

House Calendar

Friday, May 15, 2015

129th DAY OF THE BIENNIAL SESSION

House Convenes at 9:30 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Action Postponed Until May 15, 2015

Senate Proposal of Amendment

H. 11

An act relating to the membership of the Commission on Alzheimer's Disease and Related Disorders

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

First: In Sec. 1, 3 V.S.A. § 3085b, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The Commission shall be composed of ~~47~~ 18 members: ~~the Commissioner of Disabilities, Aging, and Independent Living and of Health or a designee~~ Commissioners of Disabilities, Aging, and Independent Living and of Health or a designee, ~~one Senator chosen by the Committee on Committees of the Senate, one Representative chosen by the Speaker of the House,~~ and ~~14~~ 16 members appointed by the Governor. The members appointed by the Governor shall represent the following groups and organizations: physicians, social workers, nursing home managers, including the administrators of the Vermont Veterans' Home, the clergy, adult day center providers, the business community, registered nurses, residential care home operators, family care providers, the home health agency, the legal profession, mental health service providers, the area agencies on aging, University of Vermont's Center on Aging, the Support and Services at Home (SASH) program, and the Alzheimer's Association. The members appointed by the Governor shall represent, to the degree possible, the five regions of the State.

Second: In Sec. 1, 3 V.S.A. § 3085b, by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c) Eight of the members appointed by the Governor shall serve terms of two years and eight of the members shall serve terms of three years. Members shall serve until their successors are appointed. Members first appointed to the Commission prior to January 1, 2015, may apply to serve no more than one additional term of either two or three years following the expiration of their current term. Members first appointed to the Commission after January 1, 2015, shall serve a maximum of two terms. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed only for the unexpired portion of the term, and if the unexpired portion of the term is less than or equal to one year, the member appointed to fill the vacancy occurring other than by expiration of a term may thereafter apply to serve a

maximum of two additional terms.

Third: In Sec. 1, 3 V.S.A. § 3085b, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) ~~Legislative members shall be entitled to compensation and expenses as provided in 2 V.S.A. § 406 for no more than six meetings per year; the remaining members~~ Members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010 for no more than six four meetings per year. ~~Payment to legislative members shall be from the appropriation to the Legislature.~~ Payment to the ~~remaining~~ members shall be from the appropriation to the Department of Disabilities, Aging, and Independent Living.

(For text see House Journal 3/31/2015)

Report of Committee of Conference

S. 102

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

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S. 102 An act relating to forfeiture of property associated with animal fighting and certain regulated drug possession, sale, and trafficking violations

Respectfully report that they have met and considered the same and recommend 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 for the purpose of training or conditioning an animal for participation in animal fighting, or enhancing an animal's fighting capability.

* * *

Sec. 2. 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~~ Notwithstanding any provision of law to the contrary, in addition to seizure of fighting birds or animals involved in a fighting exhibition, a law enforcement officer or humane officer may seize:

(1) any equipment associated with that activity;

(2) any other personal property which is used to engage in a violation or further a violation of subdivisions 352(5) and (6) of this title; and

(3) monies, securities, or other things of value furnished or intended to be furnished by a person to engage in 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 subsection 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. 3. 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. 4. 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. 5. 18 V.S.A. § 4243 is amended to read:

§ 4243. ~~PETITION FOR~~ JUDICIAL FORFEITURE PROCEDURE

(a) ~~The State~~ Conviction or agreement required. An asset is subject to forfeiture by judicial determination under section 4241 of this title and 13 V.S.A. § 364 if:

(1) a person is convicted of the criminal offense related to the action for forfeiture; or

(2) a person enters into an agreement with the prosecutor under which he or she is not charged with a 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) 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. 6. 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. 7. 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-five 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 55 percent shall be deposited in the General Fund.

Sec. 8. 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. 9. 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 Sportsmens' 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 substantiated complaints of animal cruelty 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.

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

Rep. Charles Conquest

Rep. Gary Viens

Rep. Willem Jewett

Committee on the part of the House

Sen. Timothy Ashe

Sen. Richard Sears

Sen. Joseph Benning

Committee on the part of the Senate

NEW BUSINESS

Senate Proposal of Amendment

H. 282

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

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

First: By striking out Sec. 30 (amending 26 V.S.A. § 3006 (Board; establishment)) in its entirety and inserting in lieu thereof [Deleted.]

Second: By striking out Sec. 44 (effective dates) in its entirety and its accompanying reader assistance heading and inserting in lieu thereof the following:

* * * Applied Behavior Analysis * * *

Sec. 44. FINDINGS

(a) Licensure of applied behavior analysts and their assistants allows consumers to identify behavior analysts and assistants with defined competencies. It promotes credibility in the field of applied behavior analysis and defines scope of practice within State law.

(b) Licensure protects the public from harm and the misuse of behavioral technologies by untrained or undertrained practitioners and ensures that individuals holding themselves out as “behavior analysts” are appropriately trained and otherwise qualified.

(c) Licensure provides the State with the authority to respond to complaints of unprofessional conduct and to enforce appropriate practice standards within the field of applied behavior analysis.

Sec. 45. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

An Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(43) Property Inspectors

(44) Applied Behavior Analysts.

Sec. 46. 26 V.S.A. chapter 95 is added to read:

CHAPTER 95. APPLIED BEHAVIOR ANALYSIS

Subchapter 1. General Provisions

§ 4901. PURPOSE AND EFFECT

In order to safeguard the life and health of the people of this State, a person shall not hold himself or herself out as practicing, practice, or offer to practice, as an applied behavior analyst or an assistant behavior analyst unless currently licensed under this chapter.

§ 4902. DEFINITIONS

As used in this chapter:

(1) “Applied behavior analyst” means a person who is licensed under this chapter to engage in the practice of applied behavior analysis.

(2) “Assistant behavior analyst” means a person who is licensed under this chapter to engage in the practice of applied behavior analysis under the supervision of an applied behavior analyst.

(3) “Director” means the Director of Professional Regulation.

(4) “License” means a current authorization granted by the Director permitting the practice of applied behavior analysis.

(5) “Practice of applied behavior analysis” means the design, implementation, and evaluation of systematic instructional and environmental modifications for the purpose of producing socially significant improvements in and understanding of behavior based on the principles of behavior identified through the experimental analysis of behavior.

(A) It includes the identification of functional relationships between behavior and environments.

(B) It uses direct observation and measurement of behavior and environment. Contextual factors, establishing operations, antecedent stimuli, positive reinforcers, and other consequences are used, based on identified functional relationships with the environment, in order to produce practical behavior change.

§ 4903. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

(1) sell or fraudulently obtain or furnish any applied behavior analysis degree, diploma, certificate of registration, license, or any other related document or record or to aid or abet another person to do so;

(2) practice applied behavior analysis under cover of any degree, diploma, registration, license, or related document or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(3) practice applied behavior analysis unless currently licensed or otherwise authorized to do so under the provisions of this chapter;

(4) represent himself or herself as being licensed or otherwise authorized by this State to practice applied behavior analysis or use in connection with a name any words, letters, signs, or figures that imply that a person is an applied behavior analyst or assistant behavior analyst when not licensed or otherwise authorized under this chapter;

(5) practice applied behavior analysis during the time a license or authorization issued under this chapter is suspended or revoked; or

(6) employ an unlicensed or unauthorized person to practice as an applied behavior analyst or assistant behavior analyst.

(b) Any person violating this section shall be subject to the penalties provided in 3 V.S.A. § 127.

§ 4904. EXCEPTIONS

This chapter does not prohibit:

(1) The practice of a person who is not licensed under this chapter, who does not use the term “behavior analysis” or similar descriptors suggesting licensure under this chapter, and who is engaged in the course of his or her customary duties:

(A) in the practice of a religious ministry;

(B) in employment or rehabilitation counseling;

(C) as an employee of or under contract with the Agency of Human Services;

(D) as a mediator;

(E) in an official evaluation for court purposes;

(F) as a member of a self-help group, such as Alcoholics Anonymous, peer counseling, or domestic violence groups, whether or not for consideration;

(G) as a respite caregiver, foster care worker, or hospice worker; or

(H) incident to the practice of any other legally recognized profession or occupation.

(2) A person engaged or acting in the discharge of his or her duties as a student of applied behavior analysis or preparing for the practice of applied behavior analysis, provided that the person's title indicates his or her training status and that the preparation occurs under the supervision of an applied behavior analyst in a recognized training institution or facility.

(3) A behavior interventionist or paraprofessional, employed by a school, from working under the close direction of a supervisor licensed under this chapter, in relation to the direct implementation of skill-acquisition and behavior-modification plans developed by the supervisor or in relation to data collection or assessment designed by the supervisor, provided the supervisor retains ultimate responsibility for delegating professional responsibilities in a manner consistent with 3 V.S.A. § 129a(a)(6).

Subchapter 2. Administration

§ 4911. DUTIES OF THE DIRECTOR

(a) The Director shall:

(1) provide general information to applicants for licensure under this chapter;

(2) receive applications for licensure and provide licenses to applicants qualified under this chapter;

(3) administer fees as established by law;

(4) refer all disciplinary matters to an administrative law officer;

(5) renew, revoke, and reinstate licenses as ordered by an administrative law officer; and

(6) explain appeal procedures to persons licensed under this chapter and to applicants and complaint procedures to the public.

(b) The Director may adopt rules necessary to perform his or her duties under this section.

§ 4912. ADVISOR APPOINTEES

(a) The Secretary of State shall appoint three persons in accordance with 3 V.S.A. § 129b for three-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to applied behavior analysis. One of the initial appointments shall be for less than a three-year term.

(1) Two of these appointees shall be applied behavior analysts.

(A) An applied behavior analyst advisor appointee shall have not less than three years' experience as an applied behavior analyst immediately

preceding appointment, shall be licensed as an applied behavior analyst in Vermont, and shall be actively engaged in the practice of applied behavior analysis in this State during incumbency.

(B) Not more than one of these appointees may be employed by a designated agency. As used in this subdivision, "designated agency" shall have the same meaning as in 18 V.S.A. § 7252.

(2) One of these appointees shall be the parent of an individual with autism or a developmental disorder who is a recipient of applied behavior analysis services. This appointee shall not have a child or other family member who is receiving applied behavior analysis services from one of the advisor appointees appointed under subdivision (1) of this subsection.

(b) The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

Subchapter 3. Licenses

§ 4921. ELIGIBILITY FOR LICENSURE BY EXAMINATION AS AN APPLIED BEHAVIOR ANALYST

To be eligible for licensure as an applied behavior analyst, an applicant shall:

(1) Obtain a doctoral or master's degree from a recognized educational program accredited by the Association for Behavior Analysis International Accreditation Board, or from a program at a recognized educational institution that is approved by the Director and that substantially meets the educational standards of the Association for Behavior Analysis International Accreditation Board or the Behavior Analysis Certification Board. Any program shall include an approved course sequence of the Behavior Analyst Certification Board.

(2) Successfully complete an approved practicum or supervised experience in the practice of applied behavior analysis, totaling at least 1,500 hours over a period of not less than one calendar year, of which at least 75 hours are in direct one-to-one contact with a supervisor.

(3) Successfully complete, as defined by the Director, a nationally recognized examination adopted from the Behavior Analyst Certification Board and approved by the Director, related to the principles and practice of applied behavior analysis. This subdivision (3) shall not be construed to require the Director to develop or administer any examination.

§ 4922. ELIGIBILITY FOR LICENSURE BY EXAMINATION AS AN ASSISTANT BEHAVIOR ANALYST

To be eligible for licensure as an assistant behavior analyst, an applicant shall:

(1) Obtain a bachelor's degree from a program at a recognized educational institution that is approved by the Director and that substantially meets the educational standards of the Association for Behavior Analysis International Accreditation Board or the Behavior Analysis Certification Board. Any program shall include an approved course sequence of the Behavior Analyst Certification Board.

(2) Successfully complete an approved practicum or supervised experience in the practice of applied behavior analysis, totaling at least 1,000 hours over a period of not less than one calendar year, of which at least 50 hours are in direct one-to-one contact with a supervisor.

(3) Successfully complete, as defined by the Director, a nationally recognized examination adopted from the Behavior Analyst Certification Board and approved by the Director, related to the principles and practice of applied behavior analysis. This subdivision (3) shall not be construed to require the Director to develop or administer any examination.

§ 4923. LICENSURE BY ENDORSEMENT

A person may be licensed under this chapter if he or she:

(1)(A) possesses a valid registration or license to engage in the practice of applied behavior analysis issued by the appropriate regulatory authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements and qualifications shown by the application to be equal to or greater than the requirements of this chapter; or

(B) is certified as a board certified behavior analyst by the Behavior Analyst Certification Board; and

(2) meets any active practice requirements established by the Director by rule.

§ 4924. ISSUANCE OF LICENSES

The Director shall issue a license, upon payment of the fees prescribed in this chapter, to any applicant who has satisfactorily met all the requirements of this chapter.

§ 4925. RENEWALS

(a) Licenses shall be renewed every two years, on a schedule determined by the Director, upon payment of the renewal fee.

(b) Biennially, the Director shall provide notice to each licensee of license

expiration and renewal requirements. Upon receipt of the completed form and the renewal fee, the Director shall issue a new license.

(c) As a condition of renewal, the Director may by rule require that a licensee establish that he or she has completed continuing education. The Director may accept proof of current certification from the Behavior Analyst Certification Board as evidence of continuing competency if the Director finds that the maintenance of such certification implies appropriate continuing education.

(d)(1) The Director may reinstate the license of an individual whose license has expired upon payment of the required fee and reinstatement penalty, provided the individual has satisfied all the requirements for renewal, including continuing education.

(2) The Director may adopt rules necessary for the protection of the public to assure the Director that an applicant whose license has expired or who has not worked for more than three years as an applied behavior analyst or an assistant behavior analyst is professionally qualified for license renewal. Conditions imposed under this subsection shall be in addition to the other requirements of this section.

§ 4926. LICENSE AND RENEWAL FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

§ 4927. APPLICATIONS

Applications for licensure and license renewal shall be on forms provided by the Director. Each application shall contain a statement under oath showing the applicant's education, experience, and other pertinent information and shall be accompanied by the required fee.

§ 4928. SCOPE OF PRACTICE OF APPLIED BEHAVIOR ANALYSTS

(a) A person licensed under this chapter shall only engage in the practice of applied behavior analysis upon, and within the scope of, a referral from a licensed health professional or school official duly authorized to make such a referral.

(b) The practice of applied behavior analysis shall not include psychological testing, neuropsychology, diagnosis of mental health or developmental conditions, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, psychopharmacological recommendations, hypnotherapy, or academic teaching by college or university faculty.

§ 4929. SUPERVISION OF ASSISTANT BEHAVIOR ANALYSTS

An assistant behavior analyst shall only engage in the practice of applied behavior analysis if he or she has a minimum of five hours per month of off-site case supervision by an applied behavior analyst. A supervising applied behavior analyst may require that his or her supervision of an assistant behavior analyst exceed the minimum requirements of this section, including the requirement that the supervision be on-site.

§ 4930. DISCLOSURE OF INFORMATION

The Director may adopt rules requiring a person licensed under this chapter to disclose the licensee's professional qualifications and experience, those actions that constitute unprofessional conduct, and the method for filing a complaint or making a consumer inquiry, and the manner in which that information shall be made available and to whom.

§ 4931. UNPROFESSIONAL CONDUCT

(a) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a, committed by a licensee, an applicant, or a person who later becomes an applicant:

(1) making or causing to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure licensure or renew a license to practice under this chapter;

(2) using dishonest or misleading advertising;

(3) misusing a title in professional activity;

(4) engaging in any sexual conduct with a client, or with the immediate family member of a client, with whom the licensee has had a professional relationship within the previous five years;

(5) harassing, intimidating, or abusing a client;

(6) entering into an additional relationship with a client, supervisee, research participant, or student that might impair the person's objectivity or otherwise interfere with a licensee's obligations;

(7) practicing outside or beyond a licensee's area of training, experience, or competence;

(8) being or having been convicted of a misdemeanor related to the practice of applied behavior analysis or a felony;

(9) being unable to practice applied behavior analysis competently by reason of any cause;

(10) willfully or repeatedly violating any of the provisions of this chapter;

(11) being habitually intemperate or addicted to the use of habit-forming drugs;

(12) having a mental, emotional, or physical disability, the nature of which interferes with the ability to practice applied behavior analysis competently;

(13) engaging in conduct of a character likely to deceive, defraud, or harm the public, including exposing clients to unjustifiably degrading or cruel interventions or implementing therapies not supported by a competent clinical rationale; or

(14) failing to notify the Director in writing within ten days of the loss, revocation, discontinuation, or invalidation of any certification or degree offered to support eligibility for licensure or to demonstrate continuing competency.

(b) A person shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Director or the Office of Professional Regulation about alleged incompetent, unprofessional, or unlawful conduct of a person licensed under this chapter.

Sec. 47. TRANSITIONAL PROVISIONS

(a) Advisor appointees. Notwithstanding the provisions of 26 V.S.A. § 4912(a)(1) (advisor appointees; qualifications of appointees) in Sec. 46 of this act, an initial advisor appointee may serve while reasonably expected within one year of appointment to become eligible for licensure as an applied behavior analyst and to satisfy the other requirements of 26 V.S.A. § 4912(a)(1).

(b) Licensing of applied behavior analysts. The Director of the Office of Professional Regulation shall establish a procedure so that an individual may become licensed as an applied behavior analyst without being required to take an examination if he or she:

(1) has graduated with a doctoral or master's degree from a regionally accredited university and is a Board Certified Behavior Analyst certificant of the Behavior Analyst Certification Board; or

(2) holds either a doctoral or master's degree in behavior analysis or a related field and can demonstrate competency in applied behavior analysis by virtue of training and experience as determined by the Director.

(c) Licensing of assistant behavior analysts. The Director of the Office of Professional Regulation shall establish a procedure so that an individual may become licensed as an assistant behavior analyst without being required to take an examination if he or she:

(1) has graduated with a bachelor's degree from a regionally accredited university and is a Board Certified Assistant Behavior Analyst certificant of the Behavior Analyst Certification Board; or

(2) holds a bachelor's degree in behavior analysis or a related field and can demonstrate competency in applied behavior analysis by virtue of training and experience as determined by the Director.

(d) Any person licensed under subsection (b) or (c) of this section shall thereafter be eligible for licensure renewal pursuant to 26 V.S.A. § 4925.

(e) The ability of a person to become licensed under the provisions of subsection (b) or (c) of this section shall expire on July 1, 2017.

* * * Positions Authorization * * *

Sec. 48. CREATION OF NEW POSITIONS WITHIN THE OFFICE OF PROFESSIONAL REGULATION

(a) There is created within the Secretary of State's Office of Professional Regulation the following new positions:

(1) one (1) classified Research and Statistics Analyst position; and

(2) one (1) classified Enforcement position.

(b) Any funding necessary to support the positions created under subsection (a) of this section shall be derived from the Office's Professional Regulatory Fee Fund.

* * * Effective Dates * * *

Sec. 49. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 34 (amending 26 V.S.A. chapter 67 (audiologists and hearing aid dispensers)) shall take effect on September 1, 2015;

(2) Secs. 39 (amending 26 V.S.A. chapter 87 (speech-language pathologists)) and 40 (repeal of sections in 26 V.S.A. chapter 87) shall take effect on September 1, 2015;

(3) Secs. 45 (amending 3 V.S.A. § 122 (Office of Professional Regulation)) and 46 (adding 26 V.S.A. chapter 95 (applied behavior analysis)) shall take effect on July 1, 2016; and

(4) Sec. 31 (amending 26 V.S.A. chapter 61 (social workers)) shall take effect on July 1, 2017.

(For text see House Journal 3/24/15)

H. 484

An act relating to miscellaneous agricultural subjects

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

* * * Agricultural Water Quality; Financial Assistance * * *

Sec. 1. 6 V.S.A. § 4815(c) is amended to read:

(c) ~~For purposes of~~ As used in this section, “waste storage facility” means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an ~~in-ground or above-ground~~ inground and aboveground structure, or any combination thereof. ~~This section does not apply to concrete slabs used for agricultural waste management.~~

Sec. 2. 6 V.S.A. § 4820 is amended to read:

§ 4820. DEFINITIONS

~~For purposes of~~ As used in this subchapter:

(1) “AAPs” means “accepted agricultural practices” as defined by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets pursuant to subchapter 1 of this chapter.

(2) “Secretary” means the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets.

(3) “Agency” means the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets.

* * *

(6) “Good standing” means the participant:

(A) does not have an active enforcement violation that has reached a final order with the Secretary; or

(B) is in compliance with all terms of a current grant agreement or contract with the Agency.

Sec. 3. 6 V.S.A. § 4821 is amended to read:

§ 4821. ASSISTANCE PROGRAM CREATED; ADMINISTRATION

(a) Program created. A program is created to provide ~~state~~ State financial assistance to Vermont farmers in support of their voluntary construction of on-farm improvements and maintenance of acceptable operating standards designed to abate nonpoint source agricultural waste discharges into the waters

of the ~~state~~ State of Vermont, consistent with goals of the federal Water Pollution Control Act and with ~~state~~ State water quality standards. The program shall be conducted in a manner which makes maximum use of federal financial aid for the same purpose, as provided by this subchapter, and which seeks to use the least costly methods available to accomplish the abatement required. The construction of temporary fencing intended to exclude livestock from entering surface waters of the ~~state~~ State shall be an on-farm improvement eligible for assistance under this subchapter when subject to a maintenance agreement entered into with the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets.

(b) Program administration. The ~~secretary~~ Secretary shall:

(1) ~~administer~~ Administer the ~~state~~ State assistance program, for which purpose the ~~secretary~~ Secretary shall coordinate with officials of the U.S. Department of Agriculture or other federal agencies, and shall adopt rules pursuant to 3 V.S.A. chapter 25 of Title 3 concerning farmer application and eligibility requirements, financial assistance award priorities, and other administrative and enforcement conditions; ~~and~~.

(2) ~~may~~ May provide technical assistance to individual farmers with the preparation of on-farm agricultural waste management plans, applications for ~~state~~ State and federal financial assistance awards, installation of on-farm improvements, and maintenance of acceptable operating standards during the ~~life of a state assistance award contract~~ term of the program grant agreement. For this purpose, ~~state~~ State employees of the ~~agency~~ Agency shall cooperate with federal employees of the U.S. Department of Agriculture or other federal agencies.

Sec. 4. 6 V.S.A. § 4822 is amended to read:

§ 4822. ELIGIBILITY FOR STATE ASSISTANCE

Vermont farmers shall be eligible to receive available ~~state~~ State financial assistance with the installation of on-farm improvements designed to control agricultural nonpoint source waste discharges, provided that:

(1) for farmers who also seek federal financial assistance for this purpose, the improvements:

(A) are eligible for federal assistance through programs of the U.S. Department of Agriculture; and

(B) are consistent with a “nutrient management plan” prepared by the Vermont field office of the NRCS, or with an animal waste management plan based on standards equivalent to those of the NRCS; or

(2) for farmers who decline to seek or accept federal financial assistance

for this purpose, the improvements:

(A) are determined by the ~~secretary~~ Secretary to be equivalent to those eligible for federal assistance through programs of the U.S. Department of Agriculture; and

(B) are consistent with an animal waste management plan based on standards determined by the ~~secretary~~ Secretary to be equivalent to those of the NRCS; and

(3) improvements will be constructed on a farm that is in good standing with the Secretary at the time of the award on all grant agreements, contract awards, or enforcement proceedings.

Sec. 5. 6 V.S.A. § 4824 is amended to read:

§ 4824. STATE FINANCIAL ASSISTANCE AWARDS

(a) State grant. State financial assistance awarded under this subchapter shall be in the form of a grant. When a State grant is intended to match federal financial assistance for the same on-farm improvement project, the State grant shall be awarded only when the federal financial assistance has also been approved or awarded. An applicant for a State grant shall pay at least 10 percent of the total eligible project cost. The dollar amount of a State grant shall be equal to the total eligible project cost, less 10 percent of the total as paid by the applicant, and less the amount of any federal assistance awarded, except that a State grant shall not exceed 90 percent of the total eligible project cost.

(b) ~~Farmer contract.~~ A State grant awarded to an applicant under this subchapter shall be awarded in accordance with a State ~~contract~~ grant containing ~~contract~~ terms substantially the same as those required for receipt of a federal award for the same purpose from the U.S. Department of Agriculture, except as provided by the Secretary by rule.

Sec. 6. 6 V.S.A. § 4826 is amended to read:

§ 4826. COST ASSISTANCE FOR WASTE STORAGE FACILITIES

(a) The owner or operator of a farm required under section 4815 of this title to design, construct, or modify a waste storage facility may apply in writing to the Secretary of Agriculture, Food and Markets for cost assistance. Using ~~state~~ State or federal funds, or both, a State assistance grant shall be awarded, subject to the availability of funds, to applicants. Such grants shall not exceed 90 percent of the cost of an adequately sized and designed waste storage facility and the equipment eligible for Natural Resources Conservation Service cost share assistance. Application for a State assistance grant shall be made in the manner prescribed by the Secretary. ~~As used in this section, "waste storage~~

~~facility” means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an in-ground or above-ground structure, or any combination thereof. This section shall apply to concrete slabs used for agricultural waste management.~~

(b) If the Secretary lacks adequate funds necessary for the cost assistance awards required by subsection (a) of this section, the Secretary shall appear before the Emergency Board, as soon as possible, and shall request that necessary funds be provided. If the Emergency Board fails to provide adequate funds, the design and construction requirements for waste storage facilities under subsection 4815(b) of this title and the AAPs for groundwater, as they relate to a waste storage facility, shall be suspended for a farm with a waste storage facility subject to the requirements of subsection 4815(b) of this title until adequate funding becomes available. Suspension of the design and construction requirements of subsection 4815(b) of this title does not relieve an owner or operator of a farm permitted under section 4858 ~~or 4851~~ of this title from the remaining requirements of the owner’s or operator’s permit, including discharge standards, groundwater protection, nutrient management planning, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263 ~~or farms permitted under section 4851 of this title.~~

(c) The owner or operator of a farm with a waste storage facility may apply in writing to the Secretary of Agriculture, Food and Markets for a State assistance grant for the costs of complying with the U.S. Department of Agriculture Natural Resources Conservation Service requirements for inspection of a waste storage facility. Such grants shall not exceed 90 percent of the cost of the inspection of the waste storage facility. Application for a State assistance grant shall be made in the manner prescribed by the Secretary.

Sec. 7. 6 V.S.A. § 4827(e) and (f) are amended to read:

(e) If the Secretary or the applicable U.S. Department of Agriculture conservation programs lack adequate funds necessary for the financial assistance required by subsection (a) of this section, the requirement to develop and implement a nutrient management plan under State statute or State regulation shall be suspended until adequate funding becomes available. Suspension of a State-required nutrient management plan does not relieve an owner or operator of a farm permitted under section 4858 ~~or 4851~~ of this title of the remaining requirements of a State permit, including discharge standards, groundwater protection, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263 ~~or farms permitted under section 4851 of this title.~~

(f) The Secretary may ~~contract~~ enter into grants with natural resources

conservation districts, the University of Vermont Extension Service, and other persons and organizations to aid in the implementation of the incentive grants program under subsection (a) of this section and to assist farmers in the development and implementation of nutrient management plans.

Sec. 8. 6 V.S.A. § 4828 is amended to read:

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to contract applicators, nonprofit organizations, and farms to purchase or use innovative equipment that will aid in the reduction of surface runoff of agricultural wastes to ~~state~~ State waters, improve water quality of State waters, reduce odors from manure application, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the Agency of Agriculture, Food and Markets to provide farms, nonprofit organizations, and custom applicators in Vermont with State financial assistance for the purchase of new or innovative equipment to improve manure application or nutrient management plan implementation.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined ~~by rule~~ by the Secretary:

(1) First priority shall be given to capital equipment to be used on farm sites that are serviced by custom applicators and nonprofit organizations and that are located in descending order within the boundaries of:

- (A) the Lake Champlain Basin;
- (B) the Lake Memphremagog Basin;
- (C) the Connecticut River Basin; and
- (D) the Hudson River Basin.

(2) Next priority shall be given to capital equipment to be used at a farm site which is located in descending order within the boundaries of:

- (A) the Lake Champlain Basin;
- (B) the Lake Memphremagog Basin;
- (C) the Connecticut River Basin; and
- (D) the Hudson River Basin.

(d) [Repealed.]

Sec. 9. 6 V.S.A. § 4849 is amended to read:

§ 4849. RECYCLING ANIMAL WASTE NUTRIENTS

In order to best use the nutrients of animal waste generated by ~~large~~ farm operations, the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets together with the ~~department of public service~~ Department of Public Service shall use available resources to inform ~~large~~ farm operations of appropriate methods and resources available to digest and compost their animal wastes, and to capture methane for beneficial uses.

Sec. 10. 6 V.S.A. § 4850 is amended to read:

§ 4850. DEFINITIONS

~~For purposes of~~ As used in this subchapter:

(1) “Domestic fowl” means laying-hens, broilers, ducks, ~~and~~ turkeys, or any other number or type of fowl that the Secretary deems domestic fowl.

(2) “Livestock” means cattle, mature cow/calf pairs, youngstock, heifers, bulls, swine, sheep, ~~or~~ goats, horses, or any other number and type of domestic animal that the Secretary deems livestock.

Sec. 11. 6 V.S.A. § 4851 is amended to read:

§ 4851. PERMIT REQUIREMENTS FOR LARGE FARM OPERATIONS

(a) No person shall, without a permit from the ~~secretary~~ Secretary, construct a new barn, or expand an existing barn, designed to house more than 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling system, 82,000 laying hens without a liquid manure handling system, 125,000 chickens other than laying hens without a liquid manure handling system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks without a liquid manure handling system. No permit shall be required to replace an existing barn in use for livestock or domestic fowl production at its existing capacity. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall review any application for a permit under this section with regard to water quality impacts and, prior to approval of a permit under this subsection, shall issue a written determination regarding whether the applicant has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to the federal regulations for concentrated animal feeding operations. If upon review of an application for a permit under this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food

and Markets determines that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under subsection 4810(b) of this title. The ~~secretary of natural resources~~ Secretary of Natural Resources may require a large farm to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal feeding operations.

(b) A person shall apply for a permit in order to operate a farm which exceeds 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling system, 82,000 laying hens without a liquid manure handling system, 125,000 chickens other than laying hens without a liquid manure handling system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks if the livestock or domestic fowl are in a barn or adjacent barns owned by the same person, or if the barns share a common border or have a common waste disposal system. In order to receive this permit, the person shall demonstrate to the ~~secretary~~ Secretary that the farm has an adequately sized manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards.

(c) The ~~secretary~~ Secretary shall approve, condition, or disapprove the application within 45 business days of the date of receipt of a complete application for a permit under this section. Failure to act within the 45 business days shall be deemed approval.

(d) A person seeking a permit under this section shall apply in writing to the ~~secretary~~ Secretary. The application shall include a description of the proposed barn or expansion of livestock or domestic fowl; a proposed nutrient management plan to accommodate the number of livestock or domestic fowl the barn is designed to house or the farm is intending to expand to; and a description of the manure management system to be used to accommodate agricultural wastes.

(e) The ~~secretary~~ Secretary may condition or deny a permit on the basis of odor, noise, traffic, insects, flies, or other pests.

(f) Before granting a permit under this section, the ~~secretary~~ Secretary shall make an affirmative finding that the animal wastes generated by the construction or expansion will be stored so as not to generate runoff from a

25-year, 24-hour storm event and shall be disposed of, in accordance with the accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards.

(g) A farm that is permitted under this section and that withdraws more than 57,600 gallons of groundwater per day averaged over any 30 consecutive-day period shall annually report estimated water use to the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall share information reported under this subsection with the ~~agency of natural resources~~ Agency of Natural Resources.

Sec. 12. 6 V.S.A. § 4856 is amended to read:

§ 4856. ~~RECYCLING ANIMAL WASTE NUTRIENTS~~

~~In order best to use the nutrients of animal waste generated by farms to which this subchapter applies, the agency of agriculture, food and markets, together with the department of public service, shall use available resources to inform operators of such farms of appropriate methods and resources available to digest and compost their animal wastes and to capture methane for beneficial uses. [Repealed.]~~

Sec. 13. 6 V.S.A. § 4857 is amended to read:

§ 4857. DEFINITIONS

~~For purposes of~~ As used in this subchapter:

(1) “Animal feeding operation” (AFO) means a lot or facility where the livestock or domestic fowl have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation, or forage growth are not sustained in the normal growing season over any portion of the lot or facility. Two or more individual farms qualifying as an AFO which are under common ownership and which adjoin each other or use a common area or system for the disposal of waste, shall be considered to be a single AFO if the combined number of livestock or domestic fowl resulting qualifies as a medium farm as defined in subdivision (2) of this section.

(2) “Medium farm” is an AFO which houses 200 to 699 mature dairy animals, 300 to 999 cattle or cow/calf pairs, 300 to 999 veal calves, 750 to 2,499 swine weighing over 55 pounds, 3,000 to 9,999 swine weighing less than 55 pounds, 150 to 499 horses, 3,000 to 9,999 sheep or lambs, 16,500 to 54,999 turkeys, 9,000 to 29,999 laying hens or broilers with a liquid manure handling system, 25,000 to 81,999 laying hens without a liquid manure handling system, 37,500 to 124,999 chickens other than laying hens without a liquid manure

handling system, 1,500 to 4,999 ducks with a liquid manure handling system or 10,000 to 29,999 ducks without a liquid manure handling system.

(3) “Small farm” is an AFO which houses no more than 199 mature dairy animals, 299 cattle or cow/calf pairs, 299 veal calves, 749 swine weighing over 55 pounds, 2,999 swine weighing less than 55 pounds, 149 horses, 2,999 sheep or lambs, 16,499 turkeys, 8,999 laying hens or broilers with a liquid manure handling system, 24,999 laying hens without a liquid manure handling system, 37,499 chickens other than laying hens without a liquid manure handling system, 1,499 ducks with a liquid manure handling system or 9,999 ducks without a liquid manure handling system.

(4) “Domestic fowl” means laying hens, broilers, ducks, ~~and~~ turkeys, or any other number or type of fowl that the Secretary deems domestic fowl.

(5) “Livestock” means cattle, swine, sheep, goats, and horses, or any other number and type of domestic animal that the Secretary deems livestock.

Sec. 14. 6 V.S.A. § 4858(c) is amended to read:

(c)(1) Medium farm general permit. The owner or operator of a medium farm seeking coverage under a general permit adopted pursuant to this section shall certify to the ~~secretary~~ Secretary within a period specified in the permit, and in a manner specified by the ~~secretary~~ Secretary, that the medium farm does comply with permit requirements regarding an adequately sized and designed manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards. Any certification or notice of intent to comply submitted under this subdivision shall be kept on file at the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall review any certification or notice of intent to comply submitted under this subdivision with regard to the water quality impacts of the medium farm for which the owner or operator is seeking coverage, and, within 18 months of receiving the certification or notice of intent to comply, shall verify whether the owner or operator of the medium farm has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to the federal regulations for concentrated animal feeding operations. If upon review of a medium farm granted coverage under the general permit adopted pursuant to this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture,

Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under subsection 4810(b) of this title.

* * *

(d) Medium and small farms; individual permit. The ~~secretary~~ Secretary may require the owner or operator of a small or medium farm to obtain an individual permit to operate after review of the farm's history of compliance, application of accepted agricultural practices, the use of an experimental or alternative technology or method to meet a ~~state~~ State performance standard, or other factors set forth by rule. The owner or operator of a small farm may apply to the ~~secretary~~ Secretary for an individual permit to operate under this section. To receive an individual permit, an applicant shall in a manner prescribed by rule demonstrate that the farm has an adequately sized and designed manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards, including setback requirements for waste application. An individual permit shall be valid for no more than five years. Any application for an individual permit filed under this subsection shall be kept on file at the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~agency of natural resources~~ Agency of Natural Resources, shall review any application for a permit under this subsection and, prior to issuance of an individual permit under this subsection, shall issue a written determination regarding whether the permit applicant has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to federal regulations for concentrated animal feeding operations. If, upon review of an application for a permit under this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under subsection 4810(b) of this title. The ~~secretary of natural resources~~ Secretary of Natural Resources may require a medium or small farm to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal feeding operations. Coverage of a medium farm under a general permit adopted pursuant to this section or an individual permit issued to a medium or

small farm under this section is rendered void by the issuance of a permit to a farm under 10 V.S.A. § 1263.

Sec. 15. 6 V.S.A. chapter 215, subchapter 6 is amended to read:

Subchapter 6. Vermont ~~Agricultural Buffer~~ Critical Area Seeding
and Filter Strip Program

§ 4900. VERMONT ~~AGRICULTURAL BUFFER~~ SEEDING AND FILTER
STRIP PROGRAM

(a) ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets is authorized to develop a Vermont ~~agricultural buffer critical source area seeding and filter strip~~ program in addition to the federal conservation reserve enhancement program in order to compensate farmers for establishing and maintaining harvestable perennial vegetative ~~buffers and installing conservation practices in ditch networks~~ grassed waterways and filter strips on agricultural land ~~and cropland perpendicular and~~ adjacent to the surface waters of the ~~state~~ State, including ditches. Eligible acreage would include annually tilled cropland or a portion of cropland currently cropped as hay that will not be rotated into an annual crop for a 10-year period of time. Acreage that is currently managed as hay shall have a prior history of rotation as corn or other annual commodity crop.

(b) ~~The establishment and annual incentive payments from the agency of agriculture, food and markets under the Vermont agricultural buffer program shall not exceed the combined federal and state payment that the relevant agricultural land or conservation practice would be eligible for under the federal conservation reserve enhancement program or another approved conservation program. The incentive payment~~ Incentive payments from the Agency of Agriculture, Food and Markets shall be made annually at the end of the cropping season for a nonrenewable five year period at the outset of a 10-year agreement to establish or maintain the acreage as harvestable grassed waterway or filter strip.

(c) ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets may establish by procedure financial and technical criteria for the implementation and operation of the Vermont ~~agricultural buffer critical source area seeding and filter strip~~ program.

(d) Land enrolled in the Vermont agricultural buffer program shall be considered to be in “active use” as that term is defined in 32 V.S.A. § 3752(15).

(e) As used in this section, “surface waters” means all rivers, streams, ditches, creeks, brooks, reservoirs, ponds, lakes, and springs which are

contained within, flow through, or border upon the ~~state~~ State or any portion of it.

Sec. 16. 6 V.S.A. § 4951 is amended to read:

§ 4951. FARM AGRONOMIC PRACTICES PROGRAM

(a) The Farm Agronomic Practices Assistance Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State financial assistance for the implementation of soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges. The following practices ~~shall~~ may be eligible for assistance to farms under the grant program:

- (1) conservation crop rotation;
- (2) cover cropping;
- (3) strip cropping;
- (4) cross-slope tillage;
- (5) zone or no-tillage;
- (6) pre-sidedress nitrate tests;

(7) annual maintenance of a nutrient management plan that is no longer receiving funding under a State or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be \$2,000.00 per year;

(8) educational and instructional activities to inform the farmers and citizens of Vermont of:

(A) the impact on Vermont waters of agricultural waste discharges;

(B) the federal and State requirements for controlling agricultural waste discharges;

(9) implementing alternative manure application techniques; and

(10) additional soil erosion reduction practices.

(b) Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.

* * * Agency of Agriculture, Food and Markets Permitting * * *

Sec. 17. 6 V.S.A. § 1 is amended to read:

§ 1. GENERAL POWERS OF AGENCY; SECRETARY OF
AGRICULTURE, FOOD AND MARKETS

(a) ~~The agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets shall be administered by a ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets. The ~~secretary~~ Secretary shall supervise and be responsible for the execution and enforcement of all laws relating to agriculture and standards of weight and measure. The ~~secretary~~ Secretary may:

* * *

(13) notwithstanding any law to the contrary in this title or Title 9 or 20, issue all licenses, permits, registrations, or certificates under a program administered by the ~~secretary~~ Secretary for a term of up to three years; renew and issue such licenses, permits, registrations, and certificates on any calendar cycle; collect any annual fee set by law for such multiyear licensure, permit, registration, or certificate on a pro-rated basis which shall not exceed 150 percent of the annual fee for an 18-month cycle, 200 percent of the annual fee for a two-year cycle, or 300 percent of the annual fee for a three-year cycle; and conduct inspections at regulated premises at least once every three years when inspection is required by law. The authority to mandate licenses, permits, registrations, or certificates for more than one year shall not extend to any program administered by the ~~secretary~~ Secretary where the annual fee is more than \$125.00. The Secretary shall only provide refunds for overpayments of \$25.00 or more on a license, permit, registration, or certificate issued by the Secretary;

* * *

* * * Dairy Operations; Drugs * * *

Sec. 18. 6 V.S.A. § 2744a is amended to read:

§ 2744a. DRUGS

(a) No producer shall sell or offer for sale milk which contains any drug or drugs in excess of tolerances established by the United States Food and Drug Administration in the Code of Federal Regulations.

~~(1) In the event that milk from a dairy farm contains a drug, no more milk produced by that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. In the event of a second violation within a 12-month period, no more milk produced by that producer shall be received by any milk dealer or handler for a period of up to two days and until a sample of at least one complete milking has been collected and found negative. In the event of a third violation within a 12-month period, the secretary shall, at a minimum, take the same action as required for a second violation and may prohibit the producer~~

~~from selling milk in this state. No handler or dealer shall accept milk from a producer whose ability to sell milk is suspended or terminated.~~

~~(2) In lieu of suspending a producer's ability to sell milk, the secretary may issue an administrative penalty. The amount of the penalty shall not exceed the value of the milk which could have been prohibited from sale. A producer who fails to pay an administrative penalty, after opportunity for hearing, shall have his or her ability to sell milk suspended until the penalty is paid. In lieu of suspending a producer's ability to sell milk, the secretary may accept the assessment by the milk dealer or handler, against the producer, of damages beyond the milk dealer's or handler's control that occurred as a result of purchasing the contaminated milk, as an equivalent penalty.~~

(1) In the event that milk from a dairy producer contains a drug residue:

(A) No more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative.

(B) If a second drug residue violation occurs within 12 months of the first violation, no more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. The producer shall have an administrative penalty equal to the value of one day of milk production assessed.

(C) If a third drug residue violation occurs within 12 months of the first violation, no more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. The producer shall have an administrative penalty equal to the value of two days of milk production assessed. A hearing shall be warned to determine if the producer will be allowed to continue to ship milk.

(2) No handler or dealer shall accept milk from:

(A) a producer after a drug residue violation has occurred until a sample of at least one complete milking has been found negative; or

(B) a producer whose ability to sell milk is suspended or terminated.

(3) A producer who fails to pay an administrative penalty issued under this section within 30 days of issuance of a citation for violation of this section shall have his or her ability to sell milk suspended until the administrative penalty is paid. In lieu of suspending a producer's ability to sell milk, the Secretary may accept the assessment by the milk dealer against the producer.

~~(3)~~(4) Notwithstanding the provisions of subsection (c) of this section, the secretary Secretary may at any time issue an emergency order prohibiting a

producer from selling and a handler from accepting any milk until the milk tests negative for drugs.

(b)(1) No producer shall sell ~~livestock~~ for slaughter ~~which contains~~ livestock with bodily tissue containing any drug or drugs in excess of tolerances established by the ~~United States~~ U.S. Food and Drug Administration in the Code of Federal Regulations.

(2) In the event that bodily tissue obtained from livestock intended for slaughter is found to contain a drug or drugs in excess of levels established by the ~~United States~~ U.S. Food and Drug Administration in the Code of Federal Regulations at the time of sale, the ~~secretary~~ Secretary may assess an administrative penalty not to exceed \$1,000.00 for each violation and may require the farm to participate in a program approved by the Agency intended to mitigate further selling of animals for food that contain violative drug residues in their tissue.

(c) Before issuing an order or administrative penalty under this section, the ~~secretary~~ Secretary shall provide the producer and the handler or dealer an opportunity for hearing.

* * * Weights and Measures * * *

Sec. 19. 9 V.S.A. § 2633 is amended to read:

§ 2633. SPECIFIC POWERS AND DUTIES OF SECRETARY;
REGULATIONS

(a) The Secretary shall issue from time to time reasonable regulations for the enforcement of this chapter, which regulations shall have the force and effect of law. These regulations may include (1) standards of net weight, measure, or count, and reasonable standards of fill, for any commodity in package form, (2) rules governing the technical and reporting procedures to be followed and the report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their official duties, (3) exemptions from the sealing or marking requirements of section 2639 of this title with respect to weights and measures of such character or size that such sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question. These regulations shall include specifications, tolerances, and other technical requirements for weights and measures of the character of those specified in section 2635 of this title, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official standards, those (1) that are not accurate, (2) that are of such construction that they are faulty—that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly—or (3) that facilitate the perpetration of fraud.

(b) The specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering, and other weighing and measuring devices, as adopted by the national conference on weights and measures and published in National Institute of Standards and Technology Handbook 44, "Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices," and supplements thereto, or revisions thereof, shall apply to weighing and measuring devices in the State, except insofar as modified or rejected by regulation.

(c) The uniform regulation for packaging and labeling, the uniform regulation for unit pricing, and the uniform regulation for the method of sale of commodities, except for bread, as adopted by the national conference on weights and measures, and published by the National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations," together with amendments, supplements, and revisions thereto, are adopted as part of this chapter except as modified or rejected by regulation.

* * * VEDA; Water Quality Initiatives * * *

Sec. 20. 10 V.S.A. § 280a is amended to read:

§ 280a. ELIGIBLE PROJECTS; AUTHORIZED FINANCING PROGRAMS

(a) The Authority may develop, modify, and implement any existing or new financing program, provided that any specific project that benefits from such program shall meet the criteria contained in the Vermont Sustainable Jobs Strategy adopted under section 280b of this title, and provided further that the program shall meet the criteria contained in the Vermont Sustainable Jobs Strategy adopted under section 280b of this title. These programs may include:

* * *

(11) a program that would award grants made to eligible and qualified recipients as directed by the Agency of Agriculture, Food and Markets or the Agency of Natural Resources for the purpose of funding ~~stream stability and conservation reserve enhancement environmental~~ water quality initiatives approved by the agencies, provided that the maximum amount of grants awarded by the Authority pursuant to the program shall not exceed \$1,340,238.00 in the aggregate.

* * *

Sec. 21. VEDA FINANCING OF WATER QUALITY INITIATIVES

Notwithstanding 32 V.S.A. § 706, the Vermont Economic Development Authority is authorized to transfer to the Agency of Agriculture, Food and Markets funds held by VEDA for water quality programs pursuant to 10

V.S.A. § 280a(11).

* * * Working Lands Enterprise Program * * *

Sec. 22. 6 V.S.A. § 4604 is amended to read:

§ 4604. LEGISLATIVE INTENT

It is the intent of the General Assembly in adopting this subchapter to create a working lands enterprise board to administer a fund and develop policy recommendations to:

* * *

(8) increase the amount of State investment in working lands enterprises, particularly when it leverages private and philanthropic funds; ~~and~~

(9) support the people and businesses that depend on Vermont's renewable land-based resources and the sustainable and productive use of the land by coordinating and integrating financial products and programs; ~~and~~

(10) provide priority funding to agricultural and forest product enterprises. The priority for funding agricultural and forest product enterprises is not intended to exclude funding for technical assistance that directly supports enterprise development.

Sec. 23. 6 V.S.A. § 4606(b) is amended to read:

(b) Organization of Board. The Board shall be composed of:

(1) the Secretary of Agriculture, Food and Markets or designee, who shall serve as chair;

(2) the Commissioner of Forests, Parks and Recreation or designee;

(3) the Secretary of Commerce and Community Development or designee;

(4) the following members appointed by the Speaker of the House:

(A) one member who is a ~~representative of the Vermont forest industry who is also a~~ consulting forester;

(B) one member who is actively engaged in ~~commodity~~ maple production;

(C) one member who is actively engaged in on-farm value-added processing;

(D) one member who is actively engaged in manufacturing or distribution of Vermont agricultural products; and

(E) one member with expertise in sales, marketing, or market

development;

(5) the following members appointed by the Senate Committee on Committees:

(A) one member who is actively engaged in wood products manufacturing;

~~(B) one member who is a representative of one of the two largest membership-based agricultural organizations in Vermont who is not a dairy farmer~~ involved in production agriculture whose primary enterprise is not fluid milk;

(C) one member who is actively engaged in primary wood processing or logging;

(D) one member who is an agriculture and forestry enterprise funder; and

(E) one member who is a person with expertise in rural economic development; and

(6) the following members appointed by the Governor:

(A) one member who is a representative of Vermont's dairy industry who is also a dairy farmer;

(B) one member who is a representative of ~~a membership-based forestland owner organization~~ Vermont's forestry industry who is also a working forest landowner;

(C) one member with expertise in land planning and conservation efforts that support Vermont's working landscape; and

(D) one member who is an employee of a Vermont institution engaged in agriculture or forestry education, training, or research; and

~~(7) the following members appointed by the Vermont Agricultural and Forest Products Development Board:~~

~~(A) one member who is actively engaged in value-added agricultural products manufacturing; and~~

~~(B) two members actively engaged in providing marketing assistance, market development, or business and financial planning;~~

~~(8)~~(7) the following members, who shall serve as ex officio, nonvoting members:

(A) the Manager of the Vermont Economic Development Authority or designee;

(B) the Executive Director of the Vermont Sustainable Jobs Fund or designee; and

(C) the Executive Director of the Vermont Housing Conservation Board or designee.

Sec. 24. 6 V.S.A. § 4607 is amended to read:

§ 4607. POWERS AND DUTIES OF THE VERMONT WORKING LANDS ENTERPRISE BOARD

(a) Duties. The Vermont Working Lands Enterprise Board is charged with:

(1) optimizing the agricultural and forest use of Vermont lands and other agricultural resources;

(2) expanding existing markets and identifying and developing new profitable in-state and out-of-state markets for food, fiber, forest products, and value-added agricultural products, including farm-derived renewable energy; and

(3) identifying opportunities and challenges related to access to capital, infrastructure, product development, marketing, training, research, and education.

(b) Powers. The Vermont Working Lands Enterprise Board shall have the authority:

(1) to design and conduct an ongoing public engagement process, which may include taking testimony and receiving information from any party interested in the Board's activities;

(2) to gain information through the use of experts, consultants, and data to perform analysis as needed;

(3) to request services from State economists, State administrative agencies, and State programs;

(4) to obtain information from other planning entities, including the Farm to Plate Investment Program;

(5) to serve as a resource for and make recommendations to the Administration and the General Assembly on ways to improve Vermont's laws, regulations, and policies in order to attain the goals set forth in section 4604 of this title;

~~(4)~~(6) to establish an application process and eligibility criteria for awarding grants, loans, incentives, and other investments in agricultural and forestry enterprises and in food and forest systems, provided that the Board shall prioritize assistance under this chapter to a person engaged in farming or

forestry before providing assistance to a nonprofit organization or nonprofit corporation for a project that competes with a person engaged in farming or forestry;

~~(2)~~(7) to award grants and other investments, which may include loans underwritten and administered through the Vermont Economic Development Authority;

~~(3)~~(8) to enter into performance contracts with one or more persons in order to provide investment and services to agricultural and forestry enterprises, including:

(A) technical assistance and product research services;

(B) marketing assistance, market development, and business and financial planning;

(C) organizational, regulatory, and development assistance; and

(D) feasibility studies of facilities or capital investments to optimize construction and other cost efficiencies;

~~(4)~~(9) to identify workforce needs and programs in order to develop training and incentive opportunities for the agriculture and forest product sectors after consulting with the Department of Labor;

~~(5)~~(10) to identify strategic statewide infrastructure and investment priorities considering:

(A) leveraging opportunities;

(B) economic clusters;

(C) return-on-investment analysis;

(D) other considerations the Board determines appropriate; and

~~(6)~~(11) ~~to pursue and accept grants or other funding from any public or private source and to administer such grants or funding consistent with their terms.~~ to develop an annual operating budget, and:

(A) solicit and accept any grants, gifts, or appropriations necessary to implement the budget pursuant to 32 V.S.A. § 5; and

(B) expend any monies necessary to carry out the purposes of this section.

~~(b)~~(c) Staff support. The Agency of Agriculture, Food and Markets shall provide administrative support to the extent authorized by the Secretary of Agriculture, Food and Markets, and with the assistance of the Department of Forests, Parks and Recreation to the extent authorized by the Commissioner of

Forests, Parks and Recreation, in order to support the ~~board~~ Board in the performance of its duties pursuant to this section.

Sec. 25. REPEAL OF VERMONT AGRICULTURAL AND FOREST PRODUCTS DEVELOPMENT BOARD

6 V.S.A. § 2966 (Agricultural and Forest Products Development Board) shall be repealed on July 1, 2015.

Sec. 26. [Deleted.]

* * *Animal Shelter Working Group* * *

Sec. 26a. ANIMAL SHELTER WORKING GROUP

(a) Creation. There is created an Animal Shelter Working Group for the purpose of making recommendations to the General Assembly related to standards and requirement for the adequate shelter of animals.

(b) Membership. The Animal Shelter Working Group shall be composed of:

(1) the Secretary of Agriculture, Food and Markets or designee;

(2) a representative of the Vermont Humane Federation, appointed by the Governor;

(3) a representative of the Vermont Veterinary Medical Association, appointed by the Speaker of the House;

(4) a representative of the Vermont Federation of Dog Clubs, appointed by the Committee on Committees; and

(5) a representative of the Vermont Animal Control Association, appointed by the Governor.

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

(1) review current State requirements for adequate shelter of animals; and

(2) analyze the sufficiency of the State requirements for adequate shelter of animals and whether they should be amended.

(d) Assistance. The Animal Shelter Working Group shall have the administrative, technical, and legal assistance of the Agency of Agriculture, Food and Markets.

(e) Report. On or before January 15, 2016, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forest Products a written report

containing the findings of the Animal Shelter Working Group. The report shall include:

(1) the recommendation of the Working Group as to whether and how the existing State requirements for the shelter of animals should be amended; and

(2) recommended draft legislation to implement any recommendations of the Working Group.

(f) Meetings.

(1) The Secretary of Agriculture, Food and Markets shall call the first meeting of the Animal Shelter Working Group to occur on or before September 1, 2015.

(2) The members of the Working Group shall select a chair from among its members at the first meeting.

(3) A majority of the membership of the Working Group shall constitute a quorum.

(4) The Animal Shelter Working Group shall cease to exist on January 16, 2016.

(g) Reimbursement. Members of the Animal Shelter Working Group shall not be entitled to compensation or reimbursement for participation in the Working Group.

Sec. 27. [Deleted.]

Sec. 28. [Deleted.]

* * * Unpasteurized Milk * * *

Sec. 29. 6 V.S.A. chapter 152 is amended to read:

CHAPTER 152. SALE OF UNPASTEURIZED (RAW) MILK

* * *

§ 2777. STANDARDS FOR THE SALE OF UNPASTEURIZED (RAW) MILK

* * *

(c) Unpasteurized milk operations shall conform to reasonable sanitary standards, including:

(1)(A) Unpasteurized milk shall be derived from healthy animals which are subject to appropriate veterinary care, including ~~tuberculosis and brucellosis testing and rabies vaccination~~; according to accepted testing and

~~vaccinations~~ vaccination standards as established by the Agency.

(B) A producer shall ensure that all ruminant animals are tested for brucellosis and tuberculosis, according to accepted testing standards established by the Agency, prior to the sale of unpasteurized milk.

(C) A producer shall ensure that dairy animals entering the producer's milking herd, including those born on the farm, are tested for brucellosis and tuberculosis, according to accepted testing standards established by the Agency, prior to the animals milk being sold to consumers, unless:

(i) The dairy animal has a negative U.S. Department of Agriculture approved test for brucellosis within 30 days prior to importation into the State, in which case a brucellosis test shall not be required;

(ii) The dairy animal has a negative U.S. Department of Agriculture approved tuberculosis test within 60 days prior to importation into the State, in which case a tuberculosis test shall not be required;

(iii) The dairy animal leaves and subsequently reenters the producer's herd from a state or Canadian province that is classified as "certified free" of brucellosis and "accredited free" of tuberculosis or an equivalent classification, in which case a brucellosis or tuberculosis test shall not be required.

~~Test~~ A producer shall post test results and verification of vaccinations shall be posted on the farm in a prominent place and be easily visible make results available to customers and the Agency.

* * *

(d) Unpasteurized milk shall conform to the following production and marketing standards:

* * *

(6) Customer inspection and notification.

~~Prior to selling milk to a new customer, the new customer shall visit the farm and the~~ The producer shall provide the customer with the opportunity to tour the farm and any area associated with the milking operation. The producer shall permit the customer to return to the farm at a reasonable time and at reasonable intervals to reinspect any areas associated with the milking operation.

* * *

~~Producers~~ A producer selling 87.5 or fewer gallons (350 quarts) of

unpasteurized milk per week shall meet the requirements of subsections (a) through (d) of this section and shall sell unpasteurized milk only from the farm on which it was produced. A producer selling 87.5 or fewer gallons of unpasteurized milk may choose to meet the requirements of subsection (f) of this section, in which case the producer may deliver in accordance with section 2778 of this title.

(f) ~~Producers~~ A producer selling ~~6~~ more than 87.5 gallons to ~~280~~ 350 gallons (more than 350 to ~~1,120~~ 1,400 quarts) of unpasteurized milk per week shall meet the requirements of subsections (a) through (d) of this section as well as the following standards:

* * *

(3) Testing.

(A) A producer shall have unpasteurized milk tested twice per month by a U.S. Food and Drug Administration accredited laboratory using accredited lab approved testing containers. Milk shall be tested for the following and the results shall be below these limits:

- (i) total bacterial (aerobic) count: 15,000 cfu/ml (cattle and goats);
- (ii) total coliform count: 10 cfu/ml (cattle and goats);
- (iii) somatic cell count: 225,000/ml (cattle); 500,000/ml (goats).

(B) The producer shall ~~assure~~ ensure that all test results are forwarded to the Agency, by the laboratory, upon completion of testing or within five days of receipt of the results by the producer.

* * *

(D) The Secretary shall issue a warning to a producer when any two out of four consecutive, monthly tests exceed the limits. The Secretary shall have the authority to suspend unpasteurized milk sales if any three out of five consecutive, monthly tests exceed the limits until an acceptable sample result is achieved. The Secretary shall not require a warning to the consumer based on a high test result.

* * *

(6) ~~Prearranged~~ Off-farm delivery. ~~Prearranged~~ The delivery of unpasteurized milk is permitted and shall be in compliance with section 2778 of this title.

(g) The sale of more than ~~280~~ 350 gallons (~~1,120~~ 1,400 quarts) of unpasteurized milk in any one week is prohibited.

§ 2778. DELIVERY OF UNPASTEURIZED (RAW) MILK

(a) Delivery of unpasteurized milk off the farm is permitted only within the State of Vermont and only of milk produced by ~~those producers~~ a producer meeting the requirements of subsection 2777(f) of this chapter.

(b) Delivery shall conform to the following requirements:

(1) Delivery shall be to ~~customers who have~~ a customer who has:

~~(A) visited the farm as required under subdivision 2777(d)(4) of this title; and~~

~~(B) purchased milk in advance either by a one-time payment or through a subscription.~~ Milk is purchased in advance of delivery when payment is provided prior to delivery at the customer's home or prior to commencement of the farmers' market where the customer receives delivery.

(2) ~~Delivery shall be~~ A producer may deliver directly to the customer:

(A) at the customer's home or into a refrigerated unit at the customer's home if such unit is capable of maintaining the unpasteurized milk at 40 degrees Fahrenheit or lower until obtained by the customer;

(B) at a farmers' market, as that term is defined in section 5001 of this title, where the producer is a vendor;

(3) During delivery, unpasteurized milk shall be protected from exposure to direct sunlight.

(4) During delivery, unpasteurized milk shall be kept at 40 degrees Fahrenheit or lower at all times.

(c) A producer may contract with another individual to deliver the unpasteurized milk in accordance with this section. The producer shall be jointly and severally liable for the delivery of the unpasteurized milk in accordance with this section.

(d) Prior to delivery at a farmers' market under this section, a producer shall submit to the Agency of Agriculture, Food and Markets, ~~on a form provided by the Agency,~~ written or electronic notice of intent to deliver unpasteurized milk at a farmers' market. The notice shall:

(1) include the producer's name and proof of registration;

(2) identify the farmers' market or markets where the producer will deliver milk; and

(3) specify the day or days of the week on which delivery will be made at a farmers' market.

(e) A producer delivering unpasteurized milk at a farmers' market under

this section shall display the registration required under subdivision 2777(f)(4) of this title and the sign required under subdivision 2777(d)(6) on the farmers' market stall or stand in a prominent manner that is clearly visible to consumers.

* * * Effective Dates * * *

Sec. 30. EFFECTIVE DATES

(a) This section and Sec. 29 (unpasteurized milk) shall take effect on passage.

(b) The remainder of the act shall take effect on July 1, 2015.

(For text see House Journal 3/19/15)

NOTICE CALENDAR

Committee of Conference Report

H. 477

An act relating to miscellaneous amendments to election law

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House Bill entitled:

H. 477 An act relating to miscellaneous amendments to election law

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate proposal of amendment and the Senate proposal be further amended as follows:

First: In the first instance of amendment, in Sec. 6, 17 V.S.A. § 2386 (time for filing statements), in subsection (a), following “not later than 5:00 p.m. on the” by striking out “third” and inserting in lieu thereof sixth

Second: In the second instance of amendment, by striking out in its entirety Sec. 29b and inserting in lieu thereof the following:

Sec. 29b. [Deleted.]

Rep. Joanna Cole

Rep. Linda Martin

Rep. Mark Higley

Committee on the part of the House

Sen. Jeanette White
Sen. Joseph Benning
Sen. Anthony Pollina

Committee on the part of the Senate

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 5/14/2015.

H.C.R. 158

House concurrent resolution commemorating Vermont's role in the Civil War during 1865

H.C.R. 159

House concurrent resolution congratulating ECFiber on establishing its 1,000th customer connection

H.C.R. 160

House concurrent resolution congratulating Richard Albert Moore of Springfield on his induction into the Vermont Agricultural Hall of Fame

H.C.R. 161

House concurrent resolution in memory of former Representative Alvin W. Warner

H.C.R. 162

House concurrent resolution recognizing May 17–May 23, 2015, as National Public Works Week in Vermont

H.C.R. 163

House concurrent resolution honoring Montpelier's unique music man, Fred Wilber

H.C.R. 164

House concurrent resolution honoring Mary Riley for her dedicated civic and community service in Woodstock

H.C.R. 165

House concurrent resolution in memory of University of Vermont Professor Emeritus Alan Philip Wertheimer

H.C.R. 166

House concurrent resolution honoring L.D. Sutherland Jr. for his civic service on behalf of the State of Vermont and the town and village of Woodstock

H.C.R. 167

House concurrent resolution in memory of Eleanor G. Haskin

H.C.R. 168

House concurrent resolution commemorating the centennial anniversary of Powers Park in Lyndonville

H.C.R. 169

House concurrent resolution honoring Eric Thomas Buckley for his exemplary service as the Detachment of Vermont Commander of the Sons of the American Legion

H.C.R. 170

House concurrent resolution congratulating BROCC-Community Action in Southwestern Vermont on its 50th anniversary

H.C.R. 171

House concurrent resolution honoring outgoing Rutland City Fire Chief Robert L. Schlachter

H.C.R. 172

House concurrent resolution honoring Vermont Law School as it celebrates its 40th commencement

H.C.R. 173

House concurrent resolution in memory of Leslie Ann Bingham Williams of Calais

H.C.R. 174

House concurrent honoring University of Vermont Dean of Education and Social Services Fayneese S. Miller

H.C.R. 175

House concurrent resolution honoring the American Rail Dispatching Center in St. Albans

H.C.R. 176

House concurrent resolution congratulating the 2015 Champlain Valley Union High School Redhawks Division I championship girls' basketball team

H.C.R. 177

House concurrent resolution congratulating the Castleton State College Spartans 2015 North Atlantic Conference championship men's lacrosse team

H.C.R. 178

House concurrent resolution congratulating the Castleton State College Spartans 2015 North Atlantic Conference championship women's lacrosse team

H.C.R. 179

House concurrent resolution in memory of former Speaker, Vermont Supreme Court Chief Justice, and U.S. Federal District Judge Franklin Swift Billings Jr.

H.C.R. 180

House concurrent resolution congratulating the Youth Safety Council of Vermont on its tenth anniversary and designating June 2015 as Teen Highway Safety Month in Vermont

H.C.R. 181

House concurrent resolution congratulating the Castleton State College Spartans 2015 North Atlantic Conference championship baseball team

S.C.R. 17

Senate concurrent resolution congratulating Michael Stone on his selection as the National Football Foundation Vermont Chapter's 2015 Contribution to Amateur Athletics Award winner

S.C.R. 18

Senate concurrent resolution congratulating the Union Elementary School in Montpelier on its 75th birthday.

S.C.R. 19

Senate concurrent resolution congratulating Beth Downing on her selection as a Teacher Appreciation Week recipient of a courage telephone call from U.S. Secretary of Education Arne Duncan.

S.C.R. 20

Senate concurrent resolution honoring Giovanna Peebles on her career as Vermont's first State Archaeologist

S.C.R. 21

Senate concurrent resolution congratulating the Adamant Cooperative on its 80th anniversary

S.C.R. 22

Senate concurrent resolution congratulating Emily Packard on her race car driving accomplishments

S.C.R. 23

Senate concurrent resolution honoring Karen Lane on her exemplary librarianship as Director of the Aldrich Public Library in Barre

S.C.R. 24

Senate concurrent resolution honoring Colonel Thomas L'Esperance on his exemplary career with the Vermont State Police

Concurrent Resolutions

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 the end of the session of the next legislative day. 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.

H.C.R. 182

House concurrent resolution commemorating the opening of the eighth Brookfield Floating Bridge