

House Calendar

Wednesday, April 20, 2016

107th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Third Reading

S. 114

An act relating to the Open Meeting Law

Amendment to be offered by Reps. McCullough of Williston , Lippert of Hinesburg, and Macaig of Williston to S. 114

That the House propose to the Senate that the bill be amended in Sec. 1, in 1 V.S.A. § 312(b)(2), in the second sentence (related to the posting of minutes), by striking out “five calendar days” and inserting in lieu thereof the following: “~~five~~ seven calendar days”

S. 116

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

S. 214

An act relating to large group insurance

S. 225

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

S. 256

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

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.

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.~~

~~(e) 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

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 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)~~ (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)

NOTICE CALENDAR
Favorable with Amendment
S. 66

An act relating to persons who are deaf, DeafBlind, or hard of hearing

Rep. McFaun of Barre Town, 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:

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:

Sec. 1. 33 V.S.A. chapter 16 is added to read:

CHAPTER 16. VERMONT DEAF, HARD OF HEARING, AND DEAFBLIND ADVISORY COUNCIL

§ 1601. DEFINITIONS

As used in this chapter:

(1) “Communication or language mode” means verbal or nonverbal communication that includes listening, speaking, American Sign Language (ASL), Signed English, Signed Support, reading, and writing in all domains of a language. Reference to the communication mode of individuals who are Deaf, Hard of Hearing, or DeafBlind distinguishes between modality and language. Systems that assist individuals using a particular modality or language include ASL, spoken English, signed English, sign-supported speech, speech or lip reading, cued speech, and assistive technology.

(2) “Deaf” means having a severe or complete absence of auditory sensitivity that impairs processing of linguistic information through hearing, with or without amplification or cochlear implants. Typically, people who identify as Deaf use ASL and are involved with the Deaf community.

(3) “DeafBlind” means having concomitant hearing and visual impairments.

(4) “Department” means the Department of Disabilities, Aging, and Independent Living.

(5) “Hard of Hearing” means a reduced level of functional hearing and reliance on residual hearing and technology, including hearing aids, cochlear implants, FM listening systems, and other types of assistive listening devices

to communicate via verbal language. Typically, people who identify as hard of hearing do not use ASL and are not involved in the Deaf community.

§ 1602. VERMONT DEAF, HARD OF HEARING, AND DEAFBLIND

ADVISORY COUNCIL

(a) Creation; purpose. There is created a Vermont Deaf, Hard of Hearing, and DeafBlind Advisory Council to promote diversity, equality, awareness, and access among individuals who are Deaf, Hard of Hearing, or DeafBlind.

(b) Membership. The Advisory Council shall consist of the following members:

(1) sixteen members of the public, appointed by the Governor in a manner that ensures geographically diverse membership, including:

(A) nine or fewer members who are Deaf, Hard of Hearing, or DeafBlind provided each population is represented and that if a member represents an organization for persons who are Deaf, Hard of Hearing, or DeafBlind no other member on the Advisory Council shall also represent that organization;

(B) two members who are each a parent or guardian of a child who is Deaf, Hard of Hearing, or DeafBlind;

(C) two members who serve persons who are Deaf, Hard of Hearing, or DeafBlind in a professional capacity, provided that these members do not represent the same organization;

(D) a professional deaf-education specialist who understands all communication and language modes;

(E) a professional interpreter; and

(F) an audiologist or hard-of-hearing education specialist;

(2) the Senior Counselor for the Deaf and Hard of Hearing in the Department's Division of Vocational Rehabilitation or designee;

(3) the Secretary of Education or designee;

(4) the Secretary of Human Services or designee;

(5) the director of the Department for Children and Families' Children's Integrated Services or designee;

(6) the director of the Vermont Early Detection and Intervention Project;

(7) a representative of the Vermont Association of the Deaf;

(8) a superintendent, selected by the Vermont Superintendents Association; and

(9) a special education administrator, selected by the Vermont Council of Special Education Administrators.

(c) Powers and duties.

(1) The Advisory Council shall assess the services, resources, and opportunities available to children in the State who are Deaf, Hard of Hearing, or DeafBlind. It may consider and make recommendations to the General Assembly and the Governor on the following:

(A) the educational rights of children who are Deaf, Hard of Hearing, or DeafBlind, including full communication and language access in all educational environments and accessibility of qualified teachers, interpreters, and paraprofessionals;

(B) appropriate and ongoing educational opportunities that recognize each child's unique learning needs, including access to a sufficient number of communication or language mode peers and exposure to adult role models who are Deaf, Hard of Hearing, or DeafBlind;

(C) adequate family supports that promote both early development of communication skills and informed participation by parents and guardians in the education of their children;

(D) identification of all losses of or reductions in services arising from the closures of the Austine School for the Deaf and the Vermont Center for the Deaf and Hard of Hearing and evaluation of the adequacy of existing services and resources, as well as identification of those resources not currently available, adequate, or accessible to children;

(E) opportunities to restore and expand educational opportunities to children in the State who are Deaf, Hard of Hearing, or DeafBlind and their families; and

(F) appropriate data collection and reporting requirements concerning students with disabilities.

(2) The Advisory Council shall assess the services, resources, and opportunities available to adults and elders in the State who are Deaf, Hard of Hearing, or DeafBlind. It may consider and make recommendations to the General Assembly and the Governor on the following:

(A) the needs of and opportunities for adults and elders within the State who are Deaf, Hard of Hearing, or DeafBlind and their families;

(B) the adequacy and systemic coordination of existing services and resources for adults and elders throughout the State who are Deaf, Hard of Hearing, or DeafBlind and their families;

(C) proposed legislation and administrative rules pertaining to adults and elders who are Deaf, Hard of Hearing, or DeafBlind; and

(D) delivery models in other states as a point of comparison for the adequacy and systemic coordination of Vermont's existing services and resources for adults and elders who are Deaf, Hard of Hearing, or DeafBlind.

(d) Assistance. The Advisory Council shall have the administrative, technical, and legal assistance of the Agencies of Education and of Human Services. The Advisory Council and Department may consult with national experts on education of persons who are Deaf, Hard of Hearing, or DeafBlind as necessary to fulfill their obligations under this section.

(e) Reports. On or before January 15 of each year, notwithstanding 2 V.S.A. § 20(d), the Advisory Council shall submit a written report to the Senate and House Committees on Education, the Senate Committee on Health and Welfare, the House Committee on Human Services, and the Governor with any findings and recommendations. A reading of each report shall be video recorded using ASL to ensure accessibility.

(f) Appointments; meetings.

(1) The Commissioner of Disabilities, Aging, and Independent Living shall convene the first meeting of the Advisory Council on or before July 1, 2016 and shall select interpreting services, computer assisted captioning in real time (CART), or FM listening system for the meeting if a member so requests.

(2) At its first meeting, the Advisory Council shall elect a chair and vice chair.

(3) The Chair shall select interpreting services, CART, or FM listening system for any Advisory Council meeting if a member so requests.

(4) The Advisory Council may meet up to eight times each year to perform its functions under this section. The Secretaries of Education and of Human Services may jointly authorize additional meetings.

(5) The Advisory Council may organize its members into subcommittees to carry out the purposes of this section, including subcommittees designed to address specific age groups within the Deaf, Hard of Hearing, and DeafBlind population.

(g) Reimbursement.

(1) Members of the Advisory Council who are not State employees or 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, payable by the Department.

(2) The Agency of Human Services shall pay for interpreting services, CART, or FM listening systems necessary to conduct all Advisory Council meetings.

(3) The Agency of Education, Department of Health, and Department of Disabilities, Aging and Independent Living shall share costs for interpreting services, CART, or FM listening systems necessary to conduct all Advisory Council subcommittee meetings.

Sec. 2. INTERPRETERS; PROFESSIONAL REGULATION

On or before January 15, 2017, the Vermont Deaf, Hard of Hearing, and DeafBlind Advisory Council shall submit a report to the House Committees on Government Operations and on Human Services and to the Senate Committees on Government Operations and on Health and Welfare regarding its findings and recommendations for legislative action pertaining to the regulation of interpreters by the Secretary of State's Office of Professional Regulation.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 9-0-2)

(For text see Senate Journal March 18, 2016)

Rep. Lanpher of Vergennes, for the Committee on **Appropriations**, recommends the bill ought to pass in concurrence with proposal of amendment as offered by the Committee on **Human Services**.

(Committee Vote: 10-0-1)

Senate Proposal of Amendment

H. 261

An act relating to criminal record inquiries by an employer

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

In Sec. 1, 21 V.S.A. § 495j, in subsection (b), by striking out the subsection in its entirety and inserting a new subsection (b) to read as follows:

(b)(1) An employer may inquire about criminal convictions on an initial employee application form if the following conditions are met:

(A)(i) the prospective employee is applying for a position for which any federal or State law or regulation creates a mandatory or presumptive disqualification based on a conviction for one or more types of criminal offenses; or

(ii) the employer or an affiliate of the employer is subject to an obligation imposed by any federal or State law or regulation not to employ an individual, in either one or more positions, who has been convicted of one or more types of criminal offenses; and

(B) the questions on the application form are limited to the types of criminal offenses creating the disqualification or obligation.

(2) An employer shall be permitted to inquire about criminal convictions on an initial employee application form pursuant to subdivision (1) of this subsection even if the federal or State law or regulation creating an obligation for the employer or its affiliate not to employ an individual who has been convicted of one or more types of criminal offenses also permits the employer or its affiliate to obtain a waiver that would allow the employer or its affiliate to employ such an individual.

(For text see House Journal March 17, 2016)