

Senate Calendar

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ACTION CALENDAR

**CONSIDERATION POSTPONED UNTIL WEDNESDAY,
MARCH 9, 2016**

Third Reading

S. 154.

An act relating to enhanced penalties for assaulting an employee of the Family Services Division of the Department for Children and Families and to criminal threatening.

Amendment to S. 154 to be offered by Senator McCormack before Third Reading

Senator McCormack moves to amend the bill as follows:

First: In Sec. 2, 13 V.S.A. § 1702, by striking out subsection (c) in its entirety and inserting a new subsection (c) as follows:

(c)(1) A person who violates subsection (a) of this section with the intent to prevent another person from reporting to the Department for Children and Families the suspected abuse or neglect of a child shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.

(2) A person who violates subsection (a) of this section with the intent to influence the decision, opinion, recommendation, vote, or other exercise of discretion of a public servant shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.

Second: In Sec. 2, 13 V.S.A. § 1702, in subsection (d), by inserting a subdivision (3) as follows:

(3) "Public servant" shall mean the holder of any public office and any employee of the State.

Amendment to S. 154 to be offered by Senator Benning before Third Reading

Senator Benning moves that the bill be amended in Sec. 2, 13 V.S.A. § 1702, by inserting a subsection (f) as follows:

(f) It shall be an affirmative defense to a charge under this section that the person did not have the ability to carry out the threat. The burden shall be on the defendant to prove the affirmative defense by a preponderance of the evidence.

Amendment to S. 154 to be offered by Senator Baruth before Third Reading

Senator Baruth moves to amend the bill in Sec. 2, 13 V.S.A. § 1702, by striking out subsection (a) in its entirety and inserting a new subsection (a) as follows:

(a) A person shall not:

(1) intentionally threaten another person by words or conduct that are repeated or serious in nature; and

(2) as a result of the threat or threats, intentionally place the other person in reasonable apprehension of death or serious bodily injury.

NEW BUSINESS

Third Reading

S. 190.

An act relating to maintaining prescription drugs outside the original prescription container.

Second Reading

Favorable with Recommendation of Amendment

S. 123.

An act relating to standardized procedures for permits and approvals issued by the Department of Environmental Conservation.

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

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

* * * Environmental Conservation; Standard Procedures * * *

Sec. 1. 10 V.S.A. chapter 170 is added to read:

CHAPTER 170. DEPARTMENT OF ENVIRONMENTAL
CONSERVATION; STANDARD PROCEDURES;

Subchapter 1. General Provisions

§ 7701. PURPOSE

The purpose of this chapter is to establish standard procedures for public notice, public meetings, and decisions relating to applications for permits issued by the Department of Environmental Conservation.

§ 7702. DEFINITIONS

As used in this chapter:

(1) “Adjoining property owner” means a person who owns land in fee simple, if that land:

(A) shares a property boundary with a tract of land where proposed or actual activity regulated by the Department is located; or

(B) is adjacent to a tract of land where such activity is located and the two properties are separated only by a river, stream, or public highway.

(2) “Administrative amendment” means an amendment to an individual permit, general permit, or notice of intent under a general permit that corrects typographical errors, changes the name or mailing address of a permittee, or makes other similar changes to a permit that do not require technical review of the permitted activity or the imposition of new conditions or requirements.

(3) “Administrative record” means the application and any supporting data furnished by the applicant; all information submitted by the applicant during the course of reviewing the application; the draft permit or notice of intent to deny the application; the fact sheet and all documents cited in the fact sheet, if applicable; all comments received during the public comment period; the recording or transcript of any public meeting or meetings held; any written material submitted at a public meeting; the response to comments; the final permit; any document used as a basis for the final decision; and any other documents contained in the permit file.

(4) “Administratively complete application” means an application for a permit for which all initially required documentation has been submitted, and any required permit fee, and the information submitted initially addresses all application requirements but has not yet been subjected to a complete technical review.

(5) “Agency” means the Agency of Natural Resources.

(6) “Clean Air Act” means the federal statutes on air pollution prevention and control, 42 U.S.C. § 7401 et seq.

(7) “Clean Water Act” means the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.

(8) “Commissioner” means the Commissioner of Environmental Conservation or the Commissioner’s designee.

(9) “Department” means the Department of Environmental Conservation.

(10) “Document” means any written or recorded information, regardless of physical form or characteristics, which the Department produces or acquires in the course of reviewing an application for a permit.

(11) “Environmental notice bulletin” or “bulletin” means the website and e-mail notification system required by 3 V.S.A. § 2826.

(12) “Fact sheet” means a document that briefly sets forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing a draft decision.

(13) “General permit” means a permit that applies to a class or category of discharges, emissions, disposal, facilities, or activities within a common geographic area, including the entire State or a region of the State.

(14) “Individual permit” means a permit that authorizes a specific discharge, emission, disposal, facility, or activity that contains terms and conditions that are specific to the discharge, emission, disposal, facility, or activity.

(15) “Major amendment” means an amendment to an individual permit or notice of intent under a general permit that necessitates technical review.

(16) “Minor amendment” means an amendment to an individual permit or notice of intent under a general permit that requires a change in a condition or requirement, does not necessitate technical review, and is not an administrative amendment.

(17) “Notice of intent under a general permit” means an authorization issued by the Secretary to undertake an action authorized by a general permit.

(18) “Permit” includes any permit, certification, license, registration, determination, or similar form of permission required from the Department by law.

(19) “Person” shall have the same meaning as under section 8502 of this title.

(20) “Person to whom notice is federally required” means a person to whom notice of an application or draft decision must be given under federal regulations adopted pursuant to the Clean Air Act or Clean Water Act.

(21) “Public meeting” means a meeting that is open to the public and recorded or transcribed, at which the Department shall provide basic information about the draft permit decision, an opportunity for questions to the applicant and the Department, and an opportunity for members of the public to submit oral and written comments.

(22) “Secretary” means the Secretary of Natural Resources or designee.

(23) “Technical review” means the application of scientific, engineering, or other professional expertise to the facts to determine whether activity for which a permit is requested meets the standards for issuing the permit under statute and rule.

§ 7703. RULES; ADDITIONAL NOTICE OR PROCEDURES

(a) Rules.

(1) Implementing rules. The Secretary may adopt rules to implement this chapter.

(2) Complex projects; preapplication process. The Secretary shall adopt rules to determine when a project requiring a permit is large and complex. These rules shall provide that an applicant proposing such a project, prior to filing an application for a permit, shall initiate a project scoping process pursuant to 3 V.S.A. § 2828 or shall hold an informational meeting that is open to the public. The rules shall ensure that:

(A) Written notice of an informational meeting under this section is sent to the owner of the land where the project is located if the applicant is not the owner; the municipality in which the project is located; the municipal and regional planning commissions for any municipality in which the project is located; if the project site is located on a boundary, any Vermont municipality adjacent to that boundary and the municipal and regional planning commissions for that municipality; and each adjoining property owner.

(B) The notice to adjoining property owners informs them of how they can continue to receive notices and information concerning the project as it is reviewed by the Secretary.

(C) The applicant furnishes by affidavit to the Secretary the names of those furnished notice and certifies compliance with the notice requirements of this subsection.

(D) The applicant and the Secretary or designee shall attend the meeting. The applicant shall respond to questions from other attendees.

(b) Additional notice.

(1) The Secretary may require, by rule or in an individual case, measures in addition to those directed by this chapter using any method reasonably calculated to give direct notice to persons potentially affected by a decision on the application.

(2) In an individual case, the Secretary may determine to apply the procedures of section 7713 (Type 2) of this chapter to the issuance of a permit

otherwise subject to the procedures of section 7715 (Type 4) or section 7716 (Type 5) of this chapter.

§ 7704. ADMINISTRATIVE RECORD

(a) The Secretary shall create an administrative record for each application for a permit and shall make the administrative record available to the public.

(b) The Secretary shall base a draft or final decision on each application for a permit on the administrative record.

(c) With respect to permits issued under the Clean Air Act and Clean Water Act, the Secretary shall comply with any requirements under those acts concerning the maintenance and availability of the administrative record.

Subchapter 2. Standard Procedures

§ 7711. PERMIT PROCEDURES; STANDARD PROVISIONS

(a) Notice through the environmental notice bulletin. When this chapter requires notice through the environmental notice bulletin:

(1) The bulletin shall generate and send an e-mail to notify:

(A) each person requiring notice under section 7712 of this chapter;

(B) the applicant;

(C) each person on an interested persons list;

(D) each municipality in which the activity to be permitted is located, except for notice of a draft or final general permit; and

(E) each other person to whom this chapter directs that a particular notice be provided through the bulletin.

(2) At a minimum, each notice generated by the bulletin shall contain:

(A) the name and contact information for the person at the Agency processing the permit;

(B) the name and address of the permit applicant, if applicable;

(C) the name and address of the facility or activity to be permitted, if applicable;

(D) a brief description of the activity for which the permit would be issued;

(E) the length of the period for submitting written comments and the process for submitting those comments, if applicable, and notice of the requirement to submit comments during that period in order to seek administrative appeal under this chapter;

(F) the process for requesting a public meeting, if applicable;

(G) when a public meeting has been scheduled, the time, date, and location of the hearing and a brief description of the nature and purpose of the hearing;

(H) when issued, the draft permit or notice of intent to deny a permit, and the period and process for submitting written comments on that draft permit or notice;

(I) when issued, the final decision issuing or denying a permit, and the process for appealing the decision; and

(J) any other information that this chapter directs be included in a particular notice to be generated by the bulletin.

(3) The environmental notice bulletin shall provide notice by mail as required by 3 V.S.A. § 2826.

(b) Notice to adjoining property owners. When this chapter requires notice of an application to adjoining property owners, the applicant shall provide notice of the application by U.S. mail to all adjoining property owners, on a form developed by the Secretary, at the time the application is submitted to the Secretary. The form shall state how the property owners can continue to receive notices and information concerning the project as it is reviewed by the Secretary. The applicant shall provide a signed certification to the Secretary that all adjoining property owners have been notified of the application. However, if the applicant has provided written notice to adjoining property owners as part of the preapplication engagement process for complex projects under rules adopted in accordance with subsection 7703(a) of this title, then instead of the written notice required of the applicant by this subsection, the Department shall provide notice of the application through the environmental notice bulletin to those adjoining property owners who have requested notice.

(c) Comment period length. When this chapter requires the Secretary to provide a public comment period, the length of the period shall be at least 30 days, unless this chapter applies a different period for submitting comments on the particular type of permit.

(d) Period to request a public meeting. When this chapter allows a person to request a public meeting on a draft decision, the person shall submit the request within 14 days of the date on which notice of the draft decision is posted to the environmental notice bulletin, unless this chapter specifies a different period for requesting a hearing on the particular type of permit.

(e) Public meeting; notice; additional comment period. When the Secretary holds a public meeting under this chapter:

(1) The Secretary shall:

(A) provide at least 14 days' prior notice of the public meeting through the environmental notice bulletin, unless this chapter specifies a different notice period for a public meeting on the particular type of permit;

(B) include in the notice, in addition to the information required by subsection (a) of this section, the date the Secretary gave notice of an administrative complete application, if applicable; and

(C) hold the period for written comments open for at least five days after the meeting.

(2) The applicant or applicant's representative and the Secretary or designee shall attend the meeting. The applicant shall cause to be present those professionals retained in the preparation of the application. The applicant and the Secretary each shall have a duty, at the public meeting, to answer questions to the best of his or her ability.

(f) Draft decisions. When this chapter requires the Secretary to post a draft decision or draft general permit to the environmental notice bulletin, the Secretary shall post to the bulletin the draft decision or draft general permit and all documents on which the Secretary relied in issuing the draft.

(g) Response to comments. When this chapter requires the Secretary to provide a response to comments, the Secretary shall provide a response to each comment received during the comment period and the basis for the response. The Secretary also shall specify each provision of the draft decision that has been changed in the final decision and the reasons for each change. The Secretary shall post the response to comments to the environmental notice bulletin and send it to all commenters.

(h) Final decisions; content; notice.

(1) The Secretary's final decision on an application for a permit or on the issuance of a general permit shall include a concise statement of the facts and analysis supporting the decision that is sufficient to apprise the reader of the decision's factual and legal basis. The final decision also shall provide notice that it may be appealed and state the period for filing an appeal and how and where to file an appeal.

(2) When this chapter requires that the Secretary to post a final decision to the environmental notice bulletin, the Secretary also shall send a copy of the final decision to all commenters.

§ 7712. TYPE 1 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when adopting general permits and considering applications for individual permits under the Clean Air Act and Clean Water Act.

(2) This section governs each application for a permit to be issued by the Secretary pursuant to the requirements of the Clean Air Act and Clean Water Act and to each general permit to be issued under one of those acts. However, the subsection does not apply to a notice of intent under a general permit. The procedures under this section shall be known as Type 1 Procedures.

(b) Notice of application.

(1) The applicant shall provide notice to adjoining property owners.

(2) At least 15 days prior to posting a draft decision, the Secretary shall provide notice of an administratively complete application through the environmental notice bulletin. The environmental notice bulletin shall send notice of such an application to each person to whom notice is federally required.

(3) This subsection (b) shall not apply to a general permit issued under this section.

(c) Notice of draft decision or draft general permit. The Secretary shall provide notice of a draft decision or draft general permit through the environmental notice bulletin and shall post the draft decision or permit to the bulletin. In addition to the requirements of section 7711 of this chapter:

(1) The Secretary shall post a fact sheet to the bulletin.

(2) The environmental notice bulletin shall send notice of the draft to each person to whom notice is federally required.

(3) The Secretary shall provide newspaper notice of the draft decision as required by this subdivision (3).

(A) If the draft decision pertains to an application for an individual permit, the Secretary shall provide notice in a daily or weekly newspaper in the area of the proposed project if the project is classified as major pursuant to the Clean Water Act or chapter 47 of this title or if required by federal statute or regulation.

(B) If the draft decision is a draft general permit, the Secretary shall provide notice in daily or weekly newspapers in each region of the State to which the draft general permit will apply.

(C) In addition to the requirements of this chapter and 3 V.S.A. § 2826, the notice from the environmental notice bulletin and the newspaper

notice shall include all information required pursuant to applicable federal statute and regulation.

(d) Comment period. The Secretary shall provide a public comment period.

(e) Public meeting. On or before the end of the comment period, any person may request a public meeting on the draft decision or draft general permit issued under this section. The Secretary shall hold a public meeting at his or her discretion or whenever any person files a written request for a meeting. The Secretary shall provide at least 30 days' notice of the public meeting through the environmental notice bulletin. If the notice of the public meeting is not issued at the same time as the draft decision or draft general permit, the Secretary also shall provide notice of the public meeting in the same manner as required for the draft decision or permit under subdivision (c) of this section.

(f) Notice of final decision or final general permit. The Secretary shall provide notice of the final decision or final general permit through the environmental notice bulletin and shall post the final decision or permit to the bulletin. When the Secretary issues the final decision or final general permit, the Secretary shall provide a response to comments.

(g) Compliance with Clean Air and Water Acts. With respect to a issuance of a permit under the Clean Air Act or Clean Water Act, if a requirement under those acts directs the Secretary to provide the public with greater notice, opportunity to participate, or access to information than the corresponding requirement of this chapter, the Secretary shall comply with the federal requirement.

§ 7713. TYPE 2 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when considering applications for individual permits, except for individual permits specifically listed in other sections of this subchapter, and when considering other permits listed in this section.

(2) The procedures under this section shall be known as Type 2 Procedures. This section governs an application for each of the following:

(A) an individual permit issued pursuant to the Secretary's authority under this title and 29 V.S.A. chapter 11, except for permits governed by sections 7712 and 7714–7716 of this chapter;

(B) a wetland determination under section 914 of this title;

(C) a public water system source permit under section 1675 of this title;

(D) a provisional certification issued under section 6605d of this title; and

(E) a corrective action plan under section 6648 of this title.

(b) Notice of application.

(1) The applicant shall provide notice of the application to adjoining property owners. In addition, for public water system source protection areas, the applicant shall provide notice to all property owners located in:

(A) zones 1 and 2 of the source protection area for a public community water system source; and

(B) the source protection area for a public nontransient noncommunity water system source.

(2) The Secretary shall provide notice of an administratively complete application through the environmental notice bulletin.

(c) Notice of draft decision; comment period. The Secretary shall provide notice of a draft decision through the environmental notice bulletin and shall post the draft decision to the bulletin. The Secretary shall provide a public comment period.

(d) Public meeting. Any person may request a public meeting on a draft decision issued under this section or the Secretary may hold a meeting at his or her discretion.

(e) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the final decision to the bulletin. When the Secretary issues the final decision, the Secretary shall provide a response to comments.

§ 7714. TYPE 3 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when adopting general permits, except for general permits governed by section 7712 of this chapter, and when considering other permits listed in this section.

(2) The procedures under this section shall be known as Type 3 Procedures. This section governs each of the following:

(A) Each general permit issued pursuant to the Secretary's authority under this title other than a general permit subject to section 7712 of this chapter. However, this section does not apply to a notice of intent under a general permit.

(B) Issuance of a dam safety order under chapter 43 of this title, except for an unsafe dam order under section 1095 of this title.

(C) An application or request for approval of:

(i) an individual shoreland permit under chapter 49A of this title;

(ii) an aquatic nuisance control permit under chapter 50 of this title;

(iii) a change in treatment for a public water supply under chapter 56 of this title;

(iv) a collection plan for mercury-containing lamps under section 7156 of this title;

(v) an individual plan for the collection and recycling of electronic waste under section 7554 of this title; and

(vi) a primary battery stewardship plan under section 7586 of this title.

(b) Notice of application. The Secretary shall provide notice of an administratively complete application through the environmental notice bulletin.

(c) Notice of draft decision; comment period. The Secretary shall provide notice of the draft decision through the environmental notice bulletin and shall post the draft decision to the bulletin. The Secretary shall provide a public comment period.

(d) Public meeting. Any person may request a public meeting on a draft decision issued under this section or the Secretary may hold a meeting at his or her discretion.

(e) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the final decision to the bulletin. The Secretary shall provide a response to comments.

§ 7715. TYPE 4 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when considering

applications for notice of intent under a general permit and other permits listed in this section.

(2) The procedures under this section shall be known as Type 4 Procedures. This section applies to each of the following:

(A) a notice of intent under a general permit issued pursuant to the Secretary's authority under this title; and

(B) an application for each of following permits:

(i) construction or operation of an air contaminant source less than 10 tons per year under chapter 23 of this title;

(ii) construction or expansion of a public water supply under chapter 56 of this title, except that a change in treatment for a public water supply shall proceed in accordance with section 7714 of this chapter;

(iii) a category 1 underground storage tank under chapter 59 of this title;

(iv) a categorical solid waste certification under chapter 159 of this title; and

(v) a medium scale composting certification under chapter 159 of this title.

(b) Notice of application. The Secretary shall provide notice of an administratively complete application through the environmental notice bulletin.

(c) Notice of draft decision; comment period. The Secretary shall provide notice of the draft decision through the environmental notice bulletin and shall post the draft decision to the bulletin. The Secretary shall provide a public comment period of at least 10 days on the draft decision.

(d) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the decision to the bulletin. The Secretary shall provide a response to comments.

§ 7716. TYPE 5 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when issuing emergency permits and other permits listed in this section.

(2) The procedures under this section shall be known as Type 5 Procedures. This section shall govern each of the following:

(A) issuance of temporary emergency permits under section 912 of this title;

(B) applications for public water system operational permits under chapter 56 of this title;

(C) issuance of authorizations, under a stream alteration general permit issued under chapter 41 of this title, for reporting without an application, for an emergency, and for activities to prevent risks to life or of severe damage to improved property posed by the next annual flood;

(D) issuance of emergency permits issued under section 1268 of this title;

(E) issuance of emergency sludge and septage disposal approvals under section 6605 of this title; and

(F) shoreland registrations authorized under chapter 49A of this title.

(b) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the decision to the bulletin.

§ 7717. AMENDMENTS; RENEWALS

(a) A major amendment shall be subject to the same procedures applicable to the original permit decision under this chapter.

(b) A minor amendment shall be subject to the Type 4 Procedures, except that the Secretary need not provide notice of the administratively complete application.

(c) An administrative amendment shall not be subject to the procedural requirements of this chapter.

(d) A person may renew a permit under the same procedures applicable to the original permit decision under this chapter.

(e) With respect to amending a permit issued under the Clean Air Act or Clean Water Act, if a requirement under those acts directs the Secretary to provide the public with greater notice, opportunity to participate, or access to information than the corresponding requirement of this chapter, the Secretary shall comply with the federal requirement.

§ 7718. EXEMPTIONS

This subchapter shall not govern an application or petition for:

(1) an unsafe dam order under section 1095 of this title;

(2) a potable water supply and wastewater permit under section 1973(j) of this title;

(3) a hazardous waste facility certification under section 6606 of this title; and

(4) a certificate of need under section 6606a of this title.

Sec. 2. RULES; EFFECT ON PROCEDURAL REQUIREMENTS

Sec. 1 of this act shall take precedence over any inconsistent requirements for notice and processing of applications contained in rules adopted by the Department of Environmental Conservation other than rules pertaining to applications that are exempt under Sec. 1, 10 V.S.A. § 7718. On or before July 1, 2019, the Secretary of Natural Resources shall commence and complete amendments to conform these rules to Sec. 1.

* * * Environmental Notice Bulletin * * *

Sec. 3. 3 V.S.A. § 2826 is amended to read:

§ 2826. ENVIRONMENTAL NOTICE BULLETIN; PERMIT HANDBOOK

(a) ~~The Secretary shall establish procedures for the publication of an environmental notice bulletin, in order to provide for the timely public notification of permit applications, notices, comment periods, hearings, and permitting decisions. The Secretary shall begin publication of the bulletin by no later than July 1, 1995 on the Agency's website. At a minimum, the bulletin shall contain the following information:~~ The bulletin shall consist of a website and an e-mail notification system. The Secretary shall ensure that the website for the bulletin is readily accessible from the Agency's main web page.

~~(1) notice of administratively complete permit applications submitted to the Department of Environmental Conservation; When 10 V.S.A. chapter 170 requires the posting of information to the bulletin, the Secretary shall post the information to the bulletin's website.~~

~~(2) notice of the comment period on the application and draft permit, if any, for those applications which were noticed; When 10 V.S.A. chapter 170 requires notice to persons through the environmental notice bulletin, the bulletin shall generate an e-mail notification to those persons containing the information required by that chapter.~~

~~(3) notice of the issuance of a draft permit, if required by law, for those applications that were noticed; The Secretary shall provide members of the public the ability to register, through the bulletin, for a list of interested persons to receive e-mail notification of permit activity based on permit type,~~

municipality, proximity to a specified address, or a combination of these characteristics.

~~(4) information on how to request a public hearing or meeting; If an individual does not have an e-mail address, the individual may request to receive notifications through U.S. mail. On receipt of such a request, the Secretary shall mail to the individual the same information that the individual would have otherwise received through an e-mail generated by the bulletin.~~

~~(5) notice of the name of the staff person to contact for information regarding public hearings or meetings with respect to a particular application.~~

~~(6) notice of the issuance or denial of a permit for those applications that were noticed.~~

(b) ~~By January 1, 1995, the~~ The Secretary shall publish a permit handbook which lists all of the permits required for the programs administered by the Department of Environmental Conservation. The handbook shall include examples of activities that require certain permits, an explanation in lay terms of each of the permitting programs involved, and the names, addresses, and telephone numbers of the person or persons to contact for further information for each of the permitting programs. The Secretary shall update the handbook ~~shall be updated,~~ periodically.

Sec. 4. REPORTS; RULEMAKING; BULLETIN; REVISION

(a) On or before September 15, 2016, the Secretary shall commence all rulemaking required by Sec. 1 of this act.

(b) On or before February 15, 2017, the Secretary shall report in writing to the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources on the Secretary's progress in adopting the rules required by Sec. 1 of this act and revising and reestablishing the environmental notice bulletin in accordance with Secs. 1 and 3 of this act.

(c) On or before July 1, 2017, the Secretary shall revise and reestablish the environmental notice bulletin to conform to the requirements of Secs. 1 and 3 of this act.

(d) On or before February 15, 2020, the Secretary of Natural Resources shall submit a written report to the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources that:

(1) summarizes the Secretary's implementation of Secs. 1 through 3 of this act and details the steps taken to implement those sections;

(2) provides the Secretary's assessment of the effect of 10 V.S.A. chapter 170 on the amount of time taken by the Department of Environmental Conservation (DEC), during the preceding two calendar years, to review and issue decisions on applications and permits subject to that chapter and the data supporting that assessment;

(3) provides the Secretary's assessment of the effect of 10 V.S.A. chapter 170 on public participation, during the preceding two calendar years, in the review of applications and permits subject to that chapter and the data supporting that assessment;

(4) provides:

(A) the total and annual number of appeals, during 2018 and 2019, of DEC decisions subject to 10 V.S.A. chapter 170 and how each appeal was resolved; and

(B) a comparison with the total and annual number of appeals, during calendar years 2015 through 2017, from DEC programs that become subject to the procedures of 10 V.S.A. chapter 170 on January 1, 2018, and how each of those appeals was resolved;

(5) provides the Secretary's overall evaluation of the success of Secs. 1 and 3 of this act in standardizing DEC permit procedures, increasing public participation in DEC's permit process, and resolving issues related to the issuance of DEC permits without appeal;

(6) based on the track record of 10 V.S.A. chapter 170 to date of the report, states the Secretary's recommendation on whether there is justification to amend the process for appealing those acts and decisions of the Secretary subject to that chapter; and

(7) if the recommendation under subdivision (6) of this subsection is affirmative, provides the Secretary's recommended amendments to the process for appealing those acts and decisions of the Secretary subject to 10 V.S.A. chapter 170.

* * * Appeals from Agency of Natural Resources to the Environmental
Division * * *

Sec. 5. 10 V.S.A. § 8504(d) is amended to read:

(d) Requirement ~~that aggrieved Act 250 parties~~ to participate before the District Commission or the Secretary.

(1) ~~No~~ An aggrieved person ~~may~~ shall not appeal an act or decision that was made by a District Commission unless the person was granted party status by the District Commission pursuant to subdivision 6085(c)(1)(E) of this title,

participated in the proceedings before the District Commission, and retained party status at the end of the District Commission proceedings. In addition, the person may only appeal those issues under the criteria with respect to which the person was granted party status.

~~(2) Notwithstanding subdivision (d)(1) of this section,~~ However, notwithstanding these limitations, an aggrieved person may appeal an act or decision of the District Commission if the Environmental judge determines that:

(A) there was a procedural defect ~~which~~ that prevented the person from obtaining party status or participating in the proceeding;

(B) the decision being appealed is the grant or denial of party status; or

(C) some other condition exists which would result in manifest injustice if the person's right to appeal was disallowed.

(2) An aggrieved person shall not appeal an act or decision of the Secretary unless the person submitted to the Secretary a written comment during the comment period or an oral comment at the public meeting conducted by the Secretary. In addition, the person may only appeal issues related to the person's comment to the Secretary. However, notwithstanding these limitations, an aggrieved person may appeal an act or decision of the Secretary if the Environmental judge determines that:

(A) there was a procedural defect that prevented the person from commenting during the comment period or at the public meeting or otherwise participating in the proceeding;

(B) the Secretary did not conduct a comment period and did not hold a public meeting; or

(C) some other condition exists which would result in manifest injustice if the person's right to appeal was disallowed.

* * * Conforming Amendments * * *

Sec. 6. 10 V.S.A. § 556 is amended to read:

§ 556. PERMITS FOR THE CONSTRUCTION OR MODIFICATION OF AIR CONTAMINANT SOURCES

* * *

(b) The ~~secretary~~ Secretary may require an applicant to submit any additional information ~~which~~ that the ~~secretary~~ Secretary considers necessary to make the completeness determination required in subsection (a) of this

section and shall not grant a permit until the information is furnished and evaluated. ~~For air contaminant sources that have allowable emissions of more than 10 tons per year of all contaminants, excluding greenhouse gases, upon making a determination to issue a draft permit, the secretary shall issue a notice that includes a brief description of the source and the address where a complete permit application and draft permit may be reviewed, shall provide a public comment period on all draft permits, and shall hold a public informational meeting, if requested. The public comment period on a draft permit for a source that has allowable emissions of more than 10 tons per year, excluding greenhouse gases, shall be 30 days if the source constitutes a major stationary source or major modification under the rules of the secretary and shall otherwise be 10 days. For air contaminant sources that have allowable emissions of less than 10 tons per year of all contaminants, the secretary may provide an opportunity for public comment or a public informational hearing, or both, before ruling on a proposed permit. In determining whether to provide for comment or a meeting, the secretary shall consider the degree of toxicity of the air contaminant and the emission rate, the proximity of the source to residences, population centers and other sensitive human receptors, and emission dispersion characteristics at or near the source. The secretary shall fully consider all written and oral submissions concerning proposed permits prior to taking final action on those proposed permits. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 7. 10 V.S.A. § 556a is amended to read:

§ 556a. OPERATING PERMITS

* * *

~~(c) For air contaminant sources that have allowable emissions of more than 10 tons per year of all contaminants, excluding greenhouse gases, upon making a determination to issue a draft permit, the secretary shall issue a notice that includes a brief description of the source and the address where a complete permit application and a draft permit may be reviewed, shall provide a public comment period on all draft permits, and shall hold a public informational meeting, if requested. The public comment period on a draft permit for a source that has allowable emissions of more than 10 tons per year, excluding greenhouse gases, shall be 30 days if the source is subject to subchapter V (permits) of 42 U.S.C. chapter 85 (air pollution prevention and control) and shall otherwise be 10 days. For air contaminant sources that have allowable emissions of less than ten tons per year of all contaminants, the secretary may provide an opportunity for public comment or a public informational hearing,~~

~~or both, before ruling on a proposed permit. In determining whether to provide for comment or a meeting, the secretary shall consider the degree of toxicity of the air contaminant and the emission rate, the proximity of the source to residences, population centers and other sensitive human receptors, and emission dispersion characteristics at or near the source. The secretary shall fully consider all written and oral submissions concerning proposed permits prior to taking final action on those proposed permits. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

(e) A ~~person may renew~~ permit issued under this section ~~may be renewed~~ upon application to the ~~secretary~~ Secretary for a fixed period of time, not to exceed five years.

~~(1) A permit being renewed shall be subject to the same procedural requirements, including those for public participation, that apply to initial permit issuance, except that a permit being renewed shall not be subject to the public notice and comment requirements of this chapter if all of the following apply:~~

~~(A) The secretary determines that no substantive changes have occurred at the air contaminant source that would affect emissions or require changes to the permit.~~

~~(B) The secretary determines no new statutory or regulatory requirements need to be added to the permit.~~

~~(C) The air contaminant source does not require a permit under subchapter V (permits) of 42 U.S.C. chapter 85 (air pollution prevention and control).~~

(2) The ~~secretary~~ Secretary shall not issue a permit renewal unless the applicant first demonstrates that the emissions from the subject source meet all applicable emission control requirements or are subject to, and in compliance with, an appropriate schedule of compliance.

* * *

(h)(1) ~~The secretary may issue~~ Secretary may adopt, as a rule under 3 V.S.A. chapter 25, a general operating permits permit covering numerous similar sources. ~~A general permit shall be adopted as an administrative rule under the provisions of 3 V.S.A. chapter 25. Each rule creating a general permit shall include provisions that require public notice of the fact that specified emitters have applied for general permits.~~

~~(2) Each rule creating a general permit shall provide a process by which interested persons can obtain detailed information about the nature and extent of the activity proposed to receive a general permit, and a process by which aggrieved persons can obtain an opportunity to be heard on a request that the general permit be issued only subject to specific conditions to limit or mitigate the effects of the emissions in question. Based on information presented at such a hearing, an applicant may be required to obtain a permit other than a general permit, or may obtain a general permit subject to specified conditions.~~

* * *

Sec. 8. 10 V.S.A. § 754 is amended to read:

§ 754. FLOOD HAZARD AREA RULES; USES EXEMPT FROM MUNICIPAL REGULATION

* * *

(b) Required rulemaking content. The rules shall:

(1) set forth the requirements necessary to ensure uses exempt from municipal regulation are regulated by the State in order to comply with the regulatory obligations set forth under the National Flood Insurance Program.

(2) be designed to ensure that the State and municipalities meet community eligibility requirements for the National Flood Insurance Program.

~~(3) require that the Secretary provide notice to a municipality in which a use exempt from municipal regulation will occur of an application received under this section and a copy of the permit issued, unless a use is authorized to occur without notification of or reporting to the Secretary. [Repealed.]~~

* * *

(f) Permit requirement. ~~Beginning March 1, 2015, no person~~ A person shall not commence or conduct a use exempt from municipal regulation in a flood hazard area or river corridor in a municipality that has adopted a flood hazard area bylaw or ordinance under 24 V.S.A. chapter 117 or commence construction of a State-owned and -operated institution or facility located within a flood hazard area or river corridor, without a permit issued under the rules required under subsection (a) of this section by the Secretary or by a State agency delegated permitting authority under subsection (g) of this section. When an application is filed under this section, the Secretary or delegated State agency shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 9. 10 V.S.A. § 914 is amended to read:

§ 914. WETLANDS DETERMINATIONS

* * *

~~(c) The Secretary shall provide by certified mail written notice of a proposed determination to the owner of each parcel of land within or adjacent to the wetland or buffer zone in question; publish notice on the Agency website; and provide an electronic notice to persons who have requested to be on a list of interested persons. Such notice shall include the date of the Secretary's proposed determination and shall provide no fewer than 30 days from the date of the Secretary's proposed determination within which to file written comments or to request that the Secretary hold a public meeting on the proposed determination. The provisions of chapter 170 of this title shall apply to issuance of determinations under this section.~~

~~(d) The Secretary shall provide, in person, by mail, or by electronic notice, a written copy of a wetland determination issued under this section to the owner of each affected parcel of land and to the requesting petitioner. [Repealed.]~~

* * *

Sec. 10. 10 V.S.A. § 1022 is amended to read:

§ 1022. APPLICATION FOR ALTERATION

A person proposing to change, alter, or modify the course, current, or cross section of a watercourse shall apply in writing to the ~~secretary~~ Secretary for a permit to do so. The application shall describe the location and purpose of the proposed change and shall be accompanied by the maps and plans and other information the ~~secretary~~ Secretary shall direct. ~~A conformed copy shall be simultaneously filed with the town clerk of the town in which the proposed alteration is located, and mailed to each owner of property that abuts or is opposite the land where the alteration is to take place. The town clerk shall forthwith post the copy in the town office.~~ When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title and the requirements of this subchapter.

Sec. 11. 10 V.S.A. § 1023 is amended to read:

§ 1023. INVESTIGATION, PERMIT

* * *

~~(b) The reasons for the action taken under this section shall be set forth in writing to the applicant. Notice of the action of the Secretary shall also be sent to the selectboard of the town in which the proposed change is located, and to~~

~~each owner of property which abuts or is opposite the land where the alteration is to take place.~~

* * *

Sec. 12. 10 V.S.A. § 1083 is amended to read:

§ 1083. APPLICATION

(a) Any person who proposes to undertake an action subject to regulation pursuant to section 1082 of this title shall apply in writing to the state State agency having jurisdiction, ~~and shall give notice thereof to the governing body of the municipality or municipalities in which the dam or any part of the dam is to be located.~~ The application shall set forth:

* * *

Sec. 13. 10 V.S.A. § 1085 is amended to read:

§ 1085. NOTICE OF APPLICATION

Upon receipt of the application required by section 1082 of this title, the ~~state~~ State agency having jurisdiction shall give notice to the legislative body of each municipality in which the dam is allocated and to all persons interested.

~~(1) For any project subject to its jurisdiction under this chapter, on the petition of 25 or more persons the department shall, or on its own motion it may, hold a public information meeting in a municipality in the vicinity of the proposed project to hear comments on whether the proposed project serves the public good and provides adequately for the public safety. Public notice shall be given by posting in the municipal offices of the towns in which the project will be completed and by publishing in a local newspaper at least 10 days before the meeting. The Department shall proceed in accordance with chapter 170 of this title.~~

(2) For any project subject to its jurisdiction under this chapter, the public service board shall hold a hearing on the application. The purpose of the hearing shall be to determine whether the project serves the public good as defined in section 1086 of this title and provides adequately for the public safety. The hearing shall be held in a municipality in the vicinity of the proposed project and may be consolidated with other hearings, including hearings under 30 V.S.A. § 248 concerning the same project. Notice shall be given at least 10 days before the hearing to interested persons by posting in the municipal offices of the towns in which the project will be completed and by publishing in a local newspaper.

Sec. 14. 10 V.S.A. § 1100 is amended to read

§ 1100. FEDERAL COOPERATION

* * *

(4) Where cultivated agricultural lands in excess of one hundred acres are to be taken for the purposes of a flood control project, or the recreational development of the ~~state~~ State or the economy of the river basin involved may be affected thereby, ~~the department, of its own motion, may, and upon petition to it by interested parties, shall, appoint a time and place for hearing in the vicinity of the flood control project, hold a public information meeting after giving notice to interested parties as it directs~~ Department shall provide notice, an opportunity to submit comments, and an opportunity to request a public meeting in accordance with section 7713 (Type 2 Procedures) of this title. Upon hearing, the department The Department shall determine the effect the flood control project will have upon agricultural land uses or recreational values in this ~~state~~ State, or upon the economy of the river basin involved, and report its findings and recommendations to the proper federal agency or authority having the flood control project in charge for its consideration and recognition. The Department shall post its findings and recommendations as a final decision in accordance with chapter 170 of this title.

Sec. 15. 10 V.S.A. § 1252 is amended to read:

§ 1252. CLASSIFICATION OF WATERS; MIXING ZONES

* * *

(d) Prior to the initial authorization of a new waste management zone, except those created pursuant to subsection (b) of this section, or prior to the expansion of the size of an existing zone created under this section, in order to accommodate an increased discharge, the Secretary shall:

(1) Prepare a draft permit which includes a description of the proposed waste management zone ~~prior to publishing the notice required by subdivision (2) of this subsection~~ and proceed in accordance with subsections 7713(c), (d), and (e) of this title.

(2) ~~Publish notice in both a local newspaper generally circulating in the area where the affected waters are located and a separate newspaper generally circulating throughout the State not less than 21 days prior to the public hearing required by this subsection. The notice shall describe the draft permit and proposed waste management zone and provide for the opportunity to file written comment for not less than seven days following the hearing.~~

(3) ~~Forward copies of the notice, the draft permit and the description of the proposed waste management zone to any municipality and regional~~

~~planning commission within the area where the affected waters are located not less than 21 days prior to the hearing. The notice, the draft permit and the description of the waste management zone shall also be provided to any person upon request.~~

~~(4) Hold a public hearing convenient to the waters affected.~~

~~(5) Give due consideration to the cumulative impact of overlapping waste management zones.~~

~~(6)(3) Determine that the creation or expansion of such a waste management zone is in the public interest after giving due consideration to the factors specified in subdivisions 1253(e)(1) through (10) of this title.~~

~~(7)(4) Determine that the creation or expansion of such a zone will not:~~

~~* * *~~

~~(8)(5) Provide a written explanation with respect to subdivisions (5)(2) through (7)(4) of this subsection.~~

~~* * *~~

Sec. 16. 10 V.S.A. § 1263 is amended to read:

§ 1263. DISCHARGE PERMITS

* * *

~~(b) Except for applications for permission to discharge under the terms of a previously issued general permit, the secretary shall provide for notice of each application to the public and any appropriate officials of another state and the federal government including the administrator of the United States Environmental Protection Agency, and shall provide an opportunity for written comments or a public hearing or both on the application before making a final ruling on the application. Prior to issuing a general permit, the secretary shall give notice as provided in this subsection and provide for written comments or a public hearing or both as provided in this subsection. For applications for permission to discharge under the terms of a previously issued general permit, the applicant shall provide notice, on a form provided by the secretary, to the municipal clerk of the municipality in which the discharge is located at the time the application is filed with the secretary, and the secretary shall provide an opportunity for written comment, regarding whether the application complies with the terms and conditions of the general permit, for ten days following receipt of the application. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title. The secretary Secretary may require any applicant to submit any additional information, ~~which~~ that the secretary Secretary considers necessary and may~~

refuse to grant a permit, or permission to discharge under the terms of a general permit, until the information is furnished and evaluated.

* * *

Sec. 17. 10 V.S.A. § 1265 is amended to read:

§ 1265. TEMPORARY POLLUTION PERMITS

* * *

~~(b) The Secretary shall give notice of each application to the public and any appropriate officials of another state and the federal government including the administrator of the U.S. Environmental Protection Agency, and shall provide an opportunity for written comments or a public hearing, or, both on the application before ruling on the application.~~ When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title. The Secretary may require the applicant to submit any additional information ~~which he or she~~ that the Secretary considers necessary, and may refuse to grant a permit until the information is furnished and evaluated.

* * *

Sec. 18. 10 V.S.A. § 1268 is amended to read:

§ 1268. EMERGENCY PERMITS

When a discharge permit holder finds that pollution abatement facilities require repairs, replacement or other corrective action in order for them to continue to meet standards specified in the permit, ~~he or she~~ the holder may apply in the manner specified by the ~~secretary~~ Secretary for an emergency pollution permit for a term sufficient to effect repairs, replacements or other corrective action. ~~The permit may be issued without prior public notice if the nature of the emergency will not provide sufficient time to give notice; provided that the secretary shall give public notice as soon as possible but in any event no later than five days after the effective date of the emergency pollution permit.~~ The Secretary shall proceed in accordance with chapter 170 of this title. No emergency pollution permit shall be issued unless the applicant certifies and the ~~secretary~~ Secretary finds that:

* * *

Sec. 19. 10 V.S.A. § 1418 is amended to read:

§ 1418. GROUNDWATER WITHDRAWAL PERMIT

* * *

~~(c)(1) At least 30 days before filing an application for a permit under this section, the applicant shall hold an informational hearing in the municipality in~~

~~which the withdrawal is proposed in order to describe the proposed project and to hear comments regarding the proposed project. Public notice shall be given by posting in the municipal offices of the town in which the withdrawal is proposed and by publishing in a local newspaper at least 10 days before the meeting.~~

~~(2) On or before the date of filing with the secretary of natural resources an application for a permit under this section, an applicant for a withdrawal under this section shall notify:~~

~~(A) the clerk, legislative body, and any conservation commission in the municipality in which the proposed withdrawal is located;~~

~~(B) adjoining municipalities;~~

~~(C) the regional planning commission in the region where the proposed withdrawal is located;~~

~~(D) all landowners and mobile home park residents within the zone of influence of a groundwater withdrawal or within one quarter mile downstream from a withdrawal from a spring. Notice to the officers of a condominium association shall be deemed sufficient under this subdivision for notice to residents of a condominium; and~~

~~(E) any public water systems permitted by the agency of natural resources in the municipality where the proposed withdrawal is located.~~

~~(3) The applicant shall publish notice of the application in a newspaper of general circulation in the area in which the withdrawal is proposed and shall post a copy of the notice in the municipal clerk's office in the municipality in which the withdrawal is located.~~

~~(4) On its own motion or on receipt of a written request, the agency shall hold a public meeting in the municipality in which the withdrawal is proposed in order to describe the proposed project and to hear comments regarding the proposed project. Opportunity shall be given all participants at a public meeting to ask questions and comment on all issues involved. The agency shall prepare a responsiveness summary for each public meeting conducted. Public notice shall be given by posting in the municipal offices of the town in which the withdrawal is proposed and by publishing in a local newspaper at least 10 days before the meeting.~~

~~(5) No defect in the form or substance of any notice requirements in subdivision (1), (2), (3), or (4) of this subsection shall invalidate an application for a permit under this section provided that reasonable efforts are made to provide adequate posting and notice. An application for a permit under this section shall be invalid when a defective posting or notice was materially~~

~~misleading in content. If an action is ruled to be invalid by the environmental division, the applicant may reapply and provide new posting and notice. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 20. 10 V.S.A. § 1443 is amended to read:

§ 1443. INDIVIDUAL PERMIT REQUIREMENTS FOR IMPERVIOUS SURFACE OR CLEARED AREA IN A PROTECTED SHORELAND AREA

* * *

(c) Permit process.

~~(1) A person applying for a permit shall do so on a form provided by the Secretary. The application shall be posted on the Agency's website.~~

~~(2) A person applying for a permit shall provide notice, on a form provided by the Secretary, to the municipal clerk of the municipality in which the construction of impervious surface or creation of cleared area is located at the time the application is filed with the Secretary.~~

~~(3) The Secretary shall provide an opportunity for written comment regarding whether an application complies with the requirements of this chapter or any rule adopted by the Secretary, for 30 days following receipt of the application. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 21. 10 V.S.A. § 1455 is amended to read:

§ 1455. AQUATIC NUISANCE CONTROL PERMIT

* * *

~~(h) The Secretary shall adopt procedures under 3 V.S.A. chapter 25 which will provide an opportunity for public review and comment on permit applications. The procedures shall classify permit applications by degree of environmental risk involved and establish appropriate opportunities for public notice and comment for each class. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 22. 10 V.S.A. § 1456 is amended to read:

§ 1456. AQUATIC SPECIES RAPID RESPONSE GENERAL PERMITS

* * *

~~(c) The secretary shall provide notice of the application to the municipal clerk of the municipality or municipalities in which the proposed control activity will be conducted at the time the request for authorization is filed with the secretary. The secretary shall provide an opportunity for written comment regarding whether the request complies with the terms and conditions of the aquatic species rapid response general permit for 10 days following receipt of the request for authorization. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 23. 10 V.S.A. § 1675 is amended to read:

§ 1675. PERMITS; CONDITIONS; DURATION; SUSPENSION OF
REVOCATION

* * *

~~(c) Notice and hearing.~~ Permit process; additional information.

~~(1) The Secretary shall give notice of each application for a new source for a community or nontransient, noncommunity water system to the public by publication in a newspaper of general circulation for the area containing the proposed system and by causing a notice to be posted in the clerk's office for the municipality containing the proposed system or source. The Secretary shall also give notice to appropriate State agencies. The applicant shall notify all adjoining landowners. The Secretary shall provide an opportunity for written comment or a public hearing, or both, on the application before ruling on the application. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title. The Secretary may require the applicant to submit additional information which that the Secretary considers necessary in order to support the findings required in subsection (b) of this section, and may refuse to grant a permit until the information is furnished and evaluated. The Secretary may also consult with the Commissioner of Health, as necessary, in making decisions regarding health issues raised by the application. The Commissioner's response, if any, shall be part of the public record for the application.~~

~~(2) The Secretary shall give notice to the public of each application by a public community system for the addition of a new type of disinfectant by publication in a newspaper of general circulation for the area containing the proposed system and by causing a notice to be posted in the clerk's office for the municipality in which the system is located. The Secretary shall also give notice to appropriate State agencies. The Secretary shall provide an~~

~~opportunity for written comment and shall, upon request, provide for a public hearing on the application before ruling on the application. The Secretary may require the applicant to submit additional information which the Secretary considers necessary in order to support the findings required in subsection (b) of this section, and may refuse to grant a permit until the information is furnished and evaluated. The Secretary may also consult with the Commissioner of Health, as necessary, in making decisions regarding health issues raised by the application. The Commissioner's response, if any, shall be part of the public record for the application.~~

* * *

Sec. 24. 10 V.S.A. § 1679 is amended to read:

§ 1679. PUBLIC WATER SOURCE PROTECTION AREAS

* * *

~~(d) The Secretary shall give notice of each proposed public water source protection area to the public by publication in a newspaper of general circulation for the area containing the proposed protection area and by causing a notice to be posted in the clerk's office for the municipality containing the proposed area. The Secretary shall also give notice to adjoining landowners and all appropriate officials of municipalities and State agencies. The Secretary shall provide an opportunity for written comment or a public hearing, or both, on the proposed area before designating the area. If the area is to be classified under chapter 48 of this title, the classification procedures shall satisfy the provisions of this subsection. When the Secretary proposes to designate a public water source protection area under the rules adopted pursuant to subsection (a) of this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 25. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

* * *

~~(f) On or before the date of filing any certification or permit application for a facility, the applicant shall send notice and a copy of the application to the municipality where the facility is proposed to be or is located, and any adjacent Vermont municipality if the land is located on a boundary. The applicant shall furnish to the certifying or permitting authority the names of those furnished notice of application. Notwithstanding the provisions of subsection (c) of this section, the Secretary shall not issue a certification for a new facility or a recertification for an existing facility unless the town, city, or village in which~~

~~the facility is located has been notified.~~ When an application for a certification is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

(g)(1) Notwithstanding any ~~other~~ contrary provision of this section, the Secretary may authorize the land disposal or management of sludge or septage by an applicant at any certified site or facility with available capacity, provided the Secretary finds:

* * *

(2) ~~The Secretary shall, following his or her issuance of approval of emergency sludge or septage disposal under this subsection, provide public notice of that action.~~ Issuance of an approval under this subsection shall comply with section 7716 of this title.

* * *

Sec. 26. 10 V.S.A. § 6605c is amended to read:

§ 6605c. SOLID WASTE CATEGORICAL CERTIFICATIONS

* * *

(d) ~~On or before the date of filing any certification application for a facility, the applicant shall send notice and a copy of the application to the municipality where the facility is proposed to be or is located and any adjacent Vermont municipality if the facility is located on a boundary. The applicant shall furnish the Secretary the names of those noticed of the application.~~ When an application for a certification is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 27. 10 V.S.A. § 6605d is amended to read:

§ 6605d. PROVISIONAL CERTIFICATION

* * *

(e) ~~The Secretary shall provide notice of the opportunity for public comment on an application for provisional certification, any proposed findings with respect to the application, and the time and place of a public informational meeting.~~

(1) ~~The notice shall be published at least 14 days prior to the meeting and the public comment period shall end no sooner than 14 days after the meeting.~~

~~(2) In addition to the publication of notice in newspapers of general circulation in the area where the facility is located, the following persons shall be notified:~~

~~(A) The legislative body and the planning commission of the municipality in which the facility is located and the legislative bodies and planning commissions of all municipalities that will be served by the facility.~~

~~(B) All landowners whose property adjoins the facility.~~

~~(C) Any other state agency or subdivision of the state that has issued or may be required to issue a permit for the facility.~~

~~(D) The regional planning commission and any solid waste district serving the town, city or gore where the facility is located.~~

~~(E) Community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned. When an application for a provisional certification is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

~~(g) A determination of the Secretary under this section may be reviewed under subchapter 5 of chapter 151 of this title. [Repealed.]~~

(h) If the Secretary finds that emergency action is required for the disposal of solid waste in Vermont facilities, the Secretary may issue an emergency provisional certification. Notice Notwithstanding any contrary requirement of chapter 170 of this title, notice of a proposed emergency provisional certification shall be published at least seven calendar days prior to the meeting and the public comment period shall end no sooner than three calendar days after the meeting. An emergency provisional certification granted in accordance with this subsection shall be issued no more than once and shall terminate 60 days after issuance, unless the Secretary reissues the certification under this section as a provisional certification. Except as otherwise required by this subsection, an emergency provisional certification shall be subject to requirements that apply to provisional certification.

* * *

~~(j) The Secretary may not issue a provisional certification:~~

~~(1) to the owner or operator of a solid waste management facility for which a permit has been denied under chapter 151 of this title prior to January 1, 1990, until the owner or operator is subsequently issued a permit under chapter 151 of this title; or~~

~~(2) to the owner or operator of a solid waste management facility that is subject to an appeal filed prior to January 1, 1990, so long as the appeal is still pending. [Repealed.]~~

Sec. 28. 10 V.S.A. § 6648 is amended to read:

§ 6648. CORRECTIVE ACTION PLAN

* * *

~~(e) Prior to approval of the corrective action plan, the Secretary shall provide notice to the public by publishing notice in a local newspaper of general circulation where the property is located and providing written notice to the clerk for the municipality in which the property is located. The clerk shall post the notice in a location conspicuous to the public. The Secretary shall review any public comment submitted prior to approval of the corrective action plan. The notice shall include all the following:~~

~~(1) a description of any proposed abatement, investigation, remediation, removal, and monitoring activities;~~

~~(2) a statement that the Secretary is considering approving a corrective action plan that provides for those activities;~~

~~(3) a request for public comment on the proposed activities to be submitted within 15 days after publication;~~

~~(4) the name, telephone number, and address of an agency official who is able to answer questions and accept comments on the matter. Before approving a corrective action plan under this subchapter, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 29. 10 V.S.A. § 7156 is amended to read:

§ 7156. AGENCY RESPONSIBILITIES

* * *

~~(c) Public input. The Agency shall establish a process under which a collection plan for a mercury containing lamp is, prior to plan approval or amendment, available for public review and comment for 30 days. In establishing such a process, the Agency shall consult with interested persons, including manufacturers, environmental groups, wholesalers, retailers, municipalities, and solid waste districts. Procedure. Before approving a collection plan under this chapter, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 30. 10 V.S.A. § 7554 is amended to read:

§ 7554. MANUFACTURER OPT-OUT INDIVIDUAL PLAN

* * *

~~(d) Public review and consultation. Prior to approval of a plan under this section, the Agency shall make the manufacturer's proposed plan available for public review and comment for at least 30 days.~~ Before approving an individual plan under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 31. 10 V.S.A. § 7586 is amended to read:

§ 7586. AGENCY RESPONSIBILITIES; APPROVAL OF PLANS

(a) Approval of plan. Within 90 days after receipt of a proposed primary battery stewardship plan, not including the time required for public comment under ~~subsection (e) of this section~~ chapter 170 of this title, the Secretary shall determine whether the plan complies with the requirements of section 7584 of this title. If the Secretary determines that a plan complies with the requirements of section 7584 of this title, the Secretary shall notify the applicant of the plan approval in writing. If the Secretary rejects a primary battery stewardship plan, the Secretary shall notify the applicant in writing of the reasons for rejecting the plan. An applicant whose plan is rejected by the Secretary shall submit a revised plan to the Secretary within 45 days of receiving notice of rejection. A primary battery stewardship plan that is not approved or rejected by the Secretary within 90 days, not including the time required for public comment under ~~subsection (e) of this section~~ chapter 170 of this title, of submission by a producer shall be deemed approved.

* * *

~~(c) Public notice review. The Secretary shall post all proposed primary battery stewardship plans and all proposed amendments to a primary battery stewardship plan on the Agency's website for 30 days from the date the application for a plan or a plan amendment is deemed complete by the Secretary, subject to the confidentiality provisions of section 7592 of this title. When the Secretary receives a request to approve or amend a primary battery stewardship plan under this subchapter, the Secretary shall proceed in accordance with chapter 170 of this title.~~

~~(d) Public input. The Secretary shall establish a process under which a primary battery stewardship plan, prior to plan approval or amendment, is available for public review and comment. [Repealed.]~~

* * *

Sec. 32. 29 V.S.A. § 405 is amended to read:

§ 405. INVESTIGATION AND DETERMINATION OF PUBLIC GOOD

~~(a) Written notice of each application shall be given by the department to abutting property owners, the selectmen of the town in which the proposed encroachment is located, and other persons as it considers appropriate. The notice shall provide a brief description of the proposed encroachment and the address where complete information about it may be obtained. Notice shall provide not less than 10 days for the filing of written comments by any interested persons. Upon receipt within the notice period of a request from a municipality, or 25 or more persons in interest, the department shall hold a public information meeting. Notice of the meeting shall be provided to anyone required to receive notice by this subsection, to all persons who have filed written comments within the notice period, and to other persons as the department considers appropriate. When an application is filed under this chapter, the Department shall proceed in accordance with 10 V.S.A. chapter 170.~~

* * *

~~(c) The department shall give written notice to the applicant, the municipality in which the encroachment is located, the abutting property owners and other persons considered appropriate, of the action taken in approving a permit or denying the application. Notice shall be given within five days of taking action. The notice shall explain the reasons for the action and shall include findings as to the effect of the encroachment on each element of the public good set forth in subsection (b) of this section. The action of approving or denying an application shall not be effective until 10 days after the department's Department's notice of action.~~

* * * Act 250 Jurisdictional Determinations * * *

Sec. 33. 10 V.S.A. § 6007 is amended to read:

§ 6007. ACT 250 DISCLOSURE STATEMENT; JURISDICTIONAL DETERMINATION

* * *

(c) With respect to the partition or division of land, or with respect to an activity which might or might not constitute development, any person may submit to the district coordinator an "Act 250 Disclosure Statement" and other information required by the rules of the Board, and may request a jurisdictional opinion from the district coordinator concerning the applicability of this chapter. If a requestor wishes a final determination to be rendered on the

question, the district coordinator, at the expense of the requestor and in accordance with rules of the Board, shall publish notice of the issuance of the opinion in a local newspaper generally circulating in the area where the land which is the subject of the opinion is located, and shall serve the opinion on all persons listed in subdivisions 6085(c)(1)(A) through (D) of this title. In addition, the requestor who is seeking a final determination shall consult with the district coordinator and obtain approval of a subdivision 6085(c)(1)(E) list of persons who shall be notified by the district coordinator because they are adjoining property owners or other persons who would be likely to be able to demonstrate a particularized interest protected by this chapter that may be affected by an act or decision by a District Commission.

~~(d) A person who seeks review of a jurisdictional opinion issued by a district coordinator may request consideration by the Board of the issues addressed in the opinion.~~

~~(1) If the opinion was served on the person when issued, the person's request under this subsection shall be submitted to the Board within 30 days of the opinion's issuance.~~

~~(2) If the opinion was not served on the person when issued, the request shall be submitted to the Board:~~

~~(A) within 30 days from the date on which the opinion was served on the requestor; or~~

~~(B) at any time, if the opinion is never served on the requestor.~~

~~(3) The Board shall give notice of the request.~~

~~(A) The Board shall serve the notice on all persons listed in subdivisions 6085(c)(1)(A) (D) of this title and post the notice on its website.~~

~~(B) If the request pertains to a jurisdictional opinion for which a final determination was requested under subsection (c) of this section, the Board shall:~~

~~(i) serve the notice on all persons on the approved subdivision 6085(c)(1)(E) list; and~~

~~(ii) publish at the expense of the requestor the notice in a local newspaper having general circulation in the area where the land which is the subject of the request is located.~~

~~(4) An act or decision of the Board under this subsection may be appealed to the Environmental Division pursuant to chapter 220 of this title. [Repealed.]~~

Sec. 34. 10 V.S.A. § 6089 is amended to read:

§ 6089. APPEALS

Appeals of any act or decision of a District Commission under this chapter or ~~the Natural Resources Board~~ a district coordinator under subsection ~~6007(d)~~ 6007(c) of this title shall be made to the Environmental Division in accordance with chapter 220 of this title. For the purpose of this section, a decision of the Chair of a District Commission under section 6001e of this title on whether action has been taken to circumvent the requirements of this chapter shall be considered an act or decision of the District Commission.

Sec. 35. 10 V.S.A § 8503(b) is amended to read:

(b) This chapter shall govern:

(1) all appeals from an act or decision of a District Commission under chapter 151 of this title, excluding appeals of application fee refund requests;

(2) appeals from an act or decision of ~~the Natural Resources Board~~ a district coordinator under subsection ~~6007(d)~~ 6007(c) of this title;

(3) appeals from findings of fact and conclusions of law issued by the Natural Resources Board in its review of a designated growth center for conformance with the criteria of subsection 6086(a) of this title, pursuant to authority granted at 24 V.S.A. § 2793c(f).

Sec. 36. 10 V.S.A. § 8504(a) is amended to read:

(a) Act 250 and Agency appeals. Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the Secretary, ~~the Natural Resources Board, or~~ a District Commission, or a district coordinator under the provisions of law listed in section 8503 of this title, or any party by right, may appeal to the Environmental Division, except for an act or decision of the Secretary under subdivision 6086b(3)(E) of this title or governed by section 8506 of this title.

Sec. 37. 10 V.S.A. § 8504(e) is amended to read:

(e) Act 250 jurisdictional determinations by ~~the Natural Resources Board~~ a district coordinator.

(1) The appellant shall provide notice of the filing of an appeal to each person entitled to notice under subdivisions 6085(c)(1)(A) through (D) of this title ~~and~~, to each person on an approved subdivision 6085(c)(1)(E) list, and to the Natural Resources Board.

(2) Failure to appeal within the time required under subsection (a) of this section shall render the decision of the ~~Board~~ district coordinator under subsection ~~6007(d)~~ 6007(c) of this title the final determination regarding jurisdiction under chapter 151 of this title unless the underlying jurisdictional

opinion issued by the district coordinator was not properly served on persons listed in subdivisions 6085(c)(1)(A) through (D) of this title and on persons on a subdivision 6085(c)(1)(E) list approved under subsection 6007(c) of this title.

* * * Effective Dates * * *

Sec. 38. EFFECTIVE DATES

This act shall take effect on January 1, 2018, except that:

(1) Sec. 4 (bulletin; revision) and this section shall take effect on passage and Secs. 1 (standard procedures) and 3 (environmental notice bulletin) shall apply to the implementation of Sec. 4.

(2) On passage, the Secretary of Natural Resources shall have authority to adopt rules in accordance with Sec. 1.

(Committee vote: 5-0-0)

Joint Resolution for Action

J.R.S. 43.

Joint resolution providing for a Joint Assembly to vote on the retention of four Superior Judges.

PENDING QUESTION: Shall the Senate adopt the resolution?

Text of resolution:

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, March 17, 2016, at ten o'clock and thirty minutes in the forenoon to vote on the retention of four Superior Judges. In case the vote to retain said Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 180.

An act relating to increasing General Fund appropriations to the Vermont State Colleges.

Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Education.

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

* * * Annual Appropriation to Vermont State Colleges, University of Vermont
and Vermont Student Assistance Corporation * * *

Sec. 1. 16 V.S.A. § 2889 is added to read:

§ 2889. APPROPRIATION TO VERMONT STATE COLLEGES,
UNIVERSITY OF VERMONT, AND VERMONT STUDENT ASSISTANCE
CORPORATION

For each fiscal year, the amount appropriated from the General Fund to each of the Vermont State Colleges, the University of Vermont, and the Vermont Student Assistance Corporation, or any of their successors, shall be increased by no less than that fiscal year's percentage increase in the General Fund transfer to the Education Fund under subdivision 4025(a)(2) of this title; provided, however, that in calculating the fiscal year's percentage increase in the General Fund transfer to the Education Fund, any surplus amount or one-time payment or adjustment that forms part of the General Fund transfer shall be disregarded.

* * * Appropriation to Vermont State Colleges
for Education and Training Services Program * * *

Sec. 2. APPROPRIATION TO THE VERMONT STATE COLLEGES TO
EXPAND EDUCATION AND TRAINING EVALUATION
SERVICES PROGRAM

The sum of \$40,000.00 is appropriated from the Next Generation Initiative Fund created pursuant to 16 V.S.A. § 2887 to the Vermont State Colleges for the purpose of providing funding for the Colleges' Education and Training Evaluation Services Program. The Vermont State Colleges shall use the appropriation to evaluate or reevaluate educational and training programs for college credit at no cost or at a reduced cost to the programs being evaluated. The Vermont State Colleges shall identify training programs in the skilled trades, including the plumbing and electrical trades, to receive these evaluation services. The Vermont State Colleges shall, on or before January 15, 2017, issue a report to the House and Senate Committees on Education describing how the funds appropriated pursuant to this section have been spent, how any remaining funds appropriated pursuant to this section will be spent, and the number and nature of the programs evaluated or reevaluated and the results of the evaluations.

* * * Appropriation to Vermont Higher Education
Endowment Trust Fund * * *

Sec. 3. 16 V.S.A. § 2885 is amended to read:

§ 2885. VERMONT HIGHER EDUCATION ENDOWMENT TRUST FUND

(a) A Vermont Higher Education Endowment Trust Fund is established in the ~~office~~ Office of the State Treasurer to comprise the following:

(1) appropriations made by the General Assembly;

(2) in any fiscal year in which a General Fund surplus exists and the General Fund Stabilization Reserve is funded to its required statutory level, funds raised by the estate tax levied under 32 V.S.A. chapter 190 that are more than ~~425~~ 110 percent of the amount projected by the Emergency Board in the July annual forecast made pursuant to 32 V.S.A. § 305a; and

(3) contributions from any other sources.

* * *

* * * Man Up Program Continuation and Evaluation * * *

Sec. 4. APPROPRIATION TO CONTINUE AND EVALUATE THE MAN UP PROGRAM

(a) Appropriation. The sum of \$103,200.00 is appropriated from the Next Generation Initiative Fund created pursuant to 16 V.S.A. § 2887 to the Secretary of Administration for the purpose of continuing and evaluating the Man Up Program, which is a program sponsored by the Vermont State Colleges. The Secretary shall administer the funds in accordance with subsection (d) of this section. Any unused funds shall revert to the General Fund.

(b) Program. The Man Up Program provides outreach, supportive advising, and up to three free courses toward a college degree to young Vermont men who have graduated from high school but have not continued on to college. The Program includes college courses offered by the Vermont State Colleges and the University of Vermont. The Program is currently offered in Morrisville, Vermont. The purpose of the appropriation in this section is to provide funding to continue this program for an additional year.

(c) Students.

(1) A Vermont resident who has completed grade 12 and has received a high school diploma is eligible to participate in the Program if:

(A) the student:

(i) is a male between 18 and 25 years of age;

(ii) has completed the Governor's Career Readiness Program at the Community College of Vermont; and

(iii) has not previously completed a postsecondary course outside the Man Up Program; and

(B) the postsecondary institution has determined that the student is sufficiently prepared to succeed in a postsecondary course, which can be determined in part by the assessment tool or tools identified by the participating postsecondary institution.

(2) An eligible student may enroll in up to three courses for which neither the student nor the student's parent or guardian shall be required to pay tuition. A student is not required to enroll in three courses in one semester but shall enroll in a minimum of one course in each consecutive semester in order to remain eligible.

(d) Payments. The Vermont State Colleges shall receive, on or before July 31, 2016, a payment of \$60,000.00. This payment shall be used for one full-time staff member, who shall provide outreach and advisory services to eligible students. The Vermont State Colleges and the University of Vermont shall receive \$800.00 for each course in which an eligible student remains enrolled for more than 30 days. This payment shall be made within 45 days of the date of enrollment.

(e) Reporting. The Vermont State Colleges and the University of Vermont shall, on or before January 15, 2017, issue a report to the House and Senate Committees on Education describing the amount received pursuant to this section, the manner in which those funds were used, the number of students in the Program, the number and type of courses taken by the students, the success of the students in completing the courses, and the advantages and disadvantages of the Program. The Vermont State Colleges and the University of Vermont shall in their reports recommend whether the Program should be terminated, modified, or enhanced.

* * * Complete College Program * * *

Sec. 5. COMPLETE COLLEGE PROGRAM

(a) Program creation. There is created the Complete College Program to enable more Vermonters, who are from families with low incomes and whose parents have not completed postsecondary education, to obtain a postsecondary degree and allow the University of Vermont and the Vermont State Colleges to improve their recruitment and support services for these students. The goal of the program is to improve graduation rates of these students, narrow the

inequality gap, reduce social services costs over time, and expand the State's workforce.

(b) Appropriation. The sum of \$3,000,000.00 is appropriated from the General Fund for fiscal year 2017 to the Secretary of Administration. The Secretary shall administer the funds in accordance with subsection (d) of this section. Any unused funds shall revert to the General Fund.

(c) Eligible students.

(1) A Vermont resident who has received a high school diploma or equivalency certificate is eligible to participate in the Program if:

(A) neither of the student's parents has obtained a bachelor's degree; and

(B) the student is eligible for a federal Pell grant.

(d) Amount of payments. The University of Vermont and the Vermont State Colleges shall receive, on or before June 30 of each year, a payment from the amount appropriated from the current fiscal year based on the number of eligible students, as defined in subsection (c) of this section, who graduated in the academic year ending on or before June 30 of that year. The amount paid shall be \$1,500.00 for each eligible student who was awarded an associate's degree in that academic year, and \$2,000.00 for each eligible student who was awarded a bachelor's degree in that academic year. In the event that the payments owed to the University of Vermont and the Vermont State Colleges exceed the amount of the appropriation from the current fiscal year, the payment per eligible student amounts set forth in this subdivision shall be reduced proportionally.

(e) Use of payments. The University of Vermont and the Vermont State Colleges shall use one-half of the payments received pursuant to this section to provide financial aid to eligible students, and shall use one-half of the payments received pursuant to this section to build support systems designed to allow first-generation students and students with low income to graduate from college in a timely fashion.

(f) The University of Vermont and the Vermont State Colleges shall, on or before October 1 of each year, issue a report to the House and Senate Committees on Education describing the amount received pursuant to this section from the prior fiscal year appropriation and the manner in which those funds were used.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 5-0-1)

S. 214.

An act relating to transfer of Exchange plan administration to health insurance carriers.

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

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. 33 V.S.A. § 1802 is amended to read:

§ 1802. DEFINITIONS

As used in this subchapter:

* * *

(5) "Qualified employer":

(A) means an entity which employed an average of not more than 50 employees on working days during the preceding calendar year and which:

(i) has its principal place of business in this State and elects to provide coverage for its eligible employees through the Vermont Health Benefit Exchange, regardless of where an employee resides; or

(ii) elects to provide coverage through the Vermont Health Benefit Exchange for all of its eligible employees who are principally employed in this State;

(B) on and after January 1, 2016, shall include an entity which:

(i) employed an average of not more than 100 employees on working days during the preceding calendar year; and

(ii) meets the requirements of subdivisions (A)(i) and (A)(ii) of this subdivision (5);

~~(C) on and after January 1, 2018, shall include all employers meeting the requirements of subdivisions (A)(i) and (ii) of this subdivision (5), regardless of size. [Repealed.]~~

* * *

Sec. 2. 33 V.S.A. § 1804 is amended to read:

§ 1804. QUALIFIED EMPLOYERS

* * *

(b)(1) ~~From~~ On and after January 1, 2016 ~~until January 1, 2017~~, a qualified employer shall be an entity which employed an average of not more than 100 employees on working days during the preceding calendar year and the term “qualified employer” includes self-employed persons to the extent permitted under the Affordable Care Act. The number of employees shall be calculated using the method set forth in 26 U.S.C. § 4980H(c)(2).

(2) An employer with 100 or fewer employees that offers a qualified health benefit plan to its employees through the Vermont Health Benefit Exchange may continue to participate in the Exchange even if the employer’s size grows beyond 100 employees as long as the employer continuously makes qualified health benefit plans in the Vermont Health Benefit Exchange available to its employees.

~~(c) On and after January 1, 2018, a qualified employer shall be an employer of any size which elects to make all of its full-time employees eligible for one or more qualified health plans offered in the Vermont Health Benefit Exchange, and the term “qualified employer” includes self-employed persons. A full-time employee shall be an employee who works more than 30 hours per week. [Repealed.]~~

And that after passage the title of the bill be amended to read: “An act relating to large group insurance”

(Committee vote: 5-0-2)

S. 225.

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

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

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

* * * Dealers * * *

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

(8)(A)(i) “Dealer” means a person, partnership, corporation, or other entity engaged in the business of selling or exchanging new or used motor vehicles, snowmobiles, motorboats, or all-terrain vehicles. A dealer may, as part of or incidental to such business, repair such vehicles or motorboats, sell parts and accessories, or lease or rent such vehicles or motorboats. “Dealer” shall not include a finance or auction dealer or a transporter.

(ii)(I) For a dealer in new or used cars or motor trucks, “engaged in the business” means having sold or exchanged at least 12 cars or motor

trucks, or a combination thereof, in the immediately preceding year, or 24 in the two immediately preceding years.

(II) For a dealer in snowmobiles, motorboats, or all-terrain vehicles, “engaged in the business” means having sold or exchanged at least ~~one snowmobile, motorboat, or all-terrain vehicle~~ six snowmobiles, motorboats, or all-terrain vehicles, respectively, in the immediately preceding year or ~~two~~ 12 in the two immediately preceding years.

(III) For a dealer in trailers, semi-trailers, or trailer coaches, “engaged in the business” means having sold or exchanged at least ~~one trailer, semi-trailer, or trailer~~ each six trailers, semi-trailers, or trailer coaches, in the immediately preceding year or a combination of ~~two~~ 12 such vehicles in the two immediately preceding years. However, the sale or exchange of a trailer with a gross vehicle weight rating of 3,500 pounds or less shall be excluded under this subdivision (8)(A)(ii)(III).

(IV) For a dealer in motorcycles or motor-driven cycles, “engaged in the business” means having sold or exchanged at least ~~one motoreycle or motor-driven eyele~~ six motorcycles or motor-driven cycles in the immediately preceding year or a combination of ~~two~~ 12 such vehicles in the two immediately preceding years.

* * *

Sec. 2. DEALER REGULATION REVIEW

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

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

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

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

(c) The Commissioner shall review:

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

(2) physical location requirements of dealers;

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

(4) the permitted uses of dealer plates;

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

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

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

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

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

* * * Motor-Assisted Bicycles * * *

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

§ 4. DEFINITIONS

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

* * *

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

(B) “Motor-assisted bicycle” means a bicycle or tricycle with fully operable pedals, that is equipped with a motor capable of generating a maximum power prescribed by the Commissioner or capable of producing a maximum top speed as prescribed by the Commissioner or both. Under Vermont law, motor-assisted bicycles shall be governed as bicycles as prescribed in section 1136 of this title.

* * *

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

(d) Motor-assisted bicycles shall be governed by Vermont laws applicable to bicycles, and operators of motor-assisted bicycles shall be subject to all of the rights and duties applicable to bicyclists under Vermont law. Motor-assisted bicycles shall be exempt from motor vehicle registration, licensing, and inspection requirements. Nothing in this subsection shall interfere with the existing right of municipalities to regulate the operation and use of motor-assisted bicycles in accordance with 24 V.S.A. § 2291(1) and (4).

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

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

§ 115. NONDRIVER IDENTIFICATION CARDS

* * *

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

* * *

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

* * *

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

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

§ 327. REFUND WHEN PLATES NOT USED

Subject to the conditions set forth in subdivisions (1), (2), and (3) of this section, the Commissioner may cancel the registration of a motor vehicle, snowmobile, or motor boat when the owner returns the number plates, if any, ~~the validation sticker, if issued for that year,~~ and the registration certificate to the Commissioner. Upon cancellation of the registration, the Commissioner shall notify the Commissioner of Finance and Management, who shall issue a refund as follows:

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

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

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

* * * Refunds of Overpayments * * *

Sec. 7. 23 V.S.A. § 381(e) is amended to read:

(e) Whenever a payment is received that is less than, but within \$0.99 of, the required fee, the transaction shall be processed. The Commissioner may determine that action will not be taken to collect the missing portion of the fee. ~~When~~ Notwithstanding 32 V.S.A. § 509, when a payment up to \$1.00 \$5.00 greater than the required fee is received, the excess shall not be refunded.

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

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

§ 208. RECIPROCAL RECOGNITION OF NONRESIDENT REGISTRATIONS, LICENSES, AND PERMITS, FOREIGN VISITORS

As determined by the Commissioner, and consistent with section 601 of this title, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits.

However, these exemptions shall be operative only to the extent that under the laws of the foreign country or state of the owner's or operator's residence like exemptions and privileges are granted to owners of motor vehicles duly registered and to operators duly licensed or permitted under the laws of this State, except that if the owner or operator is a resident of a country not adjoining the United States, the exemptions shall be operative for a period of not more than 30 days for vacation purposes even if the country does not grant like privileges to residents of this State.

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

§ 411. ~~RECIPROCAL PROVISIONS~~

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

* * * Operator's Licenses * * *

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

§ 601. LICENSE REQUIRED

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

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

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

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

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

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

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

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

* * *

(c) At least 30 days before a license is scheduled to expire, the Commissioner shall either mail first class to the licensee or send the licensee electronically an application for renewal of the license. A person shall not operate a motor vehicle unless properly licensed.

* * *

Sec. 11. CONFORMING CHANGES

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

* * * Special Examinations; Conforming Changes * * *

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

§ 637. EXAMINERS OF PHYSICAL AND MENTAL CONDITIONS

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

decision as to whether the person examined should be granted or allowed to retain an operator's license or permitted to operate a motor vehicle.

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

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

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

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

§ 639. FEES FOR PHYSICAL AND MENTAL EXAMINATIONS

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

* * * School Bus Operators * * *

Sec. 15. 23 V.S.A. § 1282(d) is amended to read:

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

(A) a certificate signed by a licensed physician, ~~or~~ a certified physician assistant, or a nurse practitioner in accordance with written protocols, certifying that ~~he or she~~ the licensee is, as far as can be determined by reasonable inquiry and examination, mentally and physically competent to perform his or her duties; and that he or she meets or exceeds the minimum hearing standards, based on voice testing, as prescribed by the Commissioner; and

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

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

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

* * * Overweight and Overdimension Vehicles * * *

Sec. 16. 23 V.S.A. § 1391a(d) is amended to read:

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

Sec. 17. 23 V.S.A. § 1400(d) is amended to read:

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

* * * Motor Vehicle Titles * * *

Sec. 18. 23 V.S.A. § 2001 is amended to read:

§ 2001. DEFINITIONS

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

* * *

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

* * *

(17) “Salvage certificate of title” means a title that is stamped or otherwise branded to indicate that the vehicle described thereon is a salvaged

motor vehicle ~~or has been scrapped, dismantled, destroyed, or declared a total loss by an insurance company, or both.~~

* * *

Sec. 19. 23 V.S.A. § 2019 is amended to read:

§ 2019. MAILING OR DELIVERING CERTIFICATE

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

Sec. 20. 23 V.S.A. § 2091 is amended to read:

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

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

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

(1) any certificate of title; and

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

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

(A) the required fee;

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

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

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

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

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

* * * Abandoned Motor Vehicles * * *

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

Subchapter 7. Abandoned Motor Vehicles

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

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

(1)(A) "Abandoned motor vehicle" means:

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

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

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

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

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

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

§ 2152. AUTHORIZED REMOVAL OF ABANDONED MOTOR VEHICLES

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

(b) Private property.

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

(2) ~~An owner or agent of an owner~~ A landowner of private property is authorized to remove or cause removal of an abandoned motor vehicle from that property or to any other place on any property of the landowner, and may

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

§ 2153. ABANDONED MOTOR VEHICLE CERTIFICATION

(a) ~~Within 30 days of removal of the vehicle, a towing service which has removed an abandoned motor vehicle~~ A landowner on whose property an abandoned motor vehicle is located shall apply to the Department for an abandoned motor vehicle certification on forms supplied by the Department ~~of Motor Vehicles~~ within 30 days of the date the vehicle was discovered on or brought to the property unless the vehicle has been removed from the property. An abandoned motor vehicle certification form shall indicate the date ~~of removal, that the abandoned motor vehicle was discovered or brought to the property; the make, color, model, and location found, and of the vehicle;~~ the name, address, and ~~phone~~ telephone number of the ~~towing service,~~ landowner; and a certification of the public vehicle identification number, if any, to be recorded by a law enforcement officer. This subsection shall not be construed as creating a private right of action against the landowner.

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

§ 2154. IDENTIFICATION AND RECLAMATION OF ABANDONED MOTOR VEHICLES

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

(1) If the abandoned motor vehicle is not identifiable by its registration plates or public vehicle identification number, and if no owner can be

determined within 21 days of the date of receipt of the abandoned motor vehicle certification form, the Commissioner ~~of Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with an appropriate title or salvage title.

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

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

§ 2155. FEES AND CHARGES

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

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

* * *

* * * Repeals and Conforming Change * * *

Sec. 22. REPEALS

The following sections are repealed:

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

(2) 23 V.S.A. § 382 (diesel-powered pleasure cars; registration).

(3) 23 V.S.A. § 423 (negotiating and entering into an interstate compact regarding truck license fees).

(4) 23 V.S.A. § 605 (unsatisfied judgment; suspension).

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

§ 369. TRACTORS OTHER THAN FARM TRACTORS

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

Sec. 24. 23 V.S.A. § 603(a)(2) is amended to read:

(2) The Commissioner may, however, in his or her discretion, refuse to issue a license to any person whenever he or she is satisfied from information given him or her by credible persons, and upon investigation, that the person is mentally or physically unfit, or because of his or her habits, or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. A person refused a license; ~~under the provisions of this subsection or section 605 of this title;~~ shall be entitled to hearing as provided in sections 105–107 of this title.

Sec. 25. 18 V.S.A. § 1772(13) is amended to read:

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

* * * Effective Dates * * *

Sec. 26. EFFECTIVE DATES

(a) This section and Sec. 25 shall take effect on passage.

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

(Committee vote: 5-0-0)

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.

Kirstin Schoonover of Huntington – Superior Court Judge – By Sen. Benning for the Committee on Judiciary. (2/25/16)

Brian Valentine of Huntington – Magistrate Division Judge – By Sen. Nitka for the Committee on Judiciary. (3/9/16)

Mary Morrissey of Jericho – Superior Court Judge – By Sen. Ashe for the Committee on Judiciary. (3/9/16)

FOR INFORMATION ONLY

CROSS OVER DATES

The Joint Rules Committee established the following Crossover deadlines:

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

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

Note: The Senate will not act on 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).