

Senate Calendar

THURSDAY, APRIL 14, 2016

SENATE CONVENES AT: 1:00 P.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

UNFINISHED BUSINESS OF APRIL 12, 2016

House Proposal of Amendment

H. 84 An act relating to Internet dating services 1265

UNFINISHED BUSINESS OF APRIL 13, 2016

Third Reading

H. 824 An act relating to the adoption of occupational safety and health rules and standards 1302

Second Reading

Favorable with Proposal of Amendment

H. 261 An act relating to criminal record inquiries by an employer Econ. Dev., Housing and General Affairs Report - Sen. Mullin 1302

NEW BUSINESS

Third Reading

S. 242 An act relating to the service of civil process by a constable 1303

H. 74 An act relating to safety protocols for social and mental health workers 1303

H. 135 An act relating to authorizing the Vermont Department of Health to charge fees necessary to support Vermont's status as a Nuclear Regulatory Commission Agreement State 1303

H. 539 An act relating to establishment of a Pollinator Protection Committee 1303

H. 674 An act relating to public notice of wastewater discharges 1303

H. 765 An act relating to technical corrections 1303

H. 778 An act relating to State enforcement of the federal Food Safety Modernization Act..... 1303

Second Reading

Favorable

H. 864 An act relating to agricultural exemption from Vermont’s sales and use tax
Finance Report - Sen. MacDonald 1303

House Proposal of Amendment

S. 171 An act relating to eligibility for pretrial risk assessment and needs screening..... 1304

NOTICE CALENDAR

Second Reading

Favorable

H. 249 An act relating to intermunicipal services
Government Operations Report - Sen. Collamore 1304

H. 519 An act relating to approval of the adoption and codification of the charter of the Town of Brandon
Government Operations Report - Sen. Collamore 1304

Favorable with Proposal of Amendment

H. 434 An act relating to law enforcement and fire service training safety
Government Operations Report - Sen. Pollina 1305

H. 559 An act relating to an exemption from licensure for visiting team physicians
Health and Welfare Report - Sen. McCormack 1308

H. 610 An act relating to clarifying the Clean Water State Revolving Fund and Water Pollution Control Grant Programs
Natural Resources and Energy Report - Sen. Rodgers 1309

H. 829 An act relating to water quality on small farms
Agriculture Report -Sen. Sirotkin 1309

H. 845 An act relating to legislative review of certain report requirements
Government Operations Report - Sen. Pollina 1311

Senate Resolution for Notice

S.R. 12 Senate resolution amending the permanent rules of the Senate 1324

Proposed Amendment to the Constitution

Prop 1 Declaration of rights; right to privacy 1325

CONCURRENT RESOLUTIONS FOR NOTICE

S.C.R. 42 (For text of Resolution, see Addendum to Senate Calendar for April 14, 2016) 1326

H.C.R. 330-344 (For text of Resolutions, see Addendum to House Calendar for April 14, 2016)..... 1326

ORDERS OF THE DAY

ACTION CALENDAR

UNFINISHED BUSINESS OF TUESDAY, APRIL 12, 2016

House Proposal of Amendment to Senate Proposal of Amendment

H. 84

An act relating to internet dating services

The House concurs in the Senate proposal of amendment with further amendment thereto by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Consumer Litigation Funding * * *

Sec. A.1. 8 V.S.A. chapter 74 is added to read:

CHAPTER 74. CONSUMER LITIGATION FUNDING COMPANIES

§ 2251. DEFINITIONS

As used in this chapter:

(1) “Charges” means the amount a consumer owes to a company in addition to the funded amount and includes an administrative fee, origination fee, underwriting fee, processing fee, and any other fee regardless of how the fee is denominated, including amounts denominated as interest or rate.

(2) “Commissioner” means the Commissioner of Financial Regulation.

(3) “Consumer” means a natural person who is seeking or has obtained consumer litigation funding for a pending legal claim, provided:

(A) the claim is in Vermont; or

(B) the person resides or is domiciled in Vermont, or both.

(4) “Consumer litigation funding” or “funding” means a nonrecourse transaction in which a company purchases and a consumer assigns to the company a contingent right to receive an amount of the potential net proceeds of a settlement or judgment obtained from the consumer’s legal claim. If no proceeds or net proceeds are obtained, the consumer is not required to repay the company the funded amount or charges.

(5) “Consumer litigation funding company,” “litigation funding company,” or “company” means a person that provides consumer litigation funding to a consumer. The term does not include an immediate family member of the consumer, as defined in subdivision 2200(10) of this title.

(6) “Funded amount” means the amount of monies provided to, or on behalf of, the consumer pursuant to a litigation funding contract. The term excludes charges.

(7) “Health care facility” has the same meaning as in 18 V.S.A. § 9402(6).

(8) “Health care provider” has the same meaning as in 18 V.S.A. § 9402(7).

(9) “Litigation funding contract” or “contract” means a contract between a company and a consumer for the provision of consumer litigation funding.

(10)(A) “Net proceeds” means the amount recovered by a consumer as a result of a legal claim less costs associated with the legal claim or the underlying events giving rise to the legal claim, including:

(i) attorney’s fees, attorney liens, litigation costs;

(ii) claims or liens for related medical services owned and asserted by the provider of such services;

(iii) claims or liens for reimbursement arising from third parties who have paid related medical expenses, including claims from insurers, employers with self-funded health care plans, and publicly financed health care plans; and

(iv) liens for workers’ compensation benefits paid to the consumer.

(B) This definition of “net proceeds” shall in no way affect the priority of claims or liens other than those for payments to the consumer litigation funding company under a consumer litigation funding contract subject to this chapter.

§ 2252. REGISTRATION; FEE; FINANCIAL STABILITY

(a) A company shall not engage in the business of consumer litigation funding without first filing a registration with the Commissioner on a form prescribed by the Commissioner and submitting a registration fee and proof of financial stability, as required by this section.

(b) A company shall submit a \$600.00 fee at the time of registration and at the time of each renewal. Registrations shall be renewed every three years.

(c) A company shall file with the Commissioner evidence of its financial stability which shall include proof of a surety bond or irrevocable letter of credit issued and confirmed by a financial institution authorized by law to transact business in Vermont that is equal to double the amount of the

company's largest funded amount in Vermont in the prior three calendar years or \$50,000.00, whichever is greater.

§ 2253. CONTRACTS; DISCLOSURES AND REQUIREMENTS

(a) A contract shall be written in a clear and coherent manner using words with common, everyday meanings to enable the average consumer who makes a reasonable effort under ordinary circumstances to read and understand the terms of the contract without having to obtain the assistance of a professional.

(b) Each contract shall include consumer disclosures on the front page. The consumer disclosures shall be in a form prescribed by the Commissioner and shall include:

(1) a description of possible alternatives to a litigation funding contract, including secured or unsecured personal loans, and life insurance policies;

(2) notification that some or all of the funded amount may be taxable;

(3) a description of the consumer's right of rescission;

(4) the total funded amount provided to the consumer under the contract;

(5) an itemization of charges;

(6) the annual percentage rate of return;

(7) the total amount due from the consumer, including charges, if repayment is made any time after the funding contract is executed;

(8) a statement that there are no fees or charges to be paid by the consumer other than what is disclosed on the disclosure form;

(9) in the event the consumer seeks more than one litigation funding contract, a disclosure providing the cumulative amount due from the consumer for all transactions, including charges under all contracts, if repayment is made any time after the contracts are executed;

(10) a statement that the company has no right to make any decisions regarding the conduct of the legal claim or any settlement or resolution thereof and that the right to make such decisions remains solely with the consumer and his or her attorney;

(11) a statement that, if there is no recovery of any money from the consumer's legal claim, the consumer shall owe nothing to the company and that, if the net proceeds of the claim are insufficient to repay the consumer's indebtedness to the company, then the consumer shall owe the company no money in excess of the net proceeds; and

(12) any other statements or disclosures deemed necessary or appropriate by the Commissioner.

(c) Each contract shall include the following provisions:

(1) Definitions of the terms “consumer,” “consumer litigation funding,” and “consumer litigation funding company.”

(2) A right of rescission, allowing the consumer to cancel the contract without penalty or further obligation if, within five business days following the execution of the contract or the consumer’s receipt of any portion of the funded amount, the consumer gives notice of the rescission to the company and returns any funds provided to the consumer by the company.

(3) A provision specifying that, in the event of litigation involving the contract and at the election of the consumer, venue shall lie in the Vermont Superior Court for the county where the consumer resides.

(4) An acknowledgment that the consumer is represented by an attorney in the legal claim and has had an opportunity to discuss the contract with his or her attorney.

§ 2254. PROHIBITED ACTS

(a) A consumer litigation funding company shall not engage in any of the following conduct or practices:

(1) Pay or offer to pay commissions, referral fees, or any other form of consideration to any attorney, law firm, health care provider, health care facility, or an employee of a law firm, health care provider, or health care facility for referring a consumer to the company.

(2) Accept any commissions, referral fees, or any other form of consideration from any attorney, law firm, health care provider, health care facility, or an employee of a law firm, health care provider, or health care facility.

(3) Advertise false or misleading information regarding its products or services.

(4) Receive any right to nor make any decisions with respect to the conduct of the consumer’s legal claim or any settlement or resolution. The right to make such decisions shall remain solely with the consumer and his or her attorney.

(5) Knowingly pay or offer to pay for court costs, filing fees, or attorney’s fees either during or after the resolution of the legal claim.

(6) Refer a consumer to a specific attorney, law firm, health care provider, or health care facility.

(7) Fail to provide promptly copies of contract documents to the consumer or to the consumer's attorney.

(8) Obtain a waiver of any remedy the consumer might otherwise have against the company.

(9) Provide legal advice to the consumer regarding the funding or the underlying legal claim.

(10) Assign a contract in whole or in part to a third party. Provided, however, if the company retains responsibility for collecting payment, administering, and otherwise enforcing the consumer litigation funding contract, the prohibition in this subdivision (10) shall not apply to an assignment:

(A) to a wholly-owned subsidiary of the company;

(B) to an affiliate of the company that is under common control with the company; or

(C) granting a security interest under Article 9 of the Uniform Commercial Code or as otherwise permitted by law.

(11) Report a consumer to a credit reporting agency if insufficient funds remain from the net proceeds to repay the company.

(12) Require binding arbitration in the event of a dispute between the consumer and the company. A consumer has the right to a trial in the event of a contractual dispute.

(b) An attorney or law firm retained by a consumer shall not have a financial interest in a company offering litigation funding to the consumer and shall not receive a referral fee or other consideration from such company, its employees, or its affiliates.

§ 2255. EFFECT OF COMMUNICATION ON PRIVILEGES

A communication between a consumer's attorney and the company shall not be discoverable or limit, waive, or abrogate the scope or nature of any statutory or common-law privilege, including the work-product doctrine and the attorney-client privilege.

§ 2256. EXAMINATIONS; CHARGES

For the purpose of protecting consumer interests and determining a company's financial stability and compliance with the requirements of this chapter, the Commissioner may conduct an examination of a company engaged

in the business of consumer litigation funding. The company shall reimburse the Department of Financial Regulation all reasonable costs and expenses of such examination. In unusual circumstances and in the interests of justice, the Commissioner may waive reimbursement for the costs and expenses of an examination under this section.

§ 2257. NATIONWIDE LICENSING SYSTEM; INFORMATION SHARING; CONFIDENTIALITY

(a) In furtherance of the Commissioner's duties under this chapter, the Commissioner may participate in the Nationwide Mortgage Licensing System and Registry and may take such action regarding participation in the Registry as the Commissioner deems necessary to carry out the purposes of this section, including:

(1) issue rules or orders, or establish procedures, to further participation in the Registry;

(2) facilitate and participate in the establishment and implementation of the Registry;

(3) establish relationships or contracts with the Registry or other entities designated by the Registry;

(4) authorize the Registry to collect and maintain records and to collect and process any fees associated with licensure or registration on behalf of the Commissioner;

(5) require persons engaged in activities that require registration under this chapter to use the Registry for applications, renewals, amendments, surrenders, and such other activities as the Commissioner may require and to pay through the Registry all fees provided for under this chapter;

(6) authorize the Registry to collect fingerprints on behalf of the Commissioner in order to receive or conduct criminal history background checks, and, in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of this subsection, the Commissioner may use the Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any other governmental agency; and

(7) in order to reduce the points of contact which the Commissioner may have to maintain for purposes of this chapter, use the Registry as a channeling agent for requesting and distributing information to and from any source so directed by the Commissioner.

(b) The Commissioner may require persons engaged in activities that require registration under this chapter to submit fingerprints, and the

Commissioner may use the services of the Registry to process the fingerprints and to submit the fingerprints to the Federal Bureau of Investigation, the Vermont State Police, or any equivalent state or federal law enforcement agency for the purpose of conducting a criminal history background check. The company shall pay the cost of such criminal history background check, including any charges imposed by the Registry.

(c) Persons engaged in activities that require registration pursuant to this chapter shall pay all applicable charges to use the Registry, including such processing charges as the administrator of the Registry shall establish, in addition to the fees required under this chapter.

(d) The Registry is not intended to and does not replace or affect the Commissioner's authority to grant, deny, suspend, revoke, or refuse to renew registrations.

(e) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing:

(1) The privacy or confidentiality of any information or material provided to the Registry and any privilege arising under federal or state law (including the rules of any federal or state court) with respect to such information or material shall continue to apply to such information or material after the information or material has been disclosed to the Registry. Such information and material may be shared with all state and federal regulatory officials with oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or state law.

(2) To carry out the purpose of this section, the Commissioner is authorized to enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies.

(3) Information or material that is subject to privilege or confidentiality under subdivision (1) of this subsection shall not be subject to:

(A) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(B) subpoena or discovery or admission into evidence in any private civil action or administrative process unless with respect to any privilege held by the Registry with respect to such information or material the person to whom such information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

(4) This subsection shall not apply with respect to information or material relating to employment history and publicly adjudicated disciplinary and enforcement actions that are included in the Registry for access by the public.

(f) In this section, "Nationwide Mortgage Licensing System and Registry" or "the Registry" means a licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators as defined in 12 U.S.C. § 5102(6), or its successor in interest, or any alternative or replacement licensing system and registry designated by the Commissioner.

§ 2258. RULES

The Commissioner may adopt rules he or she deems necessary for the proper conduct of business and enforcement of this chapter.

§ 2259. PENALTIES; ENFORCEMENT

(a) After notice and opportunity for hearing in accordance with the Administrative Procedures Act, 3 V.S.A. chapter 25, the Commissioner may take action to enforce the provisions of this chapter and may:

(1) revoke or suspend a company's registration;

(2) order a company to cease and desist from further consumer litigation funding;

(3) impose a penalty of not more than \$1,000.00 for each violation or \$10,000.00 for each violation the Commissioner finds to be willful; and

(4) order the company to make restitution to consumers.

(b) The powers vested in the Commissioner by this chapter shall be in addition to any other powers of the Commissioner to enforce any penalties, fines, or forfeitures authorized by law.

(c) A company's failure to comply with the requirements of this chapter shall constitute an unfair or deceptive act in commerce enforceable under 9 V.S.A. chapter 63, the Consumer Protection Act.

(d) The powers vested in the Commissioner by this chapter shall be in addition to any other powers or rights of consumers or the Attorney General or others under any other applicable law or rule, including the Vermont Consumer Protection Act and any applicable rules adopted thereunder, provided the Commissioner's determinations concerning the interpretation and administration of the provisions of this chapter and rules adopted thereunder shall carry a presumption of validity.

§ 2260. ANNUAL REPORTS

(a) Annually, on or before April 1, each company registered under this chapter shall file a report with the Commissioner under oath and in the form and manner prescribed by the Commissioner. The report shall include any information the Commissioner requires concerning the company's business and operations during the preceding calendar year within Vermont and, in addition, shall include:

(1) the number of contracts entered into;

(2) the dollar value of funded amounts to consumers;

(3) the dollar value of charges under each contract, itemized and including the annual rate of return;

(4) the dollar amount and number of litigation funding transactions in which the realization to the company was as contracted; and

(5) the dollar amount and number of litigation funding transactions in which the realization to the company was less than contracted.

(b) To assist the general public with more fully understanding the nature of consumer litigation funding in Vermont, the Commissioner shall summarize and analyze relevant data submitted under this section and publish the summary and analysis on a web page maintained by the Department of Financial Regulation, as well as on a web page maintained by the Office of the Attorney General.

(c) Annually, beginning on or before October 1, 2017, the Commissioner and Attorney General shall report jointly to the General Assembly on the status of consumer litigation funding in Vermont and make any recommendations they deem necessary to improve the regulatory framework of consumer litigation funding, including a recommendation on whether Vermont should limit charges imposed under a consumer litigation funding contract.

* * * Structured Settlement Agreements * * *

Sec. B.1. 9 V.S.A. § 2480ff(b) is amended to read:

(b) Not less than 20 days prior to the scheduled hearing on any application for approval of a transfer of structured settlement payment rights under section 2480dd of this title, the transferee shall file with the Court and serve on all interested parties a notice of the proposed transfer and the application for its authorization, including with such notice:

* * *

(7) a statement setting forth whether, to the best of the transferee's knowledge after making a reasonable inquiry to the payee, the structured settlement obligor, and the annuity issuer, there have been any previous transfers or applications for transfer of any structured settlement payment rights of the payee and giving details of all such transfers or applications for transfer;

(8) to the best of the transferee's knowledge after making reasonable inquiry to the payee, the structured settlement obligor, and the annuity issuer, a description of the remaining payments owed to the payee under the structured settlement if the court approves the proposed transfer, including the amount and dates or date ranges of the payments owed, provided that:

(A) the description may be filed under seal; and

(B) if the transferee's knowledge concerning the remaining payments changes after the transferee submits a notice of the proposed transfer, the transferee may provide updated information to the court at the hearing;

~~(8)~~(9) if available to the transferee after making a good faith request of the payee, the structured settlement obligor and the annuity issuer, the following documents, which shall be filed under seal:

(A) a copy of the annuity contract;

(B) a copy of any qualified assignment agreement; and

(C) a copy of the underlying structured settlement agreement;

~~(9)~~(10) either a certification from an independent professional advisor establishing that the advisor has given advice to the payee on the financial advisability of the transfer and the other financial options available to the payee or a written request that the Court determine that such advice is unnecessary pursuant to subdivision 2480dd(a)(2) of this title; and

~~(10)~~(11) notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed, which shall be not less than 15 days after service of the transferee's notice, in order to be considered by the court.

* * * Business Registration; Enforcement * * *

Sec. C.1. PURPOSE

(a) The purpose of 11 V.S.A. § 1637, as added in Sec. C. 2 of this act, is to protect consumers by ensuring that they have adequate public notice in the records of the Secretary of State when a person is no longer allowed to conduct business in this State.

(b) The purpose of Secs. C.3–C.14 is to standardize among the statutes governing business organizations authorized to conduct business in this State:

- (1) the duty of a person to register with the Secretary of State; and
- (2) the enforcement and penalties for failure register.

Sec. C.2. 11 V.S.A. § 1637 is added to read:

§ 1637. AUTHORITY TO TERMINATE AND AMEND REGISTRATION

(a) The Secretary of State shall have the authority to:

(1) terminate the registration of a person who, pursuant to a final court order or an assurance of discontinuance, is not authorized to conduct business in this State; and

(2) amend his or her records to reflect the termination of a registration pursuant to subdivision (1) of this section.

(b)(1) If the Secretary of State terminates the registration of a person pursuant to this section, the person appoints the Secretary as his or her agent for service of process in any proceeding based on a cause of action that arose during the time the person was authorized to transact, or was transacting without authorization, business in this State.

(2) Upon receipt of process, the Secretary of State shall deliver by registered mail a copy of the process to the secretary of the terminated person at its principal office shown in its most recent annual report or in any subsequent communication received from the person stating the current mailing address of its principal office, or, if none is on file, in its application for registration.

(c)(1) If a court or other person with sufficient legal authority reinstates the ability of a terminated person to conduct business in this State, the terminated person may file with the Secretary of State evidence of the reinstated authority and pay to the Secretary a fee of \$25.00 for each year the person is delinquent.

(2) Upon receipt of a filing and payment pursuant to subdivision (1) of this subsection, the Secretary shall cancel the termination and prepare a

certificate of reinstatement, file the original of the certificate, and serve a copy on the person.

Sec. C.3. 11 V.S.A. § 1626 is amended to read:

§ 1626. FAILURE TO REGISTER; ENFORCING COMPLIANCE

~~Upon the complaint of the secretary of state, a person, copartnership, association, limited liability company or corporation carrying on business in this state contrary to this chapter may be enjoined therefrom by a superior court and fined not more than \$100.00.~~

(a) A person who is not registered with the Secretary of State as required under this chapter and any successor to the person or assignee of a cause of action arising out of the business of the person may not maintain an action or proceeding or raise a counterclaim, crossclaim, or affirmative defense in this State until the person, successor, or assignee registers with the Secretary.

(b) The failure of a person to register as required under this chapter does not impair the validity of a contract or act of the person or preclude it from defending an action or proceeding in this State.

(c) An individual does not waive a limitation on his or her personal liability afforded by other law solely by transacting business in this State without registering with the Secretary of State as required under this chapter.

(d) If a person transacts business in this State without registering with the Secretary of State as required under this chapter, the Secretary is its agent for service of process with respect to a right of action arising out of the transaction of business in this State.

(e) A person that transacts business in this State without registering with the Secretary of State as required under this chapter shall be liable to the State for:

(1) a civil penalty of \$50.00 for each day, not to exceed a total of \$10,000.00 for each year, it transacts business in this State without a registration;

(2) an amount equal to the fees due under this chapter during the period it transacted business in this State without a registration; and

(3) other penalties imposed by law.

(f) The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in subsection (e) of this section and to restrain a person from transacting business in this State in violation of this chapter.

Sec. C.4. 11 V.S.A. § 3303 is amended to read:

§ 3303. EFFECT OF FAILURE TO QUALIFY

(a)(1) A foreign limited liability partnership transacting business in this ~~state~~ State may not maintain an action or proceeding or raise a counterclaim, crossclaim, or affirmative defense in this ~~state~~ State unless it has in effect a statement of foreign qualification.

(2) The successor to a foreign limited liability partnership that transacted business in this State without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense based on that cause of action in any court in this State until the foreign limited liability partnership or its successor or assignee obtains a certificate of authority.

(b) The failure of a foreign limited liability partnership to have in effect a statement of foreign qualification does not impair the validity of a contract or act of the foreign limited liability partnership or preclude it from defending an action or proceeding in this ~~state~~ State.

(c) A limitation on personal liability of a partner is not waived solely by transacting business in this ~~state~~ State without a statement of foreign qualification.

(d) If a foreign limited liability partnership transacts business in this ~~state~~ State without a statement of foreign qualification, the ~~secretary of state~~ Secretary of State is its agent for service of process with respect to a right of action arising out of the transaction of business in this ~~state~~ State.

(e) A foreign limited liability partnership that transacts business in this State without a statement of foreign qualification shall be liable to the State for:

(1) a civil penalty of \$50.00 for each day, not to exceed a total of \$10,000.00 for each year, it transacts business in this State without a statement of foreign qualification;

(2) an amount equal to the fees due under this chapter during the period it transacted business in this State without a statement of foreign qualification; and

(3) other penalties imposed by law.

Sec. C.5. 11 V.S.A. § 3305 is amended to read:

§ 3305. ACTION BY ATTORNEY GENERAL

The ~~attorney general~~ Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in section 3303 of this title and to restrain a foreign limited liability partnership from transacting business in this state State in violation of this subchapter.

Sec. C.6. 11 V.S.A. § 3487 is amended to read:

§ 3487. TRANSACTION OF BUSINESS WITHOUT REGISTRATION

(a)(1) A foreign limited partnership transacting business in this ~~state~~ State may not maintain an action or proceeding or raise a counterclaim, crossclaim, or affirmative defense in this ~~state~~ State until it has registered in this ~~state~~ State.

(2) The successor to a foreign limited partnership that transacted business in this State without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense based on that cause of action in any court in this State until the foreign limited partnership or its successor or assignee obtains a certificate of authority.

(b) The failure of a foreign limited partnership to register in this ~~state~~ State does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit, or proceeding in any court of this ~~state~~ State.

(c) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this ~~state~~ State without registration.

(d) A foreign limited partnership, by transacting business in this ~~state~~ State without registration, appoints the ~~secretary of state~~ Secretary of State as its agent for service of process with respect to claims for relief and causes of action arising out of the transaction of business in this ~~state~~ State.

(e) A foreign limited partnership that transacts business in this State without a registration shall be liable to the State for:

(1) a civil penalty of \$50.00 for each day, not to exceed a total of \$10,000.00 for each year, it transacts business in this State without a registration;

(2) an amount equal to the fees due under this chapter during the period it transacted business in this State without a registration; and

(3) other penalties imposed by law.

Sec. C.7. 11 V.S.A. § 3488 is amended to read:

§ 3488. ACTION BY ATTORNEY GENERAL

The ~~attorney general~~ Attorney General may bring an action in the Civil Division of the Superior Court to collect the penalties imposed under section 3487 of this title and to restrain a foreign limited partnership from transacting business in this ~~state~~ State in violation of this subchapter.

Sec. C.8. 11 V.S.A. § 4119 is amended to read:

§ 4119. EFFECT OF FAILURE TO OBTAIN CERTIFICATE OF AUTHORITY

(a)(1) A foreign limited liability company transacting business in this State may not maintain a proceeding or raise a counterclaim, cross-claim, or affirmative defense in any court in this State until it obtains a certificate of authority to transact business in this State.

(2) The successor to a foreign limited liability company that transacted business in this State without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense based on that cause of action in any court in this State until the foreign limited liability company or its successor or assignee obtains a certificate of authority.

(b) The failure of a foreign limited liability company to have a certificate of authority to transact business in this State does not impair the validity of a contract or act of the company or prevent the foreign limited liability company from defending an action or proceeding in this State.

(c) A member or manager of a foreign limited liability company is not liable for the debts, obligations, or other liabilities of the company solely because the company transacted business in this State without a certificate of authority.

(d) If a foreign limited liability company transacts business in this State without a certificate of authority, it appoints the Secretary of State as its agent for service of process for claims arising out of the transaction of business in this State.

(e) A foreign limited liability company that transacts business in this State without a certificate of authority shall be liable to the State for:

(1) a civil penalty of \$50.00 for each day, not to exceed a total of \$10,000.00 for each year, it transacts business in this State without a certificate of authority;

(2) an amount equal to the fees due under this chapter during the period it transacted business in this State without a certificate of authority; and

(3) other penalties imposed by law.

Sec. C.9. 11 V.S.A. § 4120 is amended to read:

§ 4120. ACTION BY ATTORNEY GENERAL

The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed under section 4119 of this title and to restrain a foreign limited liability company from transacting business in this State in violation of this chapter.

Sec. C.10. 11A V.S.A. § 15.02 is amended to read:

§ 15.02. CONSEQUENCES OF TRANSACTING BUSINESS WITHOUT AUTHORITY

(a) A foreign corporation transacting business in this ~~state~~ State without a certificate of authority may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense in any court in this ~~state~~ State until it obtains a certificate of authority.

(b) The successor to a foreign corporation that transacted business in this ~~state~~ State without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense based on that cause of action in any court in this ~~state~~ State until the foreign corporation or its successor or assignee obtains a certificate of authority.

(c) A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until it determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.

(d) A foreign corporation that transacts business in this State without a certificate of authority is liable to the ~~state~~ State for:

(1) a civil penalty of \$50.00 for each day, ~~but~~ not to exceed a total of ~~\$1,000.00~~ \$10,000.00 for each year, it transacts business in this ~~state~~ State without a certificate of authority;

(2) an amount equal to ~~all the fees that would have been imposed due under this chapter title during the years, or parts thereof,~~ period it transacted business in this ~~state~~ State without a certificate of authority; and

(3) ~~such other penalties as are imposed by law. The attorney general may collect all penalties due under this subsection.~~

(e) ~~Upon petition of the attorney general~~ The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in this section and to restrain a foreign corporation not in compliance with this chapter, and its officers and agents, may be enjoined by the courts of this state ~~from doing business within this state~~ State.

(f) Notwithstanding subsections (a) and (b) of this section, the failure of a foreign corporation to obtain a certificate of authority does not impair the validity of its corporate acts, to the extent they are otherwise in compliance with law, or prevent it from defending any proceeding in this ~~state~~ State.

Sec. C.11. 11B V.S.A. § 15.02 is amended to read:

§ 15.02. CONSEQUENCES OF TRANSACTING BUSINESS WITHOUT AUTHORITY

(a) A foreign corporation transacting business in this ~~state~~ State without a certificate of authority may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense in any court in this ~~state~~ State until it obtains a certificate of authority.

(b) The successor to a foreign corporation that transacted business in this ~~state~~ State without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense based on that cause of action in any court in this ~~state~~ State until the foreign corporation or its successor or assignee obtains a certificate of authority.

(c) A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until it determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.

(d) ~~A foreign corporation is liable for a civil penalty of \$50.00 for each day, but not to exceed a total of \$1,000.00 for each year, it transacts business in this state without a certificate of authority, an amount equal to all fees that would have been imposed under this chapter during the years, or parts thereof, it transacted business in this state without a certificate of authority, and such other penalties as are imposed by law. The attorney general may collect all penalties due under this subsection.~~ A foreign corporation that transacts business in this State without a certificate of authority is liable to the State for:

(1) a civil penalty of \$50.00 for each day, not to exceed a total of \$10,000.00 for each year, it transacts business in this State without a certificate of authority;

(2) an amount equal to the fees due under this title during the period it transacted business in this State without a certificate of authority; and

(3) other penalties imposed by law.

(e) The Attorney General may file an action in the Civil Division of Superior Court to collect the penalties due under this subsection and to restrain a foreign corporation not in compliance with this chapter from doing business within this State.

(f) Notwithstanding subsections (a) and (b) of this section, the failure of a foreign corporation to obtain a certificate of authority does not impair the validity of its corporate acts or prevent it from defending any proceeding in this state State.

Sec. C.12. 11C V.S.A. § 1402 is amended to read:

§ 1402. APPLICATION FOR CERTIFICATE OF AUTHORITY

(a) A foreign enterprise may apply for a certificate of authority by delivering an application to the Secretary of State for filing. The application shall state:

(1) the name of the foreign enterprise and, if the name does not comply with section 111 of this title, an alternative name adopted pursuant to section 1405 of this title;

(2) the name of the state or other jurisdiction under whose law the foreign enterprise is organized;

(3) the street address and, if different, mailing address of the principal office and, if the law of the jurisdiction under which the foreign enterprise is organized requires the foreign enterprise to maintain another office in that jurisdiction, the street address and, if different, mailing address of the required office;

(4) the street address and, if different, mailing address of the foreign enterprise's designated office in this State, and the name of the foreign enterprise's agent for service of process at the designated office; and

(5) the name, street address and, if different, mailing address of each of the foreign enterprise's current directors and officers.

(b) A foreign enterprise shall deliver with a completed application under subsection (a) of this section a certificate of good standing or existence or a

similar record signed by the Secretary of State or other official having custody of the foreign enterprise's publicly filed records in the state or other jurisdiction under whose law the foreign enterprise is organized.

(c) A foreign enterprise may not transact business in this State without a certificate of authority.

Sec. C.13. 11C V.S.A. § 1407 is amended to read:

§ 1407. CANCELLATION OF CERTIFICATE OF AUTHORITY; EFFECT OF FAILURE TO HAVE CERTIFICATE

(a) To cancel its certificate of authority, a foreign enterprise shall deliver to the Secretary of State for filing a notice of cancellation. The certificate is canceled when the notice becomes effective under section 203 of this title.

(b)(1) A foreign enterprise transacting business in this State may not maintain an action or proceeding or raise a counterclaim, crossclaim, or affirmative defense in this State unless it has a certificate of authority.

(2) The successor to a foreign enterprise that transacted business in this State without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense based on that cause of action in any court in this State until the foreign enterprise or its successor or assignee obtains a certificate of authority.

(c) The failure of a foreign enterprise to have a certificate of authority does not impair the validity of a contract or act of the foreign enterprise or prevent the foreign enterprise from defending an action or proceeding in this State.

(d) A member of a foreign enterprise is not liable for the obligations of the foreign enterprise solely by reason of the foreign enterprise's having transacted business in this State without a certificate of authority.

(e) If a foreign enterprise transacts business in this State without a certificate of authority or cancels its certificate, it appoints the Secretary of State as its agent for service of process for an action arising out of the transaction of business in this State.

(f) A foreign enterprise that transacts business in this State without a certificate of authority is liable to the State for:

(1) a civil penalty of \$50.00 for each day, not to exceed a total of \$10,000.00 for each year, it transacts business in this State without a certificate of authority;

(2) an amount equal to the fees due under this title during the period it transacted business in this State without a certificate of authority; and

(3) other penalties imposed by law.

Sec. C.14. 11C V.S.A. § 1408 is amended to read:

§ 1408. ACTION BY ATTORNEY GENERAL

The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in section 1407 of this title and to restrain a foreign enterprise from transacting business in this State in violation of this ~~article~~ chapter.

* * * Anti-Trust Penalties * * *

Sec. D.1. 9 V.S.A. § 2458 is amended to read:

§ 2458. RESTRAINING PROHIBITED ACTS

* * *

(b) In addition to the foregoing, the Attorney General or a State's Attorney may request and the court is authorized to render any other temporary or permanent relief, or both, as may be in the public interest including:

(1) the imposition of a civil penalty of not more than \$10,000.00 for each ~~violation~~ unfair or deceptive act or practice in commerce, and of not more than \$100,000.00 for an individual or \$1,000,000.00 for any other person for each unfair method of competition in commerce;

* * *

* * * Discount Membership Programs * * *

Sec. E.1. 9 V.S.A. chapter 63, subchapter 1D is amended to read:

Subchapter 1D. Third-Party Discount Membership Programs

§ 2470aa. DEFINITIONS

~~In~~ As used in this subchapter:

(1) "Billing information" means any data that enables a seller of a third-party discount membership program to access a consumer's credit or debit card, bank, or other account, but does not include the consumer's name, e-mail address, telephone number, or mailing address. For credit card and debit card accounts, billing information includes the full account number, card type, and expiration date, and, if necessary, the security code. For accounts at a financial institution, "billing information" includes the full account number and routing number, and, if necessary, the name of the financial institution holding the account.

(2) A “third-party discount membership program” is a program that entitles consumers to receive discounts, rebates, rewards, or similar incentives on the purchase of goods or services or both, in whole or in part, from any third party.

§ 2470bb. APPLICABILITY

(a) A third-party discount membership program is a good or service within the meaning of subsection 2451a(b) of this chapter.

(b) This subchapter applies only to persons who are regularly and primarily engaged in trade or commerce in this State in connection with offering or selling third-party discount membership programs.

(c) This subchapter shall not apply to an electronic payment system, as defined in section 2480o of this title, or to a financial institution, as defined in 8 V.S.A. § 11101(32).

§ 2470cc. REQUIRED DISCLOSURES; CONSENT

(a) No person shall charge or attempt to charge a consumer for a third-party discount membership program, or to renew a third-party discount membership program beyond the term expressly agreed to by the consumer or the term permitted under section 2470ff of this title, whichever is shorter, unless:

(1) ~~Before~~ before obtaining the consumer’s billing information, the person has clearly and conspicuously disclosed to the consumer all material terms of the transaction, including:

(A) a description of the types of goods and services on which a discount is available;

(B) the name of the third-party discount membership program, ~~and the name and address of the seller of the program,~~ and a telephone number, e-mail address, or other contact information the consumer may use to contact the seller with questions concerning the operation of the program;

(C) the amount, or a good faith estimate, of the typical discount on each category of goods and services;

(D) the cost of the program, including the amount of any periodic charges, how often such charges are imposed, and the method of payment;

(E) the right to cancel and to terminate the program, which shall be no more restrictive than as required by section 2470ee of this subchapter, and a toll-free telephone number and e-mail address that can be used to cancel the membership;

(F) the maximum length of membership, as described in section 2470ff of this subchapter;

(G) in the event that the program is offered on the Internet through a link or referral from another business's website, the fact that the seller is not affiliated with that business; and

(H) the fact that periodic notices of the program billings will be e-mailed or mailed to the consumer, as the case may be, consistent with section 2470dd of this title; and

(2) ~~The~~ the person has received express informed consent for the charge from the consumer whose credit or debit card, bank, or other account will be charged, by:

(A) obtaining from the consumer:

(i) the consumer's billing information; and

(ii) the consumer's name and address and a means to contact the consumer; and

(B) requiring the consumer to perform an additional affirmative action, such as clicking on an online confirmation button, checking an online box that indicates the consumer's consent to be charged the amount disclosed, or expressly giving consent over the telephone.

(b) A person who sells third-party discount membership programs shall retain evidence of a consumer's express informed consent for at least three years after the consent is given.

(c) A person who sells a third-party discount membership program shall provide to a consumer on the receipt for the underlying good or service:

(1) confirmation that the consumer has signed up for a discount membership program;

(2) the price the consumer will be charged for the program;

(3) the date on which the consumer will first be charged for the program;

(4) the frequency of charges for the program; and

(5) information concerning the consumer's right to cancel the program and a toll-free telephone number, address, and e-mail address a consumer may use to cancel the program.

§ 2470dd. PERIODIC NOTICES

(a) A person who periodically charges a consumer for a third-party discount membership program shall send the consumer a notice of the charge no less frequently than every three months from the date of initial enrollment that clearly and conspicuously discloses:

(1) a description of the program;

(2) the name of the third-party discount membership program and the name and address of the seller of the program;

(3) the cost of the program, including the amount of any periodic charges, how often such charges are imposed, and the method of payment;

(4) the right to cancel and to terminate the program, which shall be no more restrictive than as required by section 2470ee of this subchapter, and a toll-free number and e-mail address that can be used to cancel the membership; and

(5) the maximum length of membership, as described in section 2470ff of this subchapter.

(b) The notice specified in subsection (a) of this section:

(1) ~~Shall~~ shall be sent:

(A) ~~To~~ to the consumer's last known e-mail address, if the consumer enrolled in the third-party discount membership program online or by e-mail, with the subject line, "IMPORTANT INFORMATION ABOUT YOUR DISCOUNT PROGRAM BILLING," or substantially similar words, provided that the sender takes reasonable steps to verify that the e-mail has been opened; or

(B) ~~Otherwise~~ otherwise by first-class mail to the consumer's last known mailing address, with the heading on the enclosure and outside envelope, "IMPORTANT INFORMATION ABOUT YOUR DISCOUNT PROGRAM BILLING," or substantially similar words; and

(2) ~~Shall~~ shall not include any solicitation or advertising.

§ 2470ee. CANCELLATION AND TERMINATION

(a) In addition to any other right to revoke an offer, a consumer may cancel the purchase of a third-party discount membership program until midnight on the 30th day after the date the consumer has given express informed consent to be charged for the program. If the consumer cancels within the 30-day period, the seller of the third-party discount membership program shall, within 10 days of receiving the notice of cancellation, provide a full refund to the consumer.

(b)(1) Notice of cancellation shall be deemed given when deposited in a mailbox properly addressed and postage prepaid or when e-mailed to the e-mail address of the seller of the third-party discount membership program.

(2) A consumer may cancel a third-party discount membership program verbally by contacting the seller at a toll-free telephone number that the seller provides for that purpose.

(c) In addition to the right to cancel described in this subchapter, a consumer may terminate a third-party discount membership program at any time by providing notice to the seller by one of the methods described in this section. In that case, the consumer shall not be obligated to make any further payments under the program and shall not be entitled to any discounts under the program for any period of time after the last month for which payment has been made.

(d) If the seller of a third-party discount membership program cancels the program for any reason other than nonpayment by the consumer, the seller shall make pro rata reimbursement to the consumer of all periodic charges paid by the consumer for periods of time after cancellation. Prior to such cancellation, the seller shall first provide reasonable notice and an explanation of the cancellation in writing to the consumer.

§ 2470ff. MAXIMUM LENGTH OF PLAN

No person shall sell, or offer for sale, a third-party discount membership program lasting longer than 18 months.

§ 2470gg. BILLING INFORMATION

No person who offers or sells third-party discount membership programs shall obtain billing information relating to a consumer except directly from the consumer.

§ 2470hh. VIOLATIONS

(a) A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

(b) The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as is provided under subchapter 1 of this chapter.

(c) It is an unfair and deceptive act and practice in commerce for any person to provide substantial assistance to the seller of a third-party discount membership program that has engaged or is engaging in an unfair or deceptive act or practice in commerce, when the person or the person's authorized agent:

(1) receives notice from a regulatory, law enforcement, or similar governmental authority that the seller of the third-party discount membership program is in violation of this subchapter;

(2) knows from information received or in its possession that the seller of the third-party discount membership program is in violation of this subchapter; or

(3) consciously avoids knowing that the seller of the third-party discount membership program is in violation of this subchapter.

(d) Subject to section 2452 of this title, a person who provides only incidental assistance, which does not further the sale of a third-party discount membership program, to the seller of the program, or who does not receive a benefit from providing assistance to the seller of a discount membership, shall not be liable under this section unless the person receives notice, knows, or consciously avoids knowing, pursuant to subdivision (c)(1), (2), or (3) of this section, that a third-party discount membership program is in violation of this chapter.

Sec. E.2. 9 V.S.A. chapter 63, subchapter 1E is added to read:

Subchapter 1E: Add-On Discount Membership Programs

§ 2470ii. DEFINITIONS

As used in this subchapter:

(1) An “add-on discount membership program” is a program that entitles consumers to receive discounts, rebates, rewards, or similar incentives on the purchase of goods or services or both, sold to a consumer during the purchase of a different good or service using the same billing information.

(2) “Billing information” means any data that enables a seller of an add-on discount membership program to access a consumer’s credit or debit card, bank, or other account, but does not include the consumer’s name, e-mail address, telephone number, or mailing address. For credit card and debit card accounts, billing information includes the full account number, card type, and expiration date, and, if necessary, the security code. For accounts at a financial institution, “billing information” includes the full account number and routing number, and, if necessary, the name of the financial institution holding the account.

§ 2470jj. APPLICABILITY

(a) An add-on discount membership program is a good or service within the meaning of subsection 2451a(b) of this title.

(b) This subchapter applies only to persons who are regularly engaged in offering or selling add-on discount membership programs.

(c) This subchapter shall not apply to an electronic payment system, as defined in section 2480o of this title, or to a financial institution, as defined in 8 V.S.A. § 11101(32).

§ 2470kk. REQUIRED DISCLOSURES; CONSENT

(a) No person shall charge or attempt to charge a consumer for an add-on discount membership program, or to renew an add-on discount membership program beyond the term expressly agreed to by the consumer, unless:

(1) before obtaining the consumer's billing information, the person has clearly and conspicuously disclosed to the consumer all material terms of the transaction, including:

(A) a description of the types of goods and services on which a discount is available;

(B) the name of the add-on discount membership program, the name and address of the seller of the program, and a telephone number, e-mail address, or other contact information the consumer may use to contact the seller with questions concerning the operation of the program;

(C) the cost of the program, including the amount of any periodic charges, how often such charges are imposed, and the method of payment; and

(D) the right to cancel and to terminate the program, which shall be no more restrictive than as required by section 2470ll of this title, and a toll-free telephone number and e-mail address that can be used to cancel the membership;

(2) before obtaining the consumer's billing information, the person has received express informed consent for the add-on membership program from the consumer whose credit or debit card, bank, or other account will be charged, by requiring the consumer to perform an additional affirmative action, such as clicking on an online confirmation button, checking an online box that indicates the consumer's consent to be charged the amount disclosed, or expressly giving consent over the telephone; and

(3) after providing the disclosures and obtaining the consent required by subdivisions (1) and (2) of this subsection, obtaining from the consumer:

(A) the consumer's billing information; and

(B) the consumer's name and address, and a means to contact the consumer.

(b) A person who sells an add-on discount membership program shall retain evidence of a consumer's express informed consent for at least three years after the consent is given.

(c) A person who sells an add-on discount membership program shall provide to a consumer on the receipt for the underlying good or service:

(1) confirmation that the consumer has signed up for a discount membership program;

(2) the price the consumer will be charged for the program;

(3) the date on which the consumer will first be charged for the program;

(4) the frequency of charges for the program; and

(5) information concerning the consumer's right to cancel the program and a toll-free telephone number, address, and e-mail address a consumer may use to cancel the program.

§ 24701l. CANCELLATION AND TERMINATION

(a) In addition to any other right to revoke an offer, a consumer may cancel the purchase of an add-on discount membership program until midnight on the 30th day after the date the consumer has given express informed consent to be charged for the program. If the consumer cancels within the 30-day period, the seller of the add-on discount membership program shall, within 10 days of receiving the notice of cancellation, provide a full refund to the consumer less the value of any discount the consumer has received by using the add-on discount membership program.

(b)(1) Notice of cancellation shall be deemed given when deposited in a mailbox properly addressed and postage prepaid or when e-mailed to the e-mail address of the seller of the add-on discount membership program.

(2) A consumer may cancel an add-on discount membership program verbally by contacting the seller at a toll-free telephone number that the seller provides for that purpose.

(c) In addition to the right to cancel described in this subchapter, a consumer may terminate an add-on discount membership program at any time by providing notice to the seller by one of the methods described in this section. In that case, the consumer shall not be obligated to make any further payments under the program and shall not be entitled to any discounts under the program for any period of time after the last month for which payment has been made.

(d) If the seller of an add-on discount membership program cancels the program for any reason other than nonpayment by the consumer, the seller shall make pro rata reimbursement to the consumer of all periodic charges paid by the consumer for periods of time after cancellation. Prior to such cancellation, the seller shall first provide reasonable notice and an explanation of the cancellation in writing to the consumer.

§ 2470mm. BILLING INFORMATION

A person who offers or sells a discount membership program may not obtain billing information relating to a consumer except directly from the consumer.

§ 2470nn. VIOLATIONS

(a) A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

(b) The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as is provided under subchapter 1 of this chapter.

(c) It is an unfair and deceptive act and practice in commerce for any person to provide substantial assistance to the seller of an add-on discount membership program that has engaged or is engaging in an unfair or deceptive act or practice in commerce, when the person or the person's authorized agent:

(1) receives notice from a regulatory, law enforcement, or similar governmental authority that the seller of the add-on discount membership program is in violation of this subchapter;

(2) knows from information received or in its possession that the seller of the add-on discount membership program is in violation of this subchapter; or

(3) consciously avoids knowing that the seller of the add-on discount membership program is in violation of this subchapter.

(d) Subject to section 2452 of this title, a person who provides only incidental assistance, which does not further the sale of an add-on discount membership program, to the seller of the program, or who does not receive a benefit from providing assistance to the seller of a an add-on discount membership, shall not be liable under this section unless the person receives notice, knows, or consciously avoids knowing, pursuant to subdivision (c)(1), (2), or (3) of this section, that an add-on discount membership program is in violation of this chapter.

* * * Nonresidential Home Improvement Fraud * * *

Sec. F.1. 13 V.S.A. § 2029 is amended to read:

§ 2029. HOME IMPROVEMENT FRAUD

(a) As used in this section, “home improvement” includes the fixing, replacing, remodeling, removing, renovation, alteration, conversion, improvement, demolition, or rehabilitation of or addition to any building or land, or any portion thereof, which is used or designed to be used as a residence or dwelling unit. Home improvement shall include the construction, replacement, installation, paving, or improvement of driveways, roofs, and sidewalks, and the limbing, pruning, and removal of trees or shrubbery and other improvements to structures or upon land that is adjacent to a dwelling house.

(b)(1) A person commits the offense of home improvement fraud when he or she enters into a contract or agreement, written or oral, for \$500.00 or more, with an owner for home improvement, or into several contracts or agreements for \$2,500.00 or more in the aggregate, with more than one owner for home improvement, and he or she knowingly:

(A) fails to perform the contract or agreement, in whole or in part; and

(B) when the owner requests performance or a refund of payment made, the person fails to either:

(i) refund the payment; or

(ii) make and comply with a definite plan for completion of the work that is agreed to by the owner;

(2) misrepresents a material fact relating to the terms of the contract or agreement or to the condition of any portion of the property involved;

(3) uses or employs any unfair or deceptive act or practice in order to induce, encourage, or solicit such person to enter into any contract or agreement or to modify the terms of the original contract or agreement; or

(4) when there is a declared state of emergency, charges for goods or services related to the emergency a price that exceeds two times the average price for the goods or services and the increase is not attributable to the additional costs incurred in connection with providing those goods or services.

(c) Whenever a person is convicted of home improvement fraud or of fraudulent acts related to home improvement:

(1) the person shall notify the Office of Attorney General;

(2) the court shall notify the Office of the Attorney General; and

(3) the Office of Attorney General shall place the person's name on the Home Improvement and Nonresidential Improvement Fraud Registry.

(d)(1) A person who violates subsection (b) of this section shall be imprisoned not more than two years or fined not more than \$1,000.00, or both, if the loss to a single consumer is less than \$1,000.00.

(2) A person who is convicted of a second or subsequent violation of subdivision (1) of this subsection shall be imprisoned not more than three years or fined not more than \$5,000.00, or both.

(3) A person who violates subsection (b) of this section shall be imprisoned not more than three years or fined not more than \$5,000.00, or both, if:

(A) the loss to a single consumer is \$1,000.00 or more; or

(B) the loss to more than one consumer is \$2,500.00 or more in the aggregate.

(4) A person who is convicted of a second or subsequent violation of subdivision (3) of this subsection shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(5) A person who violates subsection (c) or (e) of this section shall be imprisoned for not more than two years or fined not more than \$1,000.00, or both.

(e) A person who is sentenced pursuant to subdivision (d)(2), (3), or (4) of this section, subdivision of 2029a(d)(2), (3), or (4) of this title, or convicted of fraudulent acts related to home improvement, may engage in home improvement activities for compensation only if:

(1) the work is for a company or individual engaged in home improvement activities or nonresidential improvement activities, and the person first notifies the company or individual of the conviction and notifies the Office of Attorney General of the person's current address and telephone number; the name, address, and telephone number of the company or individual for whom the person is going to work; and the date on which the person will start working for the company or individual; or

(2) the person notifies the Office of Attorney General of the intent to engage in home improvement activities or nonresidential improvement activities, and that the person has filed a surety bond or an irrevocable letter of credit with the Office in an amount of not less than \$50,000.00, and pays on a regular basis all fees associated with maintaining such bond or letter of credit.

(f) The Office of Attorney General shall release the letter of credit at such time when:

(1) any claims against the person relating to home improvement fraud or nonresidential improvement fraud have been paid;

(2) there are no pending actions or claims against the person for home improvement fraud or nonresidential improvement fraud; and

(3) the person has not been engaged in home improvement activities or nonresidential improvement activities for at least six years and has signed an affidavit so attesting.

(g) [Reserved.]

(h) [Repealed.]

Sec. F.2. 13 V.S.A. § 2029a is added to read:

§ 2029a. NONRESIDENTIAL IMPROVEMENT FRAUD

(a) As used in this section, “nonresidential improvement” includes the fixing, replacing, remodeling, removing, renovation, alteration, conversion, improvement, demolition, or rehabilitation of or addition to any building or land, or any portion thereof, that is used or designed to be used as a business, office, or by the State, a county, or a municipality. Nonresidential improvement shall include the construction, replacement, installation, paving, or improvement of driveways, parking lots, signs, roofs, and sidewalks, and the limbing, pruning, and removal of trees or shrubbery and other improvements to structures or upon land that is adjacent to a business, office, or State, county, or municipal building.

(b)(1) A person commits the offense of nonresidential improvement fraud when he or she enters into a contract or agreement, written or oral, for \$1,000.00 or more, with an owner for nonresidential improvement, or into several contracts or agreements for \$5,000.00 or more in the aggregate, with more than one owner for nonresidential improvement, and he or she knowingly:

(A) fails to perform the contract or agreement, in whole or in part; and

(B) when the owner requests performance or a refund of payment made, the person fails to either:

(i) refund the payment; or

(ii) make and comply with a definite plan for completion of the work that is agreed to by the owner;

(2) misrepresents a material fact relating to the terms of the contract or agreement or to the condition of any portion of the property involved;

(3) uses or employs any unfair or deceptive act or practice in order to induce, encourage, or solicit such person to enter into any contract or agreement or to modify the terms of the original contract or agreement; or

(4) when there is a declared state of emergency, charges for goods or services related to the emergency a price that exceeds two times the average price for the goods or services and the increase is not attributable to the additional costs incurred in connection with providing those goods or services.

(c) Whenever a person is convicted of nonresidential improvement fraud:

(1) the person shall notify the Office of Attorney General;

(2) the court shall notify the Office of the Attorney General; and

(3) the Office of Attorney General shall place the person's name on the Home Improvement and Nonresidential Improvement Fraud Registry.

(d)(1) A person who violates subsection (b) of this section shall be imprisoned not more than two years or fined not more than \$1,000.00, or both, if the loss to a single consumer is less than \$1,000.00.

(2) A person who is convicted of a second or subsequent violation of subdivision (1) of this subsection shall be imprisoned not more than three years or fined not more than \$5,000.00, or both.

(3) A person who violates subsection (b) of this section shall be imprisoned not more than three years or fined not more than \$5,000.00, or both, if:

(A) the loss to a single consumer is \$1,000.00 or more; or

(B) the loss to more than one consumer is \$2,500.00 or more in the aggregate.

(4) A person who is convicted of a second or subsequent violation of subdivision (3) of this subsection shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(5) A person who violates subsection (c) or (e) of this section shall be imprisoned for not more than two years or fined not more than \$1,000.00, or both.

(e) A person who is sentenced pursuant to subdivision (d)(2), (3), or (4) of this section, subdivision 2029(d)(2), (3), or (4) of this title, or convicted of fraudulent acts related to nonresidential improvement, may engage in home

improvement activities or nonresidential improvement activities for compensation only if:

(1) the work is for a company or individual engaged in home improvement activities or nonresidential improvement activities, and the person first notifies the company or individual of the conviction and notifies the Office of Attorney General of the person's current address and telephone number; the name, address, and telephone number of the company or individual for whom the person is going to work; and the date on which the person will start working for the company or individual; or

(2) the person notifies the Office of Attorney General of the intent to engage in home improvement activities or nonresidential improvement activities, and that the person has filed a surety bond or an irrevocable letter of credit with the Office in an amount of not less than \$50,000.00, and pays on a regular basis all fees associated with maintaining such bond or letter of credit.

(f) The Office of Attorney General shall release the letter of credit at such time when:

(1) any claims against the person relating to home improvement fraud or nonresidential improvement fraud have been paid;

(2) there are no pending actions or claims against the person for home improvement fraud or nonresidential improvement fraud; and

(3) the person has not been engaged in home improvement activities or nonresidential improvement activities for at least six years and has signed an affidavit so attesting.

* * * Financial Institutions; Licensed Lender;
Technical Corrections * * *

G.1. 8 V.S.A. § 10101 is amended to read:

§ 10101. APPLICATION OF CONSUMER PROTECTION CHAPTER

Except as otherwise provided in this chapter, the provisions of this chapter shall apply to all financial institutions, as defined in subdivision 11101(32) of this title, licensed lenders, mortgage brokers, mortgage loan originators, sales finance companies, independent trust companies, money service providers, debt adjusters, loan servicers, credit unions, and any other person doing or soliciting business in this State as described in Part 2, 4, or 5, ~~or 6~~ of this title, in addition to any other applicable consumer protection or remedy section not contained in this chapter, unless such consumer protection or remedy section is expressly made exclusive.

G.2. 8 V.S.A. § 10601 is amended to read:

§ 10601. APPLICATION

This subchapter shall apply to all persons licensed, authorized, or registered, or required to be licensed, authorized, or registered under Parts 2, 4, and 5, ~~and~~ 6 of this title.

G.3. 8 V.S.A. 2200(17) is amended to read:

(17) “Mortgage loan originator”:

* * *

(D) Does not include:

(i) an individual engaged solely as a loan processor or underwriter, except as otherwise provided in subsection 2201(~~f~~)(g) of this chapter;

* * *

* * * Internet Dating Services * * *

Sec. H.1. FINDINGS AND PURPOSE

(a) The General Assembly finds:

(1) Currently, an Internet dating service does not have an affirmative duty under any state or federal law to ban a member of the service, but a service may choose to voluntarily ban a member for violating one or more terms of use, or because the service determines the member poses a risk of defrauding another member.

(2) In 2014, Internet dating services banned millions of members, the vast majority of which were banned within 72 hours of creating an account with the service.

(3) Of the members banned in 2014, well less than one percent contacted the Internet dating service concerning the ban.

(4) Due to a growing number of cases in which Vermont members of Internet dating services have lost significant financial amounts to persons using Internet dating services to defraud members or businesses, the Office of the Vermont Attorney General proposes this legislation, working with the input of multiple Internet dating services and other stakeholders.

(5) If an Internet dating service violates the statutory provisions created in this act, the Attorney General has the authority pursuant to 9 V.S.A. §§ 2458 and 2459 to request from a court, or to settle with the service for, restitution for a consumer or class of consumers affected by the violation.

(b) Purpose. The purposes of this act are:

(1) to protect Vermont consumers by requiring an Internet dating service to disclose in a timely manner important information about banned members to Vermont members of the service;

(2) to protect Internet dating services from liability to members for disclosing the information required by this act, while preserving liability to the State of Vermont and its agencies, departments, and subdivisions for violating this act; and

(3) to protect Vermont consumers and other members of Internet dating services by requiring an Internet dating service to notify its Vermont members when there is a significant change to the Vermont member's account information.

H.2. 9 V.S.A. chapter 63, subchapter 8 is added to read:

Subchapter 8. Internet Dating Services

§ 2482a. DEFINITIONS

In this chapter:

(1) "Account change" means a change to a member's password, username, e-mail address, or other contact information an Internet dating service uses to enable communications between members.

(2) "Banned member" means the member whose account or profile is the subject of a fraud ban.

(3) "Fraud ban" means barring a member's account or profile from an Internet dating service because, in the judgment of the service, the member poses a significant risk of attempting to obtain money from other members through fraudulent means.

(4) "Internet dating service" means a person, or a division of a person, that is primarily in the business of providing dating services principally on or through the Internet.

(5) "Member" means a person who submits to an Internet dating service information required to access the service and who obtains access to the service.

(6) "Vermont member" means a member who provides a Vermont residential or billing address or zip code when registering with the Internet dating service.

§ 2482b. REQUIREMENTS FOR INTERNET DATING SERVICES

(a) An Internet dating service shall disclose to all of its Vermont members known to have previously received and responded to an on-site message from a banned member:

(1) the user name, identification number, or other profile identifier of the banned member;

(2) the fact that the banned member was banned because, in the judgment of the Internet dating service, the banned member may have been using a false identity or may pose a significant risk of attempting to obtain money from other members through fraudulent means;

(3) that a member should never send money or personal financial information to another member; and

(4) a hyperlink to online information that clearly and conspicuously addresses the subject of how to avoid being defrauded by another member of an Internet dating service.

(b) The notification required by subsection (a) of this section shall be:

(1) clear and conspicuous;

(2) by e-mail, text message, or other appropriate means of communication; and

(3) sent within 24 hours after the fraud ban, or at a later time if the service has determined, based on an analysis of effective messaging, that a different time is more effective, but in no event later than three days after the fraud ban.

(c) An Internet dating service shall disclose in an e-mail, text message, or other appropriate means of communication, in a clear and conspicuous manner, within 24 hours after discovering an account change to a Vermont member's account:

(1) the fact that information on the member's account ~~or personal profile~~ has been changed;

(2) a brief description of the change; and

(3) if applicable, how the member may obtain further information on the change.

(d)(1) A banned member from Vermont who is identified to one or more Vermont members pursuant to subsection (a) of this section shall have the right to challenge the ban by written complaint to the Office of the Vermont Attorney General.

(2) The Office of the Attorney General shall review a challenge brought by a banned member pursuant to this subsection and, if it finds that there was no reasonable basis for banning the member, shall require the Internet dating service to take reasonable corrective action to cure the erroneous ban.

§ 2482c. LIMITED IMMUNITY

(a) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State, for disclosing to any member that it has banned a member, the user name or identifying information of the banned member, or the reasons for the Internet dating service's decision to ban such member in accordance with section 2482b of this title.

(b) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State, for the decisions regarding whether to ban a member, or how or when to notify a member pursuant to section 2482b of this title.

(c) This subchapter does not diminish or adversely affect the protections for Internet dating services that are afforded in 47 U.S.C. § 230 (Federal Communications Decency Act).

§ 2482d. VIOLATIONS

(a) A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

(b) The Attorney General has the same authority to make rules, conduct civil investigations, and enter into assurances of discontinuance as is provided under subchapter 1 of this chapter.

* * * Effective Dates * * *

Sec. I.1. EFFECTIVE DATES

(a) This section and Secs. G.1–G.3 (technical corrections) take effect on passage.

(b) The following sections take effect on July 1, 2016:

- (1) Sec. A.1 (consumer litigation funding).
- (2) Sec. B.1 (structured settlements agreements).
- (3) Secs. C.1–C.12 (business registration; enforcement).
- (4) Sec. D.1 (anti-trust penalties).
- (5) Secs. E.1–E.2 (discount membership programs).

(6) Secs. F.1–F.2 (nonresidential home improvement fraud).

(7) Sec. H.1 (findings and purpose; internet dating services).

(c) In Sec. H.2 (internet dating services):

(1) 9 V.S.A. §§ 2482a, 2482c, and 2482d shall take effect on passage.

(2) 9 V.S.A. § 2482b shall take effect on January 1, 2017.

And that after passage the title of the bill be amended to read: “An act relating to consumer protection”

UNFINISHED BUSINESS OF WEDNESDAY, APRIL 13, 2016

Third Reading

H. 824.

An act relating to the adoption of occupational safety and health rules and standards.

Second Reading

Favorable with Proposal of Amendment

H. 261.

An act relating to criminal record inquiries by an employer.

Reported favorably with recommendation of proposal of amendment by Senator Mullin for the Committee on Economic Development, Housing and General Affairs.

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 1, 21 V.S.A. § 495j, by striking out subdivision (b)(1)(B) and inserting a new subdivision (b)(1)(B) in lieu thereof to read as follows:

(B) the employer or an affiliate of the employer is subject to a federal or State law or regulation that restricts its ability to employ individuals, in either one or more positions, who have been convicted of one or more types of criminal offenses; and

(Committee vote: 4-0-1)

(For House amendments, see House Journal for March 17, 2016, page 456)

NEW BUSINESS

Third Reading

S. 242.

An act relating to the service of civil process by a constable.

H. 74.

An act relating to safety protocols for social and mental health workers.

H. 135.

An act relating to authorizing the Vermont Department of Health to charge fees necessary to support Vermont's status as a Nuclear Regulatory Commission Agreement State.

H. 539.

An act relating to establishment of a Pollinator Protection Committee.

H. 674.

An act relating to public notice of wastewater discharges.

H. 765.

An act relating to technical corrections.

H. 778.

An act relating to State enforcement of the federal Food Safety Modernization Act.

Second Reading

Favorable

H. 864.

An act relating to agricultural exemption from Vermont's sales and use tax.

Reported favorably by Senator MacDonald for the Committee on Finance.

(Committee vote: 7-0-0)

(For House amendments, see House Journal of March 23, 2016, page 624)

House Proposal of Amendment

S. 171

An act relating to eligibility for pretrial risk assessment and needs screening.

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

In Sec. 1, 13 V.S.A. § 7554c, in subdivision (d)(2), by striking out “voluntarily agreed to participate in a risk assessment or needs screening post-arraignment” and inserting in lieu thereof completed a risk assessment or needs screening

NOTICE CALENDAR

Second Reading

Favorable

H. 249.

An act relating to intermunicipal services.

Reported favorably by Senator Collamore for the Committee on Government Operations.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of February 17, 2016, page 218)

H. 519.

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

Reported favorably by Senator Collamore for the Committee on Government Operations.

(Committee vote: 5-0-0)

(No House amendments)

Favorable with Proposal of Amendment

H. 434.

An act relating to law enforcement and fire service training safety.

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

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Training Safety Subcommittee * * *

Sec. 1. 29 V.S.A. § 842 is added to read:

§ 842. TRAINING SAFETY SUBCOMMITTEE; RECOMMENDATIONS; GOVERNANCE COMMITTEE REPORT

(a) Subcommittee creation. There is created as a subcommittee of the Training Center Governance Committee the Training Safety Subcommittee to make recommendations regarding training safety at the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont (Training Center).

(b) Subcommittee membership. The Subcommittee shall be composed of seven members.

(1) Four of these members shall be members of the Training Center Governance Committee, appointed by the Committee as follows:

(A) two shall represent the Vermont Police Academy; and

(B) two shall represent the Vermont Fire Academy.

(2) The remaining three members shall be as follows:

(A) the Commissioner of Labor or designee;

(B) the Risk Management Manager of the Office of Risk Management within the Agency of Administration; and

(C) one employee of the Vermont League of Cities and Towns who specializes in risk management, appointed by the Executive Director of the League.

(c) Subcommittee recommendations. The Subcommittee shall annually:

(1) on or before February 1, review the safety records of the Training Center; and

(2) on or before July 1, submit to the Training Center Governance Committee its recommendations regarding how training safety at the Training Center could be improved.

(d) Governance Committee review and report.

(1) The Training Center Governance Committee shall review and consider the recommendations made by the Subcommittee under subsection (c) of this section.

(2) Annually, on or before January 15, the Governance Committee shall report to the General Assembly regarding:

(A) any training safety issues it has discovered at the Training Center and any steps it has taken to remedy those issues; and

(B) whether the Governance Committee has instituted any of the Subcommittee's recommendations for training safety and if not, the reasons therefor.

(3) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required to be made under this subsection.

Sec. 2. INITIAL TRAINING SAFETY SUBCOMMITTEE MEETING AND
INITIAL TRAINING CENTER GOVERNANCE COMMITTEE
REPORT

(a) The Chair of the Training Center Governance Committee shall call the initial meeting of the Training Safety Subcommittee set forth in 29 V.S.A. § 842 in Sec. 1 of this act to be held on or before February 1, 2017.

(b) The Training Center Governance Committee shall make its initial report to the General Assembly described in 29 V.S.A. § 842(d) in Sec. 1 of this act on or before January 15, 2018.

* * * Risk Management * * *

Sec. 3. WORKERS' COMPENSATION ADMINISTRATION AND
OFFICE OF RISK MANAGEMENT STUDY COMMITTEE;
REPORT

(a) Creation. There is created the Workers' Compensation Administration and Office of Risk Management Study Committee to study whether the workers' compensation adjustment and loss control functions of the Office of Risk Management in the Agency of Administration should be contracted out to a private entity and whether the Office of Risk Management should be given authority to implement safety measures necessary to reduce the cost of providing workers' compensation coverage to the State.

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

(1) the Secretary of Administration or designee;

(2) the Commissioner of Labor or designee;

(3) the Executive Director of the Vermont State Employees' Association or designee; and

(4) the Auditor or designee.

(c) Powers and duties. The Committee shall study whether the workers' compensation adjustment and loss control functions of the Office of Risk Management should be contracted out to a private entity and whether the Office of Risk Management should be given authority to institute safety measures necessary to reduce the cost of providing workers' compensation coverage to the State, including the following questions:

(1) what are the actions, if any, that the Agency of Administration, the Office of State Employee Workers' Compensation and Injury Prevention, and the Office of Risk Management have taken in response to the findings and recommendations of the Vermont State Auditor's 2013 Report on the State's Workers' Compensation Program, and have those actions resulted in any improvements in the performance of the Office of Risk Management or reductions in the annual cost of satisfying State employees' workers' compensation claims;

(2) whether providing the Office of Risk Management with the authority to require State agencies and departments to implement safety measures would reduce the annual cost of satisfying State employees' workers' compensation claims;

(3) whether providing the Office of Risk Management with the authority to require State agencies and departments to implement safety measures would reduce the frequency of work-related injuries among State employees;

(4) what are the likely costs and benefits to the State of contracting out the workers' compensation adjustment and loss control functions of the Office of Risk Management to a private entity, including any projected changes in the annual cost of satisfying State employees' workers' compensation claims, any projected changes in the amount of work-related injuries among State employees, and the projected annual cost of a private entity carrying out the workers' compensation adjustment and loss control functions of the Office of Risk Management; and

(5) how would the quality of the service provided to the State by a private entity carrying out the workers' compensation adjustment and loss

control functions of the Office of Risk Management compare to the current level of service provided by the Office of Risk Management.

(d) Report. On or before December 31, 2016, the Committee shall submit a written report to the House Committees on Commerce and Economic Development and on Government Operations and the Senate Committees on Finance and on Government Operations with its findings, a recommendation as to whether the workers' compensation adjustment and loss control functions of the Office of Risk Management should be contracted out to a private entity, and any recommendations for legislative, regulatory, or administrative action.

(e) Meetings.

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

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

(3) The Committee shall cease to exist on January 1, 2017.

Sec. 4. OFFICE OF RISK MANAGEMENT; PRIVATIZATION

Notwithstanding any provision of law to the contrary, until no sooner than January 20, 2017, the Agency of Administration shall not enter into a privatization contract, as defined in 3 V.S.A. § 341, for the workers' compensation adjustment and loss control functions of the Agency's Office of Risk Management.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read: "An act relating to establishing the Training Safety Subcommittee of the Training Center Governance Committee and to a study of risk management"

(Committee vote: 5-0-0)

(For House amendments, see House Journal for May 11, 2015, page 1640.)

H. 559.

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

Reported favorably with recommendation of proposal of amendment by Senator McCormack for the Committee on Health and Welfare.

The Committee recommends that the Senate propose to the House to amend the bill by adding a new section to be Sec. 5 to read as follows:

Sec. 5. 26 V.S.A. § 1583 is amended to read:

§ 1583. EXEMPTIONS

This chapter does not prohibit:

* * *

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

And by renumbering the existing Sec. 5, effective date, to be Sec. 6

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 15, 2016, page 381)

H. 610.

An act relating to clarifying the Clean Water State Revolving Fund and Water Pollution Control Grant Programs.

Reported favorably with recommendation of proposal of amendment by Senator Rodgers for the Committee on Natural Resources and Energy.

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 38, Report on Loans to Private Entities for Water Pollution Abatement and Control Facilities and Public Water Supply Systems, in subsection (a), by striking out “Committee on Institutions” and inserting in lieu thereof Committees on Institutions and on Natural Resources and Energy.

(Committee vote: 4-0-1)

(For House amendments, see House Journal for March 17, 2016, page 496)

H. 829.

An act relating to water quality on small farms.

Reported favorably with recommendation of proposal of amendment by Senator Sirotkin for the Committee on Agriculture.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. § 4810a is amended to read:

§ 4810a. REQUIRED AGRICULTURAL PRACTICES; REVISION

(a) On or before ~~July 1, 2016~~ September 15, 2016, the Secretary of Agriculture, Food and Markets shall ~~amend by file under 3 V.S.A. § 841 a final proposal of a rule amending~~ the required agricultural practices in order to improve water quality in the State, assure practices on all farms eliminate adverse impacts to water quality, and implement the small farm certification program required by section 4871 of this title. At a minimum, the amendments to the required agricultural practices shall:

(1) Specify those farms that:

(A) are required to comply with the small farm certification requirements under section 4871 of this title due to the potential impact of the farm or type of farm on water quality as a result of livestock managed on the farm, agricultural inputs used by the farm, or tillage practices on the farm; and

(B) shall be subject to the required agricultural practices, but shall not be required to comply with small farm certification requirements under section 4871 of this title.

(2)(A) ~~Prohibit~~ Except as authorized under subdivision (C) of this subdivision, prohibit a farm from stacking or piling manure, storing fertilizer, or storing other nutrients on the farm:

(i) in a manner and location that presents a threat of discharge to a water of the State or presents a threat of contamination to groundwater; or

(ii) on lands in a floodway or otherwise subject to annual flooding.

(B) ~~In no case shall~~ Except as authorized under subdivision (C) of this subdivision, manure stacking or piling sites, fertilizer storage, or other nutrient storage shall not be located within 200 feet of a private well or within 200 feet of a water of the State, ~~provided that,~~

(C) ~~the~~ The Secretary may authorize:

(i) siting of manure stacking or piling sites, fertilizer storage, or other nutrient storage within 200 feet, but not less than 100 feet, of a private well or surface water if the Secretary determines that a manure stacking or piling site, fertilizer storage, or other nutrient storage will not have an adverse impact on groundwater quality or a surface water quality the site is the best available site on the farm for the purposes of protecting groundwater quality or surface water quality;

(ii) siting of a waste storage facility within 200 feet of a surface water or private well if the site is the best available site on the farm for the purposes of protecting groundwater quality or surface water quality and the

waste storage facility is designed by a licensed engineer to meet the requirements of section 4815 of this title.

* * *

~~(7) Prohibit the construction or siting of a farm structure for the storage of manure, fertilizer, or pesticide storage within a floodway area identified on a National Flood Insurance Program Map on file with a town clerk. [Repealed.]~~

(8) Regulate, in a manner consistent with the Agency of Natural Resources' flood hazard area and river corridor rules, the construction or siting of a farm structure or the storage of manure, fertilizer, or pesticides within a river corridor designated by the Secretary of Natural Resources.

* * *

Sec. 2. 6 V.S.A. § 4871(b) is amended to read:

(b) Required small farm certification. Beginning on July 1, 2017, a person who owns or operates a small farm, as designated by the Secretary consistent with subdivision 4810a(a)(1) of this title, shall, on a form provided by the Secretary, certify compliance with the required agricultural practices. The Secretary of Agriculture, Food and Markets shall establish the requirements and manner of certification of compliance with the required agricultural practices, provided that the Secretary shall require an owner or operator of a farm to submit an annual certification of compliance with the required agricultural practices.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 8, 2016, page 319)

H. 845.

An act relating to legislative review of certain report requirements.

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

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Amendment to 2 V.S.A. § 20(d) Language * * *

Sec. 1. 2 V.S.A. § 20(d) is amended to read:

~~Unless~~ It is the intent of the General Assembly that, except for reports required by interstate compacts and except as otherwise provided by law, whenever an agency is required by law to submit an annual, biennial, or other periodic report to the General Assembly, that requirement shall no longer be required after five years or after five years from July 1, 2009 the last date that the statutory or session law section containing the report was amended, whichever date is later. The In each biennial session, the Legislative Council, pursuant to section 424 of this title, may revise the Vermont Statutes Annotated accordingly shall prepare for the General Assembly's review a list of the reports subject to this subsection. A report requirement shall only expire pursuant to legislative enactment.

* * * Reports Exempt from 2 V.S.A. § 20(d) * * *

Sec. 2. 7 V.S.A. § 1007 is amended to read:

§ 1007. FURNISHING TOBACCO TO PERSONS UNDER 18 YEARS OF AGE; REPORT

(a) An individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under 18 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

(b)(1) The Department of Liquor Control shall conduct or contract for compliance tests of tobacco licensees as frequently and as comprehensively as necessary to ensure consistent statewide compliance with the prohibition on sales to minors of at least 90 percent for buyers 17 years of age. An individual under 18 years of age participating in a compliance test shall not be in violation of 7 V.S.A. § 1005.

(2) Any violation by a tobacco licensee of subsection 1003(a) of this title and this section after a first sale violation or during a compliance test conducted within six months of a previous violation shall be considered a multiple violation and shall result in the minimum license suspension in addition to any other penalties available under this title. Minimum license suspensions for multiple violations shall be assessed as follows:

- | | |
|-----------------------------|-------------------------------------------------------|
| <u>(A) Two violations</u> | <u>one weekday;</u> |
| <u>(B) Three violations</u> | <u>two weekdays;</u> |
| <u>(C) Four violations</u> | <u>three weekdays;</u> |
| <u>(D) Five violations</u> | <u>three weekend days,
Friday through Sunday.</u> |

(3) The Department shall report to the House Committee on General, Housing and Military Affairs, the Senate Committee on Economic Development, Housing and General Affairs, and the Tobacco Evaluation and Review Board annually, on or before January 15, the methodology and results of compliance tests conducted during the previous year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subsection.

Sec. 3. 9 V.S.A. § 4553(b) is amended to read:

(b) The Human Rights Commission shall forward, on or before January 1 of each year, to the Speaker of the House and the President of the Senate an annual report on the status of Commission program operations, the number and type of calls received, complaints filed and investigated, closure of litigated and nonlitigated complaints, public educational activities undertaken, and recommendations for improved human rights advocacy and activities. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

Sec. 4. 16 App. V.S.A. chapter 1, § 1-8 is amended to read:

§ 1-8. LEGISLATIVE REPORTS; BOARD OF VISITORS

The corporation hereby created shall make annual reports to the Legislature of this State, of its condition, financially and otherwise, and make and distribute the reports required by the act of Congress, herein referred to, and the Legislature may annually appoint a Board of Visitors, who may annually examine the affairs of the corporation. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

Sec. 5. 24 V.S.A. § 290b(d) is amended to read:

(d) Annually, each sheriff shall furnish the Auditor of Accounts on forms provided by the Auditor a financial report reflecting the financial transactions and condition of the sheriff's department. The sheriff shall submit a copy of this report to the assistant judges of the county. The assistant judges shall prepare a report reflecting funds disbursed by the county in support of the sheriff's department and forward a copy of their report to the Auditor of Accounts. The Auditor of Accounts shall compile the reports and submit one report to the House and Senate Committees on Judiciary. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subsection.

Sec. 6. 32 V.S.A. § 182(a) is amended to read:

(a) In addition to the duties expressly set forth elsewhere by law, the Commissioner of Finance and Management shall:

(1) Prescribe appropriate systems for all State departments and agencies to use in accounting and each department and agency shall keep their accounts in accordance with a system prescribed by the Commissioner. The Commissioner may review and examine any accounting system to determine its compliance with the prescribed system;

(2) Maintain a system of central accounting of income and disbursement so as to enable fiscal officers of the ~~state~~ State at any time to provide an evaluation and analysis of the status of ~~state~~ State finances;

(3) Coordinate the fiscal procedures of the State, including all departments, institutions, and agencies with the controlling accounts kept under this section;

(4) Maintain a system of encumbrance accounting to control expenditures within budget appropriations;

(5) In the Commissioner's discretion, pre-audit receipts, expenditures, and encumbrances;

(6) Draw warrants on the Treasurer for all valid and legal payroll disbursements certified by voucher;

(7) Draw warrants on the Treasurer for all disbursements;

(8) Prepare monthly revenue reports for the Governor, Secretary of Administration, and other officials and for release to the general public, and a comprehensive annual financial report in accordance with generally accepted accounting principles which shall be distributed to the Chairs of the House Committees on Appropriations, on Corrections and Institutions, and on Ways and Means and to the Senate Committees on Appropriations, on Finance, and on Institutions on or before December 31 of each year; The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subdivision.

(9) Make available monthly reports of appropriations, expenditures, encumbrances, and balances for all operating departments;

(10) Maintain a standard chart of accounts structure pertaining to appropriation, revenue, and expenditure codes;

(11) ~~{Deleted.}~~ [Repealed.]

(12) Exercise central management of the appropriation act;

(13) Maintain the general control ledger of State accounts;

* * *

Sec. 7. 32 V.S.A. § 434(a)(5) is amended to read:

(5) Annually, the Treasurer shall prepare a report to the House Committee on Ways and Means and the Senate Committee on Finance on the financial activity of the Trust Investment Account. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subdivision.

Sec. 8. 32 V.S.A. § 3205(c) is amended to read:

(c) The Taxpayer Advocate shall prepare an annual report detailing the actions the Taxpayer Advocate has taken to improve taxpayer services and the responsiveness of the Department of Taxes. The report shall identify the problems encountered by taxpayers in interacting with the Department of Taxes and include specific recommendations for administrative and legislative actions to resolve those problems. The report shall identify any problems that span an entire class of taxpayer or specific industry, and propose class- or industry-wide solutions. The report of the Taxpayer Advocate shall be submitted to the Senate Committee on Finance and the House Committee on Ways and Means ~~no later than~~ on or before January 15th 15 of each year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subsection.

Sec. 9. 33 V.S.A. § 2115 is added to read:

§ 2115. GENERAL ASSISTANCE PROGRAM REPORT

On or before of January 15 of each year, the Commissioner for Children and Families shall submit a written report to the House Committees on Appropriations, on General, Housing and Military Affairs and on Human Services and the Senate Committees on Appropriations and on Health and Welfare containing:

(1) an evaluation of the General Assistance program during the previous fiscal year;

(2) any recommendations for changes to the program; and

(3) a plan for continued implementation of the program.

Sec. 10. 2012 Acts and Resolves No. 162, Sec. E.321(b) is amended to read:

(b) The program may operate in up to 12 districts designated by the ~~secretary of human services~~ Secretary of Human Services. This program will be budget neutral. For each district in which the ~~agency~~ Agency operates the

program, it shall establish procedures for evaluating the pilot and its effects. The ~~agency~~ Agency shall report annually to the ~~general assembly~~ General Assembly on its findings from the programs, its recommendations for changes in the general assistance program, and a plan for further implementation of the program. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subsection.

* * * Report Requirements Repealed * * *

Sec. 11. 18 V.S.A. § 1553(c) is amended to read:

~~(c) On or before January 15 of each year, the commissioner of health shall submit a report to the house committees on health care and on human services and the senate committee on health and welfare containing at least the following information:~~

~~(1) a description of the adverse events reviewed by the panel during the preceding 12 months, including statistics and causes;~~

~~(2) corrective action plans to address, in the aggregate, such adverse events; and~~

~~(3) recommendations for system changes and legislation relating to the delivery of health care in Vermont. [Repealed.]~~

Sec. 12. 18 V.S.A. § 4632(a)(5) and (6) is amended to read:

~~(5) The office of the attorney general shall report annually on the disclosures made under this section to the general assembly and the governor on or before October 1. The report shall include:~~

~~(A) Information on allowable expenditures and permitted gifts required to be disclosed under this section, which shall present information in aggregate form by selected types of health care providers or individual health care providers, as prioritized each year by the office; and showing the amounts expended on the Green Mountain Care board established in chapter 220 of this title. In accordance with subdivisions (1)(B), (1)(D), and (2)(A) of this subsection, information on samples and donations to free clinics of prescribed products and of over the counter drugs, nonprescription medical devices, items of nonprescription durable medical equipment, medical food, and infant formula shall be presented in aggregate form.~~

~~(B) Information on violations and enforcement actions brought pursuant to this section and section 4631a of this title. [Repealed.]~~

~~(6) After issuance of the report required by subdivision (5) of this subsection and except Except as otherwise provided in subdivisions (1)(B) and (2)(A) of this subsection, the ~~office of the attorney general~~ Office of the~~

Attorney General shall make all disclosed data ~~used for the report~~ publicly available and searchable through an Internet website.

Sec. 13. 32 V.S.A. § 5930z(g) is amended to read:

~~(g) On a regular basis, the Department shall notify the House and Senate Committees on Natural Resources and Energy of solar energy tax credits claimed pursuant to this section, and the~~ The Board shall cause to be transferred from the Clean Energy Development Fund to the General Fund an amount equal to the amount of solar energy tax credits as and when the credits are claimed.

Sec. 14. 2000 Acts and Resolves No. 125, Sec. 2(b)(7) as amended by 2009 Acts and Resolves No. 33, Sec. 71 and 2012 Acts and Resolves No. 68, Sec. 3 is further amended to read:

~~(7) Report annually to the house and senate committees on education on the extent of indoor air and hazardous exposure problems in Vermont schools and on the percentage of Vermont schools that have established a school environmental health program or qualified for environmental health certification. [Repealed.]~~

Sec. 15. 2011 Acts and Resolves No. 54, Sec. 5(e) is amended to read:

~~(e) On or before January 15, 2012, and annually thereafter, the department of fish and wildlife shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy regarding the status of the relevant captive cervidae facility's compliance with:~~

- ~~(1) the requirements of this section; and~~
- ~~(2) the fish and wildlife board's rule governing the importation and possession of animals for taking by hunting. [Repealed.]~~

* * * Reports Expiration Extension * * *

Sec. 16. REPORT REPEAL DELAYED

The reports set forth in this section shall not be subject to review under the provisions of 2 V.S.A. § 20(d) (expiration of required reports) until July 1, 2020:

(1) 10 V.S.A. §§ 21(b)(2) (report on the condition of the EB-5 Special Fund), 1978(e)(3) (Technical Advisory Committee report on potable water supply and wastewater systems), 2609a (income from sites used for communication purposes), and 6604(b) (Agency of Natural Resources recommendations regarding solid waste management);

(2) 13 V.S.A. § 5256 (Defender General summarized activities);

(3) 18 V.S.A. §§ 4474j(b) (Marijuana for Symptom Relief Oversight Committee annual report) and 9375a(b)(4) (final projections for three-year projection of health care expenditures);

(4) 28 V.S.A. § 104(e) (Commissioner of Corrections notification of release of offenders);

(5) 29 V.S.A. §§ 155(c) (deposits and disbursements from Historic Property Stabilization and Rehabilitation Special Fund) and 160(e) (condition of Property Management Revolving Fund); and

(6) 1999 Acts and Resolves No. 49, Sec. 96, as amended by 2012 Acts and Resolves No. 139, Sec. 39 (economic advancement tax incentives awarded under 32 V.S.A. chapter 151, subchapter 11E); 2005 Acts and Resolves No. 56, Sec. 1(b)(2)(B), as amended by 2007 Acts and Resolves No. 65, Sec. 112a (utilization of services and expenses under Choices for Care); 2010 Acts and Resolves No. 110, Sec. 8 (status of river corridor, shoreland, and buffer zoning within Vermont); 2010 Acts and Resolves No. 161, Sec. 20, as amended by 2012 Acts and Resolves 139, Sec. 49 (status of improvements funded by State capital appropriations); 2011 Acts and Resolves No. 59, Sec. 15 (contested cases involving Public Records Act); 2011 Acts and Resolves No. 63, Sec. E.321.1(a), as amended by 2012 Acts and Resolves No. 139, Sec. 50 (outcomes and measures for Emergency Shelter grants); and 2012 Acts and Resolves No. 113, Sec. 3 (report on Genuine Progress Indicator).

* * * Technical Amendments * * *

Sec. 17. 2 V.S.A. § 263(j) is amended to read:

(j) The Secretary of State shall prepare a list of names and addresses of lobbyists and their employers and the list shall be published at the end of the second legislative week of each regular or adjourned session. Supplemental lists shall be published monthly during the remainder of the legislative session. ~~No later than~~ On or before March 15 of the first year of each legislative biennium, the Secretary of State shall publish no fewer than 500 booklets containing an alphabetical listing of all registered lobbyists, including, at a minimum, a current passport-type photograph of the lobbyist, the lobbyist's business address, telephone, and fax numbers, a list of the lobbyist's clients, and a subject matter index. ~~The provisions of subsection 20(d) (expiration of required reports) of this title shall not apply to the report to be made under this subsection.~~

Sec. 18. 2 V.S.A. § 404(b)(6) is amended to read:

(6) Except when the General Assembly is in session and upon the request of any person provide him or her, on a weekly basis, with a list of all

public hearings or meetings scheduled by a council, committee, subcommittee, commission, or study committee of the General Assembly or any cancellations of hearings or meetings thereof previously scheduled. ~~The provisions of subsection 20(d) (expiration of required reports) of this title shall not apply to the report to be made under this subdivision.~~

Sec. 19. 3 V.S.A. § 847(b) is amended to read:

(b) The Secretary of State shall publish not less than quarterly a bulletin setting forth the text of all rules filed since the immediately preceding publication and any objections filed under subsection 842(b) or 844(e) of this title. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 20. 3 V.S.A. § 2222(c) is amended to read:

(c) The Secretary shall compile, weekly, a list of all public hearings and meetings scheduled by all Executive Branch State agencies, departments, boards, or commissions during the next ensuing week. The list shall be distributed to any person in the State at that person's request. Each Executive Branch State agency, department, board, or commission shall notify the Secretary of all public hearings and meetings to be held and any cancellations of such hearings or meetings. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 21. 4 V.S.A. § 608(e) is amended to read:

(e) On or before the tenth Thursday after the convening of each biennial and adjourned session, the Committee shall report to the General Assembly its recommendation whether the candidates should continue in office, with any amplifying information which it may deem appropriate, in order that the General Assembly may discharge its obligation under ~~section 34~~ of Chapter II § 34 of the Constitution of the State of Vermont. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 22. 10 V.S.A. § 6503(a) is amended to read:

(a) The Committee shall report to the General Assembly its recommendation to approve or not to approve the petition for the facility together with such additional information and comment it deems appropriate. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 23. 16 V.S.A. § 164(17) is amended to read:

(17) Report annually on the condition of education statewide and on a school by school basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of harassment, hazing, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school to determine its strengths and weaknesses. The Secretary shall use the information in the report to determine whether students in each school are provided educational opportunities substantially equal to those provided in other schools pursuant to subsection 165(b) of this title. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.~~

Sec. 24. 16 V.S.A. § 165(a)(2) is amended to read:

(2) The school, at least annually, reports student performance results to community members in a format selected by the school board. In the case of a regional career technical center, the community means the school districts in the service region. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.~~ The school report shall include:

* * *

Sec. 25. 16 V.S.A. § 2967(a) is amended to read:

(a) On or before December 15, the Secretary shall publish an estimate, by town school district, city school district, union school district, unified union school district, incorporated school district, and the member school districts of an interstate school district, of the amount of State assistance necessary to fully fund sections 2961 through 2963 of this title in the ensuing school year. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 26. 16 V.S.A. § 3862 is amended to read:

§ 3862. REPORTS

~~Notwithstanding the provisions of 2 V.S.A. § 20(d),~~ The Vermont Education and Health Buildings Finance Agency shall prepare and annually submit to the Governor a complete report listing all projects applied for, planned, in progress, and completed, and a complete financial report duly audited and certified by a certified public accountant.

Sec. 27. 24 V.S.A. § 1354 is amended to read:

§ 1354. ACCOUNTS; ANNUAL REPORT

The Supervisor or Supervisors shall maintain an account showing in detail the revenue raised and the expenses necessarily incurred in the performance of the Supervisor's duties. The Supervisor or Supervisors shall prepare an annual fiscal report ~~by~~ on or before July 1 which shall conform to procedural and substantive requirements to be established by the Board of Governors and which, upon approval by the Board of Governors, shall be distributed to the residents of the gores. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.~~

Sec. 28. 24 V.S.A. § 4753b(b) is amended to read:

(b) The Commissioner shall report receipt of a grant under this section to the Chairs of the Senate Committee on Institutions and the House Committee on Corrections and Institutions and the Joint Fiscal Committee. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 29. 26 V.S.A. § 3105(d) is amended to read:

(d) Prior to review under this chapter and consideration by the General Assembly of any bill to regulate a profession or occupation, the Office of Professional Regulation shall make, in writing, a preliminary assessment of whether any particular request for regulation meets the criteria set forth in subsection (a) of this section. The Office shall report its preliminary assessment to the appropriate House or Senate Committee on Government Operations. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 30. 29 V.S.A. § 152(a)(25) is amended to read:

(25) Transfer any unexpended project balances from previous capital construction acts for the purpose of emergency projects not authorized in a capital construction act in an amount not to exceed \$100,000.00; provided the Commissioner shall send timely written notice of such expenditures to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.~~

Sec. 31. 32 V.S.A. § 166 is amended to read:

§ 166. PAYMENTS TO TOWNS; RETURNS BY COMMISSIONER OF
FINANCE AND MANAGEMENT

On or before January 10 of each year, the Commissioner of Finance and Management shall transmit to the auditors of each town a statement showing the amount of money paid by the State to the town and the purpose for which paid during the year ending December 31 preceding the date of such statement, the date of such payments and purpose for which made, unless the Commissioner of Finance and Management is requested to send such statement at some other date to conform to the fiscal year of such municipality. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.~~

Sec. 32. 32 V.S.A. § 311(b) is amended to read:

(b) At the request of the House or Senate Committee on Government Operations or on Appropriations, the State Treasurer, and the Commissioner of Finance and Management shall present to the requesting committees the recommendations submitted under 3 V.S.A. § 471(n) and 16 V.S.A. § 1942(r). ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 33. 32 V.S.A. § 704(i) is amended to read:

(i) ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the plan to be made under this section. [Repealed.]~~

Sec. 34. 32 V.S.A. § 3101(b)(11) is amended to read:

(11) From time to time prepare and publish statistics reasonably available with respect to the operation of this title, including amounts collected, classification of taxpayers, tax liabilities, and such other facts as the Commissioner or the General Assembly considers pertinent. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.~~

Sec. 35. 2009 Acts and Resolves No. 43, Sec. 49 as amended by 2014 Acts and Resolves No. 142, Sec. 76 is further amended to read:

Sec. 49. CLOSING OF CORRECTIONAL FACILITIES; APPROVAL

The Secretary of Administration shall not plan to close or significantly reduce operations at any correctional facility unless approval to proceed with such closing or reduction plans is granted by both the ~~Joint Committee on Corrections Oversight~~ Joint Legislative Justice Oversight Committee and the Joint Fiscal Committee. Any plan submitted to the committees shall include an analysis of the regional impact, including how the increased transportation costs will be funded. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.~~

Sec. 36. 2014 Acts and Resolves No. 142, Sec. 112 as amended by 2015 Acts and Resolves No. 23, Sec. 65 is further amended to read:

Sec. 112. REPORT REPEAL DELAYED

The reports set forth in this section shall not be subject to expiration under the provisions of 2 V.S.A. § 20(d) (expiration of required reports) until July 1, 2018:

* * *

(4) 10 V.S.A. §§ 291 (Entrepreneurs' ~~seed capital fund~~ Seed Capital Fund report), 323 (Vermont Housing ~~And~~ and Conservation Trust Fund report), 329 (The Sustainable Jobs Fund Program report), 580(b) (25 by 25 ~~state goal~~ State Goal report), 685(g) (Vermont Community Development Board report), 1196 (Connecticut River Watershed Advisory Commission report), 1942 (Underground Storage Tank Assistance Program report), and 1961(a)(4) (Vermont Citizens Advisory Committee on Lake Champlain's Future report), ~~and 7563 (ANR report on federal laws relating to collection and recycling of electronic devices).~~

* * *

(6) 18 V.S.A. §§ 1756 (lead poisoning report), 7402 (Commissioner of Mental Health report), 9505(9) (Vermont Tobacco Evaluation and Review Board ~~conflict of interest policy report~~ recommendations), and 9507(a) (Vermont Tobacco Evaluation and Review Board report).

* * *

* * * Repeal * * *

Sec. 37. REPEAL

The following are repealed:

(1) 1997 Acts and Resolves No. 58, Sec. 13 (tobacco sales to minors compliance testing);

(2) 2012 Acts and Resolves No. 143, Sec. 40 (calculation of dollar equivalent); and

(3) 2014 Acts and Resolves No. 142, Sec. 113 (Legislative Council report repeal authority).

* * * Effective Date * * *

Sec. 38. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

(No House amendments)

Senate Resolution for Notice

S.R. 12.

Senate resolution amending the permanent rules of the Senate.

PENDING QUESTION: Shall the Senate adopt the resolution?

Text of resolution:

Resolved by the Senate:

That the permanent rules of the Senate are amended as follows:

First: Senate Rule 102 is added to read:

102. Ethics:

(a) The Committee on Committees shall, at the beginning of the biennium or as soon as possible thereafter, establish an Ethics Panel to receive and investigate allegations of ethical violations of senators, except for those complaints covered under Rule 101, and to recommend to the Senate any disciplinary action against a senator for an ethical violation, if the Panel deems it necessary.

(b) The Panel shall be comprised of five members of the Senate including at least one Senator from each major political party. The Panel shall elect a chair. All records and documents of the Ethics Panel shall be maintained in the Senate Secretary's Office.

(c) The Rules Committee shall develop and adopt a policy and procedure for receiving and reviewing allegations of ethical violations of Senators and procedures for when information and documents are confidential and public.

(d) At the end of each biennium, the Ethics Panel shall report to the Senate the number of complaints filed and the disposition of those complaints.

Second: Senate Rule 103 is added to read:

103. Disclosure:

On or before the 10th day of the beginning of the biennium, each senator shall submit to the Secretary a disclosure form prepared by the Secretary, which form may be updated as necessary. The form shall be signed by the senator and be publicly available. A senator shall update the senator's disclosure form as circumstances require.

Proposed Amendment to the Constitution

PROPOSAL 1

(Third day on Notice Calendar pursuant to Rule 77)

Offered by Senator Benning

Subject: Declaration of rights; right to privacy.

PENDING ACTION: Second reading of the Proposed Amendment.

PROPOSAL 1

Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont to specifically provide that each person has a right to privacy, including the right to keep personal information private; to communicate with others privately; and to make decisions concerning his or her body.

Sec. 2. Article 22 of Chapter I of the Vermont Constitution is added to read:

Article 22. [RIGHT TO PRIVACY]

That each person has a right to privacy, including the right to keep personal information private; to communicate with others privately; and to make decisions concerning his or her body.

Sec. 3. EFFECTIVE DATE

The amendment set forth in Sec. 2 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2018 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

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

The Committee recommends that the proposal be amended by striking out the proposal in its entirety and inserting in lieu thereof the following:

PROPOSAL 1

Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont specifically to provide that each individual has a right to privacy, including the right to keep personal information private; to communicate with others privately; and to make decisions concerning his or her body.

Sec. 2. Chapter I, Article 22 of the Vermont Constitution is added to read:

Article 22. [RIGHT TO PRIVACY]

That each individual has a right to privacy that shall not be infringed without the showing of a compelling State interest. This right includes the individual's right to keep personal information private; to communicate with others privately; and to make decisions concerning his or her body. This section shall not be construed to modify the public's right of access to public records and open meetings as provided by law.

Sec. 3. EFFECTIVE DATE

The amendment set forth in Sec. 2 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2018 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

(Committee vote: 5-0-0)

CONCURRENT RESOLUTIONS FOR NOTICE

S.C.R. 42 (For text of Resolution, see Addendum to Senate Calendar for April 14, 2016)

H.C.R. 330-344 (For text of Resolutions, see Addendum to House Calendar for April 14, 2016)

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.

Thomas Carlson of Hinesburg – Superior Court Judge – By Sen. Ashe for the Committee on Judiciary. (4/6/16)

Michael J. Harris of Williston – Superior Court Judge – By Sen. Benning for the Committee on Judiciary. (4/6/16)

John Pacht of Hinesburg – Superior Court Judge – By Sen. Ashe for the Committee on Judiciary. (4/6/16)

John Valente of Rutland – Superior Court Judge - By Sen. Nitka for the Committee on Judiciary. (4/6/16)

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).