

House Calendar

Tuesday, March 08, 2016

64th DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

TABLE OF CONTENTS

	Page No.
ACTION CALENDAR	
Action Postponed Until March 9, 2016	
Favorable with Amendment	
H. 851 The conduct of forestry operations.....	224
Rep. Hebert for Natural Resources and Energy	
ACTION CALENDAR	
Third Reading	
H. 458 Automatic voter registration through motor vehicle driver's license applications.....	224
H. 507 Eligibility for economic development in impaired waters of the State	225
H. 577 Voter approval of electricity purchases by municipalities and electric cooperatives	225
Committee Bill for Second Reading	
H. 854 Timber trespass.....	225
Rep. Forguites for Natural Resources and Energy	
H. 855 Forest fire suppression and forest fire wardens.....	225
Rep. Yantachka for Natural Resources and Energy	
Favorable with Amendment	
H. 130 The Agency of Public Safety.....	225
Rep. Hubert for Government Operations	
H. 829 Water quality on small farms	228
Rep. Beyor for Fish, Wildlife and Water Resources	

NOTICE CALENDAR

Favorable with Amendment

H. 112 Access to financial records in adult protective services investigations	229
Rep. Berry for Human Services	
H. 517 The classification of State waters	233
Rep. Deen for Fish, Wildlife and Water Resources	
H. 526 The Commissioner of Liquor Control and the Liquor Control Board	237
Rep. Stevens for General, Housing and Military Affairs	
H. 570 Hunting, fishing, and trapping	241
Rep. Willhoit for Fish, Wildlife and Water Resources	
H. 571 Driver’s license suspensions, driving with a suspended license, and DUI penalties	250
Rep. Conquest for Judiciary	
H. 674 Public notice of wastewater discharges	274
Rep. Sheldon for Fish, Wildlife and Water Resources	
H. 747 The State Treasurer’s authority to intercept State funding to a municipality or school district in default from a Municipal Bond Bank borrowing	278
Rep. Dickinson for Corrections and Institutions	
H. 778 State enforcement of the federal Food Safety and Modernization Act	279
Rep. Purvis for Agriculture and Forest Products	

Senate Proposal of Amendment

H. 84 Internet dating services	280
---	-----

ORDERS OF THE DAY

Action Postponed Until March 9, 2016

Favorable with Amendment

H. 851

An act relating to the conduct of forestry operations.

(Rep. Hebert of Vernon will speak for the Committee on Natural Resources & Energy.)

ACTION CALENDAR

Third Reading

H. 458

An act relating to automatic voter registration through motor vehicle driver's license applications

Amendment to be offered by Rep. Donahue of Northfield to H. 458

First: In Sec. 1, 17 V.S.A. § 2145a (registration at the department of motor vehicles), by striking out subdivision (b)(2)(C) in its entirety and inserting in lieu thereof the following:

(C) "In order to be registered to vote, you must: (1) be a U.S. citizen; (2) be a resident of Vermont; (3) have taken the voter's oath; and (4) be 18 years of age or older. Any person meeting the requirements of (1)–(3) who will be 18 years of age on or before the date of a general election may register and vote in the primary election immediately preceding that general election. Failure to decline to register is an attestation that you meet the requirements to vote. IF YOU ARE NOT ELIGIBLE TO VOTE AND YOU FAIL TO DECLINE TO REGISTER, you may be submitting a false voter registration application and may be subject to penalties of up to 15 years imprisonment or a \$10,000.00 fine, or both."

Second: In Sec. 2, 17 V.S.A. § 2145 (application forms), by adding after subdivision (a)(5) the following:

* * *

(f) A person who makes a false statement in completing a voter registration application form or the voter registration portion of an application for a motor vehicle driver's license or nondriver identification card knowing the statement to be false shall be subject to the penalties of perjury as provided in 13 V.S.A. § 2901.

* * *

H. 507

An act relating to eligibility for economic development in impaired waters of the State

H. 577

An act relating to voter approval of electricity purchases by municipalities and electric cooperatives

Committee Bill for Second Reading

H. 854

An act relating to timber trespass.

(Rep. Forguites of Springfield will speak for the Committee on **Natural Resources & Energy.**)

H. 855

An act relating to forest fire suppression and forest fire wardens.

(Rep. Yantachka of Charlotte will speak for the Committee on **Natural Resources & Energy.**)

Favorable with Amendment

H. 130

An act relating to the Agency of Public Safety

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

Sec. 1. AGENCY OF PUBLIC SAFETY; STUDY COMMITTEE; REPORT

(a) Creation. There is created the Agency of Public Safety Study Committee to recommend whether the General Assembly should enact legislation to create an Agency of Public Safety.

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

(1) one current member of the House of Representatives, who shall be appointed by the Speaker of the House;

(2) one current member of the Senate, who shall be appointed by the Committee on Committees;

(3) the Commissioner of Public Safety or designee;

(4) the Commissioner of Fish and Wildlife or designee;

- (5) the Commissioner of Motor Vehicles or designee;
- (6) the Commissioner of Liquor Control or designee;
- (7) the Executive Director of the Vermont Criminal Justice Training Council or designee;
- (8) the Chief of the Capitol Police Department or designee;
- (9) a sheriff appointed by the Executive Committee of the Vermont Sheriffs' Association;
- (10) a chief of a municipal police department, appointed by the Chiefs of Police Association of Vermont; and
- (11) one law enforcement officer appointed by the Vermont Police Association.

(c) Powers and duties. The Committee shall study the current coordination of law enforcement services in the State and whether the creation of an Agency of Public Safety would enhance that coordination. In its study, the Committee shall consider the following issues:

(1) Current law enforcement services. The current roles and duties of law enforcement officers in the State, including:

(A) how the types of crimes committed in this State have evolved, and how that evolution has affected the roles and duties of law enforcement officers;

(B) the manner in which State, county, and municipal law enforcement entities share or coordinate their services;

(C) whether the Vermont State Police's provision of general municipal and regional law enforcement services is sustainable; and

(D) whether any municipalities should be required to maintain their own police department or contract for regional policing with other municipalities or with sheriffs.

(2) Dispatch. The manner in which dispatch services are currently provided and funded and whether there should be any changes to this structure.

(3) Agency structure. If the Committee recommends that an Agency of Public Safety should be created, the Agency's structure, including:

(A) any issues with the proposed structure or operations of the Agency as set forth in this act as it was originally introduced (2015, H.130); and

(B) the entities that should be under the jurisdiction of the Agency, including whether any of the following entities should be added to the Agency:

- (i) the Vermont Criminal Justice Training Council;
- (ii) wardens of the Department of Fish and Wildlife;
- (iii) the Capitol Police Department;
- (iv) liquor control investigators; or
- (v) motor vehicle inspectors.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Report. On or before December 1, 2016, the Committee shall report to the House and Senate Committees on Government Operations with its findings and any recommendations for legislative action. The report may be in the form of proposed legislation.

(f) Meetings.

(1) The House and Senate members of the Committee shall call the first meeting of the Committee, to occur on or before August 1, 2016.

(2) The House and Senate members shall be co-chairs of the Committee.

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

(B) Notwithstanding 1 V.S.A. § 172, an action may be taken by the Committee with the assent of a majority of the members attending, assuming a quorum.

(4) The Committee shall cease to exist on December 2, 2016.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than five meetings.

(2) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than five meetings.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 10-0-1)

H. 829

An act relating to water quality on small farms

Rep. Beyor of Highgate, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. § 4810a(a) is amended to read:

§ 4810a. REQUIRED AGRICULTURAL PRACTICES; REVISION

(a) On or before July 1, 2016, the Secretary of Agriculture, Food and Markets shall amend by rule the required agricultural practices in order to improve water quality in the State, assure practices on all farms eliminate adverse impacts to water quality, and implement the small farm certification program required by section 4871 of this title. At a minimum, the amendments to the required agricultural practices shall:

(1) Specify those farms that:

(A) are required to comply with the small farm certification requirements under section 4871 of this title due to the potential impact of the farm or type of farm on water quality as a result of livestock managed on the farm, agricultural inputs used by the farm, or tillage practices on the farm; and

(B) shall be subject to the required agricultural practices, but shall not be required to comply with small farm certification requirements under section 4871 of this title.

(2)(A) ~~Prohibit~~ Except where approved by the Secretary, prohibit a farm from stacking or piling manure, storing fertilizer, or storing other nutrients on the farm:

(i) in a manner and location that presents a threat of discharge to a water of the State or presents a threat of contamination to groundwater; or

(ii) on lands in a floodway or otherwise subject to annual flooding.

(B) ~~In~~ Except for waste storage facilities designed by a licensed engineer, in no case shall manure stacking or piling sites, fertilizer storage, or other nutrient storage be located within 200 feet of a private well or within 200 feet of a water of the State, provided that the Secretary may authorize siting within 200 feet, but not less than 100 feet, of a private well or surface

water if the Secretary determines that a manure stacking or piling site, fertilizer storage, or other nutrient storage will not have an adverse impact on groundwater quality or a surface water quality.

* * *

~~(7) Prohibit the construction or siting of a farm structure for the storage of manure, fertilizer, or pesticide storage within a floodway area identified on a National Flood Insurance Program Map on file with a town clerk. [Repealed.]~~

(8) Regulate, in a manner consistent with the Agency of Natural Resources' flood hazard area and river corridor rules, the construction or siting of a farm structure or the storage of manure, fertilizer, or pesticides within a river corridor designated by the Secretary of Natural Resources.

* * *

Sec. 2. 6 V.S.A. § 4871(b) is amended to read:

(b) Required small farm certification. Beginning on July 1, 2017, a person who owns or operates a small farm, as designated by the Secretary consistent with section 4810a(1) of this title, shall, on a form provided by the Secretary, certify compliance with the required agricultural practices. The Secretary of Agriculture, Food and Markets shall establish the requirements and manner of certification of compliance with the required agricultural practices, provided that the Secretary shall require an owner or operator of a farm to submit an annual certification of compliance with the required agricultural practices.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 7-0-2)

NOTICE CALENDAR

Favorable with Amendment

H. 112

An act relating to access to financial records in adult protective services investigations

Rep. Berry of Manchester, for the Committee on **Human Services**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 6911 is amended to read:

§ 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

(a)(1) Information obtained through reports and investigations, including the identity of the reporter, shall remain confidential and shall not be released absent a court order, except as follows:

~~(1)~~(A) The investigative report shall be disclosed only to: the Commissioner or person designated to receive such records; persons assigned by the Commissioner to investigate reports; the person reported to have abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his or her representative; the Office of Professional Regulation when deemed appropriate by the Commissioner; the Secretary of Education when deemed appropriate by the Commissioner; the Commissioner for Children and Families or designee; for purposes of review of expungement petitions filed pursuant to section 4916c of this title; the Commissioner of Financial Regulation when deemed appropriate by the Commissioner for an investigation related to financial exploitation; a law enforcement agency; the State's Attorney, or the Office of the Attorney General, when the Department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

~~(2)~~(B) Relevant information may be disclosed to the Secretary of Human Services, or the Secretary's designee, for the purpose of remediating or preventing abuse, neglect, or exploitation; to assist the Agency in its monitoring and oversight responsibilities; and in the course of a relief from abuse proceeding, guardianship proceeding, or any other court proceeding when the Commissioner deems it necessary to protect the victim, and the victim or his or her representative consents to the disclosure. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

(2) Notwithstanding subdivision (1)(A) of this subsection, financial records made available to an adult protective services investigator pursuant to section 6915 of this title may be used only in a judicial or administrative proceeding or investigation directly related to a report required or authorized under this chapter. Relevant information may be disclosed to the Secretary of Human Services pursuant to subdivision (1)(B) of this subsection, and may also be disclosed to the Commissioner of Financial Regulation when the investigation relates to financial exploitation of a vulnerable adult.

* * *

Sec. 2. 33 V.S.A. § 6915 is added to read:

§ 6915. ACCESS TO FINANCIAL RECORDS

(a) As used in this chapter:

(1) “A person having custody or control of the financial records” means a financial institution as defined in 8 V.S.A. § 11101 or a credit union as defined in 8 V.S.A. § 30101.

(2) “Capacity” means an individual’s ability to make and communicate a decision regarding the issue that needs to be decided.

(b) A person having custody or control of the financial records of a vulnerable adult shall make the records or a copy of the records available to an adult protective services investigator upon receipt of a court order or receipt of the investigator’s written request.

(1) The request shall include a statement signed by the account holder, if he or she has capacity, or the account holder’s guardian with financial powers or agent under a power of attorney consenting to the release of the records to the investigator.

(2) If the vulnerable adult lacks capacity and does not have a guardian or agent, or if the vulnerable adult lacks capacity and his or her guardian or agent is the alleged perpetrator, the request shall include a statement signed by the investigator asserting that all of the following conditions exist:

(A) The account holder is an alleged victim of abuse, neglect, or financial exploitation.

(B) The alleged victim lacks the capacity to consent to the release of the financial record.

(C) Law enforcement is not involved in the investigation or has not requested a subpoena for the records.

(D) The alleged victim will suffer imminent harm if the investigation is delayed while the investigator obtains a court order authorizing the release of the records.

(E) Immediate enforcement activity that depends on the records would be materially and adversely affected by waiting until the alleged victim regains capacity.

(F) The Commissioner of Disabilities, Aging, and Independent Living has personally reviewed the request and confirmed that the conditions set forth in subdivisions (A) through (E) of this subdivision (2) have been met

and that disclosure of the records is necessary to protect the alleged victim from abuse, neglect, or financial exploitation.

(c) If a guardian refuses to consent to the release of the alleged victim's financial records, the investigator may seek review of the guardian's refusal by filing a motion with the Probate Division of the Superior Court pursuant to 14 V.S.A. § 3062(c).

(d) If an agent under a power of attorney refuses to consent to the release of the alleged victim's financial records, the investigator may file a petition in Superior Court pursuant to 14 V.S.A. § 3510(b) to compel the agent to consent to the release of the alleged victim's financial records.

(e) The investigator shall include a copy of the written request in the alleged victim's case file.

(f) The person having custody or control of the financial records shall not require the investigator to provide details of the investigation to support the request for production of the records.

(g) The information requested and released shall be used only to investigate the allegation of abuse, neglect, or financial exploitation or for the purposes set forth in subdivision 6911(a) (1)(B) of this title and shall not be used against the alleged victim.

(h) The person having custody or control of the financial records shall provide the records to the investigator as soon as possible but, absent extraordinary circumstances, no later than 10 business days following receipt of the investigator's written request or receipt of a court order or subpoena requiring disclosure of the records.

(i) A person who in good faith makes an alleged victim's financial records or a copy of the records available to an investigator in accordance with this section shall be immune from civil or criminal liability for disclosure of the records unless the person's actions constitute gross negligence, recklessness, or intentional misconduct. Nothing in this section shall be construed to provide civil or criminal immunity to a person suspected of having abused, neglected, or exploited a vulnerable adult.

(j) The person having custody or control of the financial records of an alleged victim may charge the Department of Disabilities, Aging, and Independent Living no more than the actual cost of providing the records to the investigator and shall not refuse to provide the records until payment is received. A financial institution shall not charge the Department for the records if the financial institution would not charge if the request for the records had been made directly by the account holder.

Sec. 3. 8 V.S.A. § 10204 is amended to read:

§ 10204. EXCEPTIONS

This subchapter does not prohibit any of the activities listed in this section. This section shall not be construed to require any financial institution to make any disclosure not otherwise required by law. This section shall not be construed to require or encourage any financial institution to alter any procedures or practices not inconsistent with this subchapter. This section shall not be construed to expand or create any authority in any person or entity other than a financial institution.

* * *

(25) Reports or disclosure of financial records and other information to the Department of Disabilities, Aging, and Independent Living, pursuant to 33 V.S.A. §§ 6903(b) ~~and~~, 6904, and 6915.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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

H. 517

An act relating to the classification of State waters

Rep. Deen of Westminster, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1252 is amended to read:

§ 1252. CLASSIFICATION OF HIGH QUALITY WATERS; MIXING
ZONES

(a) The State adopts, for the purposes of individually classifying the uses of its high quality waters, the following classes and definitions ~~thereof~~:

~~Class A. (1) Suitable for public water supply with disinfection when necessary; character uniformly excellent; or~~

~~(2) High quality waters which~~ Class A(1): Waters in a natural condition that have significant ecological value; or

Class A(2): Waters that are suitable for a public water source with filtration and disinfection or other required treatment; character uniformly excellent.

~~Class B.~~ Suitable Class B(1): Waters in which one or more uses are of higher quality than Class B(2) waters;

Class B(2): Waters that are suitable for ~~bathing~~ swimming and other primary contact recreation; irrigation and agricultural uses; ~~good fish~~ aquatic biota and aquatic habitat; good aesthetic value; ~~acceptable~~ boating, fishing, and other recreational uses and suitable for public water supply source with filtration and disinfection or other required treatment.

* * *

Sec. 2. 10 V.S.A. § 1253 is amended to read:

§ 1253. CLASSIFICATION OF WATERS DESIGNATED,
RECLASSIFICATION

(a) The waters of all lakes, ponds, and reservoirs, natural or artificial, used exclusively ~~for~~ as a public water supply source prior to July 1, 1971, and all waters flowing into such lakes, ponds, and reservoirs, and all waters located above 2,500 feet altitude, National Geodetic Vertical Datum, are designated Class A waters and shall be maintained as such unless reclassified.

(b) The remaining waters, ~~except as otherwise classified by the Board prior to July 1, 1971,~~ are designated Class B(2) waters and shall be maintained as such unless reclassified. ~~All waters designated as Class C waters prior to July 1, 1992, are designated Class B waters and shall be maintained as such unless reclassified.~~

(c) On its own motion, or on receipt of a written request that the Secretary adopt, amend, or repeal a reclassification rule, the Secretary shall comply with 3 V.S.A. § 806 and may initiate a rulemaking proceeding to reclassify one or more uses of all or any portion of the affected waters in the public interest. In the course of this proceeding, the Secretary shall comply with the provisions of 3 V.S.A. chapter 25, and may hold a public hearing convenient to the waters in question. If the Secretary finds that the established classification is contrary to the public interest and that reclassification is in the public interest, he or she shall file a final proposal of reclassification in accordance with 3 V.S.A. § 841. If the Secretary finds that it is in the public interest to change the classification of any pond, lake, or reservoir designated as Class A ~~waters by subsection (a) of this section~~ for a public water source, the Secretary shall so advise and consult with the Department of Health and shall provide in its reclassification rule a reasonable period of time before the rule becomes effective. During that time, any municipalities or persons whose water supply source is affected shall construct filtration and disinfection facilities or convert to a new water source ~~of water supply.~~

(d)(1) Through the process of basin planning, the Secretary shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by the Board before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The Secretary shall prepare and maintain an overall surface water management plan to assure that the State water quality standards are met in all State waters. The surface water management plan shall include a schedule for updating the basin plans. The Secretary, in consultation with regional planning commissions and natural resource conservation districts, shall revise all 15 basin plans and update the basin plans on a five-year rotating basis. On or before January 15 of each year, the Secretary shall report to the House Committees on Agriculture and Forest Products, on Natural Resources and Energy, and on Fish, Wildlife and Water Resources, and to the Senate Committees on Agriculture and on Natural Resources and Energy regarding the progress made and difficulties encountered in revising basin plans. The report shall include a summary of basin planning activities in the previous calendar year, a schedule for the production of basin plans in the subsequent calendar year, and a summary of actions to be taken over the subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(2) In developing a basin plan under this subsection, the Secretary shall:

(A) identify waters that should be reclassified ~~as Class A waters or~~ outstanding resource waters or that should have one or more uses reclassified under section 1252 of this title;

(B) identify wetlands that should be reclassified as Class I wetlands;

(C) identify projects or activities within a basin that will result in the protection and enhancement of water quality;

(D) assure that municipal officials, citizens, watershed groups, and other interested groups and individuals are involved in the basin planning process;

(E) assure regional and local input in State water quality policy development and planning processes;

(F) provide education to municipal officials and citizens regarding the basin planning process;

(G) develop, in consultation with the applicable regional planning commission, an analysis and formal recommendation on conformance with the goals and objectives of applicable regional plans;

(H) provide for public notice of a draft basin plan; and

(I) provide for the opportunity of public comment on a draft basin plan.

(3) The Secretary shall, contingent upon the availability of funding, contract with a regional planning commission to assist in or to produce a basin plan under the schedule set forth in subdivision (1) of this subsection. When contracting with a regional planning commission to assist in or produce a basin plan, the Secretary may require the regional planning commission to:

(A) conduct any of the activities required under subdivision (2) of this subsection;

(B) provide technical assistance and data collection activities to inform municipal officials and the State in making water quality investment decisions;

(C) coordinate municipal planning and adoption or implementation of municipal development regulations to better meet State water quality policies and investment priorities; or

(D) assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to assure cost effective use of State and federal funds.

(e) In determining the question of public interest, the Secretary shall give due consideration to, and explain his or her decision with respect to, the following:

(1) existing and obtainable water qualities;

(2) existing and potential use of waters ~~for~~ as a public water ~~supply~~ source, recreational, agricultural, industrial, and other legitimate purposes;

(3) natural sources of pollution;

(4) public and private pollution sources and the alternative means of abating the same;

(5) consistency with the State water quality policy established in ~~10 V.S.A. §~~ section 1250 of this title;

(6) suitability of waters as habitat for fish, aquatic life, and wildlife;

(7) need for and use of minimum streamflow requirements;

(8) federal requirements for classification and management of waters;

(9) consistency with applicable municipal, regional, and State plans; and

(10) any other factors relevant to determine the maximum beneficial use and enjoyment of waters.

(f) Notwithstanding the provisions of subsection (c) of this section, when reclassifying waters to Class A, the Secretary need find only that the reclassification is in the public interest.

(g) The Secretary under the reclassification rule may grant permits for only a portion of the assimilative capacity of the receiving waters, or may permit only indirect discharges from on-site disposal systems, or both.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(**Committee Vote: 8-1-0**)

H. 526

An act relating to the Commissioner of Liquor Control and the Liquor Control Board

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

Sec. 1. 7 V.S.A. § 101 is amended to read:

§ 101. COMPOSITION OF DEPARTMENT; COMMISSIONER OF LIQUOR CONTROL; LIQUOR CONTROL BOARD

(a) The Department of Liquor Control, created by 3 V.S.A. § 212, shall include the Commissioner of Liquor Control and the Liquor Control Board.

(b)(1) The Liquor Control Board shall consist of five persons, not more than three members of which shall belong to the same political party.

(2)(A) ~~Biennially, with~~ With the advice and consent of the Senate, the Governor shall appoint ~~a person as a member~~ members of ~~such~~ the Board for a ~~staggered five-year term, whose staggered five-year terms.~~

(B) The Governor shall fill a vacancy occurring during a term by appointment for the unexpired term in accordance with the provisions of 3 V.S.A. § 257(b).

(C) A member's term of office shall commence on February 1 of the year in which ~~such appointment is made~~ the member is appointed.

(3) A member of the Board may serve for no more than two consecutive terms.

(4) The Governor shall biennially designate a member of ~~such~~ the Board to be its Chair.

Sec. 2. 7 V.S.A. § 106 is amended to read:

§ 106. COMMISSIONER OF LIQUOR CONTROL; REPORTS;

RECOMMENDATIONS

~~The board shall employ an executive officer, who shall be the secretary of the board and shall be called the commissioner of liquor control. The commissioner shall be appointed for an indefinite period and shall be subject to removal upon the majority vote of the entire board. At such times and in such detail as the board directs, the commissioner shall make reports to the board concerning the liquor distribution system of the state, together with such recommendations as he deems proper for the promotion of the general good of the state.~~

(a)(1) With the advice and consent of the Senate, the Governor shall appoint from among no fewer than three candidates proposed by the Liquor Control Board a Commissioner of Liquor Control for a term of four years.

(2) The Board shall review the applicants for the position of Commissioner of Liquor Control and by a vote of the majority of the members of the Board shall select candidates to propose to the Governor. The Board shall consider each applicant's administrative expertise and his or her knowledge regarding the business of distributing and selling alcoholic beverages.

(3) If a vacancy occurs for a reason other than the expiration of a term, the Governor, in consultation with the Liquor Control Board, shall fill the vacancy by appointing a Commissioner for the unexpired portion of the term in accordance with the provisions of 3 V.S.A. § 257(b).

(b) The Commissioner shall serve at the pleasure of the Governor until the end of the term for which he or she is appointed or until a successor is appointed.

Sec. 3. 7 V.S.A. § 107 is amended to read:

§ 107. DUTIES OF COMMISSIONER OF LIQUOR CONTROL

The Commissioner of Liquor Control shall:

(1) In towns ~~which~~ that vote to permit the sale of spirits and fortified wines, establish ~~such number of~~ local agencies ~~therein~~ as the Board shall determine, ~~enter into agreements for the rental of necessary and adequate quarters, and employ suitable assistants for the operation thereof.~~ However, it ~~shall not be obligatory upon~~ the Liquor Control Board shall not be obligated to establish an agency in every town ~~which~~ that votes to permit the sale of spirits and fortified wines.

(2) ~~Make regulations~~ Recommend rules subject to ~~the approval of and adoption by~~ the Board governing the hours during which ~~such~~ local agencies shall be open for the sale of spirits and fortified wines ~~and governing~~, the qualifications, ~~department, and salaries~~ of the agencies' employees, and the business, operational, financial, and revenue standards that must be met for the establishment of an agency and its continued operation.

(3) ~~Make regulations~~ Recommend rules subject to ~~the approval of and adoption by~~ the Board governing:

(A) the prices at which spirits shall be sold by local agencies, the method for their delivery, and the quantities of spirits that may be sold to any one person at any one time; and

(B) the minimum prices at which fortified wines shall be sold by local agencies and second-class licensees that hold fortified wine permits, the method for their delivery, and the quantities of fortified wines that may be sold to any one person at any one time.

(4) Supervise the quantities and qualities of spirits and fortified wines to be kept as stock in local agencies and ~~make regulations~~ recommend rules subject to ~~the approval of and adoption by~~ the Board regarding the filling of requisitions therefor on the Commissioner of Liquor Control.

(5) Purchase through the Commissioner of Buildings and General Services spirits and fortified wines for and in behalf of the Liquor Control Board, supervise ~~the their~~ storage thereof and ~~the~~ distribution to local agencies, druggists ~~and, licensees of the third class,~~ third-class licensees, and holders of fortified wine permits, and ~~make regulations~~ recommend rules subject to ~~the approval of and adoption by~~ the Board regarding the sale and delivery from the central storage plant.

(6) Check and audit the income and disbursements of all local agencies, and the central storage plant.

(7) Report to the Board regarding the State's liquor control system and make recommendations for the promotion of the general good of the State.

(8) Devise methods and plans for eradicating intemperance and promoting the general good of the ~~state~~ State and make effective such methods and plans as part of the administration of this title.

Sec. 4. RULEMAKING

On or before July 1, 2017, the Commissioner shall prepare and submit to the Liquor Control Board for its approval and adoption his or her recommendation for rules to govern the business, operational, financial, and revenue standards for local agencies as necessary to implement this act.

Sec. 5. LEGISLATIVE COUNCIL; DRAFT LEGISLATION

On or before January 15, 2017, the Legislative Council, in consultation with the Commissioner of Liquor Control, the Liquor Control Board, and the Office of the Attorney General, shall prepare and submit a draft bill to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs that makes statutory amendments of a technical nature to improve the clarity of Title 7 through the reorganization of its provisions and the modernization of its statutory language. The draft bill shall also identify all statutory sections of Title 7 that the General Assembly must amend substantively in order to remove out-of-date and obsolete provisions or to more accurately reflect the current practices and programs of the Liquor Control Board and the Department of Liquor Control.

Sec. 6. 7 V.S.A. § 102 is amended to read:

§ 102. REMOVAL

After ~~Notwithstanding any provision of 3 V.S.A. § 2004 to the contrary,~~ after notice and hearing, the ~~governor~~ Governor may remove a member of the ~~liquor control board~~ Liquor Control Board for incompetency, failure to discharge his or her duties, malfeasance, immorality, or other cause inimical to the general good of the ~~state~~ State. In case of such removal, the ~~governor~~ Governor shall appoint a person to fill the unexpired term.

Sec. 7. COMMISSIONER OF LIQUOR CONTROL; CURRENT TERM;

APPOINTMENT OF SUCCESSOR

The Commissioner of Liquor Control in office on the effective date of this act shall be deemed to have commenced a four-year term pursuant to 7 V.S.A. § 106(a)(1) on February 1, 2016. The Commissioner shall serve until the end of the four-year term, or until a successor is appointed as provided pursuant to 7 V.S.A. § 106. Notwithstanding any provision of 3 V.S.A. § 2004 or 7 V.S.A. § 106(b) to the contrary, during this current term, the Governor may remove the Commissioner for cause after notice and a hearing.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee Vote: 7-0-1)

H. 570

An act relating to hunting, fishing, and trapping

Rep. Willhoit of St. Johnsbury, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 4083 is amended to read:

§ 4083. FISH

Any regulation or amendment thereto adopted pursuant to this subchapter ~~which~~ that relates to fish may apply to all or any portion of the State and may ~~de~~ address any or all of the following as to any species or varieties of fish:

(1) ~~Establish~~ establish, extend, shorten, or abolish open seasons; and closed seasons;

(2) ~~Establish~~ establish, change, or abolish daily limits, season limits, possession limits, and size limits;

(3) ~~Establish~~ establish and change territorial limits for the pursuit, taking, or killing of any species or varieties, and close or open lakes, streams, or parts thereof;

(4) ~~Prescribe~~ prescribe the manner and the means of pursuing, taking, or killing any species or variety, including the prescribing of type or kinds of bait, lures, tackle, equipment, traps, or any other means or devices for taking such fish;

(5) ~~Prescribe~~ prescribe such rules relating to transportation and exportation of fish as may be necessary for the enforcement of this part;

(6) establish rules regarding the purchase and sale of fish caught in Vermont, including: prohibiting the sale of specified fish; seasons; limits; reporting requirements; and the manner and means of pursuing or taking fish, in accordance with the requirements of part 4 of this title.

Sec. 2. 10 V.S.A. § 4611 is amended to read:

§ 4611. SALE OF SALMON, TROUT, AND BLACK BASS

(a) A person shall not buy or sell a salmon, trout, lake trout, walleye, northern pike, muskellunge, ~~or~~ black bass, or any other fish specified by rule by the Board taken in this State, or imported from another state or country where sale of such fish is prohibited, except such fish reared in licensed propagation farms within the State.

(b) A person shall not buy or sell fish caught in Vermont without a permit issued by the Commissioner, as required under the rules of the Board and the requirements of part 4 of this title. A propagation farm with a valid permit issued under 10 App. V.S.A. § 117 shall not be required to obtain a permit under this section.

Sec. 3. 10 V.S.A. § 4605 is amended to read:

§ 4605. PLACING FISH IN WATERS; FISH IMPORTATION PERMITS

(a) A person shall not introduce or attempt to introduce:

~~(1) pickerel or northern pike into any waters; or~~

(2) any fish, ~~except trout or salmon,~~ into any waters except private ponds lacking access to other waters of the State without a permit issued by the Commissioner under this section or rules adopted by the Commissioner under subsection (c) of this section.

(b) A person shall not bring into the State for the purpose of planting or introducing, or to plant or introduce, into any of the inland or outlying waters of the State any live fish or the live spawn thereof, unless, upon application in writing therefor, the person obtains from the Commissioner a permit so to do. ~~The permit may include conditions which the Commissioner finds necessary to guard the health of Vermont's fish population.~~

(c) The Commissioner may, by rule:

(1) Require a permit to introduce or attempt to introduce specific fish species into a specific water of the State based on management purposes.

(2) Prohibit the introduction or attempt at introduction of fish to specific waters of the State based on management purposes, ecosystem considerations, or the health and safety of Vermont's fish population.

~~(3) adopt~~ Adopt a list of fish which, if introduced into Vermont waters, have the potential to cause harm to the fish population of the State. A person shall not possess or bring into the State any fish on the list unless the person has received a permit issued pursuant to this subsection. The Commissioner may issue a permit allowing importation and possession of a fish on the list, provided the fish is to be kept in a controlled situation and used for a public purpose such as research or education. ~~A permit issued under this subsection shall include conditions that ensure the health and safety of Vermont's fish population.~~

(d) Applicants shall pay a permit fee of \$50.00. The Commissioner or duly authorized agents, shall make such investigation and inspection of the fish as they may deem necessary and then the importation permit may be granted

pursuant to regulations which the Board shall prescribe. The Commissioner may waive the permit fee required under this subsection for organizations cooperating or partnering with the Department. The Commissioner or duly authorized agents shall make a determination on the permit within 10 days of receiving the application. The Department may dispose of unlawfully imported fish as it may judge best, and the State may collect damages from the violator of this subsection for all expenses incurred.

(e) Nothing in this section shall prohibit the Board, the Commissioner, or their duly authorized agents from bringing into the State for the purpose of planting, introducing, or stocking, or from planting, introducing, or stocking any fish in the State.

(f) In any permit issued under this section, the Commissioner may include conditions that ensure the health and safety of Vermont's fish population.

Sec. 4. 10 V.S.A. § 4501 is amended to read:

§ 4501. AIDING IN VIOLATIONS; SHARING IN PROCEEDS

A person who drives, transports, scouts, counsels, or otherwise aids another person in a violation of a provision of this part, or who knowingly possesses, consumes, or otherwise shares in the proceeds of such a violation by receiving or possessing fish or wild animals, or any parts thereof, shall be punished as a principal.

Sec. 5. 10 V.S.A. § 4502 is amended to read:

§ 4502. UNIFORM POINT SYSTEM; REVOCATION OF LICENSE

* * *

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in this title of the Vermont Statutes Annotated):

(1) ~~Five~~ Except for biological collection violations determined to be nonpoint violations under the rules of the Board, five points shall be assessed for any violation of statutes or rules adopted under this part except those listed in subdivisions (2) and (3) of this subsection.

(2) Ten points shall be assessed for:

(Y) Appendix § 2; Appendix § 33, section 14.3. Reporting of deer, bear big game

* * *

(GG) Appendix § 44. Trapping, except for violations of Appendix § 44, sections 4.3, 4.4, 4.6, 4.9, 4.10, 4.11, 4.12, 4.14(c), and 4.14(e)

(HH) § 4827. A Taking black bear doing damage

* * *

(NN) § 4826. Taking deer doing damage

(OO) § 22a. Taking turkey doing damage

(PP) § 35. Taking moose doing damage

(QQ) Appendix § 22, section 6.7; Appendix § 33, section 13.1(g); Appendix § 37, section 7.7. Possession or transport of a cocked crossbow in or on a motor vehicle, motorboat, airplane, snowmobile, or other motor-propelled vehicle

(RR) Appendix § 7, section 6.3(b). Hunting bear with any dog not listed on the permit

(SS) Appendix § 37, section 9.0. Feeding deer.

(3) Twenty points shall be assessed for:

* * *

(O) Appendix § 7, sections 4.2, 5.1, 5.2, 5.3, 6.1, 6.2, 6.3(d), 6.3(e), 6.4, 6.5(c), 6.5(d), 7.1, and 7.2. Bear, unauthorized taking with aid of dogs

(P) Appendix § 22. Turkey season, excluding: requirements for youth turkey hunting season; section 6.2, size of shot used or possessed; and section 6.7, transport of cocked crossbow

* * *

(U) Appendix § 37, excluding ~~violations of annual deer limits;~~ requirements for youth deer hunting weekend, ~~and;~~ limitations on feeding of deer; section 7.7, transport of cocked crossbow; and section 11.0, ban of urine and other natural lures

(V) § 4454. Interstate Wildlife Violator Compact-

(W) § 4711. Crossbow hunting

(X) Appendix § 4. Hunting with a crossbow without a permit or license

(Y) Appendix § 20. Aerial hunting

(Z) Appendix § 44, section 4.6. Use of tooth jawed traps

(AA) Appendix § 44, section 4.11. Taking furbearers with poison

(BB) Appendix § 44, section 4.12. Taking furbearers from a den.

* * *

~~(e) The Commissioner shall revoke a hunting license issued under this part when the holder thereof~~ When a person holding a license issued under this part has been convicted of a violation of 13 V.S.A. § 1023(a)(2) or has been convicted of manslaughter by the careless and negligent use of firearms, the Commissioner shall revoke the person's hunting license, 20 points shall accumulate on the person's license, and another license shall not be issued to ~~such~~ the person within five years from the date of ~~such~~ the revocation or within five years from the date of ~~such~~ the conviction if ~~such~~ the person had no license. The court before which such person is convicted shall certify ~~such~~ the conviction to the Commissioner. A revocation shall be deemed effective when notice is given, when made in person, or three days after the deposit of ~~such~~ the notice in the U.S. mail, if made in writing.

* * *

Sec. 6. 10 V.S.A. § 4503 is amended to read:

§ 4503. UNLAWFUL EQUIPMENT, VEHICLE, FORFEITURE

A person convicted of violating the provisions of section 4745, 4781, 4783, 4784, 4705(a), 4280, 4747, or 4606 of this title relating to taking big game ~~by illegal means~~, shall forfeit to the State Department of Fish and Wildlife the firearms, jacks, artificial lights, motor vehicle, or any other device used in ~~the taking or transporting of big game~~ committing the violation. Forfeiture of a motor vehicle shall not apply to the illegal taking, possessing, or transporting of wild turkey, ~~or anadromous Atlantic salmon,~~ section 4606, or to the person's first conviction of the provisions of section 4745, 4781, 4783, and 4784 under this section. Proceeds from the sale of items or equipment forfeited under this section shall be deposited in the Fish and Wildlife Fund.

Sec. 7. 10 V.S.A. § 4514 is amended to read:

§ 4514. POSSESSION OF FLESH OF GAME; RESTITUTION

(a) When legally taken, the flesh of a fish or wild animal may be possessed for food for a reasonable time thereafter and such flesh may be transported and stored in a public cold storage plant. Nothing in this section shall authorize the possession of game birds or carcasses or parts thereof contrary to regulations made pursuant to the Migratory Bird Treaty Act.

(b) Any person convicted of illegally taking, destroying, or possessing wild animals or threatened or endangered species shall, in addition to other penalties provided under this chapter, pay restitution in the following amounts into the Fish and Wildlife Fund for each animal taken, destroyed, or possessed, ~~no more than the following amounts:~~

- | | |
|--------------|--------------------------------|
| (1) Big game | <u>no more than</u> \$2,000.00 |
|--------------|--------------------------------|

- | | |
|---|--|
| | <u>and no less than \$500.00</u> |
| | each |
| (2) Endangered or threatened species
as defined in section 5401 of this
title | \$2,000 <u>no more than</u>
<u>\$2,000.00 and no less than</u>
<u>\$500.00</u> each |
| (3) Small game | <u>no more than \$500.00 and</u>
<u>no less than \$50.00</u> each |
| (4) Fish | <u>no more than \$50.00</u>
<u>and no less than \$25.00</u>
each |

(c) A person who damages or destroys a wildlife facsimile owned by the Department of Fish and Wildlife in violation of the requirements of part 4 of this title shall pay restitution for the replacement or repair of the decoy into the Fish and Wildlife Fund.

Sec. 8. 10 V.S.A. § 4517 is amended to read:

§ 4517. DESTRUCTION OF STATE PROPERTY

(a) Whoever ~~wilfully or carelessly~~ intentionally or recklessly damages, injures, interferes with, or destroys any property, real or personal, belonging to or controlled by the State for fish, game, or wildlife purposes shall be fined not more than \$2,500.00.

(b) A person convicted of intentionally or recklessly damaging, injuring, interfering with, or destroying property belonging to or controlled by the State for fish, game, or wildlife purposes shall, in addition to other penalties provided under this chapter, pay restitution into the Fish and Wildlife Fund to repair or replace the damaged property.

Sec. 9. 10 V.S.A. § 4518 is amended to read:

§ 4518. BIG GAME VIOLATIONS; THREATENED AND ENDANGERED SPECIES; SUSPENSION; VIOLATIONS

Whoever violates a provision of this part or orders or rules of the Board relating to taking, possessing, transporting, buying, or selling of big game or relating to threatened or endangered species shall be fined not more than \$1,000.00 nor less than \$400.00 or imprisoned for not more than 60 days, or both. Upon a second and all subsequent convictions or any conviction while under license suspension related to the requirements of part 4 of this title, the

violator shall be fined not more than ~~\$2,000.00~~ \$4,000.00 nor less than ~~\$1,000.00~~ \$2,000.00 or imprisoned for not more than 60 days, or both.

Sec. 10. 10 V.S.A. § 4572 is amended to read:

§ 4572. DEFINITIONS

(a) As used in this subchapter, a minor fish and wildlife violation means:

(1) a violation of 10 V.S.A. § 4145 (violation of access and landing area rules);

(2) a violation of 10 V.S.A. § 4251 (taking wild animals and fish without a license);

(3) a violation of 10 V.S.A. § 4266 (failure to carry a license on person or failure to exhibit license);

(4) a violation of 10 V.S.A. § 4267 (false statements in license application; altering license; transferring license to another person; using another person's license; or guiding an unlicensed person);

(5) a violation of 10 V.S.A. § 4713 (tree or ground stands or blinds); or

(6) ~~a violation of 10 V.S.A. § 4616 (use of external felt soled boots or external felt soled waders)~~ [Repealed.]

(7) a violation of a biological collection rule adopted by the Board under part 4 of this title.

(b) "Bureau" means the Judicial Bureau as created in 4 V.S.A. § 1102.

Sec. 11. 10 V.S.A. § 4616 is amended to read:

~~§ 4616. FELT SOLED BOOTS AND WADERS; USE PROHIBITED~~

~~It is unlawful to use external felt soled boots or external felt soled waders in the waters of Vermont, except that a state or federal employee or emergency personnel, including fire, law enforcement, and EMT personnel, may use external felt soled boots or external felt soled waders in the discharge of official duties. [Repealed.]~~

Sec. 12. 10 V.S.A. § 4708 is amended to read:

§ 4708. INTERFERENCE WITH HUNTING, FISHING, OR TRAPPING

(a) A person shall not intentionally interfere with the lawful taking of fish or wild animals by ~~another nor intentionally harass, drive, or disturb fish or any wild animal for the purpose of disrupting the lawful taking of the same. Nothing in this subsection shall be construed to prohibit any incidental~~

~~interference arising from lawful activity by land users including farmers and recreationists.~~

~~(b) A person shall not take, injure, destroy, or wilfully interfere with:~~

~~(1) a trap, when lawfully set for the purpose of taking wild animals; or~~

~~(2) wilfully interfere with a person in the act of trapping animals:~~

(1) tampering with traps, nets, bait, firearms, or any other thing used for hunting, trapping, or fishing;

(2) placing himself or herself in a position, for the purpose of interfering, that hinders or prevents hunting, trapping, or fishing; or

(3) engaging in an activity, for the purpose of interfering, that drives, harasses, disturbs, or is likely to disturb wildlife or fish.

(b) Nothing in this subsection shall be construed to prohibit an incidental interference arising from lawful activity by landowners or users of land, including farmers and recreationists.

Sec. 13. 10 V.S.A. § 4745 is amended to read:

§ 4745. Taking ~~deer~~big game out of season prohibited; time

A person shall not take ~~a wild deer except specified wild deer~~ big game ~~except~~ during the seasons provided by law under part 4 of this title or the rules of the Board, and then only between one-half hour before sunrise and one-half hour after sunset. However, this section shall not be construed to prohibit the taking of ~~deer~~big game under sections 4826, and 4827 of this title and provisions in the rules of the Board relating to wildlife doing damage.

Sec. 14. 10 V.S.A. § 4781 is amended to read:

§ 4781. BIG GAME; POSSESSION

A person shall not possess big game ~~except during the open season and for a reasonable time thereafter unless otherwise provided, and then only such as can be legally taken. A person shall not possess big game taken by any illegal devices, nor any big game taken in closed season~~ taken by unlawful means or methods or taken in a closed season in violation of any provision of part 4 of this title or rules of the Board. Unless otherwise prohibited, a person may possess lawfully taken game during the open season and for a reasonable time thereafter.

Sec. 15. 10 V.S.A. § 4784 is amended to read:

§ 4784. TRANSPORTATION OF BIG GAME

A person shall not transport big game taken ~~by any illegal devices, or taken in closed season. A person shall not transport a wild deer with antlers less than three inches in length except deer taken under the provisions of this title by unlawful means or methods or taken in a closed season in violation of any provision of part 4 of this title or rules of the Board.~~

Sec. 16. 10 V.S.A. § 5201 is amended to read:

§ 5201. NOTICES; POSTING

(a)(1) An owner, or a person having the exclusive right to take ~~fish or wild animals~~ game upon land or the waters thereon, who desires to protect his or her land or ~~waters~~ private pond or propagation farm over which he or she has exclusive control, may maintain notices stating that:

(A) the shooting, trapping, or taking of game or wild animals is prohibited or is by permission only;

(B) fishing or the taking of fish is prohibited or is by permission only;

(C) fishing, hunting, trapping, ~~and or~~ taking of ~~wild animals and fish~~ are game is prohibited or ~~are~~ is by permission only.

(2) "Permission only signs" authorized under this section shall contain the owner's name and a method by which to contact the property owner or a person authorized to provide permission to hunt, fish, or trap on the property.

(b) Notices prohibiting the taking of ~~wild animals~~ game shall be erected upon or near the boundaries of lands to be affected with notices at each corner and not over 400 feet apart along the boundaries thereof. ~~Notices prohibiting the taking of fish shall show the date that the waters were last stocked and shall be maintained upon or near the shores of the waters not over 400 feet apart.~~ Legible signs must be maintained at all times and shall be dated each year. These signs shall be of a standard size and design as the Commissioner shall specify.

(c) The owner or person posting the lands shall record this posting annually in the town clerk's office of the town in which the land is located. The recording form shall be furnished by the Commissioner and shall be filled out in triplicate, one copy to be retained by the town clerk, one copy to the Commissioner, and one copy to be retained by the person having the right to post the lands. The forms shall contain the information as to the approximate number of acres posted, location in town, date of posting, and signature of person so posting the lands. The town clerk shall file the record and it shall be open to public inspection. The town clerk shall retain a fee of \$5.00 for this recording.

(d) Land posted as provided in subsection (b) of this section shall be enclosed land for the purposes herein.

Sec. 17. 10 V.S.A. § 5202 is amended to read:

§ 5202. PRIVATE PRESERVES PONDS, STOCKING, ~~AFFIDAVIT~~

~~(a) To post a stream as a private preserve under section 5201 of this title, a person annually shall:~~

~~(1) Stock the waters of each half mile of stream with at least 1,000 fry, 600 advanced fry, 300 fingerlings, or 150 fish, each not less than six inches in length.~~

~~(2) File with the Commissioner and the town clerk of the town in which the waters lie, immediately after stocking the waters, a sworn affidavit declaring that the provisions of this section have been complied with. The affidavit shall identify the number and kind of fish placed in the waters, the date they were purchased, and the person from whom they were purchased.~~

~~(b) When land or waters are stocked by the State with fish, wild animals, or game, with the knowledge and consent of the owner, the owner may not prohibit the taking of fish, wild animals, or game under section 5201 of this title. However, the The Commissioner may, at his or her discretion, stock a private fishing preserve which pond that allows some charitable or nonprofit organizations to use the area at no charge. In that case, the owner may prohibit the taking of fish or game by the general public under section 5201 of this title.~~

Sec. 18. REPEAL

2015 Acts and Resolves No. 61, Sec. 18 (repeal of authorized use of gun suppressors at sport shooting ranges) is repealed.

Sec. 19. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except that Secs. 1 (regulation of fish), 2 (commercial sale of fish), and 3 (importation and stocking of fish) shall take effect on January 1, 2017.

(Committee Vote: 9-0-0)

H. 571

An act relating to driver's license suspensions, driving with a suspended license, and DUI penalties

Rep. Conquest of Newbury, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Pre-July 1, 1990 Criminal Traffic Offenses * * *

Sec. 1. TERMINATION OF SUSPENSIONS ARISING FROM PRE-JULY 1,
1990 CRIMINAL TRAFFIC OFFENSES

(a) Background.

(1) Prior to July 1, 1990, traffic offenses that are handled as civil traffic violations under current Vermont law were charged as criminal offenses.

(2) A defendant's failure to appear on such charges resulted in suspension of the defendant's privilege to operate a motor vehicle in Vermont.

(3) As of February 2016, approximately 26,260 defendants who failed to appear in connection with pre-July 1, 1990 criminal traffic charges have pending suspensions as a result of their failure to appear. None of these charges relate to conduct that is criminal under current Vermont law.

(4) Many of the criminal complaints in these matters are fire- and water-damaged. In many of these cases, the facts underlying the complaints no longer can be proved.

(5) On February 22, 2016, the Office of the Attorney General mailed to all Criminal Divisions of the Superior Court and to the Judicial Bureau notices of dismissal of these pre-July 1, 1990 charges.

(b) Termination of suspensions.

(1) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), as soon as possible after this act takes effect, the Commissioner of Motor Vehicles shall, without requiring an application or payment of a fee, terminate pending suspensions of a person's license or privilege to operate a motor vehicle that resulted from the person's failure to appear prior to July 1, 1990 on a criminal traffic offense charged by the State for conduct that is a civil traffic violation under current Vermont law.

(2) This subsection shall not affect pending suspensions of a person's license or privilege to operate other than those specifically described in subdivision (1) of this subsection.

* * * Statewide Driver Restoration Program * * *

Sec. 2. STATEWIDE DRIVER RESTORATION PROGRAM

(a) Program established; one-time event.

(1) The Judicial Bureau and the Department of Motor Vehicles shall carry out a Statewide Driver Restoration Program (Program) from September 1, 2016 through November 30, 2016 (the "Program time period"). It is the

intent of the General Assembly that the Program shall be a one-time statewide event.

(2) As used in this section, “suspension” means a suspension of a person’s license or privilege to operate a motor vehicle in Vermont imposed by the Commissioner of Motor Vehicles.

(b) Traffic violation judgments entered before January 1, 2015; exception.

(1) During the Program time period, a person who has not paid in full the amount due on a traffic violation judgment entered prior to January 1, 2015 may apply to the Judicial Bureau for a reduction in the amount due on a form approved by the Court Administrator. Judgments for traffic violations that involve violation of a law specifically governing the operation of commercial motor vehicles shall not be eligible for reduction under the Program. The Program shall not apply to pre-July 1, 1990 criminal traffic offenses.

(2) A person shall be permitted to apply in person or through the mail. The Judicial Bureau may accept applications electronically or by other means.

(3) If a person submits a complete application during the Program time period and the judgment is eligible for reduction under subdivision (1) of this subsection, the Clerk of the Judicial Bureau or designee shall reduce the amount due on the judgment to \$30.00. Amounts paid toward a traffic violation judgment prior to the Judicial Bureau’s granting an application under this subsection shall not be refunded or credited toward the amount due under the amended judgment.

(c) Traffic violation judgments entered on or after January 1, 2015.

(1) Notwithstanding the usual time periods for filing postjudgment motions to amend and the standards for granting such motions, a person who has not paid the full amount due on a traffic violation judgment entered on or after January 1, 2015 and before July 1, 2016 may file a motion with the Judicial Bureau pursuant to Rules 60 and 80.6 of the Vermont Rules of Civil Procedure seeking an individualized determination of his or her ability to pay the amount due on the judgment. In deciding the motion, the Judicial Bureau hearing officer shall consider the person’s ability to pay the amount due and may reduce the amount due and waive any reinstatement or suspension termination fee in his or her discretion.

(2) Consistent with Sec. 4 of this act, amending 4 V.S.A. § 1109 to direct the Judicial Bureau to provide a more flexible payment plan option, a person who has an amount due on a traffic violation judgment shall not be required to pay more than \$100.00 per month in order to be current on all of his or her traffic violation judgments, regardless of the dates when the

judgments were entered. This subdivision (c)(2) shall not be limited by the Program time period.

(d) Restoration of driving privileges.

(1) If a person has paid all traffic violation judgments reduced under subsection (b) of this section, and is under a payment plan for any other outstanding traffic violation judgments, the Judicial Bureau shall notify the Department of Motor Vehicles that the person is in compliance with his or her obligations.

(2) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), the Commissioner of Motor Vehicles shall:

(A) upon receipt of the notice of compliance from the Judicial Bureau and without requiring an application or payment of a reinstatement fee, terminate suspensions arising from nonpayment of a traffic violation judgment of a person described in subdivision (1) of this subsection (d);

(B) during the Program time period and without requiring an application or payment of a reinstatement fee, terminate suspensions arising from nonpayment of a traffic violation judgment of a person who has paid all outstanding traffic violation judgments in full or is in compliance with a Judicial Bureau payment plan prior to December 1, 2016.

(3) If a person described in subdivision (1) or (2)(B) of this subsection fails to make a payment under a payment plan, the Judicial Bureau shall notify the Department of Motor Vehicles if required under 4 V.S.A. § 1109, as amended by Sec. 4 of this act.

(4) This subsection shall not affect pending suspensions other than as specifically described in this subsection.

(e) Public awareness campaign. Prior to the start of the Program, the Agency of Transportation shall commence a campaign to raise public awareness of the Program, and shall conduct the campaign until the end of the Program. The Judicial Bureau, the Department of Motor Vehicles, and the Agency of Transportation shall prominently advertise the Program on their websites until the Program ends.

(f) Allocation of fines collected. Amounts collected on traffic violation judgments reduced under subsection (b) or subdivision (c)(1) of this section shall be allocated in accordance with the Process Review approved by the Court Administrator's Office entitled "Revenue Distributions - Civil Violations" and dated November 3, 2015.

(g) Collection and reporting of statistics. On or before January 15, 2017:

(1) The Court Administrator shall report to the House and Senate Committees on Judiciary and on Transportation:

(A) the number of traffic violation judgments reduced to \$30.00 under subsection (b) of this section, the total number of the judgments paid, and the total amount collected in connection with payment of the judgments;

(B) the number of postjudgment motions filed under subdivision (c)(1) of this section and in connection with such motions:

(i) the number of hearings held;

(ii) the number of judgments reduced pursuant to such hearings, the total number of the reduced judgments paid, and the total amount collected in connection with payment of the reduced judgments; and

(iii) the number of hearings scheduled but not yet held;

(C) the number of persons eligible for a reduced judgment under subsection (b) of this section who did not apply for a reduced judgment.

(2) The Commissioner of Motor Vehicles shall report to the House and Senate Committees on Judiciary and on Transportation:

(A) the number of suspensions terminated, as well as the number of unique persons whose suspensions were terminated, under subdivision (d)(2) of this section; and

(B) the number of persons whose license or privilege to operate was fully reinstated as a result of the termination of suspensions under subdivision (d)(2) of this section.

* * * Termination of Suspensions Repealed in Act * * *

Sec. 2a. TERMINATION OF SUSPENSIONS REPEALED IN ACT

Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), as soon as possible after this act takes effect the Commissioner of Motor Vehicles shall, without requiring an application or payment of a fee, terminate pending suspensions of a person's license or privilege to operate a motor vehicle and refusals of a person's license or privilege to operate that were imposed pursuant to the following provisions:

(1) 7 V.S.A. § 656 (underage alcohol violation);

(2) 7 V.S.A. § 1005 (underage tobacco violation);

(3) 13 V.S.A. § 1753 (false public alarm; students and minors);

(4) 18 V.S.A. § 4230b (underage marijuana violation); and

(5) 32 V.S.A. § 8909 (driver's license suspensions for nonpayment of purchase and use tax).

* * * Amendment or Repeal of License Suspension and Registration Refusal Provisions and Underage Alcohol and Marijuana Crimes * * *

Sec. 3. REPEALS

23 V.S.A. §§ 305a (registration not renewed following nonpayment of traffic violation judgment) and 2307 (remedies for failure to pay traffic violations) are repealed.

Sec. 4. 4 V.S.A. § 1109 is amended to read:

§ 1109. REMEDIES FOR FAILURE TO PAY; CONTEMPT

(a) Definitions. As used in this section:

(1) "Amount due" means all financial assessments contained in a Judicial Bureau judgment, including penalties, fines, surcharges, court costs, and any other assessment authorized by law.

(2) "Designated collection agency" means a collection agency designated by the Court Administrator.

(3) [Repealed.]

(b) Late fees; suspensions for nonpayment of certain traffic violation judgments.

(1) A Judicial Bureau judgment shall provide notice that a \$30.00 fee shall be assessed for failure to pay within 30 days. If the defendant fails to pay the amount due within 30 days, the fee shall be added to the judgment amount and deposited in the Court Technology Special Fund established pursuant to section 27 of this title.

(2)(A) In the case of a judgment on a traffic violation for which the imposition of points against the person's driving record is authorized by law, the judgment shall contain a notice that failure to pay or otherwise satisfy the amount due within 30 days of the notice will result in suspension of the person's operator's license or privilege to operate, and that payment plan options are available. If the defendant fails to pay the amount due within 30 days of the notice, or by a later date as determined by a Judicial Bureau clerk or hearing officer, and the case is not pending on appeal, the Judicial Bureau shall provide electronic notice thereof to the Commissioner of Motor Vehicles. After 20 days from the date of receiving the electronic notice, the Commissioner shall suspend the person's operator's license or privilege to operate for a period of 30 days or until the amount due is satisfied, whichever is earlier.

(B) At minimum, the Judicial Bureau shall offer a payment plan option that allows a person to avoid a suspension of his or her license or privilege to operate by paying no more than \$30.00 per traffic violation judgment per month, and not to exceed \$100.00 per month if the person has four or more outstanding judgments.

(c)(1) Civil contempt proceedings. If an amount due remains unpaid for 75 days after the Judicial Bureau provides the defendant with a notice of judgment, the Judicial Bureau may initiate civil contempt proceedings pursuant to this subsection.

~~(1)~~(2) Notice of hearing. The Judicial Bureau shall provide notice by first class mail sent to the defendant's last known address that a contempt hearing will be held pursuant to this subsection, and that failure to appear at the contempt hearing may result in the sanctions listed in subdivision ~~(2)~~(3) of this subsection.

~~(2)~~(3) Failure to appear. If the defendant fails to appear at the contempt hearing, the hearing officer may direct the clerk of the Judicial Bureau to do one or more of the following:

(A) ~~Cause~~ cause the matter to be reported to one or more designated collection agencies; or

(B) ~~Refer~~ refer the matter to the Criminal Division of the Superior Court for contempt proceedings.

(C) ~~Provide electronic notice thereof to the Commissioner of Motor Vehicles who shall suspend the person's operator's license or privilege to operate. However, the person shall become eligible for reinstatement if the amount due is paid or otherwise satisfied. [Repealed.]~~

~~(3)~~(4)(A) Hearing. The hearing shall be conducted in a summary manner. The hearing officer shall examine the defendant and any other witnesses and may require the defendant to produce documents relevant to the defendant's ability to pay the amount due. The State or municipality shall not be a party except with the permission of the hearing officer. The defendant may be represented by counsel at the defendant's own expense.

(B) Traffic violations; reduction of amount due. When the judgment is based upon a traffic violation, the hearing officer may reduce the amount due on the basis of the defendant's driving history, ability to pay, or service to the community; the collateral consequences of the violation; or the interests of justice. The hearing officer's decision on a motion to reduce the amount due shall not be subject to review or appeal except in the case of a violation of rights guaranteed under the Vermont or U.S. Constitution.

~~(4)~~(5) Contempt.

(A) The hearing officer may conclude that the defendant is in contempt if the hearing officer states in written findings a factual basis for concluding that:

(i) the defendant knew or reasonably should have known that he or she owed an amount due on a Judicial Bureau judgment;

(ii) the defendant had the ability to pay all or any portion of the amount due; and

(iii) the defendant failed to pay all or any portion of the amount due.

(B) In the contempt order, the hearing officer may do one or more of the following:

(i) Set a date by which the defendant shall pay the amount due.

(ii) Assess an additional penalty not to exceed ten percent of the amount due.

(iii) ~~Order that the Commissioner of Motor Vehicles suspend the person's operator's license or privilege to operate. However, the person shall become eligible for reinstatement if the amount due is paid or otherwise satisfied. [Repealed.]~~

(iv) Recommend that the Criminal Division of the Superior Court incarcerate the defendant until the amount due is paid. If incarceration is recommended pursuant to this subdivision ~~(4)(c)~~(5) , the Judicial Bureau shall notify the Criminal Division of the Superior Court that contempt proceedings should be commenced against the defendant. The Criminal Division of the Superior Court proceedings shall be de novo. If the defendant cannot afford counsel for the contempt proceedings in the Criminal Division of the Superior Court, the Defender General shall assign counsel at the Defender General's expense.

(d) Collections.

(1) If an amount due remains unpaid after the issuance of a notice of judgment, the Court Administrator may authorize the clerk of the Judicial Bureau to refer the matter to a designated collection agency.

(2) The Court Administrator or the Court Administrator's designee is authorized to contract with one or more collection agencies for the purpose of collecting unpaid Judicial Bureau judgments pursuant to 13 V.S.A. § 7171.

(e) For purposes of civil contempt proceedings, venue shall be statewide. No entry or motion fee shall be charged to a defendant who applies for a reduced judgment under subdivision (c)(4)(B) of this section.

(f) Notwithstanding 32 V.S.A. § 502, the Court Administrator is authorized to contract with a third party to collect fines, penalties, and fees by credit card, debit card, charge card, prepaid card, stored value card, and direct bank account withdrawals or transfers, as authorized by 32 V.S.A. § 583, and to add on and collect, or charge against collections, a processing charge in an amount approved by the Court Administrator.

Sec. 5. 7 V.S.A. § 656 is amended to read:

§ 656. PERSON UNDER 21 YEARS OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES; FIRST OR SECOND OFFENSE; CIVIL VIOLATION

(a)(1) Prohibited conduct. A person under 21 years of age shall not:

(A) ~~falsely~~ Falsely represent his or her age for the purpose of procuring or attempting to procure malt or vinous beverages, spirits, or fortified wines from any licensee, State liquor agency, or other person or persons;

(B) ~~possess~~ Possess malt or vinous beverages, spirits, or fortified wines for the purpose of consumption by himself or herself or other minors, except in the regular performance of duties as an employee of a licensee licensed to sell alcoholic liquor;

(C) ~~consume~~ Consume malt or vinous beverages, spirits, or fortified wines. A violation of this subdivision may be prosecuted in a jurisdiction where the minor has consumed malt or vinous beverages, spirits, or fortified wines or in a jurisdiction where the indicators of consumption are observed.

(2) Offense. ~~Except as otherwise provided in section 657 of this title, a~~ A person under 21 years of age who knowingly and unlawfully violates subdivision (1) of this subsection commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(A) a civil penalty of ~~\$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days,~~ \$400.00 for a first offense; and

(B) a civil penalty of not less than \$400.00 and not more than \$600.00 ~~and suspension of the person's operator's license and privilege to~~

~~operate a motor vehicle for a period of 180 days, for a second or subsequent offense.~~

(b) Issuance of Notice of Violation. A law enforcement officer shall issue a person under 21 years of age who violates this section a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty ~~and a suspension of the person's operator's license and may face substantially increased insurance rates;~~

(3) no money should be submitted to pay any penalty until after adjudication; and

(4) the person shall notify the Diversion Program if the person's address changes.

* * *

(e) Notice to Report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, ~~the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.~~

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no

penalty shall be imposed ~~and the person's operator's license shall not be suspended.~~

(f)(4) Diversion Program Requirements.

(1) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(2) Substance abuse screening required under this subsection shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at his or her own expense.

(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense which the Diversion Program has imposed, the Diversion Program shall:

(A) ~~void~~ Void the summons and complaint with no penalty due; ~~and,~~

(B) ~~send~~ Send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information which identifies the person.

(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any required program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(5) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

~~(g) Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made. [Repealed.]~~

~~(h) Record of Adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section. [Repealed.]~~

Sec. 6. REPEAL

7 V.S.A. § 657 (persons under 21; third or subsequent alcohol offense; crime) is repealed.

Sec. 7. 13 V.S.A. § 5201(5) is amended to read:

(5) "Serious crime" does not include the following misdemeanor offenses unless the judge at arraignment but before the entry of a plea determines and states on the record that a sentence of imprisonment or a fine over \$1,000.00 may be imposed on conviction:

~~(A) Minors misrepresenting age, procuring or possessing malt or vinous beverages or spirituous liquor (7 V.S.A. § 657(a)) [Repealed.]~~

* * *

Sec. 8. 28 V.S.A. § 205(c) is amended to read:

(c)(1) Unless the Court in its discretion finds that the interests of justice require additional standard and special conditions of probation, when the Court orders a specific term of probation for a qualifying offense, the offender shall be placed on administrative probation, which means that the only conditions of probation shall be that the probationer:

* * *

(2) As used in this subsection, "qualifying offense" means:

* * *

~~(M) A first offense of a minor's misrepresenting age, procuring, possessing, or consuming liquors under 7 V.S.A. § 657. [Repealed.]~~

* * *

Sec. 9. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER 18 YEARS OF AGE; POSSESSION OF
TOBACCO PRODUCTS; MISREPRESENTING AGE OR
PURCHASING TOBACCO PRODUCTS; PENALTY

(a) A person under 18 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment. A person under 18 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this subsection shall be subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of \$25.00. ~~In the case of failure to pay a penalty, the Judicial Bureau shall mail a notice to the person at the address in the complaint notifying the person that failure to pay the penalty within 60 days of the notice will result in either the suspension of the person's operator's license for a period of not more than 90 days or the delay of the initial licensing of the person for a period of not more than one year. A copy of the notice shall be sent to the Commissioner of Motor Vehicles, who, after expiration of 60 days from the date of notice and unless notified by the Judicial Bureau that the penalty has been paid shall either suspend the person's operator's license or cause initial licensing of the person to be delayed for the periods set forth in this subsection and the rules. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24. The Commissioner of Motor Vehicles shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 to implement the provisions of this subsection, which may provide for incremental suspension or delays not exceeding cumulatively the maximum periods established by this subsection.~~

(b) A person under 18 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or provide up to 10 hours of community service, or both.

Sec. 10. 13 V.S.A. § 1753 is amended to read:

§ 1753. FALSE PUBLIC ALARMS

(a) A person who initiates or willfully circulates or transmits a report or

warning of an impending bombing or other offense or catastrophe, knowing that the report or warning is false or baseless and that it is likely to cause evacuation of a building, place of assembly, or facility of public transport, or to cause public inconvenience or alarm, shall, for the first offense, be imprisoned for not more than two years or fined not more than \$5,000.00, or both. For the second or subsequent offense, the person shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both. In addition, the court may order the person to perform community service. Any community service ordered under this section shall be supervised by the ~~department of corrections~~ Department of Corrections.

~~(b) In addition, if the person is under 18 years of age, or if the person is enrolled in a public school, an approved or recognized independent school, a home study program, or tutorial program as those terms are defined in section 11 of Title 16:~~

~~(1) if the person has a motor vehicle operator's license issued under chapter 9 of Title 23, the commissioner of motor vehicles shall suspend the license for 180 days for a first offense and two years for a second offense; or~~

~~(2) if the person does not qualify for a license because the person is underage, the commissioner of motor vehicles shall delay the person's eligibility to obtain a drivers license for 180 days for the first offense and two years for the second offense. [Repealed.]~~

Sec. 11. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS
OF AGE; FIRST OR SECOND OFFENSE; CIVIL VIOLATION

(a) Offense. ~~Except as otherwise provided in section 4230c of this title, a~~ A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of ~~\$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days,~~ \$400.00 for a first offense; and

(2) a civil penalty of not less than \$400.00 and not more than \$600.00 ~~and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 180 days,~~ for a second or subsequent offense.

(b) Issuance of Notice of Violation. A law enforcement officer shall issue a person under 21 years of age who violates this section with a notice of

violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty ~~and a suspension of the person's operator's license and may face substantially increased insurance rates;~~

(3) no money should be submitted to pay any penalty until after adjudication; and

(4) the person shall notify the Diversion Program if the person's address changes.

* * *

(e) Notice to Report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, ~~the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.~~

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed ~~and the person's operator's license shall not be suspended.~~

* * *

(g) ~~Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the~~

~~Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made. [Repealed.]~~

~~(h) Record of Adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section. [Repealed.]~~

Sec. 12. DEPARTMENT OF MOTOR VEHICLES REGISTRY OF
UNDERAGE ALCOHOL AND MARIJUANA OFFENSES

It is the intent of the General Assembly that any copy of the registry of underage alcohol and marijuana adjudications that the Department of Motor Vehicles was required to maintain under the former 7 V.S.A. § 656(h) and 18 V.S.A. § 4230b(h) (repealed in Secs. 5 and 11 of this act, respectively) be destroyed.

Sec. 13. REPEAL

18 V.S.A. § 4230c (marijuana possession by a person under 21 years of age; third or subsequent offense; crime) is repealed.

Sec. 14. 20 V.S.A. § 2358 (b)(2)(B)(i)(XX) is amended to read:

(XX) 18 V.S.A. §§ 4230(a), ~~4230e,~~ and 4230d (marijuana possession);

Sec. 15. 32 V.S.A. § 8909 is amended to read:

§ 8909. ENFORCEMENT

If the tax due under subsection ~~8903(a), (b) and (d)~~ 8903(d) of this title is not paid as hereinbefore provided the Commissioner shall suspend ~~such purchaser's or the rental company's right to operate a motor vehicle license to act as a rental company and motor vehicle registrations~~ within the State of Vermont until such tax is paid, and such tax may be recovered with costs in an action brought in the name of the State on this statute.

* * * Driving with License Suspended* * *

Sec. 16. 23 V.S.A. § 674 is amended to read:

§ 674. OPERATING AFTER SUSPENSION OR REVOCATION OF
LICENSE; PENALTY; REMOVAL OF REGISTRATION PLATES;
TOWING

(a)(1) Except as provided in section 676 of this title, a person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of this section or subsection 1091(b), 1094(b), or 1128(b) or (c) of this title and who operates or attempts to operate a motor vehicle upon a public highway before the suspension period imposed for the violation has expired shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

(2)(A) A person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of section 2506 of this title (points suspensions) and who operates or attempts to operate a motor vehicle upon a public highway for a third or subsequent time on or after July 1, 2016 before the suspension period imposed for the violation has expired shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

(B) A Other than as provided in subdivision (A) of this subdivision (a)(2), a person who violates section 676 of this title for the sixth or subsequent time shall, if the five prior offenses occurred on or after July 1, 2003 December 1, 2016, be imprisoned not more than two years or fined not more than \$5,000.00, or both.

(3) Violations of section 676 of this title that occurred prior to the date a person successfully completes the DLS Diversion Program ~~or prior to the date that a person pays the amount due to the Judicial Bureau in accordance with subsection 2307(b) of this chapter~~ shall not be counted as prior offenses under subdivision (2) of this subsection.

* * *

* * * Assessment of Points Against a Person's Driving Record * * *

Sec. 17. 23 V.S.A. § 1006a is amended to read:

§ 1006a. HIGHWAYS; EMERGENCY CLOSURE; TEMPORARY SPEED
LIMITS

* * *

(b) The Traffic Committee may establish a temporary speed limit within that portion of the State highways that is being reconstructed or maintained. The limit shall be effective when appropriate signs stating the limit are erected.

(c) Under 3 V.S.A. chapter 25, the Traffic Committee shall adopt such rules as are necessary to administer this section and may delegate this authority to the Agency of Transportation.

(d) Notwithstanding the limit established in section 2302 of this title and the waiver penalties established under 4 V.S.A. § 1102(d), the penalty and points assessed against a person's driving record for a violation of the speed limits established under subsection (b) of this section shall be twice the penalty and the points assessed for non-worksite speed violations.

Sec. 18. 23 V.S.A. § 1010 is amended to read:

§ 1010. SPECIAL OCCASIONS; TOWN HIGHWAY MAINTENANCE

(a) When it appears that traffic will be congested by reason of a public occasion, or when a town highway is being reconstructed or maintained, or where utilities are being installed, relocated, or maintained, the legislative body of a municipality may make special regulations as to the speed of motor vehicles on town highways, may exclude motor vehicles from town highways, and may make such traffic rules and regulations as the public good requires. However, signs indicating the special regulations must be conspicuously posted in and near all affected areas, giving as much notice as possible to the public so that alternative routes of travel could be considered.

(b) Notwithstanding the limit established in section 2302 of this title and the waiver penalties established under 4 V.S.A. § 1102(d), the penalty and points assessed against a person's driving record for a violation of the speed limits established under the worksite provision of this section shall be twice the penalty and the points assessed for non-worksite speed violations.

Sec. 19. 23 V.S.A. § 1081 is amended to read:

§ 1081. BASIC RULE AND MAXIMUM LIMITS

* * *

(b) Except when there exists a special hazard that requires lower speed in accordance with subsection (a) of this section, the limits specified in this section or established as hereinafter authorized are maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of 50 miles per hour.

(c) The maximum speed limits set forth in this section may be altered in accordance with sections 1003, 1004, 1006a, 1007, and 1010 of this title.

* * *

Sec. 20. 23 V.S.A. § 1095b is amended to read:

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE
PROHIBITED

* * *

(c) Penalties.

(1) A person who violates this section commits a traffic violation and shall be subject to a fine of not less than \$100.00 and not more than \$200.00 for a first violation, and of not less than \$250.00 and not more than \$500.00 for a second or subsequent violation within any two-year period.

(2) A person convicted of violating this section while operating within a ~~properly designated work zone in which construction, maintenance, or utility personnel are present~~ the following areas shall have ~~two~~ five points assessed against his or her driving record ~~for a first conviction and five points assessed for a second or subsequent conviction:~~

(A) a properly designated work zone in which construction, maintenance, or utility personnel are present; or

(B) a school zone marked with warning signs conforming to the Manual on Uniform Traffic Control Devices.

(3) A person convicted of violating this section outside ~~a work zone in which personnel are present~~ the areas designated in subdivision (2) of this subsection shall ~~not~~ have two points assessed against his or her driving record.

* * *

Sec. 21. 23 V.S.A. § 1099 is amended to read:

§ 1099. TEXTING PROHIBITED

* * *

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

(1) a penalty of not less than \$100.00 and not more than \$200.00 for a first violation, and of not less than \$250.00 and not more than \$500.00 for a second or subsequent violation within any two-year period; and

(2)(A) an assessment of five points against his or her driving record if the violation occurred outside the areas designated in subdivision (B) of this subdivision (c)(2); or

(B) an assessment of seven points against his or her driving record when the violation occurred within:

(i) a properly designated work zone in which construction, maintenance, or utility personnel are present; or

(ii) a school zone marked with warning signs conforming to the Manual on Uniform Traffic Control Devices.

Sec. 22. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Unless the assessment of points is waived by a Superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance with subsection 2501(b) of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

- | | | |
|---------|----------------------------|--|
| (LL)(i) | § 1095. | Entertainment picture visible to operator; |
| (ii) | § 1095b (e) (2) | Use of portable electronic device in <u>—outside work or school zone—</u> first offense |

* * *

- | | | |
|------------------------|--------|---|
| (EEE) | § 1258 | <u>Child restraint systems;</u> |
| (FFF) | § 800. | Operating without financial responsibility; |
| (FFF) (GGG) | | All other moving violations which have no specified points; |

* * *

(4) Five points assessed for:

- | | | |
|-----|---------|---|
| (A) | § 1050. | Failure to yield to emergency vehicles; |
| (B) | § 1075. | Illegal passing of school bus; |
| (C) | § 1099. | Texting prohibited <u>—outside work or school zone;</u> |

(D) § 1095b(e)(2) Use of portable electronic device in work or school zone—
~~second and subsequent offenses;~~

* * *

(6) Two points assessed for sections 1003 ~~and~~, 1007, and 1081. State speed zones ~~and~~, local speed limits, and basic speed rule, less than 10 miles per hour over and in excess of speed limit;

(7) Three points assessed for sections 1003 ~~and~~, 1007, and 1081. State speed zones ~~and~~, local speed limits, and basic speed rule, more than 10 miles per hour over and in excess of speed limit;

(8) Five points assessed for sections 1003 ~~and~~, 1007, and 1081. State speed zones ~~and~~, local speed limits, and basic speed rule, more than 20 miles per hour over and in excess of speed limit;

(9) Eight points assessed for sections 1003 ~~and~~, 1007, 1081, and 1097. State speed zones ~~and~~, local speed limits, and basic speed rule, more than 30 miles per hour over and in excess of the speed limit, and criminal excessive speed;

(10) Seven points assessed for subdivision 1099(c)(2)(B) (texting in a work or school zone).

* * *

* * * Judicial Bureau Hearings; Consideration of Ability to Pay * * *

Sec. 23. 4 V.S.A. § 1106 is amended to read:

§ 1106. HEARING

(a) The Bureau shall notify the person charged and the issuing officer of the time and place for the hearing.

(b) The hearing shall be held before a hearing officer and conducted in an impartial manner. The hearing officer may, by subpoena, compel the attendance and testimony of witnesses and the production of books and records. All witnesses shall be sworn. The burden of proof shall be on the State or municipality to prove the allegations by clear and convincing evidence. As used in this section, “clear and convincing evidence” means evidence which establishes that the truth of the facts asserted is highly probable. Certified copies of records supplied by the Department of Motor Vehicles or the Agency of Natural Resources and presented by the issuing officer or other person shall be admissible without testimony by a

representative of the Department of Motor Vehicles or the Agency of Natural Resources.

(c)(1) Prior to entering judgment against a defendant, a hearing officer shall consider evidence of ability to pay if offered by the defendant.

(2) The hearing officer shall make findings which shall be stated on the record or, if more time is needed, made in writing at a later date. The hearing officer may make a finding that the person has committed a lesser included violation.

(d) A law enforcement officer may void or amend a complaint issued by that officer by so marking the complaint and returning it to the Bureau, regardless of whether the amended complaint is a lesser included violation. At the hearing, a law enforcement officer may void or amend a complaint issued by that officer in the discretion of that officer.

(e) A State's Attorney may dismiss or amend a complaint.

(f) The Supreme Court shall establish rules for the conduct of hearings under this chapter.

* * * DLS Diversion Program * * *

Sec. 24. DLS DIVERSION PROGRAM; REPEAL

2012 Acts and Resolves No. 147, Sec. 2, as amended by 2013 Acts and Resolves No. 18, Sec. 1a (DLS Diversion Program) shall be repealed on July 1, 2016.

* * * Awareness of Payment and Hearing Options * * *

Sec. 25. RAISING AWARENESS OF TRAFFIC VIOLATION JUDGMENT PAYMENT AND HEARING OPTIONS

(a) In conducting basic training courses and annual in-service trainings, the Criminal Justice Training Council is encouraged to train enforcement officers about the existence of payment plan options for traffic violation judgments. Enforcement officers are encouraged to mention these options to a motorist at the time of issuing a complaint for a traffic violation.

(b) The General Assembly recommends that the Judicial Bureau update the standard materials that enforcement officers provide to persons issued a civil complaint for a traffic violation to notify such persons of payment plan options and of the person's right to request a hearing on ability to pay.

(c) The General Assembly encourages the Judicial Bureau to prominently display on its website information about the existence of payment plan options

for traffic violation judgments and the right of a person issued a complaint for a traffic violation to request a hearing on ability to pay.

(d) The Agency of Transportation shall carry out a campaign to raise public awareness of traffic violation judgment payment plan options and of a person's right to request a hearing before a Judicial Bureau hearing officer on his or her ability to pay a Judicial Bureau judgment.

* * * Criminal DLS Charges; Statistics * * *

Sec. 26. STATISTICS REGARDING CRIMINAL DLS CHARGES

(a) On or before January 15, 2018, and separately for calendar years 2013, 2014, 2015, 2016, and 2017, the Court Administrator shall submit in writing to the House and Senate Committees on Judiciary the number, and a breakdown of the dispositions, of criminal driving with license suspended charges filed statewide:

(1) under 23 V.S.A. § 674(b) (driving while suspended for a DUI offense);

(2) under 23 V.S.A. § 674(a)(1) (driving while suspended for certain non-DUI criminal motor vehicle offenses);

(3) for a sixth or subsequent violation of 23 V.S.A. § 676 (civil DLS);

(4) under 23 V.S.A. § 674(a)(2)(A) (a third or subsequent DLS arising from a suspension for points) for 2016 and after.

(b) On or before January 15 of 2019, 2020, and 2021, respectively, the Court Administrator shall submit in writing to the House and Senate Committees on Judiciary the statistics specified in subdivisions (a)(1)–(4) of this section for the prior calendar year.

* * * Traffic Violation Judgments; Receipts; Statistics * * *

Sec. 27. STATISTICS RELATED TO TRAFFIC VIOLATION JUDGMENT HEARINGS, RECEIPTS

(a) On or before January 15, 2018, and separately for calendar years 2013, 2014, 2015, 2016, and 2017, the Court Administrator shall submit in writing to the House and Senate Committees on Judiciary and on Transportation:

(1) the total number of traffic violation judgments entered; and

(2) the total payments collected on traffic violation judgments.

(b) On or before January 15 of 2019, 2020, and 2021, respectively, the Court Administrator shall submit in writing to the Committees on Judiciary

and on Transportation the statistics specified in subdivisions (a)(1) and (2) of this section for the prior calendar year.

(c) On or before January 15 of 2017–2021, respectively, the Court Administrator shall submit in writing to the House and Senate Committees on Judiciary and on Transportation:

(1) the total unpaid amount of outstanding traffic violation judgments as of January 1 of each year;

(2) the number of persons under payment plans as of January 1 of each year and the number of persons who successfully completed a payment plan in the prior calendar year;

(3) the number of judgments reduced in the prior calendar year as a result of a hearing held pursuant to 4 V.S.A. § 1106; and

(4) the number of judgments reduced in the prior calendar year as a result of postjudgment motions to amend.

* * * Underage Alcohol and Marijuana Violations; Statistics * * *

Sec. 28. UNDERAGE ALCOHOL AND MARIJUANA VIOLATIONS;

COMPLETION OF DIVERSION

On or before January 25, 2018, the Diversion Program shall submit to the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare statistics showing:

(1) for calendar years 2014 and 2015 separately, the number of notices to report received by the Diversion Program from law enforcement, as well as the number of persons who successfully completed Diversion, for:

(A) a violation of 7 V.S.A. § 656 (underage alcohol violation); and

(B) a violation of 18 V.S.A. § 4230b (underage marijuana violation);

(2) for calendar years 2016 and 2017 separately, the number of notices to report received by the Diversion Program from law enforcement, as well as the number of persons who successfully completed Diversion, for:

(A) a first or second violation of 7 V.S.A. § 656;

(B) a third or subsequent violation of 7 V.S.A. § 656;

(C) a first or second violation of 18 V.S.A. § 4230b; and

(D) a third or subsequent violation of 18 V.S.A. § 4230b.

Sec. 29. 23 V.S.A. § 4(44) is amended to read:

(44) “Moving violation” ~~shall mean~~ means any violation of any provision of this title, while the motor vehicle is being operated on a public highway, over which operation the operator has discretion as to commission of the act, ~~with exception of~~ except for offenses pertaining to a parked vehicle, equipment, size, weight, inspection, or registration of the vehicle, and ~~child restraint or safety belt systems or~~ seat belts as required in section ~~1258 or~~ 1259 of this title.

* * * Effective Dates * * *

Sec. 30. EFFECTIVE DATES

(a) This section, Sec. 1 (termination of suspensions arising from pre-1990 failures to appear on criminal traffic offense charges), Sec. 2(e) (public awareness campaign), Sec. 2a (termination of suspensions repealed in act), and Secs. 3–15 (amendment or repeal of license suspension and registration refusal provisions and underage alcohol and marijuana crimes) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2016.

(Committee Vote: 11-0-0)

H. 674

An act relating to public notice of wastewater discharges

Rep. Sheldon of Middlebury, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. chapter 47, subchapter 1A is added to read:

Subchapter 1A. Notification of Sewage and Wastewater Discharges

§ 1295. NOTIFICATION OF SEWAGE AND WASTEWATER

DISCHARGES

(a) Definitions. Notwithstanding the application of the definitions in section 1251 to the chapter as a whole, as used in this subchapter:

(1) “Collection system” means pipelines or conduits, pumping stations, force mains, and all other facilities used to collect or conduct sewage or stormwater, or both sewage and stormwater.

(2) “Combined sewer overflow” means an untreated or partially treated discharge to waters of the State from a combined sewer system outfall that results from a wet weather storm event.

(3) “Combined sewer system” means a collection system that was designed to convey sewage and stormwater through the same network of pipes to a treatment plant.

(4) “Dry weather flow” means flow in a sanitary sewer or combined sewer system during periods of dry weather.

(5) “Sanitary sewer system” means a collection system that conveys sewage and groundwater entering the collection system through inflow and infiltration to a wastewater treatment facility.

(6) “Separate storm sewer system” means a collection system that is designed to discharge stormwater and groundwater entering the collection system through inflow and infiltration to surface waters.

(7) “Sewage” means domestic, commercial, and industrial wastewater conveyed by a collection system.

(8) “Stormwater” means precipitation and snowmelt that does not infiltrate into soil, including material dissolved or suspended in it.

(9) “Untreated discharge” means:

(A) combined sewer overflows from a wastewater treatment facility;

(B) overflows from sanitary sewers and combined sewer systems that are part of a wastewater treatment facility during dry weather flows, which result in a discharge to waters of the State;

(C) upsets or bypasses around or within a wastewater treatment facility during dry or wet weather conditions that are due to factors unrelated to a wet weather storm event and that result in a discharge of sewage that has not been fully treated to waters of the State; and

(D) discharges from a wastewater treatment facility to separate storm sewer systems.

(10) “Wastewater treatment facility” means a treatment plant, collection system, pump station, and attendant facilities permitted by the Secretary for the purpose of treating sewage.

(b) Public alert. An operator of a wastewater treatment facility shall as soon as possible, but no longer than one hour from discovery of an untreated discharge from the wastewater treatment facility, post on a publicly accessible electronic network, mobile application, or other electronic media designated by the Secretary an alert informing the public of the untreated discharge and its location.

(c) Agency notification.

(1) An operator of a wastewater treatment facility shall within 12 hours from discovery of an untreated discharge from the wastewater treatment facility notify the Secretary and the local health officer of the municipality where the facility is located of the untreated discharge. The operator shall notify the Secretary through use of the Department of Environmental Conservation's online event reporting system. If, for any reason, the online event reporting system is not operable, the operator shall notify the Secretary via telephone or e-mail.

(2) A notification required by this subsection shall include:

(A) The specific location of each untreated discharge, including the body of water affected. For combined sewer overflows, the specific location of each untreated discharge means each outfall that has discharged during a wet weather storm event.

(B) Except for untreated discharges under subdivision (a)(9)(D) of this section, the date and approximate time the untreated discharge began.

(C) The date and approximate time the untreated discharge ended. If the untreated discharge is still ongoing at the time of reporting, the entity reporting the untreated discharge shall amend the report with the date and approximate time the untreated discharge ended within three business days of the untreated discharge ending.

(D) Except for untreated discharges under subdivision (a)(9)(D) of this section, the approximate total volume of sewage and, if applicable, stormwater that was released. If the approximate total volume is unknown at the time of reporting, the entity reporting the untreated discharge shall amend the report with the approximate total volume within three business days.

(E) The cause of the untreated discharge.

(F) The person reporting the untreated discharge.

(G) Any other information deemed necessary by the Secretary.

(d) Notification of additional discharges. In addition to untreated discharges posted pursuant to subsection (c) of this section, the Secretary shall post a notification of other unpermitted discharges to waters of the State that may pose a threat to human health or the environment and that are identified by the Secretary. The Secretary's notification shall include the information required under subdivision (c)(2) of this section and shall be posted on the Secretary's online event reporting system no later than four hours from the discovery of an unpermitted discharge, except that if the unpermitted discharge is discovered between the hours of 9:00 p.m. and 5:00 a.m., the Secretary shall post the notification no later than 10:00 a.m. of that morning. The Secretary's

notification shall identify the potential threat to the public health that may be posed by recreating in the waters where the unpermitted discharge occurred.

(e) Signage.

(1) Each combined sewer overflow outfall shall be marked with a permanent sign that identifies the outfall and warns of the potential threat to public health that may be posed by recreating in the waters at the outfall or downstream of the outfall during or after a wet weather storm event. The Secretary shall provide each municipality with a combined sewer overflow two signs for each outfall within the municipality. A municipality shall periodically inspect and maintain each sign marking a combined sewer overflow outfall and shall replace a sign if it is destroyed, removed, or no longer legible.

(2)(A) A municipality shall, within its jurisdiction or other geographic area specified by the Secretary, post temporary signs at public access areas downstream of:

(i) untreated discharges under subdivisions (a)(9)(B)–(D) of this section; and

(ii) other unpermitted discharges posted by the Secretary under subsection (d) of this section.

(B) The signs shall warn of the potential threat to public health that may be posed by recreating in the waters due to the untreated or unpermitted discharge. The signs shall remain in place for 48 hours after the untreated or unpermitted discharge has stopped.

Sec. 2. 10 V.S.A. § 1278(e) is amended to read:

~~(e) Notice of certain discharges. The secretary of natural resources shall post publicly notice of an illegal discharge that may pose a threat to human health or the environment on its website within 24 hours of the agency's receipt of notification of the discharge. [Repealed.]~~

Sec. 3. 18 V.S.A. § 1222 is added to read:

§ 1222. CYANOBACTERIA MONITORING AND NOTIFICATION

(a) As used in this section:

(1) “Cyanobacteria” means photosynthetic bacteria that have two photosystems, produce molecular oxygen, and use water as an electron-donating substrate in photosynthesis, including microcystin, anatoxin, and cylindrospermopsin.

(2) “Waters” shall have the same meaning as used in 10 V.S.A. § 1251.

(b) The Commissioner of Health, in consultation with the Secretary of Natural Resources, shall coordinate efforts to monitor the presence of cyanobacteria in the waters of the State.

(c) The Department of Health shall maintain a publicly accessible Internet site that provides information concerning the presence of cyanobacteria in areas known to be used for recreation, including swimming or boating. Within one hour of a determination that the presence of cyanobacteria in a recreation area is a public health hazard, the Commissioner of Health shall conduct public outreach describing the area affected and the nature of the public health hazard in the area.

Sec. 4. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 3 (cyanobacteria monitoring) shall take effect on July 1, 2016.

(Committee Vote: 8-0-1)

H. 747

An act relating to the State Treasurer's authority to intercept State funding to a municipality or school district in default from a Municipal Bond Bank borrowing

Rep. Dickinson of St. Albans Town, for the Committee on **Corrections & Institutions**, recommends the bill be amended as follows:

In Sec. 1, by inserting the following after subsection (a):

(b) Any ~~moneys~~ monies in the custody of the ~~state treasurer~~ State Treasurer whether made available by reason of any grant, allocation, or appropriation by the United States of America or the ~~state~~ State or agencies thereof to assist any governmental unit in payment of its municipal bonds or revenue bonds ~~owned~~ acquired or held by the ~~bank~~ Bank, or required by the terms of any other law to be paid to holders or owners of municipal bonds or revenue bonds of a governmental unit upon failure or default of a governmental unit to pay the principal of or interest on its municipal bonds or revenue bonds when due and payable, shall, to the extent that those funds or ~~moneys~~ monies are applicable to municipal bonds or revenue bonds of a particular governmental unit and which are then ~~owned~~ acquired or held by the ~~bank~~ Bank and as to which that governmental unit has defaulted on payment of principal or interest when due, be paid and deposited by the ~~state treasurer~~ State Treasurer in the applicable reserve fund or funds and made available to the ~~bank~~ Bank.

and by striking out the following:

“* * *”

(Committee Vote: 10-0-1)

H. 778

An act relating to State enforcement of the federal Food Safety and Modernization Act

Rep. Purvis of Colchester, for the Committee on **Agriculture & Forest Products**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. chapter 66 is added to read:

CHAPTER 66. PRODUCE INSPECTION

§ 850. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2) “Farm” means lands that are owned or leased by a person engaged in any of the activities stated in 10 V.S.A. § 6001(22).

(3) “Produce” shall have the same meaning as used in 21 C.F.R. § 112.3.

(4) “Produce farm” means any farm engaged in the growing, harvesting, packing, or holding of produce.

(5) “Secretary” means the Secretary of Agriculture, Food and Markets.

§ 851. AUTHORITY; ENFORCEMENT

(a) The Secretary may enforce in the State the requirements of the rules adopted under the federal Food Safety Modernization Act, Public Law No. 111-353, for standards for growing, harvesting, packing, and holding of produce for human consumption, 21 C.F.R. part 112.

(b) The Agency may collaborate with the Vermont Department of Health regarding application of the federal Food Safety Modernization Act and the rules adopted thereunder for which the Agency and the Department may share regulatory authority.

§ 852. FARM INSPECTIONS

(a) The Secretary may inspect a produce farm at any time for the purposes of ensuring compliance with the federal standards for growing, harvesting,

packing, and holding of produce for human consumption, 21 C.F.R. part 112, or rules adopted under this chapter.

(b) After inspection, the Secretary may issue an inspection certificate that shall include the date and place of inspection along with any other pertinent facts that the Secretary may require.

§ 853. RECORDS

The owner or operator of a produce farm shall maintain records required by the federal Food Safety Modernization Act, rules adopted thereunder, and rules adopted under this chapter and shall make those records available to the Agency upon request.

§ 854. RULES

The Secretary may adopt rules pursuant to 3 V.S.A. chapter 25 as may be necessary to implement this chapter.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

and that after passage the title of the bill be amended to read: “An act relating to State enforcement of the federal Food Safety Modernization Act”

(Committee Vote: 10-0-1)

Senate Proposal of Amendment

H. 84

An act relating to internet dating services

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

Sec. 1. FINDINGS AND PURPOSE

(a) The General Assembly finds:

(1) Currently, an Internet dating service does not have an affirmative duty under any state or federal law to ban a member of the service, but a service may choose to voluntarily ban a member for violating one or more terms of use, or because the service determines the member poses a risk of defrauding another member.

(2) In 2014, Internet dating services banned millions of members, the vast majority of which were banned within 72 hours of creating an account with the service.

(3) Of the members banned in 2014, well less than one percent contacted the Internet dating service concerning the ban.

(4) Due to a growing number of cases in which Vermont members of Internet dating services have lost significant financial amounts to persons using Internet dating services to defraud members or businesses, the Office of the Vermont Attorney General proposes this legislation, working with the input of multiple Internet dating services and other stakeholders.

(5) If an Internet dating service violates the statutory provisions created in this act, the Attorney General has the authority pursuant to 9 V.S.A. §§ 2458 and 2459 to request from a court, or to settle with the service for, restitution for a consumer or class of consumers affected by the violation.

(b) Purpose. The purposes of this act are:

(1) to protect Vermont consumers by requiring an Internet dating service to disclose in a timely manner important information about banned members to Vermont members of the service;

(2) to protect Internet dating services from liability to members for disclosing the information required by this act, while preserving liability to the State of Vermont and its agencies, departments, and subdivisions for violating this act; and

(3) to protect Vermont consumers and other members of Internet dating services by requiring an Internet dating service to notify its Vermont members when there is a significant change to the Vermont member's account information.

Sec. 2. 9 V.S.A. chapter 63, subchapter 8 is added to read:

Subchapter 8. Internet Dating Services

§ 2482a. DEFINITIONS

In this chapter:

(1) "Account change" means a change to a member's password, username, e-mail address, or other contact information an Internet dating service uses to enable communications between members.

(2) "Banned member" means the member whose account or profile is the subject of a fraud ban.

(3) "Fraud ban" means barring a member's account or profile from an Internet dating service because, in the judgment of the service, the member poses a significant risk of attempting to obtain money from other members through fraudulent means.

(4) “Internet dating service” means a person, or a division of a person, that is primarily in the business of providing dating services principally on or through the Internet.

(5) “Member” means a person who submits to an Internet dating service information required to access the service and who obtains access to the service.

(6) “Vermont member” means a member who provides a Vermont residential or billing address or zip code when registering with the Internet dating service.

§ 2482b. REQUIREMENTS FOR INTERNET DATING SERVICES

(a) An Internet dating service shall disclose to all of its Vermont members known to have previously received and responded to an on-site message from a banned member:

(1) the user name, identification number, or other profile identifier of the banned member;

(2) the fact that the banned member was banned because, in the judgment of the Internet dating service, the banned member may have been using a false identity or may pose a significant risk of attempting to obtain money from other members through fraudulent means;

(3) that a member should never send money or personal financial information to another member; and

(4) a hyperlink to online information that clearly and conspicuously addresses the subject of how to avoid being defrauded by another member of an Internet dating service.

(b) The notification required by subsection (a) of this section shall be:

(1) clear and conspicuous;

(2) by e-mail, text message, or other appropriate means of communication; and

(3) sent within 24 hours after the fraud ban, or at a later time if the service has determined, based on an analysis of effective messaging, that a different time is more effective, but in no event later than three days after the fraud ban.

(c) An Internet dating service shall disclose in an e-mail, text message, or other appropriate means of communication, in a clear and conspicuous manner, within 24 hours after discovering an account change to a Vermont member’s account:

(1) the fact that information on the member's account has been changed;

(2) a brief description of the change; and

(3) if applicable, how the member may obtain further information on the change.

(d)(1) A banned member from Vermont who is identified to one or more Vermont members pursuant to subsection (a) of this section shall have the right to challenge the ban by written complaint to the Office of the Vermont Attorney General.

(2) The Office of the Attorney General shall review a challenge brought by a banned member pursuant to this subsection and, if it finds that there was no reasonable basis for banning the member, shall require the Internet dating service to take reasonable corrective action to cure the erroneous ban.

§ 2482c. LIMITED IMMUNITY

(a) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State, for disclosing to any member that it has banned a member, the user name or identifying information of the banned member, or the reasons for the Internet dating service's decision to ban such member in accordance with section 2482b of this title .

(b) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State, for the decisions regarding whether to ban a member, or how or when to notify a member pursuant to section 2482b of this title.

(c) This subchapter does not diminish or adversely affect the protections for Internet dating services that are afforded in 47 U.S.C. § 230 (Federal Communications Decency Act).

§ 2482d. VIOLATIONS

(a) A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

(b) The Attorney General has the same authority to make rules, conduct civil investigations, and enter into assurances of discontinuance as is provided under subchapter 1 of this chapter.

Sec. 3. EFFECTIVE DATES

(a) This section and 9 V.S.A. §§ 2482a, 2482c, and 2482d in Sec. 2 shall take effect on passage.

(b) In Sec. 2, 9 V.S.A. § 2482b shall take effect on January 1, 2017.

(For text see House Journal May 14, 2015)

For Informational Purposes
CROSS OVER DATES

The Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 11, 2016**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 18, 2016**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day

This provision shall not apply to the following measures:

- (1) The transportation capital bill;
- (2) The capital construction bill
- (3) The general appropriations bill (“The Big Bill”);
- (4) The pay bill;
- (5) The fees bill.