

Senate Calendar

THURSDAY, MARCH 26, 2015

SENATE CONVENES AT: 1:00 P.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

CONSIDERATION POSTPONED TO MARCH 26, 2015

Second Reading

Favorable with Recommendation of Amendment

- S. 29** An act relating to election day registration
Government Operations Report - Sen. White 498
Amendment - Sens. Collamore, Bray, Pollina, and White 504
- S. 62** An act relating to surrogate decision making for do-not-resuscitate orders and clinician orders for life-sustaining treatment..... 504
PENDING QUESTION: Shall the bill be amended as recommended by the Committee on Health and Welfare?

UNFINISHED BUSINESS OF MARCH 19, 2015

Committee Bill for Second Reading

- S. 137** An act relating to penalties for selling and dispensing marijuana..... 512
By the Committee on Judiciary (Sen. Sears for the Committee)

UNFINISHED BUSINESS OF MARCH 25, 2015

Committee Bill for Second Reading

Favorable with Recommendation of Amendment

- S. 139** An act relating to pharmacy benefit managers, hospital observation status, and chemicals of high concern to children..... 512
By the Committee Health and Welfare (Sen. Pollina for the Committee)
Appropriations Report - Sen. McCormack 512

Second Reading

Favorable with Recommendation of Amendment

- S. 42** An act relating to the substance abuse system of care
Health & Welfare Report - Sen. Lyons 513
Appropriations Report - Sen. Kitchel 526

S. 102 An act relating to forfeiture of property associated with an animal fighting exhibition	
Judiciary Report -Sen. Ashe	528
Appropriations Report - Sen. Sears	536

NEW BUSINESS

Third Reading

S. 18 An act relating to privacy protection.....	537
S. 141 An act relating to possession of firearms	537

Second Reading

Favorable with Proposal of Amendment

H. 240 An act relating to miscellaneous technical corrections to laws governing motor vehicles, motorboats, and other vehicles	
Transportation Report - Sen. Westman	537

NOTICE CALENDAR

Committee Bill for Second Reading

Favorable with Recommendation of Amendment

S. 138 An act relating to promoting economic development	
By the Committee on Econ. Dev., Housing and General Affairs	
Natural Resources & Energy Report - Sen. Snelling	538
Finance Report - Sen. Ashe	540

Second Reading

Favorable with Recommendation of Amendment

S. 20 An act relating to establishing and regulating licensed dental practitioners	
Health and Welfare Report - Sen. Pollina	548
Government Operations Report - Sen. White	550
Finance Report - Sen. MacDonald	559

ORDERED TO LIE

S. 133 An act relating to an employee's use of benefits	559
--	-----

CONCURRENT RESOLUTIONS FOR NOTICE

S.C.R. 13-14 (For text of Resolutions, see Addendum to Senate Calendar for March 26, 2015).....	559
H.C.R. 81-88 (For text of Resolutions, see Addendum to House Calendar for March 26, 2015).....	559

ORDERS OF THE DAY

ACTION CALENDAR

CONSIDERATION POSTPONED TO MARCH 26, 2015

Second Reading

Favorable with Recommendation of Amendment

S. 29.

An act relating to election day registration.

Reported favorably with recommendation of amendment by Senator White for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. § 2142 is amended to read:

§ 2142. REVISION OF CHECKLIST

(a) The town clerk shall call such meetings of the board of civil authority as may be necessary before an election or at other times for revision of the checklist. ~~At least one meeting shall take place after the deadline for filing applications and before the day of an election, unless no applications have been filed which could take effect before that election.~~

(b) Notice of a meeting, along with a copy of the most recent checklist and a separate list of names which have been challenged and may be removed, shall be posted in two or more public places within each voting district and in the town clerk's office.

(c) A quorum of the board of civil authority shall be as provided in subdivision 2103(5) of this title, and written notice shall be provided to each member as established in 24 V.S.A. § 801.

Sec. 2. 17 V.S.A. § 2144 is amended to read:

§ 2144. ~~DEADLINE FOR~~ SUBMITTING APPLICATIONS

(a) ~~The town clerk shall not accept applications for persons' names to be placed on the checklist after 5:00 p.m. on the Wednesday preceding the day of the election. The town clerk's office shall be kept open on the Wednesday preceding the day of the election from no later than 3:00 p.m. until 5:00 p.m., for the purpose of receiving applications for addition to the checklist. For purposes of this subsection, a mail application or an application submitted to the department of motor vehicles in connection with a motor vehicle driver's~~

~~license or an application accepted by a voter registration agency shall be considered to have met the filing deadline established by this subsection if the application is postmarked, submitted, or accepted by 5:00 p.m. of the Wednesday preceding the day of the election~~ On any day other than the day of an election, the town clerk shall accept a person's application for his or her name to be placed on the checklist at the town clerk's office during all normal business hours.

~~(b) If a person is not eligible to register prior to the voter registration deadline, but expects to be eligible on or before election day, he or she may file with the town clerk a written notice of intention to apply for addition of his or her name to the checklist. The notice shall be filed prior to the voter registration deadline, and the town clerk shall then accept the person's application at any time before the close of the polls on election day, and act upon the application forthwith~~ On the day of an election:

(1) A person may submit an application for addition to the checklist to the presiding officer at the polling place of the town in which the person seeks to register during the hours of voting established by the board of civil authority for that polling place. In towns with more than one polling place, the polling place shall be that which covers the area in which the person resides.

(2) The presiding officer shall review all applications submitted at the polling place and shall approve those applications that meet the requirements of this chapter. Upon approval, the applicant's name shall be added to the checklist at the polling place, and the applicant shall be provided with the opportunity to vote in the election. The town clerk shall add the information in the application to the statewide voter checklist within three days of the day of the election.

(3) If the presiding officer cannot determine from an application submitted on election day that an applicant meets the requirements of section 2121 of this chapter, the presiding officer shall immediately refer the application to any members of the board of civil authority present at the polling place who shall meet immediately and proceed under section 2146 of this chapter to determine whether the applicant meets the requirements of section 2121 of this chapter. For purposes of adding applicant's names to the checklist under this subdivision (3), a quorum shall consist of three members of the board of civil authority. If the board rejects an applicant, it shall notify him or her at the polling place.

~~(c) If a person is not eligible to register prior to the voter registration deadline, and has submitted a written notice of intent to apply in accord with subsection (b) of this section, the clerk shall, upon application, allow the applicant to vote absentee. If the application is approved and the name added~~

~~to the checklist prior to the close of the polls on election day, the early or absentee ballots cast by that voter shall be treated as other valid early or absentee ballots. [Repealed.]~~

~~(d) In the case of annual meetings and towns that start their annual meetings on any day preceding the first Tuesday in March as authorized in subsection 2640(b) of this title, the "day of election" shall be the first Tuesday in March. [Repealed.]~~

Sec. 3. 17 V.S.A. § 2144a is amended to read:

§ 2144a. REGISTRATION

A person who desires to register to vote may apply in any of the following ways:

(1) Simultaneously with his or her application for, or renewal of, a motor vehicle driver's license as provided in section 2145a of this ~~title~~ chapter.

(2) By completing a voter registration application at a voter registration agency.

(3) By delivering, during regular hours, or mailing a completed application form to the office of the clerk of the town in which the applicant claims to be a resident.

(4) By completing a voter registration application and delivering it to the presiding officer before the close of the polls at the polling place of the town in which the person seeks to register. In towns with more than one polling place, the polling place shall be that which covers the area in which the person resides.

Sec. 4. 17 V.S.A. § 2145a is amended to read:

§ 2145a. REGISTRATIONS AT THE DEPARTMENT OF MOTOR VEHICLES

(a) An application for, or renewal of, a motor vehicle driver's license shall serve as a simultaneous application to register to vote unless the applicant declines to sign the voter registration portion of the application.

(b) The voter registration portion of the motor vehicle driver's license application shall provide and request the information required to be provided under section 2145 of this ~~title~~ chapter and shall be in the form approved by the Secretary of State.

(c) An application for voter registration under this section shall update any previous voter registration by the applicant. Any change of address form submitted to the Department of Motor Vehicles in connection with an

application for a motor vehicle driver's license shall serve to update voter registration information previously provided by the voter, unless the voter states on the form that the change of address is not for voter registration purposes.

(d) The Department of Motor Vehicles shall transmit voter registration applications received under this section to the Secretary of State not later than five days after the date the application was accepted by the Department, or before the ~~close of the checklist for a~~ date of any primary or general election, whichever is sooner.

(e) The Secretary shall promptly transmit applications received under this section to the clerks of the appropriate municipalities.

Sec. 5. 17 V.S.A. § 2145b is amended to read:

§ 2145b. VOTER REGISTRATION AGENCIES

(a) Each voter registration agency shall:

(1) ~~Distribute~~ distribute voter registration application forms approved under section 2145 of this title-;

(2) ~~Assist~~ assist applicants in completing voter registration application forms, unless the applicant refuses such assistance-; and

(3) ~~Accept~~ accept completed voter registration applications and transmit completed applications to the Secretary of State not later than 10 days after the date of acceptance, or before the ~~close of the checklist for a~~ date of any primary or general election, whichever is sooner.

(b) The Secretary shall promptly transmit applications received under this section to the clerks of the appropriate municipalities.

* * *

Sec. 6. 17 V.S.A. § 2145c is amended to read:

§ 2145c. SUBMISSION OF VOTER REGISTRATION FORMS BY OTHER PERSONS OR ORGANIZATIONS

Any person or any organization other than a voter registration agency that accepts a completed voter registration form on behalf of an applicant shall submit that form to the town clerk of the town of that applicant not later than seven days after the date of acceptance, or before the ~~close of the checklist for a~~ date of any primary or general election, whichever is sooner.

Sec. 7. 17 V.S.A. § 2147 is amended to read:

§ 2147. ALTERATION OF CHECKLIST

(a) Pursuant to section 2150 of this title, the board of civil authority or, upon request of the board, the town clerk shall add to the checklist ~~posted in the town clerk's office~~ the names of the voters added and the names omitted by mistake and shall strike the names of persons not entitled to vote. The list so corrected shall not be altered except by:

* * *

(3) adding the names of persons who present a copy of a valid application for addition to the checklist of that town ~~that was submitted before the deadline for applications~~ and who otherwise are qualified to be added to the checklist;

(4) ~~adding, at the polling place, the names of persons who sign a sworn affidavit prepared by the Secretary of State that they completed and submitted a valid application for addition to the checklist of that town before the deadline for applications and who otherwise are qualified to be added to the checklist;~~
[Repealed.]

* * *

(6) adding the names of persons who previously submitted an incomplete application ~~before the deadline for application~~ and who provide that information on or before election day.

(b) Any correction or transfer may be accomplished at any time until the closing of the polls on election day. Each voter has primary responsibility to ascertain that his or her name is properly added to and retained on the checklist.

Sec. 8. 17 V.S.A. § 2563 is amended to read:

§ 2563. ADMITTING VOTER

Before a person may be admitted to vote, he or she shall announce his or her name and if requested, his or her place of residence in a clear and audible tone of voice, or present his or her name in writing, or otherwise identify himself or herself by appropriate documentation. The election officials attending the entrance of the polling place shall then verify that the person's name appears on the checklist for the polling place.

(1) If the name does appear, and if no one immediately challenges the person's right to vote on grounds of identity or having previously voted in the same election, the election officials shall repeat the name of the person and:

~~(A)~~(i) If the checklist indicates that the person is a first-time voter in the municipality who registered by mail and who has not provided required identification before the opening of the polls, require the person to present any

one of the following: a valid photo identification; a copy of a current utility bill; a copy of a current bank statement; or a copy of a government check, paycheck, or any other government document that shows the current name and address of the voter.

(ii) If the person is unable to produce the required information, the person shall be afforded the opportunity to ~~cast a provisional ballot, as provided in subchapter 6A of this chapter~~ complete a new application for addition to the checklist in accordance with section 2144 of this title.

(iii) The elections official shall note upon the checklist a first-time voter in the municipality who has registered by mail and who produces the required information, and place a mark next to the voter's name on the checklist and allow the voter to proceed to the voting booth for the purpose of voting.

~~(2)(B)~~ If the voter is not a first-time voter in the municipality, no identification shall be required, ~~the~~ The clerk shall place a check next to the voter's name on the checklist and allow the voter to proceed to the voting booth for the purpose of voting.

(2) If the name does not appear, the person shall be afforded the opportunity to complete an application for addition to the checklist in accordance with section 2144 of this title.

Sec. 9. SECRETARY OF STATE REPORT

The Secretary of State shall consult with town clerks and report on or before January 15, 2016 to the Senate and House Committees on Government Operations regarding the feasibility of:

(1) permitting a town clerk to deposit in a vote tabulator on the day before an election any early voter absentee ballots he or she has received, while still complying with other provisions of election law; and

(2) ensuring that all towns have Internet access at each polling place on the day of an election.

Sec. 10. EFFECTIVE DATES

This act shall take effect on April 1, 2016, except for Sec. 9 (Secretary of State report), which shall take effect on passage.

(Committee vote: 3-2-0)

Amendment to the recommendation of amendment of the Committee on Government Operations to S. 29 to be offered by Senators Collamore, Bray, Pollina, and White

Senators Collamore, Bray, Pollina, and White move to amend the recommendation of amendment of the Committee on Government Operations in Sec. 10 (effective dates) by striking out “April 1, 2016” and inserting in lieu thereof January 1, 2017

S. 62.

An act relating to surrogate decision making for do-not-resuscitate orders and clinician orders for life-sustaining treatment.

PENDING QUESTION: Shall the bill be amended as recommended by the Committee on Health and Welfare?

Text of recommendation of amendment:

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 231 is amended to read:

CHAPTER 231. ADVANCE DIRECTIVES FOR
HEALTH CARE ~~AND~~ DISPOSITION OF REMAINS,
AND SURROGATE DECISION MAKING

§ 9700. PURPOSE AND POLICY

The ~~state~~ State of Vermont recognizes the fundamental right of an adult to determine the extent of health care the individual will receive, including treatment provided during periods of incapacity and at the end of life. This chapter enables adults to retain control over their own health care through the use of advance directives, including appointment of an agent and directions regarding health care and disposition of remains. During periods of incapacity, the decisions by the agent shall be based on the express instructions, wishes, or beliefs of the individual, to the extent those can be determined. This chapter also allows, in limited circumstances in which a patient without capacity has neither an agent nor a guardian, for a surrogate to provide or withhold consent on the patient’s behalf for a do-not-resuscitate order or clinician order for life-sustaining treatment.

§ 9701. DEFINITIONS

As used in this chapter:

* * *

(17) “Informed consent” means the consent given voluntarily by an individual with capacity, on his or her own behalf or on behalf of another in the role of an agent, guardian, or surrogate, after being fully informed of the nature, benefits, risks, and consequences of the proposed health care, alternative health care, and no health care.

(18) “Interested individual” means:

(A) the principal’s or patient’s spouse, adult child, parent, adult sibling, adult grandchild, ~~reciprocal beneficiary,~~ or clergy person; or

(B) any adult who has exhibited special care and concern for the principal or patient and who is personally familiar with the principal’s or patient’s values.

(19) “Life sustaining treatment” means any medical intervention, including nutrition and hydration administered by medical means and antibiotics, which is intended to extend life and without which the principal or patient is likely to die.

* * *

(31) “DNR/COLST” means a do-not-resuscitate order (DNR) or a clinician order for life-sustaining treatment (COLST), or both.

(32) “Surrogate” means an interested individual who provides or withholds, pursuant to subchapter 2 of this chapter, informed consent for a do-not-resuscitate order or a clinician order for life-sustaining treatment.

(33) “Suspend” means to terminate the applicability of all or part of an advance directive for a specific period of time or while a specific condition exists.

~~(32)~~(34) “Patient representative” means the mental health patient representative established by section 7253 of this title.

Subchapter 1. Advance Directives and Disposition of Remains

§ 9702. ADVANCE DIRECTIVE

(a) An adult may do any or all of the following in an advance directive:

* * *

§ 9708. AUTHORITY AND OBLIGATIONS OF HEALTH CARE PROVIDERS, HEALTH CARE FACILITIES, AND RESIDENTIAL CARE FACILITIES REGARDING ~~DO-NOT-RESUSCITATE DNR ORDERS AND CLINICIAN ORDERS FOR LIFE SUSTAINING TREATMENT~~ COLST

~~(a) As used in this section, “DNR/COLST” shall mean a do not resuscitate order (“DNR”) and a clinician order for life-sustaining treatment (“COLST”) as defined in section 9701 of this title. [Repealed.]~~

* * *

(d) A DNR order must:

(1) be signed by the patient’s clinician;

(2) certify that the clinician has consulted, or made an effort to consult, with the patient, and the patient’s agent or guardian, if there is an appointed agent or guardian;

(3) include either:

(A) the name of the patient; agent; guardian, in accordance with 14 V.S.A. § 3075(g); or ~~other individual~~ surrogate giving informed consent for the DNR and the individual’s relationship to the patient; or

(B) certification that the patient’s clinician and one other named clinician have determined that resuscitation would not prevent the imminent death of the patient, should the patient experience cardiopulmonary arrest; and

(4) if the patient is in a health care facility or a residential care facility, certify that the requirements of the facility’s DNR protocol required by section 9709 of this title have been met.

(e) A COLST must:

(1) be signed by the patient’s clinician; and

(2) include the name of the patient; agent; guardian, in accordance with 14 V.S.A. § 3075(g); or ~~other individual~~ surrogate giving informed consent for the COLST and the individual’s relationship to the patient.

~~(f) The Department of Health shall adopt by rule on or before July 1, 2016, criteria for individuals who are not the patient, agent, or guardian, but who are giving informed consent for a DNR/COLST order. The rules shall include the following:~~

~~(1) other individuals permitted to give informed consent for a DNR/COLST order who shall be a family member of the patient or a person with a known close relationship to the patient; and~~

~~(2) parameters for how decisions should be made, which shall include at a minimum the protection of a patient’s own wishes in the same manner as in section 9711 of this title. [Repealed.]~~

(g) A patient’s clinician issuing a DNR/COLST order shall:

(1) place a copy of the completed DNR/COLST order in the patient's medical record; and

(2) provide instructions to the patient as to the appropriate means of displaying the DNR/COLST order.

(h) A clinician who issues a DNR order shall authorize issuance of a DNR identification to the patient. Uniform minimum requirements for DNR identification shall be determined ~~by rule~~ by the Department of Health by rule no later than ~~July 1, 2014~~ January 1, 2016.

* * *

§ 9713. IMMUNITY

(a) No individual acting as an agent ~~or~~ guardian, or surrogate shall be subjected to criminal or civil liability for making a decision in good faith pursuant to the terms of an advance directive, or DNR order, or COLST order and the provisions of this chapter.

(b)(1) No health care provider, health care facility, residential care facility, or any other person acting for or under such person's control shall, if the provider or facility has complied with the provisions of this chapter, be subject to civil or criminal liability for:

(A) providing or withholding treatment or services in good faith pursuant to the direction of a principal or patient, the provisions of an advance directive, a DNR order, a COLST order, a DNR identification, the consent of a principal or patient with capacity or of the principal's or patient's agent ~~or~~ guardian, or surrogate, or a decision or objection of a principal or patient; or

(B) relying in good faith on a suspended or revoked advance directive, suspended or revoked DNR order, or suspended or revoked COLST order, unless the provider or facility knew or should have known of the suspension, or revocation.

(2) ~~No~~ A funeral director, crematory operator, cemetery official, procurement organization, or any other person acting for or under such person's control, shall, if the director, operator, official, or organization has complied with the provisions of this chapter, not be subject to civil or criminal liability for providing or withholding its services in good faith pursuant to the provisions of an advance directive, whether or not the advance directive has been suspended or revoked.

(3) Nothing in this subsection shall be construed to establish immunity for the failure to follow standards of professional conduct and to exercise due care in the provision of services.

(c) No employee shall be subjected to an adverse employment decision or evaluation for:

(1) ~~providing~~ Providing or withholding treatment or services in good faith pursuant to the direction of a principal or patient, the provisions of an advance directive, a DNR order, a COLST order, a DNR identification, the consent of the principal or patient with capacity or principal's or patient's agent ~~or~~, guardian, or surrogate, a decision or objection of a principal or patient, or the provisions of this chapter. This subdivision shall not be construed to establish a defense for the failure to follow standards of professional conduct and to exercise due care in the provision of services;

(2) ~~relying~~ Relying on an amended, suspended, or revoked advance directive, unless the employee knew or should have known of the amendment, suspension, or revocation;~~or~~

(3) ~~providing~~ Providing notice to the employer of a moral or other conflict pursuant to subdivision 9707(b)(3) of this title, so long as the employee has provided ongoing health care until a new employee or provider has been found to provide the services.

* * *

Subchapter 2. Surrogate Consent

§ 9731. INFORMED CONSENT BY SURROGATE FOR DNR/COLST ORDER

(a)(1) One or more interested individuals may be eligible to act as the surrogate for an adult without capacity in order to provide or withhold informed consent for a do-not-resuscitate order or clinician order for life-sustaining treatment pursuant to this subchapter. Only one surrogate may act at a time.

(2)(A) A patient's health care provider shall not be considered an interested individual and shall not serve as a patient's surrogate to provide or withhold informed consent for a DNR/COLST order pursuant to this chapter unless related to the patient by blood, marriage, civil union, or adoption.

(B) The owner, operator, employee, agent, or contractor of a residential care facility, health care facility, or correctional facility in which the patient resides at the time the DNR/COLST order is written shall not be considered an interested individual and shall not act as the patient's surrogate to provide or withhold consent for a DNR/COLST order pursuant to this chapter unless related to the patient by blood, marriage, civil union, or adoption.

(b) A surrogate may provide or withhold informed consent only if all of the following conditions are met:

(1) the patient's clinician determines that the patient lacks capacity to provide informed consent;

(2) the patient has not appointed an agent through an advance directive;

(3) the patient has not indicated in an advance directive that the interested individual or individuals seeking to serve as surrogate should not be consulted on health care decisions or otherwise provided instructions in an advance directive contrary to allowing such individual or individuals to serve as surrogate;

(4) the patient does not have a guardian who is authorized to make health care decisions; and

(5) the patient does not object to the surrogate providing or withholding consent for a DNR/COLST order, even if the patient lacks capacity.

(c)(1) A surrogate shall be an interested individual who is designated by the patient by personally informing the patient's clinician. If the patient designates a surrogate to the clinician orally, the clinician shall document the designation in the patient's medical record at the time the designation is made.

(2) If the patient has not designated a surrogate pursuant to subdivision (1) of this subsection, or if the surrogate designated by the patient is not reasonably available or is unwilling to serve, then a surrogate shall be an interested individual who is:

(A) willing to provide or withhold informed consent for a DNR/COLST order for the patient in accordance with the patient's wishes and values, if known; and

(B) willing and available to consult with the patient's clinician.

(3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, an individual shall not serve as a surrogate over the patient's objection, even if the patient lacks capacity.

(d) The patient's clinician, health care provider, or residential care provider may rely on the decision of a surrogate identified pursuant to this section as long as the clinician or provider documents in the patient's medical record that the surrogate has confirmed that one of the following circumstances applies:

(1)(A) All interested individuals agree on the decision to provide or withhold consent for a DNR/COLST order, in which case they shall designate one surrogate, as well as an alternate, if available, who is authorized to provide

or withhold consent and whose name will be identified on the DNR/COLST form and in the patient's medical record.

(B) All interested individuals agree that a specific interested individual may make the decision regarding whether to provide or withhold consent for a DNR/COLST order, in which case they shall designate the individual as the surrogate, as well as an alternate, if available, who is authorized to provide or withhold consent and whose name will be identified on the DNR/COLST form and in the patient's medical record.

(C) The surrogate or alternate, if applicable, is not reasonably available, in which case the clinician shall consult the interested individuals to request designation of another surrogate and alternate.

(2) If at any time the interested individuals are unable to agree on the designation of a surrogate, any interested individual may file a petition for guardianship in the Probate Division of the Superior Court.

(e) A surrogate providing informed consent for a DNR/COLST order shall use substituted judgment consistent with the patient's wishes and values and consistent with the parameters described in subsection 9711(d) of this title. The surrogate shall consult with the patient to the extent possible, and with the patient's clinician and any other appropriate health care providers and shall provide or withhold informed consent for a DNR/COLST order by attempting to determine what the patient would have wanted under the circumstances.

(f) The patient's clinician shall make reasonable efforts to inform the patient of any proposed treatment, or of any proposal to withhold or withdraw treatment, based on the decisions made by the surrogate.

(g) If the patient's clinician determines that the patient no longer lacks capacity and the DNR/COLST order was based on informed consent provided by a surrogate, the clinician shall seek the informed consent of the patient for any DNR/COLST order, which shall supersede the surrogate's consent.

(h) A surrogate shall have the same rights as a patient with capacity would have to the following, to the extent that it is related to providing or withholding informed consent for a DNR/COLST order:

(1) request, receive, review, and copy any oral or written information regarding the patient's physical or mental health, including medical and hospital records;

(2) participate in any meetings, discussions, or conferences concerning health care decisions related to the patient;

(3) consent to the disclosure of health care information; and

(4) file a complaint on behalf of the patient regarding a health care provider, health care facility, or residential care facility.

Sec. 2. 33 V.S.A. § 7306 is amended to read:

§ 7306. RESIDENT'S REPRESENTATIVE

(a) ~~The~~ Except as provided in subsection (b) of this section, the rights and obligations established under this chapter shall devolve to a resident's reciprocal beneficiary, guardian, next of kin, sponsoring agency, or representative payee (except when the facility itself is a representative payee) if the resident:

(1) has been adjudicated incompetent;

(2) has been found by his or her physician to be medically incapable of understanding or exercising the rights granted under this chapter; or

(3) exhibits a communication barrier.

(b) Notwithstanding the provisions of subsection (a) of this section, consent for a do-not-resuscitate order or a clinician order for life-sustaining treatment shall be provided or withheld only by the resident, by the resident's guardian or agent, or by a surrogate designated pursuant to 18 V.S.A. chapter 231, subchapter 2.

(c)(1) A resident's representative identified in subsections (a) and (b) of this section shall make decisions for the resident by attempting to determine what the resident would have wanted under the circumstances. In making the determination, the resident's representative shall consider the following:

(A) the resident's specific instructions or wishes as expressed to a spouse, adult child, parent, adult sibling, adult grandchild, clergy person, health care provider, or any other adult who has exhibited specific care or concern for the resident; and

(B) the representative's knowledge of the resident's personal preferences, values, or religious or moral beliefs.

(2) If the resident's representative cannot determine what the resident would have wanted under the circumstances, the representative shall make a determination through an assessment of the resident's best interests. When making a decision for the resident on this basis, the representative shall not authorize the provision or withholding of health care on the basis of the resident's economic status or a preexisting, long-term mental or physical disability.

(3) When making a determination under this section, representatives shall not consider their own interests, wishes, values, or beliefs.

(d) Notwithstanding the provisions of subsection (a) of this section, the facility shall make every reasonable effort to communicate the rights and obligations established under this chapter directly to the resident.

Sec. 3. RULEMAKING

The Department of Disabilities, Aging, and Independent Living shall amend its nursing home rules to comply with 33 V.S.A. § 7306 as amended by this act.

Sec. 4. EFFECTIVE DATE

This act shall take effect on January 1, 2016.

UNFINISHED BUSINESS OF THURSDAY, MARCH 19, 2015

Committee Bill for Second Reading

S. 137.

An act relating to penalties for selling and dispensing marijuana.

By the Committee on Judiciary. (Senator Sears for the Committee.)

UNFINISHED BUSINESS OF WEDNESDAY, MARCH 25, 2015

Committee Bill for Second Reading

Favorable with Recommendation of Amendment

S. 139.

An act relating to pharmacy benefit managers, hospital observation status, and chemicals of high concern to children.

By the Committee on Health and Welfare. (Senator Pollina for the Committee.)

Reported favorably with recommendation of amendment by Senator McCormack for the Committee on Appropriations.

The Committee recommends that the bill be amended by striking out Sec. 5 (Prospective Payment for Home Health Services), Sec. 6 (Health Care Oversight Committee), Sec. 7 (Mental Health Oversight Committee), Sec. 8 (Long-Term Care Evaluation Task Force), and Sec. 13 (Appropriation) in their entirety and renumbering the remaining sections of the bill to be numerically correct.

(Committee vote: 7-0-0)

Second Reading
Favorable with Recommendation of Amendment

S. 42.

An act relating to the substance abuse system of care.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Health & Welfare.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 16 V.S.A. § 909(a) is amended to read:

(a) The Secretary, in conjunction with the ~~Alcohol and Drug Substance Abuse Advisory Council~~, and where appropriate, with the Division of ~~Health Promotion~~ Alcohol and Drug Abuse Programs, shall develop a sequential alcohol and drug abuse prevention education curriculum for elementary and secondary schools. The curriculum shall include teaching about the effects and legal consequences of the possession and use of tobacco products.

Sec. 2. 18 V.S.A. chapter 94 is redesignated to read:

~~CHAPTER 94. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS~~ SUBSTANCE ABUSE PREVENTION AND CARE

Sec. 3. 18 V.S.A. chapter 94, subchapters 1, 2, 3, and 4 are added to read:

Subchapter 1. System of Care

§ 4811. PRINCIPLES

The General Assembly adopts the following principles pertaining to substance abuse prevention, intervention, treatment, and recovery services:

(1) Substance abuse and substance use disorders are health problems, and shall therefore be addressed using a public health approach. A public health approach emphasizes prevention and wellness for the entire population, not only those individuals with an illness or disease.

(2) The State of Vermont's substance abuse system of care shall be patient-centered and trauma-informed. It shall reflect effectiveness, ease of access, evidence-based practices, cultural competency, and the highest standards of care.

(3) A coordinated continuum of substance abuse prevention, intervention, treatment, and recovery services shall be provided throughout the State, including by the Agency of Human Services, hospitals, approved providers, preferred providers, alcohol and drug abuse counselors, regardless

of whether or not the counselor is affiliated with an approved provider or preferred provider, and community and peer partners to ensure that services are available to individuals at all stages of substance misuse and substance use disorders. All providers within the continuum shall move towards the goal of providing services based on current research on addiction, medicine, clinical treatment, and evidence-based best practices.

(4) Programs addressing substance abuse prevention, intervention, treatment, or recovery shall be data driven and responsive to changes in demonstrated need, service delivery practices, and funding resources.

(5) Determinations as to the appropriate level of care shall be made in accordance with evidence-based guidelines. Consideration shall also be given to the age appropriateness of services.

(6) To the extent possible, the delivery of substance abuse services shall be integrated into Vermont's health care system and across the Agency of Human Services.

(7) Patients and providers shall share responsibility for treatment outcomes.

(8) The delivery of substance abuse services shall be consistent throughout the State in terms of both access to care and the type of services offered.

(9) Recognizing the ongoing challenges and potential for relapse among individuals with a substance use disorder, services addressing both episodic and chronic substance use disorders shall be accessible throughout the State.

(10) The Commissioners of Health and of Vermont Health Access shall ensure that oversight and accountability are built into all aspects of the system of care for substance abuse services, including for alcohol and drug abuse counselors, regardless of whether or not the counselor is affiliated with an approved provider or preferred provider.

§ 4812. DEFINITIONS

As used in this chapter:

(1) "Alcohol and drug abuse counselor" means the same as in 26 V.S.A. chapter 62.

(2) "Approved provider" means a substance abuse organization that has attained a certificate of operation from the Department of Health's Division of Alcohol and Drug Abuse Programs, but does not currently have an existing contract or grant from the Division to provide substance abuse treatment.

(3) “Client” means a person who receives treatment services from an approved provider, preferred provider, or alcohol and drug abuse counselor.

(4) “Continuum of care” means an optimal mix of interventions to address substance abuse and substance use disorders.

(5) “Cultural competence” means a set of behaviors, attitudes, and policies that are culturally and linguistically appropriate to the needs of the population served.

(6) “Designated agency” means the same as in section 7252 of this title.

(7) “Incapacitated” means that a person, as a result of his or her use of alcohol or other drugs, is in a state of intoxication or of mental confusion resulting from withdrawal such that the person:

(A) appears to need medical care or supervision by an approved provider to ensure his or her safety; or

(B) appears to present a direct active or passive threat to the safety of others.

(8) “Intervention” means processes and programs used to identify and act on early signs of substance abuse before it becomes a lifelong problem, including prevention screenings and brief, early interventions and referrals.

(9) “Intoxicated” means a condition in which the mental or physical functioning of an individual is substantially impaired as a result of the presence of alcohol or other drugs in his or her system.

(10) “Law enforcement officer” means a law enforcement officer certified by the Vermont Criminal Justice Training Council as provided in 20 V.S.A. §§ 2355–2358 or appointed by the Commissioner of Public Safety as provided in 20 V.S.A. § 1911.

(11) “Licensed hospital” means a hospital licensed under chapter 43 of this title.

(12) “Person-centered care” means a service delivery mode that gives an individual a primary decision making role in directing his or her care, including having control over his or her own plan and service delivery decisions.

(13) “Preferred provider” means any substance abuse organization that has attained a certificate of operation from the Department of Health’s Division of Alcohol and Drug Abuse Programs and has an existing contract or grant from the Division to provide substance abuse treatment.

(14) “Prevention” means the promotion of healthy lifestyles that reduce substance abuse and substance use disorder prior to the onset of a disorder.

(15) “Protective custody” means a civil status in which an incapacitated person is detained by a law enforcement officer for the purposes of:

(A) ensuring the safety of the individual or the public, or both; and

(B) assisting the individual to return to a functional condition.

(16) “Recovery” means a process of change in which an individual with a substance use disorder improves his or her health and wellness, lives in a self-directed manner, and strives to reach his or her full potential.

(17) “Secretary” means the Secretary of Human Services or the Secretary’s designee.

(18) “Substance abuse” means a range of harmful or hazardous behaviors such as underage use of alcohol, excessive drinking, use of alcohol during pregnancy, prescription drug misuse, and use of illicit drugs.

(19) “Substance use disorder” means the recurrent use of alcohol, drugs, or both that causes a clinically and functionally significant impairment consistent with the definition in the Diagnostic and Statistical Manual (DSM-5) or its successor.

(20) “System of care” means the continuum of substance abuse prevention, intervention, treatment, and recovery services offered consistently throughout geographically diverse regions of the State.

(21) “Trauma-informed care” means the provision of services that identify the impact of trauma and pathways for recovery; recognize the signs and symptoms of trauma; respond by fully-integrating knowledge about trauma into policies, procedures, and practices; and seek to actively avoid retraumatization.

(22) “Treatment” means the broad range of services including withdrawal management, outpatient, intensive outpatient, residential, and recovery services that are needed by persons with a substance use disorder and may include a variety of other medical, social, vocational, and educational supports and services, including care management, aftercare, and follow-up services relevant to the recovery of these persons.

(23) “Withdrawal management” means the planned withdrawal of an individual from a state of acute or chronic intoxication consistent with the definition in the Diagnostic and Statistical Manual (DSM-5) or its successor.

§ 4813. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS

(a) The Division of Alcohol and Drug Abuse Programs shall plan, operate, and evaluate a consistent, effective, and comprehensive continuum of substance abuse programs. These programs shall coordinate care with Vermont's health, mental health, and human services systems. All duties, responsibilities, and authority of the Division shall be carried out and exercised by and within the Department of Health.

(b) Under the direction of the Commissioner of Health, the Deputy Commissioner of Alcohol and Drug Abuse Programs shall review, approve, and coordinate all alcohol and drug programs developed or administered by any State agency or department, except for alcohol and drug education programs developed by the Agency of Education in conjunction with the Substance Abuse Advisory Council pursuant to 16 V.S.A. § 909.

(c)(1) Any federal or private funds received by the State for purposes of alcohol and drug programs shall be in the budget of and administered by the Agency of Human Services. This subdivision shall not apply to the programs of the Department of Corrections.

(2) To the extent possible, funds shall be used in a manner that creates a comprehensive and coordinated network of services throughout the State.

(d) The Division of Alcohol and Drug Abuse Programs shall be responsible for the direct oversight and delivery of the programs administered by the Secretary pursuant to subdivision (c)(1) of this section. It shall also be authorized to inspect and monitor these programs and services to ensure quality of care and compliance with State and national standards.

(e) With regard to alcohol and drug treatment, the Commissioner of Health may contract with the Secretary of State for the provision of adjudicative services of one or more administrative law officers and other investigative, legal, and administrative services related to licensure and discipline of alcohol and drug abuse counselors.

§ 4814. AUTHORITY AND ACCOUNTABILITY FOR SUBSTANCE ABUSE SERVICES; RULES FOR ACCEPTANCE INTO TREATMENT

(a) The Secretary shall have the authority and accountability for providing or arranging for the provision of a comprehensive system of substance abuse prevention, intervention, treatment, and recovery services.

(b) The Secretary shall adopt rules and standards pursuant to 3 V.S.A. chapter 25 for the implementation of the provisions of this chapter. In establishing rules regarding the administration and adherence to substance abuse treatment program standards, the Secretary shall adhere to the following guidelines:

(1) A client shall be initially assessed and assigned to the appropriate level of care using evidence-based tools.

(2) A person shall not be denied treatment solely because he or she has withdrawn from treatment against medical advice on a prior occasion or because he or she has relapsed after earlier treatment.

(3) An individualized treatment plan shall be prepared and maintained on a current basis for each client.

(4) Provision shall be made for a continuum of coordinated treatment and recovery services, so that a person who leaves a program or a form of treatment shall have other appropriate services available.

§ 4815. SYSTEM OF CARE

(a) The Commissioner of Health shall coordinate and supervise a continuum of geographically diverse substance abuse services throughout the State that shall include at least the following:

(1) prevention programming and services, including initiatives to deter substance use among youths;

(2) early intervention, including Screening, Brief Intervention, Referral to Treatment (SBIRT) in health care and human services settings;

(3) treatment, including medication-assisted treatment, outpatient services supervised by a licensed alcohol and drug abuse counselor regardless of whether the counselor is affiliated with an approved provider or preferred provider, and inpatient and residential services;

(4) recovery support services;

(5) transitional housing;

(6) coordination of complex care between health, mental health; and

(7) licensure of alcohol and drug abuse counselors pursuant to 26 V.S.A. § 3235.

(b) The Commissioners of Health, of Mental Health, and of Vermont Health Access, in consultation with the Substance Abuse Advisory Council, Green Mountain Care Board, preferred providers, and other community partners, shall develop and implement a plan aimed at creating a cohesive substance abuse system of care in Vermont. The plan shall foster a unified provider network in which providers are reimbursed for comprehensive services that are responsive to patient needs. The plan shall:

(1) balance the delivery of episodic and chronic treatment services;

- (2) ensure the coordination of care and payment;
- (3) enable treatment based on the American Society of Addiction Medicine's definition of medical necessity and established levels of care;
- (4) make case management services available to chronically lapsing patients to ensure consistency in treatment and recovery over time; and
- (5) incorporate any payment reform recommendations offered by the Green Mountain Care Board.

§ 4816. REPORTING REQUIREMENTS

The Department of Health, in consultation with the Departments of Mental Health and of Vermont Health Access, shall report annually on or before January 15 to the Senate Committee on Health and Welfare and to the House Committee on Human Services on the following:

- (1) adequacy of system capacity, including the utilization and timeliness of services across the continuum of care;
- (2) system performance and client outcomes, based on:
 - (A) national research-based measure sets;
 - (B) clinical best practices;
 - (C) measures established by the Department of Health that reflect the priorities in its strategic plan;
 - (D) program objectives and performance measures consistent with those established pursuant to 2014 Acts and Resolves No. 179, § E.306.2(a)(1); and
 - (E) any other measures reported on the Department of Health's performance dashboard;
- (3) gaps in services or quality of care; and
- (4) projection of future needs within the State's substance abuse system of care.

Subchapter 2. Abuse of Alcohol

§ 4821. DECLARATION OF POLICY

- (a) It is the policy of the State of Vermont that persons who abuse alcohol are correctly perceived as persons with health and social problems rather than as persons committing criminal transgressions against the welfare and morals of the public.
- (b) The General Assembly therefore declares that:

(1) persons who abuse alcohol shall no longer be subjected to criminal prosecution solely because of their consumption of alcoholic beverages or other behavior related to consumption which is not directly injurious to the welfare or property of the public; and

(2) persons who abuse alcohol shall be treated as persons who are sick and shall be provided adequate and appropriate medical and other humane rehabilitative services congruent with their needs.

Subchapter 3. Substance Abuse Advisory Council

§ 4831. SUBSTANCE ABUSE ADVISORY COUNCIL

(a) Creation. There is created a substance abuse advisory council to foster coordination and integration of substance abuse services across the substance abuse system of care.

(b) Membership. The Council shall be composed of the following 19 members:

(1) the Chair of the Senate Committee on Health and Welfare or designee;

(2) the Chair of the House Committee on Human Services or designee;

(3) the Secretary of Human Services or designee;

(4) the Secretary of Education or designee;

(5) the Deputy Commissioner of the Department of Health's Division of Alcohol and Drug Abuse Programs;

(6) the Commissioner of Mental Health or designee;

(7) the Commissioner of Vermont Health Access or designee;

(8) the Director of the Blueprint or designee;

(9) a representative of an approved provider or preferred provider that shall also be a designated agency;

(10) a representative of an approved provider or preferred provider that provides residential treatment services;

(11) two licensed alcohol and drug abuse counselors serving different regions of the State, appointed by the Governor;

(12) a physician in private practice with expertise treating substance use disorders, appointed by the Governor;

(13) a representative of hospitals, appointed by the Vermont Association of Hospitals and Health Systems;

(14) a representative of the criminal justice community, appointed by the Governor;

(15) an educator involved in substance abuse prevention services, appointed by the Governor;

(16) a youth substance abuse prevention specialist, appointed by the Governor;

(17) a community prevention coalition member, appointed by the Governor; and

(18) a member of the peer community involved in recovery services, appointed by the Governor.

(c) Report. Annually on or before November 15, the Council shall submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(d) Meetings.

(1) The Secretary of Human Services shall call the first meeting of the Council to occur on or before August 1, 2015.

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

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

(e) Reimbursement.

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

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

§ 4832. ADMINISTRATIVE SUPPORT

The Agency of Human Services shall provide the Council with such administrative support as is necessary for it to accomplish the purposes of this chapter.

§ 4833. POWERS AND DUTIES

The Council shall:

(1) assess substance abuse services and service delivery in the State, including the following:

(A) the effectiveness of existing substance abuse services in Vermont and opportunities for improved treatment; and

(B) strategies for enhancing the coordination and integration of substance abuse services across the system of care;

(2) provide recommendations to the Department of Health as it develops a plan for the substance abuse system of care pursuant to subsection 4815(b) of this title, including regarding the integration of substance abuse services with health care reform initiatives, such as value-based payment methodologies;

(3) provide recommendations to the General Assembly and Agency of Human Services regarding the improvement of statutes and rules governing the substance abuse system of care; and

(4) provide recommendations to the General Assembly regarding State policy and programs for individuals experiencing public inebriation.

Subchapter 4. Law Enforcement and Incarceration

§ 4841. TREATMENT AND SERVICES

(a) When a law enforcement officer encounters a person who, in the judgment of the officer, is intoxicated as defined in section 4812 of this title, the officer may assist the person, if he or she consents, to his or her home, to an approved provider, a preferred provider, or to some other mutually agreeable location.

(b) When a law enforcement officer encounters a person who, in the judgment of the officer, is incapacitated as defined in section 4812 of this title, the person shall be taken into protective custody by the officer. The officer shall transport the incapacitated person directly to an approved provider or preferred provider with withdrawal management capabilities, or to the emergency room of a licensed general hospital for treatment, except that if an alcohol and drug abuse counselor exists in the vicinity and is available, the person may be released to the counselor at any location mutually agreeable between the officer and the counselor. The period of protective custody shall end when the person is released to an alcohol and drug abuse counselor, a clinical staff person of an approved provider or preferred provider with withdrawal management capabilities, or a professional medical staff person at a licensed general hospital emergency room. The person may be released to his or her own devices if, at any time, the officer judges him or her to be no longer incapacitated. Protective custody shall in no event exceed 24 hours.

(c) If an incapacitated person is taken to an approved provider or preferred provider with withdrawal management capabilities and the program is at capacity, the person shall be taken to the nearest licensed general hospital emergency room for treatment.

(d) A person judged by a law enforcement officer to be incapacitated, and who has not been charged with a crime, may be lodged in protective custody in a secure facility not operated by the Department of Corrections for up to 24 hours or until judged by the person in charge of the facility to be no longer incapacitated, if and only if:

(1) the person refuses to be transported to an appropriate facility for treatment or, if once there, refuses treatment or leaves the facility before he or she is considered by the responsible staff of that facility to be no longer incapacitated; or

(2) no approved provider or preferred provider with withdrawal management capabilities and no staff physician or other medical professional at the nearest licensed general hospital can be found who will accept the person for treatment.

(e) A person shall not be lodged in a secure facility under subsection (d) of this section without first being evaluated and found to be indeed incapacitated by an alcohol and drug abuse counselor, a clinical staff person of an approved provider or preferred provider with withdrawal management capabilities, or a professional medical staff person at a licensed general hospital emergency room.

(f) Except for a facility operated by the Department of Corrections, a lockup facility shall not refuse to admit an incapacitated person in protective custody whose admission is requested by a law enforcement officer, in compliance with the conditions of this section.

(g) Notwithstanding subsection (d) of this section, a person under 18 years of age who is judged by a law enforcement officer to be incapacitated and who has not been charged with a crime shall not be held at a lockup facility or community correctional center. If needed treatment is not readily available, the person shall be released to his or her parent or guardian. If the person has no parent or guardian in the area, arrangements shall be made to house him or her according to the provisions of 33 V.S.A. chapter 53. The official in charge of an adult jail or lockup facility shall notify the Deputy Commissioner of Alcohol and Drug Abuse Programs of any person under 18 years of age brought to an adult jail or lockup facility pursuant to this chapter.

(h) If an incapacitated person in protective custody is lodged in a secure facility, his or her family or next of kin shall be notified as promptly as

possible. If the person is an adult and requests that there be no notification, his or her request shall be respected.

(i) A taking into protective custody under this section is not an arrest.

(j) Law enforcement officers, persons responsible for supervision in a secure facility, and alcohol and drug abuse counselors who act under the authority of this section are acting in the course of their official duty and are not criminally or civilly liable therefor, unless for gross negligence or willful or wanton injury.

§ 4842. INCARCERATION FOR INEBRIATION PROHIBITED

A person who has not been charged with a crime shall not be incarcerated in a facility operated by the Department of Corrections on account of the person's inebriation.

Sec. 4. RULEMAKING; SYSTEM OF CARE PLAN

(a) On or before January 15, 2016, the Commissioners of Health, of Mental Health, and of Vermont Health Access shall present the plan developed pursuant to 18 V.S.A. § 4816(b) to the Senate Committee on Health and Welfare and to the House Committee on Human Services. The Commissioners shall update the Committees on their respective Departments' strategies for implementing the plan.

(b) No sooner than July 1, 2016, the Commissioner of Health shall adopt into rule the plan developed pursuant to 18 V.S.A. § 4816(b). The rule shall address the movement of people throughout the substance abuse system of care based on medical necessity. The rule shall also develop a list of outcome measures that must be present in contracts between the Departments of Health, Mental Health, or Vermont Health Access and preferred providers for all substance abuse related services.

Sec. 5. REPORT; SUBSTANCE ABUSE PREVENTION IN SCHOOLS

On or before January 15, 2016, the Secretary of Education shall report to the Senate Committee on Health and Welfare and to the House Committee on Human Services regarding:

(1) the status of the comprehensive health education program as it pertains to substance abuse;

(2) all other Agency initiatives aimed at preventing or treating substance abuse among students; and

(3) the most effective evidence-based practices pertaining to substance abuse in schools.

Sec. 6. REPORT; SERVICES FOR MENTAL HEALTH, SUBSTANCE ABUSE, AND CO-OCCURRING DISORDERS

(a) On or before January 15, 2016, the Blueprint for Health, in consultation with the Department of Mental Health, the Department of Health's Division of Alcohol and Drug Abuse Programs, and stakeholders, shall survey and report on those services provided to individuals with a mental health, substance abuse, or co-occurring disorder by designated agencies, approved providers, preferred providers, federally qualified health centers, and the Blueprint for Health's community health teams. The report shall:

(1) catalogue services for individuals with mental health, substance abuse, and co-occurring disorders to identify where, if any, gaps in services or overlapping services exist;

(2) identify collaboration models, including the benefits and challenges of each, and any recommendations for the development of a related framework or training program;

(3) propose any structural changes necessary to foster a collaborative relationship between the designated agencies, approved providers, preferred providers, federally qualified health centers, and community health teams;

(4) survey and consolidate information on which federally qualified health centers and designated agencies are using behavior change models, and which model is used by each; and

(5) survey the relative pay scales of providers employed by the designated agencies, approved providers, preferred providers, federally qualified health centers, and community health teams by provider type and county.

(b) The Blueprint for Health may consolidate the filing of this report with any other similar report requested by the General Assembly. Where the filing dates of the consolidated reports are inconsistent, they shall be filed in accordance with the earliest filing date.

Sec. 7. REPEAL

(a) 18 V.S.A. §§ 4801–4807 (Division of Alcohol and Drug Abuse Programs) are repealed on July 1, 2015.

(b) 18 V.S.A. § 4808 (treatment and services) and 18 V.S.A. § 4809 (incarceration for inebriation prohibited) are repealed on July 1, 2017.

(c) The annual reporting requirement on program objectives and performance measures established pursuant to 2014 Acts and Resolves No. 179, Sec. E.306.2(a)(2) is repealed on passage of this act.

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2015, except 18 V.S.A. §§ 4841 (treatment and services) and 4842 (incarceration for inebriation prohibited) shall take effect on July 1, 2017.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Kitchel for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Health & Welfare with the following amendments thereto:

First: By striking out Sec. 1 in its entirety

Second: In Sec. 3, 18 V.S.A. § 4813, subsection (b), by striking out “Substance Abuse Advisory Council” and inserting in lieu thereof Alcohol and Drug Abuse Council

Third: In Sec. 3, 18 V.S.A. § 4815, subsection (b), in the first sentence, by striking out “Substance Abuse Advisory Council,”

Fourth: In Sec. 3, by striking out subchapter 3 in its entirety and inserting in lieu thereof the following:

Subchapter 3. Alcohol and Drug Abuse Council

§ 4831. ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS; PER DIEM

(a) The Alcohol and Drug Abuse Council is established within the Agency of Human Services to promote the reduction of problems arising from alcohol and drug abuse by advising the Secretary on policy areas that can inform Agency programs.

(b) The Council shall consist of 11 members:

(1) The Secretary of Human Services, Commissioner of Public Safety, Secretary of Education, Commissioner of Liquor Control, and Commissioner of Motor Vehicles or their designees.

(2) One member shall be a member of a mental health or substance abuse agency who shall be appointed by the Governor.

(3) Five members shall be appointed by the Governor of which every consideration shall be given, if possible, to equal geographic apportionment. Consideration will be given for one of these members to be a certified practicing teacher and one of these members to be a school administrator.

(c) The term of office of members appointed pursuant to subdivisions (b)(2) and (3) of this section shall be three years.

(d) The Council membership shall annually elect a member to serve as chair.

(e) All members shall be voting members.

(f) At the expiration of the term of an appointed member or in the event of a vacancy during an unexpired term, the new member shall be appointed in the same manner as his or her predecessor. Members of the Council may be reappointed.

(g) Each member of the Council not otherwise receiving compensation from the State of Vermont or any political subdivision thereof shall be entitled to receive per diem compensation as provided in 32 V.S.A. § 1010(b). Each member shall be entitled to his or her actual and necessary expenses.

§ 4832. ADMINISTRATIVE SUPPORT

The Agency of Human Services shall provide the Council with such administrative support as is necessary for it to accomplish the purposes of this chapter.

§ 4833. DUTIES

The Council shall:

(1) advise the Governor as to the nature and extent of alcohol and drug abuse problems and the programs necessary to understand, prevent, and alleviate those problems;

(2) make recommendations to the Governor for developing a comprehensive and coordinated system for delivering effective programs, including any appropriate reassignment of responsibility for such programs;

(3) provide for coordination and communication among the regional alcohol and drug abuse councils, State agencies and departments, providers, consumers, consumer advocates, and interested citizens;

(4) jointly, with the State Board of Education, develop educational and preventive programs; and

(5) develop a five-year plan for effectively providing preventive, education, and treatment services to the Vermont public.

(Committee vote: 6-1-0)

S. 102.

An act relating to forfeiture of property associated with an animal fighting exhibition.

Reported favorably with recommendation of amendment by Senator Ashe for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 352 is amended to read:

§ 352. CRUELTY TO ANIMALS

A person commits the crime of cruelty to animals if the person:

* * *

(5)(A) owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting, or possesses, keeps, or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control; or

(B) owns, possesses, ships, transports, delivers, or keeps a device, equipment, or implement for the purpose of training or conditioning an animal for participation in animal fighting, or enhancing an animal's fighting capability.

* * *

Sec. 2. 13 V.S.A. § 364 is amended to read:

§ 364. ANIMAL FIGHTS

(a) A person who participates in a fighting exhibition of animals shall be in violation of subdivisions 352(5) and (6) of this title.

(b) ~~In~~ Notwithstanding any provision of law to the contrary, in addition to seizure of fighting birds or animals involved in a fighting exhibition, a law enforcement officer or humane officer may seize:

(1) any equipment associated with that activity;

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

(3) monies, securities, or other things of value furnished or intended to be furnished by a person to engage in or further a violation of subdivisions 352(5) and (6) of this title.

(c) In addition to the imposition of a penalty under this chapter, conviction under this section shall result in forfeiture of all seized fighting animals ~~and~~ equipment, and other property subject to seizure under this section. The animals may be destroyed humanely or otherwise disposed of as directed by the court.

(d) Property subject to forfeiture under this subsection may be seized upon process issued by the court having jurisdiction over the property. Seizure without process may be made:

(1) incident to a lawful arrest;

(2) pursuant to a search warrant; or

(3) if there is probable cause to believe that the property was used or is intended to be used in violation of this section.

(e) Forfeiture proceedings instituted pursuant to the provisions of this section for property other than animals are subject to the procedures and requirements for forfeiture as set forth in 18 V.S.A. chapter 84, subchapter 2.

Sec. 3. 18 V.S.A. § 4241 is amended to read:

§ 4241. SCOPE

(a) The following property shall be subject to this subchapter:

* * *

(7) Any property seized pursuant to 13 V.S.A. § 364.

~~(b) This subchapter shall not apply to any property used or intended for use in an offense involving two ounces or less of marijuana or in connection with hemp or hemp products as defined in 6 V.S.A. § 562. This subchapter shall apply to property for which forfeiture is sought in connection with:~~

(1) a violation under chapter 84, subchapter 1 of this title that carries by law a maximum penalty of ten years' incarceration or greater; or

(2) a violation of 13 V.S.A. § 364.

Sec. 4. 18 V.S.A. § 4242 is amended to read:

§ 4242. SEIZURE

* * *

(b) Any property subject to forfeiture under this subchapter may be seized upon process. Seizure without process may be made when:

(1) the seizure is incident to an arrest with probable cause or a search under a valid search warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the ~~state~~ State in a forfeiture proceeding under this subchapter; or

(3) the seizure is incident to a valid warrantless search.

(c) If property is seized without process under subdivision (b)(1) or (3) of this section, the ~~state~~ State shall forthwith petition the court for a preliminary order or process under subsection (a) of this section.

(d) ~~All~~ Notwithstanding subsection 4241(b) of this title, all regulated drugs the possession of which is prohibited under this chapter are contraband and shall be automatically forfeited to the state and destroyed.

Sec. 5. 18 V.S.A. § 4243 is amended to read:

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

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

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

(2) a person is not charged with a criminal offense related to the action for forfeiture based in whole or in part on the person's agreement to provide information regarding the criminal activity of another person.

(b) Evidence. The State may introduce into evidence in the judicial forfeiture case the fact of a conviction in the Criminal Division or any agreement made under subdivision (a)(2) of this section.

(c) Burden of proof. The State bears the burden of proving by clear and convincing evidence that the property is an instrument of or represents the proceeds of the underlying offense.

(d) Notice. Within 60 days from when the seizure occurs, the State shall notify the any owners, possessors, and lienholders of the property of the action, if known or readily ascertainable. Upon motion by the State, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown.

(e) Return of property. If notice is not sent in accordance with subsection (d) of this section, and no time extension is granted or the extension period has expired, the law enforcement agency shall return the property to the person from whom the property was seized. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. Nothing in this subsection shall require

the agency to return contraband, evidence, or other property that the person from whom the property was seized is not entitled to lawfully possess.

(f) Filing of petition. Except as provided in section 4243a of this title, the State shall file a petition for forfeiture of any property seized under section 4242 of this title promptly, but not more than 14 days from the date the preliminary order or process is issued. The petition shall be filed in the ~~superior court~~ Superior Court of the county in which the property is located or in any court with jurisdiction over a criminal proceeding related to the property.

~~(b)~~(g) Service of petition. A copy of the petition shall be ~~sent by certified mail to~~ served on all persons named in the petition as provided for in the Vermont Rules of Civil Procedure. In addition, the ~~state~~ State shall cause notice of the petition to be published in a newspaper of general circulation in the ~~state~~ State, as ordered by the court. The petition shall state:

(1) the facts upon which the forfeiture is requested, including a description of the property subject to forfeiture, and the type and quantity of regulated drug involved;

(2) the names of the apparent owner or owners, lienholders who have properly recorded their interests, and any other person appearing to have an interest; and, in the case of a conveyance, the name of the person holding title, the registered owner, and the make, model, and year of the conveyance.

Sec. 6. 18 V.S.A. § 4243a is added to read:

§ 4243a. ADMINISTRATIVE FORFEITURE PROCEDURE

(a) Scope. Forfeiture of property described in section 4241 of this title and in 13 V.S.A. § 364 that does not exceed \$25,000 in value may be administratively forfeited under this section.

(b) Notice. Within 60 days from seizure, all persons known to have an ownership, possessory, or security interest in seized property must be notified of the seizure and the intent to forfeit the property. Notice shall be served as provided for in the Vermont Rules of Civil Procedure. If there is reason to believe that notice may have an adverse result, a supervisory law enforcement official of the seizing agency may extend the period for sending notice for a period not to exceed 30 days. Upon motion to the Superior Court by the State, the Court may extend the period for sending notice for a period not to exceed 60 days.

(c) Content of notice. The notice shall contain:

(1) a description of the property;

(2) the date of the seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review.

(d) Return of property. If notice is not sent in accordance with subsection (b) of this section, and no time extension is granted or the extension period has expired, the law enforcement agency shall return the property to the person from whom the property was seized. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. Nothing in this subsection shall require the agency to return contraband, evidence or other property that the person from whom the property was seized is not entitled to lawfully possess.

(e) Claims.

(1) Any person claiming property seized under this section may file a claim with the Superior Court.

(2) A claim under this subsection must be filed within 60 days after notice is received.

(3) A claim shall:

(A) identify the specific property being claimed;

(B) state the claimant's interest in such property; and

(C) be made under oath.

Sec. 7. 18 V.S.A. § 4244 is amended to read:

§ 4244. FORFEITURE HEARING

(a) ~~The court~~ Within 60 days following service of notice of seizure and forfeiture under sections 4243 and 4243a of this title, a claimant may file a demand for judicial determination of the forfeiture. The demand must be in the form of a civil complaint accompanied by a sworn affidavit setting forth the facts upon which the claimant intends to rely, including, if relevant, the noncriminal source of the asset or currency at issue. The demand must be filed with the court administrator in the county in which the seizure occurred.

(b) Except as provided in section 4243a, the Court shall hold a hearing on the petition ~~no less than 14 nor more than 30 days after notice. For good cause shown, or on the court's own motion, the court may stay the forfeiture proceedings pending resolution of related criminal proceedings. If a person named in the petition is a defendant in a related criminal proceeding and the proceeding is dismissed or results in a judgment of acquittal, the petition shall be dismissed as to the defendant's interest in the property~~ as soon as

practicable after, and in any event no later than 90 days following, the conclusion of the criminal prosecution.

~~(b)~~(c) A lienholder who has received notice of a forfeiture proceeding may intervene as a party. If the ~~court~~ Court finds that the lienholder has a valid, good faith interest in the subject property which is not held through a straw purchase, trust or otherwise for the actual benefit of another and that the lienholder did not at any time have knowledge or reason to believe that the property was being or would be used in violation of the law, the ~~court~~ Court upon forfeiture shall order compensation to the lienholder to the extent of the lienholder's interest.

(d) The Court shall not order the forfeiture of property if an owner, co-owner, or person who regularly uses the property, other than the defendant, shows by a preponderance of the evidence that the owner, co-owner, or regular user did not consent to or have any express or implied knowledge that the property was being or was intended to be used in a manner that would subject the property to forfeiture, or that the owner, co-owner, or regular user had no reasonable opportunity or capacity to prevent the defendant from using the property.

~~(e)~~(e) The proceeding shall be against the property and shall be deemed civil in nature. The ~~state~~ State shall have the burden of proving all material facts by clear and convincing evidence.

~~(d)~~(f) The ~~court~~ Court shall make findings of fact and conclusions of law and shall issue a final order. If the petition is granted, the ~~court~~ Court shall order the property held for evidentiary purposes, delivered to the ~~state treasurer~~ State Treasurer, or, in the case of regulated drugs or property which is harmful to the public, destroyed.

Sec. 8. 18 V.S.A. § 4247 is amended to read:

§ 4247. DISPOSITION OF PROPERTY

(a) Whenever property is forfeited and delivered to the ~~state treasurer~~ State Treasurer under this subchapter, the ~~state treasurer~~ State Treasurer shall, no sooner than 90 days of the date the property is delivered, sell the property at a public sale held under 27 V.S.A. chapter 13.

(b) The proceeds from the sale of forfeited property shall first be used to offset any costs of selling the property, and then, after any liens on the property have been paid in full, applied to payment of seizure, storage, and forfeiture expenses. Remaining proceeds shall be distributed as follows:

(1)(A) Sixty percent shall be distributed among the:

(i) Judiciary;

- (ii) Office of the Attorney General;
- (iii) Office of the Defender General;
- (iv) Department of State's Attorneys and Sheriffs; and
- (v) State and local law enforcement agencies.

(B) The Governor's Criminal Justice and Substance Abuse Cabinet is authorized to determine the allocations among the groups listed in subdivision (A) of this subdivision (1), and may allocate proceeds to the prosecutor and law enforcement agency or agencies that participated in the enforcement effort resulting in the forfeiture. The proceeds shall be held by the Treasurer until the Cabinet notifies the Treasurer of the allocation determinations, at which time the Treasurer shall forward the allocated amounts to the appropriate agency operating funds.

- (1) The remaining 40 percent shall be deposited in the General Fund.

Sec. 9. ANIMAL CRUELTY RESPONSE TASK FORCE

(a) Creation. There is created a task force to evaluate the state of animal cruelty investigation and response in Vermont, including the resources devoted to animal investigation and response services and to recommend ways to consolidate, collaborate, or reorganize to use more effectively limited resources while improving the response to animal cruelty.

(b) Membership. The Task Force shall be composed of the following members:

- (1) a representative from the Governor's office;
- (2) a member of the Vermont State Police;
- (3) a member of the VT Police Chiefs Association;
- (4) a representative of the VT Animal Control Association;
- (5) a Humane Officer from a VT humane society focusing on domestic animals;
- (6) a Humane Officer of a VT humane society focusing on large animals (livestock);
- (7) a representative of the Vermont Humane Federation;
- (8) a representative of the Vermont Federation of Dog Clubs;
- (9) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;
- (10) a representative of the Vermont Veterinary Medical Association;

(11) a representative of the Vermont Agency of Agriculture, Food and Markets;

(12) a representative of the VT Constables Association;

(13) a representative of the VT Town Clerks Association; and

(14) a representative of the Department for Children and Families.

(c) Powers and duties. The Task Force, in consultation with the Office of the Defender General, shall study and make recommendations concerning:

(1) training for humane agents, animal control officers, law enforcement officers, and prosecutors;

(2) the development of uniform response protocols for receiving, investigating, and following up on complaints of animal cruelty, including sentencing recommendations;

(3) the development of a centralized data collection system capable of sharing data collected from both the public and private sectors on animal cruelty complaints and outcomes;

(4) funding the various responsibilities that are involved with an animal cruelty investigation, including which State agencies should be responsible for any State level authority and oversight; and

(5) any other issue the Task Force determines is relevant to improve the efficiency, process, and results of animal cruelty response actions in Vermont.

(d) Report. On or before January 15, 2016, the Task Force shall report its findings and recommendations to the House and Senate Committees on Judiciary.

(e) Meetings and sunset.

(1) The representative from the Governor's office shall call the first meeting of the Task Force.

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

(3) The Task Force shall hold its first meeting no later than August 15, 2015.

(4) Meetings of the Task Force shall be public meetings.

(5) The Task Force shall cease to exist on January 16, 2016.

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

And that after passage the title of the bill be amended to read:

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

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Sears for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Judiciary with the following amendment thereto:

By striking out Sec. 8 in its entirety and inserting in lieu thereof the following:

Sec. 8. 18 V.S.A. § 4247 is amended to read:

§ 4247. DISPOSITION OF PROPERTY

(a) Whenever property is forfeited and delivered to the ~~state treasurer~~ State Treasurer under this subchapter, the ~~state treasurer~~ State Treasurer shall, no sooner than 90 days of the date the property is delivered, sell the property at a public sale held under 27 V.S.A. chapter 13.

(b) The proceeds from the sale of forfeited property shall first be used to offset any costs of selling the property, and then, after any liens on the property have been paid in full, applied to payment of seizure, storage, and forfeiture expenses. Remaining proceeds shall be distributed as follows:

(1)(A) Fifty percent shall be distributed among the:

(i) Office of the Attorney General;

(ii) Office of the Defender General;

(iii) Department of State's Attorneys and Sheriffs; and

(iv) State and local law enforcement agencies.

(B) The Governor's Criminal Justice and Substance Abuse Cabinet is authorized to determine the allocations among the groups listed in subdivision (A) of this subdivision (1), and may allocate proceeds to the prosecutor and law enforcement agency or agencies that participated in the enforcement effort resulting in the forfeiture. The proceeds shall be held by the Treasurer until the Cabinet notifies the Treasurer of the allocation determinations, at which time the Treasurer shall forward the allocated amounts to the appropriate agency operating funds.

(2) The remaining 50 percent shall be deposited in the General Fund.

(Committee vote: 6-0+1 abstention)

NEW BUSINESS

Third Reading

S. 18.

An act relating to privacy protection.

S. 141.

An act relating to possession of firearms.

Second Reading

Favorable with Proposal of Amendment

H. 240.

An act relating to miscellaneous technical corrections to laws governing motor vehicles, motorboats, and other vehicles.

Reported favorably with recommendation of proposal of amendment by Senator Westman for the Committee on Transportation.

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 12, 23 V.S.A. § 458, by striking out the second sentence in its entirety and inserting in lieu thereof the following:

~~The purchaser, if~~ If a properly licensed, ~~on attaching the number plate with temporary validation stickers, temporary plate or decal~~ purchaser either attaches to the motor vehicle, motorboat, snowmobile, or all-terrain vehicle, or carries in the motorboat such number plate or decal, he or she may operate the same for a period not to exceed 60 consecutive days immediately following the purchase.

(Committee vote: 5-0-0)

(No House amendments.)

NOTICE CALENDAR
Committee Bill for Second Reading
Favorable with Recommendation of Amendment
S. 138.

An act relating to promoting economic development.

By the Committee on Economic Development, Housing and General Affairs.

Reported favorably with recommendation of amendment by Senator Snelling for the Committee on Natural Resources & Energy.

The Committee recommends that the bill be amended as follows:

First: By striking out Secs. 30–34 in their entirety and inserting in lieu thereof new Secs. 30–37 to read as follows:

Sec. 30. [Deleted.]

Sec. 31. [Deleted.]

Sec. 32. [Deleted.]

Sec. 33. ACT 250; IMPLEMENTATION OF SETTLEMENT PATTERNS CRITERION

(a) The General Assembly finds that:

(1) 2014 Acts and Resolves No. 147, Sec. 2 amended 10 V.S.A. § 6086(a)(9)(L) (Criterion 9L) to become a settlement patterns criterion.

(2) Effective on October 17, 2014, the Board adopted a procedure to implement Criterion 9L (the Criterion 9L Procedure).

(b) The General Assembly determines that additional opportunity for public comment on the Criterion 9L Procedure, as well as additional education and improved guidance, would be beneficial in implementing the criterion.

(1) The Board shall review the Criterion 9L Procedure in full collaboration with ACCD and ANR.

(A) Prior to proposing any revisions, the Board shall solicit input from affected parties and the public, including planners, developers, municipalities, environmental advocacy organizations, regional planning commissions, regional development corporations, and business advocacy organizations such as State and regional chambers of commerce.

(B) If the Board makes revisions, it shall adopt them in the form of a procedure under 3 V.S.A. chapter 25.

(2) ACCD shall work with the NRB and ANR to develop outreach material on Criterion 9L, including illustrative examples of appropriate

development design, and implement a training plan on the criterion for local elected officials, municipal boards, State and regional organizations and associations, environmental groups, consultants, and developers.

Sec. 34. [Deleted.]

Sec. 35. 24 V.S.A. § 4471(e) is amended to read:

(e) ~~Vermont—neighborhood~~ Neighborhood development area. Notwithstanding subsection (a) of this section, a determination by an appropriate municipal panel shall not be subject to appeal if the determination is that a proposed residential development within a designated downtown development district, designated growth center, ~~or~~ designated Vermont neighborhood, or designated neighborhood development area seeking conditional use approval will not result in an undue adverse effect on the character of the area affected, ~~as provided in~~ under subdivision 4414(3)(A)(ii) of this title.

Sec. 36. 10 V.S.A. § 6086(a)(9)(B) is amended to read:

(B) Primary agricultural soils. A permit will be granted for the development or subdivision of primary agricultural soils only when it is demonstrated by the applicant that, in addition to all other applicable criteria, either, the subdivision or development will not result in any reduction in the agricultural potential of the primary agricultural soils; or:

(i) the development or subdivision will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential; ~~and~~

(ii) except in the case of an application for a project located in a designated ~~growth center~~ area listed in subdivision 6093(a)(1) of this title, there are no lands other than primary agricultural soils owned or controlled by the applicant which are reasonably suited to the purpose of the development or subdivision; ~~and~~

(iii) except in the case of an application for a project located in a designated ~~growth center~~ area listed in subdivision 6093(a)(1) of this title, the subdivision or development has been planned to minimize the reduction of agricultural potential of the primary agricultural soils through innovative land use design resulting in compact development patterns, so that the remaining primary agricultural soils on the project tract are capable of supporting or contributing to an economic or commercial agricultural operation; and

(iv) suitable mitigation will be provided for any reduction in the agricultural potential of the primary agricultural soils caused by the

development or subdivision, in accordance with section 6093 of this title and rules adopted by the Natural Resources Board.

Sec. 37. 10 V.S.A. § 6310 is added to read:

§ 6310. CONSERVATION EASEMENT HOLDER; NONMERGER

If a holder of a conservation easement is or becomes the owner in fee simple of property subject to the easement, the easement shall continue in effect and shall not be extinguished.

Second: After Sec. 37, by striking out “Sec. 35–39. [Reserved]” and inserting in lieu thereof the following: Secs. 38–39. [Reserved]

(Committee vote: 4-0-1)

Reported favorably with recommendation of amendment by Senator Ashe for the Committee on Finance.

The Committee recommends that the bill be amended as follows:

First: By striking out Secs. 1–4 (Vermont employment growth incentive); 20 (angel investor tax credit; millennial enterprise zone tax credit); and 21 (down payment assistance program) in their entirety

Second: By striking out Secs. 50–57 (fortified wines) in their entirety and inserting in lieu thereof new Secs. 50–61 to read as follows:

Sec. 50. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

The following words as used in this title, unless a contrary meaning is required by the context, shall have the following meaning:

* * *

(15) “Manufacturer’s or rectifier’s license”: a license granted by the Liquor Control Board that permits the holder to manufacture or rectify ~~spirituous liquors~~ spirits or fortified wines for export and sale to the Liquor Control Board, or malt beverages and vinous beverages for export and sale to bottlers or wholesale dealers. This license permits a manufacturer of vinous beverages or fortified wines to receive from another manufacturer licensed in or outside this ~~state~~ State bulk shipments of vinous beverages to rectify with the licensee’s own product, provided that the vinous beverages or fortified wines produced by a Vermont manufacturer may contain no more than 25 percent imported vinous beverage. The Liquor Control Board may grant to a licensed manufacturer or rectifier a first-class restaurant or cabaret license or first- and third-class restaurant or cabaret license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer’s premises, which,

for the purposes of a manufacturer of malt beverages, includes up to two licensed establishments that are located on the contiguous real estate of the holder of the manufacturer's license, provided the manufacturer owns or has direct control over those establishments. A manufacturer of malt beverages who also holds a first-class restaurant or cabaret license may serve to a customer malt beverage by the glass, not to exceed eight glasses at one time and not to exceed four ounces in each glass. The Liquor Control Board may grant to a licensed manufacturer or a rectifier of malt beverages a second-class license permitting the licensee to sell alcoholic beverages to the public anywhere on the manufacturer's or rectifier's premises. A licensed manufacturer or rectifier of vinous beverages may serve, with or without charge, at an event held on premises of the licensee or the vineyard property, spirits and vinous and malt beverages, provided the licensee gives the Department written notice of the event, including details required by the Department, at least five days before the event. Any beverages not manufactured by the licensee and served at the event shall be purchased on invoice from a licensed manufacturer or wholesale dealer or the Liquor Control Board.

* * *

(19) "Second-class license": a license granted by the control commissioners permitting the licensee to export malt or vinous beverages and to sell malt or vinous beverages to the public for consumption off the premises for which the license is granted. The Liquor Control Board may grant a second-class licensee a fortified wine permit that permits the licensee to export and to sell fortified wines to the public for consumption off the licensed premises.

(20) "Spirits" or "spirituous liquors": beverages that contain more than one percent of alcohol obtained by distillation, by chemical synthesis, or through concentration by freezing; ~~and~~ vinous beverages containing more than ~~16~~ 23 percent of alcohol; and ~~all vermouths of any alcohol content~~; malt beverages containing more than 16 percent of alcohol or more than six percent of alcohol if the terminal specific gravity thereof is less than 1.009; in each case measured by volume at 60 degrees Fahrenheit.

* * *

(22) "Third-class license": a license granted by the Liquor Control Board permitting the licensee to sell ~~spirituous liquors~~ spirits and fortified wines for consumption only on the premises for which the license is granted.

(23) "Vinous beverages": all fermented beverages of any name or description manufactured or obtained for sale from the natural sugar content of

fruits, or other agricultural product, containing sugar, the alcoholic content of which is not less than one percent nor more than 16 percent by volume at 60 degrees Fahrenheit, ~~except that all vermouths shall be purchased and retailed by and through the Liquor Control Board as authorized in chapters 5 and 7 of this title.~~

* * *

(28) "Fourth-class license" or "farmers' market license": the license granted by the Liquor Control Board permitting a manufacturer or rectifier of malt ~~or beverages,~~ vinous beverages, fortified wines, or spirits to sell by the unopened container and distribute, by the glass, with or without charge, beverages manufactured by the licensee. No more than a combined total of ten fourth-class and farmers' market licenses may be granted to a licensed manufacturer or rectifier. At only one fourth-class license location, a manufacturer or rectifier of vinous beverages, malt beverages, fortified wines, or spirits may sell by the unopened container and distribute by the glass, with or without charge, vinous beverages, malt beverages, fortified wines, or spirits produced by no more than five additional manufacturers or rectifiers, provided these beverages are purchased on invoice from the manufacturer or rectifier. A manufacturer or rectifier of vinous beverages, malt beverages, fortified wines, or spirits may sell its product to no more than five additional manufacturers or rectifiers. A fourth-class licensee may distribute by the glass no more than two ounces of malt or vinous beverage with a total of eight ounces to each retail customer and no more than one-quarter ounce of spirits or fortified wine with a total of one ounce to each retail customer for consumption on the manufacturer's premises or at a farmers' market. A farmers' market license is valid for all dates of operation for a specific farmers' market location.

* * *

(38) "Fortified wines": vinous beverages, including those to which spirits have been added during manufacture, containing at least 16 percent alcohol but no more than 23 percent alcohol by volume at 60 degrees Fahrenheit, and all vermouths containing no more than 23 percent alcohol by volume at 60 degrees Fahrenheit.

Sec. 51. 7 V.S.A. § 104 us amended to read:

§ 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

The Board shall have supervision and management of the sale of ~~spirituous liquors~~ spirits and fortified wines within the State in accordance with the provisions of this title, and through the Commissioner of Liquor Control shall:

* * *

Sec. 52. 7 V.S.A. § 107 is amended to read:

§ 107. DUTIES OF COMMISSIONER OF LIQUOR CONTROL

The ~~commissioner of liquor control~~ Commissioner of Liquor Control shall:

* * *

(2) Make regulations subject to the approval of the ~~board~~ Board governing the hours during which such agencies shall be open for the sale of ~~spirituous liquors, spirits and fortified wines and~~ governing the qualifications ~~and, department, and salaries of the agencies' employees therein and the salaries thereof.~~

(3) Make regulations subject to the approval of the ~~board~~ Board governing:

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

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

(4) Supervise the quantities and qualities of ~~spirituous liquor~~ spirits and fortified wines to be kept as stock in ~~such local agency agencies~~ and make regulations subject to the approval of the ~~board~~ Board regarding the filling of requisitions therefor on the ~~commissioner of liquor control~~ Commissioner of Liquor Control.

(5) Purchase through the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services ~~spirits and fortified wines~~ for and in behalf of the ~~liquor control board~~ Liquor Control Board, supervise the storage thereof and the distribution to local agencies, druggists ~~and,~~ licensees of the third class, and holders of fortified wine permits, and make regulations subject to the approval of the ~~board~~ Board regarding the sale and delivery from ~~such the~~ the central storage plant.

* * *

Sec. 53. 7 V.S.A. § 110 is amended to read:

§ 110. SPECIAL BRANDS; PURCHASE BY COMMISSIONER OF LIQUOR CONTROL

If any person shall desire to purchase any class, variety, or brand of ~~spirituous liquor~~ spirits or fortified wine which any local agency or fortified wine permit holder does not have in stock, the ~~commissioner of liquor control~~ Commissioner of Liquor Control shall order the same through the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services upon the payment of a reasonable deposit by the purchaser in such proportion of the approximate cost of the order as shall be prescribed by the regulations of the ~~liquor control board~~ Liquor Control Board.

Sec. 54. 7 V.S.A. § 112 is amended as follows:

§ 112. LIQUOR CONTROL FUND

The ~~liquor control fund~~ Liquor Control Fund is hereby established. It shall consist of all receipts from the sale of spirits, fortified wines, and other items by the ~~department of liquor control~~ Department of Liquor Control; fees paid to the ~~department of liquor control~~ Department of Liquor Control for the benefit of the ~~department~~ Department; all other amounts received by the ~~department of liquor control~~ Department of Liquor Control for its benefit; and all amounts ~~which~~ that are from time to time appropriated to the ~~department of liquor control~~ Department of Liquor Control.

Sec. 55. 7 V.S.A. § 222 is amended to read:

§ 222. FIRST- AND SECOND-CLASS LICENSES, GRANTING OF; SALE TO MINORS; CONTRACTING FOR FOOD SERVICE

With the approval of the Liquor Control Board, the control commissioners may grant the following licenses to a retail dealer for the premises where the dealer carries on business ~~the following~~:

* * *

(2) Upon making application ~~and,~~ paying the license fee provided in section 231 of this title, and upon satisfying the Board that such premises are leased, rented, or owned by the retail dealer and are a safe, sanitary, and proper place from which to sell malt and vinous beverages, a second-class license ~~for the premises where such dealer shall carry on the business,~~ which shall authorize such dealer to export malt and vinous beverages, and to sell malt and vinous beverages to the public from such premises for consumption off the premises ~~and upon satisfying the Board that such premises are leased, rented, or owned by such retail dealers and are safe, sanitary, and a proper place from which to sell malt and vinous beverages.~~ A retail dealer carrying on business in more than one place shall be required to acquire a second-class license for each place where ~~he or she shall so sell~~ the retail dealer sells malt and vinous

beverages. No malt or vinous beverages shall be sold by a second-class licensee to a minor.

* * *

(5)(A) The holder of a first-class license may serve a sampler flight of up to 32 ounces in the aggregate of malt beverages to a single customer at one time.

(B) The holder of a first-class license may serve a sampler flight of up to 12 ounces in the aggregate of vinous beverages to a single customer at one time.

(C) The holder of a third-class license may serve a sampler flight of up to four ounces in the aggregate of ~~spirituous liquors~~ spirits or fortified wines to a single customer at one time.

(6) The Liquor Control Board may grant a fortified wine permit to a second-class licensee if the licensee files an application accompanied by the license fee as provided in section 231 of this title. The holder of a fortified wine permit may sell fortified wines to the public from the licensed premises for consumption off the premises. The Liquor Control Board shall issue no more than 150 fortified wine permits in any single year. The holder of a fortified wine permit shall purchase all fortified wines to be offered for sale to the public pursuant to the permit through the Liquor Control Board at a price equal to no more than 75 percent of the current retail price for the fortified wine established by the Commissioner pursuant to subdivision 107(3)(B) of this title.

Sec. 56. 7 V.S.A. § 224 is amended to read:

§ 224. ~~THIRD-CLASS~~ THIRD-CLASS LICENSES; OPEN CONTAINERS

(a) ~~The liquor control board~~ Liquor Control Board may grant to a person who operates a hotel, restaurant, cabaret, or club a license of the third class if the person files an application accompanied by the license fee as provided in section 231 of this title for the premises in which the business of the hotel, restaurant, cabaret, or club is carried on. The holder of a ~~third-class~~ third-class license may sell ~~spirituous liquors~~ spirits and fortified wines for consumption only on the premises covered by the license. The applicant for a ~~third-class~~ third-class license shall satisfy the ~~liquor control board~~ Liquor Control Board that the applicant is the bona fide owner or lessee of the premises and that the premises are operated for the purpose covered by the license.

* * *

(c) A person who holds a ~~third-class~~ third-class license shall purchase from the ~~liquor control board~~ Liquor Control Board all ~~spirituous liquors~~ spirits and

fortified wines dispensed in accordance with the provisions of the ~~third-class~~ third-class license and this title.

Sec. 57. 7 V.S.A. § 225 is amended to read:

§ 225. EDUCATIONAL SAMPLING EVENT PERMIT

(a) The ~~liquor control board~~ Liquor Control Board may grant an educational sampling event permit to a person to conduct an event that is open to the public and at which malt beverages, vinous beverages, fortified wines, or ~~spirituous liquors~~ spirits, or all ~~three~~ four are served only for the purposes of marketing and educational sampling, provided the event is also approved by the local licensing authority. At least 15 days prior to the event, an applicant shall submit an application to the ~~department~~ Department in a form required by the ~~department~~ Department. The application shall include a list of the alcoholic beverages to be acquired for sampling at the event, and the application shall be accompanied by a fee in the amount required pursuant to section 231 of this title. No more than four educational sampling event permits shall be issued annually to the same person. An educational sampling event permit shall be valid for no more than four consecutive days. The permit holder shall ~~assure~~ ensure all the following:

* * *

(b) An educational sampling event permit holder:

* * *

(2) May transport malt beverages, vinous beverages, fortified wines, and ~~spirituous liquors~~ spirits to the event site, and those beverages may be served at the event by the permit holder or the holder's employees, volunteers, or representatives of a manufacturer, bottler, or importer participating in the event, provided they meet the server age and training requirements under this chapter.

(3) ~~[Deleted.]~~ [Repealed.]

* * *

(d) Taxes for the alcoholic beverages served at the event shall be paid as follows:

* * *

(3) Spirituous liquors: \$19.80 per gallon served.

(4) Fortified wines: \$19.80 per gallon served.

Sec. 58. 7 V.S.A. § 231 is amended to read:

§ 231. FEES FOR LICENSES AND PERMITS; DISPOSITION OF FEES

(a) The following fees shall be paid:

* * *

(23) For a fortified wine permit, \$100.00.

* * *

Sec. 59. 7 V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITUOUS LIQUOR

(a) A tax is assessed on the gross revenue ~~on~~ from the ~~retail~~ sale of ~~spirituous liquor~~ spirits and fortified wines in the State of Vermont, ~~including fortified wine, sold by the Liquor Control Board, or sold by the retail sale of spirits and fortified wines in Vermont by a manufacturer or rectifier of spirituous liquor~~ spirits or fortified wines, in accordance with the provisions of this title. The tax shall be at the following rates based on the gross revenue of the retail sales by the seller in the current year:

(1) if the gross revenue of the seller is \$500,000.00 or lower, the rate of tax is five percent;

(2) if the gross revenue of the seller is between \$500,000.00 and \$750,000.00, the rate of tax is \$25,000.00 plus 10 percent of the gross revenues over \$500,000.00;

(3) if the gross revenue of the seller is ~~over~~ \$750,000.00 or more, the rate of tax is 25 percent.

* * *

Sec. 60. STATUTORY REVISION

The Legislative Council, in its statutory revision capacity pursuant to 2 V.S.A. § 424, is authorized to correct instances of the words “spirituous liquors” and “spirits” appearing in Title 7 of the Vermont Statutes Annotated to “spirits and fortified wines” as necessary to implement the intent of the revisions to 7 V.S.A. § 2 in this act.

* * *

Sec. 61. STUDY; REPORT

(a) On or before January 15, 2018, the Commissioner of Liquor Control, in consultation with the holders of second-class licenses and fortified wine permits, shall evaluate whether the number of fortified wine permits issued pursuant to 7 V.S.A. § 222 is sufficient, and how the issuance of fortified wine

permits has affected the sales of fortified wines in Vermont and the variety of fortified wines available to Vermont consumers.

(b) The Commissioner of Liquor Control shall report to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding his or her findings on or before January 15, 2018. The Commissioner's report shall include a recommendation regarding the appropriate number of fortified wine permits to be issued pursuant to 7 V.S.A. § 222.

Third: By striking out in its entirety Sec. 100 (effective dates) and inserting in lieu thereof a new Sec. 100 to read:

Sec. 100. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

And by renumbering the remaining sections and any internal cross-references to be numerically correct.

(Committee vote: 6-0-1)

Second Reading

Favorable with Recommendation of Amendment

S. 20.

An act relating to establishing and regulating licensed dental practitioners.

Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Health & Welfare.

The Committee recommends that the bill be amended as follows:

First: In Sec. 1, in 26 V.S.A. § 561 (definitions), by striking out in its entirety subdivision (8) and inserting in lieu thereof the following:

(8) "General supervision" means:

(A) For a dental practitioner with a Master's degree or higher, a dentist's supervision of a dental practitioner's oral health care services that does not require the dentist to be on-site at the time those services are being performed, but that requires the dental practitioner to perform those services with the prior knowledge and consent of the dentist.

(B) For a dental practitioner with less than a Master's degree:

(i) for the oral health care services set forth in subdivisions (b)(1)-(14), (16)-(19), and (34) of section 612 of this chapter, the supervision described in subdivision (8)(A) of this section; and

(ii) for all other oral health care services set forth in subsection 612(b) of this chapter that are not described in subdivision (i) of this subdivision (B), supervision that requires the dentist to authorize those services and remain on-site while the dental practitioner performs them.

Second: In Sec. 1, in 26 V.S.A. § 611 (license by examination), in subdivision (a)(3), following “administered by an institution accredited” by inserting “by the Commission on Dental Accreditation”

Third: In Sec. 1, following § 611 (license by examination), by inserting § 611a to read as follows:

§ 611a. LICENSE BY ENDORSEMENT

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

(1) is currently licensed in good standing to practice as a dental practitioner or 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 met active practice requirements and any other requirements established by the Board by rule; and

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

Fourth: By adding two new sections to be numbered Secs. 2 and 3 to read as follows:

Sec. 2. AFFILIATION WITH THE STATE OF MINNESOTA

(a) License by endorsement. For the purposes of 26 V.S.A. § 611a (license by endorsement) in Sec. 1 of this act, a person licensed as a dental therapist in the State of Minnesota who has been certified by the Minnesota Board of Dentistry to practice as an advanced dental therapist shall be deemed to meet the requirements of 26 V.S.A. § 611a(1).

(b) Vermont State Colleges and University of Vermont.

(1) The Board of Trustees of the Vermont State Colleges shall and the Board of Trustees of the University of Vermont may explore the potential of entering into an affiliation agreement with colleges in the State of Minnesota that have an accredited dental therapy program so that the college credits of a Vermont State College student or a University of Vermont student can transfer into such a program in order for the student to attend the program.

(2) On or before January 1, 2017, those Boards of Trustees shall report to the Senate Committees on Health and Welfare and on Government Operations and the House Committees on Health Care and on Government

Operations regarding the efforts of the Boards and any success in reaching an affiliation agreement with the State of Minnesota.

Sec. 3. BOARD OF DENTAL EXAMINERS; REPORT ON GEOGRAPHIC DISTRIBUTION AND GENERAL SUPERVISION OF DENTAL PRACTITIONERS

No earlier than two years after the effective date of this act but on or before January 1, 2018, the Board of Dental Examiners shall report to the Senate Committees on Health and Welfare and on Government Operations and the House Committees on Health Care and on Government Operations regarding:

(1) Geographic distribution.

(A) The geographic distribution of licensed dental practitioners practicing in this State.

(B) The geographic areas of this State that are underserved by licensed dental practitioners.

(C) The Board's recommended incentives to promote the practice of licensed dental practitioners in underserved areas of this State, particularly those areas that are rural in nature and have high numbers of people living in poverty.

(2) General supervision. The Board's analysis of the effectiveness of the requirement that a dental practitioner be under the general supervision of a dentist as described in 26 V.S.A. § 561, and any recommendations for amendments to that general supervision requirement. In its report, the Board shall address whether a dental practitioner should be able to practice under less stringent supervision requirements and if so, under what conditions.

And by renumbering the remaining section (Effective Date) to be numerically correct.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator White for the Committee on Government Operations.

The Committee recommends that the report of the Committee on Health and Welfare be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 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 the direct or indirect oversight of a dental therapist by a dentist, which need not be on-site.

§ 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

* * *

§ 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:

* * *

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 dentists or dental hygienists; and

(4) 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) 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. An applicant shall also pass an examination testing the applicant's knowledge of the Vermont laws 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 met active practice requirements and any other requirements established by the Board by rule; and

(3) 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) In addition to services permitted by the Board by rule, 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) Dental prophylaxis.
- (5) Prescribing, dispensing, and administering analgesics, anti-inflammatories, and antibiotics.
- (6) Applying topical preventive or prophylactic agents, including fluoride varnishes, antimicrobial agents, and pit and fissure sealants.
- (7) Pulp vitality testing.
- (8) Applying desensitizing medication or resin.
- (9) Fabricating athletic mouthguards.
- (10) Placement of temporary restorations.
- (11) Fabricating soft occlusal guards.
- (12) Tissue conditioning and soft reline.
- (13) Interim therapeutic restorations.
- (14) Changing periodontal dressings.
- (15) Tooth reimplantation and stabilization.
- (16) Administering local anesthetic.
- (17) Administering nitrous oxide.
- (18) Oral evaluation and assessment of dental disease.
- (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) Extractions of primary teeth.
- (21) 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.
- (22) Emergency palliative treatment of dental pain.
- (23) Placement and removal of space maintainers.
- (24) Cavity preparation.

(25) Restoring primary and permanent teeth, not including permanent tooth crowns, bridges, or denture fabrication.

(26) Placement of temporary crowns.

(27) Preparation and placement of preformed crowns.

(28) Pulpotomies on primary teeth.

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

(30) Suture removal.

(31) Brush biopsies.

(32) Repairing defective prosthetic devices.

(33) Recementing permanent crowns.

(34) Mechanical polishing.

§ 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 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) supervision criteria 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 accept responsibility 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 or 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 by the Board by rule 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 licensed 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 licensed dental therapist may have under his or her direct supervision no more than a total of two assistants, hygienists, or combination thereof.

§ 617. REFERRALS

(a) The supervising dentist is responsible for arranging for 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>
<u>(C)</u> Dental hygienist	\$ 150.00
(C) <u>(D)</u> Dental assistant	\$ 60.00

(2) Biennial renewal

(A) Dentist	\$ 355.00
(B) <u>Dental therapist</u>	<u>\$ 225.00</u>
<u>(C)</u> Dental hygienist	\$ 125.00
(C) <u>(D)</u> 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. 2. COMMISSION ON DENTAL ACCREDITATION; EFFECTIVE DATE

The provision set forth in Sec. 1 of this act, in 26 V.S.A. § 611(a)(3) (license by examination; graduate), that requires accreditation by the Commission on Dental Accreditation, shall take effect once that accreditation from the Commission becomes available.

Sec. 3. BOARD OF DENTAL EXAMINERS; REPORT ON GEOGRAPHIC DISTRIBUTION OF DENTAL THERAPISTS

No earlier than two years after the effective date of this act but on or before January 1, 2020, the Board of Dental Examiners shall report to the Senate Committees on Health and Welfare and on Government Operations and the House Committees on Health Care 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) The Board's recommended incentives 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. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

And that after passage the title of the bill be amended to read:

An act relating to establishing and regulating dental therapists.

(Committee vote: 4-1-0)

Reported without recommendation by Senator MacDonald for the Committee on Finance.

(Committee voted: 3-2-2)

ORDERED TO LIE

S. 133.

An act relating to an employee's use of benefits.

PENDING ACTION: Second Reading

CONCURRENT RESOLUTIONS FOR NOTICE

S.C.R. 13-14 (For text of Resolutions, see Addendum to Senate Calendar for March 26, 2015)

H.C.R. 81-88 (For text of Resolutions, see Addendum to House Calendar for March 26, 2015)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Robert Ide of Peacham – Commissioner, Department of Motor Vehicles – By Sen. Kitchel for the Committee on Transportation. (3/12/15)

Sue Minter of Waterbury Center – Secretary, Agency of Transportation – By Sen. Westman for the Committee on Transportation. (3/13/15)

Patricia Moulton of Montpelier – Secretary, Agency of Commerce and Community Development – By Sen. Balint for the Committee on Econ. Dev., Housing and General Affairs. (3/24/15)

Noelle MacKay of Shelburne – Commissioner, Department of Housing and Community Development – By Sen. Balint for the Committee on Econ. Dev., Housing and General Affairs. (3/24/15)

Annie Noonan of Montpelier – Commissioner, Department of Labor – Sen. Cummings for the Committee on Econ. Dev., Housing and General Affairs. (3/24/15)

Megan Smith of Mendon – Commissioner, Department of Tourism and Marketing – Sen. Mullin for the Committee on Econ. Dev., Housing and General Affairs. (3/24/15)

Andrew Pallito of Jericho – Commissioner, Department of Corrections – Sen. Mazza for the Committee on Institutions. (3/24/15)

Michael Obuchowski of Montpelier – Commissioner, Department of Buildings and General Services – Sen. Balint for the Committee on Institutions. (3/24/15)

Maribeth Spellman of Richmond – Commissioner, Department of Human Resources – Sen. Collamore for the Committee on Government Operations. (3/24/15)

Rebecca Holcombe of Norwich – Secretary of Education – Sen. Cummings for the Committee on Education. (3/24/15)

Harry Chen, M.D. of Burlington – Commissioner of Health – Sen. McCormack for the Committee on Health and Welfare. (3/25/15)

Steven Costantino of Providence, RI – Commissioner of the Department of Health Access – Sen. Pollina for the Committee on Health and Welfare. (3/25/15)

Kenneth Schatz of Burlington – Commissioner, Department for Children and Families – Sen. Pollina for the Committee on Health and Welfare. (3/25/15)

Susan Wehry of Burlington – Commissioner, Department of Disabilities, Aging and Independent Living – By Sen. Lyons for the Committee on Health and Welfare. (3/25/15)

Paul Dupre of Barre – Commissioner, Department of Mental Health – By Sen. Lyons for the Committee on Health and Welfare. (3/25/15)

James Reardon of Essex Junction – Commissioner, Department of Finance and Management – Sen. Collamore for the Committee on Government Operations. (3/27/15)

William Hoser of Chester – Member of the Vermont Board of Medical Practice – By Sen. McCormack for the Committee on Health and Welfare. (3/13/15)

Sarah Flynn of Burlington – Member of the Community High School of Vermont Board – By Sen. Zuckerman for the Committee on Education. (3/13/15)

Churchill Hinds of Colchester – Member, Vermont State Colleges Board of Trustees – By Sen. Zuckerman for the Committee on Education. (3/13/15)

Michael Pieciak of Winooski – Member, Vermont State Colleges Board of Trustees – By Sen. Zuckerman for the Committee on Education. (3/13/15)

Patricia Boucher of Enosburg Falls – Member of the Parole Board – Sen. McAllister for the Committee on Institutions. (3/17/15)

Robert Greemore of Barre – Member of the State Labor Relations Board – Sen. Cummings for the Committee on Econ. Dev., Housing and General Affairs. (3/24/15)

Mary P. Miller of Waterbury – Member of the State Housing Authority – Sen. Cummings for the Committee on Econ. Dev., Housing and General Affairs. (3/24/15)

Mary Stephens of Forestdale – Alternate Member of the Parole Board – Sen. McAllister for the Committee on Institutions. (3/24/15)

Jessica Holmes of Cornwall – Member of the Green Mountain Care Board – Sen. Collamore for the Committee on Health and Welfare. (3/25/15)

Scott Connolly of Burlington – Member of the Vermont Tobacco Evaluation and Review Board – Sen. Collamore for the Committee on Health and Welfare. (3/26/15)

Dawn Fuller-Ball of Randolph – Member of the Tobacco Evaluation and Review Board – Sen. Collamore for the Committee on Health and Welfare. (3/26/15)

Joslyn L. Wilschek of Montpelier – Member of the Human Services Board – Sen. Collamore for the Committee on Health and Welfare. (3/26/15)

REPORTS ON FILE

Reports 2015

Pursuant to the provisions of 2 V.S.A. §20(c), one (1) hard copy of the following report is on file in the office of the Secretary of the Senate. Effective January 2010, pursuant to Act No. 192, Adj. Sess. (2008) §5.005(g) some reports will automatically be sent by electronic copy only and can be found on the State of Vermont Legislative webpage.

1. Working Lands Enterprise Initiative Annual Report: Fiscal Year 2014. (Vermont Agency of Agriculture, Food and Markets) (March 2015)

FOR INFORMATION ONLY

CROSSOVER DEADLINES

The Senate Rules Committee established the following Crossover deadlines:

(1) All **Senate** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 13, 2015**, and filed with the Secretary of the Senate so that they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate** bills referred pursuant to Senate Rule 31 to the Committees on Appropriations and Finance must be reported out by the last of those committees on or before **Friday, March 20, 2015**, and filed with the Secretary of the Senate so that they may be placed on the Calendar for Notice the next legislative day.

These deadlines may be waived for any bill or committee only with the consent of the Committee on Rules.

Note: Pursuant to Senate Rule 44A, the Senate will not act on House bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, and Miscellaneous Tax Bill).