable rates for third-party reimbursement for health care professionals, health care provider bargaining groups created pursuant to section 9409 of this title, manufacturers of prescribed products, medical supply companies, and other companies providing health services or health supplies based on methodologies pursuant to section 9375 of this title, in order to have a consistent reimbursement amount accepted by these persons. In its discretion, the board Board may implement rate-setting for different groups of health care professionals over time and need not set rates for all types of health care professionals. In establishing rates, the board Board may consider legitimate differences in costs among health care professionals, such as the cost of providing a specific necessary service or services that may not be available elsewhere in the state State, and the need for health care professionals in particular areas of the state State, particularly in underserved geographic or practice shortage areas.

(2)(A) Nothing in this subsection shall be construed to limit the ability of a health care professional to accept less than the rate established in subdivision (1) of this subsection from a patient without health insurance or other coverage for the service or services received.

(B) Nothing in this subsection shall be construed to limit the ability of a Vermont resident to enter into a voluntary financial arrangement with the Vermont-licensed health care professionals of his or her choice; provided, however, that no such voluntary financial agreement shall be binding on a health insurer, Medicaid, or any other entity paying health care claims on the resident's behalf.

* * *

Second: In Sec. 33, effective dates, in subsection (a), following “5 and 6 (reports),” by inserting “6a–6d (choice of providers),”

Amendment to be offered by Reps. Jewett of Ripton, Frank of Underhill, Komline of Dorset, Krowinski of Burlington, McCullough of Williston, Morris of Bennington, Mrowicki of Putney, Nuovo of Middlebury, and Till of Jericho to S. 139

First: In Sec. 30a, 32 V.S.A. § 7811, in the second sentence, after “the wholesale price for all tobacco products except” by inserting tobacco substitutes, which shall be taxed at a rate of 46 percent of the wholesale price,

Second: By adding eight new sections to be Secs. 31a–31h and a reader assistance heading to read as follows:

* * * Electronic Cigarettes * * *

Sec. 31a. 7 V.S.A. § 1003(d) is amended to read:

~~(d)(1) No person holding a tobacco license shall display or store tobacco products or tobacco substitutes where those products are accessible to consumers without direct assistance by the sales personnel~~ Persons holding a tobacco license may only display or store tobacco products or tobacco substitutes:

(A) behind a sales counter in an area accessible only to sales personnel; or

(B) in a locked container that is not located on a sales counter.

(2) This subsection shall not apply to the following:

~~(1)(A)~~ A a display of tobacco products that is located in a commercial establishment in which by law no person younger than 18 years of age is permitted to enter at any time;

~~(2)(B)~~ Cigarettes cigarettes in unopened cartons and smokeless tobacco in unopened multipack containers of 10 or more packages, any of which shall be displayed in plain view and under the control of a responsible employee so that removal of the cartons or multipacks from the display can be readily observed by that employee; or

~~(3)(C)~~ Cigars cigars and pipe tobacco stored in a humidor on the sales counter in plain view and under the control of a responsible employee so that the removal of these products from the humidor can be readily observed by that employee.

Sec. 31b. 18 V.S.A. § 1421 is amended to read:

§ 1421. SMOKING IN THE WORKPLACE; PROHIBITION

(a) The use of lighted tobacco products and tobacco substitutes is prohibited in any workplace.

* * *

(c) Nothing in this section shall be construed to restrict the ability of residents of the Vermont ~~veterans' home~~ Veterans' Home to use lighted tobacco products or tobacco substitutes in the indoor area of the facility in which smoking is permitted.

Sec. 31c. 18 V.S.A. § 1741 is amended to read:

§ 1741. DEFINITIONS

As used in this chapter:

* * *

(5) “Tobacco substitutes” shall have the same meaning as in 7 V.S.A. § 1001.

Sec. 31d. 18 V.S.A. § 1742 is amended to read:

§ 1742. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

(a) The possession of lighted tobacco products or use of tobacco substitutes in any form is prohibited in:

(1) the common areas of all enclosed indoor places of public access and publicly owned buildings and offices;

(2) all enclosed indoor places in lodging establishments used for transient traveling or public vacationing, such as resorts, hotels, and motels, including sleeping quarters and adjoining rooms rented to guests;

(3) designated smoke-free areas of property or grounds owned by or leased to the State; and

(4) any other area within 25 feet of State-owned buildings and offices, except that to the extent that any portion of the 25-foot zone is not on State property, smoking is prohibited only in that portion of the zone that is on State property unless the owner of the adjoining property chooses to designate his or her property smoke-free.

(b) The possession of lighted tobacco products or use of tobacco substitutes in any form is prohibited on the grounds of any hospital or secure residential recovery facility owned or operated by the State, including all enclosed places in the hospital or facility and the surrounding outdoor property.

(c) Nothing in this section shall be construed to restrict the ability of residents of the Vermont Veterans' Home to use lighted tobacco products or tobacco substitutes in the indoor area of the facility in which smoking is permitted.

Sec. 31e. 18 V.S.A. § 1743 is amended to read:

§ 1743. EXCEPTIONS

The restrictions in this chapter on possession of lighted tobacco products and use of tobacco substitutes do not apply to areas not commonly open to the public of owner-operated businesses with no employees.

Sec. 31f. 18 V.S.A. § 1745 is amended to read:

§ 1745. ENFORCEMENT

A proprietor, or the agent or employee of a proprietor, who observes a person in possession of lighted tobacco products or using tobacco substitutes in apparent violation of this chapter shall ask the person to extinguish all lighted tobacco products or cease using the tobacco substitutes. If the person persists in the possession of lighted tobacco products or use of tobacco substitutes, the proprietor, agent, or employee shall ask the person to leave the premises.

Sec. 31g. 23 V.S.A. § 1134b is amended to read:

§ 1134b. SMOKING IN MOTOR VEHICLE WITH CHILD PRESENT

(a) A person shall not possess a lighted tobacco product or use a tobacco substitute in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

(b) A person who violates subsection (a) of this section shall be subject to a fine of not more than \$100.00. No points shall be assessed for a violation of this section.

Sec. 31h. 32 V.S.A. § 7702(15) is amended to read:

(15) "Other tobacco products" means any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, chewing, or in any other manner, including products sold as a tobacco substitute, as defined in 7 V.S.A. § 1001(8); but shall not include cigarettes, little cigars, roll-your-own tobacco, snuff, or new smokeless tobacco as defined in this section.

Third: In Sec. 33, effective dates, in subsection (e), by striking out "and 30i (property tax)" and inserting in lieu thereof 30i (property tax), 31a–31g (electronic cigarettes), and 31h (tax on electronic cigarettes).

Amendment to be offered by Rep. Till of Jericho to S. 139

First: By adding a reader assistance heading and a new section to be Sec. 15a to read as follows:

* * * Preventing Adverse Childhood Experiences * * *

Sec. 15a. PARENTING CLASSES; APPROPRIATION

In light of the revenue from the tax on electronic cigarettes imposed by this act, the sum of \$240,000.00 is appropriated from the State Health Care Resources Fund to the Agency of Human Services in fiscal year 2016 to provide grants to parent-child centers for the creation of pilot programs offering parenting classes, which shall be conducted in the offices of health care professionals providing obstetric care and shall use the parent-child centers' own curriculum. The purpose of the pilot programs shall be to interrupt the widespread, multigenerational problem of adverse childhood experiences.

Second: In Sec. 33, effective dates, in subsection (b), following “14 (Health Care Advocate,)” by inserting 15a (parenting classes).

Amendment to be offered by Rep. Zagar of Barnard to S. 139

First: By adding a new section to be Sec. 28a to read as follows:

Sec. 28. PREVENTABLE ILLNESSES RELATED TO OBESITY

While the General Assembly is adjourned during 2016, the Health Reform Oversight Committee shall review existing data on expenditures from the treatment of preventable illnesses related to obesity, including costs borne by the private sector, and shall survey existing and proposed policy measures to reduce the incidence of obesity in Vermont.

Second: In Sec. 33, effective dates, subsection (a), following “28 (Blueprint for Health; reports),” by inserting “28a (obesity data review),”

Amendment to be offered by Rep. Parent of St. Albans City to S. 139

First: By adding two new sections and reader assistance heading to be Secs. 23a and 23b to read as follows:

* * * Epi-Pens * * *

Sec. 23a. 18 V.S.A. chapter 19 is added to read:

CHAPTER 19. EPINEPHRINE AUTO-INJECTORS

§ 951. DEFINITIONS

As used in this chapter:

(1) “Authorized entity” means a business or organization identified by the Department in rule as having an increased risk of the presence of allergens causing anaphylaxis or potentially having persons present with increased sensitivity to the presence of allergens causing anaphylaxis.

(2) “Designated employee” means an employee of an authorized entity

who has completed an anaphylaxis training program and who maintains the authorized entity's stock supply of epinephrine auto-injectors.

(3) "Emergency public access station" means a locked, secure container for storage of epinephrine auto-injectors on an authorized entity's premises that:

(A) is under the general supervision of a health care provider;

(B) requires a designated employee to consult with the health care provider in real time prior to accessing the supply of epinephrine auto-injectors; and

(C) enables the health care provider to unlock the secure storage container from off-site.

(4) "Epinephrine auto-injector" means a single-use device that delivers a premeasured dose of epinephrine.

(5) "Health care provider" means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, an advanced practice registered nurse licensed to prescribe drugs and medical devices pursuant to 26 V.S.A. chapter 28, or a physician assistant licensed to prescribe drugs and medical devices pursuant to 26 V.S.A. chapter 31.

§ 952. PRESCRIBING AND DISPENSING

(a) A health care provider may prescribe an epinephrine auto-injector in the name of an authorized entity for use in accordance with this chapter.

(b) A health care provider, or pharmacist licensed pursuant to 26 V.S.A. chapter 36 acting in accordance with a valid prescription, may dispense an epinephrine auto-injector in the name of an authorized entity.

§ 953. MAINTENANCE AND USE OF STOCK SUPPLIES

(a) An authorized entity may acquire and maintain a stock supply of epinephrine auto-injectors issued pursuant to a valid prescription. A stock supply of epinephrine auto-injectors shall be stored in accordance with the manufacturer's instructions and in a location that is readily accessible in an emergency. An authorized entity may store epinephrine auto-injectors in an emergency public access station.

(b) One or more employees designated by an authorized entity to maintain the stock supply of epinephrine auto-injectors on behalf of the authorized entity shall complete an anaphylaxis training program described pursuant to section 954 of this title.

(c) A designated employee of an authorized entity who has completed the

training described pursuant to section 954 of this title shall use an epinephrine auto-injector as follows:

(1) to provide, for immediate administration, an epinephrine auto-injector to any individual the designated employee believes in good faith is experiencing anaphylaxis, or to the parent, guardian, or caregiver of such an individual, regardless of whether the individual has a prescription for the epinephrine auto-injector or has been previously diagnosed with an allergy; or

(2) to administer an epinephrine auto-injector to any individual who the designated employee believes in good faith is experiencing anaphylaxis, regardless of whether the individual has a prescription for the epinephrine auto-injector or has been previously diagnosed with an allergy.

§ 954. DESIGNATED EMPLOYEE TRAINING

(a) An authorized entity shall designate one or more employees to maintain its stock supply of epinephrine auto-injectors pursuant to section 953 of this title and to complete an anaphylaxis training program offered by either:

(1) a nationally recognized organization experienced in training laypersons in emergency health treatment; or

(2) an organization approved by the Department in rule.

(b) An anaphylaxis training program may be conducted in-person or electronically, and shall minimally cover the following topics:

(1) how to recognize the signs and symptoms of severe allergic reactions, including anaphylaxis;

(2) standards and procedures for the storage and administration of an epinephrine auto-injector; and

(3) emergency procedures to be implemented after the administration of an epinephrine auto-injector.

(c) The organization offering the anaphylaxis training program shall issue a certificate on a form approved by the Department to each designated employee completing the program.

§ 955. LIABILITY

A health care provider, pharmacist, authorized entity, designated employee, or anaphylaxis training program shall be immune from any civil or criminal liability arising from the administration or self-administration of an epinephrine auto-injector under this section unless the individual's or organization's behavior constituted intentional misconduct. Providing or administering an epinephrine auto-injector under section 953 of this title does

not constitute the practice of medicine.

§ 956. REPORTING

(a) An authorized entity that maintains a stock supply of epinephrine auto-injectors pursuant to section 953 of this title shall report to the Department each incident involving the use of an epinephrine auto-injector on the authorized entity's premises. The report shall be made on a form created by the Department, and made available on its website.

(b) Annually, the Department shall publish on its website the aggregated number of incidents involving the use of an epinephrine auto-injector on authorized entities' premises based on the data submitted pursuant to subsection (a) of this section.

Sec. 23b. RULEMAKING

(a) The Commissioner of Health shall adopt rules pursuant to 3 V.S.A. chapter 25 identifying those categories of businesses and organizations, other than a school as defined in 16 V.S.A. § 1388, where an increased risk of the presence of allergens causing anaphylaxis exists or where there may be persons with increased sensitivity to the presence of allergens causing anaphylaxis. Categories identified by the Commissioner in rule shall be deemed to be "authorized entities" as used in 18 V.S.A. chapter 19.

(b) The Commissioner shall adopt any other rules necessary to carry out the provisions of this act.

Second: In Sec. 33, effective dates, subsection (b), following "16-20 (primary care study)," by inserting "23a and 23b (epi-pens),"

Amendment to be offered by Rep. Hubert of Milton to S. 139

In Sec. 33, in subdivision (e), after "shall take effect July 1, 2015" by inserting "; provided however, that prior to July 1, 2015, the Tax Department shall create and publicize a list of specific soft drink and candy products that will be subject to the sales tax under this act, and if the Tax Department fails to create and publicize the list under this subsection by July 1, 2015, no vendor shall be liable for any liability, penalty, or interest under 32 V.S.A. chapter 233 for any sales of soft drink or candy products until the Tax Department creates and publicize a list under this subsection."

Favorable with Amendment

H. 355

An act relating to licensing and regulating foresters

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

First: In Sec. 2, in 26 V.S.A. § 4904 (exemptions), in subdivision (1), by striking out “A person, business organization, or” and inserting in lieu thereof “An individual or a”

Second: In Sec. 2, in 26 V.S.A. § 4904 (exemptions), by striking out in its entirety subdivision (3) and inserting in lieu thereof the following:

(3) The carrying out of forest practices as an employee of a forester when acting under the general supervision of that forester. As used in this subdivision, “general supervision” means the forester need not be on-site when the employee provides the forest practices, but shall maintain continued involvement in and accept responsibility for the aspects of each forest practice the employee performs.

Third: In Sec. 2, in 26 V.S.A. § 4912 (advisor appointees), in subdivision (a)(2), following “An appointee shall have not less than” by striking out “five” and inserting in lieu thereof “ten”

Fourth: In Sec. 2, in 26 V.S.A. § 4921 (qualifications for licensure), by striking out in their entirety subdivisions (1), (2), and (3) and inserting in lieu thereof the following:

(1) Possession of a bachelor’s degree, or higher, in forestry from a program approved by the Director, satisfactory completion of two years of the SAF Certified Forester experience requirements, and passage of the SAF Certified Forester examination, which may include a State portion if required by the Director by rule.

(2) Possession of a bachelor’s degree, or higher, in a forestry-related field from a program approved by the Director, satisfactory completion of three years of the SAF Certified Forester experience requirements, and passage of the SAF Certified Forester examination, which may include a State portion if required by the Director by rule.

(3) Possession of an associate degree in forestry from a program approved by the Director, satisfactory completion of four years of the SAF Certified Forester experience requirements, and passage of the SAF Certified Forester examination, which may include a State portion if required by the Director by rule.

Fifth: In Sec. 2, in 26 V.S.A. § 4924 (renewals), by striking out in its entirety subsection (c) and inserting in lieu thereof the following:

(c) As a condition of renewal, the Director shall require that a licensee establish that he or she has completed continuing education, as approved by the Director, of 24 hours for each two-year renewal period.

(Committee Vote: 7-2-2)

Rep. Branagan of Georgia, for the Committee on **Ways & Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations**.

(Committee Vote: 10-0-1)

S. 44

An act relating to creating flexibility in early college enrollment numbers

Rep. Juskiewicz of Cambridge, for the Committee on **Education**, recommends that the House propose to the Senate that the bill be amended as follows:

By striking out Sec. 2. (effective date) in its entirety and inserting in lieu thereof four new sections to be Secs. 2–5 to read:

Sec. 2. 16 V.S.A. chapter 87, subchapter 8 is added to read:

Subchapter 8. Vermont Universal Children’s Higher Education Savings Account Program

§ 2880. DEFINITIONS

As used in this subchapter:

(1) “Approved postsecondary education institution” means any institution of postsecondary education that is:

(A) certified by the State Board of Education as provided in section 176 or 176a of this title;

(B) accredited by an accrediting agency approved by the U.S. Secretary of Education pursuant to the Higher Education Act;

(C) a non-U.S. institution approved by the U.S. Secretary of Education as eligible for use of education loans made under Title IV of the Higher Education Act; or

(D) a non-U.S. institution designated by the Corporation as eligible for use of its grant awards.

(2) “Committee” means the Vermont Universal Children’s Higher

Education Savings Account Program Fund Advisory Committee.

(3) “Corporation” means Vermont Student Assistance Corporation.

(4) “Eligible child” means a minor who is Vermont resident at the time the Corporation deposits or allocates funds pursuant to this subchapter for his or her benefit.

(5) “Postsecondary education costs” means the qualified costs of tuition, fees, and other expenses for attendance at an institution of postsecondary education, as defined in the Internal Revenue Code of 1986, as amended, together with the regulations promulgated thereunder.

(6) “Program” means the Vermont Universal Children’s Higher Education Savings Account Program.

(7) “Program beneficiary” means an individual who is or who was at one time an eligible child for whom the Corporation deposited or allocated funds pursuant to this subchapter and who has not yet attained 29 years of age or, for national service program participants, the extended maturity date.

(8) “Program Fund” means the Vermont Universal Children’s Higher Education Savings Account Program Fund.

(9) “Vermont Higher Education Investment Plan” or “Investment Plan” means the plan created pursuant to subchapter 7 of this chapter.

(10) “Vermont resident” means an individual who is domiciled in Vermont as evidenced by the individual’s intent to maintain a principal dwelling place in Vermont indefinitely and to return there if temporarily absent, coupled with an act or acts consistent with that intent. A minor is a Vermont resident if his or her parent or legal guardian is a Vermont resident, unless a parent or legal guardian with sole legal and physical parental rights and responsibilities lives outside the State of Vermont.

§ 2880a. VERMONT UNIVERSAL CHILDREN’S HIGHER EDUCATION SAVINGS ACCOUNT PROGRAM ESTABLISHED; POWERS AND DUTIES OF THE VERMONT STUDENT ASSISTANCE CORPORATION

(a) It is the policy of the State to expand educational opportunity for all children. Consistent with this policy, the Vermont Student Assistance Corporation shall partner with one or more foundations or other philanthropies to establish and fund the Vermont Universal Children’s Higher Education Savings Account Program to expand educational opportunity and financial capability for Vermont children and their families.

(b) Pursuant to this subchapter, the Corporation shall establish and

administer the Program, which shall include the Vermont Universal Children's Higher Education Savings Account Program Fund and financial education for Program beneficiaries and their families and legal guardians. The Corporation, in addition to its other powers and authority, shall have the power and authority to adopt rules, policies, and procedures, including those pertaining to residency in the State, to implement this subchapter in conformance with federal and State law.

(c) The Vermont Departments of Health and of Taxes and the Vermont Agencies of Education and of Human Services shall enter into agreements with the Corporation to enable the exchange of such information as may be necessary for the efficient administration of the Program.

(d) The Corporation's obligations under this subchapter are limited to funds deposited in the Program Fund specifically for the purpose of the Program.

(e) The Corporation shall annually on or before January 15 release a written report with a detailed description of the status and operation of the Program and management of accounts.

§ 2880b. VERMONT UNIVERSAL CHILDREN'S HIGHER EDUCATION SAVINGS ACCOUNT PROGRAM FUND

(a) The Vermont Universal Children's Higher Education Savings Account Program Fund is established as a fund to be held, directed, and administered by the Corporation. The Corporation shall invest and reinvest, or cause to be invested and reinvested, funds in the Program Fund for the benefit of the Program.

(b) The following sources of funds shall be deposited into the Program Fund:

(1) any grants, gifts, and other funds intended for deposit into the Program Fund from any individual or private or public entity, provided that contributions may be limited in application to specified age cohorts of beneficiaries; and

(2) all interest, dividends, and other pecuniary gains from investment of funds in the Program Fund.

(c) Funds in the Program Fund shall be used solely to carry out the purposes and provisions of this subchapter, including payment by the Corporation of the administrative costs of the Program and the Program Fund and of the costs associated with providing financial education to benefit Program beneficiaries and their parents and legal guardians. Funds in the Program Fund may not be transferred or used by the Corporation or the State for any purposes other than the purposes of the Program.

§ 2880c. INITIAL DEPOSITS TO THE PROGRAM FUND

(a) Each year, the Corporation shall deposit \$250.00 into the Program Fund for each eligible child born that year, beginning on or after January 1, 2016.

(b) In addition, if the eligible child has a family income of less than 250 percent of the federal poverty level at the time the deposit under subsection (a) of this section is made, the Corporation shall make an additional deposit into the Program Fund for the child that is equal to the deposit made under subsection (a).

(c) Notwithstanding subsections (a) and (b) of this section, if the available funds in a given calendar year are insufficient to provide for the maximum deposits under this section, the Corporation shall prorate the deposits accordingly.

§ 2880d. VERMONT HIGHER EDUCATION INVESTMENT PLAN

ACCOUNTS; MATCHING ALLOCATIONS FOR FAMILIES
WITH LIMITED INCOME

(a) The Corporation shall invite the parents or legal guardians of each Program beneficiary to open a Vermont Higher Education Investment Plan account on the beneficiary's behalf.

(b) The beneficiary, his or her parents or legal guardians, other individuals, and private and public entities may make additional deposits into a beneficiary's Investment Plan account.

(c) Annually, the Corporation shall deposit into the Program Fund a matching allocation of up to \$250.00 per eligible child on a dollar-to-dollar basis for contributions made that year to a single Investment Plan account established for the child under this section, provided that at the time of deposit, the eligible child has a family income of less than 250 percent of the federal poverty level.

(d) Notwithstanding subsection (c) of this section, if the available funds in a given calendar year are insufficient to provide for the maximum allocation amounts under this subsection, the Corporation shall prorate the allocations accordingly.

§ 2880e. WITHDRAWAL OF PROGRAM FUNDS

(a) Subject to the provisions of this section, the Investment Plan requirements under subchapter 7 of this chapter, and the rules, policies, and procedures adopted by the Corporation, a Program beneficiary shall be entitled to Program funds deposited or allocated by the Corporation for his or her benefit if:

(1) the beneficiary has attained 18 years of age or has enrolled full-time in an approved postsecondary education institution;

(2) the Corporation has sufficient proof that the beneficiary was an eligible child at the time the deposit or allocation was made;

(3) the funds are used for postsecondary education costs and made payable to an approved postsecondary education institution on behalf of the beneficiary; and

(4) the withdrawal is made prior to the beneficiary's attaining 29 years of age, provided that for a beneficiary who serves in a national service program, including in the U.S. Armed Forces, AmeriCorps, or the Peace Corps, each month of service shall increase the maturity date by one month.

(b) If a Program beneficiary does not use all of the funds deposited or allocated by the Corporation for his or her use prior to the maturity date, the beneficiary shall no longer be permitted to use these funds and the Corporation shall unallocate the unused funds from the beneficiary within the Program Fund.

(c) This section shall not apply to withdrawal of funds that are contributed to an Investment Plan account opened for the benefit of the account's beneficiary under subsection 2880d(a) and (b) of this title and that are not Program funds deposited or allocated by the Corporation.

§ 2880f. RIGHTS OF BENEFICIARIES AND THEIR FAMILIES

(a) A parent or legal guardian shall be allowed to opt out of the Program on behalf of his or her child.

(b) An individual otherwise eligible for any benefit program for elders, persons who are disabled, families, or children shall not be subject to any State resource limit based on funds deposited, allocated, or contributed on behalf of an eligible child or Program beneficiary to the Program Fund or an Investment Plan.

§ 2880g. FINANCIAL LITERACY PROGRAMS

State agencies and offices, including the Agencies of Education and of Human Services and the Office of the State Treasurer, in collaboration with existing statewide community partners and nonprofit partners that specialize in financial education delivery and have developed an available infrastructure to support financial education across multiple sectors, shall develop and support programs to encourage the financial literacy of Program beneficiaries and their families and legal guardians throughout the duration of the Program via mail, mass media, and in-person delivery methods.

§ 2880h. PROGRAM FUND ADVISORY COMMITTEE

(a) There is created a Vermont Universal Children's Higher Education Savings Account Program Fund Advisory Committee to identify and solicit public and private funds for the Program and to advise the Corporation on disbursement of funds.

(b) The Committee shall be composed of the following 11 members:

(1) the Governor or designee, ex officio;

(2) the President of the Corporation or designee, ex officio;

(3) two representatives of the Vermont philanthropy community, appointed by the Governor;

(4) two representatives of the Vermont business community, appointed by the Governor;

(5) two members from Vermont advocacy organizations representing individuals and families with limited income, appointed by the Governor; and

(6) three members selected by the Committee.

(c) Non-ex-officio members shall serve four-year terms, appointed and selected in such a manner that no more than three terms shall expire annually.

Sec. 3. VERMONT UNIVERSAL CHILDREN'S HIGHER EDUCATION SAVINGS ACCOUNT PROGRAM; INITIAL MEETING

The President of the Corporation or designee shall call the first meeting of the Committee to occur on or before August 1, 2015. The Committee shall select three members pursuant to 16 V.S.A. § 2880h(b)(6), and a chair from among the Committee members, at the first meeting or as soon as possible thereafter.

Sec. 4. VERMONT STUDENT ASSISTANCE CORPORATION; ELIGIBILITY, RESIDENCY, AND RECIPROCITY REPORT

(a) On or before January 15, 2016, the Vermont Student Assistance Corporation shall report to the House and Senate Committees on Education with its findings on the following:

(1) whether the Program established in 16 V.S.A. chapter 87, subchapter 8 provides for Program eligibility in a manner that adequately and equitably serves the Program's purposes;

(2) whether the Corporation has encountered, or expects to encounter, any difficulties in administering the Program on account of State residency issues;

(3) whether the Program could partner with children's savings account programs in other New England states to develop a system or systems of program reciprocity; and

(4) any other recommendations for legislative action.

(b) The reporting requirement of this section may be satisfied by providing testimony to the Committees.

Sec. 5. EFFECTIVE DATES

(a) Sec. 1 shall take effect on passage and shall apply retroactively to enrollments beginning in the 2014–2015 academic year.

(b) Secs. 2–4 shall take effect on July 1, 2015.

(c) This section shall take effect on passage.

and that when so amended the bill ought to pass, and that after passage the title of the bill be amended to read: “An act relating to creating flexibility in early college enrollment numbers and to creating the Vermont Universal Children’s Higher Education Saving Account Program”.

(Committee vote: 11-0-0)

(For text see Senate Journal 3/19/2015)

Favorable

H. 503

An act relating to approval of amendments to the charter of the City of Burlington

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

(Committee Vote: 10-0-1)

H. 504

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

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

(Committee Vote: 8-0-3)

Action Postponed Until May 6, 2015

Senate Proposal of Amendment

H. 98

An act relating to reportable disease registries and data.

Pending Question: Shall the House concur in the Senate Proposal of Amendment?

H. 241

An act relating to rulemaking on emergency involuntary procedures.

Pending Question: Shall the House concur in the Senate proposal of amendment?

H. 488

An act relating to the State's Transportation Program and miscellaneous changes to laws related to transportation.

Pending Question: Shall the House concur in the Senate Proposal of Amendment?

NOTICE CALENDAR

Favorable with Amendment

S. 93

An act relating to lobbying disclosures

Rep. Townsend of South Burlington, for the Committee on **Government Operations**, 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. FINDINGS

(a) The effective public disclosure of the identity and extent of the efforts of registered lobbyists, lobbying firms, and lobbyist employers to influence Vermont's legislators during the legislative session will increase public confidence in the integrity of the governmental process.

(b) Responsible representative government requires public awareness of the efforts of registered lobbyists, lobbying firms, and lobbyist employers to influence the public decision-making process in the Legislative Branch of Vermont's government.

(c) Requiring registered lobbyists, lobbying firms, and lobbyist employers to report significant advertisements and advertising campaigns that are

intended, designed, or calculated to influence legislative action or to solicit others to influence legislative action enables the public and legislators to evaluate better the pressures and content of the message when considering that action.

(d) The lack of detail in current required lobbying disclosure filings does not provide the public and legislators with enough relevant information about who is attempting to influence the legislative process through advertising, and the timing of current required lobbying disclosure filings prevents the public and legislators from evaluating the pressures and content of lobbying advertising at the time public policy is being debated. The requirement in this act to report significant lobbying advertisements and advertising campaigns within 48 hours provides the public and legislators with specific and timely information regarding who is spending money to influence the legislative process, and the amount being spent to do so.

(e) Requiring registered lobbyists, lobbying firms, and lobbyist employers to designate clearly the name of the lobbyist, lobbying firm, or lobbyist employer paying for an advertisement within the advertisement allows the public and legislators to determine who is attempting to influence the legislative process through advertising, to evaluate the pressures and content of lobbying advertising at the time when public policy is being debated, to trace coordinated advertising buys, and to track such spending over time.

Sec. 2. 2 V.S.A. § 264c is added to read:

§ 264c. IDENTIFICATION IN AND REPORT OF CERTAIN LOBBYING ADVERTISEMENTS

(a) Identification.

(1) An advertisement that is intended, designed, or calculated to influence legislative action or to solicit others to influence legislative action and that is made at any time prior to final adjournment of a biennial or adjourned legislative session shall contain the name of any lobbyist, lobbying firm, or lobbyist employer that made an expenditure for the advertisement and language that the advertisement was paid for, or paid in part, by the lobbyist, lobbying firm, or lobbyist employer; provided, however:

(A) if there are more than three such names, only the three lobbyists, lobbying firms, or lobbyist employers that made the largest expenditures for the advertisement shall be required to be identified; and

(B) if a lobbyist or lobbying firm made the expenditure on behalf of a lobbyist employer, the identification information set forth in subdivision (1) of this subsection shall be in the name of that lobbyist employer.

(2) This identification information shall appear prominently and in a manner such that a reasonable person would clearly understand by whom the expenditure has been made.

(b) Report.

(1) In addition to any other reports required to be filed under this chapter, a lobbyist, lobbying firm, or lobbyist employer shall file an advertisement report with the Secretary of State if he, she, or it makes an expenditure or expenditures:

(A) for any advertisement that is described in subsection (a) of this section and that has a cost totaling \$1,000.00 or more; or

(B) for any advertising campaign that contains advertisements described in subsection (a) of this section and that has a cost totaling \$1,000.00 or more.

(2) The report shall be made for each advertisement or advertising campaign described in subdivision (1) of this subsection and shall identify the lobbyist, lobbying firm, or lobbyist employer that made the expenditure; the amount and date of the expenditure and to whom it was paid; and a brief description of the advertisement or advertising campaign.

(3) The report shall be filed within 48 hours of the expenditure or the advertisement or advertising campaign, whichever occurs first.

(4) If a lobbyist or lobbying firm made an expenditure described in subdivision (1) of this subsection on behalf of a lobbyist employer and that lobbyist or lobbying firm filed the report required by this subsection, the report shall specifically identify the employer on whose behalf the expenditure was made.

(c) Definitions. As used in this section:

(1) "Advertisement" means a television commercial, radio commercial, mass mailing, mass electronic or digital communication, literature drop, newspaper or periodical advertisement, banner, sign, robotic phone call, or telephone bank. As used in this subdivision, "telephone bank" means more than 500 telephone calls of an identical or substantially similar nature that are made to the general public within any 30-day period.

(2) "Advertising campaign" means advertisements substantially similar in nature, regardless of the media in which they are placed.

Sec. 3. 2 V.S.A. § 264 is amended to read:

§ 264. REPORTS OF EXPENDITURES, COMPENSATION, AND GIFTS;
EMPLOYERS; LOBBYISTS

(a) Every employer and every lobbyist registered or required to be registered under this chapter shall file disclosure reports with the Secretary of State as follows:

(1) on or before January 15, for the preceding period beginning on September 1 and ending with December 31;

(2) on or before February 15, for the preceding period beginning on January 1 and ending with January 31;

(3) on or before March 15, for the preceding period beginning on February 1 and ending with the last day of February;

(4) on or before April 15, for the preceding period beginning on January 1 and ending with March 31;

~~(2)~~(5) on or before May 15, for the preceding period beginning on April 1 and ending with April 30;

(6) on or before June 15, for the preceding period beginning on May 1 and ending with May 31; and

(7) on or before July 15, for the preceding period beginning on June 1 and ending with August 31;

~~(3) on or before January 25, for the preceding period beginning on July 1 and ending with December 31.~~

(b) An employer shall disclose for the period of the report the following information:

(1) A total of all lobbying expenditures made by the employer in each of the following categories:

(A) Advertising, including television, radio, print, and electronic media.

(B) Expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(C) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the employer and:

(i) a legislator or administrator;

(ii) a legislator's or administrator's spouse; or

(iii) a legislator's or administrator's dependent household member.

(D) The total amount of any other lobbying expenditures.

* * *

~~(4) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the employer and:~~

~~(A) a legislator or administrator;~~

~~(B) a legislator's or administrator's spouse; or~~

~~(C) a legislator's or administrator's dependent household member.~~

[Repealed.]

(c) A lobbyist shall disclose for the period of the report the following information:

(1) A total of all lobbying expenditures made by the lobbyist in each of the following categories:

(A) Advertising, including television, radio, print, and electronic media.

(B) Expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(C) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbyist and:

(i) a legislator or administrator;

(ii) a legislator's or administrator's spouse; or

(iii) a legislator's or administrator's dependent household member.

(D) The total amount of any other lobbying expenditures.

* * *

~~(4) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbyist and:~~

- ~~(A) a legislator or administrator;~~
- ~~(B) a legislator's or administrator's spouse; or~~
- ~~(C) a legislator's or administrator's dependent household member.~~

[Repealed.]

* * *

~~(h) Disclosure reports shall be made on forms published by the Secretary of State and shall be signed by the employer or lobbyist. The Secretary of State shall make those forms available to registered employers and lobbyists on the Secretary's website not later than 30 days before each filing deadline.~~

[Repealed.]

* * *

Sec. 4. 2 V.S.A. § 264b is amended to read:
§ 264b. LOBBYING FIRM LISTINGS; REPORTS OF EXPENDITURES,
COMPENSATION, AND GIFTS; LOBBYING FIRMS

* * *

(b) Every lobbying firm shall file a disclosure report on the same day as lobbyist disclosure reports are due under subsection 264(a) of this title which shall include:

(1) A total of all lobbying expenditures made by the lobbying firm in each of the following categories:

(A) Advertising, including television, radio, print, and electronic media.

(B) Expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(C) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbying firm and:

(i) a legislator or administrator;

(ii) a legislator's or administrator's spouse; or

(iii) a legislator's or administrator's dependent household member.

(D) The total amount of any other lobbying expenditures.

* * *

~~(4) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbying firm and:~~

~~(A) a legislator or administrator;~~

~~(B) a legislator's or administrator's spouse or civil union partner; or~~

~~(C) a legislator's or administrator's dependent household member.~~

[Repealed.]

Sec. 5. 2 V.S.A. § 265 is amended to read:

§ 265. PUBLIC ACCESS; REGISTRATION STATEMENTS; REPORTS SUBMISSION OF AND ACCESS TO LOBBYING DISCLOSURES

~~The secretary of state shall maintain copies of all lobbyist and employer registration statements and disclosure reports and all lobbying firm disclosure reports arranged alphabetically, which shall be a public record available for public inspection during ordinary business hours. The secretary of state shall also compile and maintain a separate report for each reporting period for each legislator or administrative official indicating the gifts reported to have been given to that legislator or official during the reporting period by employers, lobbyists, or lobbying firms, which shall be a public record available for public inspection during ordinary business hours. On January 1 of each odd-numbered year, the secretary may discard statements and reports that have been maintained for a period of four years.~~

(a) The Secretary of State shall provide on his or her website an online database of the lobbying disclosures required under this chapter.

(1) In this database, the Secretary shall provide digital access to each form he or she shall provide to enable a person to file the statements or reports required under this chapter. Digital access shall enable such a person to file these lobbying disclosures by completing and submitting the disclosure to the Secretary of State online.

(2) The Secretary shall maintain on the online database all disclosures that have been filed digitally on it so that any person may have direct machine-readable electronic access to the individual data elements in each disclosure and the ability to search those data elements as soon as a disclosure is filed.

(b) Any person required to file a disclosure with the Secretary of State under this chapter shall sign it, declare that it is made under the penalties of perjury, and file it digitally on the online database.

Sec. 6. 2 V.S.A. § 267 is amended to read:

~~§ 267. VERIFICATION OF STATEMENTS AND REPORTS~~

~~Any statement or report required to be made under any provision of this chapter shall contain or be verified by a written declaration that it is made under the penalties of perjury. [Repealed.]~~

Sec. 7. TRANSITIONAL PROVISION; SECRETARY OF STATE;
MAINTENANCE OF PRIOR LOBBYING DISCLOSURES

(a) The Secretary of State shall maintain copies of the lobbying reports and registration statements filed with him or her on paper prior to the effective date of this act and the separate report of gifts to legislators and administrative officials he or she compiled under the provisions of 2 V.S.A. § 265 in effect prior to the effective date of this act, and shall make those disclosures available for public inspection during ordinary business hours.

(b) On January 1 of each odd-numbered year, the Secretary may discard the disclosures described in subsection (a) of this section that he or she has maintained for a period of at least four years.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

(Committee vote: 9-0-2)

(For text see Senate Journal 3/17/15 and 3/20/15)

S. 102

An act relating to forfeiture of property associated with animal fighting and certain regulated drug possession, sale, and trafficking violations

Rep. Conquest of Newbury, for the Committee on **Judiciary**, 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. 13 V.S.A. § 352 is amended to read:

§ 352. CRUELTY TO ANIMALS

A person commits the crime of cruelty to animals if the person:

* * *

(5)(A) owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting, or possesses, keeps, or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control; or

(B) owns, possesses, ships, transports, delivers, or keeps a device, equipment, or implement with the intent that it be used to train or condition an animal for participation in animal fighting, or enhance an animal's fighting capability.

* * *

Sec. 2. 13 V.S.A. § 353 is amended to read:

(a) Penalties.

(1) Except as provided in subdivision (3) or (4) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than three years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than five years or a fine of not more than \$7,500.00, or both.

(3) An offense committed under subdivision 352(5)(A) or (6) of this title shall be punishable by a sentence of imprisonment of not more than five years, or a fine of not more than \$5,000.00, or both.

* * *

Sec. 3. 13 V.S.A. § 364 is amended to read:

§ 364. ANIMAL FIGHTS

(a) A person who participates in a fighting exhibition of animals shall be in violation of subdivisions 352(5) and (6) of this title.

(b) In addition to seizure of fighting birds or animals involved in a fighting exhibition, a law enforcement officer or humane officer may seize any equipment, ~~associated with that activity~~ personal property, monies, securities, or other things of value used to engage in a violation or further a violation of subdivisions 352(5) and (6) of this title.

(c) In addition to the imposition of a penalty under this chapter, conviction under this section shall result in forfeiture of all seized fighting animals ~~and~~ equipment, and other property subject to seizure under this section. The animals may be destroyed humanely or otherwise disposed of as directed by the court.

(d) Property subject to forfeiture under this section may be seized upon process issued by the court having jurisdiction over the property. Seizure

without process may be made:

(1) incident to a lawful arrest;

(2) pursuant to a search warrant; or

(3) if there is probable cause to believe that the property was used or is intended to be used in violation of this section.

(e) Forfeiture proceedings instituted pursuant to the provisions of this section for property other than animals are subject to the procedures and requirements for forfeiture as set forth in 18 V.S.A. chapter 84, subchapter 2.

Sec. 4. 18 V.S.A. § 4241 is amended to read:

§ 4241. SCOPE

(a) The following property shall be subject to this subchapter:

* * *

(7) Any property seized pursuant to 13 V.S.A. § 364.

~~(b) This subchapter shall not apply to any property used or intended for use in an offense involving two ounces or less of marijuana or in connection with hemp or hemp products as defined in 6 V.S.A. § 562. This subchapter shall apply to property for which forfeiture is sought in connection with:~~

(1) a violation under chapter 84, subchapter 1 of this title that carries by law a maximum penalty of ten years' incarceration or greater; or

(2) a violation of 13 V.S.A. § 364.

Sec. 5. 18 V.S.A. § 4242 is amended to read:

§ 4242. SEIZURE

* * *

(b) Any property subject to forfeiture under this subchapter may be seized upon process. Seizure without process may be made when:

(1) the seizure is incident to an arrest with probable cause or a search under a valid search warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the ~~state~~ State in a forfeiture proceeding under this subchapter; or

(3) the seizure is incident to a valid warrantless search.

(c) If property is seized without process under subdivision (b)(1) or (3) of this section, the ~~state~~ State shall forthwith petition the court for a preliminary order or process under subsection (a) of this section.

(d) ~~All~~ Notwithstanding subsection 4241(b) of this title, all regulated drugs the possession of which is prohibited under this chapter are contraband and shall be automatically forfeited to the state and destroyed.

Sec. 6. 18 V.S.A. § 4243 is amended to read:

§ 4243. PETITION FOR JUDICIAL FORFEITURE PROCEDURE

(a) ~~The State~~ Conviction required. An asset is subject to forfeiture by judicial determination under section 4241 of this title and 13 V.S.A. § 364 if a person is convicted of the criminal offense related to the action for forfeiture.

(b) Evidence. The State may introduce into evidence in the judicial forfeiture case the fact of a conviction in the Criminal Division.

(c) Burden of proof. The State bears the burden of proving by clear and convincing evidence that the property is an instrument of or represents the proceeds of the underlying offense.

(d) Notice. Within 60 days from when the seizure occurs, the State shall notify any owners, possessors, and lienholders of the property of the action, if known or readily ascertainable. Upon motion by the State, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown.

(e) Return of property. If notice is not sent in accordance with subsection (d) of this section, and no time extension is granted or the extension period has expired, the law enforcement agency shall return the property to the person from whom the property was seized. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. Nothing in this subsection shall require the agency to return contraband, evidence, or other property that the person from whom the property was seized is not entitled to lawfully possess.

(f) Filing of petition. Except as provided in section 4243a of this title, the State shall file a petition for forfeiture of any property seized under section 4242 of this title promptly, but not more than 14 days from the date the preliminary order or process is issued. The petition shall be filed in the ~~superior court~~ Superior Court of the county in which the property is located or in any court with jurisdiction over a criminal proceeding related to the property.

~~(b)(g)~~ (g) Service of petition. A copy of the petition shall be sent by certified mail to served on all persons named in the petition as provided for in Rule 4 of the Vermont Rules of Civil Procedure. In addition, the state State shall cause notice of the petition to be published in a newspaper of general circulation in the state State, as ordered by the court. The petition shall state:

(1) the facts upon which the forfeiture is requested, including a description of the property subject to forfeiture, and the type and quantity of regulated drug involved;

(2) the names of the apparent owner or owners, lienholders who have properly recorded their interests, and any other person appearing to have an interest; and, in the case of a conveyance, the name of the person holding title, the registered owner, and the make, model, and year of the conveyance.

Sec. 7. 18 V.S.A. § 4244 is amended to read:

§ 4244. FORFEITURE HEARING

(a) ~~The court~~ Within 60 days following service of notice of seizure and forfeiture under sections 4243 of this title, a claimant may file a demand for judicial determination of the forfeiture. The demand must be in the form of a civil complaint accompanied by a sworn affidavit setting forth the facts upon which the claimant intends to rely, including, if relevant, the noncriminal source of the asset or currency at issue. The demand must be filed with the court administrator in the county in which the seizure occurred.

~~(b) The Court shall hold a hearing on the petition no less than 14 nor more than 30 days after notice. For good cause shown, or on the court's own motion, the court may stay the forfeiture proceedings pending resolution of related criminal proceedings. If a person named in the petition is a defendant in a related criminal proceeding and the proceeding is dismissed or results in a judgment of acquittal, the petition shall be dismissed as to the defendant's interest in the property as soon as practicable after, and in any event no later than 90 days following, the conclusion of the criminal prosecution.~~

~~(b)(c)~~ (c) A lienholder who has received notice of a forfeiture proceeding may intervene as a party. If the ~~court~~ Court finds that the lienholder has a valid, good faith interest in the subject property which is not held through a straw purchase, trust or otherwise for the actual benefit of another and that the lienholder did not at any time have knowledge or reason to believe that the property was being or would be used in violation of the law, the ~~court~~ Court upon forfeiture shall order compensation to the lienholder to the extent of the lienholder's interest.

(d) The Court shall not order the forfeiture of property if an owner, co-owner, or person who regularly uses the property, other than the defendant, shows by a preponderance of the evidence that the owner, co-owner, or regular user did not consent to or have any express or implied knowledge that the property was being or was intended to be used in a manner that would subject the property to forfeiture, or that the owner, co-owner, or regular user had no reasonable opportunity or capacity to prevent the defendant from using the

property.

~~(e)~~(e) The proceeding shall be against the property and shall be deemed civil in nature. The ~~state~~ State shall have the burden of proving all material facts by clear and convincing evidence.

~~(d)~~(f) The ~~court~~ Court shall make findings of fact and conclusions of law and shall issue a final order. If the petition is granted, the ~~court~~ Court shall order the property held for evidentiary purposes, delivered to the ~~state treasurer~~ State Treasurer, or, in the case of regulated drugs or property which is harmful to the public, destroyed.

Sec. 8. 18 V.S.A. § 4247 is amended to read:

§ 4247. DISPOSITION OF PROPERTY

(a) Whenever property is forfeited and delivered to the ~~state treasurer~~ State Treasurer under this subchapter, the ~~state treasurer~~ State Treasurer shall, no sooner than 90 days of the date the property is delivered, sell the property at a public sale held under 27 V.S.A. chapter 13.

(b) The proceeds from the sale of forfeited property shall be used first to offset any costs of selling the property, and then, after any liens on the property have been paid in full, applied to payment of seizure, storage, and forfeiture expenses, including animal care expenses related to the underlying violation. Remaining proceeds shall be distributed as follows:

(1)(A) Forty percent shall be distributed among:

(i) the Office of the Attorney General;

(ii) the Department of State's Attorneys and Sheriffs; and

(iii) State and local law enforcement agencies.

(B) The Governor's Criminal Justice and Substance Abuse Cabinet is authorized to determine the allocations among the groups listed in subdivision (A) of this subdivision (1), and may only reimburse the prosecutor and law enforcement agencies that participated in the enforcement effort resulting in the forfeiture for expenses incurred, including actual expenses for involved personnel. The proceeds shall be held by the Treasurer until the Cabinet notifies the Treasurer of the allocation determinations, at which time the Treasurer shall forward the allocated amounts to the appropriate agency's operating funds.

(2) The remaining 60 percent shall be deposited in the General Fund.

(c) The State Treasurer shall report annually to the House and Senate Committees on Appropriations on the amount of proceeds collected from the

sale of forfeited property under this subchapter, the reimbursements made in accordance with subdivision (b)(1)(B) of this section, and the allocations of net proceeds made by the Governor's Criminal Justice and Substance Abuse Cabinet in accordance with subdivision (b)(1) of this section. .

Sec. 9. 23 V.S.A. § 1213c is amended to read:

§ 1213c. IMMOBILIZATION AND FORFEITURE PROCEEDINGS

* * *

(o) A law enforcement or prosecution agency conducting forfeitures under this section may accept, receive, and disburse in furtherance of its duties and functions under this section any appropriations, grants, and donations made available by the state of Vermont and its agencies, the federal government and its agencies, any municipality or other unit of local government, or private or civil sources.

Sec. 10. ANIMAL CRUELTY RESPONSE TASK FORCE

(a) Creation. There is created a task force to evaluate the state of animal cruelty investigation and response in Vermont, including the resources devoted to animal investigation and response services and to recommend ways to consolidate, collaborate, or reorganize to use more effectively limited resources while improving the response to animal cruelty.

(b) Membership. The Task Force shall be composed of the following members:

(1) a representative from the Governor's office;

(2) a member of the Vermont State Police;

(3) a member of the VT Police Chiefs Association;

(4) a representative of the VT Animal Control Association;

(5) a Humane Officer from a VT humane society focusing on domestic animals;

(6) a Humane Officer of a VT humane society focusing on large animals (livestock);

(7) a representative of the Vermont Humane Federation;

(8) a representative of the Vermont Federation of Dog Clubs;

(9) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;

(10) a representative of the Vermont Veterinary Medical Association;

(11) a representative of the Vermont Agency of Agriculture, Food and

Markets:

(12) a representative of the VT Constables Association;

(13) a representative of the VT Town Clerks Association;

(14) a representative of the Department for Children and Families; and

(15) a representative of the VT Federation of Sportsmen's Clubs.

(c) Powers and duties. The Task Force, in consultation with the Office of the Defender General, shall study and make recommendations concerning:

(1) training for humane agents, animal control officers, law enforcement officers, and prosecutors;

(2) the development of uniform response protocols for receiving, investigating, and following up on complaints of animal cruelty, including sentencing recommendations;

(3) the development of a centralized data collection system capable of sharing data collected from both the public and private sectors on animal cruelty complaints and outcomes;

(4) funding the various responsibilities that are involved with an animal cruelty investigation, including which State agencies should be responsible for any State level authority and oversight; and

(5) any other issue the Task Force determines is relevant to improve the efficiency, process, and results of animal cruelty response actions in Vermont.

(d) Report. On or before January 15, 2016, the Task Force shall report its findings and recommendations to the House and Senate Committees on Judiciary.

(e) Meetings and sunset.

(1) The representative from the Governor's office shall call the first meeting of the Task Force.

(2) The Task Force shall select a chair from among its members at the first meeting.

(3) The Task Force shall hold its first meeting no later than August 15, 2015.

(4) Meetings of the Task Force shall be public meetings.

(5) The Task Force shall cease to exist on January 16, 2016.

(Committee vote: 10-1-0)

(For text see Senate Journal 3/27/15)

Senate Proposal of Amendment to House Proposal of Amendment

S. 122

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

The Senate concurs in the House proposal of amendment thereto 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 three snowmobiles, motorboats, or all-terrain vehicles, respectively, in the immediately preceding year or six 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 a combination of at least three trailers, semi-trailers, or trailer coaches in the immediately preceding year or six 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 a combination of at least three motorcycles or motor-driven cycles in the immediately preceding year or six 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:

(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; (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 a 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. 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.

* * * Insurance Identification Cards * * *

Sec. 6. 23 V.S.A. § 800(a) is amended to read:

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

* * * Parking for Persons with Disabilities * * *

Sec. 7. 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. 8. 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. 9. 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. 10. 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.

* * *

* * * Distracted Driving * * *

Sec. 11. 23 V.S.A. § 1095a is amended to read:

§ 1095a. JUNIOR OPERATOR USE OF PORTABLE ELECTRONIC DEVICES

(a) As used in this section, "operating" means operating a motor vehicle on a public highway, including while temporarily stationary because of traffic, a traffic control device, or other temporary delays. "Operating" does not include operating a motor vehicle with or without the motor running when the operator has moved the vehicle to the side of or off a highway and has halted in a location where the vehicle can safely and lawfully remain stationary.

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

Sec. 12. 23 V.S.A. § 1095b is amended to read:

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE

PROHIBITED

(a) ~~Definition~~ Definitions. As used in this section:

(1) ~~“hands-free~~ Hands-free use” means the use of a portable electronic device without use of either hand by employing an internal feature of, or an attachment to, the device.

(2) “Operating” means operating a motor vehicle on a public highway, including while temporarily stationary because of traffic, a traffic control device, or other temporary delays. “Operating” does not include operating a motor vehicle with or without the motor running when the operator has moved the vehicle to the side of or off a highway and has halted in a location where the vehicle can safely and lawfully remain stationary.

(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~~ To hands-free use;

(2) ~~to~~ 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~~ securely mounting the device is not affixed to the windshield in violation of section 1125 of this title;

(3) ~~when~~ 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~~ To use of an ignition interlock device, as defined in section 1200 of this title.

(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. 13. 23 V.S.A. § 1099 is amended to read:

§ 1099. TEXTING PROHIBITED

(a) As used in this section:

(1) ~~“texting~~ 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.

(2) “Operating” means operating a motor vehicle on a public highway, including while temporarily stationary because of traffic, a traffic control device, or other temporary delays. “Operating” does not include operating a motor vehicle with or without the motor running when the operator has moved the vehicle to the side of or off a highway and has halted in a location where the vehicle can safely and lawfully remain stationary.

(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. 14. LEGISLATIVE INTENT

(a) In *State v. Hurley*, 2015 VT 46 (March 6, 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. 15 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. 15. 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~~ 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.

~~(c)~~ (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. 16. 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 to be conducted prior to reinstatement under this subdivision. 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.

* * * 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~~ 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~~ 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 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) Sec. 6 (insurance identification cards) shall take effect if and when five northeastern states require that insurance identification cards include machine-readable technology. As used in this subsection, “northeastern states” means the New England states, Pennsylvania, New York, and New Jersey.

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

(For House Proposal of Amendment see House Journal 4/21/2015)

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today’s adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary’s office and/or the House Clerk’s office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of 4/30/2015.

H.C.R. 140

House concurrent resolution congratulating Lucinda Storz on winning the 2015 Vermont State Spelling Bee

H.C.R. 141

House concurrent resolution commemorating the centennial anniversary of the legislative establishment of Vermont town forests

H.C.R. 142

House concurrent resolution congratulating the 2014 Richford High School Rockets Division III girls’ championship softball team

H.C.R. 143

House concurrent resolution congratulating the 2014 Richford Division IV girls’ track and field team

H.C.R. 144

House concurrent resolution congratulating Jessica Diggins on winning a silver medal at the FIS (International Ski Federation) Nordic World Ski Championships 2015

H.C.R. 145

House concurrent resolution in memory of Hardwick Gazette sports editor Dave Morse

H.C.R. 146

House concurrent resolution welcoming the North East Food and Drug Officials Association to Vermont for its 104th annual meeting

H.C.R. 147

House concurrent resolution honoring retired Winooski Police Chief Stephen J. McQueen for his exemplary law enforcement leadership

H.C.R. 148

House concurrent resolution honoring the culinary contribution to Rutland City of Three Tomatoes Trattoria and the community focus of its owner, Allen Frey