

Journal of the House

Tuesday, April 5, 2016

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rutland Middle School eighth grade chorus.

Pledge of Allegiance

Page Josephine Moulton of Barre led the House in the Pledge of Allegiance.

Message from the Senate No. 36

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 considered bills originating in the House of the following titles:

H. 575. An act relating to eliminating the role of town service officers in administering General Assistance benefits.

H. 625. An act relating to extending the exemption from encumbrance on title of properties subject to a pretransition stormwater permit.

And has passed the same in concurrence.

The Senate has considered a bill originating in the House of the following title:

H. 538. An act relating to captive insurance companies.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

Message from the Senate No. 37

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 considered bill originating in the House of the following title:

H. 548. An act relating to extraordinary dividends for life insurers.

And has passed the same in concurrence.

The Senate has considered bill originating in the House of the following title:

H. 248. An act relating to miscellaneous revisions to the air pollution statutes.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

Message from the Senate No. 38

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 bills of the following titles:

S. 230. An act relating to improving the siting of energy projects.

S. 243. An act relating to combating opioid abuse in Vermont.

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

The Senate has on its part adopted Senate concurrent resolution of the following title:

S.C.R. 41. Senate concurrent resolution in memory of Manchester's pioneering developer Ben Hauben.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 302. House concurrent resolution congratulating the 2016 Burlington High School Seahorses Division I championship boys' basketball team.

H.C.R. 303. House concurrent resolution honoring Donald and Allison Hooper on their special agricultural, civic, educational, and entrepreneurial contributions to Vermont.

H.C.R. 304. House concurrent resolution honoring the Rutland Middle

School's 8th Grade Unity Team for an exceptional effort in developing and implementing its 2016 Mock Vermont Legislature Project.

H.C.R. 305. House concurrent resolution congratulating the United Church of Bethel on its bicentennial anniversary.

H.C.R. 306. House concurrent resolution congratulating recent Vermont winners of the Girl Scout Gold Award.

H.C.R. 307. House concurrent resolution recognizing the 2016 Middlebury Union High School Tigers boys' Nordic skiing team as the fastest Nordic skiers in the State of Vermont.

H.C.R. 308. House concurrent resolution congratulating Vinny Pigeon and Kasia Bilodeau as 2015 Special Olympics Vermont honorees.

H.C.R. 309. House concurrent resolution congratulating the first Vermont Career and Technical Education Presidential Scholar nominees.

H.C.R. 310. House concurrent resolution congratulating the 2016 and three-time Division I Essex Hornets championship girls' ice hockey team.

H.C.R. 311. House concurrent resolution designating March 30, 2016 as Alzheimer's Awareness and Advocacy Day in Vermont.

H.C.R. 312. House concurrent resolution congratulating the 2015 U-32 High School Raiders Division II championship girls' track and field team.

H.C.R. 313. House concurrent resolution congratulating the 2015 U-32 High School Raiders Division II championship boys' track and field team.

H.C.R. 314. House concurrent resolution congratulating the 2016 Essex High School gymnastics team on winning its 11th consecutive State championship.

H.C.R. 315. House concurrent resolution honoring Maurice Dickey Drysdale for his bold and dynamic leadership at the *Herald of Randolph* .

Message from the Senate No. 39

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 adopted joint resolution of the following title:

J.R.S. 50. Joint resolution relating to weekend adjournment.

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

House Bill Introduced

H. 883

Reps. Gonzalez of Winooski and Bissonnette of Winooski introduced a bill, entitled

An act relating to approval of amendments to the charter of the City of Winooski

Which was read the first time and referred to the committee on Government Operations.

Senate Bills Referred

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

S. 230

Senate bill, entitled

An act relating to improving the siting of energy projects;

To the committee on Natural Resources and Energy.

S. 243

Senate bill, entitled

An act relating to combating opioid abuse in Vermont;

To the committee on Human Services.

Bill Referred to Committee on Appropriations

H. 868

House bill, entitled

An act relating to miscellaneous economic development provisions

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Bill Amended; Consideration Interrupted by Recess

H. 93

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

An act relating to increasing the smoking age from 18 to 21 years of age

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

* * * Increasing Smoking Age to 19 Years of Age * * *

Sec. 1. 7 V.S.A. § 1003 is amended to read:

§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES;
TOBACCO PARAPHERNALIA; REQUIREMENTS;
PROHIBITIONS

(a) A person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any person younger than ~~18~~ 19 years of age.

(b) Beginning August 28, 1997, vending machines selling tobacco products, tobacco substitutes, or tobacco paraphernalia are prohibited. This subsection shall not apply to a vending machine that is located in a commercial establishment in which by law no person younger than ~~18~~ 19 years of age is permitted to enter at any time. A single vending machine may not be used to sell other commodities in combination with tobacco products, tobacco substitutes, or tobacco paraphernalia. A violation of this subsection shall result in the seizure of the vending machine.

(c) Beginning January 1, 2001, and subject to receiving any necessary exemption from preemption from the U.S. Food and Drug Administration, all vending machines selling tobacco products are prohibited.

(d) No person holding a tobacco license shall display or store tobacco products or tobacco substitutes where those products are accessible to consumers without direct assistance by the sales personnel. This subsection shall not apply to the following:

(1) ~~A~~ a display of tobacco products that is located in a commercial establishment in which by law no person younger than ~~18~~ 19 years of age is permitted to enter at any time;

(2) ~~Cigarettes~~ cigarettes in unopened cartons and smokeless tobacco in unopened multipack containers of 10 or more packages, any of which shall be displayed in plain view and under the control of a responsible employee so that removal of the cartons or multipacks from the display can be readily observed by that employee; ~~or~~

(3) ~~Cigars~~ cigars and pipe tobacco stored in a humidor on the sales counter in plain view and under the control of a responsible employee so that the removal of these products from the humidor can be readily observed by that employee.

Sec. 2. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER ~~18~~ 19 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a) A person under ~~18~~ 19 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~~ 19 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~~ 19 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. 3. 7 V.S.A. § 1007 is amended to read:

§ 1007. FURNISHING TOBACCO TO PERSONS UNDER ~~18~~ 19 YEARS OF AGE

An individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under ~~18~~ 19 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

Sec. 4. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(4) Violations of 7 V.S.A. § 1005(a), relating to possession of tobacco products by a person ~~less than 18~~ under 19 years of age.

(5) Violations of 7 V.S.A. § 1007, relating to furnishing tobacco products to a person under ~~the age of 18~~ 19 years of age.

* * *

Sec. 5. 7 V.S.A. § 667(c) is amended to read:

(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) of this title, relating to purchase of tobacco products by a person less than ~~18~~ 19 years of age.

* * * Increasing Smoking Age to 20 Years of Age * * *

Sec. 6. 7 V.S.A. § 1003 is amended to read:

§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES;
TOBACCO PARAPHERNALIA; REQUIREMENTS;
PROHIBITIONS

(a) A person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any person younger than ~~19~~ 20 years of age.

(b) Beginning August 28, 1997, vending machines selling tobacco products, tobacco substitutes, or tobacco paraphernalia are prohibited. This subsection shall not apply to a vending machine that is located in a commercial establishment in which by law no person younger than ~~19~~ 20 years of age is permitted to enter at any time. A single vending machine may not be used to sell other commodities in combination with tobacco products, tobacco substitutes, or tobacco paraphernalia. A violation of this subsection shall result in the seizure of the vending machine.

(c) Beginning January 1, 2001, and subject to receiving any necessary exemption from preemption from the U.S. Food and Drug Administration, all vending machines selling tobacco products are prohibited.

(d) No person holding a tobacco license shall display or store tobacco products or tobacco substitutes where those products are accessible to consumers without direct assistance by the sales personnel. This subsection shall not apply to the following:

(1) a display of tobacco products that is located in a commercial establishment in which by law no person younger than ~~19~~ 20 years of age is permitted to enter at any time;

* * *

Sec. 7. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER ~~19~~ 20 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a) A person under ~~19~~ 20 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 ~~19~~ 20 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. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

(b) A person under ~~19~~ 20 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. 8. 7 V.S.A. § 1007 is amended to read:

§ 1007. FURNISHING TOBACCO TO PERSONS UNDER ~~19~~ 20 YEARS OF AGE

An individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under ~~19~~ 20 years of age shall be subject

to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

Sec. 9. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(4) Violations of 7 V.S.A. § 1005(a), relating to possession of tobacco products by a person under ~~19~~ 20 years of age.

(5) Violations of 7 V.S.A. § 1007, relating to furnishing tobacco products to a person under ~~19~~ 20 years of age.

* * *

Sec. 10. 7 V.S.A. § 667(c) is amended to read:

(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) of this title, relating to purchase of tobacco products by a person less than ~~19~~ 20 years of age.

* * * Increasing Smoking Age to 21 Years of Age * * *

Sec. 11. 7 V.S.A. § 1003 is amended to read:

§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES;
TOBACCO PARAPHERNALIA; REQUIREMENTS;
PROHIBITIONS

(a) A person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any person younger than ~~20~~ 21 years of age.

(b) Beginning August 28, 1997, vending machines selling tobacco products, tobacco substitutes, or tobacco paraphernalia are prohibited. This subsection shall not apply to a vending machine that is located in a commercial establishment in which by law no person younger than ~~20~~ 21 years of age is permitted to enter at any time. A single vending machine may not be used to sell other commodities in combination with tobacco products, tobacco substitutes, or tobacco paraphernalia. A violation of this subsection shall result in the seizure of the vending machine.

(c) Beginning January 1, 2001, and subject to receiving any necessary exemption from preemption from the U.S. Food and Drug Administration, all vending machines selling tobacco products are prohibited.

(d) No person holding a tobacco license shall display or store tobacco products or tobacco substitutes where those products are accessible to consumers without direct assistance by the sales personnel. This subsection shall not apply to the following:

(1) a display of tobacco products that is located in a commercial establishment in which by law no person younger than ~~20~~ 21 years of age is permitted to enter at any time;

* * *

Sec. 12. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER ~~20~~ 21 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a) A person under ~~20~~ 21 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 ~~20~~ 21 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. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

(b) A person under ~~20~~ 21 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. 13. 7 V.S.A. § 1007 is amended to read:

§ 1007. FURNISHING TOBACCO TO PERSONS UNDER ~~20~~ 21 YEARS OF AGE

An individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under ~~20~~ 21 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A.

chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

Sec. 14. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(4) Violations of 7 V.S.A. § 1005(a), relating to possession of tobacco products by a person under ~~20~~ 21 years of age.

(5) Violations of 7 V.S.A. § 1007, relating to furnishing tobacco products to a person under ~~20~~ 21 years of age.

* * *

Sec. 15. 7 V.S.A. § 667(c) is amended to read:

(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) of this title, relating to purchase of tobacco products by a person less than ~~20~~ 21 years of age.

* * * Effective Dates * * *

Sec. 16. EFFECTIVE DATES

(a) Secs. 1–5 (increasing smoking age to 19) and this section shall take effect on January 1, 2017.

(b) Secs. 6–10 (increasing smoking age to 20) shall take effect on January 1, 2018.

(c) Secs. 11–15 (increasing smoking age to 21) shall take effect on January 1, 2019.

Rep. Till of Jericho, for the committee on Ways & Means, recommended the bill ought to pass when amended as recommended by the committee on Human Services, and when further amended as follows:

First: By inserting three new sections to be Secs. 5a–5c to read as follows:

Sec. 5a. 32 V.S.A. § 7771(d) is amended to read:

(d) The tax imposed under this section shall be at the rate of ~~154~~ 160.5 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 5b. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at ~~\$2.57~~ \$2.68 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.57~~ \$2.68 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$3.08~~ \$3.21 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 5c. 32V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retail dealer at 12:01 a.m. on ~~July 1, 2015~~ January 1, 2017, but shall not apply to retail dealers who hold less than \$500.00 in wholesale value of such snuff. Each retail dealer subject to the tax shall, on or before ~~July 25, 2015~~ January 25, 2017, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. on ~~July 1, 2015~~ January 1, 2017, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before ~~August 25, 2015~~

February 25, 2017, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this State who is either a wholesaler, or a retailer who at 12:01 a.m. on ~~July 1, 2015~~ January 1, 2017, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retail dealer at 12:01 a.m. on ~~July 1, 2015~~ January 1, 2017, and on which cigarette stamps have been affixed before ~~July 1, 2015~~ January 1, 2017. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on ~~July 1, 2015~~ January 1, 2017, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.33~~ \$0.13 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before ~~July 25, 2015~~ January 25, 2017, file a report to the Commissioner in such form as the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on ~~July 1, 2015~~ January 1, 2017, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before ~~July 25, 2015~~ February 25, 2017, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

Second: By inserting three new sections to be Secs. 10a–10c to read as follows:

Sec. 10a. 32 V.S.A. § 7771(d) is amended to read:

(d) The tax imposed under this section shall be at the rate of ~~160.5~~ 167 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own

tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 10b. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at ~~\$2.68~~ \$2.78 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.68~~ \$2.78 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$3.21~~ \$3.34 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 10c. 32V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retail dealer at 12:01 a.m. on January 1, ~~2017~~ 2018, but shall not apply to retail dealers who hold less than \$500.00 in wholesale value of

such snuff. Each retail dealer subject to the tax shall, on or before January 25, ~~2017~~ 2018, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. on January 1, ~~2017~~ 2018, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before February 25, ~~2017~~ 2018, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this State who is either a wholesaler, or a retailer who at 12:01 a.m. on January 1, ~~2017~~ 2018, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retail dealer at 12:01 a.m. on January 1, ~~2017~~ 2018, and on which cigarette stamps have been affixed before January 1, ~~2017~~ 2018. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on January 1, ~~2017~~ 2018, and not yet affixed to a cigarette package, and the tax shall be at the rate of \$0.13 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before January 25, ~~2017~~ 2018, file a report to the Commissioner in such form as the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on January 1, ~~2017~~ 2018, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before January 25, ~~2017~~ 2018, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

Third: By inserting three new sections to be Secs. 15a–15c to read as follows:

Sec. 15a. 32 V.S.A. § 7771(d) is amended to read:

(d) The tax imposed under this section shall be at the rate of ~~167~~ 173.5 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 15b. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at ~~\$2.78~~ \$2.89 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.78~~ \$2.89 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$3.34~~ \$3.47 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 15c. 32V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession

or control of the retail dealer at 12:01 a.m. on January 1, ~~2018~~ 2019, but shall not apply to retail dealers who hold less than \$500.00 in wholesale value of such snuff. Each retail dealer subject to the tax shall, on or before January 25, ~~2018~~ 2019, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. on January 1, ~~2018~~ 2019, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before February 25, ~~2018~~ 2019, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this State who is either a wholesaler, or a retailer who at 12:01 a.m. on January 1, ~~2018~~ 2019, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retail dealer at 12:01 a.m. on January 1, ~~2018~~ 2019, and on which cigarette stamps have been affixed before January 1, ~~2018~~ 2019. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on January 1, ~~2018~~ 2019, and not yet affixed to a cigarette package, and the tax shall be at the rate of \$0.13 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before January 25, ~~2018~~ 2019, file a report to the Commissioner in such form as the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on January 1, ~~2018~~ 2019, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before January 25, ~~2018~~ 2019, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

Fourth: By striking Sec. 16 (effective dates) in its entirety and inserting in lieu thereof the following:

Sec. 16. EFFECTIVE DATES

(a) Secs. 1–5c (increasing smoking age to 19 and increasing tobacco taxes) and this section shall take effect on January 1, 2017.

(b) Secs. 6–10c (increasing smoking age to 20 and increasing tobacco taxes) shall take effect on January 1, 2018.

(c) Secs. 11–15c (increasing smoking age to 21 and increasing tobacco taxes) shall take effect on January 1, 2019.

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

Pending the question, Shall the report of the committee on Human Services be amended as recommended by the committee on Ways and Means? **Rep. Hubert of Milton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the committee on Human Services be amended as recommended by the committee on Ways and Means? was decided in the affirmative. Yeas, 75. Nays, 68.

Those who voted in the affirmative are:

Ancel of Calais	Greshin of Warren	Morris of Bennington
Bancroft of Westford	Haas of Rochester	Mrowicki of Putney
Bartholomew of Hartland	Head of South Burlington	Nuovo of Middlebury
Berry of Manchester	Hooper of Montpelier	O'Brien of Richmond
Botzow of Pownal	Jerman of Essex	Olsen of Londonderry
Branagan of Georgia *	Jewett of Ripton	O'Sullivan of Burlington
Briglin of Thetford	Johnson of South Hero	Partridge of Windham
Burke of Brattleboro	Kitzmiller of Montpelier	Patt of Worcester
Buxton of Tunbridge	Klein of East Montpelier	Poirier of Barre City
Clarkson of Woodstock	Krebs of South Hero	Potter of Clarendon
Cole of Burlington	Krowinski of Burlington	Pugh of South Burlington
Copeland-Hanzas of Bradford	Lalonde of South Burlington	Rachelson of Burlington
Dakin of Chester	Lanpher of Vergennes	Russell of Rutland City
Dakin of Colchester	Lenes of Shelburne	Ryerson of Randolph
Deen of Westminster *	Lippert of Hinesburg	Sharpe of Bristol
Donovan of Burlington	Long of Newfane	Stevens of Waterbury
Emmons of Springfield	Lucke of Hartford	Stuart of Brattleboro
Evans of Essex	Macaig of Williston	Sullivan of Burlington
Frank of Underhill	Manwaring of Wilmington	Sweaney of Windsor
French of Randolph	Masland of Thetford	Till of Jericho
Gage of Rutland City	McCormack of Burlington	Toleno of Brattleboro
Grad of Moretown	McCullough of Williston	Toll of Danville
	Miller of Shaftsbury	Townsend of South

Burlington	Webb of Shelburne	Yantachka of Charlotte
Troiano of Stannard	Wood of Waterbury	Zagar of Barnard
Walz of Barre City	Woodward of Johnson	

Those who voted in the negative are:

Baser of Bristol	Feltus of Lyndon	Myers of Essex
Batchelor of Derby	Fiske of Enosburgh	Parent of St. Albans Town
Beck of St. Johnsbury	Forguites of Springfield	Pearce of Richford
Beyor of Highgate	Gamache of Swanton	Pearson of Burlington
Bissonnette of Winooski	Graham of Williamstown	Purvis of Colchester
Brennan of Colchester	Hebert of Vernon	Quimby of Concord
Burditt of West Rutland	Helm of Fair Haven	Ram of Burlington
Canfield of Fair Haven	Higley of Lowell	Scheuermann of Stowe
Carr of Brandon	Hubert of Milton *	Shaw of Pittsford
Chesnut-Tangerman of Middletown Springs	Huntley of Cavendish	Sheldon of Middlebury
Condon of Colchester	Juskiewicz of Cambridge	Sibilia of Dover
Connor of Fairfield	Keenan of St. Albans City	Smith of New Haven
Conquest of Newbury	Komline of Dorset	Strong of Albany
Corcoran of Bennington	LaClair of Barre Town	Tate of Mendon
Cupoli of Rutland City	Lawrence of Lyndon	Terenzini of Rutland Town
Dame of Essex *	Lefebvre of Newark	Trieber of Rockingham
Davis of Washington	Lewis of Berlin	Turner of Milton *
Devereux of Mount Holly	Marcotte of Coventry	Van Wyck of Ferrisburgh
Dickinson of St. Albans Town	Martel of Waterford	Viens of Newport City
Donahue of Northfield	Martin of Wolcott	Willhoit of St. Johnsbury
Eastman of Orwell	McCoy of Poultney	Wright of Burlington
Fagan of Rutland City	McFaun of Barre Town	Young of Glover
	Morrissey of Bennington	
	Murphy of Fairfax	

Those members absent with leave of the House and not voting are:

Browning of Arlington	Fields of Bennington	Savage of Swanton
Christie of Hartford	Gonzalez of Winooski	Shaw of Derby

Rep. Branagan of Georgia explained her vote as follows:

“Mr. Speaker:

Reducing the number of young people who smoke will lower health care spending. Vermont spends \$348 million annually on tobacco related health care including \$87 million in Medicaid expenses. Pregnant women experience adverse maternal fetal and infant outcomes that are negative. Preterm and low weight neonatal infants cost as much as \$63,000. This is not a tax, Mr. Speaker, this is a way to make Vermonters healthier.”

Rep. Dame of Essex explained his vote as follows:

“Mr. Speaker:

I voted No because this revenue strategy will require retailers across the state to perform a labor intensive inventory every year for the next three years. They have no choice on that cost. Vermont's local stores have already been burdened enough. There must be a better way.”

Rep. Deen of Westminster explained his vote as follows:

“Mr. Speaker:

This is a self-imposed tax. If you don't want to pay the tax, don't smoke.”

Rep. Hubert of Milton explained his vote as follows:

“Mr. Speaker:

I vote no today on H.93 as this is not a health bill but just another tax and anti-business bill. We just prove every day that we do not want small businesses in the state of Vermont.”

Rep. Turner of Milton explained his vote as follows:

“Mr. Speaker:

Day 92 of the session and yet another tax increase. Today's \$2.7 million in tax increases in addition to the numerous others previously approved by this body this session total well over \$50 million in new or additional taxes. Combine this with last year's \$50 million and the grand total for the biennium is well over \$100 million. Vermonters can't afford it! Thank you.”

Pending the question, Shall the bill be amended as recommended by Human Services, as amended? **Rep. Poirier of Barre City** moved to amend the report of the committee on Human Services, as amended as follows:

First: By adding a new section to be Sec. 16 to read as follows:

Sec. 16. DEPARTMENT OF LIQUOR CONTROL; COMPLIANCE TESTING; REPORT

On or before January 15, 2017, the Department of Liquor Control shall report to the House Committees on Health Care, on Human Services, and on General, Housing and Military Affairs and the Senate Committees on Health and Welfare and on Economic Development, Housing and General Affairs regarding any necessary modifications it has made or plans to make to its compliance testing program for tobacco licensees in light of the increase to the smoking age set forth in this act.

and by renumbering the existing Sec. 16, effective dates, to be Sec. 17

Second: In the newly renumbered Sec. 17, effective dates, in subsection (a), by striking out "and this section" and by adding a subsection (d) to read as follows:

(d) Sec. 16 (Department of Liquor Control; compliance testing) and this section shall take effect on passage.

Which was agreed to.

Pending the question, shall the bill be amended as recommended by the committee on Human Services, as amended? **Rep. Wright of Burlington** moved to amend the report of the committee on Human Services, as amended as follows:

First: By striking out Sec. 2, 7 V.S.A. § 1005, in its entirety and inserting in lieu thereof the following:

Sec. 2. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER ~~18~~ 19 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a)(1) A person under ~~18~~ 19 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.

(2) A person under ~~18~~ 19 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia.

(3) 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~~. A person who violates subdivision (1) of this subsection shall be further subject to a civil penalty of \$25.00 and a person who violates subdivision (2) of this subsection shall be subject to a civil penalty of not more than \$200.00. 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. [Repealed.]~~

Second: By striking out Sec. 7, 7 V.S.A. § 1005, in its entirety and inserting in lieu thereof the following:

Sec. 7. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER ~~19~~ 20 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a)(1) A person under ~~19~~ 20 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.

(2) A person under ~~19~~ 20 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia.

* * *

Third: By striking out Sec. 12, 7 V.S.A. § 1005 in its entirety and inserting in lieu thereof the following:

Sec. 12. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER ~~20~~ 21 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a)(1) A person under ~~20~~ 21 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.

(2) A person under ~~20~~ 21 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia.

* * *

Pending the question, Shall the report of the committee on Human Services, as amended, be amended as recommended by Rep. Wright of Burlington? **Rep. Hubert of Milton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the committee on Human Services, as amended, be amended as recommended by Rep. Wright of Burlington? was decided in the affirmative. Yeas, 136. Nays, 9.

Those who voted in the affirmative are:

Ancel of Calais	Dakin of Colchester	Higley of Lowell
Bancroft of Westford	Dame of Essex	Hooper of Montpelier
Bartholomew of Hartland	Davis of Washington	Hubert of Milton
Baser of Bristol	Deen of Westminster	Huntley of Cavendish
Batchelor of Derby	Devereux of Mount Holly	Jerman of Essex
Beck of St. Johnsbury	Dickinson of St. Albans	Johnson of South Hero
Berry of Manchester	Town	Juskiewicz of Cambridge
Bissonnette of Winooski	Donovan of Burlington	Keenan of St. Albans City
Botzow of Pownal	Eastman of Orwell	Kitzmiller of Montpelier
Branagan of Georgia	Emmons of Springfield	Klein of East Montpelier
Brennan of Colchester	Evans of Essex	Komline of Dorset
Briglin of Thetford	Fagan of Rutland City	Krebs of South Hero
Burke of Brattleboro	Feltus of Lyndon	Krowinski of Burlington
Buxton of Tunbridge	Fiske of Enosburgh	LaClair of Barre Town
Canfield of Fair Haven	Forguites of Springfield	Lalonde of South Burlington
Carr of Brandon	Frank of Underhill	Lanpher of Vergennes
Chesnut-Tangerman of	French of Randolph	Lawrence of Lyndon
Middletown Springs	Gage of Rutland City	Lefebvre of Newark
Clarkson of Woodstock	Gamache of Swanton	Lenes of Shelburne
Condon of Colchester	Gonzalez of Winooski	Lewis of Berlin
Connor of Fairfield	Grad of Moretown	Lippert of Hinesburg
Conquest of Newbury	Graham of Williamstown	Long of Newfane
Copeland-Hanzas of	Greshin of Warren	Lucke of Hartford
Bradford	Haas of Rochester	Manwaring of Wilmington
Corcoran of Bennington	Head of South Burlington	Marcotte of Coventry
Cupoli of Rutland City	Hebert of Vernon	Martel of Waterford
Dakin of Chester	Helm of Fair Haven	Martin of Wolcott

Masland of Thetford	Potter of Clarendon	Terenzini of Rutland Town
McCormack of Burlington	Pugh of South Burlington	Till of Jericho
McCoy of Poultney	Purvis of Colchester	Toleno of Brattleboro
McFaun of Barre Town	Quimby of Concord	Toll of Danville
Miller of Shaftsbury	Rachelson of Burlington	Townsend of South Burlington
Morris of Bennington	Russell of Rutland City	Trieber of Rockingham
Morrissey of Bennington	Ryerson of Randolph	Troiano of Stannard
Mrowicki of Putney	Scheuermann of Stowe	Turner of Milton
Murphy of Fairfax	Sharpe of Bristol	Van Wyck of Ferrisburgh
Myers of Essex	Shaw of Pittsford	Viens of Newport City
Nuovo of Middlebury	Shaw of Derby	Walz of Barre City
O'Brien of Richmond	Sheldon of Middlebury	Webb of Shelburne
Olsen of Londonderry	Sibilia of Dover	Willhoit of St. Johnsbury
O'Sullivan of Burlington	Smith of New Haven	Wood of Waterbury
Parent of St. Albans Town	Stevens of Waterbury	Woodward of Johnson
Partridge of Windham	Strong of Albany	Wright of Burlington *
Patt of Worcester	Stuart of Brattleboro	Yantachka of Charlotte
Pearce of Richford	Sullivan of Burlington	Zagar of Barnard
Pearson of Burlington	Sweaney of Windsor	
Poirier of Barre City	Tate of Mendon	

Those who voted in the negative are:

Beyor of Highgate	Donahue of Northfield *	McCullough of Williston
Burditt of West Rutland	Jewett of Ripton	Ram of Burlington
Cole of Burlington	Macaig of Williston	Young of Glover

Those members absent with leave of the House and not voting are:

Browning of Arlington	Fields of Bennington
Christie of Hartford	Savage of Swanton

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

I support this change but it now becomes inconsistent with the slap on the wrist for misrepresenting one’s age to purchase alcohol. That makes no sense, and I cannot support the discrepancy.”

Rep. Wright of Burlington explained his vote as follows:

“Mr. Speaker:

This vote is one small positive vote for small business and their employees across the state and a recognition that those that set out to break the law should pay a significant fine, rather than a ‘slap’ on the wrist.”

Pending the question, Shall the bill be amended as recommended by the committee on Human Services, as amended? **Rep. Helm of Fair Haven**

moved to amend the report of the committee on Human Services, as amended as follows:

First: By adding a reader assistance heading and two new sections to be Secs. 16 and 17 to read as follows:

* * * Maintaining Smoking Age at 18 Years of Age for Military * * *

Sec. 16. 7 V.S.A. § 1013 is added to read:

§ 1013. SMOKING AGE FOR MEMBERS OF THE U.S. ARMED FORCES

(a) As used in this section, "U.S. Armed Forces" means the U.S. Army, Navy, Marine Corps, Air Force, or Coast Guard, a reserve component thereof, or the National Guard of this State or another state.

(b) Notwithstanding any provision of section 1003 of this title to the contrary, a person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any current or former member of the U.S. Armed Forces younger than 18 years of age.

(c) For current or former members of the U.S. Armed Forces under 21 years of age purchasing tobacco products, tobacco substitutes, or tobacco paraphernalia, proper proof of age pursuant to section 1004 of this title shall be a photographic U.S. Military identification card showing the person is a current member of the U.S. Armed Forces or a photographic identification card issued by the U.S. Department of Veterans Affairs showing the person is a veteran of the U.S. Armed Forces. A U.S. Military dependent's identification and privilege card shall not constitute proper proof under this subsection.

(d)(1) Notwithstanding any provision of section 1005 of this title to the contrary, a current or former member of the U.S. Armed Forces 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 current or former member of the U.S. Armed Forces under 18 years of age who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this subdivision is 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.

(2) Notwithstanding any provision of section 1005 of this title to the contrary, a current or former member of the U.S. Armed Forces 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 current or

former member of the U.S. Armed Forces 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.

(3) An action under subdivision (1) or (2) of this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

(e) Notwithstanding any provision of section 1007 of this title to the contrary, an individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a current or former member of the U.S. Armed Forces under 18 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

Sec. 17. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(27) Violations of 7 V.S.A. § 1013, relating to possession of tobacco products by a current or former member of the U.S. Armed Forces under 18 years of age and to furnishing tobacco products to a current or former member of the U.S. Armed Forces under 18 years of age.

and by renumbering the existing Sec. 16, effective dates, to be Sec. 18

Second: By striking out Sec. 5, 7 V.S.A. § 667(c), in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. 7 V.S.A. § 667(c) is amended to read:

(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) or 1013(d) of this title, relating to purchase of tobacco products by a person ~~less than 18 years of~~ under the legal age.

Third: By striking out Secs. 10 and 15 in their entirety and inserting in lieu thereof “[Deleted.]”

Fourth: In the renumbered Sec. 18, effective dates, in subsection (a), following the parenthetical, by inserting “, Secs. 16–17 (smoking age for military).”; in subsection (b), by striking out “Secs. 6–10” and inserting in lieu thereof “Secs. 6–9”; and in subsection (c), by striking out “Secs. 11–15” and inserting in lieu thereof “Secs. 11–14”

Pending the question, Shall the report of the committee on Human Services, as amended, be amended as recommended by Rep. Helm of Fair Haven? **Rep. Helm of Fair Haven** demanded the Yeas and Nays, which demand was sustained by the Constitutional number.

Recess

Pending the call of the roll, at twelve o'clock noon the Speaker declared a recess until two o'clock and fifteen minutes in the afternoon.

At two o'clock and fifteen minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed and Third Reading Ordered

H. 93

Consideration resumed on House bill, entitled

An act relating to increasing the smoking age from 18 to 21 years of age;

Thereupon, **Rep. Helm of Fair Haven** moved to suspend the rules and to call the roll from N to Z and then M to A in reverse order, which was disagreed to on a Division vote. Yeas, 69. Nays, 40. A three-quarters vote of 82 needed to suspend the rules.

Thereupon, the Clerk proceeded to call the roll, and the question, Shall the report of the committee on Human Services, as amended be amended as recommended by Rep. Helm of Fair Haven? was decided in the negative. Yeas, 70. Nays, 72.

Those who voted in the affirmative are:

Bancroft of Westford	Devereux of Mount Holly	Kitzmiller of Montpelier
Baser of Bristol	Dickinson of St. Albans	Komline of Dorset
Batchelor of Derby	Town	Krebs of South Hero
Beyor of Highgate	Donahue of Northfield	LaClair of Barre Town
Bissonnette of Winooski	Eastman of Orwell	Lawrence of Lyndon
Branagan of Georgia	Fagan of Rutland City	Lefebvre of Newark
Brennan of Colchester	Fiske of Enosburgh	Lewis of Berlin
Burditt of West Rutland	Forguites of Springfield	Marcotte of Coventry
Canfield of Fair Haven	Gage of Rutland City	Martel of Waterford
Carr of Brandon	Gamache of Swanton	Masland of Thetford
Condon of Colchester	Graham of Williamstown	McCormack of Burlington
Connor of Fairfield	Hebert of Vernon	McCoy of Poultney
Conquest of Newbury	Helm of Fair Haven	McFaun of Barre Town
Corcoran of Bennington	Higley of Lowell	Morrissey of Bennington
Cupoli of Rutland City	Hubert of Milton	Murphy of Fairfax
Dakin of Colchester	Huntley of Cavendish	Myers of Essex
Dame of Essex	Juskiewicz of Cambridge	Parent of St. Albans Town

Pearce of Richford	Shaw of Derby	Turner of Milton
Purvis of Colchester	Sibilia of Dover	Van Wyck of Ferrisburgh
Quimby of Concord	Smith of New Haven	Viens of Newport City
Ram of Burlington	Strong of Albany	Willhoit of St. Johnsbury
Russell of Rutland City	Tate of Mendon	Wright of Burlington
Scheuermann of Stowe	Terenzini of Rutland Town	Young of Glover
Shaw of Pittsford	Trieber of Rockingham	

Those who voted in the negative are:

Ancel of Calais	Grad of Moretown	O'Brien of Richmond
Bartholomew of Hartland *	Greshin of Warren	Partridge of Windham
Beck of St. Johnsbury	Haas of Rochester	Patt of Worcester
Berry of Manchester	Head of South Burlington	Pearson of Burlington
Botzow of Pownal	Hooper of Montpelier	Poirier of Barre City
Briglin of Thetford	Jerman of Essex	Potter of Clarendon
Browning of Arlington	Jewett of Ripton	Pugh of South Burlington
Burke of Brattleboro	Johnson of South Hero	Rachelson of Burlington
Buxton of Tunbridge	Keenan of St. Albans City	Ryerson of Randolph
Chesnut-Tangerman of Middletown Springs	Klein of East Montpelier	Sharpe of Bristol
Clarkson of Woodstock	Krowinski of Burlington	Sheldon of Middlebury
Cole of Burlington	Lalonde of South Burlington	Stevens of Waterbury
Copeland-Hanzas of Bradford	Lanpher of Vergennes	Stuart of Brattleboro
Dakin of Chester	Lenes of Shelburne	Sullivan of Burlington
Davis of Washington	Lippert of Hinesburg	Sweaney of Windsor
Deen of Westminster	Long of Newfane	Till of Jericho
Donovan of Burlington	Lucke of Hartford	Townsend of South Burlington
Emmons of Springfield	Macaig of Williston	Troiano of Stannard
Evans of Essex	Manwaring of Wilmington	Walz of Barre City
Feltus of Lyndon	Martin of Wolcott	Webb of Shelburne
Frank of Underhill	McCullough of Williston	Wood of Waterbury
French of Randolph	Miller of Shaftsbury	Woodward of Johnson
Gonzalez of Winooski	Morris of Bennington	Yantachka of Charlotte
	Mrowicki of Putney	Zagar of Barnard
	Nuovo of Middlebury	

Those members absent with leave of the House and not voting are:

Christie of Hartford	O'Sullivan of Burlington	Toll of Danville
Fields of Bennington	Savage of Swanton	
Olsen of Londonderry	Toleno of Brattleboro	

Rep. Bartholomew of Hartland explained his vote as follows:

“Mr. Speaker:

This is not a bill about supporting young Americans who serve our country in the armed forces. This is a bill about health and about the increased tendency of young people to become dependent on a dangerous product. There

is nothing about the physiology, judgement, brain chemistry, or immunity to adverse health effects of military members that would warrant an exemption to Vermont's minimum smoking age.”

Pending the question, Shall the bill be amended as recommended by the committee on Human Services, as amended? **Rep. Hubert of Milton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by the committee on Human Services, as amended? was decided in the affirmative. Yeas, 84. Nays, 61.

Those who voted in the affirmative are:

Ancel of Calais	Grad of Moretown	Nuovo of Middlebury
Bancroft of Westford *	Greshin of Warren	O'Brien of Richmond
Bartholomew of Hartland	Haas of Rochester	Olsen of Londonderry
Berry of Manchester	Head of South Burlington	O'Sullivan of Burlington
Bissonnette of Winooski	Hooper of Montpelier	Partridge of Windham
Botzow of Pownal	Jerman of Essex	Patt of Worcester
Branagan of Georgia	Jewett of Ripton	Poirier of Barre City *
Briglin of Thetford	Johnson of South Hero	Potter of Clarendon
Browning of Arlington	Keenan of St. Albans City	Pugh of South Burlington
Burke of Brattleboro	Kitzmiller of Montpelier	Rachelson of Burlington
Buxton of Tunbridge	Klein of East Montpelier	Russell of Rutland City
Chesnut-Tangerman of Middletown Springs	Krebs of South Hero	Ryerson of Randolph
Clarkson of Woodstock	Krowinski of Burlington	Sharpe of Bristol
Connor of Fairfield *	LaClair of Barre Town	Sheldon of Middlebury
Copeland-Hanzas of Bradford	Lalonde of South Burlington	Stevens of Waterbury
Dakin of Chester	Lanpher of Vergennes	Stuart of Brattleboro
Dakin of Colchester	Lenes of Shelburne	Sullivan of Burlington
Deen of Westminster	Lippert of Hinesburg	Sweaney of Windsor
Devereux of Mount Holly	Long of Newfane	Till of Jericho *
Donovan of Burlington	Lucke of Hartford *	Toleno of Brattleboro
Emmons of Springfield	Macaig of Williston	Townsend of South Burlington
Evans of Essex	Manwaring of Wilmington	Troiano of Stannard
Fagan of Rutland City	Martin of Wolcott	Walz of Barre City
Frank of Underhill	Masland of Thetford	Webb of Shelburne
French of Randolph	McCormack of Burlington	Wood of Waterbury
Gage of Rutland City	McCullough of Williston	Woodward of Johnson
Gonzalez of Winooski	Miller of Shaftsbury	Yantachka of Charlotte
	Morris of Bennington *	Zagar of Barnard *
	Mrowicki of Putney	

Those who voted in the negative are:

Baser of Bristol	Brennan of Colchester	Cole of Burlington *
Batchelor of Derby	Burditt of West Rutland *	Condon of Colchester
Beck of St. Johnsbury	Canfield of Fair Haven	Conquest of Newbury
Beyor of Highgate	Carr of Brandon	Corcoran of Bennington

Cupoli of Rutland City	Juskiewicz of Cambridge	Ram of Burlington
Dame of Essex	Komline of Dorset	Scheuermann of Stowe
Davis of Washington	Lawrence of Lyndon	Shaw of Pittsford
Dickinson of St. Albans Town	Lefebvre of Newark	Shaw of Derby
Donahue of Northfield *	Lewis of Berlin	Sibilia of Dover
Eastman of Orwell	Marcotte of Coventry	Smith of New Haven
Feltus of Lyndon	Martel of Waterford	Strong of Albany
Fiske of Enosburgh	McCoy of Poultney	Tate of Mendon
Forguites of Springfield	McFaun of Barre Town *	Terenzini of Rutland Town
Gamache of Swanton	Morrissey of Bennington	Trieber of Rockingham
Graham of Williamstown	Murphy of Fairfax	Turner of Milton
Hebert of Vernon	Myers of Essex	Van Wyck of Ferrisburgh
Helm of Fair Haven	Parent of St. Albans Town	Viens of Newport City
Higley of Lowell	Pearce of Richford	Willhoit of St. Johnsbury
Hubert of Milton	Pearson of Burlington	Wright of Burlington
Huntley of Cavendish	Purvis of Colchester	Young of Glover
	Quimby of Concord	

Those members absent with leave of the House and not voting are:

Christie of Hartford	Savage of Swanton
Fields of Bennington	Toll of Danville

Rep. Bancroft of Westford explained his vote as follows:

“Mr. Speaker:

When I was much younger I believed that if I could be drafted and sent to war, I should be able to drink. And if there was a 21 age limit on tobacco I would have said the same today. I now look at this issue differently. Individuals under the age of 21 should not be allowed to be in combat. Because I do not think they have fully developed their analytical decision-making capabilities.”

Rep. Burditt of West Rutland explained his vote as follows

“Mr. Speaker:

It seems like some of the bills we pass are more parental than responsible legislation. We have adults wanting to and asking to smoke. We are saying ‘No!’ They will ask why. What is the explanation going to be? We know better...”

Rep. Conner of Fairfield explained his vote as follows:

“Mr. Speaker:

I support H.93 because I have been a smoker for more years than I care to share. Mr. Speaker, I have an addictive personality and giving up smoking has been the hardest issue I have ever had to do.

Mr. Speaker, if my vote can keep one teenager from starting down this road I will feel a measure of success. I vote for this bill for those struggling with addiction.”

Rep. Cole of Burlington explained her vote as follows:

“Mr. Speaker:

I see H.93 as the removal of human rights, age discrimination of 18-20 year olds. I believe in freedom of choice. To smoke tobacco is not something to be encouraged by anyone of any age; that is why it is a controlled substance and heavily taxed. Funding education reasoning why people of different ages have different but terrible risks, is cost effective to reduce the cost to life and society. Prohibition does not work. In our society at 16 one is considered a legal adult. One can sign contracts, go to war. How dare we make illegal their decision to make the unhealthy decision to smoke.”

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

We have established 18-year-olds as legal adults. The right to make decisions as an adult is only meaningful if it includes the right to make decisions that others consider to be bad decisions, without discrimination based upon the age of the adult in question.”

Rep. Lucke of Hartford explained her vote as follows:

“Mr. Speaker:

Tobacco use has long been a leading public health issue – nicotine addiction has both short and long term health effects particularly for those who started young. My vote today honors the lives lost to complication of this addiction and is an attempt to break this cycle of addiction for future generations.”

Rep. McFaun of Barre Town explained his vote as follows:

“Mr. Speaker:

I could have voted yes for this bill in a heartbeat if there was a carve out for those in the military because I can’t bring myself to say to them thanks for your services full well knowing they have made a decision to put their life on the line, for me to be able to debate this bill on the floor and preserve our freedom and, in the same breath say but you can’t have a cigarette if you want to. That’s why I voted no.”

Rep. Morris of Bennington explained her vote as follows:

“Mr. Speaker:

I vote for this bill as a symbol of strength and solidarity with Vermont’s youth who are inundated with messages and influences that drive them to use tobacco. We owe them more and must do whatever we can to ensure they do not have to lose their lives to preventable diseases. Fortunately, our state has committed to providing FREE quit tools for all Vermonters who still use tobacco.”

Rep. Poirier of Barre City explained his vote as follows:

“Mr. Speaker:

I voted yes for Louise Poirier Randall.”

Rep. Till of Jericho explained his vote as follows:

“Mr. Speaker:

Make no mistake, H.93 is a health bill. Right now alive in Vermont, according to the CDC, there are 31,500 kids who will become addicted to tobacco. Ten thousand of those kids will die a premature death due to tobacco. H.93 could reduce this number by half.

This is also a fiscally conservative bill. H.93 has the potential to cut by half the \$348 million Vermonters spend on diseases caused by tobacco, every year.”

Rep. Zagar of Barnard explained his vote as follows:

“Mr. Speaker:

I vote yes, because I don’t believe that young people with developing brains should be smoking a substance that is addictive, physically harmful, and that adversely affects their developing brains.”

Thereupon, third reading was ordered.

**Senate Proposal of Amendment Concurred in
With a Further Amendment Thereto**

H. 84

The Senate proposed to the House to amend House bill, entitled

An act relating to internet dating services;

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

Sec. 1. FINDINGS AND PURPOSE

(a) The General Assembly finds:

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

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

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

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

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

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

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

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

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

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

Subchapter 8. Internet Dating Services

§ 2482a. DEFINITIONS

In this chapter:

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

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

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

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

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

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

§ 2482b. REQUIREMENTS FOR INTERNET DATING SERVICES

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

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

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

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

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

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

(1) clear and conspicuous;

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

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

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

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

(2) a brief description of the change; and

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

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

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

§ 2482c. LIMITED IMMUNITY

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

(b) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State,

for the decisions regarding whether to ban a member, or how or when to notify a member pursuant to section 2482b of this title.

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

§ 2482d. VIOLATIONS

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

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

Sec. 3. EFFECTIVE DATES

(a) This section and 9 V.S.A. §§ 2482a, 2482c, and 2482d in Sec. 2 shall take effect on passage.

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

Pending the question, Shall the House concur in the Senate proposal of amendment? The committee on **Commerce and Economic Development** moved to concur in the Senate proposal of amendment with a further amendment thereto as follows:

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

* * * Consumer Litigation Funding * * *

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

CHAPTER 74. CONSUMER LITIGATION FUNDING COMPANIES

§ 2251. DEFINITIONS

As used in this chapter:

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

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

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

(A) the claim is in Vermont; or

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

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

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

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

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

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

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

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

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

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

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

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

(B) This definition of “net proceeds” shall in no way affect the priority of claims or liens other than those for payments to the consumer

litigation funding company under a consumer litigation funding contract subject to this chapter.

§ 2252. REGISTRATION; FEE; FINANCIAL STABILITY

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

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

(c) A company shall file with the Commissioner evidence of its financial stability which shall include proof of a surety bond or irrevocable letter of credit issued and confirmed by a financial institution authorized by law to transact business in Vermont that is equal to double the amount of the company's largest funded amount in Vermont in the prior three calendar years or \$50,000.00, whichever is greater.

§ 2253. CONTRACTS; DISCLOSURES AND REQUIREMENTS

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

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

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

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

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

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

(5) an itemization of charges;

(6) the annual percentage rate of return;

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

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

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

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

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

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

(c) Each contract shall include the following provisions:

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

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

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

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

§ 2254. PROHIBITED ACTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 2255. EFFECT OF COMMUNICATION ON PRIVILEGES

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

§ 2256. EXAMINATIONS; CHARGES

For the purpose of protecting consumer interests and determining a company's financial stability and compliance with the requirements of this chapter, the Commissioner may conduct an examination of a company engaged in the business of consumer litigation funding. The company shall reimburse the Department of Financial Regulation all reasonable costs and expenses of such examination. In unusual circumstances and in the interests of justice, the Commissioner may waive reimbursement for the costs and expenses of an examination under this section.

§ 2257. NATIONWIDE LICENSING SYSTEM; INFORMATION SHARING; CONFIDENTIALITY

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

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

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

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

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

(5) require persons engaged in activities that require registration under this chapter to use the Registry for applications, renewals, amendments,

surrenders, and such other activities as the Commissioner may require and to pay through the Registry all fees provided for under this chapter;

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

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

(b) The Commissioner may require persons engaged in activities that require registration under this chapter to submit fingerprints, and the Commissioner may use the services of the Registry to process the fingerprints and to submit the fingerprints to the Federal Bureau of Investigation, the Vermont State Police, or any equivalent state or federal law enforcement agency for the purpose of conducting a criminal history background check. The company shall pay the cost of such criminal history background check, including any charges imposed by the Registry.

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

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

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

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

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

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

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

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

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

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

§ 2258. RULES

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

§ 2259. PENALTIES; ENFORCEMENT

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

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

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

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

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

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

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

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

§ 2260. ANNUAL REPORTS

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

(1) the number of contracts entered into;

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

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

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

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

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

Financial Regulation, as well as on a web page maintained by the Office of the Attorney General.

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

* * * Structured Settlement Agreements * * *

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

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

* * *

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

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

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

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

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

(A) a copy of the annuity contract;

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

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

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

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

* * * Business Registration; Enforcement * * *

Sec. C.1. PURPOSE

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

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

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

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

§ 1637. AUTHORITY TO TERMINATE AND AMEND REGISTRATION

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

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

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

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

(2) Upon receipt of process, the Secretary of State shall deliver by registered mail a copy of the process to the secretary of the terminated person

at its principal office shown in its most recent annual report or in any subsequent communication received from the person stating the current mailing address of its principal office, or, if none is on file, in its application for registration.

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

(2) Upon receipt of a filing and payment pursuant to subdivision (1) of this subsection, the Secretary shall cancel the termination and prepare a certificate of reinstatement, file the original of the certificate, and serve a copy on the person.

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

§ 1626. FAILURE TO REGISTER; ENFORCING COMPLIANCE

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

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

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

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

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

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

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

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

(3) other penalties imposed by law.

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

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

§ 3303. EFFECT OF FAILURE TO QUALIFY

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

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

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

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

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

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

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

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

(3) other penalties imposed by law.

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

§ 3305. ACTION BY ATTORNEY GENERAL

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

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

§ 3487. TRANSACTION OF BUSINESS WITHOUT REGISTRATION

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

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

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

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

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

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

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

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

(3) other penalties imposed by law.

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

§ 3488. ACTION BY ATTORNEY GENERAL

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

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

§ 4119. EFFECT OF FAILURE TO OBTAIN CERTIFICATE OF AUTHORITY

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

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

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

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

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

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

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

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

(3) other penalties imposed by law.

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

§ 4120. ACTION BY ATTORNEY GENERAL

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

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

§ 15.02. CONSEQUENCES OF TRANSACTING BUSINESS WITHOUT AUTHORITY

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

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

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

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

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

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

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

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

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

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

§ 15.02. CONSEQUENCES OF TRANSACTING BUSINESS WITHOUT AUTHORITY

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

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

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

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

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

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

(3) other penalties imposed by law.

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

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

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

§ 1402. APPLICATION FOR CERTIFICATE OF AUTHORITY

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

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

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

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

jurisdiction, the street address and, if different, mailing address of the required office;

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

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

(b) A foreign enterprise shall deliver with a completed application under subsection (a) of this section a certificate of good standing or existence or a similar record signed by the Secretary of State or other official having custody of the foreign enterprise's publicly filed records in the state or other jurisdiction under whose law the foreign enterprise is organized.

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

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

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

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

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

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

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

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

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

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

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

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

(3) other penalties imposed by law.

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

§ 1408. ACTION BY ATTORNEY GENERAL

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

* * * Anti-Trust Penalties * * *

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

§ 2458. RESTRAINING PROHIBITED ACTS

* * *

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

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

* * *

* * * Discount Membership Programs * * *

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

Subchapter 1D. Third-Party Discount Membership Programs

§ 2470aa. DEFINITIONS

~~As~~ As used in this subchapter:

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

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

§ 2470bb. APPLICABILITY

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

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

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

§ 2470cc. REQUIRED DISCLOSURES; CONSENT

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

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

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

(B) the name of the third-party discount membership program, ~~and~~ the name and address of the seller of the program, and a telephone number.

e-mail address, or other contact information the consumer may use to contact the seller with questions concerning the operation of the program;

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

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

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

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

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

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

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

(A) obtaining from the consumer:

(i) the consumer's billing information; and

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

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

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

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

-
- (1) confirmation that the consumer has signed up for a discount membership program;
 - (2) the price the consumer will be charged for the program;
 - (3) the date on which the consumer will first be charged for the program;
 - (4) the frequency of charges for the program; and
 - (5) information concerning the consumer's right to cancel the program and a toll-free telephone number, address, and e-mail address a consumer may use to cancel the program.

§ 2470dd. PERIODIC NOTICES

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

- (1) a description of the program;
- (2) the name of the third-party discount membership program and the name and address of the seller of the program;
- (3) the cost of the program, including the amount of any periodic charges, how often such charges are imposed, and the method of payment;
- (4) the right to cancel and to terminate the program, which shall be no more restrictive than as required by section 2470ee of this subchapter, and a toll-free number and e-mail address that can be used to cancel the membership; and
- (5) the maximum length of membership, as described in section 2470ff of this subchapter.

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

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

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

(B) ~~Otherwise~~ otherwise by first-class mail to the consumer's last known mailing address, with the heading on the enclosure and outside

envelope, "IMPORTANT INFORMATION ABOUT YOUR DISCOUNT PROGRAM BILLING," or substantially similar words; and

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

§ 2470ee. CANCELLATION AND TERMINATION

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

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

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

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

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

§ 2470ff. MAXIMUM LENGTH OF PLAN

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

§ 2470gg. BILLING INFORMATION

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

§ 2470hh. VIOLATIONS

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

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

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

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

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

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

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

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

Subchapter 1E: Add-On Discount Membership Programs

§ 2470ii. DEFINITIONS

As used in this subchapter:

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

(2) “Billing information” means any data that enables a seller of an add-on discount membership program to access a consumer's credit or debit

card, bank, or other account, but does not include the consumer's name, e-mail address, telephone number, or mailing address. For credit card and debit card accounts, billing information includes the full account number, card type, and expiration date, and, if necessary, the security code. For accounts at a financial institution, "billing information" includes the full account number and routing number, and, if necessary, the name of the financial institution holding the account.

§ 2470jj. APPLICABILITY

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

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

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

§ 2470kk. REQUIRED DISCLOSURES; CONSENT

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

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

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

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

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

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

(2) before obtaining the consumer's billing information, the person has received express informed consent for the add-on membership program from

the consumer whose credit or debit card, bank, or other account will be charged, by requiring the consumer to perform an additional affirmative action, such as clicking on an online confirmation button, checking an online box that indicates the consumer's consent to be charged the amount disclosed, or expressly giving consent over the telephone; and

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

(A) the consumer's billing information; and

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

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

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

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

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

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

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

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

§ 24701l. CANCELLATION AND TERMINATION

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

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

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

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

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

§ 2470mm. BILLING INFORMATION

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

§ 2470nn. VIOLATIONS

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

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

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

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

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

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

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

* * * Nonresidential Home Improvement Fraud * * *

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

§ 2029. HOME IMPROVEMENT FRAUD

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

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

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

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

(i) refund the payment; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) [Reserved.]

(h) [Repealed.]

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

§ 2029a. NONRESIDENTIAL IMPROVEMENT FRAUD

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

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

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

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

(i) refund the payment; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 10101. APPLICATION OF CONSUMER PROTECTION CHAPTER

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

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

§ 10601. APPLICATION

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

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

(17) “Mortgage loan originator”:

* * *

(D) Does not include:

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

* * *

* * * Internet Dating Services * * *

Sec. H.1. FINDINGS AND PURPOSE

(a) The General Assembly finds:

(1) Currently, an Internet dating service does not have an affirmative duty under any state or federal law to ban a member of the service, but a service may choose to voluntarily ban a member for violating one or more

terms of use, or because the service determines the member poses a risk of defrauding another member.

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

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

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

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

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

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

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

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

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

Subchapter 8. Internet Dating Services

§ 2482a. DEFINITIONS

In this chapter:

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

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

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

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

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

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

§ 2482b. REQUIREMENTS FOR INTERNET DATING SERVICES

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

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

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

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

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

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

(1) clear and conspicuous;

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

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

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

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

(2) a brief description of the change; and

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

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

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

§ 2482c. LIMITED IMMUNITY

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

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

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

§ 2482d. VIOLATIONS

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

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

* * * Effective Dates * * *

Sec. I.1. EFFECTIVE DATES

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

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

(1) Sec. A.1 (consumer litigation funding).

(2) Sec. B.1 (structured settlements agreements).

(3) Secs. C.1–C.12 (business registration; enforcement).

(4) Sec. D.1 (anti-trust penalties).

(5) Secs. E.1–E.2 (discount membership programs).

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

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

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

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

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

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

Thereupon, **Rep. O’Sullivan of Burlington** moved to amend the recommendation of proposal of amendment offered by the committee on Commerce and Economic Development, as follows:

First: By redesignating Sec. I.1 as Sec. J.1

Second: By inserting a reader assistance and a new Sec. I.1 to read:

* * * Financial Literacy * * *

Sec. I.1. 9 V.S.A. § 6002 is amended to read:

§ 6002. VERMONT FINANCIAL LITERACY COMMISSION

(a) There is created a Vermont Financial Literacy Commission to measurably improve the financial literacy and financial capability of Vermont's citizens.

(b) The Commission shall be composed of the following members:

(1) the Vermont State Treasurer or designee;

(2) the Secretary of Education or designee;

(3) one representative of the Executive Branch, appointed by the Governor, who is an employee of an agency or department that conducts financial literacy education outreach efforts in Vermont, including the Department for Children and Families, Agency of Commerce and Community Development, Department of Financial Regulation, Department of Labor, Department of Libraries, or the Commission on Women, but not including the Agency of Education;

(4) a k-12 public school financial literacy educator appointed by the Vermont-NEA;

(5) one representative of k-12 public school administration, currently serving as a school board member, superintendent, or principal, appointed by the Governor based on nominees submitted by the Vermont School Board Association, the Vermont Superintendents Association, and the Vermont Principals Association;

(6) two representatives focused on collegiate financial literacy issues:

(A) the President of the Vermont Student Assistance Corporation or designee; and

(B) one representative appointed by the Governor from the Vermont State Colleges, the University of Vermont, or an independent college in Vermont;

(7) ~~a representative~~ two representatives, each from a nonprofit entity that provides financial literacy and related services to persons with low income;

(A) one appointed by the Governor; and

(B) one appointed by the Office of Economic Opportunity from among candidates proposed by the Community Action Agencies;

(8) one representative from Vermont's banking industry appointed by the Vermont Bankers Association, and one representative from Vermont's credit union industry appointed by the Association of Vermont Credit Unions; and

(9) one member of the public, appointed by the Governor.

* * *

Third: In redesignated Sec. J.1, by adding a subsection (d) to read:

(d) Sec. I.1 of this act (Financial Literacy Commission) shall take effect on July 2, 2016.

Thereupon, **Rep. Hubert of Milton** raised a Point of Order that the amendment offered by Rep. Sullivan of Burlington was not germane to the underlying bill, which Point of Order the Speaker ruled well taken.

Thereupon, the House concurred in the Senate proposal of amendment with a further amendment thereto as offered by the committee on Commerce and Economic Development.

Joint Resolution Read Third Time and Passed in Concurrence

J.R.S. 45

Joint resolution, entitled

Joint resolution relating to the transfer of two State-owned parcels of land to the Town of Duxbury

Was taken up, read the third time and passed in concurrence.

Adjournment

At four o'clock and thirty-nine minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.