

# House Calendar

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Tuesday, April 19, 2016

106th DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

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## TABLE OF CONTENTS

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	<b>Page No.</b>
<b>Action Postponed Until April 19, 2016</b>	
<b>Action Under Rule 52</b>	
<b>H.R. 16</b> Relating to the proposed Trans-Pacific Partnership Agreement ...	1548
<b>ACTION CALENDAR, NEW BUSINESS</b>	
<b>Third Reading</b>	
<b>H. 881</b> Approval of the adoption and codification of the charter of the Town of Charlotte .....	1548
<b>H. 884</b> Approval of amendments to the charter of the City of Barre .....	1548
<b>Favorable with Amendment</b>	
<b>S. 116</b> An act relating to rights of offenders in the custody of the Department of Corrections .....	1548
Rep. Myers for Corrections and Institutions	
<b>Favorable</b>	
<b>S. 114</b> An act relating to the Open Meeting Law .....	1553
Rep. Townsend for Government Operations	
<b>S. 214</b> An act relating to large group insurance .....	1554
Rep. Briglin for Health Care	
<b>S. 256</b> An act relating to extending the moratorium on home health agency certificates of need.....	1554
Rep. Patt for Health Care	
<b>Senate Proposal of Amendment</b>	
<b>H. 640</b> Expenses for the repair of town cemeteries.....	1554

## NOTICE CALENDAR

### Favorable with Amendment

<b>S. 20</b> An act relating to establishing and regulating dental therapists.....	1555
Rep. French for Human Services	
Rep. LaClair for Government Operations .....	1565
<b>S. 225</b> An act relating to miscellaneous changes to laws related to motor vehicles.....	1565
Rep. Brennan for Transportation	
Rep. Masland for Ways and Means.....	1590
Rep. Shaw of Pittsford Amendment.....	1590
<b>S. 241</b> An act relating to regulation of marijuana .....	1591
Rep. Grad for Judiciary	
Rep. Young for Ways and Means.....	1605

### Favorable

<b>H. 885</b> Approval of amendments to the charter of the Town of Shelburne	1611
Rep. Lewis for Government Operations	
<b>S. 157</b> An act relating to breast density notification and education .....	1611
Rep. Fiske for Human Services	
<b>S. 174</b> An act relating to a model State policy for use of body cameras by law enforcement officers.....	1611
Rep. Hubert for Government Operations	
<b>J.R.S. 35</b> Joint resolution urging Vermont’s participation in the Stepping Up initiative to reduce the number of incarcerated Vermonters with a mental illness.....	1612
Rep. Shaw for Corrections	

### Senate Proposal of Amendment

<b>H. 84</b> Internet dating services.....	1612
<b>H. 135</b> Authorizing the Vermont Department of Health to charge fees necessary to support Vermont’s status as a Nuclear Regulatory Commission Agreement State .....	1626
<b>H. 539</b> Establishment of a Pollinator Protection Committee .....	1633
<b>H. 674</b> Public notice of wastewater discharges.....	1633
<b>H. 765</b> Technical corrections .....	1634

<b>H. 778</b> State enforcement of the federal Food Safety Modernization Act	
.....	1636
<b>H. 824</b> The adoption of occupational safety and health rules and standards	1638

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**ORDERS OF THE DAY**

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**Action Postponed Until April 19, 2016**

**Action Under Rule 52**

**H.R. 16**

House resolution relating to the proposed Trans-Pacific Partnership Agreement  
(For text see House Journal April 14, 2016)

**ACTION CALENDAR**

**Third Reading**

**H. 881**

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

**H. 884**

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

**Favorable with Amendment**

**S. 116**

An act relating to rights of offenders in the custody of the Department of Corrections

**Rep. Myers of Essex**, for the Committee on **Corrections & Institutions**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 456 is added to read:

§ 456. PAROLE BOARD INDEPENDENCE

(a) The Parole Board shall be an independent and impartial body.

(b) In a pending parole revocation hearing, the Parole Board shall not be counseled by:

(1) assistant attorneys general; and

(2) any attorney employed by the Department of Corrections.

(c) If any attorney employed by the Department of Corrections or an assistant attorney general or the direct supervisor of an assistant attorney general who represents the Department of Corrections in parole revocation hearings provides training to the Parole Board members on the subject of

parole revocation hearings, the Defender General shall be notified prior to the training and given the opportunity to participate.

Sec. 2. 28 V.S.A. § 857 is added to read:

§ 857. ADMINISTRATIVE SEGREGATION; PROCEDURAL REQUIREMENTS

(a) Except in emergency circumstances as described in subsection (b) of this section, before an inmate is placed in administrative segregation, regardless of whether that inmate has been designated as having a serious functional impairment under section 906 of this title, the inmate is entitled to a hearing pursuant to subsection 852(b) of this title.

(b) In the event of an emergency situation and at the discretion of the Commissioner, an inmate may be placed in administrative segregation prior to receiving a hearing as described in subsection 852(b) of this title.

Sec. 3. 28 V.S.A. § 204 is amended to read:

§ 204. SUBMISSION OF WRITTEN REPORT; PROTECTION OF RECORDS

(a) A court, before which a person is being prosecuted for any crime, may in its discretion order the Commissioner to submit a written report as to the circumstances of the alleged offense and the character and previous criminal history record of the person, with recommendation. If the presentence investigation report is being prepared in connection with a person's conviction for a sex offense that requires registration pursuant to 13 V.S.A. chapter 167, subchapter 3, the Commissioner shall obtain information pertaining to the person's juvenile record, if any, in accordance with 33 V.S.A. §§ 5117 and 5119(f)(6), and any deferred sentences received for a registrable sex offense in accordance with 13 V.S.A. § 7041(h), and include such information in the presentence investigation report.

\* \* \*

(d)(1) ~~Any~~ Except as provided in subdivision (2) of this subsection, any presentence investigation report, ~~pre-parole report, or supervision history or parole summary~~ prepared by any employee of the Department in the discharge of the employee's official duty, except as provided in subdivision 204a(b)(5) and section 205 of this title, is confidential and shall not be disclosed to anyone outside the Department other than the judge or the Parole Board, ~~except that:~~

(2)(A) ~~the~~ The court or Board ~~may in its discretion~~ shall permit ~~the~~ inspection of the presentence investigation report, ~~or parts thereof or parole summary, redacted of information that may compromise the safety or~~

confidentiality of any person, by the State's Attorney, and by the defendant or inmate, or his or her attorney, or; and

(B) the court or Board may, in its discretion, permit the inspection of the presentence investigation report or parole summary or parts thereof by other persons having a proper interest therein, whenever the best interest or welfare of the defendant or inmate makes that action desirable or helpful. Nothing in this section shall prohibit the Department for Children and Families from accessing the supervision history of probationers or parolees for the purpose of child protection.

(e) The presentence investigation report ordered by the court under this section or section 204a of this title shall include the comments or written statement of the victim, or the victim's guardian or next of kin if the victim is incompetent or deceased, whenever the victim or the victim's guardian or next of kin choose to submit comments or a written statement.

\* \* \*

Sec. 4. 28 V.S.A. § 601 is amended to read:

§ 601. POWERS AND RESPONSIBILITIES OF THE SUPERVISING OFFICER OF EACH CORRECTIONAL FACILITY

The supervising officer of each facility shall be responsible for the efficient and humane maintenance and operation and for the security of the facility, subject to the supervisory authority conferred by law upon the Commissioner. Each supervising officer is charged with the following powers and responsibilities:

\* \* \*

(10) To establish and maintain, in accordance with such rules and regulations as are established by the Commissioner, ~~a central file at the facility containing an individual file records~~ for each inmate. ~~Except as otherwise may be indicated by the rules and regulations of the Department, the content of the file of an inmate shall be confidential and shall not be subject to public inspection except by court order for good cause shown and shall not be accessible to inmates at the facility. Except as otherwise provided by law, the contents of an inmate's file may be inspected, pursuant to a court order issued ex parte, by a state or federal prosecutor as part of a criminal investigation if the court finds that the records may be relevant to the investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public.~~

Sec. 5. 28 V.S.A. § 107 is added to read:

§ 107. OFFENDER AND INMATE RECORDS; CONFIDENTIALITY; EXCEPTIONS; CORRECTIONS

(a) The Commissioner shall adopt a rule pursuant to 3 V.S.A. chapter 25 defining what are “offender and inmate records,” as that phrase is used in this section.

(b) Offender and inmate records maintained by the Department are exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that the Department:

(1) Shall release or permit inspection of such records if required under federal or State law, including 42 U.S.C. §§ 10805 and 10806 (Protection and Advocacy Systems).

(2) Shall release or permit inspection of such records pursuant to a court order for good cause shown or, in the case of an offender or inmate seeking records relating to him or her in litigation, in accordance with discovery rules.

(3) Shall release or permit inspection of such records to a State or federal prosecutor as part of a criminal investigation pursuant to a court order issued ex parte if the court finds that the records may be relevant to the investigation. The information in the records may be used for any lawful purpose but shall not otherwise be made public.

(4) Shall release or permit inspection of such records to the Department for Children and Families for the purpose of child protection, unless otherwise prohibited by law.

(5) Shall release or permit inspection of designated offender and inmate records to specific persons, or to any person, in accordance with rules that the Commissioner shall adopt pursuant to 3 V.S.A. chapter 25. The Commissioner shall authorize release or inspection of offender and inmate records under these rules:

(A) When the public interest served by disclosure of a record outweighs the privacy, security, or other interest in keeping the record confidential.

(B) To provide an offender or inmate access to records relating to him or her if access is not otherwise guaranteed under this subsection, unless providing such access would reveal information that is confidential or exempt from disclosure under a law other than this section, would unreasonably interfere with the Department’s ability to perform its functions, or would unreasonably jeopardize the health, safety, security, or rehabilitation of the offender or inmate or of another person. The rules may specify circumstances

under which the Department may limit the number of requests that will be fulfilled per calendar year, as long as the Department fulfills at least one request per calendar year excluding any release of records ordered by a court, and at least one additional request in the same calendar year limited to records not in existence at the time of the original request or not within the scope of the original request. The rules also may specify circumstances when the offender's or inmate's right of access will be limited to an inspection overseen by an agent or employee of the Department. The rules shall reflect the Department's obligation not to withhold a record in its entirety on the basis that it contains some confidential or exempt content, to redact such content, and to make the redacted record available.

(c) Notwithstanding the provisions of 1 V.S.A. chapter 5, subchapter 3 (Public Records Act) that govern the time periods for a public agency to respond to a request for a public record and rights of appeal, the Commissioner shall adopt a rule pursuant to 3 V.S.A. chapter 25 governing response and appeal periods and appeal rights in connection with a request by an offender or inmate to access records relating to him or her maintained by the Department. The rule shall provide for a final exhaustion of administrative appeals no later than 45 days from the Department's receipt of the initial request.

(d) An offender or inmate may request that the Department correct a fact in a record maintained by the Department that is material to his or her rights or status, except for a determination of fact that resulted from a hearing or other proceeding that afforded the offender or inmate notice and opportunity to be heard on the determination. The rule required under subsection (c) of this section shall reference that requests for such corrections are handled in accordance with the Department's grievance process. If the Department issues a final decision denying a request under this subsection, the offender or inmate may appeal the decision to the Civil Division of the Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure. The Court shall not set aside the Department's decision unless it is clearly erroneous.

Sec. 6. 13 V.S.A. § 5233 is amended to read:

§ 5233. EXTENT OF SERVICES

(a) A needy person who is entitled to be represented by an attorney under section 5231 of this title is entitled:

\* \* \*

(3) To be represented in any other postconviction proceeding which may have more than a minimal effect on the length or conditions of detention where the attorney considers:



(A) the claims, defenses, and other legal contentions to be warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(B) the allegations and other factual contentions to have evidentiary support, or likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

\* \* \*

#### Sec. 7. EFFECTIVE DATE; TRANSITION PROVISION

(a) This act shall take effect on passage.

(b) Except as provided in subsection (c) of this section, the Commissioner of Corrections may only release or permit inspection of offender or inmate records in reliance upon an exception to the confidentiality of offender and inmate records if the exception is created by law, including an exception created by rule adopted in accordance with the Administrative Procedure Act under the mandate in Sec. 5, 28 V.S.A. § 107(b)(5).

(c) The Department of Corrections may rely upon exceptions to the confidentiality of offender and inmate files under directives adopted by the Department prior to the effective date of this act until the Commissioner adopts rules pursuant to the rulemaking mandates of Sec. 5, 28 V.S.A. § 107(a) and (b)(5). On or before September 1, 2016, the Commissioner shall prefile rules with the Interagency Committee on Administrative Rules in accordance with these mandates. The Commissioner shall update the Joint Legislative Justice Oversight Committee on the status of its efforts to adopt the rules at the Oversight Committee's first meeting on or after September 1, 2016.

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

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

**Favorable**

**S. 114**

An act relating to the Open Meeting Law

**Rep. Townsend of South Burlington**, for the Committee on **Government Operations**, recommends that the bill ought to pass in concurrence.

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

**(For text see Senate Journal February 4, 5, 2016 )**

**S. 214**

An act relating to large group insurance

**Rep. Briglin of Thetford**, for the Committee on **Health Care**, recommends that the bill ought to pass in concurrence.

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

**(For text see Senate Journal March 9, 2016 )**

**S. 256**

An act relating to extending the moratorium on home health agency certificates of need

**Rep. Patt of Worcester**, for the Committee on **Health Care**, recommends that the bill ought to pass in concurrence.

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

**(For text see Senate Journal February 23, 2016 )**

**Senate proposal of amendment**

**H. 640**

An act relating to expenses for the repair of town cemeteries

The Senate proposes to the House to amend the bill in Sec. 1, 18 V.S.A. § 5362 by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) When lots or walks in a public burial ground become unsightly with weeds or by an unchecked growth of grass or from any other cause, or when headstones or monuments have become displaced or out of repair, the ~~selectmen~~ selectboard or board of cemetery commissioners shall cause such lots and walks to be cleared of weeds and grass, the headstones or monuments to be replaced or repaired, or other disfigurements removed, and may draw orders on the town treasurer for the expenses incurred. ~~The amount drawn from the treasury of a town for such purpose in any year shall not exceed \$500.00.~~

**(For text see House Journal March 16, 2016 )**

**NOTICE CALENDAR**  
**Favorable with Amendment**

**S. 20**

An act relating to establishing and regulating dental therapists

**Rep. French of Randolph**, for the Committee on **Human Services**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS

This bill establishes and regulates a new category of oral health practitioners: dental therapists. It is the intent of the General Assembly to do so in order to increase access for Vermonters to oral health care, especially in areas with a significant volume of patients who are low income, or who are uninsured or underserved.

Sec. 2. 26 V.S.A. chapter 12 is amended to read:

CHAPTER 12. DENTISTS, DENTAL THERAPISTS, DENTAL  
HYGIENISTS, AND DENTAL ASSISTANTS

Subchapter 1. General Provisions

§ 561. DEFINITIONS

As used in this chapter:

(1) “Board” means the ~~board of dental examiners~~ Board of Dental Examiners.

(2) “Director” means the ~~director of the office of professional regulation~~ Director of the Office of Professional Regulation.

(3) “Practicing dentistry” means an activity in which a person:

(A) undertakes by any means or method to diagnose or profess to diagnose or to treat or profess to treat or to prescribe for or profess to prescribe for any lesions, diseases, disorders, for deficiencies of the human oral cavity, teeth, gingiva, maxilla, or mandible or adjacent associated structures;

(B) extracts human teeth or corrects malpositions of the teeth or jaws;

(C) furnishes, supplies, constructs, reproduces, or repairs prosthetic dentures, bridges, appliances, or other structures to be used or worn as substitutes for natural teeth or adjusts those structures, except on the written prescription of a duly licensed dentist and by the use of impressions or casts made by a duly licensed and practicing dentist;

(D) administers general dental anesthetics;

(E) administers local dental anesthetics, except dental hygienists as authorized by ~~board~~ Board rule; or

(F) engages in any of the practices included in the curricula of recognized dental colleges.

(4) “Dental therapist” means an individual licensed to practice as a dental therapist under this chapter.

(5) “Dental hygienist” means an individual licensed to practice as a dental hygienist under this chapter.

~~(5)~~(6) “Dental assistant” means an individual registered to practice as a dental assistant under this chapter.

~~(6)~~(7) “Direct supervision” means supervision by a licensed dentist who is readily available at the dental facility for consultation or intervention.

(8) “General supervision” means:

(A) the direct or indirect oversight of a dental therapist by a dentist, which need not be on-site; or

(B) the oversight of a dental hygienist by a dentist as prescribed by Board rule in accordance with sections 582 and 624 of this chapter.

#### § 562. PROHIBITIONS

(a) No person may use in connection with a name any words, including “Doctor of Dental Surgery” or “Doctor of Dental Medicine,” or any letters, signs, or figures, including the letters “D.D.S.” or “D.M.D.,” which imply that a person is a licensed dentist when not authorized under this chapter.

(b) No person may practice as a dentist, dental therapist, or dental hygienist unless currently licensed to do so under the provisions of this chapter.

(c) No person may practice as a dental assistant unless currently registered under the provisions of this chapter.

(d) A person who violates this section shall be subject to the penalties provided in 3 V.S.A. § 127.

\* \* \*

#### § 565. DISPLAY OF LICENSE OR REGISTRATION

Every dentist, dental therapist, dental hygienist, and dental assistant shall display a copy of his or her current license or registration at each place of practice and in such a manner so as to be easily seen and read.

\* \* \*

## Subchapter 2. Board of Dental Examiners

### § 581. CREATION; QUALIFICATIONS

(a) ~~The state board of dental examiners~~ State Board of Dental Examiners is created and shall consist of:

(1) six licensed dentists in good standing who have practiced in this state State for a period of five years or more and are in active practice;

(2) one licensed dental therapist who has practiced in this State for a period of at least three years immediately preceding appointment and is in active practice;

(3) ~~two one~~ one licensed dental hygienist hygienist who have has practiced in this ~~state~~ State for a period of at least three years immediately preceding the appointment and ~~are~~ is in active practice;

(4) one registered dental assistant who has practiced in this state State for a period of at least three years immediately preceding the appointment and is in active practice; and

(5) two members of the public who are not associated with the practice of dentistry.

(b) Board members shall be appointed by the ~~governor~~ Governor pursuant to 3 V.S.A. §§ 129b and 2004.

(c) ~~No~~ A member of the ~~board may~~ Board shall not be an officer or serve on a committee of his or her respective state or local professional dental, dental therapy, dental hygiene, or dental assisting organization, ~~nor shall any member of the board be on the faculty of a school of dentistry, dental hygiene, or dental assisting.~~

\* \* \*

### § 584. UNPROFESSIONAL CONDUCT

The ~~board~~ Board may refuse to give an examination or issue a license to practice dentistry, to practice as a dental therapist, or to practice dental hygiene or to register an applicant to be a dental assistant and may suspend or revoke any such license or registration or otherwise discipline an applicant, licensee, or registrant for unprofessional conduct. Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a by an applicant or person licensed or registered under this chapter:

\* \* \*

(2) rendering professional services to a patient if the dentist, dental therapist, dental hygienist, or dental assistant is intoxicated or under the influence of drugs;

\* \* \*

(6) practicing a profession regulated under this chapter with a dentist, dental therapist, dental hygienist, or dental assistant who is not legally practicing within the ~~state~~ State or aiding or abetting such practice;

\* \* \*

### Subchapter 3A. Dental Therapists

#### § 611. LICENSE BY EXAMINATION

(a) Qualifications for examination. To be eligible for examination for licensure as a dental therapist, an applicant shall:

(1) have attained the age of majority;

(2) be a licensed dental hygienist;

(3) be a graduate of a dental therapist educational program administered by an institution accredited by the Commission on Dental Accreditation to train dental therapists;

(4) have successfully completed an emergency office procedure course approved by the Board; and

(5) pay the application fee set forth in section 662 of this chapter and an examination fee established by the Board by rule.

(b) Completion of examination.

(1)(A) An applicant for licensure meeting the qualifications for examination set forth in subsection (a) of this section shall pass a comprehensive, competency-based clinical examination approved by the Board and administered independently of an institution providing dental therapist education.

(B) An applicant shall also pass an examination testing the applicant's knowledge of the Vermont statutes and rules relating to the practice of dentistry approved by the Board.

(2) An applicant who has failed the clinical examination twice is ineligible to retake the clinical examination until further education and training are obtained as established by the Board by rule.

(c) The Board may grant a license to an applicant who has met the requirements of this section.

## § 612. LICENSE BY ENDORSEMENT

The Board may grant a license as a dental therapist to an applicant who:

(1) is currently licensed in good standing to practice as a dental therapist in any jurisdiction of the United States or Canada that has licensing requirements deemed by the Board to be at least substantially equivalent to those of this State;

(2) has passed an examination testing the applicant's knowledge of the Vermont statutes and rules relating to the practice of dentistry approved by the Board;

(3) has successfully completed an emergency office procedure course approved by the Board;

(4) has met active practice requirements and any other requirements established by the Board by rule; and

(5) pays the application fee set forth in section 662 of this chapter.

## § 613. PRACTICE; SCOPE OF PRACTICE

(a) A person who provides oral health care services, including prevention, evaluation, and assessment; education; palliative therapy; and restoration under the general supervision of a dentist within the parameters of a collaborative agreement as provided under section 614 of this subchapter shall be regarded as practicing as a dental therapist within the meaning of this chapter.

(b) A dental therapist may perform the following oral health care services:

(1) Oral health instruction and disease prevention education, including nutritional counseling and dietary analysis.

(2) Periodontal charting, including a periodontal screening examination.

(3) Exposing radiographs.

(4) Oral evaluation and assessment of dental disease.

(5) Dental prophylaxis.

(6) Mechanical polishing.

(7) Applying topical preventive or prophylactic agents, including fluoride varnishes, antimicrobial agents, and pit and fissure sealants.

(8) Pulp vitality testing.

(9) Applying desensitizing medication or resin.

(10) Fabricating athletic mouthguards.

- (11) Suture removal.
- (12) Changing periodontal dressings.
- (13) Brush biopsies.
- (14) Administering local anesthetic.
- (15) Placement of temporary restorations.
- (16) Interim therapeutic restorations.
- (17) Placement of temporary and preformed crowns.
- (18) Emergency palliative treatment of dental pain in accordance with the other requirements of this subsection.
- (19) Formulating an individualized treatment plan, including services within the dental therapist's scope of practice and referral for services outside the dental therapist's scope of practice.
- (20) Minor repair of defective prosthetic devices.
- (21) Recementing permanent crowns.
- (22) Placement and removal of space maintainers.
- (23) Prescribing, dispensing, and administering analgesics, anti-inflammatories, and antibiotics, except Schedule II, III, or IV controlled substances.
- (24) Administering nitrous oxide.
- (25) Fabricating soft occlusal guards, but not for treatment of temporomandibular joint disorders.
- (26) Tissue conditioning and soft reline.
- (27) Tooth reimplantation and stabilization.
- (28) Extractions of primary teeth.
- (29) Nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility of +3. A dental therapist shall not extract a tooth if it is unerupted, impacted, fractured, or needs to be sectioned for removal.
- (30) Cavity preparation.
- (31) Restoring primary and permanent teeth, not including permanent tooth crowns, bridges, veneers, or denture fabrication.
- (32) Preparation and placement of preformed crowns for primary teeth.
- (33) Pulpotomies on primary teeth.



(34) Indirect and direct pulp capping on primary and permanent teeth.

§ 614. COLLABORATIVE AGREEMENT

(a) Before a dental therapist may enter into his or her first collaborative agreement, he or she shall:

(1) complete 1,000 hours of direct patient care using dental therapy procedures under the direct supervision of a dentist; and

(2) receive a certificate of completion signed by that supervising dentist that verifies the dental therapist completed the hours described in subdivision (1) of this subsection.

(b) In order to practice as a dental therapist, a dental therapist shall enter into a written collaborative agreement with a dentist. The agreement shall include:

(1) practice settings where services may be provided and the populations to be served;

(2) any limitations on the services that may be provided by the dental therapist, including the level of supervision required by the supervising dentist;

(3) age- and procedure-specific practice protocols, including case selection criteria, assessment guidelines, and imaging frequency;

(4) a procedure for creating and maintaining dental records for the patients that are treated by the dental therapist;

(5) a plan to manage medical emergencies in each practice setting where the dental therapist provides care;

(6) a quality assurance plan for monitoring care provided by the dental therapist, including patient care review, referral follow-up, and a quality assurance chart review;

(7) protocols for prescribing, administering, and dispensing medications, including the specific conditions and circumstances under which these medications may be prescribed, dispensed, and administered;

(8) criteria relating to the provision of care to patients with specific medical conditions or complex medication histories, including requirements for consultation prior to the initiation of care;

(9) criteria for the supervision of dental assistants and dental hygienists; and

(10) a plan for the provision of clinical resources and referrals in situations that are beyond the capabilities of the dental therapist.

(c)(1) The supervising dentist shall be professionally responsible and legally liable for all services authorized and performed by the dental therapist pursuant to the collaborative agreement.

(2) A supervising dentist shall be licensed and practicing in Vermont.

(3) A supervising dentist is limited to entering into a collaborative agreement with no more than two dental therapists at any one time.

(d)(1) A collaborative agreement shall be signed and maintained by the supervising dentist and the dental therapist.

(2) A collaborative agreement shall be reviewed, updated, and submitted to the Board on an annual basis and as soon as a change is made to the agreement.

#### § 615. APPLICATION OF OTHER LAWS

(a) A dental therapist authorized to practice under this chapter shall not be in violation of section 562 of this chapter as it relates to the unauthorized practice of dentistry if the practice is authorized under this chapter and under the collaborative agreement.

(b) A dentist who permits a dental therapist to perform a dental service other than those authorized under this chapter or any dental therapist who performs an unauthorized service shall be in violation of section 584 of this chapter.

#### § 616. USE OF DENTAL HYGIENISTS AND DENTAL ASSISTANTS

(a) A dental therapist may supervise dental assistants and dental hygienists directly to the extent permitted in the collaborative agreement.

(b) At any one practice setting, a dental therapist may have under his or her direct supervision no more than a total of two assistants or hygienists or a combination thereof.

#### § 617. REFERRALS

(a) The supervising dentist shall refer patients to another dentist or specialist to provide any necessary services needed by a patient that are beyond the scope of practice of the dental therapist and which the supervising dentist is unable to provide.

(b) A dental therapist, in accordance with the collaborative agreement, shall refer patients to another qualified dental or health care professional to receive any needed services that exceed the scope of practice of the dental therapist.

\* \* \*

Subchapter 6. Renewals, Continuing Education, and Fees

§ 661. RENEWAL OF LICENSE

(a) Licenses and registrations shall be renewed every two years on a schedule determined by the ~~office of professional regulation~~ Office of Professional Regulation.

(b) No continuing education reporting is required at the first biennial license renewal date following licensure.

(c) The ~~board~~ Board may waive continuing education requirements for licensees who are on active duty in the ~~armed forces of the United States~~ U.S. Armed Forces.

(d) Dentists.

\* \* \*

(e) Dental therapists. To renew a license, a dental therapist shall meet active practice requirements established by the Board by rule and document completion of no fewer than 20 hours of Board-approved continuing professional education which shall include an emergency office procedures course during the two-year licensing period preceding renewal.

(f) Dental hygienists. To renew a license, a dental hygienist shall meet active practice requirements established by the ~~board~~ Board by rule and document completion of no fewer than 18 hours of ~~board-approved~~ Board-approved continuing professional education which shall include an emergency office procedures course during the two-year licensing period preceding renewal.

~~(f)~~(g) Dental assistants. To renew a registration, a dental assistant shall meet the requirements established by the ~~board~~ Board by rule.

§ 662. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application

(A) Dentist	\$ 225.00
(B) <u>Dental therapist</u>	<u>\$ 185.00</u>
(C) Dental hygienist	\$ 150.00
<del>(C)</del> (D) Dental assistant	\$ 60.00

(2) Biennial renewal

(A) Dentist	\$ 355.00
(B) <u>Dental therapist</u>	\$ <u>225.00</u>
(C) Dental hygienist	\$ 125.00
<del>(C)</del> (D) Dental assistant	\$ 75.00

(b) The licensing fee for a dentist, dental therapist, or dental hygienist or the registration fee for a dental assistant who is otherwise eligible for licensure or registration and whose practice in this ~~state~~ State will be limited to providing pro bono services at a free or reduced-fee clinic or similar setting approved by the ~~board~~ Board shall be waived.

\* \* \*

### Sec. 3. DEPARTMENT OF HEALTH; REPORT ON GEOGRAPHIC DISTRIBUTION OF DENTAL THERAPISTS

Two years after the graduation of the first class of dental therapists from a Vermont accredited program, the Department of Health, in consultation with the Board of Dental Examiners, shall report to the Senate Committees on Health and Welfare and on Government Operations and the House Committees on Human Services and on Government Operations regarding:

(1) the geographic distribution of licensed dental therapists practicing in this State;

(2) the geographic areas of this State that are underserved by licensed dental therapists; and

(3) recommended strategies to promote the practice of licensed dental therapists in underserved areas of this State, particularly those areas that are rural in nature and have high numbers of people living in poverty.

### Sec. 4. BOARD OF DENTAL EXAMINERS; REQUIRED RULEMAKING

The Board of Dental Examiners shall adopt the rules and perform all other acts necessary to implement the provisions of those sections.

### Sec. 5. TRANSITIONAL PROVISION; BOARD OF DENTAL EXAMINERS; INITIAL DENTAL THERAPIST MEMBER

Notwithstanding the provision of 26 V.S.A. § 581(a)(2) in Sec. 1 of this act that requires the dental therapist member of the Board of Dental Examiners to have practiced in this State for a period of at least three years immediately preceding appointment, the initial dental therapist appointee may fulfill this practice requirement if he or she has practiced as a licensed dental hygienist in this State for a period of at least three years immediately preceding

appointment, so long as that appointee is a licensed dental therapist in active practice in this State at the time of appointment.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

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

**(For text see Senate Journal April 2, 2015 )**

**S. 20**

An act relating to establishing and regulating dental therapists

**Rep. LaClair of Barre Town**, for the Committee on **Government Operations**, recommends that the report of the Committee on Human Services be amended as follows:

First: In Sec. 2, in 26 V.S.A. § 581 (Board of Dental Examiners; creation; qualifications), by striking out subsection (a) (Board members) in its entirety and inserting in lieu thereof the following:

\* \* \*

Second: In Sec. 4 (Board of Dental Examiners; required rulemaking), following “implement the provisions of” by striking out “those sections” and inserting in lieu thereof “this act”

Third: By striking out Sec. 5 (transitional provision; Board of Dental Examiners; initial dental therapist member) in its entirety and inserting in lieu thereof the following:

Sec. 5. [Deleted.]

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

**(For text see Senate Journal April 2, 2015 )**

**S. 225**

An act relating to miscellaneous changes to laws related to motor vehicles

**Rep. Brennan of Colchester**, for the Committee on **Transportation**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Dealers \* \* \*

Sec. 1. 23 V.S.A. § 4(8)(A)(ii)(III) is amended to read:

(III) For a dealer in trailers, semi-trailers, or trailer coaches, “engaged in the business” means having sold or exchanged at least one trailer, semi-trailer, or trailer coach in the immediately preceding year or a combination of two such vehicles in the two immediately preceding years. However, the sale or exchange of a trailer with a gross vehicle weight rating of 3,500 pounds or less shall be excluded under this subdivision (8)(A)(ii)(III).

## Sec. 2. DEALER REGULATION REVIEW

(a) The Commissioner of Motor Vehicles shall review Vermont statutes, rules, and procedures regulating motor vehicle, snowmobile, motorboat, and all-terrain vehicle dealers, and review the regulation of such dealers by other states, to determine whether and how Vermont’s regulation of dealers and associated motor vehicle laws should be amended to:

(1) enable vehicle and motorboat sales to thrive while protecting consumers from fraud or other illegal activities in the market for vehicles and motorboats; and

(2) protect the State’s interest in collecting taxes, enforcing the law, and ensuring an orderly marketplace.

(b) In conducting his or her review, the Commissioner shall consult with new and used vehicle dealers or representatives of such dealers, or both, and other interested persons.

(c) The Commissioner shall review:

(1) required minimum hours and days of operation of dealers;

(2) physical location requirements of dealers;

(3) the required number of sales to qualify as a dealer and the types of sales and relationships among sellers that should count toward the sales threshold;

(4) the permitted uses of dealer plates;

(5) whether residents of other states should be allowed to register vehicles in Vermont;

(6) the effect any proposed change will have on fees and taxes that dealers collect and consumers pay;

(7) the effect any proposed changes will have on the ability of Vermont consumers and law enforcement to obtain information from a dealer selling vehicles or motorboats in Vermont; and

(8) other issues as may be necessary to accomplish the purpose of the review as described in subsection (a) of this section.

(d) On or before January 15, 2017, the Commissioner shall report his or her findings and recommendations to the Senate and House Committees on Transportation and submit proposed legislation as may be required to implement the recommendations.

\* \* \* Motor-Assisted Bicycles \* \* \*

Sec. 3. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the law regulating vehicles, as provided in this title and 20 V.S.A. part 5, the following definitions shall apply:

\* \* \*

(45)(A) “Motor-driven cycle” means any vehicle equipped with two or three wheels, a power source providing up to a maximum of two brake horsepower and having a maximum piston or rotor displacement of 50 cubic centimeters if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed 30 miles per hour on a level road surface, and which is equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged. As motor vehicles, motor-driven cycles shall be subject to the purchase and use tax imposed under 32 V.S.A. chapter 219 rather than to a general sales tax. ~~At~~ Neither an electric personal assistive mobility device nor a motor-assisted bicycle is not a motor-driven cycle.

(B)(i) “Motor-assisted bicycle” means any bicycle or tricycle with fully operable pedals and equipped with a motor that:

(I) has a power output of not more than 1,000 watts or 1.3 horsepower; and

(II) in itself is capable of producing a top speed of no more than 20 miles per hour on a paved level surface when ridden by an operator who weighs 170 pounds.

(ii) Motor-assisted bicycles shall be regulated in accordance with section 1136 of this title.

\* \* \*

Sec. 4. 23 V.S.A. § 1136(d) is added to read:

(d)(1) Except as provided in this subsection, motor-assisted bicycles shall be governed as bicycles under Vermont law, and operators of motor-assisted

bicycles shall be subject to all of the rights and duties applicable to bicyclists under Vermont law. Motor-assisted bicycles and their operators shall be exempt from motor vehicle registration and inspection and operator's license requirements. A person shall not operate a motor-assisted bicycle on a sidewalk in Vermont.

(2) A person under 16 years of age shall not operate a motor-assisted bicycle on a highway in Vermont.

(3) Nothing in this subsection shall interfere with the right of municipalities to regulate the operation and use of motor-assisted bicycles pursuant to 24 V.S.A. § 2291(1) and (4), as long as the regulations do not conflict with this subsection.

\* \* \* Nondriver Identifications Cards; Data Elements \* \* \*

Sec. 5. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

\* \* \*

(b) Every identification card shall expire, unless earlier canceled, on the fourth birthday of the applicant following the date of original issue, and may be renewed every four years upon payment of a ~~\$20.00~~ \$24.00 fee. At least 30 days before an identification card will expire, the Commissioner shall mail first class to the cardholder or send the cardholder electronically an application to renew the identification card; a cardholder shall be sent the renewal notice by mail unless the cardholder opts in to receive electronic notification.

\* \* \*

(i) An identification card issued under this subsection to an ~~individual under the age of 30 shall include a magnetic strip that includes only the name, date of birth, height, and weight of the individual identified on the card~~ initial or renewal applicant shall include data elements as prescribed in 6 C.F.R. § 37.19.

\* \* \*

\* \* \* Refund When Registration Plates Not Used \* \* \*

Sec. 6. 23 V.S.A. § 327 is amended to read:

§ 327. REFUND WHEN PLATES NOT USED

Subject to the conditions set forth in subdivisions (1), (2), and (3) of this section, the Commissioner may cancel the registration of a motor vehicle, snowmobile, or motor boat when the owner returns the number plates, if any, ~~the validation sticker, if issued for that year,~~ and the registration certificate to



the Commissioner. Upon cancellation of the registration, the Commissioner shall notify the Commissioner of Finance and Management, who shall issue a refund as follows:

(1) For registrations ~~which are~~ cancelled prior to the beginning of the registration period, the refund is the full amount of the fee paid, less a fee of \$5.00. ~~The validation stickers may be affixed to the plates.~~

(2) For registrations ~~which are~~ cancelled within 30 days of the date of issue, the refund is the full amount of the fee paid, less a charge of \$5.00. The owner of a motor vehicle must prove to the Commissioner's satisfaction that the number plates have not been used or attached to a motor vehicle, ~~or that the current validation sticker has not been affixed to the plate or to the snowmobile or motorboat.~~

(3) For registrations ~~which are~~ cancelled prior to the beginning of the second year of a two-year registration period, the refund is one-half of the full amount of the two-year fee paid, less a charge of \$5.00. ~~The validation stickers may be affixed to the plates.~~

\* \* \* Exhibition Vehicles; Year of Manufacture Plates \* \* \*

Sec. 7. 23 V.S.A. § 373 is amended to read:

§ 373. EXHIBITION VEHICLES; YEAR OF MANUFACTURE PLATES

(a) The annual fee for the registration of a motor vehicle which is maintained solely for use in exhibitions, club activities, parades, and other functions of public interest and which is not used for the transportation of passengers or property on any highway, except to attend such functions, shall be ~~\$15.00~~ \$21.00, in lieu of fees otherwise provided by law.

(b) Pursuant to the provisions of section 304 of this title, one registration plate shall be issued to those vehicles registered under subsection (a) of this section.

(c) ~~The Vermont registration plates of any motor vehicle~~ issued prior to ~~1939~~ 1968 may be displayed on a motor vehicle registered under this section instead of the ~~plates~~ plate issued under this section, if the ~~current plates are~~ issued plate is maintained within the vehicle and produced upon request of any enforcement officer as defined in subdivision 4(11) of this title.

\* \* \* Provisions Common to Registrations and Operator's Licenses \* \* \*

Sec. 8. 23 V.S.A. § 208 is added to read:

§ 208. RECIPROCAL RECOGNITION OF NONRESIDENT

REGISTRATIONS, LICENSES, AND PERMITS; FOREIGN VISITORS

As determined by the Commissioner, and consistent with section 601 of this title, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. However, these exemptions shall be operative only to the extent that under the laws of the foreign country or state of the owner's or operator's residence like exemptions and privileges are granted to owners of motor vehicles duly registered and to operators duly licensed or permitted under the laws of this State, except that if the owner or operator is a resident of a country not adjoining the United States, the exemptions shall be operative for a period of not more than 30 days for vacation purposes even if the country does not grant like privileges to residents of this State.

Sec. 9. 23 V.S.A. § 411 is amended to read:

§ 411. RECIPROCAL PROVISIONS

~~As determined by the Commissioner, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. Any exemptions provided in this section shall, however, be operative as to an owner or operator of a motor vehicle only to the extent that under the laws of the foreign country or state of his or her residence like exemptions and privileges are granted to operators duly licensed or permitted and to owners of motor vehicles duly registered under the laws of this State. If the owner or operator is a resident of a country not adjoining the United States, such exemptions shall be operative for a period of 30 days for vacation purposes, notwithstanding that such country does not grant like privileges to residents of this State. [Repealed.]~~

\* \* \* Operator's Licenses \* \* \*

Sec. 10. 23 V.S.A. § 601 is amended to read:

§ 601. LICENSE REQUIRED

(a)(1) Except as otherwise provided by law, a resident shall not operate a motor vehicle on a highway in Vermont unless he or she holds a valid license issued by the State of Vermont. A new resident who has moved into the State from another jurisdiction and who holds a valid license to operate motor vehicles under section ~~411~~ 208 of this title shall procure a Vermont license within 60 days of moving to the State. Except as provided in subsection 603(d) of this title, licenses shall not be issued to nonresidents.

(2) In addition to any other requirement of law, a nonresident as defined in section 4 of this title shall not operate a motor vehicle on a Vermont highway unless:

(A) he or she holds a valid license or permit to operate a motor vehicle issued by another U.S. jurisdiction; ~~or~~

(B) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and operates for a period of not more than 30 days for vacation purposes; or

(C) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and:

(i) is 18 or more years of age, is lawfully present in the United States, and has been in the United States for less than one year;

(ii) the jurisdiction that issued the license is a party to the 1949 Convention on Road Traffic or the 1943 Convention on the Regulation of Inter-American Motor Vehicle Traffic; and

(iii) he or she possesses an international driving permit.

\* \* \*

(c) At least 30 days before a license is scheduled to expire, the Commissioner shall mail first class to the licensee or send the licensee electronically an application for renewal of the license; a cardholder shall be sent the renewal notice by mail unless the cardholder opts in to receive electronic notification. A person shall not operate a motor vehicle unless properly licensed.

\* \* \*

Sec. 11. CONFORMING CHANGES

In 23 V.S.A. §§ 614 and 615, “section 411” is hereby replaced with “section 208.”

\* \* \* Special Examinations; Conforming Changes \* \* \*

Sec. 12. 23 V.S.A. § 637 is amended to read:

§ 637. EXAMINERS OF PHYSICAL AND MENTAL CONDITIONS

The Commissioner may designate physicians, certified physician assistants, licensed advance practice registered nurses, ophthalmologists, oculists, and optometrists properly registered and authorized to practice in this State or in an adjoining state as examiners of operators. The Commissioner may refer any matter relative to the issuing, suspending, or reinstating of licenses ~~which concern~~ that concerns the physical or mental condition or eyesight of any applicant for or holder of a license or any petitioner for reinstatement to, and require the applicant or other person to be examined by, such examiner in the vicinity of the person's residence as he or she determines to be qualified to examine and report. Such examiner shall report to the Commissioner the true and actual result of examinations made by him or her together with his or her decision as to whether the person examined should be granted or allowed to retain an operator's license or permitted to operate a motor vehicle.

Sec. 13. 23 V.S.A. § 638 is amended to read:

~~§ 638. DISSATISFACTION WITH PHYSICAL AND MENTAL EXAMINATION~~

~~If any person is dissatisfied with the result of an examination given by any one examiner, as provided in section 637 of this title, he or she may apply to the Commissioner for and shall be granted an examination by two physicians, ophthalmologists, oculists, or optometrists selected from a list of examiners approved by the Commissioner, and their decision shall be final. The Commissioner may designate the area of specialization from which the examiners are to be selected in each case, but in no event shall he or she limit the choice of an examiner to any one individual within the profession from which he or she is to be chosen. [Repealed.]~~

Sec. 14. 23 V.S.A. § 639 is amended to read:

§ 639. FEES FOR PHYSICAL AND MENTAL EXAMINATIONS

The compensation of the examiners provided in ~~sections~~ section 637 and 638 of this title shall be paid by the person examined.

\* \* \* State Highway Restrictions and Chain Up Requirements \* \* \*

Sec. 15. 23 V.S.A. § 1006b is amended to read:

§ 1006b. ~~SMUGGLERS~~ SMUGGLERS' NOTCH; WINTER CLOSURE OF VERMONT ROUTE 108; COMMERCIAL VEHICLE OPERATION PROHIBITED

(a) The Agency of Transportation may close the ~~Smugglers~~ Smugglers' Notch segment of Vermont Route 108 during periods of winter weather. ~~To enforce the winter closure, the Agency shall erect signs conforming to the standards established by section 1025 of this title.~~

(b)(1) As used in this subsection, "commercial vehicle" means truck-tractor-semitrailer combinations and truck-tractor-trailer combinations.

(2) Commercial vehicles are prohibited from operating on the Smugglers' Notch segment of Vermont Route 108.

(3) Either the operator of a commercial vehicle who violates this subsection, or the operator's employer, shall be subject to a civil penalty of \$1,000.00. If the violation results in substantially impeding the flow of traffic on Vermont Route 108, the penalty shall be \$2,000.00. For a second or subsequent conviction within a three-year period, the penalty shall be doubled.

(c) The Agency shall erect signs conforming to the standards established by section 1025 of this title to indicate the closures and restrictions authorized under this section.

Sec. 16. 23 V.S.A. § 1006c is amended to read:

§ 1006c. ~~TRUCKS AND BUSES; CHAINS AND TIRE CHAIN~~  
REQUIREMENTS FOR VEHICLES WITH WEIGHT RATINGS OF MORE THAN 26,000 POUNDS

(a) As used in this section, "chains" means link chains, cable chains, or another device that attaches to a vehicle's tire or wheel or to the vehicle itself and is designed to augment the traction of the vehicle under conditions of snow or ice.

(b) The Traffic Committee Secretary of Transportation, the Commissioner of Motor Vehicles, or the Commissioner of Public Safety, or their designees, may require the use of tire chains or winter tires on specified portions of State highways during periods of winter weather for motor coaches, truck tractor-semitrailer combinations, and truck tractor-trailer combinations vehicles with a gross vehicle weight rating (GVWR) of more than 26,000 pounds or gross combination weight rating (GCWR) of more than 26,000 pounds.

~~(b)~~(c) When tire chains or winter tires are required, advance notice shall be given to the traveling public through signage and, whenever possible, through public service announcements. In areas where tire chains or winter tires are required, there shall be an adequate area for vehicles to pull off the traveled way to affix any chains that might be required.

~~(e)~~(d) Under 3 V.S.A. chapter 25, the Traffic Committee may adopt such rules as are necessary to administer this section and may delegate this authority to the Secretary.

(e) When signs are posted and chains required in accordance with this section, chains shall be affixed as follows on vehicles with a GVWR or a GCWR of more than 26,000 pounds:

(1) Solo vehicles. A vehicle not towing another vehicle:

(A) that has a single-drive axle shall have chains on one tire on each side of the drive axle; or

(B) that has a tandem-drive axle shall have chains on:

(i) two tires on each side of the primary drive axle; or

(ii) if both axles are powered by the drive line, on one tire on each side of each drive axle.

(2) Vehicles with semitrailers or trailers. A vehicle towing one or more semitrailers or trailers:

(A) that has a single-drive axle towing a trailer shall have chains on two tires on each side of the drive axle and one tire on the front axle and one tire on one of the rear axles of the trailer;

(B) that has a single-drive axle towing a semitrailer shall have chains on two tires on each side of the drive axle and two tires, one on each side, of any axle of the semitrailer;

(C) that has a tandem-drive axle towing a trailer shall have:

(i) chains on two tires on each side of the primary drive axle, or if both axles of the vehicle are powered by the drive line, one tire on each side of each drive axle; and

(ii) chains on one tire of the front axle and one tire on one of the rear axles of the trailer;

(D) that has a tandem-drive axle towing a semitrailer shall have:

(i) chains on two tires on each side of the primary drive axle, or if both axles of the vehicle are powered by the drive line, one tire on each side of each drive axle; and

(ii) chains on two tires, one on each side, of any axle of the semitrailer.

(f) Either the operator of a vehicle required to be chained under this section who fails to affix chains as required herein, or the operator's employer, shall be subject to a civil penalty of \$1,000.00. If the violation results in substantially impeding the flow of traffic on a highway, the penalty shall be \$2,000.00. For a second or subsequent conviction within a three-year period, the penalty shall be doubled.

Sec. 17. 23 V.S.A. § 2302 is amended to read:

§ 2302. TRAFFIC VIOLATION DEFINED

(a) As used in this chapter, "traffic violation" means:

\* \* \*

(11) a violation of subsection 1006b(b), section 1006c, or subsections 4120(a) and (b) of this title; or

\* \* \*

\* \* \* School Bus Operators \* \* \*

Sec. 18. 23 V.S.A. § 1282(d) is amended to read:

(d)(1) A No less often than every two years, and before the start of a school year, a person licensed by the Department of Motor Vehicles to assume the duty of transporting school pupils in either a Type I or Type II school bus shall annually before the commencement of the school year furnish his or her the employer, where he or she is employed who employs him or her as a school bus driver, the following:

(A) a certificate signed by a licensed physician, ~~or~~ a certified physician assistant, or a nurse practitioner in accordance with written protocols, certifying that ~~he or she~~ the licensee is, as far as can be determined

by reasonable inquiry and examination, mentally and physically competent to perform his or her duties; and that he or she meets or exceeds the minimum hearing standards, based on voice testing, as prescribed by the Commissioner; and

(B) a certificate signed by a properly registered and authorized medical doctor, ophthalmologist, optometrist, or nurse practitioner certifying that he or she meets or exceeds the minimum vision standards as prescribed by the Commissioner.

(2) Upon receipt of a certificate required by this subsection which indicates that the school bus driver is not mentally or physically competent or does not meet the minimum hearing or vision standards, the employer shall immediately notify the Commissioner.

(3) The certificates required under this subsection may be valid for up to two years from the examination.

\* \* \* Overweight and Overdimension Vehicles \* \* \*

Sec. 19. 23 V.S.A. § 1391a(d) is amended to read:

(d) Fines imposed for violations of this section shall be deposited in the Transportation Fund, unless the fines are the result of enforcement actions on a town highway by an enforcement officer employed by or under contract with the municipality, in which case the fine shall be paid to the municipality, except for a ~~\$6.00~~ an administrative charge for each case in the amount specified in 13 V.S.A. § 7251, which shall be retained by the State.

Sec. 20. 23 V.S.A. § 1400(d) is amended to read:

~~(d) The Commissioner may enter into contracts with an electronic permitting service that will allow the service to issue single trip permits to a commercial motor vehicle operator, on behalf of the Department of Motor Vehicles. The permitting service shall be authorized to issue single trip permits for travel to and from a Vermont facility by commercial motor vehicles which are not greater than 72 feet in length on routes that have been approved by the Agency of Transportation. The permitting service may assess, collect, and retain an additional administrative fee which shall be paid by the commercial motor vehicle carrier. [Repealed.]~~



\* \* \* Motor Vehicle Titles \* \* \*

Sec. 21. 23 V.S.A. § 2001 is amended to read:

§ 2001. DEFINITIONS

Except when the context otherwise requires, as used in this chapter:

\* \* \*

(13) “Salvaged motor vehicle” means a motor vehicle which has been purchased or otherwise acquired as salvage; scrapped, dismantled, or destroyed; or declared a total loss by an insurance company.

\* \* \*

(17) “Salvage certificate of title” means a title that is stamped or otherwise branded to indicate that the vehicle described thereon is a salvaged motor vehicle ~~or has been scrapped, dismantled, destroyed, or declared a total loss by an insurance company, or both.~~

\* \* \*

Sec. 22. 23 V.S.A. § 2019 is amended to read:

§ 2019. MAILING OR DELIVERING CERTIFICATE

The certificate of title shall be mailed or personally delivered, upon proper identification of the individual, to the first lienholder named in it or, if none, to the owner. However, a person is entitled to a personal delivery of only one title in a single day and of no more than three titles in a calendar month.

Sec. 23. 23 V.S.A. § 2091 is amended to read:

§ 2091. DISMANTLING OR DESTRUCTION OF VEHICLE SALVAGE CERTIFICATES OF TITLE; FORWARDING OF PLATES AND TITLES OF CRUSHED VEHICLES

(a) Except for vehicles for which no certificate of title is required pursuant to section 2012 of this title and for vehicles which are more than 15 years old, any person who purchases or in any manner acquires a vehicle as salvage; any person who scraps, dismantles, or destroys a motor vehicle; or any insurance company or representative thereof who declares a motor vehicle to be a total loss, shall make application apply to the Commissioner for a salvage certificate of title within 15 days of the time the vehicle is purchased or otherwise acquired as salvage; is scrapped, dismantled, or destroyed; or is declared a total loss. However, an insurance company or representative thereof proceeding under subsection (c) of this section may apply outside this 15-day window to the extent necessary to comply with the requirements of that subsection.

(b) The Except as provided in subsection (c) of this section, the application shall be accompanied by:

(1) any certificate of title; and

(2) any other information or documents that the Commissioner may reasonably require to establish ownership of the vehicle and the existence or nonexistence of any security interest in the vehicle.

(c)(1) An insurer required to obtain a salvage certificate of title under this section for a vehicle declared a total loss, or a representative of the insurer, may obtain the title without satisfying the requirements of subsection (b) of this section if the application for the salvage certificate of title is accompanied by:

(A) the required fee;

(B) evidence that the insurer has made payment for the total loss of the vehicle, and evidence that the payment was made to any lienholder identified in the records of certificates of title of the Department and to the vehicle owner, if applicable; and

(C) a copy of the insurer's written request for the certificate of title sent at least 30 days prior to the application to the vehicle owner and to any lienholder identified in the records of certificates of title of the Department, proof that the request was sent by certified mail or was delivered by a courier service that provides proof of delivery, and copies of any responses from the vehicle owner or lienholder.

(2) If the Commissioner issues a salvage certificate of title to an eligible person under this subsection, the title shall be issued free and clear of all liens.

(b)(d) When Except for vehicles for which no certificate of title is required under this chapter, when a vehicle is destroyed by crushing for scrap, the person causing the destruction shall immediately mail or deliver to the Commissioner the certificate of title, if any, endorsed "crushed" and signed by the person, accompanied by the original plate showing the original vehicle identification number. The plate shall not be removed until such time as the vehicle is crushed.

(e)(e) This section shall not apply to, and salvage certificates of title shall not be required for, unrecovered stolen vehicles or vehicles stolen and recovered in an undamaged condition, provided that the original vehicle identification number plate has not been removed, altered, or destroyed and the number thereon is identical with that on the original title certificate.

\* \* \* Abandoned Motor Vehicles \* \* \*

Sec. 24. 23 V.S.A. chapter 21, subchapter 7 is amended to read:

Subchapter 7. Abandoned Motor Vehicles

§ 2151. ~~ABANDONED MOTOR VEHICLES; DEFINED~~ DEFINITIONS

~~(a)(1) For the purposes of~~ As used in this subchapter, ~~an “abandoned motor vehicle” means:~~

(1)(A) “Abandoned motor vehicle” means:

(i) a motor vehicle that has remained on public or private property or on or along a highway for more than 48 hours without the consent of the owner or person in control of the property ~~for more than 48 hours~~, and has a valid registration plate or public vehicle identification number which has not been removed, destroyed, or altered; or

~~(B)(ii)~~ (ii) a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for any period of time if the vehicle does not have a valid registration plate or the public vehicle identification number has been removed, destroyed, or altered.

(B) “Abandoned motor vehicle” does not include a vehicle or other equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which is left in a manner which does not interfere with the normal movement of traffic.

(2) “Landowner” means a person who owns or leases or otherwise has authority to control use of real property.

~~(3) For purposes of this subsection,~~ “Public vehicle identification number” means the public vehicle identification number which is usually visible through the windshield and attached to the driver’s side of the dashboard, instrument panel, or windshield pillar post or on the doorjamb on the driver’s side of the vehicle.

~~(b) Construction equipment. A vehicle or other equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which is left in a manner which does not interfere with the normal movement of traffic, shall not be considered to be an abandoned motor vehicle.~~

§ 2152. AUTHORIZED REMOVAL OF ABANDONED MOTOR VEHICLES

(a) Public property. A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from public property, and may contact a towing service for its removal of such motor vehicle, based upon personal observation by the officer that the vehicle is an abandoned motor vehicle.

(b) Private property.

(1) A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from private property, and may contact a towing service for its removal from private property of such vehicle, based upon complaint of the owner or agent of the property the request of the landowner on which whose property the vehicle is located that the and information indicating that the vehicle is an abandoned motor vehicle.

(2) ~~An owner or agent of an owner~~ A landowner of private property is authorized to remove or cause removal of an abandoned motor vehicle from that property or to any other place on any property of the landowner, and may contact a towing service for its removal from that property of an abandoned vehicle. ~~If an owner or agent of an owner~~ A landowner who removes or causes removal of an abandoned motor vehicle, ~~the owner or agent~~ shall immediately notify the police agency in the jurisdiction from which the vehicle is removed. ~~Notification shall include identification of~~ and provide the registration plate number, the public vehicle identification number, if available, and the make, model, and color of the vehicle. The ~~owner or agent of an owner of property upon which a motor vehicle is abandoned~~ landowner may remove the vehicle from the place where it is discovered to any other place on any property owned by him or her, or cause the vehicle to be removed by a towing service under the provisions of this subsection, without incurring any civil liability to the owner of the abandoned vehicle.

§ 2153. ABANDONED MOTOR VEHICLE CERTIFICATION

(a) ~~Within 30 days of removal of the vehicle, a towing service which has removed an abandoned motor vehicle~~ A landowner on whose property an abandoned motor vehicle is located shall apply to the Department for an abandoned motor vehicle certification on forms supplied by the Department of ~~Motor Vehicles~~ within 30 days of the date the vehicle was discovered on or brought to the property unless the vehicle has been removed from the property. An abandoned motor vehicle certification form shall indicate the date of ~~removal, that the abandoned motor vehicle was discovered or brought to the property; the make, color, model, and location found, and~~ of the vehicle; the

name, address, and ~~phone~~ telephone number of the ~~towing service,~~ landowner; and a certification of the public vehicle identification number, if any, to be recorded by a law enforcement officer. This subsection shall not be construed as creating a private right of action against the landowner.

(b) Upon receipt of an abandoned motor vehicle certification form, the Commissioner of ~~Motor Vehicles~~ shall attempt to identify and notify the owner of the vehicle as required by section 2154 of this title. If no owner can be determined by the Commissioner within the time period allowed by section 2154 of this title, the Commissioner shall issue a certificate of abandoned motor vehicle with appropriate title or salvage title, or both, and the vehicle may be disposed of in the manner set forth in section 2156 of this title.

§ 2154. IDENTIFICATION AND RECLAMATION OF ABANDONED MOTOR VEHICLES

(a) The Department of ~~Motor Vehicles~~ shall make a reasonable attempt to locate an owner of an abandoned motor vehicle.

(1) If the abandoned motor vehicle is not identifiable by its registration plates or public vehicle identification number, and if no owner can be determined within 21 days of the date of receipt of the abandoned motor vehicle certification form, the Commissioner of ~~Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with an appropriate title or salvage title.

(2) If the abandoned motor vehicle is identifiable by its registration plates or public vehicle identification number, the Department of ~~Motor Vehicles~~ shall, within three business days of receipt of the form for certification of abandoned motor vehicle, send notice to the last known registered owner and lienholder of the vehicle. The notice shall be sent by certified mail, return receipt requested, and shall advise the last known registered owner of the motor vehicle's location and a telephone number where additional information about the motor vehicle may be obtained. If the receipt is not returned to the Department within seven business days, the Commissioner shall, by first class mail, send a second notice. Within 21 days of sending the second notice, the last known registered owner or lienholder may reclaim and retrieve the motor vehicle by presenting to the Department of ~~Motor Vehicles~~ satisfactory evidence of ownership, and paying or arranging to pay any fees or charges authorized by section 2155 of this title. If the last known registered owner or lienholder fails or refuses to reclaim the motor vehicle within 21 days of the second mailing, the Commissioner of ~~Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with appropriate title or salvage title.

(b) An owner or lienholder may reclaim an abandoned motor vehicle by presenting to the Department of ~~Motor Vehicles~~ satisfactory evidence of ownership, and paying or reimbursing, or making arrangements to pay or reimburse, the towing agency, the Department of ~~Motor Vehicles~~, or the ~~owner or agent of private property~~ landowner, as the case may be, any towing fee or storage charges permitted under section 2155 of this title.

#### § 2155. FEES AND CHARGES

(a) Towing fees. For towing an abandoned motor vehicle from private property, a towing service may charge a reasonable fee to be paid by the vehicle owner or agent of the owner landowner of the private property.

(b) Storage charges. In addition to any towing fee, an owner or lienholder reclaiming an abandoned motor vehicle may be charged and shall pay a fee for the costs of storage of the vehicle, except that no fee may be charged for storage for any period preceding the date upon which the form for abandoned motor vehicle certification is sent ~~by the towing service~~ to the Department of ~~Motor Vehicles~~.

\* \* \*

\* \* \* Repeals and Conforming Change \* \* \*

#### Sec. 25. REPEALS

The following sections are repealed:

(1) 23 V.S.A. § 366 (log-haulers; registration).

(2) 23 V.S.A. § 423 (negotiating and entering into an interstate compact regarding truck license fees).

(3) 23 V.S.A. § 605 (unsatisfied judgment; suspension).

Sec. 26. 23 V.S.A. § 369 is amended to read:

#### § 369. TRACTORS OTHER THAN FARM TRACTORS

The annual fee for registration of a tractor, except ~~log-haulers on snow roads and~~ farm tractors as otherwise provided in this chapter, shall be based on the actual weight of such tractor at the same rate as that provided for trucks of like weight under the provisions of this chapter. The minimum fee for registering any tractor shall be \$20.00.

Sec. 27. 23 V.S.A. § 603(a)(2) is amended to read:

(2) The Commissioner may, however, in his or her discretion, refuse to issue a license to any person whenever he or she is satisfied from information given him or her by credible persons, and upon investigation, that the person is

mentally or physically unfit, or because of his or her habits, or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. A person refused a license; under the provisions of this subsection ~~or section 605 of this title~~, shall be entitled to hearing as provided in sections 105–107 of this title.

\* \* \* Chemicals of High Concern to Children; Vehicle Exemptions \* \* \*

Sec. 28. 18 V.S.A. § 1772 is amended to read:

§ 1772. DEFINITIONS

As used in this chapter:

\* \* \*

(8) “Consumer product” means any product that is regularly used or purchased to be used for personal, family, or household purposes. “Consumer product” shall not mean:

\* \* \*

(G) an aircraft, motor vehicle, wheelchair, or vessel;

\* \* \*

(13) “Motor vehicle” means ~~every vehicle intended primarily for use and operation on the public highways and shall include snowmobiles, all-terrain vehicles, and farm tractors and other machinery used in the production, harvesting, and care of farm products~~ all vehicles propelled or drawn by power other than muscular power, including snowmobiles, motorcycles, all-terrain vehicles, farm tractors, vehicles running only upon stationary rails or tracks, motorized highway building equipment, road making appliances, or tracked vehicles or electric personal assistive mobility devices.

\* \* \*

\* \* \* Signage on State Property Regarding Unlawful Idling \* \* \*

Sec. 29. INSTALLATION OF SIGNAGE REGARDING UNLAWFUL

IDLING OF MOTOR VEHICLE ENGINES

(a) Before July 1, 2017, the Department of Buildings and General Services (Department), in consultation with the Agency of Transportation, shall oversee completion of a project to install signs on property owned or controlled by the State where parking is permitted indicating that idling of motor vehicle engines in violation of 23 V.S.A. § 1110 is prohibited. At a minimum, the Department shall install at least one such sign at each rest area, information center, park and ride facility, parking structure, and building owned or controlled by the

State with a parking capacity of 25 pleasure cars or more. In its discretion, the Department may install additional signs at each such facility or at other State-owned or -controlled facilities where parking is permitted.

(b) On or before January 15, 2017, the Commissioner of Buildings and General Services, after consulting with the Secretary of Transportation, shall submit an interim written report to the House and Senate Committees on Transportation on the Department's activities and plans to complete the project required under subsection (a) of this section.

\* \* \* Driving Under the Influence; Saliva Testing \* \* \*

Sec. 30. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

\* \* \*

(3) "Evidentiary test" means a breath, saliva, or blood test which indicates the person's alcohol concentration or the presence of other drug and which is intended to be introduced as evidence.

\* \* \*

Sec. 31. 23 V.S.A. § 1201 is amended to read:

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF  
INTOXICATING LIQUOR OR OTHER SUBSTANCE; CRIMINAL  
REFUSAL; ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person's alcohol concentration is:

(A) 0.08 or more; or

(B) 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(C) 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title; or

(D) 0.05 or more and the person has any detectable amount of delta-9 tetrahydrocannabinol in the person's blood; or

(2) when the person is under the influence of intoxicating liquor; or



(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug; ~~or~~

~~(4) when the person's alcohol concentration is 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title.~~

(b) A person who has previously been convicted of a violation of this section shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer had reasonable grounds to believe the person was in violation of subsection (a) of this section.

(c) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and be involved in an accident or collision resulting in serious bodily injury or death to another and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer has reasonable grounds to believe the person has any amount of alcohol or drugs in the system.

\* \* \*

Sec. 32. 23 V.S.A. § 1202 is amended to read:

§ 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD ALCOHOL CONTENT OR DRUG IMPAIRMENT

(a)~~(1)~~ Implied consent.

(1) Breath test. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to have given consent to an evidentiary test of that person's breath for the purpose of determining the person's alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2)(A) Blood test. If A person is deemed to have given consent to the taking of an evidentiary sample of blood if:

(i) breath testing equipment is not reasonably available; ~~or if~~

(ii) the law enforcement officer has ~~reason~~ reasonable grounds to believe that the person;

(I) is unable to give a sufficient sample of breath for testing; ~~or if the law enforcement officer has reasonable grounds to believe that the person~~

(II) is under the influence of a drug other than alcohol; or

~~(III) the person is deemed to have given consent to the taking of an evidentiary sample of blood~~ is under the influence of alcohol and a drug.

(B) If in the officer's opinion the person is incapable of decision or unconscious or dead, it is deemed that the person's consent is given and a sample of blood shall be taken.

(3) Saliva test. If the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, the person is deemed to have given consent to the taking of an evidentiary sample of saliva. Any saliva test administered under this section shall be used only for the limited purpose of detecting the presence of a drug in the person's body, and shall not be used to extract DNA information.

~~(3)~~(4) Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

~~(4)~~(5) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

\* \* \*

Sec. 33. 23 V.S.A. § 1203 is amended to read:

§ 1203. ADMINISTRATION OF TESTS; RETENTION OF TEST AND  
VIDEOTAPE

(a) A breath test shall be administered only by a person who has been certified by the Vermont Criminal Justice Training Council to operate the breath testing equipment being employed. In any proceeding under this subchapter, a person's testimony that he or she is certified to operate the breath testing equipment employed shall be prima facie evidence of that fact.

(b) Only a physician, licensed nurse, medical technician, physician assistant, medical technologist, or laboratory assistant acting at the request of a law enforcement officer may withdraw blood for the purpose of determining the presence of alcohol or other drug. This limitation does not apply to the taking of a breath or saliva sample.

(c) When a breath test which is intended to be introduced in evidence is taken with a crimper device, or when blood is withdrawn at an officer's request, a sufficient amount of breath, or blood, as the case may be, shall be taken to enable the person to have made an independent analysis of the sample, and shall be held for at least 45 days from the date the sample was taken. At any time during that period, the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent analysis. The Department of Public Safety shall adopt rules providing for the security of the sample. At no time shall the defendant or any agent of the defendant have access to the sample. A preserved sample of breath shall not be required when an infrared breath-testing instrument is used. A person tested with an infrared breath-testing instrument shall have the option of having a second infrared test administered immediately after receiving the results of the first test.

(d) In the case of a breath test administered using an infrared ~~breath-testing~~ breath-testing instrument, the test shall be analyzed in compliance with rules adopted by the Department of Public Safety. The analyses shall be retained by the State. A sample is adequate if the infrared ~~breath-testing~~ breath-testing instrument analyzes the sample and does not indicate the sample is deficient. Analysis of the person's breath, saliva, or blood which is available to that person for independent analysis shall be considered valid when performed according to methods approved by the Department of Public Safety. The analysis performed by the State shall be considered valid when performed according to a method or methods selected by the Department of Public Safety. The Department of Public Safety shall use rule making procedures to select its method or methods. Failure of a person to provide an adequate breath or saliva sample constitutes a refusal.

(e) [Repealed.]

(f) When a law enforcement officer has reason to believe that a person may be violating or has violated section 1201 of this title, the officer may request the person to provide a sample of breath or saliva for a preliminary screening test using a device approved by the Commissioner of Public Safety for this purpose. The person shall not have the right to consult an attorney prior to submitting to this preliminary ~~breath-alcohol~~ screening test. The results of this preliminary screening test may be used for the purpose of deciding whether an arrest should be made and whether to request an evidentiary test and shall not be used in any court proceeding except on those issues. Following the screening test, additional tests may be required of the operator pursuant to the provisions of section 1202 of this title.

(g) The Office of the Chief Medical Examiner shall report in writing to the Department of Motor Vehicles the death of any person as the result of an

accident involving a vehicle and the circumstances of such accident within five days of such death.

(h) A Vermont law enforcement officer shall have a right to request a breath, saliva, or blood sample in an adjoining state or country under this section unless prohibited by the law of the other state or country. If the law in an adjoining state or country does not prohibit an officer acting under this section from taking a breath, saliva, or blood sample in its jurisdiction, evidence of such sample shall not be excluded in the courts of this State solely on the basis that the test was taken outside the State.

(i) The Commissioner of Public Safety shall adopt emergency rules relating to the operation, maintenance, and use of preliminary drug or alcohol screening devices for use by law enforcement officers in enforcing the provisions of this title. The ~~commissioner~~ Commissioner shall consider relevant standards of the National Highway Traffic Safety Administration in adopting such rules. Any preliminary alcohol screening device authorized for use under this title shall be on the qualified products list of the National Highway Traffic Safety Administration.

\* \* \*

Sec. 34. 23 V.S.A. § 1203a is amended to read:

§ 1203a. INDEPENDENT CHEMICAL TEST; BLOOD TESTS

(a) A person tested has the right at the person's own expense to have someone of the person's own choosing administer a chemical test or tests in addition to any administered at the direction of the law enforcement officer under section 1203 of this title. The failure or inability to obtain an additional test or tests by a person shall not preclude the admission in evidence of the test taken at the direction of an enforcement officer unless the additional test was prevented or denied by the enforcement officer.

(b) Arrangements for a blood test shall be made by the person submitting to the evidentiary breath or saliva test, by the person's attorney, or by some other person acting on the person's behalf unless the person is detained in custody after administration of the evidentiary test and upon completion of processing, in which case the law enforcement officer having custody of the person shall make arrangements for administration of the blood test upon demand but at the person's own expense.

\* \* \*

Sec. 35. 23 V.S.A. § 1204 is amended to read:

§ 1204. PERMISSIVE INFERENCES

(a) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by a person while operating, attempting to operate or in actual physical control of a vehicle on a highway, the person's alcohol concentration or alcohol concentration and evidence of delta-9 tetrahydrocannabinol shall give rise to the following permissive inferences:

(1) If the person's alcohol concentration at that time was less than 0.08, such fact shall not give rise to any presumption or permissive inference that the person was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor.

(2) If the person's alcohol concentration at that time was 0.08 or more, it shall be a permissive inference that the person was under the influence of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.

(3) If the person's alcohol concentration at that time was 0.05 or more and the person had any detectable amount of delta-9 tetrahydrocannabinol in the person's blood, it shall be a permissive inference that the person was under the combined influence of alcohol and any other drug in violation of subdivision 1201(a)(3) of this title.

(4) If the person's alcohol concentration at any time within two hours of the alleged offense was 0.10 or more, it shall be a permissive inference that the person was under the influence of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.

(b) The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor, nor shall they be construed as requiring that evidence of the amount of alcohol in the person's blood, breath, urine, or saliva must be presented.

\* \* \* Effective Dates \* \* \*

Sec. 36. EFFECTIVE DATES

(a) This section and Secs. 28 (chemicals of high concern to children; definition of motor vehicle) and 29 (prohibited idling of motor vehicles; signs) shall take effect on passage.

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

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

**(For text see Senate Journal March 11, 16, 2016)**

**Rep. Masland of Thetford**, for the Committee on **Ways & Means**, recommends the House propose to the Senate to amend the bill as recommended by the Committee on **Transportation**.

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

**Amendment to be offered by Rep. Shaw of Pittsford to the recommendation of amendment of the Committee on Transportation to S. 225**

By adding two new sections to be Secs. 36 and 37 and a reader assistance thereto to read:

\* \* \* Colored Lights on Fire Department and EMS Vehicles \* \* \*

Sec. 36. 23 V.S.A. § 1252 is amended to read:

§ 1252. ISSUANCE OF PERMITS FOR SIRENS OR COLORED LAMPS, OR BOTH; USE OF AMBER LAMPS

(a) When satisfied as to the condition and use of the vehicle, the Commissioner shall issue and may revoke, for cause, permits for sirens or colored signal lamps in the following manner:

(1)(A) Sirens or blue or blue and white signal lamps, or a combination of these, may be authorized for all law enforcement vehicles owned or leased by a law enforcement agency, a certified law enforcement officer, or the Vermont Criminal Justice Training Council. If the applicant is a constable, the application shall be accompanied by a certification by the town clerk that the applicant is the duly elected or appointed constable and attesting that the town has not voted to limit the constable's authority to engage in enforcement activities under 24 V.S.A. § 1936a.

(B) One blue signal lamp may be authorized for use on a vehicle owned or leased by a fire department or on an emergency medical service (EMS) vehicle, provided that the Commissioner shall require the lamp to be mounted so as to be visible primarily from the rear of the vehicle.

(2) Sirens and red or red and white signal lamps may be authorized for all ambulances and other EMS vehicles, fire apparatus department vehicles, vehicles used solely in rescue operations, or vehicles owned or leased by, or provided to, volunteer firefighters and voluntary rescue squad members, including a vehicle owned by a volunteer's employer when the volunteer has the written authorization of the employer to use the vehicle for emergency fire or rescue activities.

~~(3) No vehicle may be authorized a permit for more than one of the combinations described in subdivisions (1) and (2) of this subsection. [Repealed.]~~

(4) No motor vehicle, other than one owned by the applicant, shall be issued a permit until the Commissioner has recorded the information regarding both the owner of the vehicle and the applicant for the permit.

(5) Upon application to the Commissioner, the Commissioner may issue a single permit for all the vehicles owned or leased by the applicant.

(6) Sirens and red or red and white signal lamps, or sirens and blue or blue and white signal lamps, may be authorized for restored emergency or enforcement vehicles used for exhibition purposes. Sirens and lamps authorized under this subdivision may only be activated during an exhibition, such as a car show or parade.

\* \* \*

Sec. 37. 23 V.S.A. § 1255 is amended to read:

#### § 1255. EXCEPTIONS

~~(1)(a)~~ (a) The provisions of section 1251 of this title shall not apply to directional signal lamps of a type approved by the Commissioner ~~of Motor Vehicles~~.

~~(2)(b)~~ (b) All persons with motor vehicles equipped as provided in ~~subdivision subdivisions~~ 1252(a)(1) and (2) of this title, shall use the sirens or colored signal lamps, or both, only in the direct performance of their official duties. When any person other than a law enforcement officer, firefighter, or emergency medical service (EMS) responder is operating a motor vehicle equipped as provided in subdivision 1252(a)(1) of this title, the colored signal lamp shall be either removed, covered, or hooded. When any person, other than an authorized ~~ambulance~~ EMS vehicle operator, firefighter, or authorized operator of vehicles used in a rescue operation, is operating a motor vehicle equipped as provided in subdivision 1252(a)(2) of this title, the colored signal lamps shall be either removed, covered, or hooded unless the operator holds a senior operator license.

and by renumbering the remaining section to be numerically correct.

#### S. 241

An act relating to regulation of marijuana

**Rep. Grad of Moretown**, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Prevention \* \* \*

Sec. 1. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a)(1) Relying on lessons learned from tobacco and alcohol prevention efforts, the Department of Health, in collaboration with the Department of Public Safety, the Agency of Education, and the Governor's Highway Safety Program, shall develop and administer an education and prevention program focused on use of marijuana by youths under 25 years of age. In so doing, the Department shall consider at least the following:

(A) Community- and school-based youth and family-focused prevention initiatives that strive to:

(i) expand the number of school-based grants for substance abuse services to enable each supervisory union to develop and implement a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(ii) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youths in schools and other settings; and

(iii) expand family education programs.

(B) An informational and countermarketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(C) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(D) Expansion of the use of SBIRT among the State's pediatric practices and school-based health centers.

(E) Strategies specific to youths who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) On or before March 15, 2017, the Department shall adopt rules to implement the education and prevention program described in this subsection and implement the program on or before September 15, 2017.

(b) The Department shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youths in Vermont and to understand the source of marijuana used by this population.

(c) Any data collected by the Department on the use of marijuana by youths shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.



Sec. 2. FISCAL YEAR 2017 APPROPRIATION; EXECUTIVE BRANCH  
POSITION AUTHORIZATION; DEPARTMENT OF HEALTH

(a) In fiscal year 2017, \$350,000.00 is appropriated to the Department of Health for the marijuana prevention, education, and countermarketing programs required by Sec. 1 of this act.

(b) One (1) Substance Abuse Program Manager is established as a new permanent classified position in the Department of Health in fiscal year 2017.

\* \* \* Civil and Criminal Penalties for Marijuana \* \* \*

Sec. 3. 18 V.S.A. § 4230(b) is amended to read:

(b) Selling or dispensing.

(1) A person knowingly and unlawfully selling marijuana or hashish shall be imprisoned not more than two years or fined not more than \$10,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing ~~one-half ounce or~~ more than one ounce of marijuana or ~~2.5~~ five grams or more of hashish shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing one pound or more of marijuana or 2.8 ounces of hashish shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

Sec. 4. REPEAL

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

Sec. 5. 18 V.S.A. § 4230e is added to read:

§ 4230e. CHEMICAL EXTRACTION PROHIBITED

(a) No person shall manufacture concentrated marijuana or hemp by means of any liquid or gas, other than alcohol, that has a flashpoint below 100 degrees Fahrenheit.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

\* \* \* Impaired Driving \* \* \*

Sec. 6. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.

(c) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~\$25.00~~ \$50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

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

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove

compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages or marijuana in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be fined not more than \$25.00.

Sec. 8. 23 V.S.A. § 1201 is amended to read:

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF  
INTOXICATING LIQUOR OR OTHER SUBSTANCE; CRIMINAL  
REFUSAL; ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person's alcohol concentration is:

(A) 0.08 or more; or

(B) 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(C) 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title; or

(D) 0.05 or more and the person has any detectable amount of delta-9 tetrahydrocannabinol in the person's blood; or

(2) when the person is under the influence of intoxicating liquor; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug; ~~or~~

~~(4) when the person's alcohol concentration is 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title.~~

(b) A person who has previously been convicted of a violation of this section shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer had reasonable grounds to believe the person was in violation of subsection (a) of this section.

(c) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and be involved in an accident or collision resulting in serious bodily injury or death to another and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer has reasonable grounds to believe the person has any amount of alcohol in the system.

(d)(1) A person who is convicted of a second or subsequent violation of subsection (a), (b), or (c) of this section when the person's alcohol concentration is proven to be 0.16 or more shall not, for three years from the date of the conviction for which the person's alcohol concentration is 0.16 or more, operate, attempt to operate, or be in actual physical control of any vehicle on a highway when the person's alcohol concentration is 0.02 or more. The prohibition imposed by this subsection shall be in addition to any other penalties imposed by law.

(2) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway when the person's alcohol concentration is 0.02 or more if the person has previously been convicted of a second or subsequent violation of subsection (a), (b), or (c) of this section within the preceding three years and the person's alcohol concentration for the second or subsequent violation was proven to be 0.16 or greater. A violation of this subsection shall be considered a third or subsequent violation of this section and shall be subject to the penalties of subsection 1210(d) of this title.

(e) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this State shall not constitute a defense against any charge of violating this section.

(f) A person may not be convicted of more than one violation of subsection (a) of this section arising out of the same incident.

(g) For purposes of this section and section 1205 of this title, the defendant may assert as an affirmative defense that the person was not operating, attempting to operate, or in actual physical control of the vehicle because the person:

(1) had no intention of placing the vehicle in motion; and

(2) had not placed the vehicle in motion while under the influence.

(h) As used in subdivision (a)(3) of this section, "under the influence of a drug" means that a person's ability to operate a motor vehicle safely is diminished or impaired in the slightest degree. This subsection shall not be construed to affect the meaning of the term "under the influence of intoxicating liquor."

Sec. 9. 23 V.S.A. § 1202 is amended to read:

§ 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD  
ALCOHOL CONTENT

(a)(1) Implied consent. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to have given consent to an evidentiary test of that person's breath for the purpose of determining the person's alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2)(A) Blood test. ~~If~~ A person is deemed to have given consent to the taking of an evidentiary sample of blood if:

(i) breath testing equipment is not reasonably available; ~~or if~~

(ii) the law enforcement officer has ~~reason~~ reasonable grounds to believe that the person:

(I) is unable to give a sufficient sample of breath for testing; ~~or if the law enforcement officer has reasonable grounds to believe that the person~~

(II) is under the influence of a drug other than alcohol; ~~or~~

(III) ~~the person is deemed to have given consent to the taking of an evidentiary sample of blood~~ is under the influence of alcohol and a drug.

(B) If in the officer's opinion the person is incapable of decision or unconscious or dead, it is deemed that the person's consent is given and a sample of blood shall be taken.

(3) Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

(4) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

(b) If the person refuses to submit to an evidentiary test it shall not be given, except as provided in subsection (f) of this section, but the refusal may be introduced as evidence in a criminal proceeding.

(c) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has a right as herein limited to consult an attorney before deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and no later than 30 minutes from the time of the initial attempt to contact the attorney. The person must make a decision about whether or not to submit to the test or tests at the expiration of the 30 minutes regardless of whether a consultation took place.

(d) At the time a test is requested, the person shall be informed of the following statutory information:

(1) Vermont law authorizes a law enforcement officer to request a test to determine whether the person is under the influence of alcohol or other drug.

(2) If the officer's request is reasonable and testing is refused, the person's license or privilege to operate will be suspended for at least six months.

(3) If a test is taken and the results indicate that the person is under the influence of alcohol or other drug, the person will be subject to criminal charges and the person's license or privilege to operate will be suspended for at least 90 days.

(4) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has the limited right to consult an attorney before deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and no later than 30 minutes from the time of the initial attempt to contact the attorney regardless of whether a consultation took place. The person also has the right to have additional tests made by someone of the person's own choosing at the person's own expense. The person shall also be informed of the location of one or more facilities available for drawing blood.

(5) A person who is requested by a law enforcement officer to submit to an evidentiary test administered with an infrared breath-testing instrument may elect to have a second infrared test administered immediately after receiving the results of the first test.

(6) If the person refuses to take an evidentiary test, the refusal may be offered into evidence against the person at trial, whether or not a search warrant is sought. The person may be charged with the crime of criminal refusal if the person:

(A) has previously been convicted of a violation of section 1201 of this title; or

(B) is involved in an accident or collision resulting in serious bodily injury or death to another, in which case the court may issue a search warrant and order the person to submit to a blood test, the results of which may be offered into evidence against the person at trial.

(e) In any proceeding under this subchapter, a law enforcement officer's testimony that he or she is certified pursuant to ~~section~~ 20 V.S.A. § 2358 shall be prima facie evidence of that fact.

(f) If a person who has been involved in an accident or collision resulting in serious bodily injury or death to another refuses an evidentiary test, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of blood for an evidentiary test. If a blood sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test. Once a law enforcement official begins the application process for a search warrant, the law enforcement official is not obligated to discontinue the process even if the person later agrees to provide an evidentiary breath sample. The limitation created by Rule 41(g) of the Vermont Rules of Criminal Procedure regarding blood specimens shall not apply to search warrants authorized by this section.

(g) The Defender General shall provide statewide 24-hour coverage seven days a week to assure that adequate legal services are available to persons entitled to consult an attorney under this section.

Sec. 10. 23 V.S.A. § 1204 is amended to read:

#### § 1204. PERMISSIVE INFERENCES

(a) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by a person while operating, attempting to operate or in actual physical control of a vehicle on a highway, the person's alcohol concentration or alcohol concentration and evidence of delta-9 tetrahydrocannabinol shall give rise to the following permissive inferences:

(1) If the person's alcohol concentration at that time was less than 0.08, such fact shall not give rise to any presumption or permissive inference that the person was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor.

(2) If the person's alcohol concentration at that time was 0.08 or more, it shall be a permissive inference that the person was under the influence of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.

(3) If the person's alcohol concentration at that time was 0.05 or more and the person had any detectable amount of delta-9 tetrahydrocannabinol in the person's blood, it shall be a permissive inference that the person was under the combined influence of alcohol and any other drug in violation of subdivision 1201(a)(3) of this title.

(4) If the person's alcohol concentration at any time within two hours of the alleged offense was 0.10 or more, it shall be a permissive inference that the person was under the influence of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.

(b) The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor, nor shall they be construed as requiring that evidence of the amount of alcohol in the person's blood, breath, urine, or saliva must be presented.

#### Sec. 11. FISCAL YEAR 2017 APPROPRIATIONS; DEPARTMENT OF PUBLIC SAFETY

(a) In fiscal year 2017, the following amounts are appropriated to the Department of Public Safety:

(1) \$124,000.00 for forensic laboratory equipment, supplies, training, testing, and contractual expenses.

(2) \$460,000.00 for the forensic laboratory capital construction renovations.

(3) \$63,500.00 for matching funds needed for Drug Recognition Expert training for the Department and other State law enforcement agencies in FY2017 after other available matching funds are applied.

(b) Funding in subdivision (a)(3) of this section shall be transferred to the Agency of Transportation's Governor's Highway Safety Program. The \$493,000.00 federal Governor's Highway Safety Program funds are appropriated in FY2017 to the Agency of Transportation.

#### Sec. 12. VERMONT GOVERNOR'S HIGHWAY SAFETY PROGRAM

(a) Impaired driving, operating a motor vehicle while under the influence of alcohol or drugs, is a significant concern for the General Assembly. While Vermont has made a meaningful effort to educate the public about the dangers of drinking alcohol and driving, the public seems to be less aware of the inherent risks of driving while under the influence of drugs, whether it is marijuana, a validly prescribed medication, or other drugs. It is the intent of the General Assembly that the State reframe the issue of drunk driving as



impaired driving in an effort to address comprehensively the risks of such behavior through prevention, education, and enforcement.

(b)(1) The Agency of Transportation, through its Vermont Governor's Highway Safety Program, shall expand its public education and prevention campaign on drunk driving to impaired driving, which shall include drugged driving.

(2) The Agency shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15, 2017 regarding implementation of this section.

### Sec. 13. TRAINING FOR LAW ENFORCEMENT; IMPAIRED DRIVING

(a) It is imperative that Vermont provide adequate training to both local and State law enforcement officers regarding the detection of impaired driving. Advanced Roadside Impaired Driving Enforcement (ARIDE) training provides instruction to officers at a level above Basic Standardized Sobriety Testing and proves helpful to an officer in determining when a Drug Recognition Expert (DRE) should be called. Vermont should endeavor to train as many law enforcement officers as possible in ARIDE. DREs receive a more advanced training in the detection of drugged driving and should be an available statewide resource for officers in the field.

(b) The Secretary of Transportation and the Commissioner of Public Safety shall work collaboratively to ensure that funding is available, either through the Governor's Highway Safety Program's administration of National Highway Traffic Safety Administration funds or other State funding sources, for training the number of officers necessary to provide sufficient statewide coverage for enforcement efforts to address impaired driving.

\* \* \* Study Committees \* \* \*

### Sec. 14. MARIJUANA ADVISORY COMMISSION

(a) There is created a temporary Marijuana Advisory Commission for the purpose of providing guidance to the administration and the General Assembly on a number of issues relating to marijuana in consideration of the national trend toward reclassifying marijuana at the state level and the emergence of a regulated adult-use commercial market.

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

(1) four members of the public appointed by the Governor, one of whom shall have experience in public health;

(2) one member of the House of Representatives, appointed by the Speaker of the House;

(3) one member of the Senate, appointed by the Committee on Committees; and

(4) the Attorney General or designee.

(c) Legislative members shall serve only while in office.

(d) The Governor shall appoint one member for a one-year term, two members for two-year terms, and one member for a three-year term who shall serve as the Chair. The Governor may reappoint members or appoint new members when a vacancy occurs.

(e)(1) In developing proposals for consideration by the Administration and the General Assembly, the Commission shall:

(A) weigh the various options for the appropriate existing or new governmental agency or department to administer and enforce a marijuana regulatory system;

(B) propose a comprehensive regulatory structure that establishes controlled access to marijuana in a manner that, when compared to the current illegal marijuana market, increases public safety and reduces harm to public health;

(C) review the statutes and rules for the therapeutic marijuana program and dispensaries and determine whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries;

(D) examine the issue of marijuana concentrates and edible marijuana products and whether Vermont can allow and regulate their manufacture and sale safely and, if so, how;

(E) recommend strategies for addressing impaired driving as it relates to marijuana use;

(F) identify strategies for preventing youths from using marijuana; and

(G) any other issues the Commission finds important to the current policy discussions on marijuana.

(2) Any proposal shall take into consideration the shared state and federal concerns about marijuana reform and seek to provide better control of access and distribution of marijuana in a manner that prevents:

(A) distribution of marijuana to persons under 21 years of age;

(B) revenue from the sale of marijuana going to criminal enterprises;

(C) diversion of marijuana to states that do not permit possession of marijuana;

(D) State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or activity;

(E) violence and the use of firearms in the cultivation and distribution of marijuana;

(F) drugged driving and the exacerbation of any other adverse public health consequences of marijuana use;

(G) growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(H) possession or use of marijuana on federal property.

(f) The Commission shall consult with other states and jurisdictions that have legalized marijuana and monitor them regarding implementation of regulation, policies, and strategies that have been successful and problems that have arisen.

(g) The Commission shall report to the Governor and the General Assembly, as needed, but shall issue its final recommendations on or before November 1, 2017.

(h) The Commission shall have the administrative, technical, and legal assistance of the Administration, including that of a Director of the Commission.

(i) The Administration shall call the first meeting of the Commission to occur on or before August 1, 2016. A majority of the membership shall constitute a quorum. The Commission shall cease meeting regularly after the issuance of its final report, but the Director shall continue in the position until July 1, 2018 and shall be available to meet with Administration officials and the General Assembly to discuss the Commission's recommendations. The Commission shall cease to exist on July 1, 2018.

(j) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for as many meetings as the Chair deems necessary. Other members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 15. FISCAL YEAR 2017 APPROPRIATION; EXECUTIVE BRANCH  
POSITION AUTHORIZATION; AGENCY OF ADMINISTRATION

(a) In fiscal year 2017, \$150,000.00 is appropriated to the Agency of Administration for expenses and staffing of the Marijuana Advisory Commission established in Sec. 15 of this act.

(b) One (1) exempt Marijuana Advisory Commission Director is established in the Agency of Administration.

Sec. 16. WORKFORCE STUDY COMMITTEE

(a) Creation. There is created a Workforce Study Committee to examine the potential impacts of alcohol and drug use on the workplace.

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

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

(2) the Commissioner of Labor or designee;

(3) the Commissioner of Health or designee;

(4) one person representing the interests of employees appointed by the Governor; and

(5) one person representing the interests of employers appointed by the Governor.

(c) Powers and duties. The Committee shall study:

(1) whether Vermont's workers' compensation and unemployment insurance systems are adversely affected by alcohol and drug use and identify regulatory or legislative measures to mitigate any adverse impacts;

(2) the issue of alcohol and drugs in the workplace and determine whether Vermont's workplace drug testing laws should be amended to provide employers with broader authority to conduct drug testing, including by permitting drug testing based on a reasonable suspicion of drug use, or by authorizing employers to conduct postaccident, employerwide, or postrehabilitation follow-up testing of employees; and

(3) the impact of alcohol and drug use on workplace safety and identify regulatory or legislative measures to address adverse impacts and enhance workplace safety.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Commerce and Community Development, the Department of Labor, and the Department of Health.

(e) Report. On or before December 1, 2016, the Committee shall submit a written report with findings and recommendations to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Commerce or designee shall call the first meeting of the Committee to occur on or before September 15, 2016.

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

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

(4) The Committee shall cease to exist on December 31, 2016.

\* \* \* Effective Date \* \* \*

#### Sec. 17. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

**(Committee vote: 6-5-0)**

**(For text see Senate Journal February 24, 25, 2016)**

**Rep. Young of Glover**, for the Committee on **Ways & Means**, recommends the bill ought to pass in concurrence when amended as recommended by the Committee on **Judiciary** and when further amended as follows:

First: In Sec. 2, subsection (a) after the word “appropriated” by inserting “from the Substance Abuse Youth Prevention and Education Fund”

Second: By adding Secs. 3a–3d to read as follows:

Sec. 3a. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program

unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating more than two marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

\* \* \*

Sec. 3b. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE  
OR OLDER;~~CIVIL VIOLATION~~

~~(a) A person 21 years of age or older 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 assessed a civil penalty as follows:~~

- ~~(1) not more than \$200.00 for a first offense;~~
- ~~(2) not more than \$300.00 for a second offense;~~
- ~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1)~~ Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana ~~or~~ five grams or less of hashish, no more than two marijuana plants, or paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

~~(2) A violation of this section shall not result in the creation of a criminal history record of any kind~~

(b) Immunity provided under this section for possession of no more than two marijuana plants shall apply only under the following circumstances:

(1) No more than two marijuana plants are possessed at a dwelling unit, regardless of how many persons 21 years of age or older reside at the dwelling unit. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(2) The person in possession of a marijuana plant or plants has obtained a permit from the Department of Health and paid an annual fee of \$125.00.

The permit shall be affixed to the marijuana plants and only one permit shall be required for possession of no more than two plants.

(A) The Substance Abuse Youth Prevention and Education Fund is hereby created. The Fund shall be maintained by the Department of Health and shall be composed of fees collected pursuant to this subsection (b). Funds shall be used for substance abuse prevention and education programs.

(B) The Department of Health shall develop a permitting system in accordance with this subsection (b). All records relating to such permits shall be confidential and exempt from public inspection and copying under the Public Records Act.

(c)(1) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.

~~(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.~~

\* \* \*

Sec. 3c. 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 person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana ~~or~~ five grams or less of hashish, no more than two marijuana plants, or paraphernalia for marijuana use 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, for a first offense; and

(2) a civil penalty of 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 offense.

\* \* \*

Sec. 3d. 18 V.S.A. § 4230d is amended to read:

§ 4230d. MARIJUANA POSSESSION BY A PERSON UNDER 16 YEARS  
OF AGE; DELINQUENCY

No person shall knowingly and unlawfully possess marijuana. A person under ~~the age of~~ 16 years of age who knowingly and unlawfully possesses one ounce or less of marijuana, or five grams or less of hashish, no more than two marijuana plants, or paraphernalia for marijuana use commits a delinquent act and shall be subject to 33 V.S.A. chapter 52. The person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice.

Third: By striking Sec. 11 in its entirety

Fourth: By striking Sec. 14 in its entirety and inserting in lieu thereof the following:

Sec. 14. MARIJUANA ADVISORY COMMISSION

(a) There is created a temporary Marijuana Advisory Commission for the purpose of providing guidance to the Administration and the General Assembly on issues relating to the national trend toward reclassifying marijuana at the state level, and the emergence of a regulated adult-use commercial market for marijuana within Vermont.

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

(1) two members of the public appointed by the Governor, one of whom shall have experience in public health;

(2) two members of the House of Representatives, appointed by the Speaker of the House;

(3) two members of the Senate, appointed by the Committee on Committees;

(4) the Attorney General or designee; and

(5) a representative of the Vermont League of Cities and Towns.

(c) Legislative members shall serve only while in office.



(d) The Governor may appoint new members of the public when a vacancy occurs.

(e)(1) In developing proposals for consideration by the Administration and the General Assembly, the Commission shall:

(A) prioritize the need for a solution that is consistent with Vermont values, culture, and scale;

(B) recommend approaches for preventing, detecting, and penalizing impaired driving as it relates to marijuana use, drawing on the latest information in Vermont and other jurisdictions;

(C) identify effective educational, preventative, and treatment strategies for reducing marijuana use by youth and monitor the impact of legalization in other jurisdictions on youth;

(D) consider the fiscal impact of revenue issues arising from the emergence of an adult-use commercial market for marijuana, with particular attention paid to other jurisdictions' experiences and choices in establishing tax and fee structures;

(E) propose a comprehensive regulatory and revenue structure that establishes controlled access to marijuana in a manner that, when compared to the current illegal marijuana market, increases public safety and reduces harm to public health;

(F) weigh the various options for the appropriate existing or new governmental agency or department to administer and enforce a marijuana regulatory system;

(G) examine the issue of marijuana concentrates and edible marijuana products, and whether Vermont can allow and regulate their manufacture and sale safely and, if so, how;

(H) review the statutes and rules for the therapeutic marijuana program and dispensaries, and determine whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries; and

(I) any other issues the Commission finds important to the current policy discussions on marijuana.

(2) Any proposal shall take into consideration the shared state and federal concerns about marijuana reform and seek to provide better control of access and distribution of marijuana in a manner that prevents:

(A) distribution of marijuana to persons under 21 years of age;

(B) revenue from the sale of marijuana going to criminal enterprises;

(C) diversion of marijuana to states that do not permit possession of marijuana;

(D) State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or activity;

(E) violence and the use of firearms in the cultivation and distribution of marijuana;

(F) drugged driving and the exacerbation of any other adverse public health consequences of marijuana use;

(G) growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(H) possession or use of marijuana on federal property.

(f) The Commission shall consult with other states and jurisdictions that have legalized marijuana, and monitor them regarding implementation of regulation, policies, and strategies that have been successful and problems that have arisen.

(g) The Commission shall report to the Governor and the General Assembly, as needed, but shall issue its final recommendations on or before December 31, 2017 at which time the Commission shall cease to exist.

(h) The Commission shall have the administrative, technical, and legal assistance of the Administration, including that of a Director of the Commission.

(i) The Administration shall call the first meeting of the Commission to occur on or before August 1, 2016. The Commission shall select a chair from among its members at the first meeting. A majority of the membership shall constitute a quorum.

(j) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for as many meetings as the Chair deems necessary. Other members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

(k) Expenses for the Commission not related to per diem compensation and reimbursement of expenses for legislative members shall be paid from funds

transferred to the Secretary of Administration from the Substance Abuse Youth Prevention and Education Fund established in 18 V.S.A. § 4230a.

Fifth: In Sec. 15, subsection (a), by striking out “\$150,000.00 is appropriated to the Agency of Administration” and inserting in lieu thereof “\$100,000.00 is appropriated from the Substance Abuse Youth Prevention and Education Fund to the Secretary of Administration” and by striking out “Sec. 15” and inserting in lieu thereof “Sec. 14”

Sixth: By striking out Sec. 17 in its entirety and inserting in lieu thereof the following:

Sec. 17. EFFECTIVE DATES

(a) Secs. 3a–3d shall take effect on September 1, 2016.

(b) The remaining sections of this act take effect on July 1, 2016.

( Committee Vote: 7-4-0)

#### **Favorable**

#### **H. 885**

An act relating to approval of amendments to the charter of the Town of Shelburne

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

( Committee Vote: 9-0-2)

#### **S. 157**

An act relating to breast density notification and education

**Rep. Fiske of Enosburgh**, for the Committee on **Human Services**, recommends the bill ought to pass.

( Committee Vote: 7-0-4)

#### **S. 174**

An act relating to a model State policy for use of body cameras by law enforcement officers

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

( Committee Vote: 10-0-1)

**J.R.S. 35**

Joint resolution urging Vermont’s participation in the Stepping Up initiative to reduce the number of incarcerated Vermonters with a mental illness

**Rep. Shaw of Pittsford**, for the Committee on **Corrections & Institutions**, recommends the bill ought to pass.

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

**Senate Proposal of Amendment**

**H. 84**

**An act relating to Internet dating services**

Senate proposal of amendment to House proposal of amendment to the Senate proposal of amendment

The Senate concurs in the House proposal of amendment to Senate proposal of amendment with the following proposal of amendment thereto:

First: In Sec. A.1, 8 V.S.A. § 2260, concerning reports about consumer litigation funding in Vermont, in subsection (a), by striking out “April 1” in its entirety and inserting in lieu thereof January 10

Second: In Sec. A.1, 8 V.S.A. § 2260, by striking out subsection (c) in its entirety and by inserting in lieu thereof a new subsection (c) to read as follows:

(c) Annually, beginning on or before January 31, 2017, the Commissioner and Attorney General shall report jointly to the General Assembly on the status of consumer litigation funding in Vermont and make any recommendations they deem necessary to improve the regulatory framework of consumer litigation funding, including a recommendation on whether Vermont should limit charges imposed under a consumer litigation funding contract and, if so, a specific recommendation on what that limit should be.

Third: By striking out Sec. I.1 and inserting in lieu thereof reader assistance and Secs. I.1, J.1–J.3, and K.1 to read:

\* \* \* Fantasy Sports Contests \* \* \*

Sec. I.1. 9 V.S.A. chapter 116 is added to read:

CHAPTER 116. FANTASY SPORTS CONTESTS

§ 4185. DEFINITIONS

As used in this chapter:

(1) “Confidential fantasy sports contest information” means nonpublic information available to a fantasy sports operator that relates to a fantasy sports

player's activity in a fantasy sports contest and that, if disclosed, may give another fantasy sports player an unfair competitive advantage in a fantasy sports contest.

(2) "Fantasy sports contest" means a virtual or simulated sporting event governed by a uniform set of rules adopted by a fantasy sports operator in which:

(A) a fantasy sports player may earn one or more cash prizes or awards, the value of which a fantasy sports operator discloses in advance of the contest;

(B) a fantasy sports player uses his or her knowledge and skill of sports data, performance, and statistics to create and manage a fantasy sports team;

(C) a fantasy sports team earns fantasy points based on the sports performance statistics accrued by individual athletes or teams, or both, in real world sporting events;

(D) the outcome is determined by the number of fantasy points earned; and

(E) the outcome is not determined by the score, the point spread, the performance of one or more teams, or the performance of an individual athlete in a single real world sporting event.

(3) "Fantasy sports operator" means a person that offers to members of the public the opportunity to participate in a fantasy sports contest for consideration.

(4) "Fantasy sports player" means an individual who participates in a fantasy sports contest for consideration.

#### § 4186. CONSUMER PROTECTION

(a) A fantasy sports operator shall adopt policies and procedures to:

(1) prevent participation in a fantasy sports contest he or she offers with a cash prize of \$5.00 or more by:

(A) the fantasy sports operator;

(B) an employee of the fantasy sports operator or a relative of the employee who lives in the same household; or

(C) a professional athlete or official who participates in one or more real world sporting events in the same sport as the fantasy sports contest;

(2) prevent the disclosure of confidential fantasy sports contest information to an unauthorized person;

(3) require that a fantasy sports player is 18 years of age or older, and verify the age of each player using one or more commercially available databases, which primarily consist of data from government sources and which government and business regularly use to verify and authenticate age and identity;

(4) limit and disclose to prospective players the number of entries a fantasy sports player may submit for each fantasy sports contest; and

(5) segregate player funds from operational funds and maintain a reserve in the form of cash, cash equivalents, an irrevocable letter of credit, a bond, or a combination thereof in an amount that equals or exceeds the amount of deposits in fantasy sports player accounts for the benefit and protection of fantasy sports player funds held in their accounts.

(b) A fantasy sports operator shall have the following duties:

(1) The operator shall provide a link on its website to information and resources addressing addiction and compulsive behavior and where to seek assistance with these issues in Vermont and nationally.

(2)(A) The operator shall enable a fantasy sports player to restrict irrevocably his or her own ability to participate in a fantasy sports contest, for a period of time the player specifies, by submitting a request to the operator through its website or by online chat with the operator's agent.

(B) The operator shall provide to a player who self-restricts his or her participation information concerning:

(i) available resources addressing addiction and compulsive behavior;

(ii) how to close an account and restrictions on opening a new account during the period of self-restriction;

(iii) requirements to reinstate an account at the end of the period; and

(iv) how the operator addresses reward points and account balances during and after the period of self-restriction, and when the player closes his or her account.

(3) The operator shall provide a player access to the following information for the previous six months:

(A) a player's play history, including money spent, games played, previous line-ups, and prizes awarded;

(B) a player's account details, including deposit amounts, withdrawal amounts, and bonus information, including amounts remaining for a pending bonus and amounts released to the player.

(c)(1) A fantasy sports operator shall contract with a third party to perform an annual independent audit, consistent with the standards established by the Public Company Accounting Oversight Board, to ensure compliance with the requirements in this chapter.

(2) The fantasy sports operator shall submit the results of the independent audit to the Attorney General.

(d) A fantasy sports operator shall not offer a fantasy sports contest that relates to sports performance statistics accrued by individual athletes or teams, or both, in university, college, high school, or youth sporting events.

#### § 4187. PENALTY

A person who violates a provision of this chapter shall be subject to a civil penalty of not more than \$1,000.00 for each violation, which shall accrue to the State and may be recovered in a civil action brought by the Attorney General.

#### § 4188. EXEMPTION

The provisions of 13 V.S.A. chapter 51, relating to gambling and lotteries, shall not apply to a fantasy sports contest.

\* \* \* Equipment and Machinery Dealers \* \* \*

#### Sec. J.1. FINDINGS AND INTENT

(a) The General Assembly finds:

(1) Vermont has long relied on economic activity relating to working farms and forestland in the State. These working lands, and the people who work the land, are part of the State's cultural and ecological heritage, and Vermont has made major policy and budget commitments in recent years in support of working lands enterprises. Farm and forest enterprises need a robust system of infrastructure to support their economic and ecological activities, and that infrastructure requires a strong economic base consisting of dealers, manufacturers, and repair facilities. Initiatives to help strengthen farm and forest working land infrastructure are in the best interest of the State.

(2) Snowmobiles and all-terrain vehicles have a significant economic impact in the State, including the distribution and sale of these vehicles, use by

residents, ski areas, and emergency responders, as well as tourists who come to enjoy riding snowmobiles and all-terrain vehicles in Vermont. It is in the best interest of the State to ensure that Vermont consumers who want to purchase snowmobiles and all-terrain vehicles have access to a competitive marketplace and a strong network of dealers, suppliers, and repair facilities in the State.

(3) The distribution and sale of equipment, snowmobiles, and all-terrain vehicles within this State vitally affects the general economy of the State and the public interest and the public welfare, and in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate equipment, snowmobile, and all-terrain vehicle suppliers and their representatives, and to regulate dealer agreements issued by suppliers who are doing business in this State, in order to protect and preserve the investments and properties of the citizens of this State.

(4) There continues to exist an inequality of bargaining power between equipment, snowmobile, and all-terrain vehicle suppliers and the independent dealer network. This inequality of bargaining power enables equipment, snowmobile, and all-terrain vehicle suppliers to compel dealers to execute dealer agreements, related contracts, and addenda that contain terms and conditions that would not routinely be agreed to by the equipment, snowmobile, and all-terrain vehicle dealer if this inequality did not exist. It therefore is in the public interest to enact legislation to prevent unfair or arbitrary treatment of equipment, snowmobile, and all-terrain vehicle dealers by equipment, snowmobile, and all-terrain vehicle suppliers. It is also in the public interest that Vermont consumers, municipalities, businesses, and others that purchase equipment, snowmobiles, and all-terrain vehicles in Vermont have access to a robust independent dealer network to obtain competitive prices when purchasing these items and to obtain warranty, recall, or other repair work.

(b) It is the intent of the General Assembly that this act be liberally construed in order to achieve its purposes.

Sec. J.2. 9 V.S.A. chapter 107 is amended to read:

#### CHAPTER 107. EQUIPMENT AND MACHINERY DEALERSHIPS

##### § 4071. DEFINITIONS

As used in this chapter:

(1) “Current net price” means the price listed in the supplier’s price list or ~~catalog~~ catalogue in effect at the time the dealer agreement is terminated, less any applicable discounts allowed.



(2)(A) ~~“Dealer” means a person, corporation, or partnership primarily engaged in the business of retail sales of farm and utility tractors, farm implements, farm machinery, forestry equipment, industrial equipment, utility equipment, yard and garden equipment, attachments, accessories, and repair parts inventory. Provided however, “dealer” shall~~

(B) “Dealer” does not include a “single line dealer,” a person primarily engaged in the retail sale and service of industrial, forestry, and construction equipment. “Single line dealer” means a person, partnership or corporation who:

~~(A)(i) has purchased 75 percent or more of the dealer’s total new product~~ his or her new inventory from a single supplier; and

~~(B)(ii) has a total annual average sales volume for the previous three years in excess of \$15~~ \$100 million for the entire territory for which the dealer is responsible.

(3) ~~“Dealer agreement” means a written or oral contract or agreement between a dealer and a wholesaler, manufacturer, or distributor~~ supplier by which the supplier gives the dealer is granted the right to sell or distribute goods or services or to use a trade name, trademark, service mark, logotype, or advertising or other commercial symbol.

(4) ~~“Inventory” means farm, utility, forestry, or industrial equipment, implements, machinery, yard and garden equipment, attachments, or repair parts. These terms do not include heavy construction equipment.~~

(A) “Inventory” means:

(i) farm, utility, forestry, yard and garden, or industrial:

(I) tractors;

(II) equipment;

(III) implements;

(IV) machinery;

(V) attachments;

(VI) accessories; and

(VII) repair parts;

(ii) snowmobiles, as defined in 23 V.S.A. § 3201(5); and

(iii) all-terrain vehicles, as defined in 23 V.S.A. § 3801(1).

(B) “Inventory” does not include heavy construction equipment.

(5) "Net cost" means the price the dealer paid the supplier for the inventory, less all applicable discounts allowed, plus the amount the dealer paid for freight costs from the supplier's location to the dealer's location. In the event of termination of a dealer agreement by the supplier, "net cost" shall include the reasonable cost of assembly or disassembly performed by a dealer.

(6) "Supplier" means a wholesaler, manufacturer, or distributor of inventory ~~as defined in this chapter~~ who enters into a dealer agreement with a dealer.

(7) "Termination" of a dealer agreement means the cancellation, nonrenewal, or noncontinuance of the agreement.

#### ~~§ 4072. NOTICE OF TERMINATION OF DEALER AGREEMENTS~~

~~(a) Notwithstanding any agreement to the contrary, prior to the termination of a dealer agreement, a supplier shall notify the dealer of the termination not less than 120 days prior to the effective date of the termination. No supplier may terminate, cancel, or fail to renew a dealership agreement without cause. "Cause" means failure by an equipment dealer to comply with the requirements imposed upon the equipment dealer by the dealer agreement, provided the requirements are not substantially different from those requirements imposed upon other similarly situated equipment dealers in this State.~~

~~(b) The supplier may immediately terminate the agreement at any time upon the occurrence of any of the following events which in addition to the above definition of cause, are also cause for termination, cancellation, or failure to renew a dealership agreement:~~

~~(1) the filing of a petition for bankruptcy or for receivership either by or against the dealer;~~

~~(2) the making by the dealer of an intentional and material misrepresentation as to the dealer's financial status;~~

~~(3) any default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier;~~

~~(4) the commencement of voluntary or involuntary dissolution or liquidation of the dealer if the dealer is a partnership or corporation;~~

~~(5) a change or additions in location of the dealer's place of business as provided in the agreement without the prior written approval of the supplier; or~~

~~(6) withdrawal of an individual proprietor, partner, major shareholder, the involuntary termination of the manager of the dealership, or a substantial~~

~~reduction in the interest of a partner or major shareholder without the prior written consent of the supplier.~~

~~(c) Unless there is an agreement to the contrary, a dealer who intends to terminate a dealer agreement with a supplier shall notify the supplier of that intent not less than 120 days prior to the effective date of termination.~~

~~(d) Notification required by this section shall be in writing and shall be made by certified mail or by personal delivery and shall contain:~~

- ~~(1) a statement of intention to terminate the dealer agreement;~~
- ~~(2) a statement of the reasons for the termination; and~~
- ~~(3) the date on which the termination shall be effective.~~

#### TERMINATION OF DEALER AGREEMENT

##### (a) Requirements for notice.

(1) A person shall provide a notice required in this section by certified mail or by personal delivery.

##### (2) A notice shall be in writing and shall include:

(A) a statement of intent to terminate the dealer agreement;

(B) a statement of the reasons for the termination, including specific reference to one or more requirements of the dealer agreement that serve as the basis for termination, if applicable; and

(C) the effective date of termination.

##### (b) Termination by a supplier for cause.

(1) In this subsection, "cause" means the failure of a dealer to meet one or more requirements of a dealer agreement, provided that the requirement is reasonable, justifiable, and substantially the same as requirements imposed on similarly situated dealers in this State.

(2) A supplier shall not terminate a dealer agreement except for cause.

(3) To terminate a dealer agreement for cause, a supplier shall deliver a notice of termination to the dealer at least 120 days before the effective date of termination.

(4) A dealer has 60 days from the date it receives a notice of termination to meet the requirements of the dealer agreement specified in the notice.

(5) If a dealer meets the requirements of the dealer agreement specified in the notice within the 60-day period, the dealer agreement does not terminate pursuant to the notice of termination.

(c) Termination by a supplier for failure to meet reasonable marketing or market penetration requirements.

(1) Notwithstanding subsection (b) of this section, a supplier shall not terminate a dealer agreement for failure to meet reasonable marketing or market penetration requirements except as provided in this subsection.

(2) A supplier shall deliver an initial notice of termination to the dealer at least 18 months before the effective date of termination.

(3) After providing an initial notice, the supplier shall work with the dealer in good faith to meet the reasonable marketing or market penetration requirements specified in the notice, including reasonable efforts to provide the dealer with adequate inventory and competitive marketing programs.

(4) If the dealer fails to meet reasonable marketing or market penetration requirements specified in the notice by the end of the 18-month period, the supplier may terminate the dealer agreement by providing a final notice of termination.

(5) A dealer has 90 days from the date it receives a final notice of termination to meet the reasonable marketing or market penetration requirements specified in the notice.

(6) If a dealer meets the reasonable marketing or market penetration requirements specified in the notice within the 90-day period, the dealer agreement does not terminate pursuant to the final notice of termination.

(d) Termination by a supplier upon a specified event. A supplier may terminate a dealer agreement if one of the following events occurs:

(1) A person files a petition for bankruptcy or for receivership on behalf of or against the dealer.

(2) The dealer makes an intentional and material misrepresentation regarding his or her financial status.

(3) The dealer defaults on a chattel mortgage or other security agreement between the dealer and the supplier.

(4) A person commences the voluntary or involuntary dissolution or liquidation of a dealer organized as a business entity.

(5) Without the prior written consent of the supplier:

(A) The dealer changes the business location specified in the dealer agreement or adds an additional dealership of the supplier's same brand.

(B) An individual proprietor, partner, or major shareholder withdraws from, or substantially reduces his or her interest in, the dealer.

(C) The dealer terminates a manager of the dealer.

(e) Termination by a dealer. Unless a provision of a dealer agreement provides otherwise, a dealer may terminate the dealer agreement by providing a notice of termination to the supplier at least 120 days before the effective date of termination.

\* \* \*

#### § 4074. REPURCHASE TERMS

(a)(1) Within 90 days from receipt of the written request of the dealer, a supplier under the duty to repurchase inventory pursuant to section 4073 of this title may examine any books or records of the dealer to verify the eligibility of any item for repurchase.

(2) Except as otherwise provided in this chapter, the supplier shall repurchase from the dealer the following items that the dealer previously purchased from the supplier, or other qualified vendor approved by the supplier, that are in the possession of the dealer on the date of termination of the dealer agreement:

~~(A) all inventory previously purchased from the supplier in possession of the dealer on the date of termination of the dealer agreement; and~~

~~(B) required signage, special tools, books, manuals, supplies, data processing equipment, and software previously purchased from the supplier or other qualified vendor approved by the supplier in the possession of the dealer on the date of termination of the dealer agreement.~~

(b) The supplier shall pay the dealer:

(1) 100 percent of the net cost of all new and undamaged and complete ~~farm and utility tractors, utility equipment, forestry equipment, industrial equipment, farm implements, farm machinery, yard and garden equipment, attachments, and accessories~~ inventory, other than repair parts, purchased from the supplier within the 30-month period preceding the date of termination, less a reasonable allowance for deterioration attributable to weather conditions at the dealer's location.

(2) 90 percent of the current net prices of all new and undamaged repair parts.

(3) 85 percent of the current net prices of all new and undamaged superseded repair parts.

(4) 85 percent of the latest available published net price of all new and undamaged noncurrent repair parts.

(5) Either the fair market value, or assume the lease responsibilities of any specific data processing hardware that the supplier required the dealer to purchase to satisfy the reasonable requirements of the dealer agreement, including computer systems equipment and software required and approved by the supplier to communicate with the supplier.

(6) ~~Repurchase at~~ 75 percent of the net cost of specialized repair tools, signage, books, and supplies previously purchased, pursuant to requirements of the supplier and held by the dealer on the date of termination. Specialized repair tools must be unique to the supplier's product line, must be no more than 10 years old, and must be complete and in usable condition.

(7) ~~Repurchase at average~~ Average as-is value shown in current industry guides; for dealer-owned rental fleet financed by the supplier or its finance subsidiary, provided the equipment was purchased from the supplier within 30 months of the date of termination.

(c) The party that initiates the termination of the dealer agreement shall pay the cost of the return, handling, packing, and loading of the inventory. If the termination is initiated by the supplier, the supplier shall reimburse the dealer five percent of the net parts return credited to the dealer as compensation for picking, handling, packing, and shipping the parts returned to the supplier.

(d) Payment to the dealer required under this section shall be made by the supplier not later than 45 days after receipt of the inventory by the supplier. A penalty shall be assessed in the amount of daily interest at the current New York prime rate plus three percent of any outstanding balance over the required 45 days. The supplier shall be entitled to apply any payment required under this section to be made to the dealer as a setoff against any amount owed by the dealer to the supplier.

\* \* \*

#### § 4077a. PROHIBITED ACTS

~~No supplier shall:~~

~~(1) coerce any dealer to accept delivery of any equipment, parts, or accessories therefor, which such dealer has not voluntarily ordered, except that a supplier may require a dealer to accept delivery of equipment, parts or accessories that are necessary to maintain equipment generally sold in the dealer's area of responsibility, and a supplier may require a dealer to accept delivery of safety-related equipment, parts, or accessories pertinent to equipment generally sold in the dealer's area of responsibility;~~

~~(2) condition the sale of any equipment on a requirement that the dealer also purchase any other goods or services, but nothing contained in this chapter~~

~~shall prevent the supplier from requiring the dealer to purchase all parts reasonably necessary to maintain the quality of operation in the field of any equipment used in the trade area;~~

~~(3) — coerce any dealer into a refusal to purchase the equipment manufactured by another supplier; or~~

~~(4) discriminate in the prices charged for equipment of like grade and quality sold by the supplier to similarly situated dealers, but nothing contained in this chapter shall prevent differentials which make only due allowance for a difference in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such equipment is sold or delivered by the supplier.~~

(a) A supplier shall not coerce or attempt to coerce a dealer to accept delivery of inventory that the dealer has not voluntarily ordered, except inventory that is:

(1) necessary to maintain inventory generally sold in the dealer's area of responsibility; or

(2) safety-related and pertinent to inventory generally sold in the dealer's area of responsibility.

(b) A supplier shall not condition the sale of inventory on a requirement that the dealer also purchase any other goods or services, provided that a supplier may require a dealer to purchase parts reasonably necessary to maintain inventory used in the dealer's area of responsibility.

(c)(1) A supplier shall not prevent, coerce, or attempt to coerce a dealer from investing in, or entering into an agreement for the sale of, a competing product line or make of inventory.

(2) A supplier shall not require, coerce, or attempt to coerce a dealer to provide a separate facility or personnel for a competing product line or make of inventory.

(3) Subdivisions (1)–(2) of this subsection do not apply unless a dealer:

(A) maintains a reasonable line of credit for each product line or make of inventory;

(B) maintains the principal management of the dealer; and

(C) remains in substantial compliance with the supplier's reasonable facility requirements, which shall not include a requirement to provide a separate facility or personnel for a competing product line or make of inventory.

(d) A supplier shall not discriminate in the prices it charges for inventory of like grade and quality it sells to similarly situated dealers, provided that a supplier may use differentials that allow for a difference in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the supplier sells or delivers the inventory.

(e) A supplier shall not change the area of responsibility specified in a dealer agreement without good cause, which for purposes of this subsection includes changes in the dealer's vehicle or warranty registration pattern, demographics, and geographic barriers.

#### § 4078. WARRANTY OBLIGATIONS

(a) A supplier shall:

(1) specify in writing a dealer's reasonable obligation to perform warranty service on the supplier's inventory;

(2) provide the dealer a schedule of reasonable compensation for warranty service, including amounts for diagnostic work, parts, labor, and the time allowance for the performance of warranty service; and

(3) compensate the dealer pursuant to the schedule of compensation for the warranty service the supplier requires it to perform.

(b) Time allowances for the diagnosis and performance of warranty service shall be reasonable and adequate for the service to be performed by a dealer that is equipped to complete the requirements of the warranty service.

(c) The hourly rate paid to a dealer shall not be less than the rate the dealer charges to customers for nonwarranty service.

(d) A supplier shall compensate a dealer for parts used to fulfill warranty and recall obligations of warranty service at a rate not less than the price the dealer actually paid the supplier for the parts plus 20 percent.

(e)(1) Whenever a supplier and a dealer enter into an agreement providing consumer warranties, the supplier shall pay any warranty claim made for warranty parts and service within 30 days after its receipt and approval.

(2) The supplier shall approve or disapprove a warranty claim within 30 days after its receipt.

(3) If a claim is not specifically disapproved in writing within 30 days after its receipt, it shall be deemed to be approved and payment shall be made by the supplier within 30 days after its receipt.

(f) A supplier violates this section if it:

(1) fails to perform its warranty obligations;



(2) fails to include in written notices of factory recalls to machinery owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of such defects; or

(3) fails to compensate a dealer for repairs required by a recall.

(g) A supplier shall not:

(1) impose an unreasonable requirement in the process a dealer must follow to file a warranty claim; or

(2) impose a surcharge or fee, or otherwise increase the prices or charges to a dealer, in order to recover the additional costs the supplier incurs from complying with the provisions of this section.

#### § 4079. REMEDIES

(a) A person damaged as a result of a violation of this chapter may bring an action against the violator in a Vermont court of competent jurisdiction for damages, together with the actual costs of the action, including reasonable attorney's fees, injunctive relief against unlawful termination, ~~cancellation, nonrenewal,~~ or substantial change of competitive circumstances, and such other relief as the Court deems appropriate.

(b) A provision in a dealer agreement that purports to deny access to the procedures, forums, or remedies provided by the laws of this State is void and unenforceable.

~~(c) Nothing contained in this chapter may prohibit~~ Notwithstanding subsection (b) of this section, a dealer agreement may include a provision for binding arbitration of disputes in an agreement. Any arbitration shall be consistent with the provisions of this chapter and 12 V.S.A. chapter 192, and the place of any arbitration shall be in the county in which the dealer's principal place of business is maintained in this State.

\* \* \*

#### Sec. J.3. APPLICABILITY TO EXISTING DEALER AGREEMENTS

Notwithstanding 1 V.S.A. § 214, for a dealer agreement, as defined in 9 V.S.A. § 4071, that is in effect on or before July 1, 2016, the provisions of this act shall apply on July 1, 2017.

\* \* \* Effective Dates \* \* \*

#### Sec. K.1. EFFECTIVE DATES

(a) This section and Secs. G.1–G.3 (technical corrections) shall take effect on passage.

(b) The following sections shall take effect on July 1, 2016:

- (1) Sec. A.1 (consumer litigation funding).
- (2) Sec. B.1 (structured settlements agreements).
- (3) Secs. C.1–C.12 (business registration; enforcement).
- (4) Sec. D.1 (anti-trust penalties).
- (5) Secs. E.1–E.2 (discount membership programs).
- (6) Reserved.
- (7) Sec. H.1 (findings and purpose; internet dating services).
- (8) Sec. I.1 (fantasy sports contests).
- (9) Secs. J.1–J.3 (equipment and machinery dealers).

(c) In Sec. H.2 (internet dating services):

- (1) 9 V.S.A. §§ 2482a, 2482c, and 2482d shall take effect on passage.
- (2) 9 V.S.A. § 2482b shall take effect on January 1, 2017.

Fourth: By striking out Secs. F.1 and F.2 in their entirety and inserting in lieu thereof F.1 Reserved and F.2 Reserved

And that after passage the title of the bill be amended to read:

An act relating to consumer protection.

**(For House Proposal of Amendment see House Journal April 5, 2016)**

## **H. 135**

### **Senate proposal of amendment**

An act relating to authorizing the Vermont Department of Health to charge fees necessary to support Vermont's status as a Nuclear Regulatory Commission Agreement State

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

Sec. 1. 18 V.S.A. chapter 32 is amended to read:

#### **CHAPTER 32. IONIZING AND NONIONIZING RADIATION CONTROL**

##### **§ 1651. DEFINITIONS**

In this chapter:

~~(1) Ionizing radiation means gamma rays and x rays, alpha and beta particles, high speed electrons, neutrons, protons, and other nuclear particles.~~

~~(2) Nonionizing radiation means radiations of any wavelength in the entire electromagnetic spectrum except those radiations defined above as ionizing. Nonionizing radiations include, but are not limited to: Ultraviolet, visible, infrared, microwave, radiowave, low frequency electromagnetic radiation; infrasonic, sonic and ultrasonic waves; electrostatic and magnetic fields.~~

~~(3) Radioactive material means any radioactive material, be it solid, liquid, or gas, which emits ionizing radiation spontaneously.~~

~~(4) Byproduct material~~ “Byproduct material” means each of the following:

(A) any Any radioactive material, except other than special nuclear material, that is yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(B) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. However, “byproduct material” does not include underground ore bodies depleted by these solution extraction operations.

(C) Any discrete source of radium-226 that is produced, extracted, or converted after extraction for use for a commercial, medical, or research activity.

(D) Any material that has been made radioactive by use of a particle accelerator and is produced, extracted, or converted after extraction for use for a commercial, medical, or research activity.

(E) Any discrete source of naturally occurring radioactive material, other than source material, that is extracted or converted after extraction for use in a commercial, medical, or research activity, if the Governor, after determination by the NRC, declares by order that the source would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety.

(2) “Commissioner” means the Commissioner of Health.

(3) “Department” means the Department of Health.

~~(5) General license~~ (4) “General license” means a license effective under regulations promulgated by the state State radiation control agency

without the filing of an application to transfer, acquire, own, possess, or use quantities of, or devices or equipment utilizing byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially.

(5) “Ionizing radiation” means gamma rays and x-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other nuclear particles.

(6) “Nonionizing radiation” means radiations of any wavelength in the entire electromagnetic spectrum except those radiations defined in this section as ionizing. Nonionizing radiations include ultraviolet, visible, infrared, microwave, radiowave, low frequency electromagnetic radiation; infrasonic, sonic, and ultrasonic waves; electrostatic and magnetic fields.

(7) “NRC” means the U.S. Nuclear Regulatory Commission or any successor agency of the United States to the Commission.

(8) “Radioactive material” means any material, whether solid, liquid, or gas, that emits ionizing radiation spontaneously. The term includes material made radioactive by a particle accelerator, byproduct material, naturally occurring radioactive material, source material, and special nuclear material.

~~(6) Specific license~~ (9) “Specific license” means a license, issued to a named person after application to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially.

~~(7) The department of health is the state radiation control agency, called the agency herein.~~

~~(8) Source material~~ (10) “Source material” means each of the following:

(A) uranium, thorium, or any combination of those elements, in any physical or chemical form;

(B) any other material which the governor that the Governor declares by order to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, NRC has determined the material to be such source material; or

(B)(C) ores containing one or more of the foregoing materials, that contain uranium, thorium, or any combination of those elements in a concentration by weight of 0.05 percent or more or in such lower concentration as the governor Governor declares by order to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, NRC has determined the material in such concentration to be source material.

~~(9) Special nuclear material~~ (11) "Special nuclear material" means:

(A) plutonium, uranium ~~223~~ 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material ~~which the governor~~ that the Governor declares by order to be special nuclear material after the ~~United States Nuclear Regulatory Commission, or any successor thereto,~~ NRC has determined the material to be such ~~special nuclear material~~, but does not include source material; or

(B) any material artificially enriched by any ~~of the foregoing elements, isotopes, or materials listed in subdivision (A) of this subdivision (11),~~ but does not include source material.

#### § 1652. STATE RADIATION CONTROL

(a) The Department is the radiation control agency for the State of Vermont. The Commissioner of ~~Health~~ may designate the Radiation Control Director of Occupational Health within the Department as the individual who shall perform the functions vested in the ~~agency~~ Department by this chapter.

(b) The ~~Agency~~ Department shall, for the protection of the occupational and public health and safety, develop programs for the control of ionizing and ~~non-ionizing~~ nonionizing radiation compatible with federal programs for regulation of byproduct, source, and special nuclear materials.

(c) The ~~Agency~~ Department may adopt, amend, and repeal rules under 3 V.S.A. chapter 25:

~~(1) which~~ that may provide for licensing and registration for the control of sources of ionizing radiation;

~~(2) and that~~ may provide for the control and regulation of sources of ~~non-ionizing~~ nonionizing radiation.

(d) The ~~Agency~~ Department shall advise, consult, and cooperate with other agencies of the State, the federal government, other states and interstate agencies, political subdivisions, industries, and with groups concerned with control of sources of ionizing and ~~non-ionizing~~ nonionizing radiation.

(e) Applicants for registration of X-ray equipment shall pay an annual registration fee of \$85.00 per piece of equipment.

(f) Fees collected under this section shall be credited to a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and shall be available to the Department to offset the costs of providing services relating to licensing and registration and controlling sources of ionizing radiation.

§ 1653. FEDERAL–STATE AGREEMENTS

(a) The ~~governor~~ Governor, on behalf of the ~~state~~ State of Vermont, may enter into agreements with the federal government providing for discontinuance of certain of the federal government's responsibilities with respect to byproduct, source, and special nuclear materials and the assumption ~~thereof~~ of these responsibilities by the ~~state~~ State of Vermont.

(b) In the event of such agreement:

(1) The ~~agency~~ Department shall provide by rule for general or specific licensing of ~~byproducts~~ byproduct, source, special nuclear materials, or devices or equipment utilizing such materials. The rule shall provide for amendment, suspension, or revocation of licenses. A rule adopted under this subsection shall be consistent with regulations duly adopted by the NRC except as the Commissioner determines is necessary to protect public health.

(2) The ~~agency~~ Department shall ~~be authorized~~ have authority to:

(A) impose conditions that are individual to a license when necessary to protect public health and safety;

(B) reciprocate in the recognition of specific licenses issued by the NRC or another state that has reached agreement with the NRC pursuant to 42 U.S.C. § 2021(b) (agreement state);

(C) require that licensees and unlicensed individuals comply with the federal statutes and regulations relating to the authority assumed by the Department under this section and with the rules adopted by the Department under this section; and

(D) exempt certain byproduct, source, or special nuclear materials or kinds of uses or users from the licensing or registration requirements set forth in this section when the ~~agency~~ Department makes a finding that the exemption of such materials or kinds of uses or users will not constitute a significant risk to the health and safety of the public.

(3) The Department may collect a fee for licenses issued under this section. The fee schedule for these licenses shall be the schedule adopted by the U.S. Nuclear Regulatory Commission and published in 10 C.F.R. § 170.31 that is in effect as of the effective date of this section. Fees collected under this section shall be credited to the Nuclear Regulatory Fund established and managed under subdivision (4) of this subsection and shall be available to the Department to offset the costs of providing services under this section.

(4) There is established the Nuclear Regulatory Fund to consist of the fees collected under subdivision (3) of this subsection and any other monies that may be appropriated to or deposited into the Fund. Balances in the

Nuclear Regulatory Fund shall be expended solely for the purposes set forth in this section and shall not be used for the general obligations of government. All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund, and interest earned by the Fund shall be deposited in the Fund. The Nuclear Regulatory Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5.

~~(3)~~(5) Any person having a license immediately before the effective date of an agreement under subsection (a) of this section from the federal government or agreement state relating to byproduct material, source material, or special nuclear material and which on the effective date of this agreement is subject to the control of this ~~state~~ State shall be considered to have a like license with the ~~state~~ State of Vermont until the expiration date specified in the license from the federal government or agreement state or until the end of the ~~ninetieth~~ 90th day after the person receives notice from the ~~agency~~ Department that the license will be considered expired.

~~(4)~~(6) The ~~agency~~ Department shall require each person who possesses or uses byproduct, source, or special nuclear materials to maintain records relating to the receipt, storage, transfer, or disposal of such materials and such other records as the ~~agency~~ Department may require subject to such exemptions as may be provided by rule.

~~(5)~~(7) Violations:

(A) ~~It shall be unlawful for any person to~~ A person shall not use, manufacture, produce, transport, transfer, receive, acquire, own, or possess any byproduct, source, or special nuclear material unless licensed by or registered with the ~~agency~~ Department in accordance with the provisions of this chapter or rules adopted under this chapter.

(B) The ~~agency~~ Department shall have the authority in the event of an emergency to impound or order the impounding of byproduct, source, and special nuclear materials in the possession of any person who is not equipped to observe or fails to observe the provisions of this chapter or any rules ~~or regulations issued thereunder~~ adopted under this chapter.

~~(6)~~(8) The provisions of this section relating to the control of byproduct, source, and special nuclear materials shall become effective on the effective date of an agreement between the federal government and this ~~state~~ State as provided in ~~section 1656 of this title~~ subsection (a) of this section.

(c) This section does not confer authority to regulate materials or activities reserved to the NRC under 42 U.S.C. § 2021(c) and 10 C.F.R. Part 150.

§ 1654. INSPECTION

The ~~agency~~ Department or its duly authorized representatives may enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with or violation of this chapter and rules and regulations issued thereunder, except that entry into areas under the jurisdiction of the federal government shall be made only with the concurrence of the federal government or its duly designated representative.

#### § 1655. HEARINGS AND JUDICIAL REVIEW

(a) In any proceeding under this chapter for the issuance or modification of rules relating to control of byproducts, source, and special nuclear materials; or for granting, suspending, revoking, or amending any license; or for determining compliance with or granting exemptions from rules and regulations of the ~~agency~~ Department, the ~~agency~~ Department shall hold a public hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to the proceeding, subject to the emergency provisions in subsection (b) of this section.

(b) Whenever the ~~agency~~ Department finds that an emergency exists requiring immediate action to protect the public health and safety, the ~~agency~~ Department may, without notice or hearing, issue ~~a regulation or an~~ order reciting the existence of the emergency and requiring that such action be taken as is necessary to meet it. Notwithstanding any ~~provisions~~ contrary provision of this chapter, the ~~regulation or~~ order shall be effective immediately. Any person to whom the ~~regulation or~~ order is directed shall comply ~~therewith~~ with the order immediately, but on application to the ~~agency~~ Department shall be afforded a hearing within ten days. On the basis of the hearing, the emergency ~~regulation or~~ order shall be continued, modified, or revoked within ten days after the hearing.

(c) Any final order entered in any proceeding under subsections (a) and (b) ~~above of this section~~ shall be subject to judicial review in the ~~superior court~~ Civil Division of the Superior Court.

#### § 1656. INJUNCTION PROCEEDINGS

Whenever, in the judgment of the ~~agency~~ Department, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter, or any rule issued thereunder, the ~~attorney general~~ Attorney General shall make application to the appropriate court for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing by the ~~agency~~ Department that such person has engaged or is about to engage in any such acts or practices, a



permanent or temporary injunction, restraining order, or other order may be granted.

\* \* \*

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

And that after passage the title of the bill be amended to read: “An act relating to enabling the Vermont Department of Health to reach an agreement with the Nuclear Regulatory Commission regarding authority over regulation and licensing of radioactive materials”

(For text see House Journal March 25, 2016 )

### **H. 539**

An act relating to establishment of a Pollinator Protection Committee

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

The Senate proposes to the House to amend the bill in Sec. 1 (Pollinator Protection Committee; report), in subsection (f), after “On or before” and before “, the Pollinator Protection Committee shall submit” by striking out “January 15, 2017” and inserting in lieu thereof December 15, 2016

(For text see House Journal February 17, 2016 )

### **H. 674**

An act relating to public notice of wastewater discharges

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

First: In Sec. 1, in 10 V.S.A. § 1295, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Public alert. An operator of a wastewater treatment facility or the operator’s delegate shall as soon as possible, but no longer than one hour from discovery of an untreated discharge from the wastewater treatment facility, post on a publicly accessible electronic network, mobile application, or other electronic media designated by the Secretary an alert informing the public of the untreated discharge and its location, except that if the operator or his or her delegate does not have telephone or Internet service at the location where he or she is working to control or stop the untreated discharge, the operator or his or her delegate may delay posting the alert until the time that the untreated discharge is controlled or stopped, provided that the alert shall be posted no later than four hours from discovery of the untreated discharge.

Second: In Sec. 3, 18 V.S.A. § 1222, in subdivision (a)(1), by striking out “microcystin, anatoxin, and cylindrospermopsin” and inserting in lieu thereof microcystis, anabaena, and aphanizomenon

(For text see House Journal March 9, 2016 )

#### **H. 765**

An act relating to technical corrections

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

First: After Sec. 46, 17 V.S.A. § 2680, by inserting a new section to be numbered Sec. 46a to read as follows:

Sec. 46a. 18 V.S.A. § 906 is amended to read:

#### **§ 906. EMERGENCY MEDICAL SERVICES DIVISION; RESPONSIBILITIES**

To implement the policy of section 901 of this title, the ~~department of health~~ Department of Health shall be responsible for:

\* \* \*

(3) Developing a statewide system of emergency medical services, including ~~but not limited to~~ planning, organizing, coordinating, improving, expanding, monitoring, and evaluating emergency medical services.

\* \* \*

Second: After Sec. 50, 18 V.S.A. § 4243, by inserting a new section to be numbered Sec. 50a to read as follows:

Sec. 50a. 18 V.S.A. § 4631a is amended to read:

#### **§ 4631a. EXPENDITURES BY MANUFACTURERS OF PRESCRIBED PRODUCTS**

(a) As used in this section:

\* \* \*

(5) “Gift” means:

(A) anything of value provided for free to a health care provider or to a member of the Green Mountain Care Board established in chapter 220 of this title; or

(B) except as otherwise provided in ~~subdivision~~ subdivisions (a)(1)(A)(ii) and (a)(1)(H)(ii) of this section, any payment, food, entertainment, travel, subscription, advance, service, or anything else of value provided to a

health care provider or to a member of the Green Mountain Care Board established in chapter 220 of this title, unless:

\* \* \*

Third: After Sec. 51, 18 V.S.A. § 8839(2), by inserting a new section to be numbered Sec. 51a to read as follows:

Sec. 51a. 18 V.S.A. § 9454 is amended to read:

§ 9454. HOSPITALS; DUTIES

(a) Hospitals shall file the following information at the time and place and in the manner established by the board:

(1) a budget for the forthcoming fiscal year;

(2) financial information, including ~~but not limited to~~ costs of operation, revenues, assets, liabilities, fund balances, other income, rates, charges, units of services, and wage and salary data;

(3) scope-of-service and volume-of-service information, including ~~but not limited to~~ inpatient services, outpatient services, and ancillary services by type of service provided;

\* \* \*

Fourth: After Sec. 61, 26 V.S.A. § 3001(1), by inserting a new section to be numbered Sec. 61a to read as follows:

Sec. 61a. 26 V.S.A. § 3178a is amended to read:

§ 3178a. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application for agency license:

- |                                   |          |
|-----------------------------------|----------|
| (A) Investigative agency          | \$340.00 |
| (B) Security agency               | \$340.00 |
| (C) Investigative/security agency | \$400.00 |
| (D) Sole proprietor               | \$250.00 |

(2) Application for individual license:

- |                      |          |
|----------------------|----------|
| (A) Unarmed licensee | \$150.00 |
| (B) Armed licensee   | \$200.00 |

(3) Application for employee registration:

(A) Unarmed registrants	\$60.00
(B) Armed registrants	\$120.00
(C) Transitory permits	60.00
(4) Biennial renewal:	
(A) Investigative agency	\$300.00
(B) Security agency	\$300.00
(C) Investigative/security agency	\$300.00
(D) Unarmed licensee	\$120.00
(E) Armed licensee	\$180.00
(F) Unarmed registrants (agency employees)	\$80.00
(G) Armed registrants (agency employees)	\$130.00
(H) Sole proprietor	\$250.00
(5) Instructor licensure:	
(A) Application for licensure	\$120.00
(B) Biennial renewal	\$180.00

~~(6)~~(b) A sole proprietor of an investigative agency or security agency shall only pay the sole proprietor fees pursuant to this section, provided the agency has no other registered investigative or security employees.

(For text see House Journal February 11, 2016 )

#### **H. 778**

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

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

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

#### CHAPTER 66. PRODUCE INSPECTION

##### § 851. DEFINITIONS

As used in this chapter:

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

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

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

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

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

#### § 852. AUTHORITY; ENFORCEMENT

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

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

(c) The Secretary shall carry out the provisions of this chapter using:

(1) monies appropriated to the Agency by the federal government for the purpose of administering the federal Food Safety Modernization Act and the rules adopted thereunder;

(2) monies appropriated to the Agency by the State for the purpose of administering this chapter; and

(3) other gifts, bequests, and donations by private entities for the purposes of administering this chapter.

#### § 853. FARM INSPECTIONS

(a)(1) The Secretary may inspect a produce farm during reasonable hours for the purposes of ensuring compliance with:

(A) the federal standards for growing, harvesting, packing, and holding of produce for human consumption, as adopted under 21 C.F.R. part 112; or

(B) the rules adopted under this chapter.

(2) Unless the circumstances warrant otherwise, the Secretary shall provide reasonable notice prior to inspection.

(3) This section shall not limit the Secretary’s authority to respond to an emergency in order to prevent a public health hazard under section 21 of this title.

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

(c) The Secretary may coordinate with other State agencies and organizations to carry out inspections at or near the same time on a given produce farm.

#### § 854. RECORDS

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

#### § 855. RULES

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

#### Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 9, 2016 )

### **H. 824**

An act relating to the adoption of occupational safety and health rules and standards

The Senate proposes to the House to amend the bill by striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. [Deleted.]

(For text see House Journal March 16, 2016 )