

# House Calendar

Friday, March 11, 2016

67th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

## TABLE OF CONTENTS

	<b>Page No.</b>
<b>ACTION CALENDAR</b>	
<b>Third Reading</b>	
<b>H. 857</b> Timber harvesting.....	366
<b>H. 858</b> Miscellaneous criminal procedure amendments .....	366
<b>Favorable with Amendment</b>	
<b>H. 308</b> Limiting the liability of VAST arising from snowmobile operation outside the Statewide Snowmobile Trail System .....	366
Rep. Conquest for Judiciary	
<b>H. 529</b> State aid for school construction repayment obligations.....	366
Rep. Shaw of Pittsford for Corrections and Institutions	
<b>H. 570</b> Hunting, fishing, and trapping.....	368
Rep. Willhoit for Fish, Wildlife and Water Resources	
Rep. Branagan for Natural Resources and Energy .....	378
<b>H. 852</b> State lands.....	378
Rep. Chesnut-Tangerman for Natural Resources and Energy	
Rep. Clarkson for Ways and Means .....	378
<b>Action Under Rule 52</b>	
<b>J.R.H. 23</b> Authorizing Green Mountain Boys State educational program to use the State House .....	379
<b>Action Postponed Until March 15, 2016</b>	
<b>Committee Bill for Second Reading</b>	
<b>H. 851</b> The conduct of forestry operations.....	380
Rep. Hebert for Natural Resources and Energy	

<b>H. 854</b> Timber trespass.....	380
Rep. Forguites for Natural Resources and Energy	

**NOTICE CALENDAR**

**Favorable with Amendment**

<b>H. 171</b> Restrictions on the use of electronic cigarettes .....	380
Rep. Krowinski for Human sservices	
<b>H. 559</b> An exemption from licensure for visiting team physicians.....	383
Rep. Dakin of Chester for Health Care	
<b>H. 571</b> Driver’s license suspensions, driving with a suspended license, and DUI penalties.....	385
Rep. Conquest for Judiciary	
Rep. Donovan for Ways and Means.....	409

**Consent Calendar**

<b>H.C.R. 262</b> Honoring St. Lawrence University Director of Athletic Media Relations Walter H. Johnson .....	410
<b>H.C.R. 263</b> Honoring Poultney Selectboard Chair Edward Lewis for his exemplary community leadership in the Town of Poultney and in Addison and Rutland counties .....	410
<b>H.C.R. 264</b> Honoring Vermont State employees for their exemplary public service.....	410
<b>H.C.R. 265</b> Honoring Essex Municipal Manager Patrick C. Scheidel for his quarter-century of dedicated public service .....	410
<b>H.C.R. 266</b> In memory of North Bennington civic leader Robert James McWaters .....	410
<b>H.C.R. 267</b> Honoring David Michael Green for his community service in Massachusetts and Vermont and, especially, in the towns of Barnard and Woodstock.....	410
<b>H.C.R. 268</b> Honoring Barnard Selectboard Chair Thomas R. Morse for his civic leadership.....	410
<b>H.C.R. 269</b> Honoring Tinmouth’s civic-minded citizen, Hollis G. Squier ..	410
<b>H.C.R. 270</b> In memory of West Rutland Selectboard member Peter Bianchi .....	411
<b>H.C.R. 271</b> Congratulating the 2016 St. Johnsbury Academy State championship girls’ indoor track team .....	411

<b>H.C.R. 272</b> Congratulating Brian Kasten on winning the 2016 International Bowhunting Organization 3D Indoor World Championship .....	411
<b>H.C.R. 273</b> Designating March 10, 2016 as Multiple Sclerosis Awareness Day in Vermont.....	411
<b>H.C.R. 274</b> Honoring Stephen Stearns for his artistic and community contributions at the New England Youth Theatre .....	411
<b>H.C.R. 275</b> Congratulating Agron and Irena Gerdhuqi on the tenth anniversary of Olympic Pizza in Rutland City .....	411
<b>H.C.R. 276</b> Commemorating the 70th anniversary of the Vermont Air National Guard .....	411
<b>H.C.R. 277</b> Congratulating the 2015 Proctor High School Phantoms Division IV championship boys' soccer team.....	411
<b>H.C.R. 278</b> Congratulating the Proctor High School Division IV 2015 championship girls' soccer team .....	411
<b>S.C.R. 39</b> Senate concurrent resolution congratulating the Rutland Garden Club on its centennial anniversary .....	411

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**Third Reading**

**H. 857**

An act relating to timber harvesting

**H. 858**

An act relating to miscellaneous criminal procedure amendments

**Favorable with Amendment**

**H. 308**

An act relating to limiting the liability of VAST arising from snowmobile operation outside the Statewide Snowmobile Trail System

**Rep. Conquest of Newbury**, for the Committee on **Judiciary**, recommends the bill be amended as follows:

In Sec. 2, by striking “2015” and inserting in lieu thereof “2016”

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

**H. 529**

An act relating to State aid for school construction repayment obligations

**Rep. Shaw of Pittsford**, for the Committee on **Corrections & Institutions**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 16 V.S.A. § 3448 is amended to read:

§ 3448. APPROVAL AND FUNDING OF SCHOOL CONSTRUCTION

PROJECTS; RENEWABLE ENERGY

(a) Construction aid.

(1) Preliminary application for construction aid. A district or independent school eligible for assistance under section 3447 of this title, that intends to construct or purchase a new school, or make extensive additions or alterations to its existing school, and desires to avail itself of State school construction aid, shall submit a written preliminary application to the Secretary. A preliminary application shall include information required by the State Board by rule and shall specify the need for and purpose of the project.

\* \* \*

~~(b) Refund upon sale. Upon the sale by a district of any item, building, or unit that may be relocated, for which State construction aid was awarded under this title, the district shall refund to the State a percentage of the sale price equal to the percentage of construction aid received. In no event shall the sum refunded be in excess of the amount of the original State aid received for the purchase of the item, building, or unit. All refunds shall be deposited with the State Treasurer and used for school construction aid awards. [Repealed.]~~

~~(c) Repayment as a condition of general aid. No school district shall receive any State general aid unless the school district complies with subsection (b) of this section. [Repealed.]~~

\* \* \*

Sec. 2. 2015 Acts and Resolves No. 46, Sec. 13 is amended to read:

~~Sec. 13. REFUND UPON SALE OF SCHOOL BUILDINGS  
REQUIREMENT; NEW SCHOOL DISTRICTS; JOINT  
CONTRACT SCHOOLS~~

~~(a) Notwithstanding 16 V.S.A. § 3448(b), the refund upon sale requirement shall not apply to:~~

~~(1) a union school district created under 16 V.S.A. chapter 11 that becomes operational on or after July 1, 2015; and~~

~~(2) two or more districts that, on or after July 1, 2015, enter into a contract pursuant to 16 V.S.A. chapter 11, subchapter 1 to operate a school jointly.~~

~~(b) As used in subsection (a) of this section, a union school district established under 16 V.S.A. chapter 11 includes a school district voluntarily created pursuant to the provisions of this act, or a regional education district or any other district eligible to receive incentives pursuant to 2010 Acts and Resolves No. 153, as amended by 2012 Acts and Resolves No. 156 and 2013 Acts and Resolves No. 56.~~

~~(c) This section is repealed on July 1, 2017. [Repealed.]~~

Sec. 3. 16 V.S.A. § 3448 is amended to read:

~~§ 3448. APPROVAL AND FUNDING OF SCHOOL CONSTRUCTION  
PROJECTS; RENEWABLE ENERGY~~

~~(a) Construction aid.~~

~~(1) Preliminary application for construction aid. A district or independent school eligible for assistance under section 3447 of this title, that~~

intends to construct or purchase a new school, or make extensive additions or alterations to its existing school, and desires to avail itself of State school construction aid, shall submit a written preliminary application to the Secretary. A preliminary application shall include information required by the State Board by rule and shall specify the need for and purpose of the project.

\* \* \*

(b) Refund upon sale. Upon the sale by a district of any item, building, or unit that may be relocated, for which State construction aid was awarded under this title, the district shall refund to the State a percentage of the sale price equal to the percentage of construction aid received. In no event shall the sum refunded be in excess of the amount of the original State aid received for the purchase of the item, building, or unit. All refunds shall be deposited with the State Treasurer and used for school construction aid awards.

(c) Repayment as a condition of general aid. No school district shall receive any State general aid unless the school district complies with subsection (b) of this section.

\* \* \*

#### Sec. 4. EFFECTIVE DATES

(a) This section and Secs. 1–2 of this act shall take effect on July 1, 2016.

(b) Sec. 3 of this act shall take effect on July 1, 2020.

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

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

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

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

### H. 852

An act relating to State lands.

**(Rep. Chesnut-Tangerman of Middletown Springs** will speak for the Committee on **Natural Resources & Energy**.)

**Rep. Clarkson of Woodstock**, for the Committee on **Ways & Means**, recommends the bill be amended as follows::

First: In Sec. 1, 10 V.S.A. § 2606b, by striking out subsection (f) in its entirety and inserting in lieu thereof the following:

~~(f) There shall be an annual license fee A per tap license charge shall be imposed based on the number of taps installed in the license area. The per tap fee for a license issued under this section shall be one quarter of the average of the per pound price of Vermont fancy grade syrup and the per pound price of Vermont commercial grade syrup as those prices are set on May 1 of each year. The fee set each May 1 shall apply to licenses issued by the department for the succeeding period beginning June 1 and ending May 31. The~~



Commissioner shall establish this per tap license charge at a reasonable rate that reflects current market rates. Fees collected under this section shall be deposited in the forest parks revolving fund Lands and Facilities Trust Fund established under section 2609 of this title and shall be used by the department to implement the license program established by this section 3 V.S.A. § 2807.

Second: By striking out Sec. 3 (Forestland Intergenerational Transfer Study Committee) in its entirety and inserting in lieu thereof the following:

Sec. 3. DEPARTMENT OF FORESTS, PARKS AND RECREATION;

WORKING GROUP ON INTERGENERATIONAL TRANSFER OF  
FORESTLAND

(a) On or before August 1, 2016, the Commissioner of Forests, Parks and Recreation shall establish a working group of interested parties to develop recommendations for a statewide program to improve the capacity of providing successional planning technical assistance to forestland owners in Vermont. The working group shall:

(1) develop recommended priorities for succession planning for forestland owners;

(2) develop strategies for improving conservation investments or incentives that facilitate the intergenerational transfers of intact forestland;

(3) develop other strategies for lessening the impact of estate taxes or other pressures that could lead to the breaking up and subdivision of intact forest parcels;

(4) develop recommended legislative changes that may be needed to implement its recommendations and strategies; and

(5) identify fiscal issues related to its recommendations.

(b) On or before February 1, 2017, the Commissioner shall submit a report to the House Committees on Natural Resources and Energy and on Ways and Means and the Senate Committees on Natural Resources and Energy and Finance that shall include the working group's findings and any recommendations for legislative action.

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

**Action Under Rule 52**

**J.R.H. 23**

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

**(For text see House Journal March 10, 2016)**

**Action Postponed Until March 15, 2016**

**Committee Bill for Second Reading**

**H. 851**

An act relating to the conduct of forestry operations.

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

**H. 854**

An act relating to timber trespass.

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

**NOTICE CALENDAR**

**Favorable with Amendment**

**H. 171**

An act relating to restrictions on the use of electronic cigarettes

**Rep. Krowinski of Burlington**, 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. 7 V.S.A. § 1003(d) is amended to read:

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

(A) behind a sales counter or in any other area of the establishment that is inaccessible to the public; or

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

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

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

~~(2)(B)~~ Cigarettes cigarettes in unopened cartons and smokeless tobacco in unopened multipack containers of 10 or more packages, any of which shall

be displayed in plain view and under the control of a responsible employee so that removal of the cartons or multipacks from the display can be readily observed by that employee; or

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

Sec. 2. 18 V.S.A. § 1421 is amended to read:

§ 1421. SMOKING IN THE WORKPLACE; PROHIBITION

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

(b)(1) As used in this subchapter, "workplace" means an enclosed structure where employees perform services for an employer, including restaurants, bars, and other establishments in which food or drinks, or both, are served. In the case of an employer who assigns employees to departments, divisions, or similar organizational units, "workplace" means the enclosed portion of a structure to which the employee is assigned.

\* \* \*

(5) The prohibition on using tobacco substitutes in a workplace shall not apply to a business that does not sell food or beverages but is established for the sole purpose of providing a setting for patrons to purchase and use tobacco substitutes and related paraphernalia.

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

Sec. 3. 18 V.S.A. § 1741 is amended to read:

§ 1741. DEFINITIONS

As used in this chapter:

\* \* \*

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

Sec. 4. 18 V.S.A. § 1742 is amended to read:

§ 1742. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

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

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

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

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

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

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

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

(d) Nothing in this chapter shall be construed to prohibit the use of tobacco substitutes in a business that does not sell food or beverages but is established for the sole purpose of providing a setting for patrons to purchase and use tobacco substitutes and related paraphernalia.

Sec. 5. 18 V.S.A. § 1743 is amended to read:

#### § 1743. EXCEPTIONS

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

Sec. 6. 18 V.S.A. § 1745 is amended to read:

#### § 1745. ENFORCEMENT

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

tobacco products or cease using the tobacco substitutes. If the person persists in the possession of lighted tobacco products or use of tobacco substitutes, the proprietor, agent, or employee shall ask the person to leave the premises.

Sec. 7. 23 V.S.A. § 1134b is amended to read:

§ 1134b. SMOKING IN MOTOR VEHICLE WITH CHILD PRESENT

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

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

Sec. 8. EFFECTIVE DATE

(a) Sec. 1 (7 V.S.A. § 1003(d)) shall take effect on January 1, 2017.

(b) The remaining sections shall take effect on July 1, 2016.

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

**H. 559**

An act relating to an exemption from licensure for visiting team physicians

**Rep. Dakin of Chester**, for the Committee on **Health Care**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 26 V.S.A. § 377 is added to read:

§ 377. EXEMPTION

The provisions of this chapter shall not apply to a podiatrist who is duly licensed and in good standing in another state, territory, or jurisdiction of the United States or in Canada if the podiatrist is employed as or formally designated as the team podiatrist by an athletic team visiting Vermont for a specific sporting event and the podiatrist limits his or her practice in this State to the treatment of the members, coaches, and staff of the sports team employing or designating the podiatrist.

Sec. 2. 26 V.S.A. § 1313(a) is amended to read:

(a) The provisions of this chapter shall not apply to the following:

(1) a health care professional licensed or certified by the ~~office of professional regulation~~ Office of Professional Regulation when that person is practicing within the scope of his or her profession;

(2) a member of the ~~United States military or national guard~~ U.S. Armed Forces or National Guard, including a ~~national guard~~ National Guard member in state status, or to any person giving aid, assistance, or relief in emergency or accident cases pending the arrival of a regularly licensed physician;

(3) a nonresident physician coming into this ~~state~~ State to consult or using telecommunications to consult with a duly licensed practitioner herein; ~~or~~

(4) a duly licensed physician in another state, in Canada, or in another nation as approved by the ~~board~~ Board who is visiting a medical school or a teaching hospital in this ~~state~~ State to receive or conduct medical instruction for a period not to exceed three months, provided the practice is limited to that instruction and is under the supervision of a physician licensed by the ~~board~~ Board; or

(5) a physician who is duly licensed and in good standing in another state, territory, or jurisdiction of the United States or in Canada if the physician is employed as or formally designated as the team physician by an athletic team visiting Vermont for a specific sporting event and the physician limits the practice of medicine in this State to medical treatment of the members, coaches, and staff of the sports team employing or designating the physician.

Sec. 3. 26 V.S.A. § 1734c is amended to read:

§ 1734c. EXEMPTIONS

Nothing herein shall be construed to require licensure under this chapter of:

(1) a physician assistant student enrolled in a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant;

(2) a physician assistant employed in the service of the U.S. ~~military or national guard~~ Armed Forces or National Guard, including ~~national guard~~ National Guard in-state status, while performing duties incident to that employment; ~~or~~

(3) a technician or other assistant or employee of a physician who performs physician-delegated tasks but who is not rendering services as a physician assistant or identifying himself or herself as a physician assistant; or

(4) a physician assistant who is duly licensed and in good standing in another state, territory, or jurisdiction of the United States or in Canada if the physician assistant is employed as or formally designated as the team physician assistant by an athletic team visiting Vermont for a specific sporting event and the physician assistant limits his or her practice in this State to the treatment of the members, coaches, and staff of the sports team employing or designating the physician assistant.

Sec. 4. 26 V.S.A. § 1753(c) is amended to read:

(c) The provisions of this chapter shall not apply to:

(1) ~~A~~ a commissioned officer of the U.S. Armed Forces or Public Health Service when acting within the scope of his or her official duties;

(2) ~~A~~ a nonresident licensed osteopathic physician or surgeon who is called to treat or to consult on a particular case in this State, provided he or she does not otherwise practice in this State; or

(3) an osteopathic physician who is duly licensed and in good standing in another state, territory, or jurisdiction of the United States or in Canada if the physician is employed as or formally designated as the team physician by an athletic team visiting Vermont for a specific sporting event and the physician limits the practice of medicine in this State to medical treatment of the members, coaches, and staff of the sports team employing or designating the physician.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

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

### **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; ~~or~~.

(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)(1) 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~~ 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-worksites 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-worksites 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—outside work or school zone—first offense

\* \* \*

(EEE) § 1258 Child restraint systems;

~~(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—outside work or  
school zone;

(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~~ 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)**

**Rep. Donovan of Burlington**, for the Committee on **Ways & Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Judiciary**.

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

## **Consent Calendar**

### **Concurrent Resolutions for Adoption Under Joint Rule 16a**

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of March 10, 2016.

#### **H.C.R. 262**

House concurrent resolution honoring St. Lawrence University Director of Athletic Media Relations Walter H. Johnson

#### **H.C.R. 263**

House concurrent resolution honoring Poultney Selectboard Chair Edward Lewis for his exemplary community leadership in the Town of Poultney and in Addison and Rutland counties

#### **H.C.R. 264**

House concurrent resolution honoring Vermont State employees for their exemplary public service

#### **H.C.R. 265**

House concurrent resolution honoring Essex Municipal Manager Patrick C. Scheidel for his quarter-century of dedicated public service

#### **H.C.R. 266**

House concurrent resolution in memory of North Bennington civic leader Robert James McWaters

#### **H.C.R. 267**

House concurrent resolution honoring David Michael Green for his community service in Massachusetts and Vermont and, especially, in the towns of Barnard and Woodstock

#### **H.C.R. 268**

House concurrent resolution honoring Barnard Selectboard Chair Thomas R. Morse for his civic leadership

#### **H.C.R. 269**

House concurrent resolution honoring Tinmouth's civic-minded citizen, Hollis G. Squier



**H.C.R. 270**

House concurrent resolution in memory of West Rutland Selectboard member Peter Bianchi

**H.C.R. 271**

House concurrent resolution congratulating the 2016 St. Johnsbury Academy State championship girls' indoor track team

**H.C.R. 272**

House concurrent resolution congratulating Brian Kasten on winning the 2016 International Bowhunting Organization 3D Indoor World Championship

**H.C.R. 273**

House concurrent resolution designating March 10, 2016 as Multiple Sclerosis Awareness Day in Vermont

**H.C.R. 274**

House concurrent resolution honoring Stephen Stearns for his artistic and community contributions at the New England Youth Theatre

**H.C.R. 275**

House concurrent resolution congratulating Agron and Irena Gerdhuqi on the tenth anniversary of Olympic Pizza in Rutland City

**H.C.R. 276**

House concurrent resolution commemorating the 70th anniversary of the Vermont Air National Guard

**H.C.R. 277**

House concurrent resolution congratulating the 2015 Proctor High School Phantoms Division IV championship boys' soccer team

**H.C.R. 278**

House concurrent resolution congratulating the Proctor High School Division IV 2015 championship girls' soccer team

**S.C.R. 39**

Senate concurrent resolution congratulating the Rutland Garden Club on its centennial anniversary

## **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.