Senate Calendar

TUESDAY, MAY 03, 2016

SENATE CONVENES AT: 9:30 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

CONSIDERATION POSTPONED TO TUESDAY, MAY 3, 2016

Second Reading

Favorable with Proposal of Amendment

J.R.H. 26.

Joint resolution relating to the amendment of the federal Toxic Substances Control Act and its preemption provisions.

PENDING QUESTION: Shall the Senate propose to the House to amend the resolution as recommended by the Committee on Natural Resources and Energy?

Text of report of the Committee on Natural Resources and Energy:

The Committee recommends that the Senate propose to the House to amend the resolution by striking out the ninth whereas clause in its entirety and inserting in lieu thereof the following:

Whereas, significant health risks to Vermonters exist as a result of pollution from factories closed more than a decade ago, and

(For text of resolution, see Senate Journal of April 15, 2016, pages 875-877)

UNFINISHED BUSINESS OF FRIDAY, APRIL 29, 2016

House Proposal of Amendment

S. 255

An act relating to regulation of hospitals, health insurers, and managed care organizations.

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

First: In Sec. 2, 18 V.S.A. § 9405b, in subsection (b), by striking out the renumbered subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:

~~(11)~~(3) ~~Information~~ information on membership and governing body qualifications~~,~~; a listing of the current governing body members, including each member's name, town of residence, occupation, employer, and job title, and the amount of compensation, if any, for serving on the governing body; and means of obtaining a schedule of meetings of the hospital's governing body, including times scheduled for public participation; and

Second: By adding a section to be Sec. 2a to read as follows:

Sec. 2a. 18 V.S.A. § 9456(d) is amended to read:

(d)(1) Annually, the Board shall establish a budget for each hospital ~~by~~ on or before September 15, followed by a written decision by October 1. Each hospital shall operate within the budget established under this section.

* * *

(3)(A) The Office of the Health Care Advocate shall have the right to receive copies of all materials related to the hospital budget review and may:

(i) ask questions of employees of the Green Mountain Care Board related to the Board's hospital budget review;

(ii) submit written questions to the Board that the Board will ask of hospitals in advance of any hearing held in conjunction with the Board's hospital review:

(iii) submit written comments for the Board's consideration; and

(iv) ask questions and provide testimony in any hearing held in conjunction with the Board's hospital budget review.

(B) The Office of the Health Care Advocate shall not further disclose any confidential or proprietary information provided to the Office pursuant to this subdivision (3).

Third: By striking out Secs. 10, recommendations for potential alignment, and 11, effective dates, in their entirety and inserting in lieu thereof the following:

Sec. 10. RECOMMENDATIONS FOR POTENTIAL ALIGNMENT

(a) The Director of Health Care Reform in the Agency of Administration, in collaboration with the Green Mountain Care Board and the Department of Financial Regulation, shall compare the requirements in federal law applicable to Vermont's accountable care organizations and to the Department of Vermont Health Access in its role as a public managed care organization with the rules adopted in accordance with 18 V.S.A. § 9414(a)(1) as they apply to managed care organizations to identify opportunities for alignment, including alignment of mental health standards. The Director of Health Care Reform shall make recommendations on or before December 15, 2017 to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance on appropriate ways to improve alignment. In preparing his or her recommendations, the Director shall take into consideration the financial and operational implications of alignment and shall consult with interested stakeholders, including the Department of Health, the Department of Mental

Health, health care providers, accountable care organizations, the Office of the Health Care Advocate, the Vermont Association of Hospitals and Health Systems, the Vermont Medical Society, and health insurance and managed care organizations, as defined in 18 V.S.A. § 9402.

(b) In advance of the implementation of any of the recommendations provided pursuant to subsection (a) of this section and to the extent permitted under federal law, when making a utilization review determination on or after January 1, 2017, the Department of Vermont Health Access shall ensure that:

(1) a mental health professional licensed in Vermont whose training and expertise is at least comparable to the treating provider is involved in the review whenever authorization for mental health or substance abuse services is denied or when payment is stopped for mental health or substance abuse services already being provided;

(2) a physician under the direction of the Department's Chief Medical Officer is involved in the review whenever authorization for health care services other than mental health or substance abuse services is denied or when payment is stopped for health care services already being provided;

(3) adverse action letters delineate the specific clinical criteria upon which the adverse action was based; and

(4) for determinations applicable to patients receiving inpatient care, Department staff are available by telephone to discuss the individual case with the clinician requesting the benefit determination.

Sec. 11. 18 V.S.A. § 115 is amended to read:

§ 115. ~~CHRONIC DISEASES; STUDY; PROGRAM~~ PUBLIC HEALTH SURVEILLANCE ASSESSMENT AND PLANNING

(a) The Department of Health may, in the discretion of the Commissioner, accept for treatment children who have chronic diseases ~~such as cystic fibrosis and severe hemophilia~~ or developmental disabilities.

(b) The ~~State Board~~ Commissioner of Health is authorized to:

(1) study the prevalence of chronic disease;

(2) make such morbidity studies as may be necessary to evaluate the over-all problem of chronic disease and developmental disabilities;

(3) develop an early case-finding program, in cooperation with the medical profession;

(4) develop and carry on an educational program as to the causes, prevention and alleviation of chronic disease and developmental disabilities; and

(5) ~~integrate this program with that of the State rehabilitation center where possible, by seeking the early referral of persons with chronic disease, who could benefit from the State rehabilitation program~~ adopt rules for the purpose of screening chronic diseases and developmental disabilities in newborns.

(c) The ~~State Board~~ Department of Health is directed to consult and cooperate with the medical profession and interested official and voluntary agencies and societies in the development of this program.

(d) The ~~Board~~ Department is authorized to accept contributions or gifts which are given to the State for any of the purposes as stated in this section, and the Department is authorized to charge and retain monies to offset the cost of providing newborn screening program services.

Sec. 12. 18 V.S.A. § 115a is amended to read:

§ 115a. ~~CHRONIC DISEASES OF CHILDREN; TREATMENT~~

~~The Department of Health may, in the discretion of the Commissioner, accept for treatment children who have chronic diseases such as cystic fibrosis.~~ [Repealed.]

Sec. 13. 18 V.S.A. § 5087 is amended to read:

§ 5087. ESTABLISHMENT OF BIRTH INFORMATION NETWORK

* * *

(b) The Department of Health is authorized to collect information for the birth information network for the purpose of preventing and controlling disease, injury, and disability. The Commissioner ~~of Health~~, in collaboration with appropriate partners, shall coordinate existing data systems and records to enhance the network's comprehensiveness and effectiveness, including:

(1) vital records (birth, death, and fetal death certificates);

(2) the children with special health needs database;

(3) newborn metabolic screening;

(4) a voluntary developmental screening test;

(5) universal newborn hearing screening;

~~(5)~~(6) the Hearing Outreach Program;

~~(6)~~(7) the cancer registry;

~~(7)~~(8) the lead screening registry;

~~(8)~~(9) the immunization registry;

~~(9)~~(10) the special supplemental nutrition program for women, infants, and children;

~~(10)~~(11) the Medicaid claims database;

~~(11)~~(12) the hospital discharge data system;

~~(12)~~(13) health records, ~~(such as~~ including discharge summaries, disease indexes, nursery logs, pediatric logs, and neonatal intensive care unit logs~~)~~, from hospitals, outpatient specialty clinics, genetics clinics, and cytogenetics laboratories; and

~~(13)~~(14) the Vermont health care claims uniform reporting and evaluation system.

* * *

Sec. 14. CONGENITAL HEART DEFECT SCREENING; RULEMAKING

On or before January 1, 2017, the Commissioner of Health shall adopt rules pursuant to 3 V.S.A. chapter 25 requiring the screening for a congenital heart defect on every newborn in the State, unless a critical congenital heart defect was detected prenatally. Screening tests for critical congenital heart defects may include pulse oximetry or other methodologies that reflect the standard of care.

Sec. 15. EFFECTIVE DATES

(a) Secs. 1 (hospital needs assessment) and 2 (hospital community reports) and this section shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2016.

UNFINISHED BUSINESS OF MONDAY, MAY 2, 2016

House Proposal of Amendment

S. 230

An act relating to improving the siting of energy projects.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Designation * * *

Sec. 1. DESIGNATION OF ACT

This act shall be referred to as the Energy Development Improvement Act.

* * * Integration of Energy and Land Use Planning * * *

Sec. 2. 24 V.S.A. § 4302(c)(7) is amended to read:

(7) To ~~encourage the~~ make efficient use of energy ~~and~~, provide for the development of renewable energy resources, and reduce emissions of greenhouse gases.

(A) General strategies for achieving these goals include increasing the energy efficiency of new and existing buildings; identifying areas suitable for renewable energy generation; encouraging the use and development of renewable or lower emission energy sources for electricity, heat, and transportation; and reducing transportation energy demand and single occupancy vehicle use.

(B) Specific strategies and recommendations for achieving these goals are identified in the State energy plans prepared under 30 V.S.A. §§ 202 and 202b.

Sec. 3. 24 V.S.A. § 4345 is amended to read:

§ 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING COMMISSIONS

Any regional planning commission created under this chapter may:

* * *

(6) Undertake studies and make recommendations on land development, urban renewal, transportation, economic, industrial, commercial, and social development, urban beautification and design improvements, historic and scenic preservation, ~~the conservation of energy and the development of renewable energy resources,~~ State capital investment plans, and wetland protection.

* * *

Sec. 4. 24 V.S.A. § 4345a is amended to read:

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

(14) With respect to proceedings under 30 V.S.A. § 248:

(A) have the right to appear and participate; and

(B) ~~Appear~~ appear before the Public Service Board to aid ~~the Board~~ in making determinations under ~~30 V.S.A. § 248~~ that statute when requested by the Board.

* * *

(19) Undertake studies and make recommendations on the conservation of energy and the development of renewable energy resources.

Sec. 5. 24 V.S.A. § 4348a(a)(3) is amended to read:

(3) An energy element, which may include an analysis of ~~energy~~ resources, needs, scarcities, costs, and problems within the region~~,~~ across all energy sectors, including electric, thermal, and transportation; a statement of policy on the conservation and efficient use of energy and the development and siting of renewable energy resources~~, and~~; a statement of policy on patterns and densities of land use ~~and control devices~~ likely to result in conservation of energy; and an identification of potential areas for the development and siting of renewable energy resources and areas that are unsuitable for siting those resources or particular categories or sizes of those resources.

Sec. 6. 24 V.S.A. § 4352 is added to read:

§ 4352. OPTIONAL DETERMINATION OF ENERGY COMPLIANCE; ENHANCED ENERGY PLANNING

(a) Regional plan. A regional planning commission may submit its adopted regional plan to the Commissioner of Public Service appointed under 30 V.S.A. § 1 for a determination of energy compliance. The Commissioner shall issue such a determination in writing on finding that the regional plan meets the requirements of subsection (c) of this section and allows for the siting in the region of all types of renewable generation technologies.

(b) Municipal plan. If the Commissioner of Public Service has issued a determination of energy compliance for a regional plan that is in effect, a municipal legislative body within the region may submit its adopted municipal plan to the regional planning commission for issuance of a determination of energy compliance. The regional planning commission shall issue such a determination in writing, signed by the chair of the regional planning commission, on finding that the municipal plan meets the requirements of subsection (c) of this section and is consistent with the regional plan.

(c) Enhanced energy planning; requirements. To obtain a determination of energy compliance under this section, a plan must:

(1) in the case of a regional plan, include the energy element as described in subdivision 4348a(a)(3) of this title;

(2) in the case of a municipal plan, include an energy element that has the same components as described in subdivision 4348a(a)(3) of this title for a regional plan and be confirmed under section 4350 of this title;

(3) be consistent with the following, with consistency determined in the manner described under subdivision 4302(f)(1) of this title:

(A) Vermont's greenhouse gas reduction goals under 10 V.S.A. § 578(a);

(B) Vermont's 25 by 25 goal for renewable energy under 10 V.S.A. § 580;

(C) Vermont's building efficiency goals under 10 V.S.A. § 581;

(D) State energy policy under 30 V.S.A. § 202a and the recommendations for regional and municipal energy planning pertaining to the efficient use of energy and the siting and development of renewable energy resources contained in the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b (State energy plans); and

(E) the distributed renewable generation and energy transformation categories of resources to meet the requirements of the Renewable Energy Standard under 30 V.S.A. §§ 8004 and 8005; and

(4) meet the standards for issuing a determination of energy compliance included in the State energy plans.

(d) State energy plans; recommendations; standards.

(1) The State energy plans shall include the recommendations for regional and municipal energy planning and the standards for issuing a determination of energy compliance described in subdivision (c)(3) of this section.

(2) The recommendations shall provide strategies and options for regional planning commissions and municipalities to employ in meeting the goals and policies contained in statutes listed in subdivision (c)(3) of this section.

(3) The standards shall consist of a list of criteria for issuing a determination of energy compliance that ensure consistency with the goals and policies contained in the statutes listed in subdivision (c)(3) of this section and the recommendations developed pursuant to this subsection.

(4) In developing standards and recommendations under this subsection, the Commissioner of Public Service shall consult with all persons identified under 30 V.S.A. § 202(d)(1); the Secretaries of Agriculture, Food and Markets,

of Commerce and Community Development, of Natural Resources, and of Transportation; and other affected persons.

(5) The Commissioner of Public Service shall provide the Commissioner of Housing and Community Development with a copy of the recommendations and standards developed under this subsection for inclusion in the planning and land use manual prepared pursuant to section 4304 of this title.

(e) Process for issuing determinations of energy compliance. Review of whether to issue a determination of energy compliance under this section shall include a public hearing noticed at least 15 days in advance by direct mail to the requesting regional planning commission or municipal legislative body, posting on the website of the entity from which the determination is requested, and publication in a newspaper of general publication in the region or municipality affected. The Commissioner or regional planning commission shall issue the determination within two months of the receipt of a request for a determination. If the determination is negative, the Commissioner or regional planning commission shall state the reasons for denial in writing and, if appropriate, suggest acceptable modifications. Submissions for a new determination that follow a negative determination shall receive a new determination within 45 days.

(f) Appeal. A regional planning commission aggrieved by an act or decision of the Commissioner of Public Service under this section may appeal to the Natural Resources Board established under 10 V.S.A. chapter 151 within 30 days of the act or decision. The Board shall conduct a de novo hearing on the act or decision under appeal and shall proceed in accordance with the contested case requirements of the Vermont Administrative Procedure Act. The Board shall issue a final decision within 90 days of the filing of the appeal.

(g) Municipality; determination from DPS; time-limited option. Until July 1, 2018, a municipality whose plan has been confirmed under section 4350 of this title may seek issuance of a determination of energy compliance from the Commissioner of Public Service if it is a member of a regional planning commission whose regional plan has not received such a determination.

(1) The Commissioner shall issue a determination of energy compliance for the municipal plan on finding that the plan meets the requirements of subsection (c) of this section. The Commissioner's review of the municipal plan shall be for the purpose only of determining whether a determination of energy compliance should be issued because those requirements are met.

(2) A municipality aggrieved by an act or decision of the Commissioner under this subsection may appeal in accordance with the procedures of subsection (f) of this section.

(h) Determination; time period. An affirmative determination of energy compliance issued pursuant to this section shall remain in effect until the end of the period for expiration or readoption of the plan to which it applies.

(i) Commissioner; consultation. In the discharge of the duties assigned under this section, the Commissioner shall consult with and solicit the recommendations of the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation.

Sec. 7. 30 V.S.A. § 202 is amended to read:

§ 202. ELECTRICAL ENERGY PLANNING

* * *

(b) The Department, through the Director, shall prepare an electrical energy plan for the State. The Plan shall be for a 20-year period and shall serve as a basis for State electrical energy policy. The Electric Energy Plan shall be based on the principles of "least cost integrated planning" set out in and developed under section 218c of this title. The Plan shall include at a minimum:

* * *

(4) a detailed exposition, including capital requirements and the estimated cost to consumers, of how such demand shall be met based on the assumptions made in subdivision (1) of this subsection and the policies set out in subsection (c) of this section; ~~and~~

(5) specific strategies for reducing electric rates to the greatest extent possible in Vermont over the most immediate six-year period, for the next succeeding six-year period, and long-term sustainable strategies for achieving and maintaining the lowest possible electric rates over the full 20-year planning horizon consistent with the goal of maintaining a financially stable electric utility industry in Vermont; and

(6) recommendations for regional and municipal energy planning and standards for issuing a determination of energy compliance pursuant to 24 V.S.A. § 4352.

(c) In developing the Plan, the Department shall take into account the protection of public health and safety; preservation of environmental quality; the relevant goals of 24 V.S.A. § 4302; the potential for reduction of rates paid

by all retail electricity customers; the potential for reduction of electrical demand through conservation, including alternative utility rate structures; use of load management technologies; efficiency of electrical usage; utilization of waste heat from generation; and utility assistance to consumers in energy conservation.

(d) In establishing plans, the Director shall:

(1) Consult with:

(A) the public;

(B) Vermont municipal utilities and planning commissions;

(C) Vermont cooperative utilities;

(D) Vermont investor-owned utilities;

(E) Vermont electric transmission companies;

(F) environmental and residential consumer advocacy groups active in electricity issues;

(G) industrial customer representatives;

(H) commercial customer representatives;

(I) the Public Service Board;

(J) an entity designated to meet the public's need for energy efficiency services under subdivision 218c(a)(2) of this title;

(K) other interested State agencies; ~~and~~

(L) other energy providers; and

(M) the regional planning commissions.

* * *

(e) The Department shall conduct public hearings on the final draft and shall consider the evidence presented at such hearings in preparing the final Plan. The Plan shall be adopted no later than January 1, 2016 and readopted in accordance with this section by every sixth January ~~1~~ 15 thereafter, and shall be submitted to the General Assembly each time the plan is adopted or readopted. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to the submission to be made under this subsection.

* * *

(h) The Plans adopted under this section shall become the electrical energy portion of the State Energy Plan.

* * *

(j) For the purpose of assisting in the development of municipal and regional plans under 24 V.S.A. chapter 117, the Director shall, on request, provide municipal and regional planning commissions with publicly available information detailing the location of electric transmission and distribution infrastructure in the relevant municipality or region and the capacity of that infrastructure to accept additional electric generation facilities without modification. In providing this information, the Director shall be entitled to the assistance of the electric utilities that own electric transmission or distribution systems, or both, located in Vermont, including the ability to obtain from those utilities such publicly available data as the Director considers necessary to discharge his or her duties under this subsection.

Sec. 8. 30 V.S.A. § 202b is amended to read:

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

(a) The Department of Public Service, in conjunction with other State agencies designated by the Governor, shall prepare a State Comprehensive Energy Plan covering at least a 20-year period. The Plan shall seek to implement the State energy policy set forth in section 202a of this title and shall be consistent with the relevant goals of 24 V.S.A. § 4302. The Plan shall include:

(1) a comprehensive analysis and projections regarding the use, cost, supply, and environmental effects of all forms of energy resources used within Vermont; ~~and~~

(2) recommendations for State implementation actions, regulation, legislation, and other public and private action to carry out the comprehensive energy plan; and

(3) recommendations for regional and municipal energy planning and standards for issuing a determination of energy compliance pursuant to 24 V.S.A. § 4352.

* * *

(c) The Department shall adopt a State Energy Plan on or before January 1, 2016 and shall readopt the Plan by every sixth January ~~1~~ 15 thereafter. On adoption or readoption, the Plan shall be submitted to the General Assembly. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to such submission.

* * *

Sec. 9. INITIAL IMPLEMENTATION; RECOMMENDATIONS; STANDARDS

(a) On or before November 1, 2016, the Department of Public Service shall publish recommendations and standards in accordance with 24 V.S.A. § 4352 as enacted by Sec. 6 of this act. Prior to issuing these recommendations and standards, the Department shall perform each of the following:

(1) Consult with all persons identified under 30 V.S.A. § 202(d)(1); the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation; and other affected persons.

(2) Post on its website a draft set of initial recommendations and standards.

(3) Provide notice and an opportunity to comment and request a public hearing to all persons listed in 30 V.S.A. § 202(d)(1). The Commissioner may elect to hold one or more public hearings on the Commissioner's own initiative.

(b) In addition to the requirements of Sec. 6 of this act, the standards developed under this section shall address the following elements in a manner consistent with the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b:

(1) analysis of total current energy use across transportation, heating, and electric sectors;

(2) identification and mapping of existing electric generation and renewable resources;

(3) establishment of 2025, 2035, and 2050 targets for energy conservation, efficiency, fuel-switching, and use of renewable energy for transportation, heating, and electricity;

(4) analysis of amount of thermal-sector conservation, efficiency, and conversion to alternative heating fuels needed to achieve these targets;

(5) analysis of transportation system changes and land use strategies needed to achieve these targets;

(6) analysis of electric-sector conservation and efficiency needed to achieve these targets;

(7) pathways and recommended actions to achieve these targets, informed by this analysis;

(8) identification of potential areas for the development and siting of renewable energy resources and of the potential electric generation from such resources in the identified areas, taking into account factors including resource availability, environmental constraints, and the location and capacity of electric grid infrastructure; and

(9) identification of areas, if any, that are unsuitable for siting those resources or particular categories or sizes of those resources.

(c) On publication under subsection (a) of this section, the specific recommendations and standards shall be considered an appendix to the currently adopted plans under 30 V.S.A. §§ 202 and 202b. After this publication, the Department may revise these recommendations and standards in accordance with the procedures for adopting and revising plans under those statutes.

Sec. 10. TRAINING

Following publication of the recommendations and standards under Sec. 9(a) of this act, the Department of Public Service shall conduct a series of training sessions in locations across the State for municipal and regional planning commissions to assist them in the development of municipal and regional plans that are eligible to receive a determination of energy compliance under Sec. 6 of this act, 24 V.S.A. § 4352. The Department shall develop and present these sessions in collaboration with the Vermont League of Cities and Towns and the Vermont Association of Planning and Development Agencies. The Department shall ensure that all municipal and regional planning commissions receive prior notice of the sessions.

* * * Siting Process; Criteria; Conditions * * *

Sec. 11. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

(a)(1) No company, as defined in section 201 of this title, may:

* * *

(2) Except for the replacement of existing facilities with equivalent facilities in the usual course of business, and except for electric generation facilities that are operated solely for on-site electricity consumption by the owner of those facilities and for hydroelectric generation facilities subject to licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12, subchapter 1:

(A) no company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may begin site preparation for or construction of an electric generation facility or electric transmission facility within the State which is designed for immediate or eventual operation at any voltage; and

(B) no such company may exercise the right of eminent domain in connection with site preparation for or construction of any such transmission or generation facility, unless the Public Service Board first finds that the same will promote the general good of the State and issues a certificate to that effect.

* * *

(4)(A) With respect to a facility located in the State, the Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located.

* * *

(C) At the time of filing its application with the Board, copies shall be given by the petitioner to the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health, Agency of Natural Resources, Historic Preservation Division, Agency of Transportation, Agency of Agriculture, Food and Markets, and to the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

* * *

(E) The Agency of Natural Resources shall appear as a party in any proceedings held under this subsection, shall provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section, and may provide evidence and recommendations concerning any other matters to be determined by the Board in such a proceeding.

(F) The Agency of Agriculture, Food and Markets shall have the right to appear as a party in proceedings held under this subsection.

(G) The regional planning commission for the region in which the facility is located shall have the right to appear as a party in any proceedings held under this subsection. The regional planning commission of an adjacent region shall have the same right if the distance of the facility's nearest component to the boundary of that planning commission is 500 feet or 10 times the height of the facility's tallest component, whichever is greater.

(H) The legislative body and the planning commission for the municipality in which a facility is located shall have the right to appear as a party in any proceedings held under this subsection. The legislative body and planning commission of an adjacent municipality shall have the same right if the distance of the facility's nearest component to the boundary of that adjacent municipality is 500 feet or 10 times the height of the facility's tallest component, whichever is greater.

(I) When a person has the right to appear as a party in a proceeding before the Board under this chapter, the person may exercise this right by filing a letter with the Board stating that the person appears through the person's duly authorized representative, signed by that representative.

(J) This subdivision (J) applies to an application for an electric generation facility with a capacity that is greater than 50 kilowatts, unless the facility is located on a new or existing structure the primary purpose of which is not the generation of electricity. In addition to any other information required by the Board, the application for such a facility shall include information that delineates:

(i) the full limits of physical disturbance due to the construction and operation of the facility and related infrastructure, including areas disturbed due to the creation or modification of access roads and utility lines and the clearing or management of vegetation;

(ii) the presence and total acreage of primary agricultural soils as defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in connection with the construction and operation of the facility and the amount of those soils to be disturbed;

(iii) all visible infrastructure associated with the facility; and

(iv) all impacts of the facility's construction and operation under subdivision (b)(5) of this section, including impacts due to the creation or modification of access roads and utility lines and the clearing or management of vegetation.

(5) The Board shall adopt rules regarding standard conditions on postconstruction inspection and maintenance of aesthetic mitigation and on decommissioning to be included in certificates of public good for in-state facilities approved under this section. The purpose of these standard conditions shall be to ensure that all required aesthetic mitigation is performed and maintained and that facilities are removed once they are no longer in service.

(6) The Board shall require any in-state wind electric generation facility receiving a certificate of public good to install radar-controlled obstruction lights on all wind turbines for which the Federal Aviation Administration (FAA) requires obstruction lights, if the facility includes four or more wind turbines and the FAA allows the use of radar-controlled lighting technology.

(A) Nothing in this subdivision shall allow the Board to approve obstruction lights that do not meet FAA standards.

(B) The purpose of this subdivision is to reduce the visual impact of wind turbine obstruction lights on the environment and nearby properties. The General Assembly finds that wind turbine obstruction lights that remain illuminated through the night create light pollution. Radar-controlled obstruction lights are only illuminated when aircraft are detected in the area, and therefore the use of these lights will reduce the negative environmental impacts of obstruction lights.

(7) When a certificate of public good under this section or amendment to such a certificate is issued for an in-state electric generation facility, the certificate holder within 45 days shall record a notice of the certificate or amended certificate, on a form prescribed by the Board, in the land records of each municipality in which a facility subject to the certificate is located and shall submit proof of this recording to the Board. The recording under this subsection shall be indexed as though the certificate holder were the grantor of a deed. The prescribed form shall not exceed one page and shall require identification of the land on which the facility is to be located by reference to the conveyance to the current landowner, the number of the certificate, and the name of each person to which the certificate was issued, and shall include information on how to contact the Board to view the certificate and supporting documents.

(b) Before the Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1) With respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However:

(A) ~~with~~ With respect to a natural gas transmission line subject to Board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in

addition, upon application of any party, the Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located~~; and~~.

(B) ~~with~~ With respect to a ground-mounted solar electric generation facility, the facility shall comply with the screening requirements of a municipal bylaw adopted under 24 V.S.A. § 4414(15) or a municipal ordinance adopted under 24 V.S.A. § 2291(28), and the recommendation of a municipality applying such a bylaw or ordinance, unless the Board finds that requiring such compliance would prohibit or have the effect of prohibiting the installation of such a facility or have the effect of interfering with the facility's intended functional use.

(C) With respect to an in-state electric generation facility, the Board shall give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan that has received an affirmative determination of energy compliance under 24 V.S.A. § 4352. In this subdivision (C), "substantial deference" means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. The term shall not include consideration of whether the determination of energy compliance should or should not have been affirmative under 24 V.S.A. § 4352.

* * *

(5) With respect to an in-state facility, will not have an undue adverse effect on ~~esthetics~~ aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K), impacts to primary agricultural soils as defined in 10 V.S.A. § 6001, and greenhouse gas impacts.

* * *

(f) However, plans for the construction of such a facility within the State must be submitted by the petitioner to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement.

(1) Such municipal or regional planning commission may hold a public hearing on the proposed plans. Such commissions shall make

recommendations, if any, to the Public Service Board and to the petitioner at least seven days prior to filing of the petition with the Public Service Board.

(2) The petitioner's application shall address the substantive written comments related to the criteria of subsection (b) of this section received by the petitioner within 45 days of the submittal made under this subsection and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

* * *

(t) Notwithstanding any contrary provision of the law, primary agricultural soils as defined in 10 V.S.A. § 6001 located on the site of a solar electric generation facility approved under this section shall remain classified as such soils, and the review of any change in use of the site subsequent to the construction of the facility shall treat the soils as if the facility had never been constructed. Each certificate of public good issued by the Board for a ground-mounted solar generation facility shall state the contents of this subsection.

* * * Sound Standards; Wind Generation Facilities * * *

Sec. 12. SOUND STANDARDS; WIND GENERATION

(a) On or before September 15, 2017, the Public Service Board (the Board) finally shall adopt rules under 3 V.S.A. chapter 25 regarding sound from wind generation facilities approved under 30 V.S.A. § 248. In developing these rules, the Board shall consider:

(1) standards that apply to all wind generation facilities;

(2) a methodology for determining sound levels and measurement locations for each such facility on a case-by-case basis; or

(3) standards that apply to one or more categories of wind generation facilities, with a methodology for determining sound levels and measurement locations for other such facilities on a case-by-case basis.

(b) Notwithstanding any contrary provision of 1 V.S.A. § 213 or 214 or 3 V.S.A. § 845, rules adopted under this section shall apply to an application for a certificate of public good under 30 V.S.A. § 248 filed on or after April 15, 2016, regardless of whether such a certificate is issued prior to the effective date of the rules.

Sec. 13. 30 V.S.A. § 8010 is amended to read:

§ 8010. SELF-GENERATION AND NET METERING

* * *

(c) In accordance with this section, the Board shall adopt and implement rules that govern the installation and operation of net metering systems.

* * *

(3) The rules shall establish standards and procedures governing application for and issuance or revocation of a certificate of public good for net metering systems under the provisions of section 248 of this title. In establishing these standards and procedures~~, the rules~~:

(A) The rules may waive the requirements of section 248 of this title that are not applicable to net metering systems, including criteria that are generally applicable to public service companies as defined in this title~~;~~.

(B) The rules may modify notice and hearing requirements of this title as the Board considers appropriate~~;~~.

(C) The rules shall seek to simplify the application and review process as appropriate~~; and~~, including simplifying the application and review process to encourage group net metering systems when the system is at least 50 percent owned by the customers who receive the bill credits for the electricity generated by the system.

(D) ~~with~~ With respect to net metering systems that exceed 150 kW in plant capacity, shall apply the so-called "Quechee" test for aesthetic impact as described by the Vermont Supreme Court in the case of In re Halnon, 174 Vt. 515 (2002) (mem.). The rules and application form shall state the components of this test.

(E) The rules shall not waive or include provisions that are less stringent than the requirements of subdivision 248(a)(4)(J) (required information) of this title.

(F) This subdivision (F) applies to an application for a net metering system with a capacity that is greater than 15 kilowatts, unless the system is located on a new or existing structure the primary purpose of which is not the generation of electricity. With respect to such a system, the rules shall not waive or include provisions that are less stringent than each of the following:

(i) the requirement of subdivision 248(a)(4)(C) of this title to provide a copy of the application to the Agencies of Agriculture, Food and Markets and of Natural Resources; the Department of Public Service; the Division for Historic Preservation; the municipal legislative body; and the municipal and regional planning commissions; and

(ii) the requirements of subsection 248(f) (preapplication submittal) of this title.

* * *

(e) If a hydroelectric generation plant seeking approval as a net metering system is subject to licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12, subchapter 1, the Board shall require the plant to obtain such approval through means other than by application for a certificate of public good under section 248 of this title.

* * * Municipal Electric Utilities; Hydro Facilities; Renewable Energy Standard * * *

Sec. 14. 30 V.S.A. § 8005(a)(1) is amended to read:

(1) Total renewable energy.

(A) Purpose; establishment. To encourage the economic and environmental benefits of renewable energy, this subdivision establishes, for the RES, minimum total amounts of renewable energy within the supply portfolio of each retail electricity provider. To satisfy this requirement, a provider may use renewable energy with environmental attributes attached or any class of tradeable renewable energy credits generated by any renewable energy plant whose energy is capable of delivery in New England.

(B) Required amounts. The amounts of total renewable energy required by this subsection shall be 55 percent of each retail electricity provider's annual retail electric sales during the year beginning on January 1, 2017, increasing by an additional four percent each third January 1 thereafter, until reaching 75 percent on and after January 1, 2032.

* * *

(D) Municipal providers; petition. On petition by a provider that is a municipal electric utility serving not more than 6,000 customers, the Board may reduce the provider's required amount under this subdivision (1) for a period of up to three years. The Board may approve one such period only for a municipal provider. The Board may reduce this required amount if it finds that:

(i) the terms or conditions of an environmental permit or certification necessitate a reduction in the electrical energy generated by an in-state hydroelectric facility that the provider owns and that this reduction will require the provider to purchase other renewable energy with environmental attributes attached or tradeable renewable energy credits in order to meet this required amount; and

(ii) this purchase will:

(I) cause the provider to increase significantly its retail rates; or

(II) materially impair the provider's ability to meet the public's need for energy services after safety concerns are addressed, in the manner set forth in subdivision 218c(a)(1)(least cost integrated planning) of this title;

* * * Access to Public Service Board Process * * *

Sec. 15. ACCESS TO PUBLIC SERVICE BOARD WORKING GROUP: REPORT

(a) Creation. There is created an Access to Public Service Board Working Group (the Working Group) to be composed of the following five members:

(1) One member of the Public Service Board (PSB), appointed by the Chair of the PSB.

(2) The Commissioner of Public Service or designee.

(3) A judicial officer of the State, appointed by the Chief Justice of the Supreme Court.

(4) A House member of the Joint Energy Committee established under 2 V.S.A. chapter 17, appointed by the Speaker of the House; and

(5) A Senate member of the Joint Energy Committee established under 2 V.S.A. chapter 17, appointed by the Committee on Committees.

(b) Powers and duties; term.

(1) The Working Group shall review the current processes for citizen participation in PSB proceedings and shall make recommendations to promote increased ease of citizen participation in those proceedings.

(2) On or before December 15, 2016, the Working Group shall submit its written recommendations to the House and Senate Committees on Natural Resources and Energy, the Senate Committee on Finance, and the Joint Energy Committee.

(3) The Working Group shall have the administrative, technical, and legal assistance of the staff of the PSB.

(4) The appointed member of the PSB shall call the first meeting of the Working Group to occur on or before July 1, 2016. At the first meeting, the Working Group shall elect a chair from among its members.

(5) The Working Group shall cease to exist on February 1, 2017.

* * * Effective Dates * * *

Sec. 16. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except that:

(1) This section and Secs. 9 (initial implementation; recommendations; standards), 11 (30 V.S.A. § 248), 12 (sound standards; wind generation) and 15 (Access to Public Service Board Working Group) shall take effect on passage. Sec. 6 (optional determination of energy compliance) shall apply on passage to the activities of the Department of Public Service under Sec. 9.

(2) Sec. 13 (net metering) shall take effect on January 2, 2017, and shall amend 30 V.S.A. § 8010 as amended by 2015 Acts and Resolves No. 56, Sec. 12.

NEW BUSINESS

Third Reading

H. 130.

An act relating to the Agency of Public Safety.

H. 278.

An act relating to selection of the Adjutant and Inspector General.

H. 355.

An act relating to licensing and regulating foresters.

Proposal of amendment to H. 355 to be offered by Senator Nitka before Third Reading

Senator Nitka moves to amend the Senate proposal of amendment in Sec. 2, 26 V.S.A. chapter 95, in § 4926 (unprofessional conduct), in subsection (a), by striking out subdivision (6) in its entirety and renumbering the remaining subdivisions of subsection (a) to be numerically correct.

H. 812.

An act relating to implementing an all-payer model and oversight of accountable care organizations.

Proposal of amendment to H. 812 to be offered by Senator Ayer before Third Reading

Senator Ayer moves to amend the Senate proposal of amendment by adding a reader assistance heading and a new section to be Sec. 19a to read as follows:

* * * Universal Primary Care * * *

Sec. 19a. UNIVERSAL PRIMARY CARE; REPORT

(a) Regardless of any future developments in payment and delivery system reform, Vermont is likely to continue to have uninsured or underinsured residents. As expanding access to primary care services is a proven method for improving population health, the General Assembly intends to move forward with implementation of universal primary care for all Vermonters.

(b) In order to determine a path forward toward implementing universal primary care in Vermont, the Secretary of Administration or designee shall:

(1) conduct a literature review of any savings realized by universal health care programs over time that are attributable to the availability of universal access to primary care; and

(2) analyze the primary care payment models created through the development of the all-payer model in order to enable legislators to estimate appropriate reimbursement amounts for health care providers delivering primary care services.

(c) The Secretary or designee shall provide a detailed implementation timeline for universal primary care, including the recommended timing for conducting cost analyses; developing financing options; projecting impacts on insurance markets, individuals, households, businesses, and others; and estimating one-time and ongoing administrative costs.

(d) On or before December 15, 2016, the Secretary or designee shall report the results of the universal primary care study required by subsection (b) of this section, and the timeline developed pursuant to subsection (c) of this section, to the Health Reform Oversight Committee, the Joint Fiscal Committee, the House Committees on Health Care, on Appropriations, and on Ways and Means, and the Senate Committees on Health and Welfare, on Appropriations, and on Finance.

H. 869.

An act relating to judicial organization and operations.

Second Reading

Favorable with Proposal of Amendment

H. 533.

An act relating to victim notification.

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

The Committee recommends that the Senate propose to the House to amend the bill by striking out Sec. 4 in its entirety and inserting in lieu thereof the following:

Sec. 4. 24 V.S.A. § 1943 is added to read:

§ 1943. ANIMAL CRUELTY INVESTIGATION ADVISORY BOARD

(a) An Animal Cruelty Investigation Advisory Board is created within the Department of Public Safety to advise the Governor, the General Assembly, and the Commissioner of Public Safety on issues involving the cooperation and coordination of all agencies that exercise animal welfare responsibilities. The Governor shall appoint the following to serve on the Board:

(1) the Commissioner of Public Safety or designee;

(2) the Executive Director of State's Attorneys and Sheriffs or designee;

(3) the Secretary of Agriculture, Food and Markets or designee;

(4) the Commissioner of Fish and Wildlife or designee;

(5) two members to represent the interests of organizations dedicated to promoting the welfare of animals;

(6) three members to represent the interests of law enforcement;

(7) a member to represent the interests of humane officers working with companion animals;

(8) a member to represent the interests of humane officers working with large animals (livestock);

(9) a member to represent the interests of dog breeders and associated groups;

(10) a member to represent the interests of veterinarians;

(11) a member to represent the interests of the Criminal Justice Training Council;

(12) a member to represent the interests of sportsmen and women; and

(13) a member to represent the interests of town health officers.

(b) The Board shall elect a chair and a vice chair which shall rotate among the various member representatives. Each member shall serve a term of two years. The Board shall meet at the call of the Chair. A quorum shall consist of eight members, and decisions of the Board shall require the approval of a majority of those members present and voting.

(c) The Board shall have the following duties:

(1) undertake an ongoing formal review process of animal cruelty investigations and practices with a goal of developing a systematic, collaborative approach to providing the best services to Vermont's animals, given monies available;

(2) work with the Department of Public Safety to study the feasibility of designating one law enforcement agency to receive, dispatch, and document the outcome of animal cruelty complaints, and with the assistance of the Vermont Sheriffs' Association, develop a uniform response protocol for assigning complaints to the appropriate local law enforcement agencies;

(3) ensure that investigations of serious animal cruelty complaints are systematic and documented, develop written standard operating procedures and checklists to support the objective investigation of cruelty complaints that include objective measures of both environmental and clinical evidence of cruelty;

(4) ensure that requests for voluntary compliance are made in writing, with clear requests and timelines, and include a timeline for the investigator to perform a follow-up visit to confirm actions taken;

(5) develop a guide for animal cruelty prosecution, including a review of current sentencing recommendations for State's Attorneys;

(6) research the feasibility of developing and implementing an animal cruelty prevention and education program for offenders to be used as a part of offenders' sentencing;

(7) explore potential private and public sources of funding for animal cruelty investigations, including animal care expenses;

(8) develop trainings, protocols, procedures, and guidance documents for agencies engaging in animal welfare responsibilities;

(9) develop an animal cruelty investigation certification program for humane officers in accordance with 13 V.S.A. § 356, and provide a means by which a person who has been actively engaged in this State as a humane officer conducting animal cruelty investigations for at least five years preceding July 1, 2016 shall be eligible for certification without completion of the certification program requirements;

(10) develop recommendations for providing liability protection and reducing uncompensated costs to animal shelters and animal welfare groups that assist law enforcement authorities in animal cruelty investigations;

(11) explore changing the annual deadline for dog licensure under 20 V.S.A. § 3582 to align better with the time of year dogs require annual veterinary care; and

(12) determine what should appropriately constitute an enforcement action triggering the obligation of the Agency of Agriculture, Food and Markets to assist law enforcement pursuant to 13 V.S.A. § 354(a).

(d) The Board shall meet no fewer than six times a year to undertake its duties as outlined in subsection (a) of this section. The Board shall present its findings and recommendations in brief summary to the House and Senate Committees on Judiciary annually on or before January 15.

Sec. 5. 20 V.S.A. § 2365b is added to read:

§ 2365b. ANIMAL CRUELTY RESPONSE TRAINING

As part of basic training in order to become certified as a Level Two and Level Three law enforcement officer, a person shall receive a two-hour training module on animal cruelty investigations as approved by the Vermont Criminal Justice Training Council and the Animal Cruelty Investigation Advisory Board.

Sec. 6. 13 V.S.A. § 356 is added to read:

§ 356. HUMANE OFFICER REQUIRED TRAINING

All humane officers, as defined in subdivision 351(4) of this title shall complete a certification program on animal cruelty investigation training as developed and approved by the Animal Cruelty Investigation Advisory Board.

Sec. 7. 13 V.S.A. § 354 is amended to read:

§ 354. ENFORCEMENT; POSSESSION OF ABUSED ANIMAL; SEARCHES AND SEIZURES; FORFEITURE

(a) The Secretary of Agriculture, Food and Markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry. Law enforcement may consult with the Secretary in person or by electronic means, and the Secretary shall assist law enforcement in determining whether the practice, or animal condition, or both represent acceptable livestock or poultry husbandry practices.

* * *

Sec. 8. DEPARTMENT OF CORRECTIONS; ANIMAL CARE PILOT PROGRAM

The Commissioner of Corrections shall implement a pilot program in at least one correctional facility that would permit qualified inmates to provide

temporary care, on-site, for animals on a weekly or more frequent basis. The program shall be established on or before January 1, 2017, and the Commissioner shall report on this program, with recommendations as to whether it could be expanded to care for animals that have been seized or relinquished in cruelty or neglect investigations, to the Joint Committee on Justice Oversight on or before November 1, 2017.

Sec. 9. 20 V.S.A. § 1932 is amended to read:

§ 1932. DEFINITIONS

As used in this subchapter:

* * *

(12) "Designated crime" means any of the following offenses:

(A) a felony;

(B) 13 V.S.A. § 1042 (domestic assault);

(C) any crime for which a person is required to register as a sex offender pursuant to 13 V.S.A. chapter 167, subchapter 3 ~~of chapter 167 of Title 13~~;

(D) a misdemeanor for which a person is sentenced to and serves a period of incarceration of at least 30 days;

(E) an attempt to commit any offense listed in this subdivision; or

~~(E)~~(F) any other offense, if, as part of a plea agreement in an action in which the original charge was a crime listed in this subdivision and probable cause was found by the court, there is a requirement that the defendant submit a DNA sample to the DNA data bank.

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

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

An act relating to victims' rights and animal welfare

(Committee vote: 5-0-0)

(No House amendments)

House Proposal of Amendment to Senate Proposal of Amendment

H. 74

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

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

By striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. chapter 82 is added to read:

CHAPTER 82. SAFETY PROVISIONS FOR WORKERS

§ 8201. SAFETY POLICIES FOR EMPLOYEES DELIVERING DIRECT SOCIAL OR MENTAL HEALTH SERVICES

(a)(1) The Secretary of Human Services, in consultation with each department of the Agency, shall establish and maintain a written workplace violence prevention and crisis response policy that meets or exceeds the requirements of this chapter in place for the benefit of employees delivering direct social or mental health services.

(2) The Secretary shall ensure that the Agency's contracts with providers whose employees deliver direct social or mental health services and that are administered or designated but not otherwise licensed by a department of the Agency include the requirement that providers establish and maintain a written workplace violence prevention and crisis response policy that meets or exceeds the requirements of this chapter in place for the benefit of employees delivering direct social or mental health services.

(b) A written workplace violence prevention and crisis response policy prepared with input from an employee delivering direct social or mental health services shall minimally include the following:

(1) measures the provider intends to take to respond to an incident of or credible threat of workplace violence against an employee delivering direct social or mental health services;

(2) a system for centrally recording all incidents of or credible threats of workplace violence against an employee delivering direct social or mental health services;

(3) a training program to educate employees delivering direct social or mental health services about workplace violence and ways to reduce the risks; and

(4) the development and maintenance of a violence prevention and crisis response committee that includes employees delivering direct social or mental health services to monitor ongoing compliance with the violence prevention and crisis response policy and to assist employees delivering direct social or mental health services.

(c) In preparing the written violence prevention and crisis response policy required by this section, the Secretary and providers identified in subdivision (a)(2) of this section shall consult the U.S. Occupational Safety and Health Administration's Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers as amended.

(d) A written workplace violence prevention and crisis response policy shall be evaluated annually and updated as necessary by the violence and prevention response committee and provided to employees delivering direct social or mental health services.

(e) The requirements of this section shall neither be construed as a waiver of sovereign immunity by the State nor as creating any private right of action against the State for damages resulting from failure to comply with this section. This section shall not be construed to limit or eliminate any legal remedy available to an employee prior to the enactment of this section.

Sec. 2. 18 V.S.A. § 7114 is added to read:

§ 7114. SAFETY POLICIES FOR EMPLOYEES DELIVERING DIRECT SOCIAL OR MENTAL HEALTH SERVICES

(a) The Secretary of Human Services, in consultation with each department of the Agency, shall establish and maintain a workplace violence prevention and crisis response policy for the benefit of employees delivering direct social or mental health services pursuant to 33 V.S.A. § 8201.

(b) The Secretary shall ensure that the Agency's contracts with providers described in 33 V.S.A. § 8201(a)(2) require the providers to establish and maintain a written workplace violence prevention and crisis response policy for the benefit of employees delivering direct social or mental health services pursuant to 33 V.S.A. § 8201.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2017.

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

An act relating to safety policies for employees delivering direct social or mental health services

House Proposal of Amendment to Senate Proposal of Amendment

H. 629

An act relating to a study committee to examine laws related to the administration and issuance of vital records

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

First: In Sec. 1, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) Creation and membership. There is created a Vital Records Study Committee composed of the following members:

(1) the Commissioner of Health or designee;

(2) the State Archivist or designee;

(3) a Probate judge appointed by the Chief Justice of the Vermont Supreme Court;

(4) one municipal clerk designated by the Vermont Municipal Clerks' and Treasurers' Association; and

(5) one municipal clerk designated by the Vermont League of Cities and Towns, who is the clerk of a municipality that is not a member of the Vermont Municipal Clerks' and Treasurers' Association.

Second: In Sec. 1, by striking out subsection (e) in its entirety and inserting in lieu thereof the following:

(e) Meetings; selection of chair.

(1) The Probate judge appointed by the Chief Justice to serve on the Committee shall call the first meeting of the Committee to occur on or before June 15, 2016.

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

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

House Proposal of Amendment to Senate Proposal of Amendment

H. 690

An act relating to the practice of acupuncture by physicians, osteopaths, and physician assistants

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

By adding a new section to be Sec. 1a to read:

Sec. 1a. DIRECTOR OF PROFESSIONAL REGULATION; EVALUATING NON-ACUPUNCTURISTS

The Director of Professional Regulation, with cooperation of the relevant professional regulatory boards, shall monitor and evaluate whether non-acupuncturists employing acupuncture as a therapeutic modality are doing so safely, within their scopes of practice, and in a manner consistent with the public health, safety, and welfare.

NOTICE CALENDAR

Second Reading

Favorable with Proposal of Amendment

H. 306.

An act relating to unemployment compensation.

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

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. 21 V.S.A. § 342a is amended to read:

§ 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

(a) An employee or the Department on its own motion may file a complaint that wages have not been paid to an employee, not later than two years from the date the wages were due. The Commissioner shall provide notice and a copy of the complaint to the employer by service, or by certified mail sent to the employer's last known address, together with an order to file a response to the specific allegation in the complaint filed by the employee or the Department with the Department within 10 calendar days of receipt.

(b) The Commissioner shall investigate the complaint, and may examine the employer's records, enter and inspect the employer's business premises, question such employees, subpoena witnesses, and compel the production of books, papers, correspondence, memoranda, and other records necessary and material to investigate the complaint. If a person fails to comply with any lawfully issued subpoena, or a witness refuses to testify to any matter on which he or she may be lawfully interrogated, the Commissioner may seek an order from the Civil Division of the Superior Court compelling testimony or compliance with the subpoena.

(c)(1) ~~If after the investigation wages are found to be due, the Commissioner shall attempt to settle the matter between the employer and employee. If the attempt fails,~~ Following the investigation of the complaint:

(A) If the Commissioner determines that wages are due the employee, the Commissioner shall attempt to settle the matter between the employer and the employee before issuing a written determination and order for collection. If the Commissioner is unable to settle the matter, the Commissioner shall issue a written determination ~~and order for collection, which~~ stating that wages are due and an order for collection. The written determination shall specify the facts and the conclusions upon which the determination is based. ~~The Department shall collect from the employer the amounts due and remit them to the employee.~~

(B) If the Commissioner determines that wages are not due the employee, the Commissioner shall issue a written determination stating that wages are not due, which shall specify the facts and conclusions upon which the determination is based.

(2) Notice of the determination and, if applicable, the order for collection ~~to the employer~~ shall be provided to all interested parties by certified mail or service.

(3) The Department shall collect from the employer the amounts due and remit them to the employee.

(d) If the Commissioner determines that the unpaid wages were willfully withheld by the employer, the order for collection may provide that the employer is liable to pay an additional amount not to exceed twice the amount of unpaid wages, one-half of which will be remitted to the employee and one-half of which shall be retained by the Commissioner to offset administrative and collection costs.

(e) Within 30 days after the date of the ~~collection order~~ determination, the employer or employee may file an appeal from the determination to a departmental administrative law judge. The appeal shall, after notice to the

employer and employee, be heard by the administrative law judge within a reasonable time. The administrative law judge shall review the complaint de novo, and after a hearing, the determination and, if applicable, order for collection shall be sustained, modified, or reversed by the administrative law judge. Prompt notice in writing of the decision of the administrative law judge and the reasons for it shall be given to all interested parties.

* * *

Sec. 2. 21 V.S.A. § 1329 is amended to read:

§ 1329. COLLECTION OF UNPAID CONTRIBUTIONS; SUIT

* * *

(e) No action shall be commenced for the collection of contributions, interest and penalties under this chapter more than ~~three~~ six years after the date on which the contributions became due and payable, unless prior to the expiration of the ~~three-year~~ six-year period:

(1) ~~An~~ an assessment proceeding has been instituted under the provisions of section 1330 of this title; or

(2) ~~A~~ a civil action has been instituted under subsection (b) of this section; or

(3) ~~A~~ a lien has been created under section 1336 of this title.

(f) The provisions of subsection (e) of this section shall not apply where an employer by willful failure or refusal to file a report with the ~~commissioner~~ Commissioner or to include in any report all wages which he or she has paid, or otherwise has attempted to avoid or reduce liability for the payment of contributions.

Sec. 3. 21 V.S.A. § 1330 is amended to read:

§ 1330. ASSESSMENT PROVIDED

(a) When any employer fails to pay any contributions or payments required under this chapter, the ~~commissioner~~ Commissioner shall make an assessment of contributions against ~~such~~ the employer together with interest and penalty thereon. After making the assessment, ~~due notice shall be given thereof, by ordinary or certified mail, to the employer~~ the Commissioner shall provide the employer with notice of the assessment by ordinary or certified mail and the assessment shall be final unless the employer petitions for a hearing on ~~such~~ the assessment within the time ~~hereinafter~~ specified by section 1331 of this chapter.

(b) If the employer fails to comply with the reporting requirements of section 1314a or 1322 of this chapter, or if the employer files an incorrect or insufficient report pursuant to section 1314a or 1322 of this chapter and fails to file a corrected or sufficient report within 30 days after the Commissioner provides written notice to the employer to correct or supplement the report, the Commissioner shall, on the basis of the information that is available to the Commissioner, make an assessment of the amount of the contribution due from the employer together with interest and penalty.

Sec. 4. 21 V.S.A. § 1347 is amended to read:

§ 1347. NONDISCLOSURE OR MISREPRESENTATION

(a) Any person who fails, without good cause, to make reasonable effort to secure suitable work when directed to do so by the employment office or the Commissioner and has received any amount as benefits under this chapter with respect to weeks for which the person is determined to be ineligible for such failure, and any person who by nondisclosure or misrepresentation by him or her, or by another, of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent) has received any amount as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in his or her case or while he or she was disqualified from receiving benefits, shall be liable for such amount. Notice of determination in such cases shall specify that the person is liable to repay to the Fund the amount of overpaid benefits, the basis of the overpayment, and the week or weeks for which such benefits were paid. The determination shall be made within ~~three~~ six years from the date of such overpayment.

(b) Any person who receives remuneration described in subdivision 1344(a)(5)~~(A), (B), (C), (D), (E), or (F)~~ of this title which is allocable in whole or in part to prior weeks during which he or she received any amounts as benefits under this chapter shall be liable for all ~~such~~ amounts of benefits or those portions of ~~such~~ the amounts equal to the portions of ~~such~~ the remuneration properly allocable to the weeks in question. Notice of determination in such cases shall specify that the person is liable to repay to the Fund the amount of overpaid benefits, the basis of the overpayment, and the week or weeks for which ~~such~~ the benefits were paid. The determination shall be made within ~~three~~ six years from the date of such overpayment or within one year from the date of receipt of the remuneration, whichever period is longer.

* * *

Sec. 5. 21 V.S.A. § 1321 is amended to read:

§ 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

* * *

(c)(1) Financing benefits paid to employees of nonprofit organizations. Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this subsection. ~~For the purposes of~~ As used in this subsection, a nonprofit organization is an organization (or group of organizations) described in Section 501(c)(3) of the U.S. Internal Revenue Code which is exempt from income tax under Section 501(a) of such code.

(2) Liability for contributions and election of reimbursement. Any nonprofit organization which, pursuant to subdivision 1301(5)(B)(i) of this title, is, or becomes, subject to this chapter on or after January 1, 1972 shall pay contributions under the provisions of this section, unless it elects, in accordance with this subsection, to pay to the Commissioner, for the Unemployment Trust Fund, an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

* * *

(C) Any nonprofit organization which makes an election in accordance with subdivisions (c)(2)(A) and (B) of this section will continue to be liable for payments in lieu of contributions until ~~it files~~ its election is terminated by the Commissioner. An employer shall file with the Commissioner a written notice ~~terminating its election~~ requesting that its election be terminated not later than 30 days prior to the beginning of the calendar year for which such termination ~~shall~~ would first be effective. The Commissioner, in accordance with rules adopted by the Board, shall determine whether the employer is eligible to terminate its election based on the employer's anticipated contributions to the Unemployment Trust Fund and any additional liability expected to be incurred by the Fund as a result of the proposed termination. The Commissioner's determinations shall be subject to reconsideration and to appeal and review in accordance with the provisions of section 1337a of this title.

* * *

(e) Any municipality, any State institution of higher education, and any political or governmental subdivisions or instrumentalities of the State shall pay contributions unless it elects to pay to the Commissioner for the Unemployment ~~Compensation~~ Trust Fund, an amount equal to the amount of

benefits paid, including the full amount of extended benefits paid, attributable to service by individuals in the employ of these entities. Subsections (a) and (b) and subdivisions (3)(C) through (3)(F), inclusive, and subdivisions (4) through (6), inclusive, of subsection (c) of this section as they apply to nonprofit organizations shall also apply to the entities designated in this subsection, except that these entities shall be liable for all benefits paid, including the full amount of extended benefits paid, attributable to service in the employ of these entities.

* * *

(3) Any entity designated in this subsection which makes an election in accordance with subdivisions (1) and (2) of this subsection will continue to be liable for payments in lieu of contributions until ~~it files with~~ its election is terminated by the Commissioner. The entity shall file with the Commissioner a written notice ~~terminating its election~~ requesting that its election be terminated not later than 30 days prior to the beginning of the calendar year for which the termination ~~shall~~ would first be effective. The Commissioner, in accordance with rules adopted by the Board, shall determine whether the entity is eligible to terminate its election based on the entity's anticipated contributions to the Unemployment Trust Fund and any additional liability expected to be incurred by the Fund as a result of the proposed termination. The Commissioner's determinations shall be subject to reconsideration and to appeal and review in accordance with the provisions of section 1337a of this title.

* * *

Sec. 6. STUDY; REPORT

The Commissioner of Labor shall study whether reimbursable employers pursuant to 21 V.S.A. § 1321(c) should be required to procure and maintain a bond, escrow account, or other surety to fund unemployment compensation benefit liability in the event the employer dissolves or ceases to operate while liability still exists. The Commissioner shall report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance regarding the findings of the study and any recommendations for statutory changes on or before November 15, 2016.

Sec. 7. 21 V.S.A. § 1358 is amended to read:

§ 1358. UNEMPLOYMENT ~~COMPENSATION~~ TRUST FUND; ESTABLISHMENT AND CONTROL

There is hereby established as a special fund, to be kept separate and apart from all other public ~~moneys~~ monies or funds of this ~~state~~ State, an

~~unemployment compensation fund~~ Unemployment Trust Fund, which shall be administered by the ~~commissioner~~ Commissioner exclusively for the purposes of this chapter. This ~~fund~~ Fund shall consist of (1) all contributions collected under this chapter; (2) interest earned upon any ~~moneys~~ monies in the ~~fund~~ Fund; (3) any property or securities acquired through the use of ~~moneys~~ monies belonging to the ~~fund~~ Fund; (4) all earnings of such property or securities; (5) all money credited to this ~~state's~~ State's account in the ~~unemployment trust fund~~ federal Unemployment Trust Fund pursuant to ~~section 903 of~~ the Social Security Act, 42 U.S.C. § 1103 as amended; and (6) all other ~~moneys~~ monies received for the ~~fund~~ Fund from any other source. All ~~moneys~~ monies in the ~~fund~~ Fund shall be mingled and undivided.

Sec. 8. STATUTORY REVISION

(a) When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall make the following revisions throughout 21 V.S.A. chapter 17 as needed for consistency with Sec. 7 of this act (amending 21 V.S.A. § 1358), as long as the revisions have no other effect on the meaning of the affected statutes:

(1) replace "unemployment compensation fund" with "Unemployment Trust Fund";

(2) replace "unemployment fund" with "Unemployment Trust Fund"; and

(3) replace "unemployment compensation trust fund" with "Unemployment Trust Fund."

(b) When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall replace the word "moneys" wherever it appears in Title 21 of the Vermont Statutes Annotated with the word "monies," as long as the revisions have no other effect on the meaning of the affected statutes

Sec. 9. NOTICE OF PROJECTED REDUCTIONS IN EMPLOYER CONTRIBUTIONS

(a) The Commissioner of Labor shall include a plain language statement describing the projected reductions in the statewide employer contributions to the Unemployment Trust Fund for calendar years 2018 through 2022 with the unemployment insurance contribution rate notice sent in June 2016 to each employer subject to 21 V.S.A. chapter 17.

(b) The notice shall include the following statement:

"In order to help Vermont employers plan for future business activities, the Vermont Department of Labor is providing information regarding the

roughly 49% decrease from the current amount of statewide employer contributions to the Unemployment Trust Fund that is projected to occur by calendar year 2022. Beginning in 2018, the projected total amount of employer contributions is expected to drop to $126.6 million, a decrease of approximately $14.4 million from 2017. In 2019, the projected total amount of employer contributions is expected to decrease by a further $21.5 million to $105.1 million. In 2020, the projected total amount of employer contributions is expected to decrease by a further $3.2 million to $101.9 million. In 2021, the projected total amount of employer contributions is expected to decrease by a further $23.1 million to $78.8 million. Finally, in 2022, the projected total amount of employer contributions is expected to decrease by a further $7.5 million to $71.3 million.

The projected amount of employer contributions for calendar year 2022 would represent a roughly 49% reduction from the current amount of employer contributions to the Unemployment Trust Fund. These projected reductions in employer contributions are a result of the Unemployment Trust Fund's recovery and return to good financial health following legislative reforms that were enacted in 2010.

The impact of the projected reductions on individual employers will vary based on each employer's experience and unique circumstances, and changes to the economy could have an impact on the estimates contained in this notice."

Sec. 10. EFFECTIVE DATES

(a) This section and Sec. 9 shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2016.

(Committee vote: 5-2-0)

(For House amendments, see House Journal for March 17, 2015, page 427)

H. 857.

An act relating to timber harvesting.

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

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:

* * * General Policy and Enforcement Provisions * * *

Sec. 1. 10 V.S.A. § 2600 is added to read:

§ 2600. FINDINGS

The General Assembly finds that:

(1) Private and public forestlands:

(A) constitute unique and irreplaceable resources, benefits, and values of statewide importance;

(B) contribute to the protection and conservation of wildlife habitat, air, water, and soil resources of the State;

(C) mitigate the effects of climate change; and

(D) benefit the general health and welfare of the people of the State.

(2) The forest products industry, including maple sap collection:

(A) is a major contributor to and is valuable to the State's economy by providing jobs to its citizens;

(B) is essential to the manufacture of forest products that are used and enjoyed by the people of the State; and

(C) benefits the general welfare of the people of the State.

(3) Private and public forestlands are critical for and contribute significantly to the State's outdoor recreation and tourism economies.

(4) Forestry operations are adversely affected by the encroachment of urban, commercial, and residential land uses throughout the State that result in forest fragmentation and conversion and erode the health and sustainability of remaining forests.

(5) As a result of encroachment on forests, conflicts have arisen between traditional forestry land uses, and urban, commercial, and residential land uses convert forestland permanently to other uses, resulting in an adverse impact to the economy and natural environment of the State.

(6) The encouragement, development, improvement, and preservation of forestry operations will result in a general benefit to the health and welfare of the people of the State and the State's economy.

(7) The forest products industry, in order to survive, likely will need to change, adopt new technologies, and diversify into new products.

Sec. 2. 10 V.S.A. § 2601 is amended to read:

§ 2601. POLICY AND PURPOSES

(a) The conservation of the forests, timberlands, woodlands, and soil and recreational resources of the ~~state~~ State are hereby declared to be in the public

interest. It is the policy of the ~~state~~ State to encourage economic management of its forests and woodlands, to sustain long-term forest health, integrity, and productivity, to maintain, conserve, and improve its soil resources, and to control forest pests to the end that forest benefits, including maple sugar production, are preserved for its people, floods and soil erosion are alleviated, hazards of forest fires are lessened, its natural beauty is preserved, its wildlife is protected, the development of its recreational interests is encouraged, the fertility and productivity of its soil are maintained, the impairment of its dams and reservoirs is prevented, its tax base is protected, and the health, safety, and general welfare of its people are sustained and promoted.

(b) The ~~department~~ Department shall implement the policies of this chapter by assisting ~~forest land~~ forestland owners and lumber operators in the cutting and marketing of forest growth, encouraging cooperation between forest owners, lumber operators, and the ~~state~~ State of Vermont in the practice of conservation and management of ~~forest lands~~ forestlands, managing, promoting, and protecting the multiple use of publicly owned forest and park lands; planning, constructing, developing, operating, and maintaining the system of ~~state~~ State parks; determining the necessity of repairs and replacements to all ~~department-owned~~ Department-owned buildings and causing urgent repairs and replacements to be accomplished, with the approval of the ~~secretary of administration~~ Secretary of Administration, if within the limits of specific appropriations or if approved by the ~~emergency board~~ Emergency Board; and providing advice and assistance to municipalities, other political subdivisions, ~~state~~ State departments and nongovernmental organizations in the development of wholesome and adequate community or institutional recreation programs.

(c) The Commissioner shall implement the policy established under this section when constructing the provisions of this chapter related to the management of forestlands and the construction of chapters 85 and 87 of this title.

Sec. 3. 10 V.S.A. § 2602 is amended to read:

§ 2602. DEFINITIONS

As used in this chapter:

(1) "Agency" means the ~~agency of natural resources~~ Agency of Natural Resources as created by 3 V.S.A. chapter 51 ~~of Title 3;~~.

(2) "Department" means the ~~department of forests, parks and recreation~~ Department of Forests, Parks and Recreation within the ~~agency of natural resources;~~ Agency of Natural Resources.

(3) "Commissioner" means the ~~commissioner of the department of forests, parks and recreation;~~ Commissioner of Forests, Parks and Recreation.

(4) "Secretary" means the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources.

(5) "Forest product" mean logs; pulpwood; veneer; bolt wood; wood chips; stud wood; poles; pilings; biomass; fuel wood; maple sap; or bark.

(6) "Forestry operation" means activities related to the management of forests, including a timber harvest; pruning; planting; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization. "Forestry operation" includes the primary processing of forest products of commercial value on a parcel where the timber harvest occurs.

(7) "Timber" means trees, saplings, seedlings, bushes, shrubs, and sprouts from which trees may grow, of every size, nature, kind, and description.

(8) "Timber harvest" means a forestry operation involving the harvest of timber.

Sec. 4. 10 V.S.A. § 2608 is amended to read:

§ 2608. ENFORCEMENT; PENALTIES; LIABILITY

~~(a)~~ Enforcement of the provisions of this chapter or ~~any regulations or proclamations promulgated~~ rules adopted hereunder shall be in accordance with ~~the provisions of 3 V.S.A. § 2822(c)~~ chapter 201 or 211 of this title.

~~(b) A person who violates any provision of this chapter or regulations or proclamations promulgated hereunder, or neglects or refuses to assist a fire warden when called upon to do so as provided in section 2644 of this title, shall be imprisoned not more than 30 days or fined not more than $ 50.00, or both. Such person shall be liable for all damages resulting from a violation to be recovered in a civil action under this statute by the person injured.~~

* * * Harvest Notification * * *

Sec. 5. 10 V.S.A. § 2612a is added to read:

§ 2612a. HARVEST NOTIFICATION; PILOT PROGRAM

(a) Findings. The General Assembly finds that:

(1) The public will benefit from accountability of persons conducting timber harvests by providing a mechanism for the Department to distribute information and guidance to achieve compliance with existing laws and programs related to harvesting, including Use Value Appraisal eligibility

requirements, and those that protect landowners, the environment, and the economy.

(2) Enforcement of compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont will be facilitated through notification and documentation of timber harvests.

(3) Owners of forestlands will benefit from proactive and timely delivery of guidance and resources that support successful forestry operations, including timber harvesting, provided by the Department, including the Vermont Voluntary Harvesting Guidelines.

(4) State knowledge of harvest locations will improve the understanding of factors affecting the forest economy, thereby informing opportunities to support it.

(b) Harvest notification; pilot. The Commissioner shall establish a harvest notification pilot program under which a landowner of property may notify the Commissioner prior to commencement of a timber harvest. The process established by the Commissioner shall allow for a harvest notification by electronic means, telephone, or paper submission.

(c) Requested information. The Commissioner shall designate the information to be submitted to the Department in a voluntary harvest notification. The requested information shall contain, at a minimum, the following information:

(1) the landowner's name; mailing address; physical address of residence; e-mail address, if any; and telephone number;

(2) the name of the harvester or contractor conducting the harvest and his or her mailing address; address of the principal place of business or residence; e-mail address, if any; and telephone number;

(3) the name of the landowner's agent or consulting forester, if any, and his or her mailing address; address of the principal place of business or residence; e-mail address, if any; and telephone number;

(4) the location of the timber harvest, including the town and the nearest public town highway used to access the timber harvest;

(5) the school property account number (SPAN) of the parcel where the timber harvest will occur;

(6) the estimated date the timber harvest will commence and the estimated date the harvest will be completed;

(7) the estimate of the acreage of the timber harvest area; and

(8) whether the parcel where the timber harvest will occur is enrolled in the use value appraisal program.

(d) Harvest number; technical assistance. Upon receipt of a complete harvest notification, the Commissioner shall assign a unique harvest number to the timber harvest and shall provide the landowner with technical guidance or information, including: a sample timber sale contract; voluntary harvesting guidelines; guidance on compliance with maintaining water quality protection during a timber harvest; and referral, where applicable, to appropriate natural resource professionals.

(e) Confidentiality. Information submitted by a landowner in a voluntary harvest notification under this section is confidential and exempt from public inspection under the Public Records Act.

Sec. 6. DEPARTMENT OF FORESTS, PARKS AND RECREATION; HARVEST NOTIFICATION UPDATE

On or before February 1, 2018, the Commissioner of Forests, Parks and Recreation shall testify before or submit written testimony to the House Committees on Natural Resources and Energy and on Agriculture and Forest Products and the Senate Committee on Natural Resources and Energy regarding implementation of the Harvest Notification Pilot Program established under 10 V.S.A. § 2612a. The testimony shall include:

(1) Summarize implementation of and participation in the Pilot Program, including the number of harvest notifications received.

(2) Summarize the technical assistance and information provided to landowners under the program.

(3) Summarize the effectiveness of the program in increasing compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont.

(4) Summarize whether the Pilot Program increased the amount or quality of information collected by the Department of Forests, Parks and Recreation regarding timber harvests in the State.

(5) Recommend whether harvest notification should be a voluntary or mandatory program.

Sec. 7. SUNSET; HARVEST NOTIFICATION PILOT PROGRAM

10 V.S.A. § 2612a (Harvest Notification Pilot Program) shall be repealed on June 30, 2018.

Sec. 8. 10 V.S.A. § 2613 is added to read:

§ 2613. HARVEST NOTIFICATION; RULEMAKING; REQUIREMENT

(a) On or before July 1, 2018, the Commissioner of Forests, Parks and Recreation shall adopt rules requiring a landowner of property where timber is or will be harvested to notify the Department of Forests, Parks and Recreation of the harvest. The rules shall:

(1) Specify the time period within which the landowner will be required to provide notice of the harvest.

(2) Identify the method or means by which the landowner shall provide notice. The rules shall allow for a harvest notification by electronic means, telephone, or paper submission.

(3) Establish exemptions from the harvest notification requirement based on the size of the harvest or other criteria.

(4) Identify the information to be submitted in a harvest notification, provided that the rules shall require the following information.

(A) the landowner's name; mailing address; physical address of residence; e-mail address, if any; and telephone number;

(B) the name of the harvester or contractor conducting the harvest and his or her mailing address; address of the principal place of business or residence; e-mail address, if any; and telephone number.

(C) the name of the landowner's agent or consulting forester, if any, and his or her mailing address; address of the principal place of business or residence; e-mail address, if any; and telephone number;

(D) the location of the timber harvest, including the town and the nearest public town highway used to access the timber harvest;

(E) the school property account number (SPAN) of the parcel where the timber harvest will occur;

(F) the date the timber harvest commenced or will commence and the estimated date the harvest will be completed;

(G) the estimate of the acreage of the timber harvest area;

(H) whether the parcel where the timber harvest will occur is enrolled in the use value appraisal program;

(5) Specify whether a harvest identification number will be assigned to each harvest and whether the harvest identification number shall be posted at the harvest site.

(6) Specify the duration of any harvest identification number issued by the Commissioner.

(b) Beginning on July 1, 2018, a landowner of property where timber is or will be harvested shall submit to the Department of Forests, Parks and Recreation the harvest notification required by the rules adopted under subsection (a) of this section.

* * * Maple Sugar Production on State Lands * * *

Sec. 9. 10 V.S.A. § 2606b is amended to read:

§ 2606b. LICENSE OF ~~FOREST LANDS~~ FORESTLANDS FOR MAPLE SUGAR PRODUCTION

(a) The ~~general assembly~~ General Assembly finds and declares that:

(1) Maple sugaring is an important cultural tradition of Vermont life that should be maintained and encouraged.

(2) Maple sugaring is an important component of the agricultural and forest products economy in Vermont and is increasingly necessary for farmers that must diversify in order to continue to farm in Vermont.

(3) Maple sugaring is a sustainable use of ~~forest land~~ forestland.

(4) State ~~forest land~~ forestland should be managed and used for multiple uses, including maple sugar production.

(b) It is hereby adopted as ~~state~~ State policy to permit limited use of designated ~~state-owned~~ State-owned land under the jurisdiction of the ~~department~~ Department for maple sugar production.

(c) ~~Beginning on July 1, 2009, pursuant~~ Pursuant to guidelines developed ~~jointly~~ by the ~~department of forests, parks and recreation and the Vermont maple sugar makers' association~~ Department of Forests, Parks and Recreation, in consultation with the Vermont Maple Sugar Makers' Association, the ~~department shall~~ Department may issue licenses for the use of ~~state forest land~~ State forestland for the tapping of maple trees, the collection of maple sap, and the transportation of such sap to a processing site located off ~~state forest land~~ State forestland or to sites located on ~~state forest land~~ State forestland if approved by the ~~commissioner~~ Commissioner. All tapping of maple trees authorized under a license shall be conducted according to the guidelines for tapping maple trees ~~agreed to~~ established by the ~~department and the Vermont maple sugar makers' association~~ Department of Forests, Parks and Recreation, in consultation with the Vermont Maple Sugar Makers' Association. Each person awarded a license under this section shall maintain and repair any road, water crossing, or work area according to requirements set by the ~~department~~

Department in the license. Each license shall include such additional terms and conditions set by the ~~department~~ Department as may be necessary to preserve forest health and to assure compliance with the requirements of this chapter and applicable rules. A license shall be issued for a fixed term not to exceed five years and shall be renewable for two five-year terms subsequent to the initial license. Subsequent renewals shall be allowed where agreed upon by the ~~department~~ Department and the licensee. The ~~department~~ Department shall have power to terminate or modify a license for cause, including damage to forest health.

* * *

(f) ~~There shall be an annual license fee~~ A per tap license charge shall be imposed ~~based~~ on the ~~number of~~ taps installed in the license area. ~~The per tap fee for a license issued under this section shall be one-quarter of the average of the per pound price of Vermont fancy grade syrup and the per pound price of Vermont commercial grade syrup as those prices are set on May 1 of each year. The fee set each May 1 shall apply to licenses issued by the department for the succeeding period beginning June 1 and ending May 31.~~ The Commissioner shall establish this per tap license charge at a reasonable rate that reflects current market rates. ~~Fees~~ Charges collected under this section shall be deposited in the ~~forest parks revolving fund~~ Lands and Facilities Trust Fund established under ~~section 2609 of this title~~ ~~and shall be used by the department to implement the license program established by this section~~ 3 V.S.A. § 2807.

(g) ~~On or before January 15, 2010, the commissioner of forests, parks and recreation shall submit to the senate and house committees on natural resources and energy and the senate and house committees on agriculture a report regarding the implementation of the requirements of this section. The report shall include:~~

~~(1) A copy of the guidelines required by this section for issuing licenses for the use of state forest land for maple sap collection and production.~~

~~(2) A summary of the process used to identify parcels of state forest land suitable for licensing for maple sap collection and production and the process by which the department allocated licenses.~~

~~(3) A summary of the licenses issued for maple sap collection and production on state forest land.~~

~~(4) An estimate of the fees collected for licenses issued under this section.~~

~~(5) A copy of any rules adopted by or proposed for adoption by the commissioner to implement the requirements of this section.~~ [Repealed.]

* * * Working Group on Intergenerational Transfer of Forestland * * *

Sec. 10. DEPARTMENT OF FORESTS, PARKS AND RECREATION; WORKING GROUP ON INTERGENERATIONAL TRANSFER OF FORESTLAND

(a) On or before August 1, 2016, the Commissioner of Forests, Parks and Recreation shall establish a working group of interested parties to develop recommendations for a statewide program to improve the capacity of providing successional planning technical assistance to forestland owners in Vermont. The working group shall:

(1) develop recommended priorities for succession planning for forestland owners;

(2) develop strategies for improving conservation investments or incentives that facilitate the intergenerational transfers of intact forestland;

(3) develop other strategies for lessening the impact of estate taxes or other pressures that could lead to the breaking up and subdivision of intact forest parcels;

(4) develop recommended legislative changes that may be needed to implement its recommendations and strategies; and

(5) identify fiscal issues related to its recommendations.

(b) On or before December 15, 2016, the Commissioner shall submit a report to the House Committees on Natural Resources and Energy and on Ways and Means and the Senate Committees on Natural Resources and Energy and Finance that shall include the working group's findings and any recommendations for legislative action.

* * * Forest Fire Wardens; Fire Suppression; Open Burning * * *

Sec. 11. 10 V.S.A. chapter 83, subchapter 4 is amended to read:

Subchapter 4. Forest Fires and Fire Prevention

§ 2641. TOWN FOREST FIRE WARDENS~~,~~; APPOINTMENT AND REMOVAL

(a) Upon approval by the ~~select board~~ selectboard and acceptance by the appointee, the ~~commissioner~~ Commissioner shall appoint a town forest fire warden for a term of five years or until a successor is appointed. A town forest fire warden may be reappointed for successive five-year terms by the Commissioner or until a successor is approved by the selectboard and

appointed by the Commissioner. The warden may be removed for cause at any time by the ~~commissioner~~ Commissioner with the approval of the ~~select board~~ selectboard. A warden shall comply with training requirements established by the ~~commissioner by rule~~ Commissioner.

(b) The ~~commissioner~~ Commissioner may appoint a forest fire warden for an unorganized town or gore, who shall ~~hold office until he or she resigns or is removed for cause~~ serve for a term of five years or until a successor is appointed. An appointed forest fire warden for an unorganized town or gore may be reappointed for successive five-year terms by the Commissioner until the Commissioner appoints and the unorganized town or gore approves a successor. The warden may be removed for cause at any time by the Commissioner with the approval of the unorganized town or gore. The forest fire warden of an unorganized town or gore shall have the same powers and duties as town forest fire wardens and shall be subject to the requirements of this subchapter.

(c) When there are woodlands within the limits of a city ~~or incorporated village~~, the chief of the fire department of such city ~~or village~~ shall act as the city ~~or village~~ forest fire warden with all the powers and duties of town forest fire wardens.

(d) When the ~~commissioner~~ Commissioner deems it difficult in any municipality for one warden to take charge of protecting the entire municipality from forest fires, he or she may appoint one or more deputy forest fire wardens. Such wardens under the direction of the fire warden shall have the same powers, duties, and pay and make the same reports through the fire warden to the ~~commissioner~~ Commissioner as forest fire wardens.

(e) The ~~commissioner~~ Commissioner may appoint special forest fire wardens who shall hold office during the pleasure of the ~~commissioner~~ Commissioner. Such fire wardens shall have the same powers and duties throughout the ~~state~~ State as town forest fire wardens, except that all expenses and charges incurred on account of their official acts shall be paid from the appropriations for the ~~department~~ Department.

§ 2642. SALARY AND COMPENSATION OF TOWN FOREST FIRE WARDENS

(a) The salary of a town forest fire warden shall be determined by the selectboard members for time spent in the performance of the duties of his or her office, which shall be paid by the town. ~~He or she shall also receive from the town the sum of $0.15 for each fire permit issued.~~ In addition thereto, he or she shall receive from the ~~commissioner $20.00~~ Commissioner $30.00 annually for p~~roperly making out and submitting reports of fires in his or her~~

~~district~~ fulfilling the requirements of section 2645 of this title and keeping the required ~~state~~ State records. He or she shall also receive from the ~~commissoner $15.00~~ Commissioner $30.00 per diem for attendance at each training ~~meeting called~~ required by the ~~commissioner~~ Commissioner. He or she shall also receive annually an amount of $10.00 for each fire report that is submitted by the forest fire warden under section 2644 of this title.

(b) ~~The pay of a warden of an unorganized town or gore and his or her assistants, including patrolmen, and all expenses incurred by him or her in extinguishing forest fires, as provided for by the Commissioner, including employment of a person to assist him or her, on the approval of the Commissioner, shall be paid by the State from the monies annually available from taxes in the unorganized town and gore, and the Commissioner of Finance and Management shall issue his or her warrant therefor.~~ [Repealed.]

(c) ~~A person employed by a warden to assist him or her in extinguishing a forest fire as authorized under section 2644 of this title, shall be paid at the same rate per hour as is paid for labor upon highways. A minimum of two hours' pay for the first hour or any portion thereof shall be allowed persons who are officially summoned to assist in the extinguishment of forest fires. When a warden employs men or women in extinguishing a fire in a municipality adjoining his or her own, the expense incurred shall be paid by the municipality in which the work was done at the rate of pay prevailing in the municipality where the laborers reside. A municipality wherein such warden resides shall forthwith pay the warden and assistants for their services, and the municipality may recover the expense thereof in a civil action on this statute from the municipality where the work was done.~~ [Repealed.]

§ 2643. TOWN'S LIABILITY FOR ~~EXTINGUISHING~~ SUPPRESSION OF FOREST FIRES; STATE AID

(a) ~~For the purpose of extinguishing forest fires, a town shall not be held liable in any one year for an amount greater than ten percent of its grand list.~~ A municipality in which a forest fire occurs shall pay the cost to suppress a forest fire that occurs on land that is not owned by the Agency of Natural Resources, including the costs of personnel and equipment. The Commissioner may, according to the Department fire suppression reimbursement policy, reimburse a municipality for all or a portion of the costs of suppressing a forest fire on land that is not owned by the Agency of Natural Resources.

(b) ~~The state shall reimburse a town for its forest fire suppression costs in excess of ten percent of its grand list and for one-half its forest fire suppression costs up to and including ten percent of its grand list when the bills are presented to the commissioner by December 31 of each year with proper~~

~~vouchers and in a form approved by him~~ For the purpose of suppressing forest fires on lands owned by the Agency of Natural Resources, the State shall reimburse a town for all its forest fire suppression costs at a rate determined by the Commissioner according to the Department fire suppression reimbursement policy. If the total acreage of a forest fire is determined to be partially on land owned by the Agency of Natural Resources and partially on land owned by another party, the Commissioner shall, at a minimum, reimburse the town at a rate determined by the Commissioner according to the Department fire suppression reimbursement policy for costs incurred by the municipality on land owned by the Agency of Natural Resources.

(c) For any forest fire on lands owned by the Agency of Natural Resources to be considered eligible for reimbursement from the State, a town forest fire warden shall have reported the forest fire to the Commissioner within 14 days of extinguishment of the fire as required under section 2644 of this title. For reimbursement of fire suppression costs for forest fires on land owned by the Agency of Natural Resources, the town forest fire warden and the Commissioner or designee shall approve the costs before submission to the municipality for payment. The town forest fire warden may submit to the State on an annual basis a request for reimbursement of fire suppression costs on lands owned by the Agency of Natural Resources. The State shall reimburse a town for all applicable forest fire suppression costs when the reimbursement request is presented in a form approved by the Commissioner to the Commissioner by December 31 of each year.

§ 2644. DUTIES AND POWERS OF FIRE WARDEN

(a) When a forest fire or fire threatening a forest is discovered in his or her town, the town forest fire warden shall enter upon any premises and take measures for its prompt control, suppression, and extinguishment. The town forest fire warden may call upon any person for assistance. ~~He or she may arrest without warrant any person found in the act of violating a provision of law or proclamation pertaining to forest fires.~~ The town forest fire warden may choose to share or delegate command authority to a chief engineer of a responding fire department or, in the chief's absence, the highest ranking assistant firefighter present during the fire.

(b) A town forest fire warden shall keep a record of his or her acts, ~~the amount of expenses incurred,~~ the number of fires and causes, the areas burned over, and the character and amount of damages done in the warden's jurisdiction. Within two weeks after the ~~discovery of such~~ extinguishment of a fire, ~~he or she~~ the town forest fire warden shall report the ~~same~~ fire to the ~~commissioner on forms which shall be furnished by him or her~~ Commissioner,

but the making of ~~such~~ a report under this subsection shall not be a charge against the town.

(c) ~~During the danger season and subject to the approval or direction of the commissioner, a warden shall establish a patrol in dangerous localities, and the expense for the same shall be paid as expenses for fighting fires. Wardens shall receive the same pay for time spent in posting notices, patrolling or in making investigations of damages done that they receive for time spent in actual fire fighting.~~ [Repealed.]

§ 2645. OPEN BURNING; PERMITS

(a) Except as otherwise provided in this section, a person shall not kindle or authorize another person to kindle a fire in the open air for the purpose of burning natural wood, brush, weeds, or grass ~~or rubbish of any kind except where there is snow on the site, without first obtaining permission from the fire warden or deputy warden of the town, stating when and where such fire may be kindled~~ without first obtaining permission from the town forest fire warden or deputy forest fire warden, stating when and where such fire may be kindled. Wood, brush, weeds, or grass may not be burned if they have been altered in any way by surface applications or injection of paints, stains, preservatives, oils, glues, or pesticides. Whenever such permission is granted, ~~such~~ the fire warden, within 12 hours, shall issue a written ~~permit~~ "Permit to Kindle" for record purposes stating when and where such fire may be kindled. ~~Permission shall not be required for the kindling of a fire in a location which is 200 feet or more from any woodland, timberland or field containing dry grass or other inflammable plant material contiguous to woodland. With the written approval of the secretary, during periods of extreme fire hazard, the commissioner may notify town fire wardens that for a specified period no burning permits shall be issued. The wardens shall issue no permits during the specified period.~~

(b) ~~Whenever the commissioner deems that the public safety of any town or portion of a town of this state does not require the protection provided by this section, he or she may cause the town fire warden of any such town to post notices to that effect in not less than five conspicuous places in such town.~~ [Repealed.]

(c) The provisions of this section will not apply to:

(1) ~~To areas posted in accordance with subsection (b) of this section~~ the kindling of a fire in a location where there is snow surrounding the open burning site;

(2) ~~To~~ fires built in stone arches, outdoor fireplaces, or existing fire rings at ~~state~~ State recreational areas or fires built in stone arches, outdoor fireplaces, or fire rings on private property that are not located within

woodland, timberland, or a field containing dry grass or other flammable plant material contiguous to woodland;

(3) ~~To fires built in special containers used for burning brush, waste, grass or rubbish when conditions are deemed satisfactory to the town fire warden~~ the kindling of a fire in a location that is 200 feet or more from: any woodland, timberland, or field containing dry grass or other flammable plant material contiguous to woodland; or

(4) ~~To~~ areas within ~~cities or villages~~ cities maintaining a fire department.

(d)(1) As used in this section, "natural wood" means:

(A) trees, including logs, boles, trunks, branches, limbs, and stumps;

(B) lumber, including timber, logs, or wood slabs, especially when dressed for use; and

(C) pallets that are used for the shipment of various materials, so long as such pallets are not chemically treated with any preservative, paint, or oil.

(2) "Natural wood" shall not mean other wood products such as sawdust, plywood, particle board, or press board.

(e) Nothing in this section shall be construed to limit the authority of the air pollution control officer to prohibit open burning in accordance with the rules adopted under chapter 23 of this title.

* * *

§ 2648. SLASH REMOVAL

(a) A person may cut or cause to be cut forest growth only if all slash adjoining the right-of-way of any public highway, or the boundary lines of woodlots owned by adjoining property owners, is treated as follows:

(1) All slash shall be removed for a distance of 50 feet from the right-of-way of any public highway or from the boundary lines of woodlots owned by adjoining property owners.

(2) All slash shall be removed for a distance of 100 feet from standing buildings on adjoining property.

(b) ~~Owners or operators of timber or woodlots shall leave the main logging roads through cut-over areas free from slash so that tractors may pass over these roads unobstructed in order to carry men and supplies and fire fighting equipment to fire suppression crews.~~ [Repealed.]

(c) If in the opinion of the town forest fire warden there is no fire hazard as a result of a cutting, the warden may issue, upon request, a statement relieving the operator of the conditions required in this section.

Sec. 12. DEPARTMENT OF FORESTS, PARKS AND RECREATION; POLICY FOR REIMBURSEMENT OF FIRE SUPPRESSION COSTS

On or before January 1, 2017, the Commissioner of Forests, Parks and Recreation, in consultation with the Vermont League of Cities and Towns and other interested parties, shall develop a policy that provides the criteria the Department of Forests, Parks and Recreation shall use in determining whether and how to reimburse towns for the costs of fire suppression. The policy shall include criteria for:

(1) whether and how to reimburse a municipality for the costs of forest fire suppression incurred on lands not owned by the Agency of Natural Resources; and

(2) determining the rate a municipality shall be reimbursed for fire suppression costs incurred on lands owned by the Agency of Natural Resources.

Sec. 13. 10 V.S.A. § 2515 is added to read:

§ 2515. INTERCOMPACT LIABILITY—ARTICLE XV

The provisions of Article IX of this compact that relate to mutual aid in combating, controlling, or preventing forest fires shall be operative as between any state party to this compact and any other state that is party to a regional forest fire protection compact in another region provided that the legislature of such other state shall have given its assent to the mutual aid provisions of this compact.

* * * Forest Integrity; Municipal and Regional Planning * * *

Sec. 14. 24 V.S.A. § 4302(c) is amended to read:

(c) In addition, this chapter shall be used to further the following specific goals:

* * *

(6) To maintain and improve the quality of air, water, wildlife, forests, and other land resources.

* * *

(C) Vermont's forestlands should be managed so as to maintain and improve forest blocks and habitat connectors.

* * *

(9) To encourage and strengthen agricultural and forest industries.

(A) Strategies to protect long-term viability of agricultural and ~~forest lands~~ forestlands should be encouraged and should include maintaining low overall density.

* * *

Sec. 15. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context otherwise requires:

* * *

(10) "Land development" means the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

* * *

(34) "Forest block" means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover, and uses exempt from regulation under subsection 4413(d) of this title.

(35) "Forest fragmentation" means the division or conversion of a forest block by land development other than by a recreational trail or use exempt from regulation under subsection 4413(d) of this title.

(36) "Habitat connector" means land or water, or both, that links patches of wildlife habitat within a landscape, allowing the movement, migration, and dispersal of animals and plants and the functioning of ecological processes. A habitat connector may include recreational trails and uses exempt from regulation under subsection 4413(d) of this title. In a plan or other document issued pursuant to this chapter, a municipality or regional plan commission may use the phrase "wildlife corridor" in lieu of "habitat connector."

(37) "Recreational trail" means a corridor that is not paved and that is used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar recreational activity.

Sec. 16. 24 V.S.A. § 4348a(a)(2) is amended to read:

(2) A land use element, which shall consist of a map and statement of present and prospective land uses, that:

(A) ~~indicating~~ Indicates those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, open spaces, areas reserved for flood plain, and areas identified by the State, regional planning commissions, or municipalities~~, which~~ that require special consideration for aquifer protection~~,~~; for wetland protection~~,~~; for the maintenance of forest blocks, wildlife habitat, and habitat connectors; or for other conservation purposes~~;~~.

(B) ~~indicating~~ Indicates those areas within the region that are likely candidates for designation under sections 2793 (downtown development districts), 2793a (village centers), 2793b (new town centers), and 2793c (growth centers) of this title~~;~~.

(C) ~~indicating~~ Indicates locations proposed for developments with a potential for regional impact, as determined by the regional planning commission, including flood control projects, surface water supply projects, industrial parks, office parks, shopping centers and shopping malls, airports, tourist attractions, recreational facilities, private schools, public or private colleges, and residential developments or subdivisions~~;~~.

(D) ~~setting~~ Sets forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and services~~;~~.

(E) ~~indicating~~ Indicates those areas that have the potential to sustain agriculture and recommendations for maintaining them which may include transfer of development rights, acquisition of development rights, or farmer assistance programs.

(F) Indicates those areas that are important as forest blocks and habitat connectors and plans for land development in those areas to minimize forest fragmentation and promote the health, viability, and ecological function of forests. A plan may include specific policies to encourage the active management of those areas for wildlife habitat, water quality, timber production, recreation, or other values or functions identified by the regional planning commission.

* * *

Sec. 17. 24 V.S.A. § 4382(a)(2) is amended to read:

(2) A land use plan~~:~~

~~(A) consisting of~~, which shall consist of a map and statement of present and prospective land uses, that:

(A) ~~indicating~~ Indicates those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, and open spaces, areas reserved for flood plain, and areas identified by the State, the regional planning commission, or the municipality that require special consideration for aquifer protection; for wetland protection~~;~~; for the maintenance of forest blocks, wildlife habitat, and habitat connectors; or for other conservation purposes~~;~~.

(B) ~~setting~~ Sets forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and service~~;~~.

(C) ~~identifying~~ Identifies those areas, if any, proposed for designation under chapter 76A of this title, together with, for each area proposed for designation, an explanation of how the designation would further the plan's goals and the goals of section 4302 of this title, and how the area meets the requirements for the type of designation to be sought.

(D) Indicates those areas that are important as forest blocks and habitat connectors and plans for land development in those areas to minimize forest fragmentation and promote the health, viability, and ecological function of forests. A plan may include specific policies to encourage the active management of those areas for wildlife habitat, water quality, timber production, recreation, or other values or functions identified by the municipality.

Sec. 18. STUDY AND REPORT; LAND USE REGULATION; FOREST INTEGRITY

(a) Creation. There is created a Study Committee on Land Use Regulation and Forest Integrity to study potential revisions to 10 V.S.A. chapter 151 (Act 250) and to 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands.

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

(1) a current member of the House of Representatives, appointed by the Speaker of the House;

(2) a current member of the Senate, appointed by the Committee on Committees;

(3) a current officer of a municipality, appointed by the Vermont League of Cities and Towns;

(4) a representative of the Vermont Association of Planning and Development Agencies, appointed by that Association;

(5) the Commissioner of Housing and Community Development or designee;

(6) the Chair of the Natural Resources Board or designee;

(7) the Commissioner of Forests, Parks and Recreation or designee;

(8) a representative of the Vermont Natural Resources Council, appointed by that Council, to represent the Council and to provide input from the Vermont Forest Roundtable;

(9) a representative of the Vermont Working Lands Enterprise Board established under 6 V.S.A. § 4606, appointed by that Board;

(10) a representative of the Vermont Forest Products Association, appointed by that Association; and

(11) a representative of the Vermont Woodlands Association, appointed by that Association.

(c) Powers and duties. The Committee shall study potential revisions to Act 250 and 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands. This study shall include the following:

(1) a review of the relevant provisions of Act 250 and 24 V.S.A. chapter 117 as they exist on passage of this act;

(2) a development and review of options to revise Act 250 and the bylaw provisions of chapter 117 to protect forestland from fragmentation and promote habitat connectivity;

(3) an evaluation of the impact of those options on land use;

(4) a recommendation on whether to make such revisions and the reason for the recommendation and, if the recommendation is affirmative, the revisions that the Committee suggests be made; and

(5) a review of the definitions added by Sec. 15 of this act to 24 V.S.A. § 4303 and the amendments made by Secs. 16 and 17 of this act to 24 V.S.A. §§ 4348a and 4382, a recommendation on whether to make revisions to these provisions and the reasons for the recommendation and, if the recommendation is affirmative, the revisions that the Committee suggests be made.

(d) Assistance. For purposes of scheduling meetings, preparing its recommendation on whether to make statutory revisions, and preparing any recommended legislation, the Committee shall have the assistance of the Office of Legislative Council. The Committee also shall be entitled to the technical and professional assistance of the Departments of Housing and Community Development and of Forests, Parks and Recreation and of the Natural Resources Board.

(e) Report. On or before January 1, 2017, the Committee shall submit its written recommendation and any proposed legislation to the House Committee on Fish, Wildlife and Water Resources and the House and Senate Committees on Natural Resources and Energy.

(f) Meetings.

(1) The Office of Legislative Council 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 legislative members at the first meeting.

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

(g) Reimbursement.

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

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

* * * Municipal Regulation of Forestry Operations * * *

Sec. 19. 24 V.S.A. § 4413(d) is amended to read:

(d)(1) A bylaw under this chapter shall not regulate:

(A) required agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets ~~or~~;

(B) accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices which are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; or

(C) forestry operations.

~~(1)~~(2) ~~For purposes of~~ As used in this section~~,~~:

(A) "~~farm~~ Farm structure" means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in 10 V.S.A. § 6001(22), but excludes a dwelling for human habitation.

(B) "Forestry operations" has the same meaning as in 10 V.S.A. § 2602.

~~(2)~~(3) A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.

~~(3) A municipality may enact a bylaw that imposes forest management practices resulting in a change in a forest management plan for land enrolled in the use value appraisal program pursuant to 32 V.S.A. chapter 124 only to the extent that those changes are silviculturally sound, as determined by the Commissioner of Forests, Parks and Recreation, and protect specific natural, conservation, aesthetic, or wildlife features in properly designated zoning districts. These changes also must be compatible with 32 V.S.A. § 3755.~~

(4) This subsection does not prevent an appropriate municipal panel, when issuing a decision on an application for land development over which the panel otherwise has jurisdiction under this chapter, from imposing reasonable conditions under subsection 4464(b) of this title to protect wildlife habitat, threatened or endangered species, or other natural, historic, or scenic resources and does not prevent the municipality from enforcing such conditions, provided that the reasonable conditions do not restrict or regulate forestry operations unrelated to land development.

* * * Land Use Change Tax; Transfer of Lands to State and Federal Forest * * *

Sec. 20. 32 V.S.A. § 3757 is amended to read:

§ 3757. LAND USE CHANGE TAX

(a) Land which has been classified as agricultural land or managed forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. The tax shall be at the rate of 10 percent of the full fair market value of the changed land determined without regard to the use value appraisal. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land as a separate parcel, divided by the common level of appraisal. Such fair market value shall be determined as of the date the land is no longer eligible for use value appraisal. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

* * *

(f)(1) When the application for use value appraisal of agricultural and forestland has been approved by the State, the State shall record a lien against the enrolled land in the land records of the municipality ~~which~~ that shall constitute a lien to secure payment of the land use change tax to the State upon development. The landowner shall bear the recording cost. The land use change tax and any obligation to repay benefits paid in error shall not constitute a personal debt of the person liable to pay the same, but shall constitute a lien which shall run with the land. All of the administrative provisions of chapter 151 of this title, including those relating to collection and enforcement, shall apply to the land use change tax. The Director shall release the lien when notified that:

(A) the land use change tax is paid;

(B) the land use change tax is abated pursuant to this section;

(C) the land use change tax is abated pursuant to subdivision 3201(5) of this title;

(D) the land is exempt from the levy of the land use change tax pursuant to this section and the owner requests release of the lien; or

(E) the land is exempt from the levy of the land use change tax pursuant to this section and the land is developed.

(2) Nothing in this subsection shall be construed to allow the enrollment of agricultural land or managed forestland without a lien to secure payment of the land use change tax. Any fees related to the release of a lien under this subsection shall be the responsibility of the owner of the land subject to the lien.

(g) Upon application, the Commissioner may abate a use change tax levy concerning agricultural land found eligible for use value appraisal under subdivision 3752(1)(A) of this title, in the following cases:

(1) If a disposition of such property resulting in a change of use of it takes place within five years of the initial assessment at use value because of the permanent physical incapacity or death of the individual farmer-owner or farmer-operator of the property.

(2) If a disposition of the property was necessary in order to raise funds to continue the agriculture operation of the seller. In this case, the Commissioner shall consider the financial gain realized by the sale of the land and whether, in respect to that gain, payment of the use change tax would significantly reduce the ability of the seller to continue using the remaining property, or any part thereof, as agricultural land.

(h) Land condemned as a result of eminent domain or sold voluntarily to a condemning authority in anticipation of eminent domain proceedings is exempt from the levy of a land use change tax under this section.

* * *

(j)(1) Land transferred to the ~~United States~~ U.S. Forest Service is exempt from the levy of a use change tax under this section, provided ~~all~~ one of the following ~~apply~~ applies:

~~(1)~~(A) land transferred is eligible for use value appraisal at the time of the transfer;

~~(2)~~(B) the transfer is in consideration for the receipt from the ~~United States~~ U.S. Forest Service of land of approximately equal value, as determined by the Commissioner; ~~and~~ or

~~(3)~~(C) the landowner has submitted to the Commissioner in writing a binding document that would substitute the land received for the land transferred to the Forest Service, for the purposes of this chapter.

(2) Land acquired by the Green Mountain National Forest for public use is exempt from the levy of a use change tax under this section.

(k) Conservation and preservation rights and interests held by an agency of the United States or by a qualified holder, as defined in 10 V.S.A. chapter 34, shall be exempt from the levy of a use change tax. Upon request of the agency or qualified holder, the Commissioner may petition the Director to release the conservation and preservation rights and interests from any lien recorded pursuant to this chapter.

(l) Land acquired by the Agency of Natural Resources; the Department of Forests, Parks and Recreation; the Department of Fish and Wildlife; or the Department of Environmental Conservation for public uses, as authorized by 10 V.S.A. § 6303(a)(1)–(4), is exempt from the levy of a land use change tax under this section.

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

(a) This section and Secs. 10 (intergenerational working group) and 18 (forest integrity study and report) shall take effect on passage.

(b) Secs. 1–4 (general policy and enforcement), 5–7 (harvest notification pilot program), 8 (harvest notification rulemaking), 9 (maple sugar production on State lands), 11–13 (fire wardens; fire suppression), 14 (forest integrity; purpose; goals), 19 (municipal regulation of forestry operations), and 20 (land use change tax) shall take effect on July 1, 2016.

(c) Secs. 15 (forest integrity; definitions), 16 (elements of a regional plan) and 17 (plan for municipality) shall take effect on January 1, 2018. Secs. 15–17 shall apply to municipal and regional plans adopted or amended on or after January 1, 2018.

(Committee vote: 5-0-0)

(No House amendments)

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

The Committee recommends that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: By striking out Secs. 5–8 (Harvest Notification) in their entirety and by inserting in lieu thereof the following:

Sec. 5. [Deleted.]

Sec. 6. [Deleted.]

Sec. 7. [Deleted.]

Sec. 8. [Deleted.]

Second: In Sec. 12 (Policy for Fire Suppression Reimbursement), before "On or before January 1, 2017" by inserting (a)

And by adding a subsection (b) to read as follows:

(b) The Commissioner of Forests, Parks and Recreation shall submit the reimbursement policy developed under subsection (a) of this section to the Senate and House Committees on Natural Resources and Energy and the Senate and House Committees on Appropriations.

Third: By striking out Sec. 18 (Forest Integrity Study) in its entirety and inserting in lieu thereof the following:

Sec. 18. STUDY AND REPORT; LAND USE REGULATION; FOREST INTEGRITY

(a) Creation. There is created a Study Committee on Land Use Regulation and Forest Integrity to study potential revisions to 10 V.S.A. chapter 151 (Act 250) and to 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands.

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

(1) the Commissioner of Forests, Parks and Recreation or designee.

(2) the Commissioner of Housing and Community Development or designee.

(3) the Chair of the Natural Resources Board or designee;

(4) a current officer of a municipality, appointed by the Vermont League of Cities and Towns;

(5) a representative of the Vermont Association of Planning and Development Agencies, appointed by that Association;

(6) a representative of the Vermont Natural Resources Council, appointed by that Council, to represent the Council and to provide input from the Vermont Forest Roundtable;

(7) a representative of the Vermont Working Lands Enterprise Board established under 6 V.S.A. § 4606, appointed by that Board;

(8) a representative of the Vermont Forest Products Association, appointed by that Association; and

(9) a representative of the Vermont Woodlands Association, appointed by that Association.

(c) Powers and duties. The Committee shall study potential revisions to Act 250 and 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands. This study shall include the following:

(1) a review of the relevant provisions of Act 250 and 24 V.S.A. chapter 117 as they exist on passage of this act;

(2) a development and review of options to revise Act 250 and the bylaw provisions of chapter 117 to protect forestland from fragmentation and promote habitat connectivity;

(3) an evaluation of the impact of those options on land use;

(4) a recommendation on whether to make such revisions and the reason for the recommendation and, if the recommendation is affirmative, the revisions that the Committee suggests be made; and

(5) a review of the definitions added by Sec. 15 of this act to 24 V.S.A. § 4303 and the amendments made by Secs. 16 and 17 of this act to 24 V.S.A. §§ 4348a and 4382, a recommendation on whether to make revisions to these provisions and the reasons for the recommendation and, if the recommendation is affirmative, the revisions that the Committee suggests be made.

(d) Assistance. For purposes of scheduling meetings, preparing its recommendation on whether to make statutory revisions, and preparing any recommended legislation, the Committee shall have the assistance of the Department of Forests, Parks and Recreation. The Committee also shall be entitled to the technical and professional assistance of the Department of Housing and Community Development and the Natural Resources Board. The Committee shall be entitled to assistance from the Department of Taxes, including assistance from consultant economists with expertise on tax and finance issues related to forestlands. If the Committee recommends legislative changes, the Committee shall have the assistance of the Office of Legislative Council and the Joint Fiscal Office for the purpose of preparing recommended draft legislation and fiscal analysis.

(e) Report. On or before January 1, 2017, the Committee shall submit its written recommendation and any proposed legislation to the House Committee on Fish, Wildlife and Water Resources, the House and Senate Committees on Natural Resources and Energy, and the House Committee on Agriculture and Forest Products.

(f) Meetings.

(1) The Commissioner of Forests, Parks and Recreation 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) A majority of the membership shall constitute a quorum.

Fourth: In Sec. 21 (Effective Dates) in subsection (b), by striking out "5-7 (harvest notification pilot program, 8 (harvest notification rulemaking)," where it appears

(Committee vote: 5-0-2)

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

(Committee voted: 7-0-0)

House Proposal of Amendment

S. 91

An act relating to procedures of the Judicial Nominating Board and qualifications of candidates for the positions of Justice, judge, magistrate, and Chair and member of the Public Service Board.

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

First: In Sec. 1, 4 V.S.A. § 601(d), by striking out " ~~shall~~ may" and inserting in lieu thereof shall

Second: In Sec. 2, 4 V.S.A. § 602, in subdivision (c)(1), by adding a second sentence to read as follows:

The Board may make exceptions to the five-year requirement for absences from practice for reasons including family, military, academic, or medical leave.

Third: In Sec. 1, 4 V.S.A. § 601(b) by striking out subdivision (5) in its entirety and inserting in lieu thereof the following:

(5) The members of the Board ~~appointed by the Governor~~ shall serve for terms of two years ~~and may serve for no more than three terms~~. ~~The members of the Board elected by the House and Senate shall serve for terms of two years and may serve for no more than three consecutive terms. The members of the Board elected by the attorneys at law shall serve for terms of two years and may serve for no more than three consecutive terms~~. All appointments or elections shall be between January 1 and February 1 of each odd-numbered

year, except to fill a vacancy. A House vacancy that occurs when the General Assembly is adjourned shall be filled by the Speaker of the House and a Senate vacancy that occurs when the General Assembly is adjourned shall be filled by the Senate Committee on Committees. Members shall serve until their successors are elected or appointed. Members shall serve no more than three consecutive terms in any capacity.

House Proposal of Amendment

S. 243

An act relating to combating opioid abuse in Vermont.

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

* * * Vermont Prescription Monitoring System * * *

Sec. 1. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

* * *

(g) Following consultation with the ~~Unified Pain Management System~~ Controlled Substances and Pain Management Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to use information from VPMS to determine if individual prescribers and dispensers are using VPMS appropriately.

(h) Following consultation with the ~~Unified Pain Management System~~ Controlled Substances and Pain Management Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to evaluate the prescription of regulated drugs by prescribers.

* * *

Sec. 2. 18 V.S.A. § 4289 is amended to read:

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE PROVIDERS AND DISPENSERS

(a) Each professional licensing authority for health care providers shall develop evidence-based standards to guide health care providers in the appropriate prescription of Schedules II, III, and IV controlled substances for treatment of acute pain, chronic pain, and for other medical conditions to be determined by the licensing authority. The standards developed by the licensing authorities shall be consistent with rules adopted by the Department of Health. The licensing authorities shall submit their standards to the Commissioner of Health, who shall review for consistency across health care

providers and notify the applicable licensing authority of any inconsistencies identified.

(b)(1) Each health care provider who prescribes any Schedule II, III, or IV controlled substances shall register with the VPMS by November 15, 2013.

(2) If the VPMS shows that a patient has filled a prescription for a controlled substance written by a health care provider who is not a registered user of VPMS, the Commissioner of Health shall notify the applicable licensing authority and the provider by mail of the provider's registration requirement pursuant to subdivision (1) of this subsection.

(3) The Commissioner of Health shall develop additional procedures to ensure that all health care providers who prescribe controlled substances are registered in compliance with subdivision (1) of this subsection.

(c) ~~Each dispenser who dispenses any Schedule II, III, or IV controlled substances shall register with the VPMS.~~

~~(d) Health~~ Except in the event of electronic or technological failure, health care providers shall query the VPMS with respect to an individual patient in the following circumstances:

(1) at least annually for patients who are receiving ongoing treatment with an opioid Schedule II, III, or IV controlled substance;

(2) when starting a patient on a Schedule II, III, or IV controlled substance for nonpalliative long-term pain therapy of 90 days or more;

(3) the first time the provider prescribes an opioid Schedule II, III, or IV controlled substance written to treat chronic pain; and

(4) prior to writing a replacement prescription for a Schedule II, III, or IV controlled substance pursuant to section 4290 of this title.

(d)(1) Each dispenser who dispenses any Schedule II, III, or IV controlled substances shall register with the VPMS.

(2) Except in the event of electronic or technological failure, dispensers shall query the VPMS in accordance with rules adopted by the Commissioner of Health.

(3) Pharmacies and other dispensers shall report each dispensed prescription for a Schedule II, III, or IV controlled substance to the VPMS within 24 hours or one business day after dispensing.

(e) The Commissioner of Health shall, after consultation with the ~~Unified Pain Management System~~ Controlled Substances and Pain Management Advisory Council, adopt rules necessary to effect the purposes of this section.

The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS, including whether health care providers should be required to query the VPMS prior to writing a prescription for any opioid Schedule II, III, or IV controlled substance or when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain, and the Commissioner may adopt rules accordingly.

(f) ~~Each professional licensing authority for dispensers shall adopt standards, consistent with rules adopted by the Department of Health under this section, regarding the frequency and circumstances under which its respective licensees shall:~~

~~(1) query the VPMS; and~~

~~(2) report to the VPMS, which shall be no less than once every seven days.~~

~~(g)~~ Each professional licensing authority for health care providers and dispensers shall consider the statutory requirements, rules, and standards adopted pursuant to this section in disciplinary proceedings when determining whether a licensee has complied with the applicable standard of care.

* * * Rulemaking * * *

Sec. 2a. PRESCRIBING OPIOIDS FOR ACUTE AND CHRONIC PAIN; RULEMAKING

(a) The Commissioner of Health, after consultation with the Controlled Substances and Pain Management Advisory Council, shall adopt rules governing the prescription of opioids. The rules may include numeric and temporal limitations on the number of pills prescribed, including a maximum number of pills to be prescribed following minor medical procedures, consistent with evidence-informed best practices for effective pain management. The rules may require the contemporaneous prescription of naloxone in certain circumstances, and shall require informed consent for patients that explains the risks associated with taking opioids, including addiction, physical dependence, side effects, tolerance, overdose, and death. The rules shall also require prescribers prescribing opioids to patients to provide information concerning the safe storage and disposal of controlled substances.

(b) The Commissioner of Health, after consultation with the Board of Pharmacy, retail pharmacists, and the Controlled Substances and Pain Management Advisory Council, shall adopt rules regarding the circumstances

in which dispensers shall query the Vermont Prescription Monitoring System, which shall include:

(1) prior to dispensing a prescription for a Schedule II, III, or IV opioid controlled substance to a patient who is new to the pharmacy;

(2) when an individual pays cash for a prescription for a Schedule II, III, or IV opioid controlled substance when the individual has prescription drug coverage on file;

(3) when a patient requests a refill of a prescription for a Schedule II, III, or IV opioid controlled substance substantially in advance of when a refill would ordinarily be due;

(4) when the dispenser is aware that the patient is being prescribed Schedule II, III, or IV opioid controlled substances by more than one prescriber; and

(5) an exception for a hospital-based dispenser dispensing a quantity of a Schedule II, III, or IV opioid controlled substance that is sufficient to treat a patient for 48 hours or fewer.

* * * Expanding Access to Substance Abuse Treatment with Buprenorphine * * *

Sec. 3. 18 V.S.A. chapter 93 is amended to read:

CHAPTER 93. TREATMENT OF OPIOID ADDICTION

§ 4751. PURPOSE

It is the purpose of this chapter to authorize the ~~department of health~~ Departments of Health and of Vermont Health Access to establish a regional system of opioid addiction treatment.

§ 4752. OPIOID ADDICTION TREATMENT SYSTEM

(a) The ~~department of health~~ Departments of Health and of Vermont Health Access shall establish by rule a regional system of opioid addiction treatment.

* * *

(c) ~~No later than January 15 of each year from 2013 through 2016, inclusive, the commissioner shall report to the house committees on human services and on health care and the senate committee on health and welfare regarding the regional system of opioid addiction treatment, including the system's effectiveness.~~ [Repealed.]

* * *

§ 4753. CARE COORDINATION

Prescribing physicians and collaborating health care and addictions professionals may coordinate care for patients receiving medication-assisted treatment for substance use disorder, which may include monitoring adherence to treatment, coordinating access to recovery supports, and providing counseling, contingency management, and case management services.

Sec. 4. 8 V.S.A. § 4100k is amended to read:

§ 4100k. COVERAGE OF TELEMEDICINE SERVICES

* * *

(g) In order to facilitate the use of telemedicine in treating substance use disorder, health insurers and the Department of Vermont Health Access shall ensure that both the treating clinician and the hosting facility are reimbursed for the services rendered, unless the health care providers at both the host and service sites are employed by the same entity.

(h) As used in this subchapter:

* * *

* * * Expanding Role of Pharmacies and Pharmacists * * *

Sec. 5. 26 V.S.A. § 2022 is amended to read:

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(14)(A) "Practice of pharmacy" means:

(i) the interpretation and evaluation of prescription orders;

(ii) the compounding, dispensing, and labeling of drugs and legend devices (except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and legend devices);

(iii) the participation in drug selection and drug utilization reviews;

(iv) the proper and safe storage of drugs and legend devices and the maintenance of proper records therefor;

(v) the responsibility for advising, where necessary or where regulated, of therapeutic values, content, hazards, and use of drugs and legend devices; ~~and~~

(vi) the providing of patient care services within the pharmacist's authorized scope of practice;

(vii) the optimizing of drug therapy through the practice of clinical pharmacy; and

(viii) the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy.

(B) "Practice of clinical pharmacy" means:

(i) the health science discipline in which, in conjunction with the patient's other practitioners, a pharmacist provides patient care to optimize medication therapy and to promote disease prevention and the patient's health and wellness;

(ii) the provision of patient care services within the pharmacist's authorized scope of practice, including medication therapy management, comprehensive medication review, and postdiagnostic disease state management services; or

(iii) the practice of pharmacy by a pharmacist pursuant to a collaborative practice agreement.

(C) A rule shall not be adopted by the Board under this chapter that shall require the sale and distribution of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist or otherwise interfere with the sale and distribution of such medicines.

* * *

(19) "Collaborative practice agreement" means a written agreement between a pharmacist and a health care facility or prescribing practitioner that permits the pharmacist to engage in the practice of clinical pharmacy for the benefit of the facility's or practitioner's patients.

Sec. 6. 26 V.S.A. § 2023 is added to read:

§ 2023. CLINICAL PHARMACY

In accordance with rules adopted by the Board, a pharmacist may engage in the practice of clinical pharmacy.

Sec. 7. 8 V.S.A. § 4089j is amended to read:

§ 4089j. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS

(a) ~~A health insurer and pharmacy benefit manager doing business in Vermont shall permit a retail pharmacist licensed under 26 V.S.A. chapter 36~~

~~to fill prescriptions in the same manner and at the same level of reimbursement as they are filled by mail order pharmacies with respect to the quantity of drugs or days' supply of drugs dispensed under each prescription.~~

~~(b)~~ As used in this section:

(1) "Health insurer" ~~is defined by~~ shall have the same meaning as in 18 V.S.A. § 9402 and shall also include Medicaid and any other public health care assistance program.

(2) "Pharmacy benefit manager" means an entity that performs pharmacy benefit management. "Pharmacy benefit management" means an arrangement for the procurement of prescription drugs at negotiated dispensing rates, the administration or management of prescription drug benefits provided by a health insurance plan for the benefit of beneficiaries, or any of the following services provided with regard to the administration of pharmacy benefits:

(A) mail service pharmacy;

(B) claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to beneficiaries;

(C) clinical formulary development and management services;

(D) rebate contracting and administration;

(E) certain patient compliance, therapeutic intervention, and generic substitution programs; and

(F) disease management programs.

(3) "Health care provider" means a person, partnership, or corporation, other than a facility or institution, that is licensed, certified, or otherwise authorized by law to provide professional health care service in this State to an individual during that individual's medical care, treatment, or confinement.

(b) A health insurer and pharmacy benefit manager doing business in Vermont shall permit a retail pharmacist licensed under 26 V.S.A. chapter 36 to fill prescriptions in the same manner and at the same level of reimbursement as they are filled by mail order pharmacies with respect to the quantity of drugs or days' supply of drugs dispensed under each prescription.

(c) ~~This section shall apply to Medicaid and any other public health care assistance program.~~ Notwithstanding any provision of a health insurance plan to the contrary, if a health insurance plan provides for payment or reimbursement that is within the lawful scope of practice of a pharmacist, the insurer may provide payment or reimbursement for the service when the service is provided by a pharmacist.

Sec. 8. ROLE OF PHARMACIES IN PREVENTING OPIOID ABUSE; REPORT

(a) The Department of Health, in consultation with the Board of Pharmacy, pharmacists, prescribing health care practitioners, health insurers, pharmacy benefit managers, and other interested stakeholders shall consider the role of pharmacies in preventing opioid misuse, abuse, and diversion. The Department's evaluation shall include a consideration of whether, under what circumstances, and in what amount pharmacists should be reimbursed for counting or otherwise evaluating the quantity of pills, films, patches, and solutions of opioid controlled substances prescribed by a health care provider to his or her patients.

(b) On or before January 15, 2017, the Department shall report to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare its findings and recommendations with respect to the appropriate role of pharmacies in preventing opioid misuse, abuse, and diversion.

* * * Continuing Medical Education * * *

Sec. 9. CONTINUING EDUCATION

(a) All physicians, osteopathic physicians, dentists, pharmacists, advanced practice registered nurses, optometrists, and naturopathic physicians with a registration number from the U.S. Drug Enforcement Administration (DEA), who have a pending application for a DEA number, or who dispense controlled substances shall complete a total of at least two hours of continuing education for each licensing period beginning on or after July 1, 2016 on the topics of the abuse and diversion, safe use, and appropriate storage and disposal of controlled substances; the appropriate use of the Vermont Prescription Monitoring System; risk assessment for abuse or addiction; pharmacological and nonpharmacological alternatives to opioids for managing pain; medication tapering and cessation of the use of controlled substances; and relevant State and federal laws and regulations concerning the prescription of opioid controlled substances.

(b) The Department of Health shall consult with the Board of Veterinary Medicine and the Agency of Agriculture, Food and Markets to develop recommendations regarding appropriate safe prescribing and disposal of controlled substances prescribed by veterinarians for animals and dispensed to their owners, as well as appropriate continuing education for veterinarians on the topics described in subsection (a) of this section. On or before January 15, 2017, the Department shall report its findings and recommendations to the

House Committees on Agriculture and Forest Products and on Human Services and the Senate Committees on Agriculture and on Health and Welfare.

* * * Medical Education Core Competencies * * *

Sec. 10. MEDICAL EDUCATION CORE COMPETENCIES; PREVENTION AND MANAGEMENT OF PRESCRIPTION DRUG MISUSE

The Commissioner of Health shall convene medical educators and other stakeholders to develop appropriate curricular interventions and innovations to ensure that students in undergraduate and graduate medical education and dental and pharmacy residency programs have access to certain core competencies related to safe prescribing practices and to screening, prevention, and intervention for cases of prescription drug misuse and abuse. The goal of the core competencies shall be to support future health care professionals over the course of their medical education to develop skills and a foundational knowledge in the prevention of prescription drug misuse. These competencies should be clear baseline standards for preventing prescription drug misuse, treating patients at risk for substance use disorders, and managing substance use disorders as a chronic disease, as well as developing knowledge in the areas of screening, evaluation, treatment planning, and supportive recovery.

* * * Community Grant Program for Opioid Prevention * * *

Sec. 11. REGIONAL PREVENTION PARTNERSHIPS

The Department of Health shall establish a community grant program for the purpose of supporting local opioid prevention strategies. This program shall support evidence-based approaches and shall be based on a comprehensive community plan, including community education and initiatives designed to increase awareness or implement local programs, or both. Partnerships involving schools, local government, and hospitals shall receive priority.

* * * Pharmaceutical Manufacturer Fee * * *

Sec. 12. 33 V.S.A. § 2004 is amended to read:

§ 2004. MANUFACTURER FEE

(a) Annually, each pharmaceutical manufacturer or labeler of prescription drugs that are paid for by the Department of Vermont Health Access for individuals participating in Medicaid, Dr. Dynasaur, or VPharm shall pay a fee to the Agency of Human Services. The fee shall be ~~0.5~~ 1.5 percent of the previous calendar year's prescription drug spending by the Department and shall be assessed based on manufacturer labeler codes as used in the Medicaid rebate program.

(b) Fees collected under this section shall fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633~~,~~; analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities~~,~~; the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A~~,~~; the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2~~,~~; statewide unused prescription drug disposal initiatives; prevention of prescription drug misuse, abuse, and diversion; treatment of substance use disorder; exploration of nonpharmacological approaches to pain management; a hospital antimicrobial program for the purpose of reducing hospital-acquired infections; the purchase and distribution of naloxone to emergency medical services personnel; and any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents. The fees shall be collected in the Evidence-Based Education and Advertising Fund established in section 2004a of this title.

(c) The Secretary of Human Services or designee shall make rules for the implementation of this section.

(d) The Department shall maintain on its website a list of the manufacturers who have failed to provide timely payment as required under this section.

Sec. 13. 33 V.S.A. § 2004a(a) is amended to read:

(a) The Evidence-Based Education and Advertising Fund is established in the State Treasury as a special fund to be a source of financing for activities relating to fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633~~,~~; for analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities~~,~~; for the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A~~,~~; for the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2~~,~~; for statewide unused prescription drug disposal initiatives; for the prevention of prescription drug misuse, abuse, and diversion; for treatment of substance use disorder; for exploration of nonpharmacological approaches to pain management; for a hospital antimicrobial program for the purpose of reducing hospital-acquired infections; for the purchase and distribution of naloxone to emergency medical services personnel; and for the support of any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents. Monies deposited into the Fund shall be used for the purposes described in this section.

* * * Controlled Substances and Pain Management Advisory Council * * *

Sec. 14. 18 V.S.A. § 4255 is added to read:

§ 4255. CONTROLLED SUBSTANCES AND PAIN MANAGEMENT ADVISORY COUNCIL

(a) There is hereby created a Controlled Substances and Pain Management Advisory Council for the purpose of advising the Commissioner of Health on matters related to the Vermont Prescription Monitoring System and to the appropriate use of controlled substances in treating acute and chronic pain and in preventing prescription drug abuse, misuse, and diversion.

(b)(1) The Controlled Substances and Pain Management Advisory Council shall consist of the following members:

(A) the Commissioner of Health or designee, who shall serve as chair;

(B) the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs or designee;

(C) the Commissioner of Mental Health or designee;

(D) the Commissioner of Public Safety or designee;

(E) the Commissioner of Labor or designee;

(F) the Vermont Attorney General or designee;

(G) the Director of the Blueprint for Health or designee;

(H) the Medical Director of the Department of Vermont Health Access;

(I) the Chair of the Board of Medical Practice or designee, who shall be a clinician;

(J) a representative of the Vermont State Dental Society, who shall be a dentist;

(K) a representative of the Vermont Board of Pharmacy, who shall be a pharmacist;

(L) a faculty member of the academic detailing program at the University of Vermont's College of Medicine;

(M) a faculty member of the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management;

(N) a representative of the Vermont Medical Society, who shall be a primary care clinician;

(O) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician;

(P) a representative from the Vermont Board of Osteopathic Physicians, who shall be an osteopath;

(Q) a representative from the Vermont Association of Naturopathic Physicians, who shall be a naturopathic physician;

(R) a representative of the Federally Qualified Health Centers, who shall be a primary care clinician selected by the Bi-State Primary Care Association;

(S) a representative of the Vermont Ethics Network;

(T) a representative of the Hospice and Palliative Care Council of Vermont;

(U) a representative of the Office of the Health Care Advocate;

(V) a representative of health insurers, to be selected by the three health insurers with the most covered lives in Vermont;

(W) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals;

(X) a clinician who specializes in occupational medicine, to be selected by the Commissioner of Health;

(Y) a clinician who specializes in physical medicine and rehabilitation, to be selected by the Commissioner of Health;

(Z) a member of the Vermont Board of Nursing Subcommittee on APRN Practice, who shall be an advanced practice registered nurse who has clinical experience that includes working with patients who are experiencing acute or chronic pain;

(AA) a representative from the Vermont Assembly of Home Health and Hospice Agencies;

(BB) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who has experience in treating chronic pain, to be selected by the Board of Psychological Examiners;

(CC) a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;

(DD) a retail pharmacist, to be selected by the Vermont Pharmacists Association;

(EE) an advanced practice registered nurse full-time faculty member from the University of Vermont's College of Nursing and Health Sciences with a current clinical practice that includes caring for patients with acute or chronic pain;

(FF) a licensed acupuncturist with experience in pain management, to be selected by the Vermont Acupuncture Association;

(GG) a representative of the Vermont Substance Abuse Treatment Providers Association;

(HH) a consumer representative who is either a consumer in recovery from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain; and

(II) a consumer representative who is or has been an injured worker and has been prescribed opioids.

(2) In addition to the members appointed pursuant to subdivision (1) of this subsection (b), the Council shall consult with the Opioid Prescribing Task Force, specialists, and other individuals as appropriate to the topic under consideration.

(c) Advisory Council members who are not employed by the State or whose participation is not supported through their employment or association shall be entitled to a per diem and expenses as provided by 32 V.S.A. § 1010.

(d)(1) The Advisory Council shall provide advice to the Commissioner concerning rules for the appropriate use of controlled substances in treating acute pain and chronic noncancer pain; the appropriate use of the Vermont Prescription Monitoring System; and the prevention of prescription drug abuse, misuse, and diversion.

(2) The Advisory Council shall evaluate the use of nonpharmacological approaches to treatment for pain, including the appropriateness, efficacy, and cost-effectiveness of using complementary and alternative therapies such as chiropractic, acupuncture, and massage.

(e) The Commissioner of Health may adopt rules pursuant to 3 V.S.A. chapter 25 regarding the appropriate use of controlled substances in treating acute pain and chronic noncancer pain; the appropriate use of the Vermont

Prescription Monitoring System; and the prevention of prescription drug abuse, misuse, and diversion, after seeking the advice of the Council.

* * * Unused Prescription Drug Disposal Program * * *

Sec. 14a. 18 V.S.A. § 4224 is added to read:

§ 4224. UNUSED PRESCRIPTION DRUG DISPOSAL PROGRAM

The Department of Health shall establish and maintain a statewide unused prescription drug disposal program to provide for the safe disposal of Vermont residents' unused and unwanted prescription drugs. The program may include establishing secure collection and disposal sites and providing medication envelopes for sending unused prescription drugs to an authorized collection facility for destruction.

* * * Acupuncture * * *

Sec. 15. INSURANCE COVERAGE FOR ACUPUNCTURE; REPORT

Each nonprofit hospital and medical service corporation licensed to do business in this State pursuant to both 8 V.S.A. chapters 123 and 125 and providing coverage for pain management shall evaluate the evidence supporting the use of acupuncture as a modality for treating and managing pain in its enrollees, including the experience of other states in which covered by health insurance plans. On or before January 15, 2017, each such corporation shall report to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare its assessment of whether its insurance plans should provide coverage for acupuncture when used to treat or manage pain.

Sec. 15a. ACUPUNCTURE; MEDICAID PILOT PROJECT

(a) The Department of Vermont Health Access shall develop a pilot project to offer acupuncture services to Medicaid-eligible Vermonters with a diagnosis of chronic pain. The project shall offer acupuncture services for a defined period of time as an alternative or adjunctive to prescribing opioids and shall assess the benefits of acupuncture treatment in returning individuals to social, occupational, and psychological function. The project shall include:

(1) an advisory group of pain management specialists and acupuncture providers familiar with the current science on evidence-based use of acupuncture to treat or manage chronic pain;

(2) specific patient eligibility requirements regarding the specific cause or site of chronic pain for which the evidence indicates acupuncture may be an appropriate treatment; and

(3) input and involvement from the Department of Health to promote consistency with other State policy initiatives designed to reduce the reliance on opioid medications in treating or managing chronic pain.

(b) On or before January 15, 2017, the Department of Vermont Health Access, in consultation with the Department of Health, shall provide a progress report on the pilot project to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare that includes an implementation plan for the pilot project described in this section. In addition, the Departments shall consider any appropriate role for acupuncture in treating substance use disorder, including consulting with health care providers using acupuncture in this manner, and shall make recommendations in the progress report regarding the use of acupuncture in treating Medicaid beneficiaries with substance use disorder.

* * * Health Department Position * * *

Sec. 16. HEALTH DEPARTMENT; POSITION

One new permanent classified position—a substance abuse program manager—is authorized in the Department of Health in order to coordinate a secure prescription drug collection and disposal program as part of the unused prescription drug disposal program established pursuant to Sec. 14a of this act. The position shall be transferred and converted from an existing vacant position in the Executive Branch of State government.

* * * Appropriations* * *

Sec. 17. APPROPRIATIONS

(a) The sum of $250,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of funding the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2, including evidence-based information about safe prescribing of controlled substances and alternatives to opioids for treating pain.

(b) The sum of $625,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of funding statewide unused prescription drug disposal initiatives, of which $100,000.00 shall be used for a secure prescription drug collection and disposal program and the program manager established by Sec. 16 of this act, $50,000.00 shall be used for unused medication envelopes for a mail-back program, $225,000.00 shall be used for a public information campaign on the safe disposal of controlled substances, and $250,000.00 shall

be used for a public information campaign on the responsible use of prescription drugs.

(c) The sum of $150,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of purchasing and distributing opioid antagonist rescue kits.

(d) The sum of $250,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of establishing a hospital antimicrobial program to reduce hospital-acquired infections.

(e) The sum of $32,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of purchasing and distributing naloxone to emergency medical services personnel throughout the State.

(f) The sum of $200,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Vermont Health Access in fiscal year 2017 for the purpose of exploring nonpharmacological approaches to pain management by implementing the pilot project established in Sec. 15a of this act to evaluate the use of acupuncture in treating chronic pain in Medicaid beneficiaries.

Sec. 18. REPEAL

2013 Acts and Resolves No. 75, Sec. 14, as amended by 2014 Acts and Resolves No. 199, Sec. 60 (Unified Pain Management System Advisory Council), is repealed.

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES

(a) Secs. 1–2 (VPMS), 3 (opioid addiction treatment care coordination), 4 (telemedicine), 13 (use of Evidence-Based Education and Advertising Fund), 14 (Controlled Substances and Pain Management Advisory Council), 16 (Health Department position), 17 (appropriations), and 18 (repeal) shall take effect on July 1, 2016, except that in Sec. 2, 18 V.S.A. § 4289(d)(3) (dispenser reporting to VPMS) shall take effect 30 days following notice and a determination by the Commissioner of Health that daily reporting is practicable.

(b) Secs. 2a (rulemaking), 5–7 (clinical pharmacy), 8 (role of pharmacies; report), 10 (medical education), 11 (regional partnerships), 14a (unused drug disposal program), 15–15a (acupuncture studies), and this section shall take effect on passage.

(c) Sec. 9 (continuing education) shall take effect on July 1, 2016 and shall apply beginning with licensing periods beginning on or after that date.

(d) Notwithstanding 1 V.S.A. § 214, Sec. 12 (manufacturer fee) shall take effect on passage and shall apply retroactive to January 1, 2016.

House Proposal of Amendment to Senate Proposal of Amendment

H. 95

An act relating to jurisdiction over delinquency proceedings by the Family Division of the Superior Court

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

First: In Sec. 19, 4 V.S.A. § 33, in subsection (b), in the first sentence, by striking out the word "nonexclusive"

Second: In Sec. 22, 33 V.S.A. § 5234a, in subsection (a), by striking out subdivision (1)(B) and inserting in lieu thereof the following:

(B) when a delinquency petition is filed;

(C) the child's name and the conditions of release ordered for the child or modified by the Court if the conditions relate to the victim or a member of the victim's family or current household; and

And by relettering the remaining subdivision to be alphabetically correct

Third: By striking out Sec. 37 in its entirety and inserting in lieu thereof the following:

Sec. 37. 13 V.S.A. § 2651(6) is amended to read;

(6) "Human trafficking" means:

* * *

(B) "severe form of trafficking" as defined by ~~21 U.S.C. § 7105~~ 22 U.S.C. § 7105.

* * *

Sec. 38. 13 V.S.A. § 5238 is amended to read:

§ 5238. CO-PAYMENT AND REIMBURSEMENT ORDERS

* * *

(d) To the extent that the Court finds that the eligible person has income or assets available to enable payment of an immediate co-payment, it shall order such a co-payment to cover in whole or in part the amount of the costs of

representation to be borne by the eligible person. ~~When a co-payment is ordered, the assignment of counsel shall be contingent on prior payment of the co-payment.~~ The co-payment shall be paid to the clerk of the Court. Any portion of the co-payment not paid to the clerk may be included in a reimbursement order.

* * *

Sec. 39. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

(a) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The Court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The Court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

* * *

Sec. 40. 13 V.S.A. § 7607 is amended to read:

§ 7607. EFFECT OF SEALING

(a) Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The Court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The Court shall provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to seal. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation's National Crime Information Center.

* * *

Sec. 41. 13 V.S.A. § 5301 is amended to read:

§ 5301. DEFINITIONS

As used in this chapter:

* * *

(7) ~~For the purpose of this chapter, "listed~~ "Listed crime" means any of the following offenses:

* * *

(W) operating vehicle under the influence of intoxicating liquor or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210~~(e)~~(f) and ~~(f)~~(g);

* * *

Sec. 42. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

(a) Notwithstanding 20 V.S.A. §§ 2056a-2056e, the Department shall electronically post information on the Internet in accordance with subsection (b) of this section regarding the following sex offenders, upon ~~their~~ the offender's release from confinement or, if the offender was not subject to confinement, upon the offender's conviction:

* * *

Sec. 43. 13 V.S.A. § 5572(a) is amended to read:

(a) A person convicted and imprisoned for a crime of which the person was exonerated pursuant to ~~subchapter 1 of~~ this chapter shall have a cause of action for damages against the ~~state~~ State.

Sec. 44. 13 V.S.A. § 5578 is added to read:

§ 5578. APPLICABILITY; RETROACTIVITY

Notwithstanding 1 V.S.A. § 214(b), this subchapter and any amendments thereto shall apply to any exoneration that occurs on or after July 1, 2007.

Sec. 45. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

During 2016 the Joint Legislative Justice Oversight Committee shall study:

(1) how a criminal defendant's credit for time served is determined with respect to time that the defendant was in Department of Corrections custody on nonincarcerative status or conditions of release; and

(2) when the name of an offender who has committed a qualifying offense is posted on the Internet Sex Offender Registry if the offender was in Department of Corrections custody on nonincarcerative status.

* * * Pre-July 1, 1990 Criminal Traffic Offenses * * *

Sec. 46. TERMINATION OF SUSPENSIONS ARISING FROM PRE-JULY 1, 1990 CRIMINAL TRAFFIC OFFENSES

(a) Background.

(1) Prior to July 1, 1990, traffic offenses that are handled as civil traffic violations under current Vermont law were charged as criminal offenses.

(2) A defendant's failure to appear on such charges resulted in suspension of the defendant's privilege to operate a motor vehicle in Vermont.

(3) As of February 2016, approximately 26,260 defendants who failed to appear in connection with pre-July 1, 1990 criminal traffic charges have pending suspensions as a result of their failure to appear. None of these charges relate to conduct that is criminal under current Vermont law.

(4) Many of the criminal complaints in these matters are fire- and water-damaged. In many of these cases, the facts underlying the complaints no longer can be proved.

(5) On February 22, 2016, the Office of the Attorney General mailed to all Criminal Divisions of the Superior Court and to the Judicial Bureau notices of dismissal of these pre-July 1, 1990 charges.

(b) Termination of suspensions.

(1) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), as soon as possible after this act takes effect, the Commissioner of Motor Vehicles shall, without requiring an application or payment of a fee, terminate pending suspensions of a person's license or privilege to operate a motor vehicle that resulted from the person's failure to appear prior to July 1, 1990 on a criminal traffic offense charged by the State for conduct that is a civil traffic violation under current Vermont law.

(2) This subsection shall not affect pending suspensions of a person's license or privilege to operate other than those specifically described in subdivision (1) of this subsection.

* * * Statewide Driver Restoration Program * * *

Sec. 47. STATEWIDE DRIVER RESTORATION PROGRAM

(a) Program established; one-time event.

(1) The Judicial Bureau and the Department of Motor Vehicles shall carry out a Statewide Driver Restoration Program (Program) from September 1, 2016 through November 30, 2016 (the "Program time period").

It is the intent of the General Assembly that the Program shall be a one-time statewide event.

(2) As used in this section, "suspension" means a suspension of a person's license or privilege to operate a motor vehicle in Vermont imposed by the Commissioner of Motor Vehicles.

(b) Traffic violation judgments entered before January 1, 2015; exception.

(1) During the Program time period, a person who has not paid in full the amount due on a traffic violation judgment entered prior to January 1, 2015 may apply to the Judicial Bureau for a reduction in the amount due on a form approved by the Court Administrator. Judgments for traffic violations that involve violation of a law specifically governing the operation of commercial motor vehicles shall not be eligible for reduction under the Program. The Program shall not apply to pre-July 1, 1990 criminal traffic offenses.

(2) A person shall be permitted to apply in person or through the mail. The Judicial Bureau may accept applications electronically or by other means.

(3) If a person submits a complete application during the Program time period and the judgment is eligible for reduction under subdivision (1) of this subsection, the Clerk of the Judicial Bureau or designee shall reduce the amount due on the judgment to $30.00. Amounts paid toward a traffic violation judgment prior to the Judicial Bureau's granting an application under this subsection shall not be refunded or credited toward the amount due under the amended judgment.

(c) Traffic violation judgments entered on or after January 1, 2015.

(1) Notwithstanding the usual time periods for filing postjudgment motions to amend and the standards for granting such motions, a person who has not paid the full amount due on a traffic violation judgment entered on or after January 1, 2015 and before July 1, 2016 may file a motion with the Judicial Bureau pursuant to Rules 60 and 80.6 of the Vermont Rules of Civil Procedure seeking an individualized determination of his or her ability to pay the amount due on the judgment. In deciding the motion, the Judicial Bureau hearing officer shall consider the person's ability to pay the amount due and may reduce the amount due and waive any reinstatement or suspension termination fee in his or her discretion.

(2) Consistent with Sec. 4 of this act, amending 4 V.S.A. § 1109 to direct the Judicial Bureau to provide a more flexible payment plan option, a person who has an amount due on a traffic violation judgment shall not be required to pay more than $100.00 per month in order to be current on all of his or her traffic violation judgments, regardless of the dates when the

judgments were entered. This subdivision (c)(2) shall not be limited by the Program time period.

(d) Restoration of driving privileges.

(1) If a person has paid all traffic violation judgments reduced under subsection (b) of this section, and is under a payment plan for any other outstanding traffic violation judgments, the Judicial Bureau shall notify the Department of Motor Vehicles that the person is in compliance with his or her obligations.

(2) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), the Commissioner of Motor Vehicles shall:

(A) upon receipt of the notice of compliance from the Judicial Bureau and without requiring an application or payment of a reinstatement fee, terminate suspensions arising from nonpayment of a traffic violation judgment of a person described in subdivision (1) of this subsection (d);

(B) during the Program time period and without requiring an application or payment of a reinstatement fee, terminate suspensions arising from nonpayment of a traffic violation judgment of a person who has paid all outstanding traffic violation judgments in full or is in compliance with a Judicial Bureau payment plan prior to December 1, 2016.

(3) If a person described in subdivision (1) or (2)(B) of this subsection fails to make a payment under a payment plan, the Judicial Bureau shall notify the Department of Motor Vehicles if required under 4 V.S.A. § 1109, as amended by Sec. 4 of this act.

(4) This subsection shall not affect pending suspensions other than as specifically described in this subsection.

(e) Public awareness campaign. Prior to the start of the Program, the Agency of Transportation shall commence a campaign to raise public awareness of the Program, and shall conduct the campaign until the end of the Program. The Judicial Bureau, the Department of Motor Vehicles, and the Agency of Transportation shall prominently advertise the Program on their websites until the Program ends.

(f) Allocation of fines collected. Amounts collected on traffic violation judgments reduced under subsection (b) or subdivision (c)(1) of this section shall be allocated in accordance with the Process Review approved by the Court Administrator's Office entitled "Revenue Distributions - Civil Violations" and dated November 3, 2015.

(g) Collection and reporting of statistics. On or before January 15, 2017:

(1) The Court Administrator shall report to the House and Senate Committees on Judiciary and on Transportation:

(A) the number of traffic violation judgments reduced to $30.00 under subsection (b) of this section, the total number of the judgments paid, and the total amount collected in connection with payment of the judgments;

(B) the number of postjudgment motions filed under subdivision (c)(1) of this section and in connection with such motions:

(i) the number of hearings held;

(ii) the number of judgments reduced pursuant to such hearings, the total number of the reduced judgments paid, and the total amount collected in connection with payment of the reduced judgments; and

(iii) the number of hearings scheduled but not yet held;

(C) the number of persons eligible for a reduced judgment under subsection (b) of this section who did not apply for a reduced judgment.

(2) The Commissioner of Motor Vehicles shall report to the House and Senate Committees on Judiciary and on Transportation:

(A) the number of suspensions terminated, as well as the number of unique persons whose suspensions were terminated, under subdivision (d)(2) of this section; and

(B) the number of persons whose license or privilege to operate was fully reinstated as a result of the termination of suspensions under subdivision (d)(2) of this section.

* * * Termination of Suspensions Repealed in Act * * *

Sec. 48. TERMINATION OF SUSPENSIONS REPEALED IN ACT

Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), as soon as possible after this act takes effect the Commissioner of Motor Vehicles shall, without requiring an application or payment of a fee, terminate pending suspensions of a person's license or privilege to operate a motor vehicle and refusals of a person's license or privilege to operate that were imposed pursuant to the following provisions:

(1) 7 V.S.A. § 656 (underage alcohol violation);

(2) 7 V.S.A. § 1005 (underage tobacco violation);

(3) 13 V.S.A. § 1753 (false public alarm; students and minors);

(4) 18 V.S.A. § 4230b (underage marijuana violation); and

(5) 32 V.S.A. § 8909 (driver's license suspensions for nonpayment of purchase and use tax).

* * * Amendment or Repeal of License Suspension and Registration Refusal Provisions and Underage Alcohol and Marijuana Crimes * * *

Sec. 49. REPEALS

23 V.S.A. §§ 305a (registration not renewed following nonpayment of traffic violation judgment) and 2307 (remedies for failure to pay traffic violations) are repealed.

Sec. 50. 4 V.S.A. § 1109 is amended to read:

§ 1109. REMEDIES FOR FAILURE TO PAY; CONTEMPT

(a) Definitions. As used in this section:

(1) "Amount due" means all financial assessments contained in a Judicial Bureau judgment, including penalties, fines, surcharges, court costs, and any other assessment authorized by law.

(2) "Designated collection agency" means a collection agency designated by the Court Administrator.

(3) [Repealed.]

(b) Late fees; suspensions for nonpayment of certain traffic violation judgments.

(1) A Judicial Bureau judgment shall provide notice that a $30.00 fee shall be assessed for failure to pay within 30 days. If the defendant fails to pay the amount due within 30 days, the fee shall be added to the judgment amount and deposited in the Court Technology Special Fund established pursuant to section 27 of this title.

(2)(A) In the case of a judgment on a traffic violation for which the imposition of points against the person's driving record is authorized by law, the judgment shall contain a notice that failure to pay or otherwise satisfy the amount due within 30 days of the notice will result in suspension of the person's operator's license or privilege to operate, and that payment plan options are available. If the defendant fails to pay the amount due within 30 days of the notice, or by a later date as determined by a Judicial Bureau clerk or hearing officer, and the case is not pending on appeal, the Judicial Bureau shall provide electronic notice thereof to the Commissioner of Motor Vehicles. After 20 days from the date of receiving the electronic notice, the Commissioner shall suspend the person's operator's license or privilege to operate for a period of 30 days or until the amount due is satisfied, whichever is earlier.

(B) At minimum, the Judicial Bureau shall offer a payment plan option that allows a person to avoid a suspension of his or her license or privilege to operate by paying no more than $30.00 per traffic violation judgment per month, and not to exceed $100.00 per month if the person has four or more outstanding judgments.

(c)(1) Civil contempt proceedings. If an amount due remains unpaid for 75 days after the Judicial Bureau provides the defendant with a notice of judgment, the Judicial Bureau may initiate civil contempt proceedings pursuant to this subsection.

~~(1)~~(2) Notice of hearing. The Judicial Bureau shall provide notice by first class mail sent to the defendant's last known address that a contempt hearing will be held pursuant to this subsection, and that failure to appear at the contempt hearing may result in the sanctions listed in subdivision ~~(2)~~(3) of this subsection.

~~(2)~~(3) Failure to appear. If the defendant fails to appear at the contempt hearing, the hearing officer may direct the clerk of the Judicial Bureau to do one or more of the following:

(A) ~~Cause~~ cause the matter to be reported to one or more designated collection agencies~~.~~; or

(B) ~~Refer~~ refer the matter to the Criminal Division of the Superior Court for contempt proceedings.

(C) ~~Provide electronic notice thereof to the Commissioner of Motor Vehicles who shall suspend the person's operator's license or privilege to operate. However, the person shall become eligible for reinstatement if the amount due is paid or otherwise satisfied.~~ [Repealed.]

~~(3)~~(4)(A) Hearing. The hearing shall be conducted in a summary manner. The hearing officer shall examine the defendant and any other witnesses and may require the defendant to produce documents relevant to the defendant's ability to pay the amount due. The State or municipality shall not be a party except with the permission of the hearing officer. The defendant may be represented by counsel at the defendant's own expense.

(B) Traffic violations; reduction of amount due. When the judgment is based upon a traffic violation, the hearing officer may reduce the amount due on the basis of the defendant's driving history, ability to pay, or service to the community; the collateral consequences of the violation; or the interests of justice. The hearing officer's decision on a motion to reduce the amount due shall not be subject to review or appeal except in the case of a violation of rights guaranteed under the Vermont or U.S. Constitution.

~~(4)~~(5) Contempt.

(A) The hearing officer may conclude that the defendant is in contempt if the hearing officer states in written findings a factual basis for concluding that:

(i) the defendant knew or reasonably should have known that he or she owed an amount due on a Judicial Bureau judgment;

(ii) the defendant had the ability to pay all or any portion of the amount due; and

(iii) the defendant failed to pay all or any portion of the amount due.

(B) In the contempt order, the hearing officer may do one or more of the following:

(i) Set a date by which the defendant shall pay the amount due.

(ii) Assess an additional penalty not to exceed ten percent of the amount due.

(iii) ~~Order that the Commissioner of Motor Vehicles suspend the person's operator's license or privilege to operate. However, the person shall become eligible for reinstatement if the amount due is paid or otherwise satisfied.~~ [Repealed.]

(iv) Recommend that the Criminal Division of the Superior Court incarcerate the defendant until the amount due is paid. If incarceration is recommended pursuant to this subdivision ~~(4)~~(c)(5), the Judicial Bureau shall notify the Criminal Division of the Superior Court that contempt proceedings should be commenced against the defendant. The Criminal Division of the Superior Court proceedings shall be de novo. If the defendant cannot afford counsel for the contempt proceedings in the Criminal Division of the Superior Court, the Defender General shall assign counsel at the Defender General's expense.

(d) Collections.

(1) If an amount due remains unpaid after the issuance of a notice of judgment, the Court Administrator may authorize the clerk of the Judicial Bureau to refer the matter to a designated collection agency.

(2) The Court Administrator or the Court Administrator's designee is authorized to contract with one or more collection agencies for the purpose of collecting unpaid Judicial Bureau judgments pursuant to 13 V.S.A. § 7171.

(e) For purposes of civil contempt proceedings, venue shall be statewide. No entry or motion fee shall be charged to a defendant who applies for a reduced judgment under subdivision (c)(4)(B) of this section.

(f) Notwithstanding 32 V.S.A. § 502, the Court Administrator is authorized to contract with a third party to collect fines, penalties, and fees by credit card, debit card, charge card, prepaid card, stored value card, and direct bank account withdrawals or transfers, as authorized by 32 V.S.A. § 583, and to add on and collect, or charge against collections, a processing charge in an amount approved by the Court Administrator.

Sec. 51. 7 V.S.A. § 656 is amended to read:

§ 656. PERSON UNDER 21 YEARS OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES; FIRST OR SECOND OFFENSE; CIVIL VIOLATION

(a)(1) Prohibited conduct. A person under 21 years of age shall not:

(A) ~~falsely~~ Falsely represent his or her age for the purpose of procuring or attempting to procure malt or vinous beverages, spirits, or fortified wines from any licensee, State liquor agency, or other person or persons~~;~~.

(B) ~~possess~~ Possess malt or vinous beverages, spirits, or fortified wines for the purpose of consumption by himself or herself or other minors, except in the regular performance of duties as an employee of a licensee licensed to sell alcoholic liquor~~; or~~.

(C) ~~consume~~ Consume malt or vinous beverages, spirits, or fortified wines. A violation of this subdivision may be prosecuted in a jurisdiction where the minor has consumed malt or vinous beverages, spirits, or fortified wines or in a jurisdiction where the indicators of consumption are observed.

(2) Offense. ~~Except as otherwise provided in section 657 of this title, a~~ A person under 21 years of age who knowingly and unlawfully violates subdivision (1) of this subsection commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(A) a civil penalty of ~~$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days,~~ $400.00 for a first offense; and

(B) a civil penalty of not less than $400.00 and not more than $600.00 ~~and suspension of the person's operator's license and privilege to~~

~~operate a motor vehicle for a period of 180 days,~~ for a second or subsequent offense.

(b) Issuance of Notice of Violation. A law enforcement officer shall issue a person under 21 years of age who violates this section a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty ~~and a suspension of the person's operator's license and may face substantially increased insurance rates~~;

(3) no money should be submitted to pay any penalty until after adjudication; and

(4) the person shall notify the Diversion Program if the person's address changes.

* * *

(e) Notice to Report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty~~, the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially~~.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no

penalty shall be imposed ~~and the person's operator's license shall not be suspended~~.

(f)~~(1)~~ Diversion Program Requirements.

(1) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(2) Substance abuse screening required under this subsection shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at his or her own expense.

(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense which the Diversion Program has imposed, the Diversion Program shall:

(A) ~~void~~ Void the summons and complaint with no penalty due~~; and~~.

(B) ~~send~~ Send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information which identifies the person.

(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any required program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(5) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(g) ~~Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made.~~ [Repealed.]

(h) ~~Record of Adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section.~~ [Repealed.]

Sec. 52. REPEAL

7 V.S.A. § 657 (persons under 21; third or subsequent alcohol offense; crime) is repealed.

Sec. 53. 13 V.S.A. § 5201(5) is amended to read:

(5) "Serious crime" does not include the following misdemeanor offenses unless the judge at arraignment but before the entry of a plea determines and states on the record that a sentence of imprisonment or a fine over $1,000.00 may be imposed on conviction:

(A) ~~Minors misrepresenting age, procuring or possessing malt or vinous beverages or spirituous liquor (7 V.S.A. § 657(a))~~ [Repealed.]

* * *

Sec. 54. 28 V.S.A. § 205(c) is amended to read:

(c)(1) Unless the Court in its discretion finds that the interests of justice require additional standard and special conditions of probation, when the Court orders a specific term of probation for a qualifying offense, the offender shall be placed on administrative probation, which means that the only conditions of probation shall be that the probationer:

* * *

(2) As used in this subsection, "qualifying offense" means:

* * *

(M) ~~A first offense of a minor's misrepresenting age, procuring, possessing, or consuming liquors under 7 V.S.A. § 657.~~ [Repealed.]

* * *

Sec. 55. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER 18 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a) A person under 18 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment. A person under 18 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this subsection shall be subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of $25.00. ~~In the case of failure to pay a penalty, the Judicial Bureau shall mail a notice to the person at the address in the complaint notifying the person that failure to pay the penalty within 60 days of the notice will result in either the suspension of the person's operator's license for a period of not more than 90 days or the delay of the initial licensing of the person for a period of not more than one year. A copy of the notice shall be sent to the Commissioner of Motor Vehicles, who, after expiration of 60 days from the date of notice and unless notified by the Judicial Bureau that the penalty has been paid shall either suspend the person's operator's license or cause initial licensing of the person to be delayed for the periods set forth in this subsection and the rules.~~ An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24. ~~The Commissioner of Motor Vehicles shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 to implement the provisions of this subsection, which may provide for incremental suspension or delays not exceeding cumulatively the maximum periods established by this subsection.~~

(b) A person under 18 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than $50.00 or provide up to 10 hours of community service, or both.

Sec. 56. 13 V.S.A. § 1753 is amended to read:

§ 1753. FALSE PUBLIC ALARMS

(a) A person who initiates or willfully circulates or transmits a report or warning of an impending bombing or other offense or catastrophe, knowing that the report or warning is false or baseless and that it is likely to cause evacuation of a building, place of assembly, or facility of public transport, or to cause public inconvenience or alarm, shall, for the first offense, be imprisoned for not more than two years or fined not more than $5,000.00, or both. For the second or subsequent offense, the person shall be imprisoned for not more than five years or fined not more than $10,000.00, or both. In addition, the court may order the person to perform community service. Any community service ordered under this section shall be supervised by the ~~department of corrections~~ Department of Corrections.

(b) ~~In addition, if the person is under 18 years of age, or if the person is enrolled in a public school, an approved or recognized independent school, a home study program, or tutorial program as those terms are defined in section 11 of Title 16:~~

~~(1) if the person has a motor vehicle operator's license issued under chapter 9 of Title 23, the commissioner of motor vehicles shall suspend the license for 180 days for a first offense and two years for a second offense; or~~

~~(2) if the person does not qualify for a license because the person is underage, the commissioner of motor vehicles shall delay the person's eligibility to obtain a drivers license for 180 days for the first offense and two years for the second offense.~~ [Repealed.]

Sec. 57. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; FIRST OR SECOND OFFENSE; CIVIL VIOLATION

(a) Offense. ~~Except as otherwise provided in section 4230c of this title, a~~ A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of ~~$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days,~~ $400.00 for a first offense; and

(2) a civil penalty of not less than $400.00 and not more than $600.00 ~~and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 180 days,~~ for a second or subsequent offense.

(b) Issuance of Notice of Violation. A law enforcement officer shall issue a person under 21 years of age who violates this section with a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty ~~and a suspension of the person's operator's license and may face substantially increased insurance rates~~;

(3) no money should be submitted to pay any penalty until after adjudication; and

(4) the person shall notify the Diversion Program if the person's address changes.

* * *

(e) Notice to Report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty~~, the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially~~.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no

penalty shall be imposed ~~and the person's operator's license shall not be suspended~~.

* * *

(g) ~~Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made.~~ [Repealed.]

(h) ~~Record of Adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section.~~ [Repealed.]

Sec. 58. DEPARTMENT OF MOTOR VEHICLES REGISTRY OF UNDERAGE ALCOHOL AND MARIJUANA OFFENSES

It is the intent of the General Assembly that any copy of the registry of underage alcohol and marijuana adjudications that the Department of Motor Vehicles was required to maintain under the former 7 V.S.A. § 656(h) and 18 V.S.A. § 4230b(h) (repealed in Secs. 5 and 11 of this act, respectively) be destroyed.

Sec. 59. REPEAL

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

Sec. 60. 20 V.S.A. § 2358 (b)(2)(B)(i)(XX) is amended to read:

(XX) 18 V.S.A. §§ 4230(a)~~, 4230c,~~ and 4230d (marijuana possession);

Sec. 61. 32 V.S.A. § 8909 is amended to read:

§ 8909. ENFORCEMENT

If the tax due under subsection ~~8903(a), (b) and (d)~~ 8903(d) of this title is not paid as hereinbefore provided the Commissioner shall suspend ~~such purchaser's or~~ the rental company's ~~right to operate a motor vehicle~~ license to act as a rental company and motor vehicle registrations within the State of Vermont until such tax is paid, and such tax may be recovered with costs in an action brought in the name of the State on this statute.

* * * Driving with License Suspended* * *

Sec. 62. 23 V.S.A. § 674 is amended to read:

§ 674. OPERATING AFTER SUSPENSION OR REVOCATION OF LICENSE; PENALTY; REMOVAL OF REGISTRATION PLATES; TOWING

(a)(1) Except as provided in section 676 of this title, a person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of this section or subsection 1091(b), 1094(b), or 1128(b) or (c) of this title and who operates or attempts to operate a motor vehicle upon a public highway before the suspension period imposed for the violation has expired shall be imprisoned not more than two years or fined not more than $5,000.00, or both.

(2)(A) A person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of section 2506 of this title (points suspensions) and who operates or attempts to operate a motor vehicle upon a public highway for a third or subsequent time on or after July 1, 2016 before the suspension period imposed for the violation has expired shall be imprisoned not more than two years or fined not more than $5,000.00, or both.

(B) ~~A~~ Other than as provided in subdivision (A) of this subdivision (a)(2), a person who violates section 676 of this title for the sixth or subsequent time shall, if the five prior offenses occurred on or after ~~July 1, 2003~~ December 1, 2016, be imprisoned not more than two years or fined not more than $5,000.00, or both.

(3) Violations of section 676 of this title that occurred prior to the date a person successfully completes the DLS Diversion Program ~~or prior to the date that a person pays the amount due to the Judicial Bureau in accordance with subsection 2307(b) of this chapter~~ shall not be counted as prior offenses under subdivision (2) of this subsection.

* * *

* * * Assessment of Points Against a Person's Driving Record * * *

Sec. 63. 23 V.S.A. § 1006a is amended to read:

§ 1006a. HIGHWAYS; EMERGENCY CLOSURE; TEMPORARY SPEED LIMITS

* * *

(b) The Traffic Committee may establish a temporary speed limit within that portion of the State highways that is being reconstructed or maintained. The limit shall be effective when appropriate signs stating the limit are erected.

(c) Under 3 V.S.A. chapter 25, the Traffic Committee shall adopt such rules as are necessary to administer this section and may delegate this authority to the Agency of Transportation.

(d) Notwithstanding the limit established in section 2302 of this title and the waiver penalties established under 4 V.S.A. § 1102(d), the penalty and points assessed against a person's driving record for a violation of the speed limits established under subsection (b) of this section shall be twice the penalty and the points assessed for non-worksite speed violations.

Sec. 64. 23 V.S.A. § 1010 is amended to read:

§ 1010. SPECIAL OCCASIONS; TOWN HIGHWAY MAINTENANCE

(a) When it appears that traffic will be congested by reason of a public occasion, or when a town highway is being reconstructed or maintained, or where utilities are being installed, relocated, or maintained, the legislative body of a municipality may make special regulations as to the speed of motor vehicles on town highways, may exclude motor vehicles from town highways, and may make such traffic rules and regulations as the public good requires. However, signs indicating the special regulations must be conspicuously posted in and near all affected areas, giving as much notice as possible to the public so that alternative routes of travel could be considered.

(b) Notwithstanding the limit established in section 2302 of this title and the waiver penalties established under 4 V.S.A. § 1102(d), the penalty and points assessed against a person's driving record for a violation of the speed limits established under the worksite provision of this section shall be twice the penalty and the points assessed for non-worksite speed violations.

Sec. 65. 23 V.S.A. § 1081 is amended to read:

§ 1081. BASIC RULE AND MAXIMUM LIMITS

* * *

(b) Except when there exists a special hazard that requires lower speed in accordance with subsection (a) of this section, the limits specified in this section or established as hereinafter authorized are maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of 50 miles per hour.

(c) The maximum speed limits set forth in this section may be altered in accordance with sections 1003, 1004, 1006a, 1007, and 1010 of this title.

* * *

Sec. 66. 23 V.S.A. § 1095b is amended to read:

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE PROHIBITED

* * *

(c) Penalties.

(1) A person who violates this section commits a traffic violation and shall be subject to a fine of not less than $100.00 and not more than $200.00 for a first violation, and of not less than $250.00 and not more than $500.00 for a second or subsequent violation within any two-year period.

(2) A person convicted of violating this section while operating within ~~a properly designated work zone in which construction, maintenance, or utility personnel are present~~ the following areas shall have ~~two~~ five points assessed against his or her driving record ~~for a first conviction and five points assessed for a second or subsequent conviction~~:

(A) a properly designated work zone in which construction, maintenance, or utility personnel are present; or

(B) a school zone marked with warning signs conforming to the Manual on Uniform Traffic Control Devices.

(3) A person convicted of violating this section outside ~~a work zone in which personnel are present~~ the areas designated in subdivision (2) of this subsection shall ~~not~~ have two points assessed against his or her driving record.

* * *

Sec. 67. 23 V.S.A. § 1099 is amended to read:

§ 1099. TEXTING PROHIBITED

* * *

(c) A person who violates this section commits a traffic violation as defined in section 2302 of this title and shall be subject to:

(1) a penalty of not less than $100.00 and not more than $200.00 for a first violation, and of not less than $250.00 and not more than $500.00 for a second or subsequent violation within any two-year period; and

(2)(A) an assessment of five points against his or her driving record if the violation occurred outside the areas designated in subdivision (B) of this subdivision (c)(2); or

(B) an assessment of seven points against his or her driving record when the violation occurred within:

(i) a properly designated work zone in which construction, maintenance, or utility personnel are present; or

(ii) a school zone marked with warning signs conforming to the Manual on Uniform Traffic Control Devices.

Sec. 68. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Unless the assessment of points is waived by a Superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance with subsection 2501(b) of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

(LL)(i)	§ 1095.	Entertainment picture visible to operator;
(ii)	§ 1095b~~(c)(2)~~	Use of portable electronic device ~~in~~—outside work or school zone~~— first offense~~

* * *

(EEE)	§ 1258	Child restraint systems;
(FFF)	§ 800.	Operating without financial responsibility;
~~(FFF)~~(GGG)		All other moving violations which have no specified points;

* * *

(4) Five points assessed for:

(A)	§ 1050.	Failure to yield to emergency vehicles;
(B)	§ 1075.	Illegal passing of school bus;
(C)	§ 1099.	Texting prohibited—outside work or school zone;
(D)	§ 1095b~~(c)(2)~~	Use of portable electronic device in work or school zone—~~second and subsequent offenses~~;

* * *

(6) Two points assessed for sections 1003 ~~and~~, 1007, and 1081. State speed zones ~~and~~, local speed limits, and basic speed rule, less than 10 miles per hour over and in excess of speed limit;

(7) Three points assessed for sections 1003 ~~and~~, 1007, and 1081. State speed zones ~~and~~, local speed limits, and basic speed rule, more than 10 miles per hour over and in excess of speed limit;

(8) Five points assessed for sections 1003 ~~and~~, 1007, and 1081. State speed zones ~~and~~, local speed limits, and basic speed rule, more than 20 miles per hour over and in excess of speed limit;

(9) Eight points assessed for sections 1003 ~~and~~, 1007, 1081, and 1097. State speed zones ~~and~~, local speed limits, and basic speed rule, more than 30 miles per hour over and in excess of the speed limit~~.~~, and criminal excessive speed;

(10) Seven points assessed for subdivision 1099(c)(2)(B) (texting in a work or school zone).

* * *

* * * Judicial Bureau Hearings; Consideration of Ability to Pay * * *

Sec. 69. 4 V.S.A. § 1106 is amended to read:

§ 1106. HEARING

(a) The Bureau shall notify the person charged and the issuing officer of the time and place for the hearing.

(b) The hearing shall be held before a hearing officer and conducted in an impartial manner. The hearing officer may, by subpoena, compel the attendance and testimony of witnesses and the production of books and records. All witnesses shall be sworn. The burden of proof shall be on the State or municipality to prove the allegations by clear and convincing evidence. As used in this section, "clear and convincing evidence" means evidence which establishes that the truth of the facts asserted is highly probable. Certified copies of records supplied by the Department of Motor Vehicles or the Agency of Natural Resources and presented by the issuing officer or other person shall be admissible without testimony by a representative of the Department of Motor Vehicles or the Agency of Natural Resources.

(c)(1) Prior to entering judgment against a defendant, a hearing officer shall consider evidence of ability to pay if offered by the defendant.

(2) The hearing officer shall make findings which shall be stated on the record or, if more time is needed, made in writing at a later date. The hearing officer may make a finding that the person has committed a lesser included violation.

(d) A law enforcement officer may void or amend a complaint issued by that officer by so marking the complaint and returning it to the Bureau, regardless of whether the amended complaint is a lesser included violation. At the hearing, a law enforcement officer may void or amend a complaint issued by that officer in the discretion of that officer.

(e) A State's Attorney may dismiss or amend a complaint.

(f) The Supreme Court shall establish rules for the conduct of hearings under this chapter.

* * * DLS Diversion Program * * *

Sec. 70. DLS DIVERSION PROGRAM; REPEAL

2012 Acts and Resolves No. 147, Sec. 2, as amended by 2013 Acts and Resolves No. 18, Sec. 1a (DLS Diversion Program) shall be repealed on July 1, 2016.

* * * Awareness of Payment and Hearing Options * * *

Sec. 71. RAISING AWARENESS OF TRAFFIC VIOLATION JUDGMENT PAYMENT AND HEARING OPTIONS

(a) In conducting basic training courses and annual in-service trainings, the Criminal Justice Training Council is encouraged to train enforcement officers about the existence of payment plan options for traffic violation judgments. Enforcement officers are encouraged to mention these options to a motorist at the time of issuing a complaint for a traffic violation.

(b) The General Assembly recommends that the Judicial Bureau update the standard materials that enforcement officers provide to persons issued a civil complaint for a traffic violation to notify such persons of payment plan options and of the person's right to request a hearing on ability to pay.

(c) The General Assembly encourages the Judicial Bureau to prominently display on its website information about the existence of payment plan options for traffic violation judgments and the right of a person issued a complaint for a traffic violation to request a hearing on ability to pay.

(d) The Agency of Transportation shall carry out a campaign to raise public awareness of traffic violation judgment payment plan options and of a person's right to request a hearing before a Judicial Bureau hearing officer on his or her ability to pay a Judicial Bureau judgment.

* * * Criminal DLS Charges; Statistics * * *

Sec. 72. STATISTICS REGARDING CRIMINAL DLS CHARGES

(a) On or before January 15, 2018, and separately for calendar years 2013, 2014, 2015, 2016, and 2017, the Court Administrator shall submit in writing to the House and Senate Committees on Judiciary the number, and a breakdown of the dispositions, of criminal driving with license suspended charges filed statewide:

(1) under 23 V.S.A. § 674(b) (driving while suspended for a DUI offense);

(2) under 23 V.S.A. § 674(a)(1) (driving while suspended for certain non-DUI criminal motor vehicle offenses);

(3) for a sixth or subsequent violation of 23 V.S.A. § 676 (civil DLS);

(4) under 23 V.S.A. § 674(a)(2)(A) (a third or subsequent DLS arising from a suspension for points) for 2016 and after.

(b) On or before January 15 of 2019, 2020, and 2021, respectively, the Court Administrator shall submit in writing to the House and Senate Committees on Judiciary the statistics specified in subdivisions (a)(1)–(4) of this section for the prior calendar year.

* * * Traffic Violation Judgments; Receipts; Statistics * * *

Sec. 73. STATISTICS RELATED TO TRAFFIC VIOLATION JUDGMENT HEARINGS, RECEIPTS

(a) On or before January 15, 2018, and separately for calendar years 2013, 2014, 2015, 2016, and 2017, the Court Administrator shall submit in writing to the House and Senate Committees on Judiciary and on Transportation:

(1) the total number of traffic violation judgments entered; and

(2) the total payments collected on traffic violation judgments.

(b) On or before January 15 of 2019, 2020, and 2021, respectively, the Court Administrator shall submit in writing to the Committees on Judiciary and on Transportation the statistics specified in subdivisions (a)(1) and (2) of this section for the prior calendar year.

(c) On or before January 15 of 2017–2021, respectively, the Court Administrator shall submit in writing to the House and Senate Committees on Judiciary and on Transportation:

(1) the total unpaid amount of outstanding traffic violation judgments as of January 1 of each year;

(2) the number of persons under payment plans as of January 1 of each year and the number of persons who successfully completed a payment plan in the prior calendar year;

(3) the number of judgments reduced in the prior calendar year as a result of a hearing held pursuant to 4 V.S.A. § 1106; and

(4) the number of judgments reduced in the prior calendar year as a result of postjudgment motions to amend.

* * * Underage Alcohol and Marijuana Violations; Statistics * * *

Sec. 74. UNDERAGE ALCOHOL AND MARIJUANA VIOLATIONS; COMPLETION OF DIVERSION

On or before January 25, 2018, the Diversion Program shall submit to the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare statistics showing:

(1) for calendar years 2014 and 2015 separately, the number of notices to report received by the Diversion Program from law enforcement, as well as the number of persons who successfully completed Diversion, for:

(A) a violation of 7 V.S.A. § 656 (underage alcohol violation); and

(B) a violation of 18 V.S.A. § 4230b (underage marijuana violation);

(2) for calendar years 2016 and 2017 separately, the number of notices to report received by the Diversion Program from law enforcement, as well as the number of persons who successfully completed Diversion, for:

(A) a first or second violation of 7 V.S.A. § 656;

(B) a third or subsequent violation of 7 V.S.A. § 656;

(C) a first or second violation of 18 V.S.A. § 4230b; and

(D) a third or subsequent violation of 18 V.S.A. § 4230b.

Sec. 75. 23 V.S.A. § 4(44) is amended to read:

(44) "Moving violation" ~~shall mean~~ means any violation of any provision of this title, while the motor vehicle is being operated on a public highway, over which operation the operator has discretion as to commission of the act, ~~with exception of~~ except for offenses pertaining to a parked vehicle, equipment, size, weight, inspection, or registration of the vehicle, and ~~child restraint or safety belt systems or~~ seat belts as required in section ~~1258 or~~ 1259 of this title.

Sec. 76. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(e)(1) The criteria for all minimum training standards under this section shall include anti-bias training approved by the Vermont Criminal Justice Training Council and training on the State, county, or municipal law enforcement agency's fair and impartial policing policy, adopted pursuant to subdivision 2366(a) of this title.

(2) On or before December 31, 2018, law enforcement officers shall receive a minimum of four hours of training as required by this subsection and shall receive a refresher course every two years in a program approved by the Vermont Criminal Justice Training Council in order to remain certified.

(3) A list of officers who have completed the fair and impartial policing training and the dates of the completion shall be public and posted on the Vermont Criminal Justice Training Council's website.

Sec. 77. 20 V.S.A. § 2366 is amended to read:

§ 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL POLICING POLICY; RACE DATA COLLECTION

(a)~~(1) Except as provided in subdivision (2) of this subsection, on or before September 1, 2014, every State, local, county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall adopt a fair and impartial policing policy. The policy shall contain substantially the same elements of either the current Vermont State Police fair and impartial policing policy or the most current model policy issued by the Office of the Attorney General.~~

~~(2)~~ On or before January 1, 2016, the Criminal Justice Training Council, in consultation with stakeholders, including the Vermont League of Cities and Towns, the Vermont Human Rights Commission, and Migrant Justice, shall ~~adopt~~ create a model fair and impartial policing policy. On or before July 1, 2016, every State, ~~local,~~ county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall adopt a fair and impartial policing policy that includes, at a minimum, the elements of the Criminal Justice Training Council model policy.

(b) If a law enforcement agency or constable that is required to adopt a policy pursuant to subsection (a) of this section fails to do so on or before ~~September 1, 2014~~ July 1, 2016, that agency or constable shall be deemed to

have adopted, and shall follow and enforce, the model policy issued by the ~~Office of the Attorney General~~ Criminal Justice Training Council.

(c) On or before September 15, 2014, and annually thereafter as part of their annual training report to the Council, every State, ~~local,~~ county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall report to the Council whether the agency or officer has adopted a fair and impartial policing policy in accordance with subsections (a) and (b) of this section ~~and which policy has been adopted~~. The Criminal Justice Training Council shall determine, as part of the Council's annual certification of training requirements, if current officers have received training on fair and impartial policing as required by 20 V.S.A. § 2358(e).

(d) On or before October 15, 2014, and annually thereafter on April 1, the Criminal Justice Training Council shall report to the House and Senate Committees on Judiciary which departments and officers have adopted a fair and impartial policing policy, ~~which policy has been adopted,~~ and whether officers have received training on fair and impartial policing.

(e)(1) On or before September 1, 2014, every State, ~~local,~~ county, and municipal law enforcement agency shall collect roadside stop data consisting of the following:

(A) the age, gender, and race of the driver;

(B) the reason for the stop;

(C) the type of search conducted, if any;

(D) the evidence located, if any; and

(E) the outcome of the stop, including whether:

(i) a written warning was issued;

(ii) a citation for a civil violation was issued;

(iii) a citation or arrest for a misdemeanor or a felony occurred; or

(iv) no subsequent action was taken.

(2) Law enforcement agencies shall work with the Criminal Justice Training Council and the Crime Research Group of Vermont with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.

(3) On or before September 1, 2016 and annually thereafter, law enforcement agencies shall provide the data collected under this subsection to the Crime Research Group of Vermont or, in the event the Crime Research Group of Vermont is unable to continue receiving data under this section, to the Criminal Justice Training Council. Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the receiving agency,

(4) The data provided pursuant to subdivision (3) of this subsection shall be posted electronically in a manner that is analyzable and accessible to the public on the receiving agency's website.

(5) On or before April 1, 2017, and annually thereafter, the Criminal Justice Training Council shall report to the House and Senate Committees on Judiciary on the departments and officers that have and have not provided the data required by subdivision (3) of this subsection. The list of officers, agencies, or departments that have and have not provided the data in accordance with subdivision (3) of this subsection shall be public.

Sec. 78. 13 V.S.A. § 5305 is amended to read:

§ 5305. INFORMATION CONCERNING RELEASE FROM ~~CONFINEMENT~~ CUSTODY

(a) Victims, other than victims of acts of delinquency, and affected persons shall have the right to request notification by the agency having custody of the defendant before the defendant is released, including a release on bail or conditions of release, furlough or other community program, upon termination or discharge from probation, or whenever the defendant escapes, is recaptured, dies, or receives a pardon or commutation of sentence. Notice shall be given to the victim or affected person as expeditiously as possible at the address or telephone number provided to the agency having custody of the defendant by the person requesting notice. Any address or telephone number so provided shall be kept confidential.

(b) If the defendant is released on conditions at arraignment, the prosecutor's office shall inform the victim of a listed crime of the conditions of release.

(c) If requested by a victim of a listed crime, the ~~department of corrections~~ Department of Corrections shall:

(1) at least 30 days before a parole board hearing concerning the defendant, inform the victim of the hearing and of the victim's right to testify before the parole board or to submit a written statement for the parole board to consider; and

(2) promptly inform the victim of the decision of the parole board, including providing to the victim any conditions attached to the defendant's release on parole.

Sec. 79. 13 V.S.A. § 5314 is amended to read:

§ 5314. INFORMATION FROM LAW ENFORCEMENT AGENCY

* * *

(b) Information to victims of listed crimes. As soon as practicable, the law enforcement agency shall use reasonable efforts to give to the victim of a listed crime, as relevant, all of the following:

(1) Information as to the accused's identity unless inconsistent with law enforcement purposes.

(2) Information as to whether the accused has been taken into custody.

(3) The file number of the case and the name, office street address, and telephone number of the law enforcement officer currently assigned to investigate the case.

(4) The prosecutor's name, office street address, and telephone number.

(5) An explanation that no individual is under an obligation to respond to questions which may be asked outside a courtroom or deposition.

(6) Information concerning any bail or conditions of release imposed on the defendant by a judicial officer prior to arraignment or an initial court appearance.

Sec. 80. 13 V.S.A. § 5321 is amended to read:

§ 5321. APPEARANCE BY VICTIM

(a) The victim of a crime has the following rights in any sentencing proceedings concerning the person convicted of that crime, or in the event a proposed plea agreement filed with the court recommends a deferred sentence, at any change of plea hearing concerning the person charged with committing that crime:

(1) to be given advance notice by the prosecutor's office of the date of the proceedings; and

(2) to appear, personally, to express reasonably his or her views concerning the crime, the person convicted, and the need for restitution.

(b) ~~Sentencing~~ The change of plea hearing or sentencing shall not be delayed or voided by reason of the failure to give the victim the required notice or the failure of the victim to appear.

(c) In accordance with Court rules, at the sentencing or change of plea hearing, the Court shall ask if the victim is present and, if so, whether the victim would like to be heard regarding sentencing or the proposed deferral of sentencing. In imposing the sentence or considering whether to defer sentencing, the Court shall consider any views offered at the hearing by the victim. If the victim is not present, the Court shall ask whether the victim has expressed, either orally or in writing, views regarding sentencing or the proposed deferral of sentencing and shall take those views into consideration in imposing the sentence or considering whether to defer sentencing.

(d) At or before the sentencing hearing, the prosecutor's office shall instruct the victim of a listed crime, in all cases where the Court imposes a sentence which includes a period of incarceration, that a sentence of incarceration is to the custody of the Commissioner of Corrections and that the Commissioner of Corrections has the authority to affect the actual time the defendant shall serve in incarceration through good time credit, furlough, work-release, and other early release programs. In addition, the prosecutor's office shall explain the significance of a minimum and maximum sentence to the victim and shall also explain the function of parole and how it may affect the actual amount of time the defendant may be incarcerated.

(e) At or before a change of plea hearing where the plea agreement filed with the court proposes a deferred sentence, the prosecutor's office shall instruct the victim of a listed crime about the significance of a deferred sentence and the potential consequences of a violation of conditions imposed by the court. In addition, the prosecutor's office shall consult with the victim concerning any proposed probation conditions prior to the hearing.

(f) The prosecutor's office shall use all reasonable efforts to keep the victim informed and consult with the victim throughout the plea agreement negotiation process in any case involving a victim of a listed crime.

* * * DUI; Civil Suspensions * * *

Sec. 81. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

* * *

(f) Review by Superior Court. Within seven days following receipt of a notice of intention to suspend and of suspension, a ~~person~~ defendant may ~~make a~~ request ~~for~~ a hearing before the Superior Court by mailing or delivering the form provided with the notice. The request shall be mailed or delivered to the Commissioner of Motor Vehicles, who shall then notify the Criminal Division

of the Superior Court that a hearing has been requested and provide the State's Attorney with a copy of the notice.

(g) Preliminary hearing. The preliminary hearing shall be held within 21 days of the alleged offense. Unless impracticable or continued for good cause shown, the date of the preliminary hearing shall be the same as the date of the first appearance in any criminal case resulting from the same incident for which the person received a citation to appear in court. The preliminary hearing shall be held in accordance with procedures prescribed by the Supreme Court. At or before the preliminary hearing, the judicial officer shall determine whether the affidavit or affidavits filed by the State provide a sufficient factual basis under subsection (a) of this section for the civil suspension matter to proceed. At the preliminary hearing, if the defendant requests a hearing on the merits, the court shall set the date of the final hearing in accordance with subsection (h) of this section.

(h) Final hearing.

(1) If the defendant requests a hearing on the merits, the ~~Court shall schedule a final hearing on the merits to~~ hearing shall be held ~~within~~ no later than 21 days ~~of~~ following the date of the preliminary hearing~~. In no event may a final hearing occur more than 42 days after the date of the alleged offense without the consent of the defendant or for good cause shown. The final hearing may only be continued by~~ except if this period is extended with the consent of the defendant or for good cause shown. The issues at the final hearing shall be limited to the following specifically enumerated issues:

(A) Whether the law enforcement officer had reasonable grounds to believe the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

(B) Whether at the time of the request for the evidentiary test the officer informed the person of the person's rights and the consequences of taking and refusing the test substantially as set out in subsection 1202(d) of this title.

(C) Whether the person refused to permit the test.

(D) Whether the test was taken and the test results indicated that the person's alcohol concentration was above a legal limit specified in subsection 1201(a) or (d) of this title, at the time of operating, attempting to operate, or being in actual physical control of a vehicle in violation of section 1201 of this title, whether the testing methods used were valid and reliable, and whether the test results were accurate and accurately evaluated. Evidence that the test was taken and evaluated in compliance with rules adopted by the Department of Public Safety shall be prima facie evidence that the testing methods used were

valid and reliable and that the test results are accurate and were accurately evaluated.

(E) Whether the requirements of section 1202 of this title were complied with.

(2) No less than seven days before the final hearing, and subject to the requirements of Vermont Rule of Civil Procedure 11, the defendant shall provide to the State and file with the Court ~~a list of the issues (limited to the issues set forth in this subsection) that the defendant intends to raise~~ an answer to the notice of intent to suspend setting forth the issues raised by the defendant, limited to the issues set forth in this subsection, and a brief statement of the facts and law upon which the defendant intends to rely at the final hearing. Only evidence that is relevant to an issue listed by the defendant may be raised by the defendant at the final hearing. The defendant shall not be permitted to raise any other evidence at the final hearing, and all other evidence shall be inadmissible.

* * *

(n) Presumption. In a proceeding under this section~~,~~:

(1) if at any time within two hours of operating, attempting to operate, or being in actual physical control of a vehicle a person had an alcohol concentration ~~of~~ at or above a legal limit specified in subsection 1201(a) or (d) of this title, it shall be a rebuttable presumption that the person's alcohol concentration was above the applicable limit at the time of operating, attempting to operate, or being in actual physical control;

(2) if a person operates, attempts to operate, or is in actual physical control of a vehicle in the presence of a law enforcement officer and is taken into custody in connection with such operation, attempted operation, or actual physical control, and while in the continuous custody of the officer at any time had an alcohol concentration at or above a legal limit specified in subsection 1201(a) or (d) of this title, it shall be a rebuttable presumption that the person's alcohol concentration was above the applicable limit at the time of operating, attempting to operate, or being in actual physical control.

* * *

(u) In any proceeding under this section~~,~~:

(1) for cause shown, a party's chemist may be allowed to testify by telephone in lieu of a personal appearance;

(2) a party's chemist shall be allowed to testify by videoconference in lieu of a personal appearance, provided that videoconferencing shall be at the party's own expense and by the party's own arrangement.

Sec. 82. 23 V.S.A. § 1204 is amended to read:

§ 1204. PERMISSIVE INFERENCES

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

* * *

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

(B) If the person's alcohol concentration at any time after the alleged offense was 0.10 or more and the person was in the continuous custody of the arresting officer until the time of the evidentiary test, it shall be a permissive inference that the person was under the influence of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.

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

* * * DUI Penalties * * *

Sec. 83. 23 V.S.A. § 1210 is amended to read:

§ 1210. PENALTIES

* * *

(b) First offense. A person who violates section 1201 of this title may be fined not more than ~~$750.00,~~ $1,000.00 or imprisoned for not more than two years, or both.

(c) Second offense. A person convicted of violating section 1201 of this title who has been convicted of another violation of that section shall be fined not more than ~~$1,500.00~~ $2,000.00 or imprisoned not more than two years, or both. At least 200 hours of community service shall be performed, or 60 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed.

(d) Third offense. A person convicted of violating section 1201 of this title who has previously been convicted two times of a violation of that section shall be fined not more than ~~$2,500.00~~ $3,000.00 or imprisoned not more than five years, or both. At least 96 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed. The Court may impose a sentence that does not include a term of imprisonment or that does not require that the 96 hours of imprisonment be served consecutively only if the Court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

(e)(1) Fourth or subsequent offense. A person convicted of violating section 1201 of this title who has previously been convicted three ~~or more~~ times of a violation of that section shall be fined not more than ~~$5,000.00~~ $4,000.00 for a fourth offense or imprisoned not more than 10 years, or both. A person convicted of violating section 1201 of this title who has previously been convicted four or more times of a violation of that section shall be fined not more than the sum of $5,000.00 plus an additional $1,000.00 for each prior conviction that exceeds four priors or imprisoned not more than 10 years, or both. At least 192 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol treatment facility pursuant to sentence if the program is successfully completed. The Court shall not impose a sentence that does not include a term of imprisonment unless the Court makes written findings on the record that there are compelling reasons why such a sentence will serve the interests of justice and public safety.

* * *

* * * Alcohol Screening Devices * * *

Sec. 84. 7 V.S.A. § 501 is amended to read:

§ 501. UNLAWFUL SALE OF INTOXICATING LIQUORS; CIVIL ACTION FOR DAMAGES

* * *

(e) Evidence. In an action brought under this section, evidence of responsible actions taken or not taken is admissible, if otherwise relevant. Responsible actions may include, but are not limited to, instruction of servers as to laws governing the sale of alcoholic beverages, training of servers regarding intervention techniques, admonishment to patrons or guests

concerning laws regarding the consumption of intoxicating liquor, making available an alcohol screening device, and inquiry under the methods provided by law as to the age or degree of intoxication of the persons involved.

* * *

* * * Alcohol Screening Devices; Study * * *

Sec. 85. ALCOHOL SCREENING DEVICES; STUDY

The Commissioner of Liquor Control or designee, in consultation with the Commissioner of Health or designee, shall study whether and how the State should promote the availability and use of alcohol screening devices in the State, and whether making such devices available on the premises of liquor licensees and to individuals will promote public safety. On or before January 15, 2017, the Commissioner shall submit a written report of his or her findings and any proposed recommendations for legislation to the House and Senate Committees on Judiciary, the House Committee on General, Housing and Military Affairs, and the Senate Committee on Economic Development, Housing and General Affairs.

* * * Serious Bodily Injury; Definition * * *

Sec. 86. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

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

* * *

(84) "Serious bodily injury" has the meaning set forth in 13 V.S.A. § 1021.

* * * Negligent Operation of a Motor Vehicle; Penalties * * *

Sec. 87. 23 V.S.A. § 1091 is amended to read:

§ 1091. NEGLIGENT OPERATION; GROSSLY NEGLIGENT OPERATION

(a) Negligent operation.

(1) A person who operates a motor vehicle on a public highway in a negligent manner shall be guilty of negligent operation.

(2) The standard for a conviction for negligent operation in violation of this subsection shall be ordinary negligence, examining whether the person breached a duty to exercise ordinary care.

(3) A person who violates this subsection shall be imprisoned not more than one year or fined not more than $1,000.00, or both. If the person has been previously convicted of a violation of this subsection, the person shall be imprisoned not more than two years or fined not more than $3,000.00, or both. If serious bodily injury to or death of any person other than the operator results, the operator shall be subject to imprisonment for not more than two years or to a fine of not more than $3,000.00, or both. If serious bodily injury or death results to more than one person other than the operator, the operator may be convicted of a separate violation of this subdivision for each decedent or person injured.

(b) Grossly negligent operation.

(1) A person who operates a motor vehicle on a public highway in a grossly negligent manner shall be guilty of grossly negligent operation.

(2) The standard for a conviction for grossly negligent operation in violation of this subsection shall be gross negligence, examining whether the person engaged in conduct which involved a gross deviation from the care that a reasonable person would have exercised in that situation.

(3) A person who violates this subsection shall be imprisoned not more than two years or fined not more than $5,000.00, or both. If the person has previously been convicted of a violation of this section, the person shall be imprisoned not more than four years or fined not more than $10,000.00, or both. If serious bodily injury ~~as defined in 13 V.S.A. § 1021~~ to or death of any person other than the operator results, the ~~person~~ operator shall be imprisoned for not more than 15 years or fined not more than $15,000.00, or both. If serious bodily injury or death results to more than one person other than the operator, the operator may be convicted of a separate violation of this subdivision for each decedent or person injured.

(c) The provisions of this section do not limit or restrict the prosecution for manslaughter.

* * *

* * * Passing Vulnerable Users; Violations * * *

Sec. 88. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS

* * *

(c) If serious bodily injury to or death of any person other than the operator results from the operator's violation of subsection (b) of this section, the operator shall be subject to imprisonment for not more than two years or a fine of not more than $3,000.00, or both. The provisions of this section do not limit prosecution under section 1091 of this chapter or for any other crime.

Sec. 89. EFFECTIVE DATES

(a) Secs. 9 (commencement of delinquency proceedings), 10 (transfer from other courts), 11 (transfer from Family Division of the Superior Court), and 16 (powers and responsibilities of the Commissioner regarding juvenile services) shall take effect on January 1, 2017.

(b) Secs. 6 (Jurisdiction), 7 (commencement of delinquency proceedings), and 8 (transfer from other courts) shall take effect on January 1, 2018.

(c) Secs. 1 (commencement of youthful offender proceedings in the Family Division), 2 (motion in Criminal Division of Superior Court), 3 (report from the Department), 4 (hearing in Family Division), and 5 (youthful offender determination and disposition order) shall take effect on July 1, 2018.

(d) This section, Secs. 37-45, (miscellaneous criminal procedure amendments), Sec. 46 (termination of suspensions arising from pre-1990 failures to appear on criminal traffic offense charges), Sec. 47(e) (public awareness campaign), Sec. 48 (termination of suspensions repealed in act), Secs. 49-61 (amendment or repeal of license suspension and registration refusal provisions and underage alcohol and marijuana crimes), and Secs. 76-77 (fair and impartial policing) shall take effect on passage.

(e) The remaining sections shall take effect on July 1, 2016.

Proposal of amendment to House proposal of amendment to H. 95 to be offered by Senator Sears

Senator Sears moves that the Senate concur in the House proposal of amendment with a proposal of amendment as follows:

By striking out Secs. 37-89 in their entirety and inserting in lieu thereof the following:

Sec. 37. EFFECTIVE DATES

(a) Secs. 9 (commencement of delinquency proceedings), 10 (transfer from other courts), and 11 (transfer from Family Division of the Superior Court) shall take effect on January 1, 2017.

(b) Sec. 16 (powers and responsibilities of the Commissioner regarding juvenile services) shall take effect on July 1, 2017.

(b) Secs. 6 (Jurisdiction), 7 (commencement of delinquency proceedings), and 8 (transfer from other courts) shall take effect on January 1, 2018.

(c) Secs. 1 (commencement of youthful offender proceedings in the Family Division), 2 (motion in Criminal Division of Superior Court), 3 (report from the Department), 4 (hearing in Family Division), and 5 (youthful offender determination and disposition order) shall take effect on July 1, 2018.

(d) This section and the remaining sections shall take effect on July 1, 2016.

House Proposal of Amendment to Senate Proposal of Amendment

H. 595

An act relating to potable water supplies from surface waters

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

By striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Surface Water Sources; Potable Water Supply * * *

Sec. 1. 10 V.S.A. § 1978(a) is amended to read:

(a) The Secretary shall adopt rules, in accordance with 3 V.S.A. chapter 25, necessary for the administration of this chapter. These rules shall include the following:

* * *

(15) Provisions authorizing the use by a residential dwelling of surface water as a source of a potable water supply permitted under this chapter.

Sec. 2. 10 V.S.A. § 1981 is added to read:

§ 1981. SURFACE WATER SOURCE; POTABLE WATER SUPPLY

The Secretary shall approve the use of a surface water as the source of a potable water supply under this chapter if the following conditions are satisfied:

(1) the building or structure using the surface water as a source is a single-family residence occupied by the owner of record;

(2) only one single-family residence shall be served by a potable water supply using a surface water as a source;

(3) a single-family residence with a potable water supply using a surface water as a source shall not be used as the site of a home occupation that

employs persons other than family members and is visited by the public in a manner or duration that would presume the need for use of a potable water supply;

(4) a professional engineer shall design the potable water supply using a surface water as a source, including a treatment system for the surface water;

(5) only surface waters that meet criteria adopted by the Secretary by rule are eligible as the source of a potable water supply permitted under this chapter; and

(6) the applicant or permit holder shall comply with other criteria and requirements adopted by the Secretary by rule for potable water supplies using a surface water as a source.

Sec. 3. SURFACE WATER SOURCE; RULEMAKING

The Secretary shall adopt rules to implement 10 V.S.A. § 1981 on or before July 1, 2017.

* * *Groundwater Testing; Technical Advisory Committee* * *

Sec. 4. TECHNICAL ADVISORY COMMITTEE; RECOMMENDATIONS ON GROUNDWATER TESTING

(a) The Secretary of Natural Resources shall seek the recommendations of the Technical Advisory Committee on Wastewater Systems and Potable Water Supplies regarding whether and how to test for contamination in groundwater sources used by potable water supplies permitted under 10 V.S.A. chapter 64. The recommendations shall address:

(1) whether the State should require testing of groundwater sources used by potable water supplies permitted under 10 V.S.A. chapter 64;

(2) if testing is recommended:

(A) in what situations or upon what occurrences should testing be required;

(B) from what component of a potable water supply the sample should be taken, including whether a sample from the wellhead of the potable water supply is sufficient;

(C) who should be authorized to take the sample; and

(D) what parameters or contaminants should be tested for in groundwater;

(3) any additional issues or requirements that the Technical Advisory Committee deems relevant to the testing of groundwater sources used by potable water supplies permitted under 10 V.S.A. chapter 64.

(b) The Secretary of Natural Resources shall submit the recommendations of the Technical Advisory Committee to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy on or before January 15, 2017.

* * * Environmental Contingency Fund * * *

Sec. 5. 10 V.S.A. § 1283(b) is amended to read:

(b) Disbursements under this subsection may be made for emergency purposes or to respond to other than emergency situations; provided, however, that disbursements in response to an individual situation which is not an emergency situation shall not exceed $100,000.00 for costs attributable to each of the subdivisions of this subsection, unless the Secretary has received the approval of the General Assembly, or the Joint Fiscal Committee, in case the General Assembly is not in session. Furthermore, the balance in the Fund shall not be drawn below the amount of $100,000.00, except in emergency situations. If the balance of the Fund becomes insufficient to allow a proper response to one or more emergencies that have occurred, the Secretary shall appear before the Emergency Board, as soon as possible, and shall request that necessary funds be provided. Within these limitations, disbursements from the Fund may be made:

* * *

(7) to pay costs of management oversight provided by the State for investigation and cleanup efforts conducted by voluntary responsible parties ~~where those responsible parties have contributed monies to the Fund pursuant to a written agreement under subsection (f) of this section~~;

* * *

(9) to pay costs of required capital contributions and operation and maintenance when the remedial or response action was taken pursuant to 42 U.S.C. § 9601 et seq.;

(10) to pay the costs of oversight or conducting assessment of a natural resource damaged by the release of a hazardous material and being assessed for damages pursuant to section 6615d of this title; or

(11) to pay the costs of oversight or conducting restoration or rehabilitation to a natural resource damaged by the release of a hazardous material and being restored or rehabilitated pursuant to section 6615d of this title.

* * * ANR Information Requests; Hazardous Material Releases * * *

Sec. 6. 10 V.S.A. § 6615c is added to read:

§ 6615c. INFORMATION REQUESTS

(a)(1) When the Secretary has reasonable grounds to believe that the Secretary has identified a person who may be subject to liability for a release or threat of release under section 6615 of this title, the Secretary may require the person to furnish information related to:

(A) The type, nature, and quantity of any commercial chemical product or hazardous material that has been or is being used, generated, treated, stored, or disposed of at a facility or transported to a facility.

(B) The nature or extent of a release or threatened release of a hazardous material from a facility.

(C) Financial information related to the ability of a person to pay for or to perform the cleanup or information surrounding the corporate structure, if any, of such person who may be subject to liability for a release or threat of release under section 6615 of this title, provided that the person has notified the Secretary that he or she does not have the ability to pay, refuses to perform, or fails to respond to a deadline established under section 6615b of this title to commit to performing a corrective action.

(2) A person served with an information request shall respond within 30 days of receipt of the request or by the date specified by the Secretary in the request, provided that the Secretary may require a person to respond within 10 days of receipt of a request when there is an imminent threat to the environment or other emergency that requires on expedited response.

(3) When the Secretary submits a request for information under this section, the Secretary shall provide the person who received the request information regarding the person's right to object or not comply with the request for information. The information shall include the potential actions that the Secretary may pursue if the person objects to or does not comply with the request for information.

(b)(1) A person who has received a request under subsection (a) of this section shall, at the discretion of the Secretary, either:

(A) grant the Secretary access, at reasonable times, to any facility, establishment, place, property, or location to inspect and copy all documents or records responsive to the request; or

(B) copy and furnish to the Secretary all information responsive to the request at the option and expense of the person or provide a written

explanation that the information has already been provided to the Secretary and a reference to the permit, enforcement action, or other matter under which the Secretary obtained the requested information.

(2) A person responding to a request under subsection (a) of this section may assert any privilege under statute, rule, or common law that is recognized in the State of Vermont to limit access to such information, including the attorney-client privilege. A person responding to a request for information under this section shall not assert privileges related to business confidentiality, including trade secrets, in order to withhold requested information. Any information that is privileged shall be provided to the Secretary with the privileged material redacted. The Secretary may require that a person asserting a privilege under this section provide an index of all privileged information.

(c) The Secretary may require any person who has or may have knowledge of any information listed in subdivision (a)(1) of this section to appear at the offices of the Secretary and may take testimony and require the production of records that relate to a release or threatened release of a hazardous material.

(d) Any request for information under this section shall be served personally or by certified mail.

(e) A response to a request under this section shall be personally certified by the person responding to the request that, under penalty of perjury and to the best of the person's knowledge:

(1) the response is accurate and truthful; and

(2) the person has not omitted responsive information or will provide the responsive information according to a production schedule approved by the Secretary.

(f) Information identified as qualifying for the trade secret exemption under 1 V.S.A. § 317(c)(9) and other financial information submitted under this section shall be confidential and shall not be subject to inspection and copying under the Public Records Act. A person subject to an information request under this section shall be responsible for proving that submitted information qualifies for the trade secret exemption under 1 V.S.A. § 317(c)(9). The following information is not trade secret information or financial information for the purposes of this subsection:

(1) the trade name, common name, or generic class or category of the hazardous material;

(2) the physical properties of the hazardous material, including its boiling point, melting point, flash point, specific gravity, vapor density, solubility in water, and vapor pressure at 20 degrees Celsius;

(3) the hazards to health and the environment posed by the hazardous material, including physical hazards and potential acute and chronic health hazards;

(4) the potential routes of human exposure to the hazardous material at the facility;

(5) the location of disposal of any waste stream at the facility;

(6) any monitoring data or analysis of monitoring data pertaining to disposal activities;

(7) any hydrogeologic or geologic data; or

(8) any groundwater monitoring data.

(g) As used in this section, "information" means any written or recorded information, including all documents, records, photographs, recordings, e-mail, correspondence, or other machine readable material.

Sec. 7. 10 V.S.A. § 8005(b) is amended to read:

(b) Access orders and information requests.

(1) A Superior Court judge shall issue an access order when access has been refused and the investigator, by affidavit, describes the property to be examined and identifies:

(A) a provision of a permit that authorizes the inspection; or

(B) the property as being scheduled for inspection in accordance with a neutral inspection program adopted by the Secretary or the Natural Resources Board; or

(C) facts providing reasonable grounds to believe that a violation exists and that an examination of the specifically described property will be of material aid in determining the existence of the violation.

(2) A Superior Court shall issue an order requiring compliance with an information request submitted pursuant to section 6615c of this title when:

(A) the person served with the request fails to respond to the request in the time frame identified by the Secretary;

(B) the Secretary submits, by affidavit, facts providing reasonable grounds that a release or threatened release has taken place; and

(C) the information will be of material aid in responding to the release or threatened release.

(3) Issuance of an access order shall not negate the Secretary's authority to initiate criminal proceedings in the same matter by referring the matter to the Office of the Attorney General or a State's Attorney.

* * * Natural Resource Damages * * *

Sec. 8. 10 V.S.A. § 6615d is added to read:

§ 6615d. NATURAL RESOURCE DAMAGES; LIABILITY; RULEMAKING

(a) Definitions. As used in this section:

(1) "Acquisition of or acquiring the equivalent or replacement" means the substitution for an injured resource with a resource that provides the same or substantially similar services, when the substitution:

(A) is in addition to a substitution made or anticipated as part of a response action; and

(b) exceeds the level of response action determined appropriate for the site under section 6615b of this title.

(2) "Baseline condition" means the condition or conditions that would have existed at the area of assessed damages had the release of hazardous material at or from the facility in question not occurred.

(3) "Damages" means the amount of money sought by the Secretary for the injury, destruction, or loss of a natural resource.

(4) "Destruction" means the total and irreversible loss of natural resources.

(5) "Injury" means a measurable adverse long-term or short-term change in the chemical or physical quality or viability of a natural resource resulting either directly or indirectly from exposure to a release of hazardous material or exposure to a product of reactions from a release of hazardous materials.

(6) "Loss" means a measurable adverse reduction of a chemical or physical quality or viability of a natural resource.

(7) "Natural resource damage assessment" means the process of collecting, compiling, and analyzing information, statistics, or data through prescribed methodologies to determine the damages for injuries to a natural resource.

(8) "Natural resources" means fish, wildlife, biota, air, surface water, groundwater, wetlands, drinking water supplies, or State-held public lands.

(9) "Restoring," "restoration," "rehabilitating," or "rehabilitation" means actions undertaken to return an injured natural resource to its baseline condition, as measured in terms of the injured resource's physical, chemical, or biological properties or the services it had previously provided, when such actions are in addition to a response action under section 6615 of this title.

(10) "Services" means the physical and biological functions performed by the natural resource, including the human uses of those functions.

(b) Authorization. The Secretary may assess damages against any person found to be liable under section 6615 of this title for a release of hazardous material for injury to, destruction of, or loss of a natural resource from the release. The measure of damages that may be assessed for natural resource damages shall include the cost of restoring, rehabilitating, replacing, or acquiring the equivalent of the injured, damaged, or destroyed natural resources or the services the natural resources provided and any reasonable costs of the Secretary in conducting a natural resource damage assessment. The Secretary also may seek compensation for the interim injury to or loss of a natural resource pending recovery of services to the baseline condition of the natural resource.

(c) Rulemaking; methodology. The Secretary shall adopt rules to implement the requirements of this section, including a methodology by which the Secretary shall assess and value natural resource damages. The rules shall include:

(1) requirements or acceptable standards for the preassessment of natural resource damages, including requirements for:

(A) notification of the Secretary, natural resource trustees, or other necessary persons of potential damages to natural resources under investigation for the coordination of the assessments, investigations, and planning;

(B) authorized emergency response to natural resource damages when immediate action to avoid destruction of a natural resource is necessary or a situation in which there is a similar need for emergency action, and where the potentially liable party under section 6615 of this title fails to take emergency response actions requested by the Secretary; and

(C) sampling or screening of the potentially injured natural resource;

(2) requirements for a natural resource damages assessment plan to ensure that the natural resource damage assessment is performed in a planned and systematic manner, including:

(A) the categories of reasonable and necessary costs that may be incurred as part of the assessment plan;

(B) the methodologies for identifying and screening restoration alternatives and their costs;

(C) the types of reasonably reliable assessment procedures available to the Secretary, when the available procedures are authorized, and the requirements of the available procedures;

(D) how injury or loss shall be determined and how injury or loss is quantified; and

(E) how damages are measured in terms of the cost of:

(i) the restoration or rehabilitation of the injured natural resources to a condition where they can provide the level of services available at baseline condition; or

(ii) the replacement or acquisition of equivalent natural resources or services;

(3) requirements for post-natural resource damages assessment, including:

(A) the documentation that the Secretary shall produce to complete the assessment;

(B) how the Secretary shall seek recovery; and

(C) when and whether the Secretary shall require a restoration plan; and

(4) other requirements deemed necessary by the Secretary for implementation of the rules.

(d) Exceptions. The Secretary shall not seek to recover natural resource damages under this section when:

(1) the person liable for the release demonstrates that the nature and degree of the destruction, injury, or loss to the natural resources were identified in an application for, renewal of, review of, or other environmental assessment of a permit, certification, license, or other required authorization;

(2) the Secretary authorized the nature and degree of the destruction, injury, or loss to the natural resource in an issued permit, certification, license, or other authorization; and

(3) the person liable for the release was operating within the terms of its permit, certification, license, or other authorization.

(e) Limitations. The natural resource damages authorized under this section and the requirements for assessment under the rules authorized by this section shall not limit the authority of the Secretary of Natural Resources to seek or recover natural resource damages under other State law, federal law, or common law.

(f) Limit on double recovery. The Secretary or other natural resource trustee shall not recover natural resource damages under this section for the costs of damage assessment or restoration, rehabilitation, or acquisition of

equivalent resources or services recovered by the Secretary or the other trustee under other authority of this chapter or other law for the same release of hazardous material and the same natural resource.

(g) Actions for natural resource damages. No action may be commenced for natural resource damages under this chapter, unless that action is commenced within six years after the date of the discovery of the loss and its connection with the release of hazardous material in question.

(h) Limit on preenactment damages. There shall be no recovery under this section for natural resource damages that occurred wholly before the adoption of rules under subsection (c) of this section.

(i) Use of funds. Damages recovered as natural resource damages shall be deposited in the Environmental Contingency Fund established pursuant to section 1283 of this title.

Sec. 9. NATURAL RESOURCE DAMAGES; COMMENCEMENT; ADOPTION

(a) The Secretary of Natural Resources shall consult with interested parties and parties with expertise in natural resource damage assessment and valuation in the adoption of rules under 10 V.S.A. § 6615d. The Secretary shall convene a working group as part of this consultation. The Secretary shall convene the working group on or before July 1, 2016.

(b) On or before February 1, 2017, the Secretary of Natural Resources shall submit to the Senate and House Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources a copy of the draft rules for natural resource damages required under 10 V.S.A. § 6615d for review and any recommended amendments to 10 V.S.A. § 6615d for review.

(c) The Secretary of Natural Resources shall commence rulemaking under 10 V.S.A. § 6615d on or before July 1, 2017. The Secretary shall adopt rules under 10 V.S.A. § 6615d on or before March 1, 2018.

(d) The Secretary of Natural Resources shall not seek natural resource damages under 10 V.S.A. § 6615d until the rules required under 10 V.S.A. § 6615d(c) have taken effect.

* * * Working Group on Toxic Chemicals * * *

Sec. 10. AGENCY OF NATURAL RESOURCES' WORKING GROUP ON TOXIC CHEMICAL USE IN THE STATE

(a) Formation. On or before July 1, 2016, the Secretary of Natural Resources shall establish a working group of interested parties and parties with

expertise in the field of toxic chemical use and regulation to develop recommendations for how to improve the ability of the State to:

(1) prevent citizens and communities in the State from being exposed to toxic chemicals, hazardous materials, or hazardous wastes;

(2) identify and regulate the use of toxic chemicals or hazardous materials that currently are unregulated by the State; and

(3) inform communities and citizens in the State of potential exposure to toxic chemicals, including contamination of groundwater, public drinking water systems, and private potable water supplies

(b) Duties. The Working Group shall:

(1) Identify the existing State or federal programs that establish reporting or management requirements regarding the use or generation of a toxic substance, hazardous waste, or hazardous material. The Working Group shall identify how those programs identify the toxic substance, hazardous waste, or hazardous material for regulation and briefly describe the management of the waste or substance.

(2) Evaluate the State or federal programs identified in subdivision (1) of this subsection to determine:

(A) the program's effectiveness in preventing releases of toxic substances, hazardous wastes, or hazardous materials;

(B) whether gaps or duplication exists between the programs that should be addressed to reduce threats to human health and the environment; and

(C) whether the programs are adequately funded and staffed to meet their statutory and regulatory purpose.

(3) Identify State or federal programs that require a response to the release to a toxic substance, hazardous waste, or hazardous material and assess their effectiveness in responding to releases in a manner that minimizes impacts to human health and the environment.

(4) Identify programs in place in other states that address the threat to human health and the environment from emerging contaminants and assess their effectiveness in accomplishing those objectives.

(5) Evaluate the State of Vermont's existing sources of publicly available information about toxic chemicals, including emerging contaminants, hazardous waste, and hazardous materials in Vermont.

(6) Evaluate whether civil remedies under Vermont law are sufficient to ensure that private individuals are adequately protected from releases of hazardous materials, hazardous wastes, and toxic chemicals and that persons responsible for such releases pay for any harm caused.

(7) Evaluate the obligations on the Environmental Contingency Fund established under 10 V.S.A. § 1283 and funding alternatives that would ensure the long-term solvency of the Fund.

(c) The Working Group shall submit a report to the Senate and House Committees on Natural Resources and Energy and to the House Committee on Fish, Wildlife and Water Resources with its findings and recommendations on or before January 15, 2017.

* * * Chemicals of High Concern to Children * * *

Sec. 11. 18 V.S.A. § 1775 is amended to read:

§ 1775. DISCLOSURE OF INFORMATION ON CHEMICALS OF HIGH CONCERN

(a) Notice of chemical of high concern to children. ~~Unless the Commissioner adopts by rule a phased-in reporting requirement under section 1776 of this title, beginning on July 1, 2016, and biennially thereafter, a~~ A manufacturer of a children's product or a trade association representing a manufacturer of children's products shall submit to the Department the notice described in subsection (b) of this section for each chemical of high concern to children in a children's product if a chemical of high concern to children is:

* * *

(l) Submission of notice; dates. Unless the Commissioner adopts by rule a phased-in reporting requirement under section 1776 of this title, a manufacturer shall submit the notice required under subsection (a) of this section by:

(1) January 1, 2017; and

(2) August 31, 2018, and biennially thereafter.

* * * Basin Planning; Natural Resources Conservation Council * * *

Sec. 12. 10 V.S.A. § 1253(d) is amended to read:

(d)(1) Through the process of basin planning, the Secretary shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by the Board before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The Secretary shall prepare and maintain an

overall surface water management plan to assure that the State water quality standards are met in all State waters. The surface water management plan shall include a schedule for updating the basin plans. The Secretary, in consultation with regional planning commissions and ~~natural resource conservation districts~~ the Natural Resources Conservation Council, shall revise all 15 basin plans and update the basin plans on a five-year rotating basis. On or before January 15 of each year, the Secretary shall report to the House Committees on Agriculture and Forest Products, on Natural Resources and Energy, and on Fish, Wildlife and Water Resources, and to the Senate Committees on Agriculture and on Natural Resources and Energy regarding the progress made and difficulties encountered in revising basin plans. The report shall include a summary of basin planning activities in the previous calendar year, a schedule for the production of basin plans in the subsequent calendar year, and a summary of actions to be taken over the subsequent three years. 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.

(2) In developing a basin plan under this subsection, the Secretary shall:

* * *

(G) develop, in consultation with the ~~applicable~~ regional planning commission, an analysis and formal recommendation on conformance with the goals and objectives of applicable regional plans;

* * *

(3) The Secretary shall, contingent upon the availability of funding, contract with a regional planning commission or the Natural Resources Conservation Council to assist in or to produce a basin plan under the schedule set forth in subdivision (1) of this subsection. When contracting with a regional planning commission or the Natural Resources Conservation Council to assist in or produce a basin plan, the Secretary may require the regional planning commission or the Natural Resources Conservation Council to:

(A) conduct any of the activities required under subdivision (2) of this subsection;

(B) provide technical assistance and data collection activities to inform municipal officials and the State in making water quality investment decisions;

(C) coordinate municipal planning and adoption or implementation of municipal development regulations to better meet State water quality policies and investment priorities; or

(D) assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to assure cost effective use of State and federal funds.

* * * State Grants; Water Quality Certification * * *

Sec. 13. SECRETARY OF ADMINISTRATION; WATER QUALITY STANDARDS CERTIFICATION FOR STATE-FUNDED GRANTS, REPORT

(a) As used in this section:

(1) "Applicant" shall include all entities, including businesses in which the applicant has a greater than 10 percent interest, or land owned or controlled by the applicant.

(2) "Good standing" means the applicant:

(A) is not a named party in any administrative order, consent decree, or judicial order relating to Vermont water quality standards issued by the State or any of its agencies or departments; and

(B) is in compliance with all federal and State water quality laws and regulations.

(b)(1) The Secretary of Administration shall amend the Standard State Provisions for Contracts and Grants, referred to as Attachment C to Administrative Bulletin 5, to require an applicant for a State-funded grant to certify, under penalty of perjury, that the applicant is in good standing with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets.

(2) The requirement under this subsection shall allow for an attachment or include space for an applicant who cannot certify under subdivision (1) of this subsection to explain the circumstances surrounding the applicant's inability to certify under subdivision (1) of this subsection.

(3) At any time prior to the award of a State-funded grant or during implementation of a State-funded grant, an applicant shall notify the State agency or department administering the State-funded grant if the applicant is no longer in good standing with the Agency of Natural Resources or the Agency of Agriculture, Food and Markets.

(c) A State agency or department may consider an applicant's certification or explanation under subsection (b) of this section in determining whether or not to award a State-funded grant to the applicant.

(d)(1) If a State-funded grant applicant knowingly provides a false certification or explanation under subsection (b) of this section or fails to

notify the State agency or department administering the State-funded grant if the applicant is no longer in good standing with the Agency of Natural Resources or the Agency of Agriculture, Food and Markets as required in subdivision (b)(3) of this section, the State or its agencies or departments may:

(A) seek to recover the grant award; and

(B) deny any future grant award to the applicant, based on the false certification or explanation or failure to notify, for up to five years.

(2) In recovering a grant award under this section, the State or its agencies or departments shall be entitled to costs and expenses, including attorney's fees.

(e) This section shall not apply to federally funded grants, contracts, or tax credits or federal or State loan programs.

(f) On or before January 15, 2021, the Secretary of Administration shall submit a report to the House Committees on Fish, Wildlife and Water Resources and on Commerce and Economic Development and the Senate Committees on Natural Resources and Energy and on Economic Development, Housing and General Affairs regarding methods to require all economic development assistance applications to include a certification that the applicant is not in violation of the requirements of programs enforced by the Agency of Natural Resources under 10 V.S.A. § 8003(a). The report shall also include information regarding any enforcement action taken by the State or its agencies or departments under subsection (d) of this section.

* * * Effective Dates * * *

Sec. 14. EFFECTIVE DATES

(a) This act shall take effect on passage, except that:

(1) Sec. 13 (State grants; water quality certification) shall take effect on July 1, 2016; and

(2) Sec. 2 (permitting of surface water sources) shall take effect on July 1, 2017.

House Proposal of Amendment to Senate Proposal of Amendment

H. 876

An act relating to the transportation capital program and miscellaneous changes to transportation-related law.

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 of the following:

* * * Adoption of Proposed Transportation Program as Amended; Definitions * * *

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation's proposed fiscal year 2017 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2017 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) "Agency" means the Agency of Transportation.

(2) "Secretary" means the Secretary of Transportation.

(3) The table heading "As Proposed" means the Transportation Program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As Amended" figure; and the term "change" or "changes" in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net "Change" in the applicable table heading.

(4) "TIB funds" or "TIB" refers to monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

* * * Program Development Program * * *

Sec. 2. PROGRAM DEVELOPMENT; SPENDING AUTHORITY

(a) Reduction in spending authority. Spending authority in the Program Development Program within the fiscal year 2017 Transportation Program hereby is reduced by:

(1) $1,461,136.00 in transportation funds;

(2) $86,204.00 in TIB funds;

(3) $6,189,360.00 in federal funds.

(b) Selection of projects; notification of delays. In his or her discretion, the Secretary shall select the projects for which spending will be reduced under subsection (a) of this section. In exercising his or her discretion, the Secretary shall not delay a project that otherwise would proceed in fiscal year 2017, unless the full amount of the reduction cannot be achieved from cost savings or the delay of projects due to unforeseen circumstances. If a project that otherwise would have proceeded in fiscal year 2017 is delayed, the Secretary shall promptly notify:

(1) the House and Senate Committees on Transportation when the General Assembly is in session; or

(2) the Joint Transportation Oversight Committee and the Joint Fiscal Office when the General Assembly is not in session.

(c) Contingent restoration of spending authority.

(1) As used in this subsection:

(A) "Transportation Fund balance" means a positive balance of unreserved monies remaining in the Transportation Fund at the end of fiscal year 2016.

(B) "TIB Fund balance" means a positive balance of unreserved monies remaining in the Transportation Infrastructure Bond Fund at the end of fiscal year 2016.

(2) Subject to the funding of the Transportation Fund Stabilization Reserve in accordance with 32 V.S.A. § 308a and to the limitations of 19 V.S.A. § 11f (Transportation Infrastructure Bond Fund), and notwithstanding 32 V.S.A. § 308c (Transportation Fund Balance Reserve), if a Transportation Fund balance, TIB Fund balance, or balance in both funds exists at the end of fiscal year 2016, spending authority reduced in subsection (a) of this section in the fiscal year 2017 Program Development Program shall be restored to the extent of the balance or balances, up to a total of $1,547,340.00 in Transportation Funds or TIB funds, and by up to $6,189,360 in matching federal funds.

* * * FY17 Town Highway Aid Program * * *

Sec. 3. TOWN HIGHWAY AID PROGRAM

Spending authority for the fiscal year 2017 Town Highway Aid Program is amended as follows:

FY17	As Proposed	As Amended	Change
Grants	25,982,744	26,982,744	1,000,000
Total	25,982,744	26,982,744	1,000,000
Sources of funds			
State	25,982,744	26,982,744	1,000,000
Federal	0	0	0
Total	25,982,744	26,982,744	1,000,000

* * * Appropriation of Transportation Funds * * *

Sec. 4. 19 V.S.A. § 11a is amended to read:

§ 11a. TRANSPORTATION FUNDS APPROPRIATED FOR THE DEPARTMENT OF PUBLIC SAFETY

(a) No transportation funds shall be appropriated for the support of government other than for the Agency, the Board, Transportation Pay Act Funds, construction of transportation capital facilities, transportation debt service, the operation of information centers by the Department of Buildings and General Services, and the Department of Public Safety. The amount of transportation funds appropriated to the Department of Public Safety shall not exceed:

(1) $25,250,000.00 in fiscal year 2014;

(2) $22,750,000.00 in fiscal years 2015 and 2016; and

(3) ~~$20,250,000.00~~ $21,550,000.00 in fiscal year 2017; and ~~in succeeding fiscal years~~

(4) $20,000,000.00 in fiscal year 2018 and in succeeding fiscal years.

(b) In fiscal year 2017 and in succeeding fiscal years, of the funds appropriated to the Department of Public Safety pursuant to subsection (a) of this section, the amount of $2,100,000.00 is allocated exclusively for the purchase, outfitting, assignment, and disposal of State Police vehicles. Any unexpended and unencumbered funds remaining in this allocation at the close of a fiscal year shall revert to the Transportation Fund. The Department of Public Safety may periodically recommend to the General Assembly that this

allocation be adjusted to reflect market conditions for the vehicles and equipment.

* * * Future TH Aid Program Appropriations * * *

Sec. 5. PERMANENT INCREASE TO TOWN HIGHWAY AID PROGRAM; LEGISLATIVE INTENT

The General Assembly intends that at least $1,000,000.00 of the $1,550,000.00 reduction in the amount of transportation funds appropriated to the Department of Public Safety scheduled to occur under 19 V.S.A. § 11a in fiscal year 2018 be allocated to fund a permanent increase of at least $1,000,000.00 in transportation funds appropriated to the Town Highway Aid Program. This allocation shall be in addition to the $25,982,744.00 in transportation funds allocated to the Town Highway Aid Program between fiscal years 2013 and 2016.

Sec. 6. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

(a) General State aid to town highways. An annual appropriation to class 1, 2, and 3 town highways shall be made. This appropriation shall ~~increase or decrease over the previous year's appropriation by the same percentage as any increase or decrease in the Transportation Agency's total appropriations funded by Transportation Fund revenues, excluding the town highway appropriations for that year~~ not be less than $26,982,744.00. The funds appropriated shall be distributed to towns as follows:

(1) Six percent of the State's annual town highway appropriation shall be apportioned to class 1 town highways. The apportionment for each town shall be that town's percentage of class 1 town highways of the total class 1 town highway mileage in the State.

(2) Forty-four percent of the State's annual town highway appropriation shall be apportioned to class 2 town highways. The apportionment for each town shall be that town's percentage of class 2 town highways of the total class 2 town highway mileage in the State.

(3) Fifty percent of the State's annual town highway appropriation shall be apportioned to class 3 town highways. The apportionment for each town shall be that town's percentage of class 3 town highways of the total class 3 town highway mileage in the State.

(4) Monies apportioned under subdivisions (1), (2), and (3) of this subsection shall be distributed to each town in quarterly payments beginning July 15 in each year.

(5) Each town shall use the monies apportioned to it solely for town highway construction, improvement, and maintenance purposes or as the nonfederal share for public transit assistance. These funds may also be used for the establishment and maintenance of bicycle routes. The members of the selectboard shall be personally liable to the State, in a civil action brought by the Attorney General, for making any unauthorized expenditures from money apportioned to the town under this section.

* * *

Sec. 7. PROGRAM DEVELOPMENT; ALLOCATION FOR EDUCATION INITIATIVES

Within authorized spending in the Program Development Program, the Secretary shall allocate up to $100,000.00 in federal National Highway Transportation Safety Administration grant funds to the Share the Road Program and to other highway safety educational initiatives. These monies shall be used to educate the users of the State's transportation system on how to improve the safety of all users, including bicyclists and operators of motor vehicles.

* * * Roadway Program * * *

Sec. 8. ROADWAY PROGRAM; PROJECT CANCELLATION

Pursuant to 19 V.S.A. § 10g(h) (legislative approval for cancellation of projects), the General Assembly approves cancellation of the following project from the candidate list within the Roadway Program within the fiscal year 2017 Transportation Program: Colchester STP 0207( ).

* * * Traffic and Safety Program * * *

Sec. 9. TRAFFIC AND SAFETY PROGRAM; PROJECTS ADDED

The following projects are added to the candidate list of the Traffic and Safety Program within the fiscal year 2017 Transportation Program:

(1) Derby – US 5/I-91 Exit 28 – intersection improvements.

(2) Derby – US 5/VT 105 – intersection improvements.

(3) St. Albans – VT 104/I-89 Exit 19 – intersection improvements.

* * * Municipal Mitigation Grant Program * * *

Sec. 10. MUNICIPAL MITIGATION GRANT PROGRAM

Notwithstanding 2015 Acts and Resolves No. 40, Sec. 21a, funding sources for the fiscal year 2017 Municipal Mitigation Grant Program are amended as follows:

FY17	As Proposed	As Amended	Change
State	1,440,000	1,240,000	-200,000
Federal	0	200,000	200,000
Clean Water Fund	1,465,000	1,465,000	0
Total	2,905,000	2,905,000	0

* * * Central Garage * * *

Sec. 11. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2017, the amount of $1,283,215.00 is transferred from the Transportation Fund to the Central Garage Fund created in 19 V.S.A. § 13.

* * * Positions * * *

Sec. 12. POSITIONS

(a) The Agency is authorized to establish two (2) new permanent classified positions related to water quality improvements.

(b) Seven (7) of the twenty-one (21) limited service positions authorized in 2012 Acts and Resolves No. 75, Sec. 87(e), as amended by 2014 Acts and Resolves No. 95, Sec. 64, hereby are converted to permanent classified positions.

(c) Nine (9) of the seventeen (17) limited service positions authorized in 2012 Acts and Resolves No. 153, Sec. 21(a), as amended by 2014 Acts and Resolves No. 95, Sec. 65, hereby are converted to permanent classified positions.

(d) One (1) limited service position, number 861864 (Civil Engineer VII), created on May 6, 2012 and due to expire on December 31, 2016, hereby is converted to a permanent classified position.

(e) Three (3) of the seventeen (17) limited service positions authorized in 2012 Acts and Resolves No. 153, Sec. 21(a), as amended by 2014 Acts and Resolves No. 95, Sec. 65, hereby are extended to June 30, 2019. The Agency

may use these three positions for activities that are not related to the response to Tropical Storm Irene and the spring 2011 flooding.

(f) The following two (2) limited service positions hereby are extended through June 30, 2019: number 861837 (Administrative Services Coordinator I), created on March 11, 2012 and due to expire on June 30, 2016, and number 861865 (Civil Engineer I), created on May 6, 2012 and due to expire on December 31, 2016.

* * * Rail Program * * *

Sec. 13. FISCAL YEAR 2016 RAIL PROGRAM; PROJECT ADDED

The following project is added to the candidate list of the Rail Program within the fiscal year 2016 Transportation Program: Rutland – Burlington – TIGERVII ( ) (Western VT Freight–Passenger Rail).

* * * Sale of State-Owned Railroad Property * * *

Sec. 14. APPROVAL OF SALE OF STATE-OWNED RAILROAD PROPERTY

Upon receiving satisfactory evidence of release of the leasehold interest of Vermont Railway, Inc., the Secretary as agent for the State is authorized to convey to the Town of Bennington, in consideration of the sum of $1.00, a parcel of land of approximately 2.5 acres (the "property") in the Town of Bennington located south of River Street and west of the 150 Depot Street parcel now or formerly owned by Station Realty, LLC. The conveyance must require that the Town's interest automatically will terminate in the event the property ceases to be used for public purposes, in which event the property will revert to the State. However, the Secretary and the Town may enter into a boundary adjustment agreement with the owner of the 150 Depot Street parcel in order to cure any title defect that may exist, and the Secretary as agent for the State may disclaim any reversionary interest in the boundary adjustment area.

* * * Rail Trespassing * * *

Sec. 15. 5 V.S.A. § 3734 is amended to read:

§ 3734. TRESPASS ON RAILROAD PROPERTY; PENALTY

~~A person who, without right, loiters or remains in a depot, or upon the platform, approaches, or grounds adjacent thereto, after being requested to leave by a railroad policeman, sheriff, deputy sheriff, constable, or policeman, shall be fined not more than $20.00 nor less than $2.00.~~

(a) Definitions. As used in this section:

(1) "Passenger" means a person traveling by train with lawful authority and who does not participate in the train's operation. The term "passenger" does not include a stowaway.

(2) "Railroad" means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways. "Railroad" does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(3) "Railroad carrier" means a person providing railroad transportation.

(4)(A) "Railroad property" means the following property owned, leased, or operated by a railroad carrier or used in its rail operations:

(i) a right-of-way, track, yard, station, shed, or depot;

(ii) a train, locomotive, engine, car, work equipment, rolling stock, or safety device; and

(iii) a "railroad structure," which means a bridge, tunnel, viaduct, trestle, culvert, abutment, communication tower, or signal equipment.

(B) "Railroad property" does not include inactive railroad property of the Twin State Railroad.

(5) "Right-of-way" means the track and roadbed owned, leased, or operated by a railroad carrier and property located on either side of the tracks that is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs.

(6) "Yard" means a system of parallel tracks, crossovers, and switches where railroad cars are switched and made up into trains, and where railroad cars, locomotives, and other rolling stock are kept when not in use or when awaiting repairs.

(b) Trespassing on railroad property prohibited. Except for the purpose of crossing railroad property at a public highway or other authorized crossing, a person shall not, without lawful authority or the railroad carrier's written permission, knowingly enter or remain upon railroad property by an act including:

(1) standing, sitting, resting, walking, jogging, or running, or operating a recreational or nonrecreational vehicle, including a bicycle, motorcycle, snowmobile, car, or truck; or

(2) engaging in recreational activity, including bicycling, hiking, camping, or cross-country skiing.

(c) Stowaways prohibited. A person shall not, without lawful authority or the railroad carrier's written permission, ride on the outside of a train or inside a passenger car, locomotive, or freight car, including a box car, flatbed, or container.

(d) Persons not subject to ticketing. The following is a nonexhaustive list of persons who, for the purposes of this section, are not subject to ticketing for trespass under subsections (b) and (c) of this section:

(1) passengers on trains, or employees of a railroad carrier while engaged in the performance of their official duties;

(2) police officers, firefighters, peace officers, and emergency response personnel, while engaged in the performance of their official duties;

(3) a person going upon railroad property in an emergency to rescue from harm a person or animal such as livestock, pets, or wildlife, or to remove an object that the person reasonably believes to pose an imminent hazard;

(4) a person on the station grounds or in the depot of the railroad carrier as a passenger or for the purpose of transacting lawful business;

(5) a person, or the person's family or invitee, or the person's employee or independent contractor going upon a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier or authorized by law in order to obtain access to land that the person owns, leases, or operates;

(6) a person who has permission from the owner, lessee, or operator of land served by a private crossing site approved by the railroad carrier or authorized by law, to use the crossing for recreational purposes and who enters upon the crossing for such purposes;

(7) a person having written permission from the railroad carrier to go upon the railroad property in question;

(8) representatives of the Transportation Board or Agency of Transportation while engaged in the performance of their official duties;

(9) representatives of the Federal Railroad Administration while engaged in the performance of their official duties;

(10) representatives of the National Transportation Safety Board while engaged in the performance of their official duties; or

(11) a person who enters or remains in a railroad right-of-way, but not within a rail yard or on a railroad structure, while lawfully engaged in hunting, fishing, or trapping; however, a person shall not be exempt from ticketing under this subdivision if he or she enters within an area extending eight feet outward from either side of the rail and within the rail unless he or she crosses and leaves this area quickly, safely, and at an angle of approximately 90 degrees to the direction of the rail.

(e) Nothing in this section is intended to modify the rights, duties, liabilities, or defenses available to any person under any other law or under a license or agreement.

(f) Penalty. A violation of this section is a traffic violation as defined in 23 V.S.A. chapter 24 and an action under this section shall be brought in accordance with 4 V.S.A. chapter 29. A person who violates this section shall be subject to a civil penalty of not more than $200.00.

Sec. 16. 5 V.S.A. § 3735 is amended to read:

§ 3735. ~~BOARDING TRAIN OR LOITERING ABOUT RAILROAD PROPERTY; PENALTY~~

~~A person boarding or riding without permission on a train, car, or locomotive, other than a passenger train, or a person boarding or riding on a passenger train without paying fare, or a person loitering in or about a railroad yard, station or car without permission, shall be imprisoned not more than 90 days, or fined not more than $25.00, or both.~~ [Repealed.]

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

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

* * *

(7) a violation of 5 V.S.A. § 3408(c), relating to trail use of certain State-owned railroad corridors, or of 5 V.S.A. § 3734, related to trespassing on railroad property;

* * *

* * * Transportation Capital Program; Prioritization System * * *

Sec. 18. 19 V.S.A. § 10g(l) is amended to read:

(l) The Agency shall develop a numerical grading system to assign a priority rating to all Program Development Paving, Program Development Roadway, Program Development Safety and Traffic Operations, Program Development State and Interstate Bridge, Town Highway Bridge, and Bridge Maintenance projects. The rating system shall consist of two separate, additive components as follows:

(1) One component shall be limited to asset ~~management-based~~ management- and performance-based factors which are objective and quantifiable and shall consider, without limitation, the following:

(A) the existing safety conditions in the project area and the impact of the project on improving safety conditions;

(B) the average, seasonal, peak, and nonpeak volume of traffic in the project area, including the proportion of traffic volume relative to total volume in the region, and the impact of the project on congestion and mobility conditions in the region;

(C) the availability, accessibility, and usability of alternative routes;

(D) the impact of the project on future maintenance and reconstruction costs; ~~and~~

(E) the relative priority assigned to the project by the relevant regional planning commission ~~or the Chittenden County Metropolitan Planning Organization;~~

(F) the resilience of the transportation infrastructure to floods and other extreme weather events.

(2) The second component of the priority rating system shall consider, without limitation, the following factors:

(A) the ~~functional~~ importance of the ~~highway or bridge~~ transportation infrastructure as a ~~link~~ factor in the local, regional, or State economy; and

(B) the ~~functional~~ importance of the ~~highway or bridge~~ transportation infrastructure in the health, social, and cultural life of the surrounding communities.

(3) The priority rating system for Program Development Roadway projects shall award as bonus points an amount equal to 10 percent of the total base possible rating points to projects within a designated downtown development district established pursuant to 24 V.S.A. § 2793.

* * * Adjustments to Existing Projects * * *

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

§ 10h. ~~ADJUSTMENTS TO EXISTING PROJECTS; SUSPENSION OF OVERRUNS;~~ COOPERATIVE INTERSTATE AGREEMENT

(a) ~~The agency shall report to the transportation board each project for which the current construction cost estimate exceeds the last approved construction cost estimate by a substantial level, as substantial level is defined by the transportation board. The transportation board shall review such a project, and may grant approval to proceed. If not approved by the transportation board, the project shall not proceed to contract award until approved by the general assembly.~~ [Repealed.]

(b) In connection with any authorized construction project in the ~~state~~ State of Vermont which extends into or affects an adjoining state, the ~~agency~~ Agency, on behalf of the ~~state~~ State of Vermont, may enter into a cooperative agreement with the adjoining state or any political subdivision of an adjoining state which apportions duties and responsibilities for planning preliminary engineering, including environmental studies, right-of-way acquisition, construction, and maintenance.

Sec. 20. 19 V.S.A. § 10g(h) is amended to read:

(h) Should capital projects in the Transportation Program be delayed because of unanticipated problems with permitting, right-of-way acquisition, construction, local concern, or availability of federal or State funds, the Secretary is authorized to advance projects in the approved Transportation Program. The Secretary is further authorized to undertake projects to resolve emergency or safety issues. Upon authorizing a project to resolve an emergency or safety issue, the Secretary shall give prompt notice of the decision and action taken to the Joint Fiscal Office and to the House and Senate Committees on Transportation when the General Assembly is in session, and when the General Assembly is not in session, to the Joint Transportation Oversight Committee. Should an approved project in the current Transportation Program require additional funding to maintain the approved schedule, the Agency is authorized to allocate the necessary resources. However, the Secretary shall not delay or suspend work on approved projects to reallocate funding for other projects except when other funding options are not available. In such case, the Secretary shall notify the members of the Joint Transportation Oversight Committee and the Joint Fiscal Office. With respect to projects in the approved Transportation Program, the Secretary shall notify, in the district affected, the regional planning commission, the municipality, Legislators, members of the Senate and House Committees on Transportation, and the Joint Fiscal Office of ~~any significant change in design, change in construction cost estimates requiring referral to the Transportation Board under section 10h of this title, or~~ any change which likely will affect the fiscal year in which the project is planned to go to construction. No project shall be cancelled without the approval of the General Assembly.

* * * Reporting Required in Proposed Transportation Program * * *

Sec. 21. 19 V.S.A. § 10g(g) is amended to read:

(g) The Agency's annual proposed Transportation Program shall include ~~a separate report~~ project updates referencing this section ~~describing~~ and listing the following:

(1) all proposed projects in the Program ~~which~~ that would be new to the State Transportation Program if adopted;

(2) all projects for which total estimated costs have increased by more than $8,000,000.00 or by more than 100 percent from the estimate in the prior fiscal year's approved Transportation Program;

(3) all projects funded for construction in the prior fiscal year's approved Transportation Program that are no longer funded in the proposed

Transportation Program submitted to the General Assembly, the projected costs for such projects in the prior fiscal year's approved Transportation Program, and the total costs incurred over the life of each such project.

* * * Joint Transportation Oversight Committee * * *

Sec. 22. 19 V.S.A. § 12b is amended to read:

§ 12b. JOINT TRANSPORTATION OVERSIGHT COMMITTEE

(a) There is created a Joint Transportation Oversight Committee composed of the Chairs of the House and Senate Committees on Appropriations, the House and Senate Committees on Transportation, the House Committee on Ways and Means, and the Senate Committee on Finance. The Committee shall be chaired alternately by the Chairs of the House and Senate Committees on Transportation, and the two-year term shall run concurrently with the biennial session of the Legislature. The Chair of the Senate Committee on Transportation shall chair the Committee during the 2009–2010 legislative session.

(b) The Committee shall meet during adjournment for official duties. Meetings shall be convened by the Chair and when practicable shall be coordinated with the regular meetings of the Joint Fiscal Committee. Members shall be entitled to compensation and reimbursement pursuant to 2 V.S.A. § 406. The Committee shall have the assistance of the staff of the Office of Legislative Council and the Joint Fiscal Office.

(c) The Committee shall provide legislative ~~overview~~ oversight of the Transportation Fund revenues collection and the operation and administration of the Agency of Transportation construction, paving, and rehabilitation programs. The Secretary of Transportation shall report to the Oversight Committee upon request.

(d)~~(1) In coordination with the regular meetings of the Joint Fiscal Committee in mid-November, the Secretary shall prepare a report on the status of the State's transportation finances and transportation programs. If a meeting of the Committee is not convened on the scheduled dates of the Joint Fiscal Committee meetings, the Secretary in advance shall transmit the report electronically to the Joint Fiscal Office for distribution to Committee members. The report shall list contract bid awards versus project estimates and all known or projected cost overruns, project savings, and funding availability from delayed projects with respect to:~~

~~(A) all paving projects other than statewide maintenance programs; and~~

~~(B) all projects in the Roadway, State Bridge, Interstate Bridge, or Town Bridge programs with authorized spending in the fiscal year of $500,000.00 or more with a cost overrun equal to 20 percent or more of the authorized spending or generating project savings or delayed project available funding equal to 20 percent or more of the authorized spending.~~

~~(2) The report required under subdivision (1) of this subsection also shall describe the Agency's actions taken or planned to cover the cost overruns and to reallocate the project savings and delayed project funds, and shall discuss the Agency's plans to adjust spending to any changes in the consensus forecast for Transportation Fund revenues.~~

~~(3)~~ If and when applicable, the Secretary shall submit electronically to the Joint Fiscal Office for distribution to members of the Joint Transportation Oversight Committee a report summarizing any plans or actions taken to delay project schedules as a result of:

~~(A)~~(1) a generalized increase in bids relative to project estimates;

~~(B)~~(2) changes in the consensus revenue forecast of the Transportation Fund or Transportation Infrastructure Bond Fund; or

~~(C)~~(3) changes in the availability of federal funds.

* * * Appropriation; State Aid for Town Highways * * *

Sec. 23. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

* * *

(d) State aid for nonfederal disasters. There shall be an annual appropriation for emergency aid in repairing, building, ~~or rebuilding~~ or reconstructing class 1, 2, or 3 town highways ~~and bridges~~ and for repairing or replacing drainage structures including bridges on class 1, 2, 3, and 4 town highways damaged by natural or man-made disasters. Eligibility for use of emergency aid under this appropriation shall be subject to the following criteria:

(1) The Secretary of Transportation shall determine that the disaster is of such magnitude that State aid is both reasonable and necessary to preserve the public good. If total cumulative damages to town highways and drainage structures are less than the value of 10 percent of the town's overall total highway budget excluding the town's winter maintenance budget, the disaster shall not qualify for assistance under this subsection.

(2) The disaster shall not qualify for major disaster assistance from the Federal Emergency Management Agency (FEMA) under the Robert T.

Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121 et seq., or from the Federal Highway Administration (FHWA) under the 23 C.F.R. Part 668 Emergency Relief Program for federal-aid highways.

(3) Towns shall be eligible for reimbursement for repair or replacement costs of either up to 90 percent of the eligible repair or replacement costs or the eligible repair or replacement costs, minus an amount equal to 10 percent of the overall total highway budget, minus the town's winter maintenance budget, whichever is greater.

(4) For towns that have adopted road and bridge standards, eligibility for reimbursement for repair or replacement of infrastructure shall be to those standards. For towns that have not adopted these standards, eligibility for reimbursement for repair or replacement of infrastructure shall be limited to the specifications of the infrastructure that preexisted the emergency event; however, the repair or replacement shall be to standards approved by the Agency of Transportation.

(5) For a drainage structure on a class 4 town highway to be eligible for repair or replacement under this subsection, the town must document that it maintained the structure prior to the nonfederal disaster.

(6) Such additional criteria as may be adopted by the Agency of Transportation through rulemaking under 3 V.S.A. chapter 25.

* * *

* * * Highways; Alterations; Quasi-Judicial Process * * *

Sec. 24. 19 V.S.A. § 923 is amended to read:

§ 923. QUASI-JUDICIAL PROCESS

In order to protect the rights of ~~property owners~~ interested persons and the public, the process described in this section shall be used whenever so provided by other provisions of this title. As used in this section, "interested person" means a person who has a legal interest of record in the property that would be affected by the proposed action.

(1) ~~Notice. Written notice by certified mail shall be given~~ Notice. The selectboard shall give written notice by certified mail or by one of the methods allowed by Rule 4 of the Vermont Rules of Civil Procedure for service of original process to ~~the property owner or~~ any interested person describing the proposed activity affecting the property. The notice shall include a date and time when the selectboard shall inspect the premises. The notice shall precede the inspection by 30 days or more except in the case of an emergency.

(2) Inspection of premises—. The ~~selectmen~~ selectboard shall view the area and receive any testimony pertinent to the problem including suggested awards for damages, if any.

(3) Necessity—. The ~~selectmen~~ selectboard shall decide on the necessity for the activity or work proposed and establish any conditions for accomplishing it. This includes the award of damages, if applicable. The selectboard shall announce the decision and the reason for it ~~shall be announced~~ within 10 days of the inspection unless the selectboard formally ~~delayed by the selectboard~~ delays the proceeding in order to receive more testimony.

(4) Notifying parties—. The ~~selectmen~~ selectboard shall notify the ~~property owner~~ interested persons and other interested parties of their decision. They shall file a copy of their decision with the town clerk within 10 days of its announcement.

(5) Appeal—. If an ~~owner~~ interested person is dissatisfied with the award for damages, he or she may appeal using any of the procedures listed in chapter 5 of this title. Notice or petition for appeal shall not delay the proposed work or activity.

Sec. 25. 19 V.S.A. § 518 is amended to read:

§ 518. MINOR ALTERATIONS TO EXISTING FACILITIES

(a) ~~For purposes of~~ As used in this section, the term "minor alterations to existing facilities" means any of the following activities involving existing facilities, provided the activity does not require a permit under 10 V.S.A. chapter 151 (Act 250):

(1) Activities which qualify as "categorical exclusions" under 23 C.F.R. § 771.117 and the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321–4347.

(2) Activities involving emergency repairs to or emergency replacement of an existing bridge, culvert, highway, or State-owned railroad, even if the need for repairs or replacement does not arise from damage caused by a natural disaster or catastrophic failure from an external cause. Any temporary rights under this subdivision shall be limited to 10 years from the date of taking.

(b) In cases involving minor alterations to existing facilities, the Agency, following the procedures of section 923 of this title, may exercise the powers of a selectboard. However, if an interested person has not provided the Agency with identification information necessary to process payment, or if an owner refuses an offer of payment, payment shall be deemed to be tendered when the Agency makes payment into an escrow account that is accessible by

the owner upon his or her providing any necessary identification information. ~~If~~ Further, if an appeal is taken under subdivision 923(5) of this title, the person taking the appeal shall follow the procedure specified in section 513 of this title.

Sec. 26. [Reserved.]

* * * Water Quality * * *

Sec. 27. FINDINGS; AGENCY OF TRANSPORTATION; STORMWATER CREDIT

For the purposes of this section and Secs. 28–33 of this act (Agency of Transportation stormwater credit), the General Assembly finds and declares that:

(1) the federal Clean Water Act, State water quality requirements under 10 V.S.A. chapter 47, and the municipal separate storm sewer system permit for transportation infrastructure, require the treatment and control of stormwater from State highway rights-of-way and other property owned, controlled, or managed by the Agency; and

(2) because of the traditional and continuing expenditures of the Agency for the construction, operation, and maintenance of stormwater control infrastructure designed to control stormwater runoff from State highway rights-of-way and developed lands owned, controlled, or managed by the Agency, it is fair and equitable to provide the Agency with a uniform credit against fees assessed by municipalities for the management of stormwater.

Sec. 28. 24 V.S.A. § 3501(7) is amended to read:

(7) "Storm water" or "storm sewage" ~~is the excess water from rainfall or continuously following therefrom~~ shall have the same meaning as "stormwater runoff" under 10 V.S.A. § 1264.

Sec. 29. 24 V.S.A. § 3615 is amended to read:

§ 3615. RENTS; RATES

(a) Such municipal corporation, through its board of sewage disposal commissioners, may establish charges to be called "sewage disposal charges," to be paid at such times and in such manner as the commissioners may prescribe. The commissioners may establish annual charges separately for bond repayment, fixed operations and maintenance costs (not dependent on actual use), and variable operations and maintenance ~~cost~~ costs dependent on flow. Such charges may be based upon:

(1) the metered consumption of water on premises connected with the sewer system, however, the commissioners may determine no user will be

billed for fixed operations and maintenance costs and bond payment less than the average single family charge;

(2) the number of equivalent units connected with or served by the sewage system based upon their estimated flows compared to the estimated flows from a single family dwelling however, the commissioners may determine no user will be billed less than the minimum charge determined for the single family dwelling charge for fixed operations and maintenance costs and bond payment;

(3) the strength and flow where wastes stronger than household wastes are involved;

(4) the appraised value of premises, in the event that the commissioners shall determine the sewage disposal plant to be of general benefit to the municipality regardless of actual connection with the same;

(5) the commissioners' determination developed using any other equitable basis such as the number and kind of plumbing fixtures, the number of persons residing on or frequenting the premises served by those sewers, the topography, size, type of use, or impervious area of any premises; or

(6) any combination of these bases, so long as the combination is equitable.

(b) The basis for establishing sewer disposal charges shall be reviewed annually by sewage disposal commissioners. No premises otherwise exempt from taxation, including premises owned by the ~~state~~ State of Vermont, shall, by virtue of any such exemption, be exempt from charges established hereunder. The commissioners may change the rates of such charges from time to time as may be reasonably required. Where one of the bases of such charge is the appraised value and the premises to be appraised are tax exempt, the commissioners may cause the listers to appraise such property, including ~~state~~ State property, for the purpose of determining the sewage disposal charges. The right of appeal from such appraisal shall be the same as provided in 32 V.S.A. chapter 131 ~~of Title 32~~. The ~~commissioner of finance and management~~ Commissioner of Finance and Management is authorized to issue his or her warrants for sewage disposal charges against ~~state~~ State property and transmit to the ~~state treasurer~~ State Treasurer who shall draw a voucher in payment thereof. No charge so established and no tax levied under the provisions of section 3613 of this title shall be considered to be a part of any tax authorized to be assessed by the legislative body of any municipality for general purposes, but shall be in addition to any such tax so authorized to be assessed. Sewage disposal charges established in accord with this section may be assessed by the board of sewage disposal commissioners as provided in

section 3614 of this title to derive the revenue required to pay pollution charges assessed against a municipal corporation under ~~section~~ 10 V.S.A. § 1265 ~~of Title 10~~.

(c) When a sewage disposal charge established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the charge shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a 30 percent credit on the charge. The Agency of Transportation shall receive no other credit on the charge from the municipal corporation.

Sec. 29a. 24 V.S.A. § 3615(c) is amended to read:

(c) When a sewage disposal charge established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the charge shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a ~~30~~ 35 percent credit on the charge. The Agency of Transportation shall receive no other credit on the charge from the municipal corporation.

Sec. 29b. 24 V.S.A. § 3615(c) is amended to read:

(c) When a sewage disposal charge established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the charge shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a ~~35~~ 40 percent credit on the charge. The Agency of Transportation shall receive no other credit on the charge from the municipal corporation.

Sec. 30. 24 V.S.A. § 3507 is amended to read:

§ 3507. DUTIES

(a) Such sewage system commissioners shall have the supervision of such municipal sewage system and shall make and establish all needed rates for rent, with rules and regulations for its control and operation. Such commissioners may appoint or remove a superintendent at their pleasure. The rents and receipts for the use of such sewage system shall be used and applied to pay the interest and principal of the sewage system bonds of such municipal corporation, the expense of maintenance and operation of the sewage system, as well as dedicated fund payments provided for in section 3616 of this title.

(b) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the

Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a 30 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the municipal corporation.

Sec. 30a. 24 V.S.A. § 3507(b) is amended to read:

(b) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a ~~30~~ 35 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the municipal corporation.

Sec. 30b. 24 V.S.A. § 3507(b) is amended to read:

(b) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a ~~35~~ 40 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the municipal corporation.

Sec. 31. 24 V.S.A. § 3679(c) is added to read:

(c) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a 30 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the consolidated sewer district.

Sec. 31a. 24 V.S.A. § 3679(c) is added to read:

(c) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a ~~30~~ 35 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the consolidated sewer district.

Sec. 31b. 24 V.S.A. § 3679(c) is added to read:

(c) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a ~~35~~ 40 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the consolidated sewer district.

Sec. 32. 10 V.S.A. § 1251(18) is added to read:

(18) "Stormwater utility" means a system adopted by a municipality or group of municipalities under 24 V.S.A. chapter 97, 101, or 105 for the management of stormwater runoff.

Sec. 33. 10 V.S.A. § 1389(e) is amended to read:

(e) Priorities.

(1) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize:

* * *

(H) Funding to municipalities for the establishment and operation of stormwater utilities.

(2) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Clean Water Fund Board shall, during the first three years of its existence and within the priorities established under subdivision (1) of this subsection (e), prioritize awards or assistance to municipalities for municipal compliance with water quality requirements, and to municipalities for the establishment and operation of stormwater utilities.

* * *

Sec. 34. STORMWATER UTILITY REPORT

On or before January 15, 2017, and annually thereafter until January 15, 2021, the Agency shall report to the House and Senate Committees on Transportation, the House Committee on Fish, Wildlife and Water Resources, and the Senate Committee on Natural Resources and Energy regarding the status of municipal establishment and implementation of stormwater utilities in the State. The report shall include:

(1) the number of municipal stormwater utilities in existence at the time of each report, as indicated by the number of unique municipal rate structures for stormwater mitigation under which the Agency was invoiced in the calendar year preceding a report submitted under this section;

(2) the number of new municipal stormwater utilities established in the State in the calendar year preceding a report submitted under this section;

(3) the amount of fees paid by the Agency to stormwater utilities in the calendar year preceding a report submitted under this section; and

(4) a list of the stormwater projects or programs implemented by the Agency in municipalities with stormwater utilities in the calendar year preceding a report submitted under this section.

* * * Statewide Property Parcel Mapping Program * * *

Sec. 35. DEVELOPMENT OF STATEWIDE PROPERTY PARCEL DATA LAYER

(a) The General Assembly finds that the State has an interest in creating a statewide property parcel data layer. The data layer will include all property parcels in each Vermont town, city, incorporated village, gore, and grant in a standard format and integrate all municipal property parcel maps into one property parcel map for the State.

(b) The General Assembly further finds that a statewide property parcel data layer will be useful to the Agency for the following applications:

(1) mapping highway centerlines that end at property boundaries;

(2) enabling the Agency to evaluate properties for alternative energy and other possible uses;

(3) providing right-of-way data to analyze Transportation Separate Storm Sewer System (TS4) assessments;

(4) streamlining title searches during the project development phase of transportation projects;

(5) providing linkages between grand list and property parcel data in order to enable the identification of all public land;

(6) locating encroachments on highways and providing notice to adjoining landowners;

(7) mapping the locations of surplus and excess property;

(8) assisting in the appraisal of land and acquisition of rights for transportation projects;

(9) improving emergency response capabilities;

(10) identifying encroachments on State-owned railroads and providing notice to adjoining landowners;

(11) evaluating applications for highway access under 19 V.S.A. § 1111, including utility installations and driveways; and

(12) improving the State's ability to identify its assets by accurately cataloguing the location and extent of State-owned rights-of-way.

(c)(1) Consistent with Secs. 36–37 of this act, starting in fiscal year 2017, the Agency shall commence development of the statewide digital parcel data layer as part of the Statewide Property Parcel Mapping Program.

(2) According to the Agency:

(A) development of the data layer is expected to take three years;

(B) 80 percent of development costs and future operating costs are expected to be funded with Federal Highway Administration funds and 20 percent with State matching funds; and

(C) transportation funds will cover the 20 percent State match in fiscal year 2017.

(3) The Agency shall continue to work with State agencies and external partners benefited by the data layer, including private funding partners, to develop a memorandum of understanding to address funding sources other than the Transportation Fund for the 20 percent State match for fiscal year 2018 and in succeeding fiscal years.

Sec. 36. 19 V.S.A. § 10 is amended to read:

§ 10. DUTIES

The Agency shall, except where otherwise specifically provided by law:

* * *

(17) Administer the Statewide Property Parcel Mapping Program.

Sec. 37. 19 V.S.A. § 44 is added to read:

§ 44. STATEWIDE PROPERTY PARCEL MAPPING PROGRAM

(a) Purpose. The purpose of the Statewide Property Parcel Mapping Program is to:

(1) develop a statewide property parcel data layer;

(2) ensure regular maintenance, including updates, of the data layer; and

(3) make property parcel data available to State agencies and departments, regional planning commissions, municipalities, and the public.

(b) Property Parcel Data Advisory Board. A Property Parcel Data Advisory Board (Board) is created for the purpose of monitoring the Statewide Property Parcel Mapping Program and making recommendations to the Agency of how the Program can be improved to enhance the usefulness of statewide property parcel data for State agencies and departments, regional planning commissions, municipalities, and the public. The Board shall comprise:

(1) the Secretary of Transportation or designee, who shall serve as chair;

(2) the Secretary of Natural Resources or designee;

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

(4) the Commissioner of Taxes or designee;

(5) a representative of the Vermont Association of Planning and Development Agencies;

(6) a representative of the Vermont League of Cities and Towns; and

(7) a land surveyor licensed under 26 V.S.A. chapter 45 designated by the Vermont Society of Land Surveyors.

(c) Meetings of Board. The Board shall meet at the call of the Chair or at the request of a majority of its members. The Agency shall provide administrative assistance to the Board and such other assistance as the Board may require to carry out its duties.

(d) Standards. The Agency shall update the statewide property parcel data layer in accordance with the standards of the Vermont Geographic Information System (VGIS), as specified in 10 V.S.A. § 123 (powers and duties of Vermont Center for Geographic Information).

(e) Funding sources. Federal transportation funds shall be used for the development and operation of the Program. In fiscal year 2018 and in succeeding fiscal years, the Agency shall make every effort to ensure that all State matching funds are provided by other State agencies or external partners or both that benefit from the Program.

* * * Quechee Gorge Bridge Safety Issues * * *

Sec. 38. QUECHEE GORGE BRIDGE SAFETY ISSUES

(a) On or before July 1, 2016, or as soon as practicable thereafter if a longer period is required to obtain necessary permits or satisfy federal requirements,

the Agency shall complete a project on or proximate to Bridge 61 on US Route 4 in the town of Hartford (Quechee Gorge Bridge) to install a structure providing information and resources, signs, or communication devices, or some combination of these, aimed at preventing suicides at the Quechee Gorge Bridge.

(b) In consultation with the Agency of Commerce and Community Development, the Department of Health, the Department of Mental Health, the Department of Public Safety, local officials, local emergency personnel, the Hartford Area Chamber of Commerce, mental health practitioners, local business owners, and other interested stakeholders, the Agency of Transportation shall thoroughly review suicide prevention as well as pedestrian, first responder, and other safety measures that could be taken, and the merits of taking such measures, at the Quechee Gorge Bridge. In conducting this review, the Agency shall identify:

(1) short- and long-term suicide prevention as well as pedestrian, first responder, and other safety measures for all users that could be taken at the Quechee Gorge Bridge in addition to the measures taken pursuant to subsection (a) of this section, including:

(A) providing information and resources, including emergency contact information and means of emergency communication; and

(B) physical improvements to the bridge structure and the surrounding area;

(2) estimated costs and benefits and an expected timeline associated with implementing the measures identified in subdivision (1) of this subsection; and

(3) economic, community, and tourism concerns associated with implementing the measures identified in subdivision (1) of this subsection.

(c) On or before January 10, 2017, the Agency shall report the results of the review required under subsection (b) of this section to the House and Senate Committees on Transportation.

* * * Vulnerable Users * * *

Sec. 39. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS

(a) Passing motor vehicles. Motor vehicles proceeding in the same direction may be overtaken and passed only as follows:

(1) The driver of a motor vehicle overtaking another motor vehicle proceeding in the same direction may pass to its left at a safe distance, and

when so doing shall exercise due care, shall not pass to the left of the center of the highway ~~unless the way ahead is clear of approaching traffic~~ except as authorized in section 1035 of this title, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken motor vehicle shall give way to the right in favor of the overtaking motor vehicle ~~on audible signal~~ and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(b) Passing vulnerable users. The operator of a motor vehicle approaching or passing a vulnerable user as defined in subdivision 4(81) of this title shall exercise due care, which includes increasing clearance to at least four feet, to pass the vulnerable user safely, and shall cross the center of the highway only as provided in ~~subdivision (a)(1) of this~~ section 1035 of this title. A person who violates this subsection shall be subject to a civil penalty of not less than $200.00.

Sec. 40. 23 V.S.A. § 1035 is amended to read:

§ 1035. LIMITATIONS

(a) ~~No~~ A vehicle shall not be driven to the left side of the center of the roadway in overtaking and passing another vehicle or a vulnerable user proceeding in the same direction unless authorized by the provisions of this chapter and unless the left side is clearly visible and free of oncoming traffic and vulnerable users for a sufficient distance ahead to permit overtaking and passing to be completed without interfering with the operation of any vehicle or with any vulnerable user approaching from the opposite direction or with the operation of any vehicle or with any vulnerable user overtaken. In every event, the overtaking vehicle shall return to an authorized lane of travel as soon as practicable and, if the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any approaching vehicle or a vulnerable user.

(b) A vehicle shall not pass another from the rear under any of the following conditions:

(1) when approaching or upon the crest of a grade or upon a curve in the highway where the driver's view is in any way obstructed;

(2) when approaching within 100 feet of, or traversing, any intersection or railroad grade crossing unless otherwise indicated by official traffic control devices; or

(3) when the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.

(c) The foregoing limitations do not apply upon a one-way roadway, or when subdivision 1031(a)(2) of this title applies, or where a vehicle is turning left into an alley, private road, or driveway.

Sec. 41. 23 V.S.A. § 1049 is amended to read:

§ 1049. VEHICLE ENTERING FROM PRIVATE ROAD

The driver of a vehicle about to enter or cross a highway from an alley, building, private road, or driveway shall yield the right of way to all vehicles and vulnerable users approaching on the highway.

Sec. 42. 23 V.S.A. § 1049a is added to read:

§ 1049a. OBLIGATIONS TO VULNERABLE USERS WHEN TURNING

Notwithstanding any provision of this title to the contrary, a person operating a vehicle shall not turn right or left unless the turn can be made at a safe distance from a vulnerable user. A person who violates this section shall be subject to a civil penalty of not less than $200.00.

Sec. 43. 23 V.S.A. § 1064 is amended to read:

§ 1064. SIGNALS REQUIRED; GENERAL OBLIGATION TO TURN AND MOVE SAFELY

(a) Before changing direction or materially slackening speed, a driver shall give warning of his or her intention with the hand signals as provided in section 1065 of this title, or with a mechanical or lighting device approved by the Commissioner of Motor Vehicles. A bicyclist shall give such hand signals unless he or she cannot do so safely.

(b) ~~No person may~~ A person shall not turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in section 1061 of this title, or turn a vehicle to enter an alley, private road, or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless such movement can be made with reasonable safety.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(d) A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning. A bicyclist shall comply with this subsection unless he or she cannot do so safely.

(e) The signals provided for in section 1065 of this title shall be used to indicate an intention to turn, change lanes, or start from a parked position and may not be flashed on one side only on a parked or disabled vehicle, or flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear.

Sec. 44. 23 V.S.A. chapter 13, subchapter 12 is amended to read:

Subchapter 12. Operation of Bicycles, Electric Personal Assistive Mobility Devices, and Play Vehicles

§ 1136. APPLICATION OF SUBCHAPTER; RIGHTS AND OBLIGATIONS OF BICYCLISTS UNDER OTHER LAWS

(a) The parent of any child and the guardian of any ward may not authorize or knowingly permit any such child or ward to violate any of the provisions of this subchapter.

(b) This subchapter applies whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

(c) Every person riding a bicycle is granted all of the rights and is subject to all of the duties applicable to operators of vehicles, except as to those provisions ~~which~~ that:

(1) are inconsistent with provisions that specifically address the rights and duties of vulnerable users generally or bicyclists specifically; or

(2) by their very nature can have no application.

(d) Except as otherwise may be required under subdivision 1139(a)(1) of this chapter, and notwithstanding any provision of this title to the contrary, a bicyclist riding consistent with the obligations of subsection 1139(a) of this chapter may keep to the right when passing a motor vehicle, regardless of whether the passing movement results from the motor vehicle's slowing down, the bicyclist's continuing forward, or other circumstances that result in the passing.

* * *

§ 1139. RIDING ON ROADWAYS AND BICYCLE PATHS

(a) A person operating a bicycle upon a roadway shall exercise due care when passing a standing vehicle or one proceeding in the same direction ~~and~~. Bicyclists generally shall ride as near to the right side of the ~~roadway as practicable, but shall ride to the left or in a left lane~~ improved area of the highway right-of-way as is safe, except that a bicyclist:

(1) Shall ride to the left or in a left lane when:

~~(1)~~(A) preparing for a left turn at an intersection or into a private roadway or driveway;

~~(2)~~(B) approaching an intersection with a right-turn lane if not turning right at the intersection; or

~~(3)~~(C) overtaking another ~~highway~~ vulnerable user~~; or~~.

~~(4)~~(2) May ride to the left or in a left lane when taking reasonably necessary precautions to avoid hazards or road conditions. Examples include objects on the road, parked or moving vehicles, pedestrians, animals, surface conditions that may impair the bicyclist's stability, or safety hazards caused by a narrow road or steep embankment, road geometry, or unfavorable atmospheric conditions.

* * *

* * * Ignition Interlock Devices * * *

Sec. 45. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(9)(A) "Ignition interlock restricted driver's license" or "ignition interlock RDL" or "RDL" means a restricted license or privilege to operate a motor vehicle issued by the Commissioner allowing a ~~person~~ resident whose license or privilege to operate has been suspended or revoked for operating under the influence of intoxicating liquor or in excess of legal limits of alcohol concentration, or for refusing an enforcement officer's reasonable request for an evidentiary test, to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved ignition interlock device.

(B) "Ignition interlock certificate" means a restricted privilege to operate a motor vehicle issued by the Commissioner allowing a nonresident whose privilege to operate a motor vehicle in Vermont has been suspended or revoked for operating under the influence of intoxicating liquor or in excess of legal limits of alcohol concentration, or for refusing an enforcement officer's reasonable request for an evidentiary test, to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved ignition interlock device.

* * *

Sec. 46. 23 V.S.A. § 1209a is amended to read:

§ 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

(a) Conditions of reinstatement. No license or privilege to operate suspended or revoked under this subchapter, except a license or privilege to operate suspended under section 1216 of this title, shall be reinstated except as follows:

(1) In the case of a first suspension, a license or privilege to operate shall be reinstated only:

(A) after the person has successfully completed an Alcohol and Driving Education Program, at the person's own expense, followed by an assessment of the need for further treatment by a State-designated counselor, at the person's own expense, to determine whether reinstatement should be further conditioned on satisfactory completion of a therapy program agreed to by the person and the Drinking Driver Rehabilitation Program Director;

(B) if the screening indicates that therapy is needed, after the person has satisfactorily completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the Driver Rehabilitation Program Director;

(C) if the person elects to operate under an ignition interlock RDL or ignition interlock certificate, after~~:~~

~~(i) a period of nine months (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of six months (~~the person operates under the RDL or certificate for the applicable period set forth in subsection 1205(a) or section 1206 of this title, plus any extension of this period arising from a violation of section 1213 of this title~~) in all other cases~~; and

(D) if the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(2) In the case of a second suspension, a license or privilege to operate shall not be reinstated until:

(A) the person has successfully completed an alcohol and driving rehabilitation program;

(B) the person has completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the Driver Rehabilitation Program Director;

(C) ~~if the person elects to operate~~ after the person operates under an ignition interlock RDL~~, after:~~

~~(i) a period of two years (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of 18 months (~~ or ignition interlock certificate for 18 months or, in the case of a person subject to the one year hard suspension prescribed in subdivision 1213(a)(1)(C) of this title, for one year, plus any extension of ~~this~~ the relevant period arising from a violation of section 1213 of this title~~) in all other cases~~, except if otherwise provided in subdivision (a)(4) of this section; and

(D) the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(3) In the case of a third or subsequent suspension or a revocation, a license or privilege to operate shall not be reinstated until:

(A) the person has successfully completed an alcohol and driving rehabilitation program;

(B) the person has completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the Driver Rehabilitation Program Director;

(C) the person has satisfied the requirements of subsection (b) of this section; and

(D) ~~if the person elects to operate under an ignition interlock RDL, after:~~

~~(i) a period of four years (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of three years (plus any extension of this period arising from a violation of section 1213 of this title) in all other cases; and~~

~~(E)~~ the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(4) The Commissioner shall waive a requirement under subdivision (2) of this subsection or subsection (b) of this section that a person operate under an ignition interlock RDL or certificate prior to eligibility for reinstatement if:

(A) the person furnishes sufficient proof as prescribed by the Commissioner that he or she is incapable of using an ignition interlock device because of a medical condition that will persist permanently or at least for the term of the suspension or, in the case of suspensions or revocations for life, for a period of at least three years; or

(B) the underlying offenses arose solely from being under the influence of a drug other than alcohol.

(b) Abstinence.

(1) Notwithstanding any other provision of this subchapter, a person whose license or privilege to operate has been suspended or revoked for life under this subchapter may apply to the Driver Rehabilitation School Director and to the Commissioner for reinstatement of his or her driving privilege. The person shall have completed three years of total abstinence from consumption of alcohol or drugs, or both. The beginning date for the period of abstinence shall be no sooner than the effective date of the suspension or revocation from which the person is requesting reinstatement and shall not include any period during which the person is serving a sentence of incarceration to include furlough. The application shall include the applicant's authorization for a urinalysis examination to be conducted prior to reinstatement under this subdivision. The application to the Commissioner shall be accompanied by a fee of $500.00. The Commissioner shall have the discretion to waive the application fee if the Commissioner determines that payment of the fee would present a hardship to the applicant.

(2) If the Commissioner, or a medical review board convened by the Commissioner, is satisfied by a preponderance of the evidence that the applicant has abstained for the required number of years immediately preceding the application and hearing, has successfully completed a therapy program as required under this section, has operated under a valid ignition interlock RDL or under an ignition interlock certificate for at least three years following the suspension or revocation, and the person appreciates that he or she cannot drink any amount of alcohol and drive safely, the person's license or privilege to operate shall be reinstated immediately, subject to the condition that the person's suspension or revocation will be put back in effect in the event any further investigation reveals a return to the consumption of alcohol or drugs and to such additional conditions as the Commissioner may impose ~~and, if the person has not previously operated for three years under an ignition interlock RDL, subject to the additional condition that the person shall operate~~

~~under an ignition interlock restricted driver~~'s license for a period of at least one ~~year following reinstatement under this subsection. However, the Commissioner may waive this one-year requirement to operate under an ignition interlock restricted driver~~'s license ~~if the person furnishes proof as prescribed by the Commissioner that he or she is incapable of using an ignition interlock device because of a medical condition that will persist permanently or at least for one year~~. The requirement to operate under an ignition interlock RDL or ignition interlock certificate shall not apply if the person is exempt under subdivision (a)(4) of this section.

(3) If after notice and hearing the Commissioner later finds that the person was violating the conditions of the person's reinstatement under this subsection, the person's operating license or privilege to operate shall be immediately suspended or revoked for ~~the period of the original suspension~~ life.

(4) If the Commissioner finds that a person reinstated under this subsection was suspended pursuant to section 1205 of this title, or was convicted of a violation of section 1201 of this title, the person shall be conclusively presumed to be in violation of the conditions of his or her reinstatement.

(5) A person shall be eligible for reinstatement under this subsection only once following a suspension or revocation for life.

(6)(A) If an applicant for reinstatement under this subsection resides in a jurisdiction other than Vermont, the Commissioner may elect not to conduct an investigation. If the Commissioner elects not to conduct an investigation, he or she shall provide a letter to the applicant's jurisdiction of residence stating that Vermont does not object to the jurisdiction issuing the applicant a license if the applicant is ~~authorized~~ required to operate only vehicles equipped with an ignition interlock device for at least a three-year period, unless exempt under subdivision (a)(4) of this section, and is required to complete any alcohol rehabilitation or treatment requirements of the licensing jurisdiction.

(B) If the applicant's jurisdiction of residence is prepared to issue or has issued a license in accordance with subdivision (A) of this subdivision (6) and the applicant satisfies the requirements of section 675 of this title, the Commissioner shall update relevant State and federal databases to reflect that the applicant's lifetime suspension or revocation in Vermont under chapter 13, subchapter 13 of this title has terminated.

* * *

Sec. 47. 23 V.S.A. § 1213 is amended to read:

§ 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE OR CERTIFICATE; PENALTIES

(a)(1) ~~First offense.~~ A person whose license or privilege to operate is suspended ~~for a first offense~~ or revoked under this subchapter ~~shall be permitted to~~ may operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL or ignition interlock certificate. ~~The~~ Upon application, the Commissioner shall issue an ignition interlock RDL ~~to a person eligible under section 1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of this title upon receipt of~~ or ignition interlock certificate to a person otherwise licensed or eligible to be licensed to operate a motor vehicle if:

(A) the person submits a $125.00 application fee~~, and upon receipt of~~;

(B) the person submits satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated~~,~~ and of financial responsibility as provided in section 801 of this title~~, and enrollment in an Alcohol and Driving Education Program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of this title~~;

(C) at least one year has passed since the suspension or revocation was imposed if the offense involved death or serious bodily injury to a person other than the operator; and

(D) the applicable period set forth below has passed since the suspension or revocation was imposed if the offense involved refusal of an enforcement officer's reasonable request for an evidentiary test:

(i) 30 days for a first offense;

(ii) 90 days for a second offense;

(iii) one year for a third or subsequent offense.

(2) A new ignition interlock RDL or ignition interlock certificate shall expire at midnight on the eve of the second birthday of the applicant following the date of issue, and may be renewed for one-year terms. The Commissioner shall send by first class mail an application for renewal of the RDL or certificate at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance ~~of an ignition interlock RDL~~. The renewal fee shall be $125.00.

(b) ~~Second offense. A person whose license or privilege to operate is suspended for a second offense under this subchapter shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in~~

~~section 4103 of this title, if issued a valid ignition interlock RDL. The Commissioner shall issue an ignition interlock RDL to a person eligible under section 1205(m), 1208(a), or 1216(a)(2) of this title upon receipt of a $125.00 application fee, and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, financial responsibility as provided in section 801 of this title, and enrollment in an Alcohol and Driving Rehabilitation Program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(m), 1208(a), or 1216(a)(2) of this title. A new ignition interlock RDL shall expire at midnight on the eve of the second birthday of the applicant following the date of issue, and may be renewed for one-year terms. The Commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be $125.00.~~ [Repealed.]

(c) ~~Third or subsequent offense. A person whose license or privilege to operate is suspended or revoked for a third or subsequent offense under this subchapter shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The Commissioner shall issue an ignition interlock RDL to a person eligible under section 1205(a)(3), 1205(m), 1208(b), or 1216(a)(2) of this title upon receipt of a $125.00 application fee, and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, financial responsibility as provided in section 801 of this title, and enrollment in an Alcohol and Driving Rehabilitation Program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(a)(3), 1205(m), 1208(b), or 1216(a)(2) of this title. A new ignition interlock RDL shall expire at midnight on the eve of the second birthday of the applicant following the date of issue, and may be renewed for one-year terms. The Commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be $125.00.~~ [Repealed.]

(d) If a fine is to be imposed for a conviction of a violation of section 1201 of this title, upon receipt of proof of installation of an approved ignition interlock device, the Court may order that the fine of an indigent person conditionally be reduced by one-half to defray the costs of the ignition interlock device, subject to the person's ongoing operation under, and compliance with the terms of, a valid ignition interlock RDL or ignition interlock certificate as set forth in this section. In considering whether a

person's fine should be reduced under this subsection, the Court shall take into account any discount already provided by the device manufacturer or provider.

(e) ~~The~~ Except as provided in subsection (m) of this section, the holder of an ignition interlock RDL or ignition interlock certificate shall pay the costs of installing, purchasing or leasing, and removing the ignition interlock device as well as calibrating the device and retrieving data from it periodically as may be specified by the Commissioner.

(f)(1) Prior to the issuance of an ignition interlock RDL or ignition interlock certificate under this section, the Commissioner shall notify the applicant ~~of the applicable~~ that the period prior to eligibility for reinstatement ~~under section 1209a or 1216 of this title, and that the reinstatement period~~ may be extended under this subsection (f) or subsections (g)–(h) of this section.

(2)(A) Prior to any such extension of the reinstatement period, the ignition interlock RDL or certificate holder shall be given notice and opportunity for a hearing. Service of the notice shall be sent by first class mail to the last known address of the person. The notice shall include a factual description of the grounds for an extension, a reference to the particular law allegedly violated, and a warning that the right to a hearing will be deemed waived, and an extension of the reinstatement period will be imposed, if a written request for a hearing is not received at the Department of Motor Vehicles within 15 days after the date of the notice.

* * *

(3)(A) A holder of an ignition interlock RDL or certificate who, prior to eligibility for reinstatement under section 1209a or 1216 of this title, is prevented from starting a motor vehicle because the ignition interlock device records a blood alcohol concentration of 0.04 or above, shall be subject to a three-month extension of the applicable reinstatement period in the event of three such recorded events, and to consecutive three-month extensions for every additional three recorded events thereafter. The Commissioner shall disregard a recording of 0.04 or above for the purposes of this subdivision if the Commissioner in his or her discretion finds, based on a pattern of tests or other reliable information, that the recording does not indicate the consumption of intoxicating liquor by the holder. The Commissioner shall notify the holder in writing after every recording of 0.04 or above that indicates the consumption of intoxicating liquor by the holder and, prior to any extension under this subdivision, the holder shall have the opportunity to be heard pursuant to subdivision (2) of this subsection (f).

(B) A holder of an ignition interlock RDL or certificate who, prior to eligibility for reinstatement under section 1209a or 1216 of this title, fails a

random retest because the ignition interlock device records a blood alcohol concentration of 0.04 or above and below 0.08, shall be subject to consecutive three-month extensions of the applicable reinstatement period for every such recorded event. A holder who fails a random retest because of a recording of 0.08 or above shall be subject to consecutive six-month extensions of the applicable reinstatement period for every such recorded event. The Commissioner shall disregard a recording of 0.04 or above for the purposes of this subdivision if the Commissioner in his or her discretion finds, based on a pattern of tests or other reliable information, that the recording does not indicate the consumption of intoxicating liquor by the holder. The Commissioner shall notify the holder in writing after every recording of 0.04 or above that is indicative of the consumption of intoxicating liquor by the holder and, prior to any extension under this subdivision, the holder shall have the opportunity to be heard pursuant to subdivision (2) of this subsection (f).

(g) The holder of an ignition interlock RDL or certificate shall operate only motor vehicles equipped with an ignition interlock device, shall not attempt or take any action to tamper with or otherwise circumvent an ignition interlock device, and, after failing a random retest, shall pull over and shut off the vehicle's engine as soon as practicable. A person who violates any provision of this section commits a criminal offense, shall be subject to the sanctions and procedures provided for in subsections 674(b)–(i) of this title, and, upon conviction, the applicable period prior to eligibility for reinstatement under section 1209a or 1216 of this title shall be extended by six months.

(h) A person who violates a rule adopted by the Commissioner pursuant to subsection (l) of this section shall, after notice and an opportunity to be heard is provided pursuant to subdivision (f)(2) of this section, be subject to an extension of the period prior to eligibility for reinstatement under section 1209a or 1216 of this title in accordance with rules adopted by the Commissioner.

(i) Upon receipt of notice that the holder of an ignition interlock RDL or certificate has been ~~adjudicated~~ convicted of an offense under this title that would result in suspension, revocation, or recall of a license or privilege to operate, the Commissioner shall suspend, revoke, or recall the person's ignition interlock RDL or certificate for the same period that the license or privilege to operate would have been suspended, revoked, or recalled. The Commissioner may impose a reinstatement fee in accordance with section 675 of this title and require, prior to reinstatement, satisfactory proof of installation of an approved ignition interlock device~~,~~ and of financial responsibility as provided in section 801 of this title~~, and enrollment in or completion of an alcohol and driving education or rehabilitation program~~.

* * *

(l)(1) The Commissioner, in consultation with any individuals or entities the Commissioner deems appropriate, shall adopt rules and may enter into agreements to implement the provisions of this section. The Commissioner shall not approve a manufacturer of ignition interlock devices as a provider in this State unless the manufacturer agrees to reduce the cost of installing, leasing, and deinstalling the device by at least 50 percent for persons who furnish proof of receipt of 3SquaresVT, LIHEAP, or Reach Up benefits or like benefits in another state.

(2) The rules shall establish uniform performance standards for ignition interlock devices including required levels of accuracy in measuring blood alcohol concentration, efficacy in distinguishing valid breath samples, the occurrence of random retests while the vehicle is running, and automatic signaling by the vehicle if the operator fails such a retest. The Commissioner shall certify devices that meet these standards, specify any periodic calibration that may be required to ensure accuracy of the devices, and specify the means and frequency of the retrieval and sharing of data collected by ignition interlock devices. Persons who elect to obtain an ignition interlock RDL or certificate following a conviction under this subchapter when the person's blood alcohol concentration is proven to be 0.16 or more shall be required to install an ignition interlock device with a Global Positioning System feature. The rules also shall establish a schedule of extensions of the period prior to eligibility for reinstatement as authorized under subsection (h) of this section.

Sec. 48. [Reserved.]

Sec. 49. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

(a) Refusal; alcohol concentration above legal limits; suspension periods.

(1) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person refused to submit to a test, the Commissioner shall suspend the person's operating license~~,~~ or nonresident operating privilege~~,~~ or the privilege of an unlicensed operator to operate a vehicle for a period of six months and until the person complies with section 1209a of this title. However, ~~a~~ during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title ~~after 30 days of this six-month period unless the alleged offense involved a collision resulting in serious bodily injury or death to another~~.

(2) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was above a limit specified in subsection 1201(a) of this title, at the time of operating, attempting to operate, or being in actual physical control, the Commissioner shall suspend the person's operating license~~,~~ or nonresident operating privilege~~,~~ or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days and until the person complies with section 1209a of this title. However, ~~a~~ during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title ~~after 30 days of this 90-day period unless the alleged offense involved a collision resulting in serious bodily injury or death to another~~.

(3) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of subdivision 1201(d)(2) of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was 0.02 or more at the time of operating, attempting to operate, or being in actual physical control, the Commissioner shall suspend the person's operating license~~,~~ or nonresident operating privilege~~,~~ or the privilege of an unlicensed operator to operate a vehicle for life. However, ~~a~~ during the suspension, an eligible person may ~~operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of this lifetime suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another~~ operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

* * *

(d) Form of notice. The notice of intention to suspend and of suspension shall be in a form prescribed by the Supreme Court. The notice shall include an explanation of rights, a form to be used to request a hearing, and, if a hearing is requested, the date, time, and location of the Criminal Division of the Superior Court where the person must appear for a preliminary hearing. The notice shall also contain, in boldface print, the following:

(1) You have the right to ask for a hearing to contest the suspension of your operator's license.

(2) This notice shall serve as a temporary operator's license and is valid until 12:01 a.m. of the date of suspension. If this is your first violation of section 1201 of this title and if you do not request a hearing, your license will

be suspended as provided in this notice. If this is your second or subsequent violation of section 1201 of this title, your license will be suspended on the 11th day after you receive this notice. It is a crime to drive while your license is suspended unless you have been issued an ignition interlock restricted driver's license or ignition interlock certificate.

* * *

(m) Second and subsequent suspensions. For a second suspension under this subchapter, the period of suspension shall be 18 months and until the person complies with section 1209a of this title. However, ~~a~~ during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title ~~after 90 days of this 18-month period unless the alleged offense involved a collision resulting in serious bodily injury or death to another~~. For a third or subsequent suspension under this subchapter, the period of suspension shall be life. However, ~~a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of~~ during this lifetime suspension ~~unless the alleged offense involved a collision resulting in serious bodily injury or death to another~~, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

* * *

Sec. 50. 23 V.S.A. § 1206 is amended to read:

§ 1206. SUSPENSION OF LICENSE FOR DRIVING WHILE UNDER INFLUENCE; FIRST CONVICTIONS

(a) First conviction–generally. Except as otherwise provided, upon conviction of a person for violating a provision of section 1201 of this title, or upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person's operating license~~,~~ or nonresident operating privilege~~,~~ or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days and until the defendant complies with section 1209a of this title. ~~However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 30 days of this 90-day period unless the offense involved a collision resulting in serious bodily injury or death to another.~~

(b) Extended suspension–fatality or serious bodily injury. In cases resulting in a fatality or serious bodily injury to a person other than the defendant, the period of suspension shall be one year and until the defendant complies with section 1209a of this title.

(c) ~~Extended suspension–refusal; serious bodily injury. Upon conviction of a person for violating a provision of subsection 1201(c) of this title involving a collision in which serious bodily injury resulted, or upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for a period of six months, and until the defendant complies with section 1209a of this title.~~ During a suspension under this section, an eligible person may operate a motor vehicle under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

Sec. 51. 23 V.S.A. § 1208 is amended to read:

§ 1208. SUSPENSIONS FOR SUBSEQUENT CONVICTIONS

(a) Second conviction. Upon a second conviction of a person violating a provision of section 1201 of this title and upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person's operating license~~,~~ or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for 18 months and until the defendant complies with section 1209a of this title. However, ~~a~~ during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title ~~after 90 days of this 18-month period unless the alleged offense involved a collision resulting in serious bodily injury or death to another~~.

(b) Third conviction. Upon a third or subsequent conviction of a person violating a provision of section 1201 of this title and upon final determination of any appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately revoke the person's operating license~~,~~ or nonresident operating privilege or the privilege of an unlicensed operator to operate a motor vehicle for life. However, ~~a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of~~ during this lifetime ~~suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another~~ revocation, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

Sec. 52. 23 V.S.A. § 1216 is amended to read:

§ 1216. PERSONS UNDER 21 YEARS OF AGE; ALCOHOL CONCENTRATION OF 0.02 OR MORE

(a) A person under ~~the age of~~ 21 years of age who operates, attempts to operate, or is in actual physical control of a vehicle on a highway when the person's alcohol concentration is 0.02 or more, commits a civil traffic violation subject to the jurisdiction of the Judicial Bureau and subject to the following sanctions:

(1) For a first violation, the person's license or privilege to operate shall be suspended for six months and until the person complies with subdivision 1209a(a)(1) of this title. However, ~~a~~ during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title ~~after 30 days of this six-month period unless the offense involved a collision resulting in serious bodily injury or death to another~~. A person who elects to operate under an RDL or certificate shall not be eligible for reinstatement unless he or she operates under the RDL or certificate for six months plus any extension of this period arising from a violation of section 1213 of this title.

(2) For a second or subsequent violation, the person's license or privilege to operate shall be suspended until the person reaches ~~the age of~~ 21 years of age or for one year, whichever is longer, and complies with subdivision 1209a(a)(2)(A), (B), and (D) of this title. However, ~~a~~ during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title ~~after 90 days of the applicable suspension period unless the offense involved a collision resulting in serious bodily injury or death to another~~. A person who elects to operate under an RDL or certificate shall not be eligible for reinstatement unless he or she operates under the RDL or certificate for one year or until the person reaches 21 years of age, whichever is longer, plus any extension of this period arising from a violation of section 1213 of this title.

(b) ~~A person's license or privilege to operate that has been suspended under this section shall not be reinstated until:~~

~~(1) the Commissioner has received satisfactory evidence that the person has complied with section 1209a of this title and the provider of the therapy program has been paid in full;~~

~~(2) the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter; and~~

~~(3)(A) for persons operating under an ignition interlock RDL for a first offense, after:~~

~~(i) a period of one year (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of nine months (plus any extension of this period arising from a violation of section 1213 of this title) in all other cases; or~~

~~(B) for persons operating under an ignition interlock RDL for a second or subsequent offense, after:~~

~~(i) a period of two years (plus any extension of this period arising from a violation of section 1213 of this title) or until the person is 21, whichever is longer, if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of 18 months (plus any extension of this period arising from a violation of section 1213 of this title) or until the person is 21, whichever is longer, in all other cases.~~ [Repealed.]

* * *

* * * Signs for Census-designated Places Within Towns * * *

Sec. 53. 10 V.S.A. § 494 is amended to read:

§ 494. EXEMPT SIGNS

The following signs are exempt from the requirements of this chapter except as indicated in section 495 of this title:

* * *

(4) Signs erected and maintained by or with the approval of a town outside the highway right-of-way, each of which does not exceed 64 square feet in area, excluding panel and frame, which may show the place and time of services or meetings of churches and civic organizations in the town, and which may include a panel which identifies the name of the town, the charter date, the date the town was founded, or any other significant date in the history of the town, and which the town wishes to identify. The panel may bear the wording "welcome to" the particular town. Not more than two such signs may be erected and maintained readable by traffic proceeding in any one direction on any one highway. The signs shall meet the criteria of the Agency of Transportation and the Travel Information Council. A sign that otherwise meets the requirements of this subdivision may refer to a census-designated

place within a town rather than the town itself. As used in this subdivision, "census-designated place" means a statistical entity consisting of a settled concentration of population that is identifiable by name, is not legally incorporated under the laws of the State, and is delineated as such a place by the U.S. Census Bureau according to its guidelines.

* * *

* * * Dealers * * *

Sec. 54. 23 V.S.A. § 4(8)(A)(ii)(III) is amended to read:

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

Sec. 55. DEALER REGULATION REVIEW

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

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

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

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

(c) The Commissioner shall review:

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

(2) physical location requirements of dealers;

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

(4) the permitted uses of dealer plates;

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

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

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

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

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

* * * Motor-Assisted Bicycles * * *

Sec. 56. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

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

* * *

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

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

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

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

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

* * *

Sec. 57. 23 V.S.A. § 1136(d) is added to read:

(d)(1) Except as provided in this subsection, motor-assisted bicycles shall be governed as bicycles under Vermont law, and operators of motor-assisted bicycles shall be subject to all of the rights and duties applicable to bicyclists under Vermont law. Motor-assisted bicycles and their operators shall be exempt from motor vehicle registration and inspection and operator's license requirements. A person shall not operate a motor-assisted bicycle on a sidewalk in Vermont.

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

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

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

Sec. 58. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

* * *

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

* * *

(i) An identification card issued under this subsection to an ~~individual under the age of 30 shall include a magnetic strip that includes only the name, date of birth, height, and weight of the individual identified on the card~~ initial

or renewal applicant shall include data elements as prescribed in 6 C.F.R. § 37.19.

* * *

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

Sec. 59. 23 V.S.A. § 327 is amended to read:

§ 327. REFUND WHEN PLATES NOT USED

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

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

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

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

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

Sec. 60. 23 V.S.A. § 373 is amended to read:

§ 373. EXHIBITION VEHICLES; YEAR OF MANUFACTURE PLATES

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

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

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

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

Sec. 61. 23 V.S.A. § 208 is added to read:

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

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

Sec. 62. 23 V.S.A. § 411 is amended to read:

§ 411. ~~RECIPROCAL PROVISIONS~~

~~As determined by the Commissioner, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. Any exemptions provided in this section shall, however, be operative as to an owner or operator of a motor vehicle only to the extent that under the laws of the foreign country or state of his or her residence like exemptions and privileges are granted to operators~~

~~duly licensed or permitted and to owners of motor vehicles duly registered under the laws of this State. If the owner or operator is a resident of a country not adjoining the United States, such exemptions shall be operative for a period of 30 days for vacation purposes, notwithstanding that such country does not grant like privileges to residents of this State.~~ [Repealed.]

* * * Operator's Licenses * * *

Sec. 63. 23 V.S.A. § 601 is amended to read:

§ 601. LICENSE REQUIRED

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

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

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

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

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

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

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

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

* * *

(c) At least 30 days before a license is scheduled to expire, the Commissioner shall mail first class to the licensee or send the licensee electronically an application for renewal of the license; a cardholder shall be sent the renewal notice by mail unless the cardholder opts in to receive

electronic notification. A person shall not operate a motor vehicle unless properly licensed.

* * *

Sec. 64. CONFORMING CHANGES

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

* * * Special Examinations; Conforming Changes * * *

Sec. 65. 23 V.S.A. § 637 is amended to read:

§ 637. EXAMINERS OF PHYSICAL AND MENTAL CONDITIONS

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

Sec. 66. 23 V.S.A. § 638 is amended to read:

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

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

Sec. 67. 23 V.S.A. § 639 is amended to read:

§ 639. FEES FOR PHYSICAL AND MENTAL EXAMINATIONS

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

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

Sec. 68. 23 V.S.A. § 1006b is amended to read:

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

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

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

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

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

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

Sec. 69. 23 V.S.A. § 1006c is amended to read:

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

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

(b) The ~~Traffic Committee~~ Secretary of Transportation, the Commissioner of Motor Vehicles, or the Commissioner of Public Safety, or their designees, may require the use of tire chains ~~or winter tires~~ on specified portions of State

highways during periods of winter weather for ~~motor coaches, truck-tractor-semitrailer combinations, and truck-tractor-trailer combinations~~ vehicles with a gross vehicle weight rating (GVWR) of more than 26,000 pounds or gross combination weight rating (GCWR) of more than 26,000 pounds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 70. 23 V.S.A. § 2302 is amended to read:

§ 2302. TRAFFIC VIOLATION DEFINED

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

* * *

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

* * *

* * * School Bus Operators * * *

Sec. 71. 23 V.S.A. § 1282(d) is amended to read:

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

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

(B) a certificate signed by a properly registered and authorized medical doctor, ophthalmologist, optometrist, or nurse practitioner certifying

that he or she meets or exceeds the minimum vision standards as prescribed by the Commissioner.

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

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

* * * Overweight and Overdimension Vehicles * * *

Sec. 72. 23 V.S.A. § 1391a(d) is amended to read:

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

Sec. 73. 23 V.S.A. § 1400(d) is amended to read:

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

* * * Motor Vehicle Titles * * *

Sec. 74. 23 V.S.A. § 2001 is amended to read:

§ 2001. DEFINITIONS

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

* * *

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

* * *

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

* * *

Sec. 75. 23 V.S.A. § 2019 is amended to read:

§ 2019. MAILING OR DELIVERING CERTIFICATE

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

Sec. 76. 23 V.S.A. § 2091 is amended to read:

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

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

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

(1) any certificate of title; and

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

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

this section if the application for the salvage certificate of title is accompanied by:

(A) the required fee;

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

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

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

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

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

* * * Abandoned Motor Vehicles * * *

Sec. 77. 23 V.S.A. chapter 21, subchapter 7 is amended to read:

Subchapter 7. Abandoned Motor Vehicles

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

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

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

(i) a motor vehicle that has remained on public or private property or on or along a highway for more than 48 hours without the consent of the

owner or person in control of the property ~~for more than 48 hours~~, and has a valid registration plate or public vehicle identification number which has not been removed, destroyed, or altered; or

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

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

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

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

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

§ 2152. AUTHORIZED REMOVAL OF ABANDONED MOTOR VEHICLES

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

(b) Private property.

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

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

§ 2153. ABANDONED MOTOR VEHICLE CERTIFICATION

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

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

§ 2154. IDENTIFICATION AND RECLAMATION OF ABANDONED MOTOR VEHICLES

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

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

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

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

§ 2155. FEES AND CHARGES

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

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

* * *

* * * Repeals and Conforming Change * * *

Sec. 78. REPEALS

The following sections are repealed:

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

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

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

Sec. 79. 23 V.S.A. § 369 is amended to read:

§ 369. TRACTORS OTHER THAN FARM TRACTORS

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

Sec. 80. 23 V.S.A. § 603(a)(2) is amended to read:

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

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

Sec. 81. 18 V.S.A. § 1772 is amended to read:

§ 1772. DEFINITIONS

As used in this chapter:

* * *

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

* * *

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

* * *

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

* * *

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

Sec. 82. INSTALLATION OF SIGNAGE REGARDING UNLAWFUL IDLING OF MOTOR VEHICLE ENGINES

(a) Before July 1, 2017, the Department of Buildings and General Services (Department), in consultation with the Agency of Transportation, shall oversee completion of a project to install signs on property owned or controlled by the State where parking is permitted indicating that idling of motor vehicle engines in violation of 23 V.S.A. § 1110 is prohibited. At a minimum, the Department shall install at least one such sign at each rest area, information center, park and ride facility, parking structure, and building owned or controlled by the State with a parking capacity of 25 pleasure cars or more. In its discretion, the Department may install additional signs at each such facility or at other State-owned or -controlled facilities where parking is permitted.

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

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

Sec. 83. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

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

* * *

Sec. 84. 23 V.S.A. § 1201 is amended to read:

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

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

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

(A) 0.08 or more~~,~~; or

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

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

(D) 0.05 or more and the person has 1.5 nanograms per milliliter of delta–9 tetrahydrocannabinol in the person's blood; or

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

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

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

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

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

* * *

Sec. 85. 23 V.S.A. § 1202 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

~~(4)~~(5) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has

reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

* * *

Sec. 86. 23 V.S.A. § 1203 is amended to read:

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

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

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

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

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

The Department of Public Safety shall use ~~rule making~~ rulemaking procedures to select its method or methods. Failure of a person to provide an adequate breath or saliva sample constitutes a refusal.

(e) [Repealed.]

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

(g) The Office of the Chief Medical Examiner shall report in writing to the Department of Motor Vehicles the death of any person as the result of an accident involving a vehicle and the circumstances of ~~such~~ the accident within five days of ~~such~~ the death.

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

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

* * *

Sec. 87. 23 V.S.A. § 1203a is amended to read:

§ 1203a. INDEPENDENT CHEMICAL TEST; BLOOD TESTS

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

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

* * *

Sec. 88. 23 V.S.A. § 1204 is amended to read:

§ 1204. PERMISSIVE INFERENCES

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

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

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

(3) If the person's alcohol concentration at that time was 0.05 or more and the person had 1.5 nanograms per milliliter of delta–9 tetrahydrocannabinol in the person's blood, it shall be a permissive inference that the person was under the combined influence of alcohol and any other drug in violation of subdivision 1201(a)(3) of this title.

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

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

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

Sec. 89. 23 V.S.A. § 1252 is amended to read:

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

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

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

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

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

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

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

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

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

* * *

Sec. 90. 23 V.S.A. § 1255 is amended to read:

§ 1255. EXCEPTIONS

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

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

* * * Effective Dates and Transition Provision * * *

Sec. 91. EFFECTIVE DATES; CONTINGENT EFFECTIVE DATES; APPLICABILITY TO DUI MATTERS

(a) This section and Secs. 12 (positions); 13 (Rail Program); 14 (sale of State-owned rail property); Secs. 26, 27, 28, 29, 30, 31, 32, and 33 (stormwater utilities; rates; incentives); 35 (statewide property parcel data layer; findings); 38 (Quechee Gorge Bridge safety issues); Sec. 81 (chemicals of high concern to children); and 82 (prohibited idling of motor vehicles; signs) shall take effect on passage.

(b) Secs. 29a, 30a, and 31a shall take effect if and when two stormwater utilities, as defined in 10 V.S.A. § 1251(18), are adopted by municipalities after the effective date of Secs. 29, 30, and 31 of this act.

(c) Sec. 29b, 30b, and 31b shall take effect if and when three stormwater utilities, as defined in 10 V.S.A. § 1251(18), are adopted by municipalities after the effective date of Secs. 29, 30, and 31 of this act.

(d) The requirement for a second or subsequent DUI offender to operate under an ignition interlock RDL or certificate as a condition of eligibility for reinstatement of the offender's regular operator's license or privilege to operate, created under Sec. 46, amending 23 V.S.A. § 1209a, shall apply only in connection with a second or subsequent DUI offense that occurs on or after July 1, 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.

Alyson Richards of Montpelier – Member of the Vermont State Colleges Board of Trustees – By Sen. Cummings for the Committee on Education. (4/25/16)

Mary Alice McKenzie of Burlington – Member of the State Police Advisory Committee – By Sen. Collamore for the Committee on Government Operations. (4/25/16)