

Journal of the House

Wednesday, March 9, 2016

Rep. Copeland-Hanzas in Chair.

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Montpelier Children's House pre-school singing group.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 10

Senate bill, entitled

An act relating to the State DNA database;

To the committee on Judiciary.

S. 223

Senate bill, entitled

An act relating to regulating fantasy sports contests;

To the committee on Commerce & Economic Development.

Joint Resolution Adopted in Concurrence

J.R.S. 43

By Senator Nitka,

J.R.S. 43. Joint resolution providing for a Joint Assembly to vote on the retention of four Superior Judges.

Resolved by the Senate and House of Representatives:

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

Was taken up read and adopted in concurrence.

Joint Resolution Adopted in Concurrence

J.R.S. 44

By Senators Baruth and Benning,

J.R.S. 44. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 11, 2016, it be to meet again no later than Tuesday, March 15, 2016.

Was taken up read and adopted in concurrence.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

S. 212

Rep. Conquest of Newbury moved that the committee on Judiciary be relieved of Senate bill, entitled

An act relating to court-approved absences from home detention and home confinement furlough;

And that the bill be committed to the committee on Corrections & Institutions, which was agreed to.

Third Reading; Bill Passed

H. 829

House bill, entitled

An act relating to water quality on small farms

Was taken up, read the third time and passed.

Action on Bill Postponed

H. 571

House bill, entitled

An act relating to driver's license suspensions, driving with a suspended license, and DUI penalties

Was taken up and pending the reading of the report of the committee on Judiciary, on motion of **Rep. Conquest of Newbury**, action on the bill was postponed until the next legislative day.

Action on Bill Postponed**H. 851**

House bill, entitled

An act relating to the conduct of forestry operations

Was taken up and pending second reading of the bill, on motion of **Rep. Hebert of Vernon**, action on the bill was postponed until Tuesday, March 15, 2016.

Bill Amended; Third Reading Ordered**H. 112**

Rep. Berry of Manchester, for the committee on Human Services, to which had been referred House bill, entitled

An act relating to access to financial records in adult protective services investigations

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 6911 is amended to read:

§ 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

(a)(1) Information obtained through reports and investigations, including the identity of the reporter, shall remain confidential and shall not be released absent a court order, except as follows:

~~(A)~~(A) The investigative report shall be disclosed only to: the Commissioner or person designated to receive such records; persons assigned by the Commissioner to investigate reports; the person reported to have abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his or her representative; the Office of Professional Regulation when deemed appropriate by the Commissioner; the Secretary of Education when deemed appropriate by the Commissioner; the Commissioner for Children and Families or designee; for purposes of review of expungement petitions filed pursuant to section 4916c of this title; the Commissioner of Financial Regulation when deemed appropriate by the Commissioner for an investigation related to financial exploitation; a law enforcement agency; the State's Attorney, or the Office of the Attorney General, when the Department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and

no other information, including the identity of the reporter, shall be released absent a court order.

~~(2)~~(B) Relevant information may be disclosed to the Secretary of Human Services, or the Secretary's designee, for the purpose of remediating or preventing abuse, neglect, or exploitation; to assist the Agency in its monitoring and oversight responsibilities; and in the course of a relief from abuse proceeding, guardianship proceeding, or any other court proceeding when the Commissioner deems it necessary to protect the victim, and the victim or his or her representative consents to the disclosure. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

(2) Notwithstanding subdivision (1)(A) of this subsection, financial records made available to an adult protective services investigator pursuant to section 6915 of this title may be used only in a judicial or administrative proceeding or investigation directly related to a report required or authorized under this chapter. Relevant information may be disclosed to the Secretary of Human Services pursuant to subdivision (1)(B) of this subsection, and may also be disclosed to the Commissioner of Financial Regulation when the investigation relates to financial exploitation of a vulnerable adult.

* * *

Sec. 2. 33 V.S.A. § 6915 is added to read:

§ 6915. ACCESS TO FINANCIAL RECORDS

(a) As used in this chapter:

(1) “A person having custody or control of the financial records” means a financial institution as defined in 8 V.S.A. § 11101 or a credit union as defined in 8 V.S.A. § 30101.

(2) “Capacity” means an individual’s ability to make and communicate a decision regarding the issue that needs to be decided.

(b) A person having custody or control of the financial records of a vulnerable adult shall make the records or a copy of the records available to an adult protective services investigator upon receipt of a court order or receipt of the investigator’s written request.

(1) The request shall include a statement signed by the account holder, if he or she has capacity, or the account holder’s guardian with financial powers

or agent under a power of attorney consenting to the release of the records to the investigator.

(2) If the vulnerable adult lacks capacity and does not have a guardian or agent, or if the vulnerable adult lacks capacity and his or her guardian or agent is the alleged perpetrator, the request shall include a statement signed by the investigator asserting that all of the following conditions exist:

(A) The account holder is an alleged victim of abuse, neglect, or financial exploitation.

(B) The alleged victim lacks the capacity to consent to the release of the financial record.

(C) Law enforcement is not involved in the investigation or has not requested a subpoena for the records.

(D) The alleged victim will suffer imminent harm if the investigation is delayed while the investigator obtains a court order authorizing the release of the records.

(E) Immediate enforcement activity that depends on the records would be materially and adversely affected by waiting until the alleged victim regains capacity.

(F) The Commissioner of Disabilities, Aging, and Independent Living has personally reviewed the request and confirmed that the conditions set forth in subdivisions (A) through (E) of this subdivision (2) have been met and that disclosure of the records is necessary to protect the alleged victim from abuse, neglect, or financial exploitation.

(c) If a guardian refuses to consent to the release of the alleged victim's financial records, the investigator may seek review of the guardian's refusal by filing a motion with the Probate Division of the Superior Court pursuant to 14 V.S.A. § 3062(c).

(d) If an agent under a power of attorney refuses to consent to the release of the alleged victim's financial records, the investigator may file a petition in Superior Court pursuant to 14 V.S.A. § 3510(b) to compel the agent to consent to the release of the alleged victim's financial records.

(e) The investigator shall include a copy of the written request in the alleged victim's case file.

(f) The person having custody or control of the financial records shall not require the investigator to provide details of the investigation to support the request for production of the records.

(g) The information requested and released shall be used only to investigate the allegation of abuse, neglect, or financial exploitation or for the purposes set forth in subdivision 6911(a) (1)(B) of this title and shall not be used against the alleged victim.

(h) The person having custody or control of the financial records shall provide the records to the investigator as soon as possible but, absent extraordinary circumstances, no later than 10 business days following receipt of the investigator's written request or receipt of a court order or subpoena requiring disclosure of the records.

(i) A person who in good faith makes an alleged victim's financial records or a copy of the records available to an investigator in accordance with this section shall be immune from civil or criminal liability for disclosure of the records unless the person's actions constitute gross negligence, recklessness, or intentional misconduct. Nothing in this section shall be construed to provide civil or criminal immunity to a person suspected of having abused, neglected, or exploited a vulnerable adult.

(j) The person having custody or control of the financial records of an alleged victim may charge the Department of Disabilities, Aging, and Independent Living no more than the actual cost of providing the records to the investigator and shall not refuse to provide the records until payment is received. A financial institution shall not charge the Department for the records if the financial institution would not charge if the request for the records had been made directly by the account holder.

Sec. 3. 8 V.S.A. § 10204 is amended to read:

§ 10204. EXCEPTIONS

This subchapter does not prohibit any of the activities listed in this section. This section shall not be construed to require any financial institution to make any disclosure not otherwise required by law. This section shall not be construed to require or encourage any financial institution to alter any procedures or practices not inconsistent with this subchapter. This section shall not be construed to expand or create any authority in any person or entity other than a financial institution.

* * *

(25) Reports or disclosure of financial records and other information to the Department of Disabilities, Aging, and Independent Living, pursuant to 33 V.S.A. §§ 6903(b) ~~and~~, 6904, and 6915.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Human Services agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 517

Rep. Deen of Westminster, for the committee on Fish, Wildlife & Water Resources, to which had been referred House bill, entitled

An act relating to the classification of State waters

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1252 is amended to read:

§ 1252. CLASSIFICATION OF HIGH QUALITY WATERS; MIXING ZONES

(a) The State adopts, for the purposes of individually classifying the uses of its high quality waters, the following classes and definitions ~~thereof~~:

~~Class A. (1) Suitable for public water supply with disinfection when necessary; character uniformly excellent; or~~

~~(2) High quality waters which Class A(1): Waters in a natural condition that have significant ecological value; or~~

Class A(2): Waters that are suitable for a public water source with filtration and disinfection or other required treatment; character uniformly excellent.

~~Class B. Suitable Class B(1): Waters in which one or more uses are of higher quality than Class B(2) waters;~~

Class B(2): Waters that are suitable for ~~bathing~~ swimming and other primary contact recreation; irrigation and agricultural uses; ~~good fish~~ aquatic biota and aquatic habitat; good aesthetic value; ~~acceptable~~ boating, fishing, and other recreational uses and suitable for public water ~~supply~~ source with filtration and disinfection or other required treatment.

* * *

Sec. 2. 10 V.S.A. § 1253 is amended to read:

§ 1253. CLASSIFICATION OF WATERS DESIGNATED,

RECLASSIFICATION

(a) The waters of all lakes, ponds, and reservoirs, natural or artificial, used exclusively ~~for as a public water supply source~~ prior to July 1, 1971, and all waters flowing into such lakes, ponds, and reservoirs, and all waters located above 2,500 feet altitude, National Geodetic Vertical Datum, are designated Class A waters and shall be maintained as such unless reclassified.

(b) The remaining waters, ~~except as otherwise classified by the Board prior to July 1, 1971, are designated Class B(2) waters and shall be maintained as such unless reclassified. All waters designated as Class C waters prior to July 1, 1992, are designated Class B waters and shall be maintained as such unless reclassified.~~

(c) On its own motion, or on receipt of a written request that the Secretary adopt, amend, or repeal a reclassification rule, the Secretary shall comply with 3 V.S.A. § 806 and may initiate a rulemaking proceeding to reclassify one or more uses of all or any portion of the affected waters in the public interest. In the course of this proceeding, the Secretary shall comply with the provisions of 3 V.S.A. chapter 25, and may hold a public hearing convenient to the waters in question. If the Secretary finds that the established classification is contrary to the public interest and that reclassification is in the public interest, he or she shall file a final proposal of reclassification in accordance with 3 V.S.A. § 841. If the Secretary finds that it is in the public interest to change the classification of any pond, lake, or reservoir designated as Class A ~~waters by subsection (a) of this section~~ for a public water source, the Secretary shall so advise and consult with the Department of Health and shall provide in its reclassification rule a reasonable period of time before the rule becomes effective. During that time, any municipalities or persons whose water supply source is affected shall construct filtration and disinfection facilities or convert to a new water source of water supply.

(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, 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:

(A) identify waters that should be reclassified ~~as Class A waters or~~ outstanding resource waters or that should have one or more uses reclassified under section 1252 of this title;

(B) identify wetlands that should be reclassified as Class I wetlands;

(C) identify projects or activities within a basin that will result in the protection and enhancement of water quality;

(D) assure that municipal officials, citizens, watershed groups, and other interested groups and individuals are involved in the basin planning process;

(E) assure regional and local input in State water quality policy development and planning processes;

(F) provide education to municipal officials and citizens regarding the basin planning process;

(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;

(H) provide for public notice of a draft basin plan; and

(I) provide for the opportunity of public comment on a draft basin plan.

(3) The Secretary shall, contingent upon the availability of funding, contract with a regional planning commission 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 to assist in or produce a basin plan, the Secretary may require the regional planning commission 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.

(e) In determining the question of public interest, the Secretary shall give due consideration to, and explain his or her decision with respect to, the following:

(1) existing and obtainable water qualities;

(2) existing and potential use of waters ~~for~~ as a public water ~~supply source~~, recreational, agricultural, industrial, and other legitimate purposes;

(3) natural sources of pollution;

(4) public and private pollution sources and the alternative means of abating the same;

(5) consistency with the State water quality policy established in ~~10 V.S.A. § section~~ section 1250 of this title;

(6) suitability of waters as habitat for fish, aquatic life, and wildlife;

(7) need for and use of minimum streamflow requirements;

(8) federal requirements for classification and management of waters;

(9) consistency with applicable municipal, regional, and State plans; and

(10) any other factors relevant to determine the maximum beneficial use and enjoyment of waters.

(f) Notwithstanding the provisions of subsection (c) of this section, when reclassifying waters to Class A, the Secretary need find only that the reclassification is in the public interest.

(g) The Secretary under the reclassification rule may grant permits for only a portion of the assimilative capacity of the receiving waters, or may permit only indirect discharges from on-site disposal systems, or both.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Fish, Wildlife & Water Resources agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 526

Rep. Stevens of Waterbury, for the committee on General, Housing & Military Affairs, to which had been referred House bill, entitled

An act relating to the Commissioner of Liquor Control and the Liquor Control Board

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 101 is amended to read:

§ 101. COMPOSITION OF DEPARTMENT; COMMISSIONER OF
LIQUOR CONTROL; LIQUOR CONTROL BOARD

(a) The Department of Liquor Control, created by 3 V.S.A. § 212, shall include the Commissioner of Liquor Control and the Liquor Control Board.

(b)(1) The Liquor Control Board shall consist of five persons, not more than three members of which shall belong to the same political party.

(2)(A) ~~Biennially, with~~ With the advice and consent of the Senate, the Governor shall appoint ~~a person as a member~~ members of ~~such~~ the Board for a ~~staggered five-year term, whose staggered five-year terms.~~

(B) The Governor shall fill a vacancy occurring during a term by appointment for the unexpired term in accordance with the provisions of 3 V.S.A. § 257(b).

(C) A member's term of office shall commence on February 1 of the year in which such appointment is made the member is appointed.

(3) A member of the Board may serve for no more than two consecutive terms.

(4) The Governor shall biennially designate a member of ~~such~~ the Board to be its Chair.

Sec. 2. 7 V.S.A. § 106 is amended to read:

§ 106. COMMISSIONER OF LIQUOR CONTROL; REPORTS;
RECOMMENDATIONS

~~The board shall employ an executive officer, who shall be the secretary of the board and shall be called the commissioner of liquor control. The commissioner shall be appointed for an indefinite period and shall be subject to removal upon the majority vote of the entire board. At such times and in such detail as the board directs, the commissioner shall make reports to the board concerning the liquor distribution system of the state, together with such recommendations as he deems proper for the promotion of the general good of the state.~~

(a)(1) With the advice and consent of the Senate, the Governor shall appoint from among no fewer than three candidates proposed by the Liquor Control Board a Commissioner of Liquor Control for a term of four years.

(2) The Board shall review the applicants for the position of Commissioner of Liquor Control and by a vote of the majority of the members of the Board shall select candidates to propose to the Governor. The Board shall consider each applicant's administrative expertise and his or her knowledge regarding the business of distributing and selling alcoholic beverages.

(3) If a vacancy occurs for a reason other than the expiration of a term, the Governor, in consultation with the Liquor Control Board, shall fill the vacancy by appointing a Commissioner for the unexpired portion of the term in accordance with the provisions of 3 V.S.A. § 257(b).

(b) The Commissioner shall serve at the pleasure of the Governor until the end of the term for which he or she is appointed or until a successor is appointed.

Sec. 3. 7 V.S.A. § 107 is amended to read:

§ 107. DUTIES OF COMMISSIONER OF LIQUOR CONTROL

The Commissioner of Liquor Control shall:

(1) In towns ~~which~~ that vote to permit the sale of spirits and fortified wines, establish ~~such number of~~ local agencies ~~therein~~ as the Board shall determine, ~~enter into agreements for the rental of necessary and adequate quarters, and employ suitable assistants for the operation thereof.~~ However, it ~~shall not be obligatory upon the Liquor Control Board~~ shall not be obligated to

establish an agency in every town ~~which~~ that votes to permit the sale of spirits and fortified wines.

(2) ~~Make regulations~~ Recommend rules subject to ~~the approval of and adoption by~~ the Board governing the hours during which ~~such~~ local agencies shall be open for the sale of spirits and fortified wines ~~and governing~~, the qualifications, ~~department, and salaries~~ of the agencies' employees, ~~and the business, operational, financial, and revenue standards that must be met for the establishment of an agency and its continued operation.~~

(3) ~~Make regulations~~ Recommend rules subject to ~~the approval of and adoption by~~ the Board governing:

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

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

(4) Supervise the quantities and qualities of spirits and fortified wines to be kept as stock in local agencies and ~~make regulations~~ recommend rules subject to ~~the approval of and adoption by~~ the Board regarding the filling of requisitions therefor on the Commissioner of Liquor Control.

(5) Purchase through the Commissioner of Buildings and General Services spirits and fortified wines for and in behalf of the Liquor Control Board, supervise ~~the their~~ storage ~~thereof~~ and ~~the~~ distribution to local agencies, druggists ~~and, licensees of the third class,~~ third-class licensees, and holders of fortified wine permits, and ~~make regulations~~ recommend rules subject to ~~the approval of and adoption by~~ the Board regarding the sale and delivery from the central storage plant.

(6) Check and audit the income and disbursements of all local agencies, and the central storage plant.

(7) Report to the Board regarding the State's liquor control system and make recommendations for the promotion of the general good of the State.

(8) Devise methods and plans for eradicating intemperance and promoting the general good of the ~~state~~ State and make effective such methods and plans as part of the administration of this title.

Sec. 4. RULEMAKING

On or before July 1, 2017, the Commissioner shall prepare and submit to the Liquor Control Board for its approval and adoption his or her recommendation for rules to govern the business, operational, financial, and revenue standards for local agencies as necessary to implement this act.

Sec. 5. LEGISLATIVE COUNCIL; DRAFT LEGISLATION

On or before January 15, 2017, the Legislative Council, in consultation with the Commissioner of Liquor Control, the Liquor Control Board, and the Office of the Attorney General, shall prepare and submit a draft bill to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs that makes statutory amendments of a technical nature to improve the clarity of Title 7 through the reorganization of its provisions and the modernization of its statutory language. The draft bill shall also identify all statutory sections of Title 7 that the General Assembly must amend substantively in order to remove out-of-date and obsolete provisions or to more accurately reflect the current practices and programs of the Liquor Control Board and the Department of Liquor Control.

Sec. 6. 7 V.S.A. § 102 is amended to read:

§ 102. REMOVAL

After Notwithstanding any provision of 3 V.S.A. § 2004 to the contrary, after notice and hearing, the ~~governor~~ Governor may remove a member of the ~~liquor control board~~ Liquor Control Board for incompetency, failure to discharge his or her duties, malfeasance, immorality, or other cause inimical to the general good of the ~~state~~ State. In case of such removal, the ~~governor~~ Governor shall appoint a person to fill the unexpired term.

Sec. 7. COMMISSIONER OF LIQUOR CONTROL; CURRENT TERM;

APPOINTMENT OF SUCCESSOR

The Commissioner of Liquor Control in office on the effective date of this act shall be deemed to have commenced a four-year term pursuant to 7 V.S.A. § 106(a)(1) on February 1, 2016. The Commissioner shall serve until the end of the four-year term, or until a successor is appointed as provided pursuant to 7 V.S.A. § 106. Notwithstanding any provision of 3 V.S.A. § 2004 or 7 V.S.A. § 106(b) to the contrary, during this current term, the Governor may remove the Commissioner for cause after notice and a hearing.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the House agree to the report of the committee on General, Housing and Military Affairs? **Rep. Stevens of Waterbury**, moved to amend the report of the committee on General, Housing and Military affairs, as follows:

First: In Sec. 1, 7 V.S.A. § 101, by striking out subdivision (b)(3) in its entirety and inserting in lieu thereof a subdivision (b)(3) to read as follows:

(3) A member of the Board may serve for no more than two consecutive full terms. A member that is appointed to fill a vacancy occurring during a term may serve two consecutive full terms in addition to the unexpired portion of the term during which the member is first appointed.

Second: After Sec.7, by inserting a new Sec. 8 to read as follows:

Sec. 8. CURRENT LIQUOR CONTROL BOARD MEMBERS; TERM
LIMIT

For purposes of the term limit set forth in 7 V.S.A. § 101(b)(3), the current term of each of the Liquor Control Board members in office on the effective date of this act shall be deemed to be that member's first consecutive term as a member of the Board.

and by renumbering the remaining section to be numerically correct

Which was agreed to.

Thereupon, the report of the committee on General, Housing and Military Affairs, as amended, was agreed to and third reading was ordered.

Bill Amended; Third Reading Ordered

H. 674

Rep. Sheldon of Middlebury, for the committee on Fish, Wildlife & Water Resources, to which had been referred House bill, entitled

An act relating to public notice of wastewater discharges

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. chapter 47, subchapter 1A is added to read:

Subchapter 1A. Notification of Sewage and Wastewater Discharges

§ 1295. NOTIFICATION OF SEWAGE AND WASTEWATER

DISCHARGES

(a) Definitions. Notwithstanding the application of the definitions in section 1251 to the chapter as a whole, as used in this subchapter:

(1) “Collection system” means pipelines or conduits, pumping stations, force mains, and all other facilities used to collect or conduct sewage or stormwater, or both sewage and stormwater.

(2) “Combined sewer overflow” means an untreated or partially treated discharge to waters of the State from a combined sewer system outfall that results from a wet weather storm event.

(3) “Combined sewer system” means a collection system that was designed to convey sewage and stormwater through the same network of pipes to a treatment plant.

(4) “Dry weather flow” means flow in a sanitary sewer or combined sewer system during periods of dry weather.

(5) “Sanitary sewer system” means a collection system that conveys sewage and groundwater entering the collection system through inflow and infiltration to a wastewater treatment facility.

(6) “Separate storm sewer system” means a collection system that is designed to discharge stormwater and groundwater entering the collection system through inflow and infiltration to surface waters.

(7) “Sewage” means domestic, commercial, and industrial wastewater conveyed by a collection system.

(8) “Stormwater” means precipitation and snowmelt that does not infiltrate into soil, including material dissolved or suspended in it.

(9) “Untreated discharge” means:

(A) combined sewer overflows from a wastewater treatment facility;

(B) overflows from sanitary sewers and combined sewer systems that are part of a wastewater treatment facility during dry weather flows, which result in a discharge to waters of the State;

(C) upsets or bypasses around or within a wastewater treatment facility during dry or wet weather conditions that are due to factors unrelated to

a wet weather storm event and that result in a discharge of sewage that has not been fully treated to waters of the State; and

(D) discharges from a wastewater treatment facility to separate storm sewer systems.

(10) “Wastewater treatment facility” means a treatment plant, collection system, pump station, and attendant facilities permitted by the Secretary for the purpose of treating sewage.

(b) Public alert. An operator of a wastewater treatment facility shall as soon as possible, but no longer than one hour from discovery of an untreated discharge from the wastewater treatment facility, post on a publicly accessible electronic network, mobile application, or other electronic media designated by the Secretary an alert informing the public of the untreated discharge and its location.

(c) Agency notification.

(1) An operator of a wastewater treatment facility shall within 12 hours from discovery of an untreated discharge from the wastewater treatment facility notify the Secretary and the local health officer of the municipality where the facility is located of the untreated discharge. The operator shall notify the Secretary through use of the Department of Environmental Conservation’s online event reporting system. If, for any reason, the online event reporting system is not operable, the operator shall notify the Secretary via telephone or e-mail.

(2) A notification required by this subsection shall include:

(A) The specific location of each untreated discharge, including the body of water affected. For combined sewer overflows, the specific location of each untreated discharge means each outfall that has discharged during a wet weather storm event.

(B) Except for untreated discharges under subdivision (a)(9)(D) of this section, the date and approximate time the untreated discharge began.

(C) The date and approximate time the untreated discharge ended. If the untreated discharge is still ongoing at the time of reporting, the entity reporting the untreated discharge shall amend the report with the date and approximate time the untreated discharge ended within three business days of the untreated discharge ending.

(D) Except for untreated discharges under subdivision (a)(9)(D) of this section, the approximate total volume of sewage and, if applicable, stormwater that was released. If the approximate total volume is unknown at

the time of reporting, the entity reporting the untreated discharge shall amend the report with the approximate total volume within three business days.

(E) The cause of the untreated discharge.

(F) The person reporting the untreated discharge.

(G) Any other information deemed necessary by the Secretary.

(d) Notification of additional discharges. In addition to untreated discharges posted pursuant to subsection (c) of this section, the Secretary shall post a notification of other unpermitted discharges to waters of the State that may pose a threat to human health or the environment and that are identified by the Secretary. The Secretary's notification shall include the information required under subdivision (c)(2) of this section and shall be posted on the Secretary's online event reporting system no later than four hours from the discovery of an unpermitted discharge, except that if the unpermitted discharge is discovered between the hours of 9:00 p.m. and 5:00 a.m., the Secretary shall post the notification no later than 10:00 a.m. of that morning. The Secretary's notification shall identify the potential threat to the public health that may be posed by recreating in the waters where the unpermitted discharge occurred.

(e) Signage.

(1) Each combined sewer overflow outfall shall be marked with a permanent sign that identifies the outfall and warns of the potential threat to public health that may be posed by recreating in the waters at the outfall or downstream of the outfall during or after a wet weather storm event. The Secretary shall provide each municipality with a combined sewer overflow two signs for each outfall within the municipality. A municipality shall periodically inspect and maintain each sign marking a combined sewer overflow outfall and shall replace a sign if it is destroyed, removed, or no longer legible.

(2)(A) A municipality shall, within its jurisdiction or other geographic area specified by the Secretary, post temporary signs at public access areas downstream of:

(i) untreated discharges under subdivisions (a)(9)(B)–(D) of this section; and

(ii) other unpermitted discharges posted by the Secretary under subsection (d) of this section.

(B) The signs shall warn of the potential threat to public health that may be posed by recreating in the waters due to the untreated or unpermitted

discharge. The signs shall remain in place for 48 hours after the untreated or unpermitted discharge has stopped.

Sec. 2. 10 V.S.A. § 1278(e) is amended to read:

~~(e) Notice of certain discharges. The secretary of natural resources shall post publicly notice of an illegal discharge that may pose a threat to human health or the environment on its website within 24 hours of the agency's receipt of notification of the discharge. [Repealed.]~~

Sec. 3. 18 V.S.A. § 1222 is added to read:

§ 1222. CYANOBACTERIA MONITORING AND NOTIFICATION

(a) As used in this section:

(1) "Cyanobacteria" means photosynthetic bacteria that have two photosystems, produce molecular oxygen, and use water as an electron-donating substrate in photosynthesis, including microcystin, anatoxin, and cylindrospermopsin.

(2) "Waters" shall have the same meaning as used in 10 V.S.A. § 1251.

(b) The Commissioner of Health, in consultation with the Secretary of Natural Resources, shall coordinate efforts to monitor the presence of cyanobacteria in the waters of the State.

(c) The Department of Health shall maintain a publicly accessible Internet site that provides information concerning the presence of cyanobacteria in areas known to be used for recreation, including swimming or boating. Within one hour of a determination that the presence of cyanobacteria in a recreation area is a public health hazard, the Commissioner of Health shall conduct public outreach describing the area affected and the nature of the public health hazard in the area.

Sec. 4. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 3 (cyanobacteria monitoring) shall take effect on July 1, 2016.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Fish, Wildlife & Water Resources agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 747

Rep. Dickinson of St. Albans Town, for the committee on Corrections & Institutions, to which had been referred House bill, entitled

An act relating to the State Treasurer's authority to intercept State funding to a municipality or school district in default from a Municipal Bond Bank borrowing

Reported in favor of its passage when amended as follows:

In Sec. 1, by inserting the following after subsection (a):

(b) Any ~~moneys~~ monies in the custody of the ~~state treasurer~~ State Treasurer whether made available by reason of any grant, allocation, or appropriation by the United States of America or the ~~state~~ State or agencies thereof to assist any governmental unit in payment of its municipal bonds or revenue bonds ~~owned~~ acquired or held by the ~~bank~~ Bank, or required by the terms of any other law to be paid to holders or owners of municipal bonds or revenue bonds of a governmental unit upon failure or default of a governmental unit to pay the principal of or interest on its municipal bonds or revenue bonds when due and payable, shall, to the extent that those funds or ~~moneys~~ monies are applicable to municipal bonds or revenue bonds of a particular governmental unit and which are then ~~owned~~ acquired or held by the ~~bank~~ Bank and as to which that governmental unit has defaulted on payment of principal or interest when due, be paid and deposited by the ~~state treasurer~~ State Treasurer in the applicable reserve fund or funds and made available to the ~~bank~~ Bank.

and by striking out the following:

“* * *”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Corrections & Institutions agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 778

Rep. Purvis of Colchester, for the committee on Agriculture & Forest Products, to which had been referred House bill, entitled

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

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. chapter 66 is added to read:

CHAPTER 66. PRODUCE INSPECTION

§ 850. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2) “Farm” means lands that are owned or leased by a person engaged in any of the activities stated in 10 V.S.A. § 6001(22).

(3) “Produce” shall have the same meaning as used in 21 C.F.R. § 112.3.

(4) “Produce farm” means any farm engaged in the growing, harvesting, packing, or holding of produce.

(5) “Secretary” means the Secretary of Agriculture, Food and Markets.

§ 851. AUTHORITY; ENFORCEMENT

(a) The Secretary may enforce in the State the requirements of the rules adopted under the federal Food Safety Modernization Act, Public Law No. 111-353, for standards for growing, harvesting, packing, and holding of produce for human consumption, 21 C.F.R. part 112.

(b) The Agency may collaborate with the Vermont Department of Health regarding application of the federal Food Safety Modernization Act and the rules adopted thereunder for which the Agency and the Department may share regulatory authority.

§ 852. FARM INSPECTIONS

(a) The Secretary may inspect a produce farm at any time for the purposes of ensuring compliance with the federal standards for growing, harvesting, packing, and holding of produce for human consumption, 21 C.F.R. part 112, or rules adopted under this chapter.

(b) After inspection, the Secretary may issue an inspection certificate that shall include the date and place of inspection along with any other pertinent facts that the Secretary may require.

§ 853. RECORDS

The owner or operator of a produce farm shall maintain records required by the federal Food Safety Modernization Act, rules adopted thereunder, and rules adopted under this chapter and shall make those records available to the Agency upon request.

§ 854. RULES

The Secretary may adopt rules pursuant to 3 V.S.A. chapter 25 as may be necessary to implement this chapter.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

and that after passage the title of the bill be amended to read: "An act relating to State enforcement of the federal Food Safety Modernization Act"

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Agriculture & Forest Products agreed to and third reading ordered.

Bill Committed**H. 84**

House bill, entitled

An act relating to internet dating services

Appearing on the Calendar for action, was taken up and pending the question, shall the House concur in the Senate proposal of amendment? on motion of **Rep. Botzow of Pownal**, the bill was committed to the committee on Commerce & Economic Development.

**Committee Relieved of Consideration
and Bill Committed to Other Committee****S. 223**

Rep. Botzow of Pownal moved that the committee on Commerce & Economic Development be relieved of Senate bill, entitled

An act relating to regulating fantasy sports contests

And that the bill be committed to the committee on General, Housing & Military Affairs, which was agreed to.

Message from the Senate No. 24

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 190. An act relating to maintaining prescription drugs outside the original prescription container.

In the passage of which the concurrence of the House is requested.

Adjournment

At two o'clock and nineteen minutes in the afternoon, on motion of **Rep. Savage of Swanton**, the House adjourned until tomorrow at one o'clock in the afternoon.