

S. 198

An act relating to the Government Accountability Committee and the annual report on the State's population-level outcomes

Rep. Evans of Essex, for the Committee on **Government Operations**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 10-0-1)

(For text see Senate Journal February 3, 4, 2016)

Committee Relieved

H. 867

An act relating to classification of employees and independent contractors

Amendment to be offered by Rep. Hooper of Montpelier to H. 867

Sec. 1. PURPOSE

By enacting this legislation, the General Assembly intends to promote the proper classification of employees and independent contractors by more clearly defining the "statutory employer" concept and the definitions of "employee" and "employer," and by establishing a consistent definition of "independent contractor" between Vermont's workers' compensation and unemployment insurance laws. In particular, this legislation is intended to:

(1) honor and build on the over-100-year evolution and improvement on the grand bargain of Vermont's workers' compensation law that provides employees with a prompt, no-fault remedy for workplace injuries while limiting the potential liability of employers;

(2) ensure that Vermont's workers' compensation and unemployment insurance systems reflect and support the unique character and spirit of innovation that is inherent in Vermont's workforce and economy;

(3) embrace, strengthen, and build upon the emerging independent and collaborative sectors of Vermont's workforce and economy;

(4) affirm that under Vermont's workers' compensation and unemployment insurance laws, an individual that performs services for compensation is presumed to be an employee unless the statute clearly provides otherwise;

(5) address decades of challenges in relation to the proper classification of employees and independent contractors;

(6) provide clarity to Vermont employers, employees, independent contractors, and the Department of Labor surrounding the classification of employees and independent contractors;

(7) reduce the frequency of misclassification of employees as independent contractors, and the related harmful effects of misclassification to individuals, businesses, and society;

(8) assist businesses in complying with the requirements for the proper classification of employees and independent contractors; and

(9) provide for the efficient and fair enforcement of Vermont's workers' compensation and unemployment insurance laws by the Department of Labor.

Sec. 2. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(3) "Employer" includes any body of persons, corporate or unincorporated, public or private, and the legal representative of a deceased employer, and includes the owner or lessee of premises or other person who is virtually the proprietor or operator of the business there carried on, but who, by reason of there being an independent contractor or for any other reason, is not the direct employer of the workers there employed. If the employer is insured, the term "employer" includes the employer's insurer so far as applicable. A person is not deemed to be an "employer" for the purposes of this chapter as the result of entering into a contract for services or labor with ~~an individual~~ a sole proprietor or partner owner who has knowingly and voluntarily waived coverage of this chapter pursuant to subdivision (14)(F) of this section, or an individual who is a corporate officer or L.L.C. member or manager that has filed, and had approved, an exclusion pursuant to subdivision 14(H) of this section and who meets the criteria set forth in that subdivision.

* * *

(14) "Worker" and "employee" means ~~an individual~~ a person who has entered into the employment of, or works under contract of service or apprenticeship with, an employer. Any reference to a worker who has died as the result of a work injury shall include a reference to the worker's dependents, and any reference to a worker who is a minor or incompetent shall include a reference to the minor's committee, guardian, or next friend. ~~The term "worker" or "employee" does not include~~ A person who performs services for

compensation is presumed to be an employee unless the person is one of the following:

* * *

(B) An individual engaged in amateur sports, including a referee or official who is paid on a per game or per event basis, even if an employer contributes to the support of such sports.

* * *

(F)(i) ~~The~~ A sole proprietor or partner owner or partner owners of an unincorporated business provided the following conditions are met:

~~(i)(I)(aa)~~ The individual or partner owner is an independent contractor who performs work that is distinct and separate from that of the person with whom the individual or partner owner contracts; or

(bb) the individual or partner owner is an independent contractor and is either actively registered as a business with the Vermont Secretary of State or actively registered as a business in the state or country of domicile.

~~(ii) The individual controls the means and manner of the work performed.~~

~~(iii) The individual holds him or herself out as in business for him or herself.~~

~~(iv) The individual holds him or herself out for work for the general public and does not perform work exclusively for or with another person.~~

~~(v) The individual is not treated as an employee for purposes of income or employment taxation with regard to the work performed.~~

~~(vi)(II)~~ The services are performed pursuant to a written agreement or contract between the individual or partner owner and another person the person who is providing compensation for the services, and the written agreement or contract explicitly states that the individual or partner owner is not considered to be an employee under this chapter, is working independently, has no employees, and has not contracted with other independent contractors. The written contract or agreement shall also include information regarding the right of the individual or partner owner to purchase workers' compensation insurance coverage and the individual's election not to purchase that coverage. However, if the individual or partner owner who is party to the agreement or contract under this subdivision is found to have

employees, those employees may file a claim for benefits under this chapter against either or both parties to the agreement.

(ii)(I) An individual or partner owner that meets the conditions of subdivision (i) of this subdivision (14)(F) may elect to file with the Commissioner a notice to waive the right to make a claim for workers' compensation against the person with whom the individual or partner owner contracts.

(II) If, after filing a notice under subdivision (I) of this subdivision (14)(F)(ii), the individual or partner owner suffers a personal injury arising out of and in the course of his or her employment, he or she may bring an action to recover damages for personal injury against the person who is providing compensation for the services and, in such action, the person who is providing compensation for the services shall have all of the defenses available in a personal injury claim. However, this election shall not prevent any other individual, other than the individual excluded pursuant to subdivision (i) of this subdivision (14)(F), who is determined to be an employee of the unincorporated business from claiming workers' compensation benefits under this chapter from the unincorporated business or from a statutory employer.

(iii) An individual or partner owner that makes an election under subdivision (ii) of this subdivision (14)(F) shall collect and maintain documentation that any other person hired to perform services for the sole proprietor or partner owner's unincorporated business has workers' compensation coverage or is otherwise in compliance with the provisions of this chapter.

* * *

(H) With the approval of the Commissioner, a corporation or a limited liability company (L.L.C.) may elect to file exclusions from the provisions of this chapter. A corporation or an L.L.C. may elect to exclude up to four corporate executive officers or four L.L.C. managers or members from coverage requirements under this chapter. If all officers of the corporation or all managers or members of an L.L.C. make such election, receive approval, and the business has no employees, the corporation or L.L.C. shall not be required to purchase workers' compensation coverage. ~~If after election, the officer, manager, or member experiences a personal injury and files a claim under this chapter, the employer shall have all the defenses available in a personal injury claim. However, this election shall not prevent any other individual, other than the individual excluded under this section, found to be an employee of the corporation or L.L.C. to recover workers' compensation from either the corporation, L.L.C., or the statutory employer.~~

(i) A person shall not be deemed to be an “employer” for purposes of this chapter of corporate executive officers or L.L.C. managers or members that are excluded under this subdivision (14) if the following conditions are met:

(I) The corporate executive officers or L.L.C. managers or members operate a separate and distinct business that is an independent contractor, is actively registered with the Vermont Secretary of State, and elects to file a corporate officer or L.L.C. member exclusion from the provisions of this chapter.

(II) The services are performed pursuant to a written agreement or contract between the corporation or L.L.C. and the person who is providing compensation for the services, and the written agreement or contract explicitly states that the corporate executive officers or L.L.C. managers or members are not considered to be employees under this chapter and are working independently. The written contract or agreement shall also include information regarding the right of the corporation or L.L.C. to purchase workers’ compensation insurance coverage and of the corporate executive officers or the L.L.C. managers or members to elect not to exclude themselves from coverage.

(ii) If, after making an election under this subdivision (14), the corporate officer or L.L.C. manager or member suffers a personal injury arising out of and in the course of his or her employment, he or she may bring an action to recover damages for personal injury against the person who is providing compensation for the services and, in such action, the person who is providing compensation for the services shall have all of the defenses available in a personal injury claim. However, this election shall not prevent any other individual, other than the individual excluded pursuant to this subdivision, who is determined to be an employee of the corporation or L.L.C. from claiming workers’ compensation benefits under this chapter from the corporation or L.L.C. or from a statutory employer.

(iii) A corporation or L.L.C. whose executive officers, members, or managers make an election under this subdivision (14) shall collect and maintain documentation that any other person hired to perform services for the corporation or L.L.C. has workers’ compensation coverage, or is otherwise in compliance with this chapter.

(I) An individual who provides services for which he or she receives foster care payments that are specifically excluded from gross income pursuant to Section 131 of the federal Internal Revenue Code, 26 U.S.C. § 131.

* * *

(31)(A) “Independent contractor” means a person that is economically independent of the person’s employing unit under the totality of the circumstances based on an assessment of the following factors:

(i) whether the person is free from the direction and control of the employing unit with respect to the means and manner of the services performed, both under the person’s contract of service and in fact;

(ii) whether the person operates a separate and distinct business from that of the employing unit and the extent to which the person is performing work that is not a substantial, essential, and recurring part of the core services, functions, or activities of the employing unit;

(iii) whether the person’s contract of service provides for the performance of specific services for specified amounts of compensation and does not provide that the services will be performed on an ongoing or indefinite basis, and whether the person may realize a profit or suffer a loss under the contract of service;

(iv) the extent of the person’s investment in the resources, assets, or equipment necessary to perform the services contracted for; whether the person possesses specialized skills or knowledge necessary to perform the services contracted for; and whether the person has continuing and recurring business liabilities and obligations;

(v) whether the person holds itself out as in business for itself and offers its services to the general public; and

(vi) whether the person is not treated as an employee for purposes of income or employment taxation with regard to the work performed and either:

(I) holds or has applied for a federal employer identification number; or

(II) has filed business or self-employment tax returns with the federal Internal Revenue Service within the past year or will file business or self-employment tax returns with the federal Internal Revenue Service for the current year.

(B) In considering whether a person is economically independent pursuant to subdivision (A) of this subdivision (31), no single factor in and of itself shall be dispositive.

(C) If multiple persons are performing the same work on a project or jobsite, the determination of whether the person is economically independent of the employing unit shall take into account the relationship between the

specific services performed by the person and the circumstances of the project or job in relation to which the person is providing services.

(D) An independent contractor shall purchase workers' compensation coverage for its employees as provided in this chapter.

Sec. 3. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings unless the context clearly requires otherwise:

* * *

(6)(A)(i) "Employment," subject to the other provisions of this subdivision (6), means service within the jurisdiction of this State, performed prior to January 1, 1978, which was employment as defined in this subdivision prior to such date and, subject to the other provisions of this subdivision, service performed after December 31, 1977, by an employee, as defined in subsections 3306(i) and (o) of the Federal Unemployment Tax Act, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied. Services partly within and partly without this State may by election as hereinbefore provided be treated as if wholly within the jurisdiction of this State. And whenever an employing unit shall have elected to come under the provisions of a similar act of a state where a part of the services of an employee are performed, the Commissioner, upon his or her approval of said election as to any such employee, may treat the services covered by said approved election as having been performed wholly without the jurisdiction of this State.

* * *

(B)(i) Services performed by an individual for wages shall be deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the Commissioner that the individual is economically independent of his or her employing unit under the totality of the circumstances in light of the following factors:

~~(i) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his or her contract of service and in fact; and~~

~~(ii) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and~~

~~(iii) Such individual is customarily engaged in an independently established trade, occupation, profession, or business.~~

(I) whether the individual is free from the direction and control of his or her employing unit with respect to the means and manner of the services performed, both under his or her contract of service and in fact;

(II) whether the individual operates a separate and distinct business from that of the employing unit and the extent to which he or she is performing work that is not a substantial, essential, and recurring part of the core services, functions, or activities of the employing unit;

(III) whether the individual's contract of service provides for the performance of specific services for specified amounts of compensation and does not provide that the services will be performed on an ongoing or indefinite basis, and whether the individual may realize a profit or suffer a loss under the contract of service;

(IV) the extent of the individual's investment in the resources, assets, and equipment, as well as the specialized skills or knowledge necessary to perform the services contracted for, and whether he or she has continuing and recurring business liabilities and obligations;

(V) whether the individual holds him- or herself out as in business for him- or herself and offers his or her services to the general public; and

(VI) whether the individual is not treated as an employee for purposes of income or employment taxation with regard to the work performed and either:

(aa) holds or has applied for a federal employer identification number; or

(bb) has filed business or self-employment tax returns with the federal Internal Revenue Service within the past year or will file business or self-employment tax returns with the federal Internal Revenue Service for the current year.

(ii) In considering whether an individual is economically independent pursuant to subdivision (i) of this subdivision (6)(B), no single factor in and of itself shall be dispositive.

(iii) If multiple individuals are performing the same work on a project or jobsite, the determination of whether an individual is economically independent of the employing unit shall take into account the relationship between the specific services performed by the individual and the

circumstances of the project or job in relation to which he or she is providing services.

* * *

Sec. 4. 3 V.S.A. § 2222d is added to read:

§ 2222d. VERMONT EMPLOYEE CLASSIFICATION TASK FORCE

(a) Creation and purpose. The Vermont Employee Classification Task Force is created in the Agency of Administration to reduce the frequency of employee misclassification through enhanced education, improved coordination of State resources, and increased collaboration among State government, businesses, labor, and other stakeholders.

(b) Membership. The Task Force shall be composed of the following nine members:

- (1) the Secretary of Administration or designee;
- (2) the Commissioner of Labor or designee;
- (3) the Secretary of Transportation or designee;
- (4) the Commissioner of Buildings and General Services or designee;
- (5) the Commissioner of Financial Regulation or designee;
- (6) the Secretary of Human Services or designee;
- (7) the Commissioner of Taxes or designee;
- (8) the Attorney General or designee; and
- (9) the Commissioner of Liquor Control or designee.

(c) Meetings.

- (1) The Task Force shall meet at least six times per year.
- (2) The Secretary of Administration or designee shall be the Chair.
- (3) A majority of the membership of the Task Force shall constitute a quorum.

(d) Duties.

(1) The Task Force shall have the following duties:

(A) to develop and implement an ongoing outreach program to educate and inform employers, workers, and the general public about the proper classification of employees and independent contractors;

(B) to examine and evaluate existing misclassification enforcement by State agencies and departments;

(C) to develop and implement strategies to improve coordination, cooperation, and information sharing among State agencies and departments in relation to the investigation and enforcement of employee misclassification;

(D) to review and establish reasonable mechanisms to accept complaints and reports of noncompliance;

(E) to ensure that State agencies and departments are engaged in timely enforcement;

(F) to ensure that penalties and debarment periods are posted on a publicly available website in a timely manner, to the extent permitted by law;

(G) to review and recommend additional methods to provide public notice and share information regarding enforcement, penalties, and debarment periods;

(H) to develop strategies and programs to assist businesses in complying with Vermont's requirements for the proper classification of employees and independent contractors, and to reduce the frequency of employee misclassification; and

(I) to recommend legislative, regulatory, and administrative measures to reduce the frequency of employee misclassification.

(2) The Task Force shall consult and collaborate with businesses, labor, and other interested stakeholders to accomplish the duties set forth in subdivision (1) of this subsection, and may appoint representatives of business, labor, and other interested stakeholders to subcommittees as the Task Force deems appropriate.

(e) Reports.

(1) The Task Force shall report annually on or before January 15 to the House Committee on Commerce and Economic Development and the Senate Committee on Finance regarding the activities that it has undertaken pursuant to this section, the progress of the Task Force's ongoing education and outreach programs, the number and results of the employer audits conducted during the previous calendar year, and any barriers or impediments to the proper classification of employees and independent contractors that the Task Force has identified. The report may recommend legislative, regulatory, and administrative measures to reduce the frequency of employee misclassification. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(2) The Task Force shall examine the issue of comprehensive enforcement of employee misclassification within Vermont's workers' compensation system and potential measures to improve the efficacy of the State's misclassification enforcement mechanisms, including by transferring the responsibility for the investigation and enforcement of misclassification to the Office of the Attorney General. The Task Force shall develop and establish performance measures to evaluate the efficacy of efforts to enforce the requirements for classification of employees and independent contractors, and any improvement in the outcomes of the State's enforcement efforts over time. On or before February 15, 2017, the Task Force shall report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance with a recommendation for a comprehensive plan to improve the State's misclassification enforcement mechanisms and any legislative, regulatory, or administrative measures necessary to implement the plan.

(3) The Task Force shall study the use of multiple independent contractors to perform the same work on a project or jobsite to determine how often employee misclassification occurs in such situations. In performing its study, the Task Force shall review documented instances of misclassification and may consult with business, labor, and other interested stakeholders. On or before February 15, 2017, the Task Force shall submit a written report to the General Assembly with its findings and any recommendations for legislative action.

(4) The Task Force shall examine the issue of whether all workers in certain industries should be required to be covered by workers' compensation insurance. On or before February 15, 2017, the Task Force shall submit a written report to the General Assembly with its findings and any recommendations for legislative action.

(f) Definition. As used in this section, "employee misclassification" means the improper classification of employees as independent contractors.

Sec. 5. 21 V.S.A. § 398 is added to read:

§ 398. NOTICE TO PERSONS RECEIVING COMPENSATION AS AN INDEPENDENT CONTRACTOR

(a)(1) Every employer shall post in a prominent and accessible place on a site where work is performed a poster provided by the Department that shall explain the differences between an "employee" and an "independent contractor" pursuant to the applicable provisions of chapters 9 and 17 of this title. The poster shall also include information regarding:

(A) the protections against retaliation provided by this title;

(B) the penalties provided pursuant to this title for failure to classify an individual properly as an employee;

(C) how an individual may file a complaint or inquiry with the Commissioner about his or her employment classification status; and

(D) how an employer may obtain guidance or information from the Department with respect to the proper classification of employees and independent contractors.

(2)(A) The information set forth on the poster shall be in English or other languages as required by the Commissioner.

(B) If the poster is located outdoors, it shall be constructed of materials capable of withstanding adverse weather conditions.

(3) An employer shall, at the time of hiring, provide home-based employees and employees that do not work at a fixed worksite with the information required under subdivision (1) of this subsection. The information shall be provided to the employees in a format provided by the Department.

(b) On or before August 1, 2016, the Commissioner shall create the poster required pursuant to subsection (a) of this section and shall make it available to employers on the Department's website.

(c) An employer who violates the provisions of this section shall be subject to an administrative penalty of not more than \$100.00 per violation.

Sec. 6. 21 V.S.A. § 603 is amended to read:

§ 603. WITNESSES, OATHS, BOOKS, PAPERS, RECORDS

(a) So far as it is necessary in his or her examinations, and investigations and in the determination of matters within his or her jurisdiction, the ~~commissioner~~ Commissioner shall have power to subpoena witnesses, administer oaths, and to demand the production of books, papers, records, and documents for his or her examination. In addition, the Commissioner or his or her designee may, upon presenting appropriate credentials, at reasonable times and without unduly disrupting business operations enter and inspect any place of business or employment, question any employees, and investigate any facts, conditions, or matters necessary and material to the administration of this chapter. The employer shall, at reasonable times and without unduly disrupting business operations, make its workers available to meet with the Commissioner or his or her designee, as required by the Commissioner. The Commissioner or designee shall inform the employer of the employer's rights to refuse entry and to consult with legal counsel, and of the Commissioner's rights under this section. If entry is refused, the Commissioner may apply to

the Civil Division of the Superior Court for an order to enforce the rights given to the Commissioner under this section.

* * *

Sec. 7. 21 V.S.A. § 692 is amended to read:

§ 692. PENALTIES; FAILURE TO INSURE; STOP WORK ORDERS

* * *

(b) Stop-work orders. If an employer fails to comply with the provisions of section 687 of this title after investigation by the Commissioner, the Commissioner ~~shall~~ may issue an emergency order to that employer to stop work until the employer has secured workers' compensation insurance. If the Commissioner determines that issuing a stop-work order would immediately threaten the safety or health of the public, the Commissioner may permit work to continue until the immediate threat to public safety or health is removed. The Commissioner shall document the reasons for permitting work to continue, and the document shall be available to the public. In addition, the employer shall be assessed an administrative penalty of not more than \$250.00 for every day that the employer fails to secure workers' compensation coverage after the Commissioner issues an order to obtain insurance and may also be assessed an administrative penalty of not more than \$250.00 for each employee for every day that the employer fails to secure workers' compensation coverage as required in section 687 of this title. When a stop-work order is issued, the Commissioner shall post a notice at a conspicuous place on the work site of the employer informing the employees that their employer failed to comply with the provisions of section 687 of this title and that work at the work site has been ordered to cease until workers' compensation insurance is secured. If an employer fails to comply with a stop-work order, the Commissioner may seek an order from the Civil Division of the Superior Court to enjoin the employer from employing any individual. The stop-work order shall be rescinded as soon as the Commissioner determines that the employer is in compliance with section 687 of this title.

(c) Debarment. An employer ~~against whom a stop work order has been issued who has not been in compliance with section 687 of this chapter, unless the Commissioner determines that the failure to comply was inadvertent or excusable,~~ is prohibited from ~~contracting~~ entering into subsequent contracts, directly or indirectly, with the State or any of its subdivisions for a period of up to three years following the date of the issuance of ~~the stop work order~~ an administrative citation, as determined by the Commissioner in consultation with the ~~Commissioner of Buildings and General Services or the Secretary of Transportation, as appropriate.~~ Either the Secretary or the Commissioner, as

~~appropriate, shall be consulted in any contest of the prohibition of the employer from contracting with the State or its subdivisions~~ Secretary of Administration. The consultation shall be informal and shall occur within five business days of the notification by the Commissioner. The results of the consultation shall be documented.

~~(e)~~(d) Penalty for violation of stop-work order. In addition to any other penalties, an employer who violates a stop-work order described in subsection (b) of this section is subject to:

(1) ~~a civil~~ an administrative penalty of not more than \$5,000.00 for the first violation and ~~a civil~~ an administrative penalty of not more than \$10,000.00 for a second or subsequent violation; or

(2) a criminal fine of not more than \$10,000.00 or imprisonment for not more than 180 days, or both.

Sec. 8. 21 V.S.A. § 7 is added to read:

§ 7. COLLECTION OF ADMINISTRATIVE PENALTIES

The Commissioner may collect any unpaid administrative penalty assessed pursuant to this title by filing an action in Superior Court, or through any other means available to State agencies.

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

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

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

* * *

(20) ~~Violations of 21 V.S.A. § 692(e)(1).~~ [Repealed.]

* * *

Sec. 10. 21 V.S.A. § 690 is amended to read:

§ 690. CERTIFICATE, FORM; COPY OF POLICY

* * *

(b)(1) In addition to any other authority provided to the ~~commissioner~~ Commissioner pursuant to this chapter, the ~~commissioner~~ Commissioner may issue a written request to an employer subject to the provisions of this chapter to provide a workers' compensation compliance statement on a form provided by the ~~commissioner~~ Commissioner. The employer shall provide the compliance statement to the Commissioner within 30 days of the request. For

the purposes of this subsection, an employer includes subcontractors and independent contractors. The form shall require all the following information sorted by job site:

* * *

(c) Upon receiving written authorization from an employer to release information to the Commissioner, the employer's agent or broker or the authorized representative of an insurance or guarantee company shall provide within five business days any contract or policy information, including an insurance application, binder, or reported payroll, that is requested by the Commissioner pursuant to this section.

Sec. 11. 21 V.S.A. § 625 is amended to read:

§ 625. CONTRACTING OUT FORBIDDEN; PROHIBITED ACTS;

PENALTIES

(a) ~~A~~ Except as provided in subdivisions 601(3) and (14) of this chapter, an employer shall not be relieved in whole or in part from liability created by the provisions of this chapter by any contract, rule, regulation, or device whatsoever.

(b) The Commissioner may investigate complaints and determine whether the requirements to be an independent contractor set forth in subdivision 601(31) of this title are met. Unless the Commissioner determines that the improper classification was inadvertent or excusable, any person that, for the purpose of avoiding its obligations under this title, improperly classifies an employee as an independent contractor may, after notice and an opportunity for a hearing, be assessed an administrative penalty of not more than \$5,000.00.

(c) A person who, for the purpose of avoiding its obligations under this chapter, provides an individual that is or will be performing services for the person with substantial and material assistance related to the establishment of an independent business, including the registration of an unincorporated business with the Vermont Secretary of State, the establishment of a corporation or LLC, or the acquisition of a federal Employer Identification Number, may, after notice and an opportunity for a hearing, be assessed an administrative penalty of not more than \$5,000.00. As used in this subsection, "substantial and material assistance" does not include:

(1) inquiring about whether an unincorporated business, corporation, or LLC is actively registered with the Secretary of State;

(2) inquiring about whether an individual that is or will be performing services operates an unincorporated business, corporation, or LLC; or

(3) referring an individual to a State agency, department, or website related to the registration or establishment of an unincorporated business, corporation, or LLC.

Sec. 12. 8 V.S.A. § 3661 is amended to read:

§ 3661. CEASE AND DESIST POWERS; PROSECUTIONS AND PENALTIES

* * *

(c) An employer who purposefully makes a false statement or representation that results in a lower workers' compensation premium, after notice and opportunity for hearing before the Commissioner, may be assessed an administrative penalty of not more than \$20,000.00 in addition to any other appropriate penalty. In addition, an employer found to have violated this section is prohibited from ~~contracting~~ entering into subsequent contracts, directly or indirectly, with the State or any of its subdivisions for up to three years following the date the employer was found to have made a false statement or misrepresentation, as determined by the Commissioner in consultation with the ~~Commissioner of Buildings and General Services or the Secretary of Transportation, as appropriate. Either the Secretary or the Commissioner, as appropriate, shall be consulted in any appeal relating to prohibiting the employer from contracting with the State or its subdivisions~~ Secretary of Administration. The consultation may be informal and shall occur within five business days of the notification by the Commissioner. The outcome of the consultation shall be documented.

* * *

Sec. 13. 21 V.S.A. § 1314a is amended to read:

§ 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION; PENALTIES

* * *

(f)(1) Any employing unit or employer that fails to:

(A) File any report required by this section shall be subject to a an administrative penalty of \$100.00 for each report not received by the prescribed due dates.

(B) Properly classify an individual regarding the status of employment is subject to a an administrative penalty of not more than \$5,000.00 for each improperly classified employee. In addition, an employer found to have violated this section is prohibited from ~~contracting~~ entering into subsequent contracts, directly or indirectly, with the State or any of its

subdivisions for up to three years following the date the employer was found to have failed to properly classify, as determined by the Commissioner in consultation with the ~~Commissioner of Buildings and General Services or the Secretary of Transportation~~, as appropriate. ~~Either the Secretary or the Commissioner, as appropriate, shall be consulted in any appeal relating to prohibiting the employer from contracting with the State or its subdivisions~~ Secretary of Administration. The consultation may be informal and shall occur within five business days of the notification by the Commissioner. The outcome of the consultation shall be documented.

* * *

Sec. 14. 21 V.S.A. § 708 is amended to read:

§ 708. PENALTY FOR FALSE REPRESENTATION

(a) Action by the Commissioner of Labor. A person who ~~willfully purposefully~~ makes a false statement or representation, ~~for the purpose of obtaining to obtain~~ any benefit or payment under the provisions of this chapter, either for herself or himself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than \$20,000.00, and shall forfeit all or a portion of any right to compensation under the provisions of this chapter, as determined to be appropriate by the Commissioner after a determination by the Commissioner that the person has ~~willfully purposefully~~ made a false statement or representation of a material fact. In addition, an employer found to have violated this section is prohibited from ~~contracting entering into subsequent contracts~~, directly or indirectly, with the State or any of its subdivisions for up to three years following the date the employer was found to have made a purposeful false statement or misrepresentation of a material fact, as determined by the Commissioner in consultation with the ~~Commissioner of Buildings and General Services or the Secretary of Transportation~~, as appropriate. ~~Either the Secretary or the Commissioner, as appropriate, shall be consulted in any contest relating to the prohibition of the employer from contracting with the State or its subdivisions~~ Secretary of Administration. The consultation may be informal and shall occur within five business days of the notification by the Commissioner. The outcome of the consultation shall be documented.

(b) ~~When~~ In addition to any penalties assessed pursuant to subsection (a) of this section, when the Department of Labor has sufficient reason to believe that an employer has purposefully made a false statement or representation ~~for the purpose of obtaining to obtain~~ a lower workers' compensation premium, the Department shall refer the alleged violation to the Commissioner of Financial Regulation for the Commissioner's consideration of enforcement pursuant to 8 V.S.A. § 3661(c).

* * *

Sec. 15. 21 V.S.A. § 1307 is amended to read:

§ 1307. COMMISSIONER OF LABOR, DUTIES AND POWERS OF

The ~~commissioner of labor~~ Commissioner of Labor shall administer this chapter. The ~~commissioner~~ Commissioner may employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as he or she considers necessary or suitable to that end. In the discharge of his or her duties imposed by this chapter, the ~~commissioner~~ Commissioner may administer oaths, take depositions, certify to official acts, and subpoena witnesses and compel the production of books, papers, correspondence, memoranda, and other records necessary and material to the administration of this chapter. In addition, the Commissioner or his or her designee may, upon presenting appropriate credentials, at reasonable times and without unduly disrupting business operations enter and inspect any place of business or employment, question any employee, and investigate any fact, condition, or matter necessary and material to the administration of this chapter. The employer shall, at reasonable times and without unduly disrupting business operations, make its workers available to meet with the Commissioner or his or her designee, as required by the Commissioner. The Commissioner or designee shall inform the employer of the employer's rights to refuse entry and to consult with legal counsel, and of the Commissioner's rights under this section. If entry is refused, the Commissioner may apply to the Civil Division of the Superior Court for an order to enforce the rights given to the Commissioner under this section.

Sec. 16. DEPARTMENT OF FINANCIAL REGULATION AND
DEPARTMENT OF LABOR; EDUCATION; OUTREACH

On or before October 1, 2016, the Commissioners of Financial Regulation and of Labor shall develop an education and outreach program for workers' compensation insurance companies, agents, auditors, and adjusters, as well as employers, workers, attorneys, and tax professionals, regarding:

(1) the definition of "independent contractor" that is added to 21 V.S.A. §§ 601 and 1301 by this act; and

(2) how to determine whether a person should be classified as an independent contractor under "the totality of the circumstances" pursuant to those definitions.

Sec. 17. EFFECTIVE DATES

(a) This section and Secs. 1, 4, and 16 shall take effect on July 1, 2016.

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

Senate Proposal of Amendment

H. 858

An act relating to miscellaneous criminal procedure amendments

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

Sec. 1. 13 V.S.A. § 2651(6) is amended to read;

(6) “Human trafficking” means:

* * *

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

* * *

Sec. 2. 13 V.S.A. § 5238 is amended to read:

§ 5238. CO-PAYMENT AND REIMBURSEMENT ORDERS

* * *

(d) To the extent that the Court finds that the eligible person has income or assets available to enable payment of an immediate co-payment, it shall order such a co-payment to cover in whole or in part the amount of the costs of representation to be borne by the eligible person. ~~When a co-payment is ordered, the assignment of counsel shall be contingent on prior payment of the co-payment.~~ The co-payment shall be paid to the clerk of the Court. Any portion of the co-payment not paid to the clerk may be included in a reimbursement order.

* * *

Sec. 2a. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

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

the expungement to the Federal Bureau of Investigation's National Crime Information Center.

* * *

Sec. 2b. 13 V.S.A. § 7607 is amended to read:

§ 7607. EFFECT OF SEALING

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

* * *

Sec. 3. 13 V.S.A. § 5301 is amended to read:

§ 5301. DEFINITIONS

As used in this chapter:

* * *

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

* * *

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

* * *

Sec. 4. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

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

* * *

Sec. 5. 13 V.S.A. § 5572(a) is amended to read:

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

Sec. 6. 13 V.S.A. § 5578 is added to read:

§ 5578. APPLICABILITY; RETROACTIVITY

Notwithstanding 1 V.S.A. § 214(b), this subchapter and any amendments thereto shall apply to any exoneration that occurs on or after July 1, 2007.

Sec. 7. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

* * *

~~(5) Prior to accepting a plea of guilty or a plea of nolo contendere from a defendant charged with a violation of this subsection, the court shall address the defendant personally in open court, informing the defendant and determining that the defendant understands that admitting to facts sufficient to warrant a finding of guilt or pleading guilty or nolo contendere to the charge may have collateral consequences such as loss of education financial aid, suspension or revocation of professional licenses, and restricted access to public benefits such as housing. If the a court fails to provide the defendant with notice of collateral consequences in accordance with this subdivision 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.~~

(b) Selling or dispensing.

(1) A person knowingly and unlawfully selling marijuana or hashish shall be imprisoned not more than two years or fined not more than \$10,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing ~~one-half ounce or more~~ than one ounce of marijuana or ~~2.5~~ five grams or more of hashish shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing one pound or more of marijuana or 2.8 ounces of hashish shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

* * *

Sec. 8. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE OR OLDER; ~~CIVIL VIOLATION~~

~~(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

- ~~(1) not more than \$200.00 for a first offense;~~
- ~~(2) not more than \$300.00 for a second offense;~~
- ~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1) Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.~~

~~(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind. A person shall not consume marijuana in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 of this title or chapter 37 of this title.~~

~~(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:~~

- ~~(i) not more than \$100.00 for a first offense;~~
- ~~(ii) not more than \$200.00 for a second offense; and~~
- ~~(iii) not more than \$500.00 for a third or subsequent offense.~~

~~(e)(1)(b) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.~~

~~(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.:~~

(1) permit a person to cultivate marijuana without a license from the Department of Public Safety;

(2) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(3) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(4) limit the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;

(5) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(6) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(7) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense.~~

~~(e)(c)(1)~~ A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated subsection (b) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(d)~~ Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.

Sec. 9. 18 V.S.A. § 4230e is added to read:

§ 4230e. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER
21 YEARS OF AGE

(a) No person shall:

(1) sell or furnish marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under 21 years of age.

(b) As used in this section, “enable the consumption of marijuana” means creating a direct and immediate opportunity for a person to consume marijuana.

(c)(1) Except as provided in subdivision (2) of this subsection and subsection (d) of this section, a person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(2) A person who violates subdivision (a)(1) of this section by selling or furnishing marijuana to a person under 18 years of age shall be imprisoned not more than four years or fined not more than \$4,000.00, or both.

(d) An employee of a marijuana establishment licensed pursuant to chapter 87 of this title, who, in the course of employment, violates subdivision (a)(1) of this section during a compliance check conducted by a law enforcement officer shall be:

(1) assessed a civil penalty of not more than \$100.00 for the first violation and a civil penalty of not less than \$100.00 nor more than \$500.00 for a second violation that occurs more than one year after the first violation; and

(2) subject to the criminal penalties provided in subsection (c) of this section for a second violation within a year of the first violation, and for a third or subsequent violation within three years of the first violation.

(e) An employee alleged to have committed a violation of subsection (d) of this section may plead as an affirmative defense that:

(1) the purchaser exhibited and the employee carefully viewed photographic identification that indicated the purchaser to be 21 years of age or older;

(2) an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(3) the sale was made in good faith, based upon the reasonable belief that the purchaser was of legal age to purchase marijuana.

(f) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle on a public highway, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(g) This section shall not apply to:

(1) A person under 21 years of age who sells or furnishes marijuana to a person under 21 years of age or who knowingly enables the consumption of marijuana by a person under 21 years of age. Possession of an ounce or less of marijuana by a person under 21 years of age shall be punished in accordance with sections 4230b–4230d of this title and dispensing or selling marijuana shall be punished in accordance with sections 4230 and 4237 of this title.

(2) A dispensary registered pursuant to chapter 86 of this title.

Sec. 10. 18 V.S.A. § 4230f is added to read:

§ 4230f. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER
21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by selling or furnishing marijuana to a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who sold or furnished the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant. Responsible actions may include a marijuana establishment's instruction to employees as to laws governing the sale of marijuana to adults 21 years of age or older and procedures for verification of age of customers.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f)(1) Except as provided in subdivision (2) of this subsection, nothing in this section shall create a statutory cause of action against a social host for furnishing marijuana to any person without compensation or profit. However, this subdivision shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(2) A social host who knowingly furnishes marijuana to a person under 21 years of age may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

(3) As used in this subsection, “social host” means a person who is not the holder of a marijuana establishment license and is not required under chapter 87 of this title to hold a marijuana establishment license.

Sec. 11. 18 V.S.A. § 4230g is added to read:

§ 4230g. CHEMICAL EXTRACTION PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using a solvent such as butane, hexane, isopropyl alcohol, ethanol, or carbon dioxide unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title. This section does not preclude extraction by vegetable glycerin.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

Sec. 12. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

During 2016 the Joint Legislative Justice Oversight Committee shall study:

(1) how a criminal defendant’s credit for time served is determined with respect to time that the defendant was in Department of Corrections custody on nonincarcerative status or conditions of release; and

(2) when the name of an offender who has committed a qualifying offense is posted on the Internet Sex Offender Registry if the offender was in Department of Corrections custody on nonincarcerative status.

* * * Findings * * *

Sec. 13. LEGISLATIVE FINDINGS AND INTENT

The General Assembly finds the following:

(1) According to a 2014 study commissioned by the administration and conducted by the RAND Corporation, marijuana is commonly used in Vermont with an estimated 80,000 residents having used marijuana in the last month.

(2) For over 75 years, Vermont has debated the issue of marijuana regulation and amended its marijuana laws numerous times in an effort to protect public health and safety. Criminal penalties for possession rose in the 1940s and 50s to include harsh mandatory minimums, dropped in the 1960s and 70s, rose again in the 1980s and 90s, and dropped again in the 2000s. A study published in the American Journal of Public Health found that no evidence supports the claim that criminalization reduces marijuana use.

(3) Vermont seeks to take a new comprehensive approach to marijuana use and abuse that incorporates prevention, education, regulation, treatment, and law enforcement which results in a net reduction in public harm and an overall improvement in public safety. Responsible use of marijuana by adults 21 years of age or older should be treated the same as responsible use of alcohol, the abuse of either treated as a public health matter, and irresponsible use of either that causes harm to others sanctioned with penalties.

(4) Policymakers recognize legitimate federal concerns about marijuana reform and seek through this legislation to provide better control of access and distribution of marijuana in a manner that prevents:

(A) distribution of marijuana to persons under 21 years of age;

(B) revenue from the sale of marijuana going to criminal enterprises;

(C) diversion of marijuana to states that do not permit possession of marijuana;

(D) State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or activity;

(E) violence and the use of firearms in the cultivation and distribution of marijuana;

(F) drugged driving and the exacerbation of any other adverse public health consequences of marijuana use;

(G) growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(H) possession or use of marijuana on federal property.

(5) In his 2016 State of the State address, the Governor identified five essential elements to a well-regulated framework for marijuana legalization, which the General Assembly believes have been addressed in this Act:

(A) Keeping marijuana and other drugs out of the hands of youth.

(B) Creating a regulated marijuana market that shifts demand away from the illegal market and the inherent public health and safety risks associated with the illegal market.

(C) Using revenue from commercial marijuana sales to expand drug prevention and treatment programs.

(D) Strengthening law enforcement's capacity to improve the response to impaired drivers under the influence of marijuana or other drugs.

(E) Prohibiting the commercial production and sale of marijuana concentrates and edible marijuana products until other states that are currently permitting such products successfully develop consumer protections that are shown to prevent access by youth and potential misuse by adults.

(6) Revenue generated by this act shall be used to provide for the implementation, administration, and enforcement of this chapter and to provide additional funding for State efforts on the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts to combat the illegal drug trade and impaired driving. As used in this subdivision, "criminal justice efforts" shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

(7)(A) The General Assembly understands there are a number of Vermonters who would prefer to cultivate small amounts of marijuana for personal use instead of buying marijuana through a licensed retailer and to allow small "craft" marijuana cultivators to sell to the public without the same restrictions and licensing of commercial cultivators. At this time, the General Assembly believes there is insufficient information to determine whether Vermont could effectively regulate personal cultivation in a manner that would not create diversion or enforcement issues that hinder efforts to divert the marijuana economy from the illegal to the regulated market.

(B) Marijuana is illegal for any purpose under federal law and the federal government retains prosecutorial discretion to enforce the provisions of the Controlled Substances Act. In a 2013 memo from Deputy Attorney General James M. Cole, the U.S. Department of Justice provided guidance on its use of this discretion stating, "[i]n jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong effective regulatory and enforcement systems to control cultivation, distribution, sale and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten [federal priorities] . . . If state enforcement efforts are not sufficiently robust to protect against the harms [identified in the memo], the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual

enforcement actions, including criminal prosecutions, focusing on those harms.”

(C) The Marijuana Program Review Commission created by this act will take testimony on the issues identified in subdivision (7)(A) and consider whether and when Vermont may move toward increasing opportunities for small-scale cultivation while meeting State and federal interests concerning public health and safety.

* * * Prevention * * *

Sec. 14. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a)(1) Relying on lessons learned from tobacco and alcohol prevention efforts, the Department of Health, in collaboration with the Department of Public Safety, the Agency of Education, and the Governor’s Highway Safety Program, shall develop and administer an education and prevention program focused on use of marijuana by youths under 25 years of age. In so doing, the Department shall consider at least the following:

(A) Community- and school-based youth and family-focused prevention initiatives that strive to:

(i) expand the number of school-based grants for substance abuse services to enable each Supervisory Union to develop and implement a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(ii) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youths in schools and other settings; and

(iii) expand family education programs.

(B) An informational and counter-marketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(C) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(D) Expansion of the use of SBIRT among the State’s pediatric practices and school-based health centers.

(E) Strategies specific to youths who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) On or before March 15, 2017, the Department shall adopt rules to implement the education and prevention program described in subsection (a) of this section and implement the program on or before September 15, 2017.

(b) The Department shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youths in Vermont and to understand the source of marijuana used by this population.

(c) Any data collected by the Department on the use of marijuana by youths shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

* * * Regulation of Commercial Marijuana * * *

Sec. 15. 18 V.S.A. § 4201(15) is amended to read:

(15)(A) “Marijuana” means ~~any plant material of the genus *Cannabis* or any preparation, compound, or mixture thereof except:~~

~~(A) sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562~~ all parts of the plant *Cannabis sativa* L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) “Marijuana” does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake; or

(iv) the sterilized seed of the plant that is incapable of germination.

Sec. 16. 18 V.S.A. chapter 87 is added to read:

CHAPTER 87. MARIJUANA ESTABLISHMENTS

Subchapter 1. General Provisions

§ 4501. DEFINITIONS

As used in this chapter:

(1) “Affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

(2) “Applicant” means a person that applies for a license to operate a marijuana establishment pursuant to this chapter.

(3) “Child care facility” means a child care facility or family day care home licensed or registered under 33 V.S.A. chapter 35.

(4) “Commissioner” means the Commissioner of Public Safety.

(5) “Department” means the Department of Public Safety.

(6) “Dispensary” means a person registered under section 4474e of this title that acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient’s use for symptom relief.

(7) “Enclosed, locked facility” shall be either indoors or outdoors, not visible to the public, and may include a building, room, greenhouse, fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include marijuana cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where marijuana is being grown, processed, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(8) “Financier” means a person, other than a financial institution as defined in 8 V.S.A. § 11101, that makes an equity investment, a gift, loan, or

otherwise provides financing to a person with the expectation of a financial return.

(9) “Handbill” means a flyer, leaflet, or sheet that advertises marijuana or a marijuana establishment.

(10) “Marijuana” shall have the same meaning as provided in section 4201 of this title.

(11) “Marijuana cultivator” or “cultivator” means a person registered with the Department to engage in commercial cultivation of marijuana in accordance with this chapter.

(12) “Marijuana establishment” means a marijuana cultivator, retailer, or testing laboratory licensed by the Department to engage in commercial marijuana activity in accordance with this chapter.

(13) “Marijuana retailer” or “retailer” means a person licensed by the Department to sell marijuana to consumers for off-site consumption in accordance with this chapter.

(14) “Marijuana testing laboratory” or “testing laboratory” means a person licensed by the Department to test marijuana for cultivators and retailers in accordance with this chapter.

(15) “Owns or controls,” “is owned or controlled by,” and “under common ownership or control” mean direct ownership or beneficial ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the power to direct, or cause the direction of, the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(16) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency, or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

(17) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

(18) “Principal” means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership.

(19) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 of this title or chapter 37 of this title.

(20) “Resident” means a person who is domiciled in Vermont, subject to the following:

(A) The process for determining the domicile of an individual shall be the same as that required by rules adopted by the Department of Taxes related to determining domicile for the purpose of the interpretation and administration of 32 V.S.A. § 5401(14).

(B) The domicile of a business entity is the State in which it is organized.

(21) “School” means a public school, independent school, or facility that provides early childhood education as those terms are defined in 16 V.S.A. § 11.

§ 4502. MARIJUANA POSSESSED UNLAWFULLY SUBJECT TO SEIZURE AND FORFEITURE

Marijuana possessed unlawfully in violation of this chapter may be seized by law enforcement and is subject to forfeiture.

§ 4503. NOT APPLICABLE TO HEMP OR THERAPEUTIC USE OF CANNABIS

This chapter shall not apply to activities regulated by 7 V.S.A. chapter 34 (hemp) or 86 (therapeutic use of cannabis) of this title.

§ 4504. CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE PROHIBITED

This chapter shall not be construed to permit consumption of marijuana in a public place. Violations shall be punished in accordance with section 4230a of this title.

§ 4505. REGULATION BY LOCAL GOVERNMENT

(a)(1) A marijuana establishment shall obtain a permit from a town, city, or incorporated village prior to beginning operations within the municipality.

(2) A municipality that hosts a marijuana establishment may establish a board of marijuana control commissioners, who shall be the members of the municipal legislative body. The board shall administer the municipal permits under this subsection for the marijuana establishments within the municipality.

(b) Nothing in this chapter shall be construed to prevent a town, city, or incorporated village from regulating marijuana establishments through local ordinances as set forth in 24 V.S.A. § 2291 or through land use bylaws as set forth in 24 V.S.A. § 4414.

(c)(1) A town, city, or incorporated village, by majority vote of those present and voting at annual or special meeting warned for the purpose, may prohibit the operation of a marijuana establishment within the municipality. The provisions of this subdivision shall not apply to a marijuana establishment that is operating within the municipality at the time of the vote.

(2) A vote to prohibit the operation of a marijuana establishment within the municipality shall remain in effect until rescinded by majority vote of those present and voting at an annual or special meeting warned for the purpose.

§ 4506. YOUTH RESTRICTIONS

(a) A marijuana establishment shall not dispense or sell marijuana to a person under 21 years of age or employ a person under 21 years of age.

(b) A marijuana establishment shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) A marijuana establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where marijuana is located. This subsection shall not apply to a registered patient visiting his or her designated dispensary even if that dispensary is located in a building that is located on the same premises of a marijuana establishment.

§ 4507. ADVERTISING

(a) Marijuana advertising shall not contain any statement or illustration that:

(1) is false or misleading;

(2) promotes overconsumption;

(3) represents that the use of marijuana has curative or therapeutic effects;

(4) depicts a person under 21 years of age consuming marijuana; or

(5) is designed to be appealing to children or persons under 21 years of age.

(b) Outdoor marijuana advertising shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) Handbills shall not be posted or distributed.

(d) In accordance with section 4512 of this chapter, the Department shall adopt regulations on marijuana establishment advertising that reflect the policies of subsection (a) of this section and place restrictions on the time, place, and manner, but not content, of the advertising.

(e) All advertising shall contain the following warnings:

(1) For use only by adults 21 years of age or older. Keep out of the reach of children.

(2) Marijuana has intoxicating effects and may impair concentration, coordination, and judgment. Do not operate a motor vehicle or heavy machinery or enter into any contractual agreement under the influence of marijuana.

Subchapter 2. Administration

§ 4511. AUTHORITY

(a) For the purpose of regulating the cultivation, processing, packaging, transportation, testing, purchase, and sale of marijuana in accordance with this chapter, the Department shall have the following authority and duties:

(1) rulemaking in accordance with this chapter and 3 V.S.A. chapter 25;

(2) administration of a program for the licensure of marijuana establishments, which shall include compliance and enforcement; and

(3) submission of an annual budget to the Governor.

(b)(1) For the purpose of regulating the cultivation and testing of marijuana in accordance with this chapter, the Agency of Agriculture, Food and Markets shall have the following authority and duties:

(A) rulemaking in accordance with this chapter and 3 V.S.A. chapter 25;

(B) the inspection of licensed marijuana cultivators and testing of marijuana; and

(C) the prevention of contaminated or adulterated marijuana from being offered for sale.

(2) The authority and duties of the Agency shall be in addition to, and not a substitute for, the authority and duties of the Department.

(c)(1) There is established a Marijuana Advisory Board within the Department for the purpose of advising the Department and other administrative agencies and departments regarding policy for the

implementation and operation of this chapter. The Board shall be composed of the following members:

- (A) the Commissioner of Public Safety or designee;
- (B) the Secretary of Agriculture, Food and Markets or designee;
- (C) the Commissioner of Health or designee;
- (D) the Commissioner of Taxes or designee; and
- (E) a member of local law enforcement appointed by the Governor.

(2) The Department shall endeavor to notify and consult with the Board prior to the adoption of any significant policy decision.

(3) The Secretary of Administration shall convene the first meeting of the Board on or before June 1, 2016 and shall attend Board meetings.

§ 4512. RULEMAKING

(a) The Department shall adopt rules to implement this chapter on or before March 15, 2017, in accordance with subdivisions (1)–(4) of this section.

(1) Rules concerning any marijuana establishment shall include:

- (A) the form and content of license and renewal applications;
- (B) qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment, including submission of an operating plan and the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to subsection 4522(d) of this title;
- (C) oversight requirements;
- (D) inspection requirements;
- (E) records to be kept by licensees and the required availability of the records;
- (F) employment and training requirements, including requiring that each marijuana establishment create an identification badge for each employee;
- (G) security requirements, including lighting, physical security, video, and alarm requirements;
- (H) restrictions on advertising, marketing, and signage;
- (I) health and safety requirements;

(J) regulation of additives to marijuana, including those that are toxic or designed to make the product more addictive, more appealing to children, or to mislead consumers;

(K) procedures for seed to sale traceability of marijuana, including any requirements for tracking software;

(L) regulation of the storage and transportation of marijuana;

(M) sanitary requirements;

(N) pricing guidelines with a goal of ensuring marijuana is sufficiently affordable to undercut the illegal market;

(O) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the marijuana establishment's license;

(P) procedures for suspension and revocation of a license; and

(Q) requirements for banking and financial transactions.

(2) Rules concerning cultivators shall include:

(A) labeling requirements for products sold to retailers; and

(B) regulation of visits to the establishments, including the number of visitors allowed at any one time and recordkeeping concerning visitors.

(3) Rules concerning retailers shall include:

(A) labeling requirements, including appropriate warnings concerning the carcinogenic effects and other potential negative health consequences of consuming marijuana, for products sold to customers;

(B) requirements for proper verification of age and residency of customers;

(C) restrictions that marijuana shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the marijuana; and

(D) regulation of visits to the establishments, including the number of customers allowed at any one time and recordkeeping concerning visitors.

(4) Rules concerning testing laboratories shall include:

(A) procedures for destruction of all samples; and

(B) requirements for chain of custody recordkeeping.

(b) In addition to the rules adopted by the Department pursuant to subsection (a) of this section, the Agency of Agriculture, Food and Markets

shall adopt rules regarding the cultivation and testing of marijuana regulated pursuant to this chapter as follows:

(1) restrictions on the use by cultivators of pesticides that are injurious to human health;

(2) standards for both the indoor and outdoor cultivation of marijuana, including environmental protection requirements;

(3) procedures and standards for testing marijuana for contaminants and potency and for quality assurance and control;

(4) reporting requirements of a testing laboratory; and

(5) inspection requirements for cultivators and testing laboratories.

§ 4513. IMPLEMENTATION

(a)(1) On or before April 15, 2017, the Department shall begin accepting applications for cultivator licenses and testing laboratory licenses. The initial application period shall remain open for 30 days. The Department may reopen the application process for any period of time at its discretion.

(2) On or before June 15, 2017, the Department shall begin issuing cultivator licenses and testing laboratory licenses to qualified applicants.

(b)(1) On or before May 15, 2017, the Department shall begin accepting applications for retail licenses. The initial application period shall remain open for 30 days. The Department may reopen the application process for any period of time at its discretion.

(2) On or before September 15, 2017, the Department shall begin issuing retailer licenses to qualified applicants. A license shall not permit a licensee to open the store to the public or sell marijuana to the public prior to January 2, 2018.

(c)(1) Prior to July 1, 2018, provided applicants meet the requirements of this chapter, the Department shall issue:

(A) a maximum of 10 cultivator licenses that permit a cultivation space of not more than 1,000 square feet;

(B) a maximum of four cultivator licenses that permit a cultivation space of 1,001–2,500 square feet;

(C) a maximum of 10 cultivator licenses that permit a cultivation space of 2,501–5,000 square feet;

(D) a maximum of three cultivator licenses that permit a cultivation space of 5,001–10,000 square feet;

(E) a maximum of five testing laboratory licenses; and

(F) a maximum of 15 retailer licenses.

(2) On or after July 1, 2018 and before July 1, 2019, provided applicants meet the requirements of this chapter and in addition to the licenses authorized in subdivision (1) of this subsection, the Department shall issue:

(A) a maximum of 10 cultivator licenses that permit a cultivation space of not more than 1,000 square feet for a total of 20 such licenses;

(B) a maximum of four cultivator licenses that permit a cultivation space of 1,001–2,500 square feet for a total of eight such licenses;

(C) a maximum of 10 cultivator licenses that permit a cultivation space of 2,501–5,000 square feet for a total of 20 such licenses;

(D) a maximum of three cultivator licenses that permit a cultivation space of 5,001–10,000 square feet for a total of six such licenses;

(E) a maximum of five testing laboratory licenses for a total of 10 such licenses; and

(F) a maximum of 15 retailer licenses for a total of 30 such licenses.

(3) On or after July 1, 2019, the limitations in subdivisions (1) and (2) of this subsection shall not apply and the Department shall use its discretion to issue licenses in a number and size for the purpose of competing with and undercutting the illegal market based on available data and recommendations of the Marijuana Program Review Commission. A cultivator licensed under the limitations of subdivisions (1) or (2) of this subsection may apply to the Department to modify its license to expand its cultivation space.

§ 4514. CIVIL CITATIONS; SUSPENSION AND REVOCATION OF LICENSES

(a) The Department shall have the authority to adopt rules for the issuance of civil citations for violations of this chapter and the rules adopted pursuant to section 4512 of this title. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

(b) The Department shall have the authority to suspend or revoke a license for violations of this chapter in accordance with rules adopted pursuant to section 4512 of this title.

Subchapter 3. Licenses

§ 4521. GENERAL PROVISIONS

(a) Except as otherwise permitted by this chapter, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of marijuana without obtaining a license from the Department.

(b) All licenses shall expire at midnight, April 30, of each year beginning no earlier than 10 months after the original license was issued to the marijuana establishment.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Department and shall be accompanied by the fees provided for in section 4528 of this section.

(d)(1) Except as provided in subdivision (2) of this subsection (d), an applicant and its affiliates may obtain only one license, either a cultivator license, a retailer license, or a testing laboratory license under this chapter.

(2) A dispensary or a subsidiary of a dispensary may obtain one of each type of license under this chapter, provided that a dispensary or its subsidiary obtains no more than one cultivator license, one retailer license, and one testing laboratory license total.

(e) Each license shall permit only one location of the establishment.

(f) A dispensary that obtains a retailer license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Department. If the dispensary and retail establishment are located on the same premises, the dispensary and retail establishment shall provide separate entrances and common areas designed to serve patients and caregivers and customers.

(g) Each licensee shall obtain and maintain commercial general liability insurance in accordance with rules adopted by the Department. Failure to provide proof of insurance to the Department, as required, may result in revocation of the license.

(h) All records relating to security, transportation, public safety, and trade secrets in an application for a license under this chapter shall be exempt from public inspection and copying under the Public Records Act.

(i) This subchapter shall not apply to possession regulated by section 4230a of this title.

§ 4522. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

(a) To be eligible for a marijuana establishment license:

(1) An applicant shall be a resident of Vermont.

(2) A principal of an applicant, and a person who owns or controls an applicant, shall have been a resident of Vermont for two or more years immediately preceding the date of application.

(3) An applicant, principal of an applicant, or person who owns or controls an applicant, who is a natural person:

(A) shall be 21 years of age or older; and

(B) shall consent to the release of his or her criminal and administrative history records.

(b) A financier of an applicant shall have been a resident of Vermont for two or more years immediately preceding the date of application.

(c) As part of the application process, each applicant shall submit, in a format proscribed by the Department, an operating plan. The plan shall include a floor plan or site plan drawn to scale that illustrates the entire operation being proposed. The plan shall also include the following:

(1) For a cultivator license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) transportation of product;

(E) destruction of waste product;

(F) description of growing operation, including growing media, size of grow space allocated for plant production, space allowed for any other business activity, description of all equipment to be used in the cultivation process, and a list of soil amendments, fertilizers, or other crop production aids, or pesticides, utilized in the production process;

(G) how the applicant will meet its operation's need for energy services at the lowest present value life-cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy efficiency and energy supply;

(H) testing procedures and protocols;

(I) description of packaging and labeling of products transported to retailers; and

(J) any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(2) For a retailer license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product;

(E) description of packaging and labeling of products sold to customers;

(F) the products to be sold and how they will be displayed to customers; and

(G) any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(3) For a testing laboratory license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product; and

(E) the types of testing to be offered.

(d) The Department shall obtain a Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of a business in this State or any other jurisdiction for each of the following who is a natural person:

(1) an applicant or financier;

(2) a principal of an applicant or financier; and

(3) a person who owns or controls an applicant or financier.

(e) When considering applications for a marijuana establishment license, the Department shall:

(1) give priority to a qualified applicant that is a dispensary or subsidiary of a dispensary;

(2) strive for geographic distribution of marijuana establishments based on population.

§ 4523. EDUCATION

(a) An applicant for a marijuana establishment license shall meet with a Department designee for the purpose of reviewing Vermont laws and rules pertaining to the possession, purchase, storage, and sale of marijuana prior to receiving a license.

(b) A licensee shall complete an enforcement seminar every three years conducted by the Department. A license shall not be renewed unless the records of the Department show that the licensee has complied with the terms of this subsection.

(c) A licensee shall ensure that each employee involved in the sale of marijuana completes a training program approved by the Department prior to selling marijuana and at least once every 24 months thereafter. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Department. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of no less than one day of the license issued under this chapter.

§ 4524. IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

(a) The Department shall issue each employee an identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the marijuana establishment and shall not be passed on to an employee. A person shall not work as an employee until that person has received an identification card issued under this section. Each card shall contain the following:

- (1) the name, address, and date of birth of the person;
- (2) the legal name of the marijuana establishment with which the person is affiliated;
- (3) a random identification number that is unique to the person;
- (4) the date of issuance and the expiration date of the identification card; and
- (5) a photograph of the person.

(b) Prior to acting on an application for an identification card, the Department shall obtain the person's Vermont criminal history record, out-of-state criminal history record, and criminal history record from the Federal Bureau of Investigation. Each person shall consent to the release of

criminal history records to the Department on forms developed by the Vermont Crime Information Center.

(c) When the Department obtains a criminal history record, the Department shall promptly provide a copy of the record to the person and the marijuana establishment. The Department shall inform the person of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Department.

(d) The Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter.

(e) The Department shall not issue an identification card to any person who has been convicted of a drug-related criminal offense or a violent felony or who has a pending charge for such an offense. As used in this subchapter, "violent felony" means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(f) The Department shall adopt rules for the issuance of an identification card and shall set forth standards for determining whether a person should be denied a registry identification card because his or her criminal history record indicates that the person's association with a marijuana establishment would pose a demonstrable threat to public safety. The rules shall consider whether a person who has a conviction for an offense not listed in subsection (e) of this section has been rehabilitated. A conviction for an offense not listed in subsection (e) of this section shall not automatically disqualify a person for a registry identification card. A marijuana establishment may deny a person the opportunity to serve as an employee based on his or her criminal history record. A person who is denied an identification card may appeal the Department's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(g) An identification card shall expire one year after its issuance or upon the expiration of the marijuana establishment's license, whichever occurs first.

§ 4525. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, package, label, transport, test, and sell marijuana to a licensed retailer.

(b) Cultivation of marijuana shall occur only in an enclosed, locked facility.

(c) An applicant shall designate on their operating plan the size of the premises and the amount of actual square footage that will be dedicated to plant canopy.

(d) Representative samples of each lot or batch of marijuana intended for human consumption shall be tested for safety and potency in accordance with rules adopted by the Department and the Agency of Agriculture, Food and Markets.

(e) Each cultivator shall create packaging for its marijuana.

(1) Packaging shall include:

(A) The name and registration number of the cultivator.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(f)(1) Only unadulterated marijuana shall be offered for sale. If, upon inspection, the Agency of Agriculture, Food and Markets finds any violative pesticide residue or other contaminants of concern, the Agency shall order the marijuana, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Agency’s instructions.

(2) Marijuana ordered destroyed or placed on stop-sale shall be clearly separable from salable marijuana. Any order shall be confirmed in writing

within seven days. The order shall include the reason for action, a description of the marijuana affected, and any recommended treatment.

(3) A person may appeal an order issued pursuant to this section within 15 days of receiving the order. The appeal shall be made in writing to the Secretary of Agriculture, Food and Markets and shall clearly identify the marijuana affected and the basis for the appeal.

§ 4526. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) transport, possess, and sell marijuana to the public for consumption off the registered premises; and

(2) purchase marijuana from a licensed cultivator.

(b)(1) In a single transaction, a retailer may provide:

(A) one-half ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled in Vermont; or

(B) one-quarter of an ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled outside Vermont.

(2) A retailer shall not knowingly and willfully sell an amount of marijuana to a person that causes the person to exceed the possession limit.

(c) A retailer shall only sell “useable marijuana” which means the dried flowers of marijuana, and does not include the seeds, stalks, leaves, and roots of the plant, and shall not package marijuana with other items, such as paraphernalia, for sale to customers.

(d)(1) Packaging shall include:

(A) The name and registration number of the retailer.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate

machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(e) A retailer shall display a safety information flyer developed or approved by the Board and supplied to the retailer free of charge. The flyer shall contain information concerning the methods for administering marijuana, the potential dangers of marijuana use, the symptoms of problematic usage, and how to receive help for marijuana abuse.

(f) Internet sales and delivery of marijuana to customers are prohibited.

§ 4527. MARIJUANA TESTING LABORATORY

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport marijuana samples obtained from a licensed marijuana establishment.

(b) Testing may address the following:

- (1) residual solvents;
- (2) poisons or toxins;
- (3) harmful chemicals;
- (4) dangerous molds, mildew, or filth;
- (5) harmful microbials, such as E.coli or salmonella;
- (6) pesticides; and
- (7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing laboratory shall establish a protocol for recording the chain of custody of all marijuana samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.

§ 4528. FEES

(a) The Department of Public Safety shall charge and collect initial license application fees and annual license renewal fees for each type of marijuana license under this chapter. Fees shall be due and payable at the time of license application or renewal.

(b)(1) The nonrefundable fee accompanying an application for a cultivator license pursuant to section 4525 of this chapter shall be determined as follows:

(A) For a cultivator license that permits a cultivation space of not more than 1,000 square feet, the application fee shall be \$3,000.00.

(B) For a cultivator license that permits a cultivation space of 1,001–2,500 square feet, the application fee shall be \$7,500.00.

(C) For a cultivator license that permits a cultivation space of 2,501–5,000 square feet, the application fee shall be \$15,000.00.

(D) For a cultivator license that permits a cultivation space of 5,001–10,000 square feet, the application fee shall be \$30,000.00.

(2) The nonrefundable fee accompanying an application for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The nonrefundable fee accompanying an application for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$500.00.

(4) If a person submits a qualifying application for a marijuana establishment license during an open application, pays the nonrefundable application fee, but is not selected to receive a license due to the limited number of licenses available, the person may reapply, based on availability, for such a license within two years by resubmitting the application with any necessary updated information, and shall be charged a fee that is:

(A) fifty percent of the application fees set forth in subdivision (1)–(3) of this subsection if the original application was submitted prior to July 1, 2018; or

(B) twenty-five percent of the application fees set forth in subdivisions (1)–(3) of this subsection if the original application was submitted on or after July 1, 2018 and before July 1, 2019.

(c)(1) The initial annual license fee and subsequent annual renewal fee for a cultivator license pursuant to section 4525 of this chapter shall be determined as follows:

(A) For a cultivator license that permits a cultivation space of not more than 1,000 square feet, the initial annual license and subsequent renewal fee shall be \$3,000.00.

(B) For a cultivator license that permits a cultivation space of 1,001–2,500 square feet, the initial annual license and subsequent renewal fee shall be \$7,500.00.

(C) For a cultivator license that permits a cultivation space of 2,501–5,000 square feet, the initial annual license and subsequent renewal fee shall be \$15,000.00.

(D) For a cultivator license that permits a cultivation space of 5,001–10,000 square feet, the initial annual license and subsequent renewal fee shall be \$30,000.00.

(2) The initial annual license fee and subsequent annual renewal fee for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The initial annual license fee and subsequent annual renewal fee for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$2,500.00.

(d) The following administrative fees shall apply:

(1) Change of corporate structure fee (per person) shall be \$1,000.00.

(2) Change of name fee shall be \$1,000.00.

(3) Change of location fee shall be \$1,000.00.

(4) Modification of license premises fee shall be \$250.00.

(5) Addition of financier fee shall be \$250.00.

(6) Duplicate license fee shall be \$100.00.

§ 4529. MARIJUANA REGULATION AND RESOURCE FUND

(a) The Marijuana Regulation and Resource Fund is hereby created. The Fund shall be maintained by the Agency of Administration.

(b) The Fund shall be composed of:

(1) all application fees, license fees, renewal fees, and civil penalties collected by Departments pursuant to this chapter; and

(2) all taxes collected by the Commissioner of Taxes pursuant to this chapter.

(c)(1) Funds shall be appropriated as follows:

(A) For the purpose of implementation, administration, and enforcement of this chapter.

(B) Proportionately for the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts by State and local law enforcement to combat the illegal drug trade and impaired driving. As used in this subdivision, "criminal justice efforts" shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

(2) Appropriations made pursuant to subdivision (1) of this subsection shall be in addition to current funding of the identified priorities and shall not be used in place of existing State funding.

(d) All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the Fund shall be deposited into the Fund.

(e) This Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5. The Commissioner of Finance and Management shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

(f) The Secretary of Administration shall report annually to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting.

Subchapter 4. Marijuana Program Review Commission

§ 4546. PURPOSE; MEMBERS

(a) Creation. There is created a temporary Marijuana Program Review Commission for the purpose of facilitating efficient and lawful implementation of this act and examination of issues important to the future of marijuana regulation in Vermont.

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

(1) four members of the public appointed by the Governor, one of whom shall have experience in public health;

(2) one member of the House of Representatives, appointed by the Speaker of the House;

(3) one member of the Senate, appointed by the Committee on Committees; and

(4) the Attorney General or designee.

(c) Legislative members shall serve only while in office.

(d) The Governor shall appoint one member for a one-year term, two members for two-year terms, and one member for a three-year term who shall serve as Chair. The Governor may reappoint members at his or her discretion.

§ 4547. POWERS; DUTIES

(a) The Commission shall:

(1) collect information about the implementation, operation, and effect of this act from members of the public, State agencies, and private and public sector businesses and organizations;

(2) communicate with other states that have legalized marijuana and monitor those states regarding their implementation of regulation, policies, and strategies that have been successful and problems that have arisen;

(3) consider the issue of personal cultivation of a small number of marijuana plants and whether Vermont could permit home grow in a manner that would not create diversion or enforcement issues that hinder efforts to divert the marijuana economy from the illegal to the regulated market;

(4) examine the issue of marijuana concentrates and edible marijuana products and whether Vermont safely can allow and regulate their manufacture and sale and, if so, how;

(5) keep updated on the latest information in Vermont and other jurisdictions regarding the prevention and detection of impaired driving as it relates to marijuana;

(6) study the opportunity for a cooperative agriculture business model and licensure and community supported agriculture;

(7) examine whether Vermont should allow additional types of marijuana establishment licenses, including a processor license and product manufacturer license;

(8) review the statutes and rules for the therapeutic marijuana program and dispensaries and determine whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries;

(9) monitor supply and demand of marijuana cultivated and sold pursuant to this act for the purpose of assisting the Department and policymakers with determining appropriate numbers of licenses and limitations on the amount of marijuana cultivated and offered for retail sale in Vermont so that the adult market is served without unnecessary surplus marijuana;

(10) monitor the extent to which marijuana is accessed through both the legal and illegal market by persons under 21 years of age;

(11) identify strategies for preventing youth from using marijuana;

(12) identify academic and scientific research, including longitudinal research questions, that when completed may assist policymakers in developing marijuana policy in accordance with this act;

(13) consider whether to create a local revenue stream which may include a local option excise tax on marijuana sales or municipally assessed fees;

(14) recommend the appropriate maximum amount of marijuana sold by a retailer in a single transaction and whether there should be differing amounts for Vermonters and nonresidents; and

(15) report any recommendations to the General Assembly and the Governor, as needed.

(b)(1) On or before October 15, 2017, the Commission shall issue a report to the General Assembly and the Governor regarding allowing personal cultivation of marijuana as provided in subdivision (a)(3) of this section.

(2) On or before January 15, 2019, the Commission shall issue a final report to the General Assembly and the Governor regarding its findings and any recommendations for legislative or administrative action.

§ 4548. ADMINISTRATION

(a) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Administration.

(b) Meetings.

(1) The Administration shall call the first meeting of the Commission to occur on or before August 1, 2016.

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

(3) The Commission shall cease meeting regularly after the issuance of its final report, but members shall be available to meet with Administration officials and the General Assembly until July 1, 2019 at which time the Commission shall cease to exist.

(c) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for as many meetings as the Chair deems necessary.

(2) Other members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 17. 32 V.S.A. chapter 207 is added to read:

CHAPTER 207. MARIJUANA TAXES

§ 7901. TAX IMPOSED

(a) There is imposed a marijuana excise tax equal to 25 percent of the sales price, as that term is defined in subdivision 9701(4) of this title, on each retail sale of marijuana in this State. The tax imposed by this section shall be paid by the buyer to the retailer. Each retailer shall collect from the buyer the full amount of the tax payable on each taxable sale.

(b) The tax imposed by this section is separate from the general sales and use tax imposed by chapter 233 of this title. The tax imposed under this section shall be separately itemized from any State and local retail sales tax on the sales receipt provided to the buyer.

(c) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary, provided the marijuana will be provided only to registered qualifying patients directly or through their registered caregivers.

§ 7902. LIABILITY FOR TAX AND PENALTIES

(a) Any tax collected under this chapter shall be deemed to be held by the retailer in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as to clearly indicate the amount of tax collected, and that the tax receipts are the property of the State of Vermont.

(b) Every retailer required to collect the tax imposed by this chapter shall be personally and individually liable for the amount of tax together with such interest and penalty as has accrued under this title. If the retailer is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect the tax and transmit it to the Commissioner of Taxes as required in this chapter.

(c) A retailer shall have the same rights in collecting the tax from his or her purchaser or regarding nonpayment of the tax by the purchaser as if the tax

were a part of the purchase price of the marijuana and payable at the same time; provided, however, if the retailer required to collect the tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer to collect the tax and shall have the right to intervene in such action or proceeding.

(d) A retailer required to collect the tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer for the tax collected unless the purchaser has provided written notice to a retailer, and the retailer has had 60 days to respond.

(e) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use taxes in chapter 233 of this title shall apply to the tax imposed by this chapter.

§ 7903. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes marijuana is subject to the tax imposed by this chapter on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the nontaxable products are subject to the tax imposed by this chapter unless the retailer can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products includes marijuana subject to the tax under this chapter; or

(2) marijuana provided free of charge with the required purchase of another product.

§ 7904. RETURNS

(a) Any retailer required to collect the tax imposed by this chapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer, a statement containing its name and place of business, the amount of marijuana sales subject to the excise tax imposed by this subchapter sold in the preceding

month, and any other information required by the Department of Taxes, along with the tax due.

(b) Every retailer shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. These records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7905. LICENSES

(a) Every retailer required to collect the tax imposed by this chapter shall apply for a marijuana excise tax license in the manner prescribed by the Commissioner of Taxes. The Commissioner shall issue, without charge, to each registrant a license empowering him or her to collect the marijuana excise tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the registrant. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant's ceasing to do business at the place named. A license to collect marijuana excise tax shall be in addition to the licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title and any license required by the Department of Public Safety.

(b) The Department of Public Safety may require the Commissioner of Taxes to suspend or revoke the tax license of any person for failure to comply with any provision of this chapter.

Sec. 18. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

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

* * *

(18) "Vermont net income" means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for State and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; and

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from State and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont State or local obligations;

(III) the amount of any deduction for a federal net operating loss; and

(ii) decreased by:

(I) the “gross-up of dividends” required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the foreign tax credit; ~~and~~

(II) the amount of income which results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

* * *

(21) “Taxable income” means federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations;

(iii) the amount of State and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(iv) the amount of total itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, or charitable contributions, deducted from federal adjusted gross income for the taxable year, that is in excess of two and one-half times the standard deduction allowable to the taxpayer; and

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business;

and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; ~~and~~

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

* * *

Sec. 19. 32 V.S.A. § 9741(51) is added to read:

(51) Marijuana sold by a dispensary as authorized under 18 V.S.A. chapter 86 or by a retailer as authorized under 18 V.S.A. chapter 87.

* * * Impaired Driving * * *

Sec. 20. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.

(c) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~\$25.00~~ \$50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 21. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR
POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages or marijuana in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be fined not more than \$25.00.

Sec. 22. 23 V.S.A. § 1219 is amended to read:

§ 1219. COMMERCIAL MOTOR VEHICLE; DETECTABLE AMOUNT;
OUT-OF-SERVICE

A person who is operating, attempting to operate, or in actual physical control of a commercial motor vehicle with any measurable or detectable amount of alcohol or marijuana in his or her system shall immediately be placed out-of-service for 24 hours by an enforcement officer. A law enforcement officer who has reasonable grounds to believe that a person has a measurable or detectable amount of alcohol or marijuana in his or her system on the basis of the person's general appearance, conduct, or other substantiating evidence, may request the person to submit to a test, which may be administered with a preliminary screening device. The law enforcement officer shall inform the person at the time the test is requested that refusal to submit will result in disqualification. If the person refuses to submit to the test, the person shall immediately be placed out-of-service for 24 hours and shall be disqualified from driving a commercial motor vehicle as provided in section 4116 of this title.

Sec. 23. 23 V.S.A. § 4116 is amended to read:

§ 4116. DISQUALIFICATION

(a) A person shall be disqualified from driving a commercial motor vehicle for a period of one year if convicted of a first violation of:

* * *

(4) refusal to submit to a test to determine the operator's alcohol or marijuana concentration, as provided in section 1205, 1218, or 1219 of this title;

* * *

Sec. 24. VERMONT GOVERNOR'S HIGHWAY SAFETY PROGRAM

(a) Impaired driving, operating a motor vehicle while under the influence of alcohol or drugs, is a significant concern for the General Assembly. While Vermont has made a meaningful effort to educate the public about the dangers of drinking alcohol and driving, the public seems to be less aware of the inherent risks of driving while under the influence of drugs, whether it is marijuana, a validly prescribed medication, or other drugs. It is the intent of the General Assembly that the State reframe the issue of drunk driving as impaired driving in an effort to address comprehensively the risks of such behavior through prevention, education, and enforcement.

(b)(1) The Agency of Transportation, through its Vermont Governor’s Highway Safety Program, shall expand its public education and prevention campaign on drunk driving to impaired driving, which shall include drugged driving.

(2) The Agency shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15, 2017 regarding implementation of this section.

Sec. 25. REPORTING IMPAIRED DRIVING DATA

The Commissioner of Public Safety and the Secretary of Transportation, in collaboration, shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15 each year regarding the following issues concerning impaired driving:

(1) the previous year’s data in Vermont;

(2) the latest information regarding best practices on prevention and enforcement; and

(3) their recommendations for legislative action.

* * *

* * * Medical Marijuana Dispensaries * * *

Sec. 26. LEGISLATIVE INTENT; DISPENSARIES

The continued viability of medical marijuana dispensaries in a regulated retail market is critical to ensure appropriate services and products to Vermonters with qualifying debilitating medical conditions.

Sec. 27. 18 V.S.A. § 4472 is amended to read:

§ 4472. DEFINITIONS

* * *

(6)(A) “Health care professional” means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a naturopathic physician under 26 V.S.A. chapter 81 ~~who has a special license endorsement authorizing the individual to prescribe, dispense, and administer prescription medicines to the extent that a diagnosis provided by a naturopath under this chapter is within the scope of his or her practice~~, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28.

(B) ~~Except for naturopaths, this~~ This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

* * *

(11) ~~“Registered caregiver” means a person who is at least 21 years old who has never been convicted of a drug related crime~~ 21 years of age or older, has met eligibility requirements as determined by the Department in accordance with this chapter, and who has agreed to undertake responsibility for managing the well-being of a registered patient with respect to the use of marijuana for symptom relief.

* * *

(17) “Enclosed, locked facility” shall be either indoors or outdoors, not visible to the public, and may include a building, room, greenhouse, fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the dispensary, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include marijuana cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the dispensary when they are in areas where marijuana is being grown, processed, or stored.

(D) Registered employees of another dispensary, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the dispensary.

Sec. 28. 18 V.S.A. § 4473 is amended to read:

§ 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND PROCEDURES

* * *

(b) The Department of Public Safety shall review applications to become a registered patient using the following procedures:

* * *

(5)(A) A Review Board is established. ~~The Medical Practice Board shall appoint three physicians licensed in Vermont to constitute the Review Board. If an application under subdivision (1) of this subsection is denied,~~

~~within seven days the patient may appeal the denial to the Board. Review shall be limited to information submitted by the patient under subdivision (1) of this subsection, and consultation with the patient's treating health care professional. All records relating to the appeal shall be kept confidential. An appeal shall be decided by majority vote of the members of the Board. The Review Board shall comprise three members:~~

~~(i) a physician appointed by the Medical Practice Board;~~

~~(ii) a naturopathic physician appointed by the Office of Professional Regulation; and~~

~~(iii) an advanced practice registered nurse appointed by the Office of Professional Regulation.~~

(B) The Board shall meet periodically to review studies, data, and any other information relevant to the use of marijuana for symptom relief. The Board may make recommendations to the General Assembly for adjustments and changes to this chapter.

(C) Members of the Board shall serve for three-year terms, beginning February 1 of the year in which the appointment is made, except that the first members appointed shall serve as follows: one for a term of two years, one for a term of three years, and one for a term of four years. Members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.

~~(D) If an application under subdivision (1) of this subsection (b) is denied, within seven days the patient may appeal the denial to the Board. Review shall be limited to information submitted by the patient under subdivision (1) of this subsection, and consultation with the patient's treating health care professional. All records relating to the appeal shall be kept confidential. An appeal shall be decided by majority vote of the members of the Board.~~

Sec. 29. 18 V.S.A. § 4474 is amended to read:

§ 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS
AND PROCEDURES

* * *

(d) A registered caregiver of a patient who is under 18 years of age and suffers from seizures may cultivate hemp upon notifying the Department and shall not be required to comply with the provisions of 6 V.S.A. chapter 34.

Sec. 30. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief.

(A) Marijuana-infused products shall include tinctures, oils, solvents, and edible or potable goods. Only the portion of any marijuana-infused product that is attributable to marijuana shall count toward the possession limits of the dispensary and the patient. The Department of Public Safety shall establish by rule the appropriate method to establish the weight of marijuana that is attributable to marijuana-infused products. A dispensary shall dispense marijuana-infused products in child-resistant packaging as defined in 7 V.S.A. § 1012.

* * *

(2)(A) Acquire marijuana seeds or parts of the marijuana plant capable of regeneration from or dispense them to registered patients or their caregivers or acquire them from another registered Vermont dispensary, provided that records are kept concerning the amount and the recipient.

(B) Acquire, purchase, or borrow marijuana, marijuana-infused products, or services from another registered Vermont dispensary or give, sell, or lend marijuana, marijuana-infused products, or services to another registered Vermont dispensary, provided that records are kept concerning the product, the amount, and the recipient. Each Vermont dispensary is required to adhere to all possession limits pertaining to cultivation as determined by the number of patients designating that dispensary and may not transfer eligibility to another dispensary.

(3)(A) Cultivate and possess at any one time up to 28 mature marijuana plants, 98 immature marijuana plants, and 28 ounces of usable marijuana. However, if a dispensary is designated by more than 14 registered patients, the dispensary may cultivate and possess at any one time two mature marijuana plants, seven immature plants, and four ounces of usable marijuana for every registered patient for which the dispensary serves as the designated dispensary.

(B) Notwithstanding subdivision (A) of this subdivision (3), if a dispensary is designated by a registered patient under 18 years of age who qualifies for the registry because of seizures, the dispensary may apply to the

Department for a waiver of the limits in subdivision (A) of this subdivision (3) if additional capacity is necessary to develop and provide an adequate supply of a product for symptom relief for the patient. The Department shall have discretion whether to grant a waiver and limit the possession amounts in excess of subdivision (A) of this subdivision (3) in accordance with rules adopted pursuant to section 4474d of this title.

(C) The plant limitations in subdivision (A) of this subdivision (3) shall not be construed to restrict a dispensary's cultivation of marijuana pursuant to a cultivation license issued under chapter 87 of this title.

(4) With approval from the Department, transport and transfer marijuana to a Vermont academic institution for the purpose of research.

~~(b)(1) A dispensary shall be operated on a nonprofit basis for the mutual benefit of its patients but need not be recognized as a tax exempt organization by the Internal Revenue Service.~~

~~(2) A dispensary shall have a sliding-scale fee system that takes into account a registered patient's ability to pay.~~

* * *

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in an enclosed, locked facility ~~which is either indoors or otherwise not visible to the public and which can only be accessed by principal officers and employees of the dispensary who have valid registry identification cards.~~ The Department of Public Safety shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' registry identification numbers to protect their confidentiality.

* * *

(h) A dispensary shall include a label on the packaging of all marijuana that is dispensed. The label shall:

(1) identify the particular strain of marijuana contained therein. Cannabis strains shall be either pure breeds or hybrid varieties of cannabis and shall reflect properties of the plant. ~~The label also shall:~~

(2) identify the amount of tetrahydrocannabinol in each single dose marijuana-infused edible or potable product; and

(3) contain a statement to the effect that the State of Vermont does not attest to the medicinal value of cannabis.

* * *

(o) Notwithstanding any provision of law or any provision of its articles or bylaws to the contrary, a dispensary formed as a nonprofit may convert to any other type of business entity authorized by the laws of this State by:

(1) a majority vote of the directors and a majority vote of the members, if any; and

(2) filing with the Secretary of State a statement that the dispensary is converting to another type of entity and the documents required by law to form the type of entity.

Sec. 31. 18 V.S.A. § 4474g is amended to read:

§ 4474g. DISPENSARY REGISTRY IDENTIFICATION CARD;
CRIMINAL BACKGROUND CHECK

(a) Except as provided in subsection (b) of this section, the Department of Public Safety shall issue each principal officer, Board member, and employee of a dispensary a registry identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the dispensary and the cost shall not be passed on to a principal officer, Board member, or employee. A person shall not serve as principal officer, Board member, or employee of a dispensary until that person has received a registry identification card issued under this section. Each card shall specify whether the cardholder is a principal officer, Board member, or employee of a dispensary and shall contain the following:

(1) the name, address, and date of birth of the person;

(2) the legal name of the dispensary with which the person is affiliated;

(3) a random identification number that is unique to the person;

(4) the date of issuance and the expiration date of the registry identification card; and

(5) a photograph of the person.

(b) Prior to acting on an application for a registry identification card, the Department of Public Safety shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each

applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center. A fingerprint-supported, out-of-state criminal history record and a criminal history record from the Federal Bureau of Investigation shall be required only every three years for renewal of a card for a dispensary principal or Board member.

* * *

(e) The Department of Public Safety shall not issue a registry identification card to any applicant who has been convicted of a drug-related criminal offense or a violent felony or who has a pending charge for such an offense. ~~For purposes of~~ As used in this subchapter, “violent felony” means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

* * *

Sec. 32. 18 V.S.A. § 4474h is amended to read:

§ 4474h. PATIENT DESIGNATION OF DISPENSARY

(a) A registered patient may obtain marijuana only from the patient’s designated dispensary and may designate only one dispensary. If a registered patient designates a dispensary, the patient and his or her caregiver may not grow marijuana or obtain marijuana or marijuana-infused products for symptom relief from any source other than the designated dispensary. A registered patient who wishes to change his or her dispensary shall notify the ~~department of public safety~~ Department of Public Safety in writing on a form issued by the ~~department~~ Department and shall submit with the form a fee of \$25.00. The ~~department~~ Department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary. The registered patient’s previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the ~~department~~ Department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any ~~90-day~~ 30-day period.

(b) The ~~department of public safety~~ Department of Public Safety shall track the number of registered patients who have designated each dispensary. The ~~department~~ Department shall issue a monthly written statement to the dispensary identifying the number of registered patients who have designated that dispensary and the registry identification numbers of each patient and each patient’s designated caregiver, if any.

(c) In addition to the monthly reports, the ~~department of public safety~~ Department of Public Safety shall provide written notice to a dispensary whenever any of the following events occurs:

(1) ~~A~~ a qualifying patient designates the dispensary to serve his or her needs under this subchapter;

(2) ~~An~~ an existing registered patient revokes the designation of the dispensary because he or she has designated a different dispensary; or

(3) ~~A~~ a registered patient who has designated the dispensary loses his or her status as a registered patient under this subchapter.

* * * Appropriations and Positions * * *

Sec. 33. FISCAL YEAR 2017 APPROPRIATIONS FROM THE
MARIJUANA REGULATION AND RESOURCE FUND

In fiscal year 2017, the following amounts are appropriated from the Marijuana Regulation and Resource Fund:

(1) Department of Health: \$350,000.00 for initial prevention, education, and counter-marketing programs.

(2) Department of Taxes: \$660,000.00 for the acquisition of an excise tax module and staffing expenses to administer the excise tax established in this act.

(3) Department of Public Safety:

(A) \$160,000.00 for staffing expenses related to rulemaking, program administration, and processing of applications.

(B) \$124,000.00 for laboratory equipment, supplies, training, testing, and contractual expenses required by this act.

(C) \$63,500.00 for matching funds needed for Drug Recognition Expert training for the Department and other State law enforcement agencies in FY17 after other available matching funds are applied.

(4) Agency of Agriculture, Food and Markets:

(A) \$112,500.00 for the Vermont Agriculture and Environmental Lab.

(B) \$112,500.00 for staffing expenses related to rulemaking and program administration.

(5) Agency of Administration: \$150,000.00 for expenses and staffing of the Marijuana Program Review Commission established in this act.

Sec. 34. EXECUTIVE BRANCH POSITION AUTHORIZATIONS

The establishment of the following new permanent classified positions is authorized in fiscal year 2017 as follows:

(1) In the Department of Health—one (1) Substance Abuse Program Manager.

(2) In the Department of Taxes—one (1) Business Analyst AC: Tax and one (1) Tax Policy Analyst.

(3) In the Department of Public Safety—one (1) Program Administrator and one (1) Administrative Assistant.

(4) In the Agency of Agriculture, Food and Markets—one (1) Agriculture Chemist and one (1) Program Administrator.

(5) In the Marijuana Program Review Commission—one (1) exempt Commission Director.

Sec. 35. MARIJUANA REGULATION AND RESOURCE FUND
BUDGET AND REPORT

Annually, through 2018, the Secretary of Administration shall report to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting on the following:

(1) an update of the administration's efforts concerning implementation, administration, and enforcement of this act;

(2) any changes or updates to revenue expectations from fees and taxes based on changes in competitive pricing or other information;

(3) projected budget adjustment needs for current year appropriations from the Marijuana Regulation and Resource Fund; and

(4) a comprehensive spending plan with recommended appropriations from the Fund for the next the fiscal year, by department, including an explanation and justification for the expenditures and how each recommendation meets the intent of this act.

* * * Miscellaneous * * *

Sec. 36. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(29) To prohibit or regulate, by means of a civil ordinance adopted pursuant to chapter 59 of this title, the number, time, place, manner, or operation of a marijuana establishment, or any class of marijuana establishments, located in the municipality; provided, however, that amendments to such an ordinance shall not apply to restrict further a marijuana establishment in operation within the municipality at the time of the amendment. As used in this subdivision, “marijuana establishment” is as defined in 18 V.S.A. chapter 87.

Sec. 37. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

* * *

(16) Marijuana establishments. A municipality may adopt bylaws for the purpose of regulating marijuana establishments as defined in 18 V.S.A. chapter 87.

Sec. 38. 6 V.S.A. chapter 5 is amended to read:

CHAPTER 5. CENTRAL TESTING LABORATORY

§ 121. CREATION AND PURPOSE

There is created within the Agency of Agriculture, Food and Markets a central testing laboratory for the purpose of providing agricultural ~~and~~, environmental, and other necessary testing services.

§ 122. FEES

Notwithstanding 32 V.S.A. § 603, the Agency shall establish fees for providing agricultural ~~and~~, environmental, and other necessary testing services at the request of private individuals and State agencies. The fees shall be reasonably related to the cost of providing the services. Fees collected under this chapter shall be credited to a special fund which shall be established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and which shall be available to the Agency to offset the cost of providing the services.

§ 123. REGULATED DRUGS

(a) Except as provided in subsection (b) of this section, the provisions of 18 V.S.A. chapter 84 shall not apply to the Secretary or designee in the

otherwise lawful performance of his or her official duties requiring the possession or control of regulated drugs.

(b) The central testing laboratory shall obtain a certificate of approval from the Department of Health pursuant to 18 V.S.A. § 4207.

(c) As used in this section, “regulated drug” shall have the same meaning as in 18 V.S.A. § 4201.

Sec. 39. WORKFORCE STUDY COMMITTEE

(a) Creation. There is created a Workforce Study Committee to examine the potential impacts of alcohol and drug use on the workplace.

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

(1) the Secretary of Commerce and Community Development or designee;

(2) the Commissioner of Labor or designee;

(3) the Commissioner of Health or designee;

(4) one person representing the interests of employees appointed by the Governor; and

(5) one person representing the interests of employers appointed by the Governor.

(c) Powers and duties. The Committee shall study:

(1) whether Vermont’s workers’ compensation and unemployment insurance systems are adversely impacted by alcohol and drug use and identify regulatory or legislative measures to mitigate any adverse impacts;

(2) the issue of alcohol and drugs in the workplace and determine whether Vermont’s workplace drug testing laws should be amended to provide employers with broader authority to conduct drug testing, including by permitting drug testing based on a reasonable suspicion of drug use, or by authorizing employers to conduct post-accident, employerwide, or post-rehabilitation follow-up testing of employees; and

(3) the impact of alcohol and drug use on workplace safety and identify regulatory or legislative measures to address adverse impacts and enhance workplace safety.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Commerce and Community Development, the Department of Labor, and the Department of Health.

(e) Report. On or before December 1, 2016, the Committee shall submit a written report with findings and recommendations to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

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

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

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

(4) The Committee shall cease to exist on December 31, 2016.

Sec. 40. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) A Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

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

* * *

(24) Violations of 18 V.S.A. §§ ~~§~~ 4230a and ~~4230b~~, relating to ~~possession~~public consumption of marijuana.

Sec. 41. EFFECTIVE DATES

(a) This section, Secs. 1 (human trafficking), 2 (co-payment and reimbursement orders), 3 (listed crime definition), 4 (sex offender registry), 5 and 6 (innocence protection), 7 (marijuana criminal penalties), 12 (Justice Oversight Committee), 13 (legislative intent), 14 (marijuana youth education and prevention), 15–17 and 19 (regulation of commercial marijuana) shall take effect on passage.

(c) Sec. 18 (related to marijuana taxes) shall take effect on January 1, 2017 and shall apply to taxable year 2017 and after.

(d) Secs. 8–11 (relating to marijuana civil and criminal penalties) shall take effect on January 2, 2018.

(e) Secs. 20–25 (impaired driving), 26–32 (marijuana dispensaries), 33–35 (appropriations and positions), and 36–40 (miscellaneous) shall take effect on July 1, 2016.

(For text see House Journal March 10, 2016)

Action Under Rule 52

H.R. 23

House resolution requesting Congress to amend existing federal law to grant states and municipalities broader jurisdiction over the location, construction, and operation of railroad facilities

(For text see House Journal April 29, 2016)

NEW BUSINESS

H. 888

An act relating to compensation for certain State employees.

(Rep. Townsend of South Burlington will speak for the Committee on **Government Operations.**)

Rep. Feltus of Lyndon, for the Committee on **Appropriations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

First: In Sec. 9 (Pay Act appropriations), in subsection (a) (Executive Branch), in subdivision (1) (Fiscal Year 2017), by striking out subdivision (A) in its entirety and inserting in lieu thereof the following:

(A) General Fund. The amount of \$8,319,893.00 is appropriated from the General Fund to the Secretary of Administration for distribution to departments to fund the fiscal year 2017 collective bargaining agreements and the requirements of this act. The Secretary of Administration shall find \$200,000.00 in General Fund savings by reducing overtime payments within the Executive Branch to offset the cost of this Pay Act.

Second: In Sec. 9 (Pay Act appropriations), in subsection (b) (Judicial Branch), in subdivision (2)(A) (Fiscal Year 2017), following “The amount of” by striking out “\$985,740.00” and inserting in lieu thereof “\$938,216.00”

Third: In Sec. 9 (Pay Act appropriations), in subsection (b) (Judicial Branch), in subdivision (2)(B) (Fiscal Year 2018), following “The amount of” by striking out “\$1,049,722” and inserting in lieu thereof “\$1,125,224.00”

Fourth: In Sec. 9 (Pay Act appropriations), in subsection (c) (Legislative Branch), in subdivision (1) (Fiscal Year 2017), following “The amount of” by striking out “\$217,169.00” and inserting in lieu thereof “\$239,000.00”

Fifth: In Sec. 9 (Pay Act appropriations), in subsection (c) (Legislative Branch), in subdivision (2) (Fiscal Year 2018), following “The amount of” by striking out “\$241,205.00” and inserting in lieu thereof “\$266,000.00”

Sixth: By striking out in their entirety Sec. 10 (reduction of Executive Branch workforce; report) and its accompanying reader assistance heading and inserting in lieu thereof the following:

* * * Administration; Optimization of Workforce * * *

Sec. 10. ADMINISTRATION; REPORT; STREAMLINING OF
GOVERNMENT FUNCTIONS

Annually, on or before January 15, 2017 until January 15, 2021, the Secretary of Administration shall report to the House and Senate Committees on Government Operations and on Appropriations regarding the identification of programs or functions within the Executive Branch through which the use of results-based accountability analysis and process analysis techniques such as LEAN may lead to streamlining, reduction in scope, or discontinuance of those programs or functions.

Sec. 10a. ADMINISTRATION; REPORT; ELIMINATING SENIOR LEVEL
POSITIONS; USE OF PERMANENT EMPLOYEES

Annually, on or before January 15, 2017 until January 15, 2021, the Secretary of Administration shall report to the House and Senate Committees on Government Operations and on Appropriations regarding:

(1) senior level positions in the Executive Branch, including managerial and supervisory positions, that do not have direct service responsibility and which may be eliminated as a result of the process described in Sec. 10 of this act; and

(2) any recommendations regarding State functions that should be performed using permanent State employees, rather than with temporary employees or through contracting.

(Committee Vote: 8-3-0)

J.R.H. 27

Joint resolution requesting federal action to alleviate the national student loan debt crisis.

Rep. Manwaring of Wilmington, for the Committee on **Education**, recommends that the resolution be amended by by striking all after the title and inserting in lieu thereof the following:

Whereas, a *Wall Street Journal* article, updated on August 21, 2015, reported that as of July 2015 nearly seven million Americans were in default on their federal student loans, meaning they had not made a payment in at least 360 days, and

Whereas, this number equals approximately 17 percent of all federal student loan borrowers, and the number rose six percent, or 400,000 more borrowers, than the year previously, and

Whereas, the Federal Reserve Bank of New York's Consumer Credit Panel has reported that in the decade from 2005 to 2015 total student loan debt tripled and rose to \$1.19 trillion, and

Whereas, those in default are often individuals who attended for-profit colleges, are members of a minority group, and never graduated, and

Whereas, overall, one informed estimate is that 27 million borrowers are either in default or some other form of loan repayment delinquency, and

Whereas, Congress enacted the Bipartisan Student Loan Certainty Act of 2013 (Pub.L 113-28), establishing a fixed interest rate for federal student loan programs with caps ranging from 8.25–10.5 percent depending on the specific program, but the rates are challenging for the student borrowers, and

Whereas, although the rates for 2015–2016 are slightly lower than for the prior academic year, they still remain high at 4.29 percent for direct subsidized and unsubsidized undergraduate student loans, and the graduate and professional federal student loan interest rates in the Direct PLUS Loans program are nearly seven percent, and

Whereas, although experts differ on the extent, there is a general consensus that in some years the federal government has made a profit on federal student loans even as numerous borrowers have struggled to make repayments, and

Whereas, while the Obama administration has established popular plans that cap repayments at 10–15 percent of discretionary income, these programs tend to attract graduates of professional or graduate schools and not those who earned only a bachelor's degree or never finished college, and

Whereas, unlike many other forms of consumer debt, 11 U.S.C. § 523(a)(8) of the federal bankruptcy code, with limited exceptions, prohibits using bankruptcy as a method for student loan debt relief, and

Whereas, proposals for free or reduced tuition at public colleges and restructuring the system of higher education financing may be useful for future students, but they do not solve the problems of those millions of Americans struggling to repay their existing student loans, especially those for whom a college education did not secure a sound economic future, and

Whereas, when a federal student loan borrower completes all of the requirements of an income-based student loan repayment program, and as a consequence of meeting these requirements, the remaining balance of his or her student loan is forgiven, the forgiven amount is treated as taxable income with often severe consequences to the borrower, and

Whereas, the current federal student loan program has inadequate loan counseling services available for borrowers at critical times, including when they are trying to determine which loans to choose, how much to borrow, how to repay when leaving school, and how to repay when encountering financial hardships, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests that Congress amend the federal bankruptcy code to eliminate the prohibition on relief from federal or private student loan debt through the federal bankruptcy system and to eliminate the unfair income tax consequences for borrowers who complete loan forgiveness programs, and be it further

Resolved: That the U.S. Department of Education is requested to devise new loan counseling programs to provide students with debt literacy information and loan repayment options prior to borrowing, upon graduation or otherwise leaving college, and throughout the duration of their loans, and new debt relief programs that effectively address the problems that individuals with low income are encountering in repaying their student loans, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to U.S. Secretary of Education John King and to the Vermont Congressional Delegation.

(Committee Vote: 10-0-1)

(For Text of Resolution see House Journal April 20, 2016)

S. 14

An act relating to single dose, child-resistant packaging and labeling of marijuana-infused edible or potable products sold by a registered dispensary

Rep. Pugh of South Burlington, for the Committee on **Human Services**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

First: In Sec. 1, 18 V.S.A. § 4472, after “§ 4472. DEFINITIONS” and before the “* * *” by adding the following:

As used in this subchapter:

(1)(A) “Bona fide health care professional-patient relationship” means a treating or consulting relationship of not less than ~~six~~ three months’ duration, in the course of which a health care professional has completed a full assessment of the registered patient’s medical history and current medical condition, including a personal physical examination.

(B) The ~~six-month~~ three-month requirement shall not apply if:

(i) a patient has been diagnosed with:

~~(A)(I)~~ a terminal illness;

~~(B)(II)~~ cancer ~~with distant metastases~~; or

~~(C)(III)~~ acquired immune deficiency syndrome; or

(IV) is currently under hospice care.

(ii) a patient had been diagnosed with a debilitating medical condition by a health care professional in another jurisdiction in which the patient had been formerly a resident and the patient, now a resident of Vermont, has the diagnosis confirmed by a health care professional in this State or a neighboring state as provided in subdivision (6) of this section, and the new health care professional has completed a full assessment of the patient’s medical history and current medical condition, including a personal physical examination.

(iii) a patient who is already on the registry changes health care professionals three months or less prior to the annual renewal of the patient’s registration, provided the patient’s new health care professional has completed a full assessment of the patient’s medical history and current medical condition, including a personal physical examination.

* * *

(4) “Debitating medical condition,” provided that, in the context of the specific disease or condition described in subdivision (A) or (B) of this subdivision (4), reasonable medical efforts have been made over a reasonable amount of time ~~without success~~ to relieve the symptoms, means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, glaucoma, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or

(B) a disease, medical condition, or its treatment that is chronic, debilitating, and produces ~~severe, persistent, and~~ one or more of the following intractable symptoms: cachexia or wasting syndrome; ~~severe~~ chronic pain; severe nausea; or seizures.

Second: In Sec. 1, 18 V.S.A. § 4472, after subdivision (11), by inserting the following:

* * *

Third: In Sec. 4, 18 V.S.A. § 4474e, by adding a subdivision (a)(4) to read as follows:

(4) With approval from the Department and in accordance with patient delivery protocols set forth in rule, transport and transfer marijuana to a Vermont postsecondary academic institution for the purpose of research.

Fourth: By striking Sec. 7 and inserting in lieu thereof the following
Sec. 7. EFFECTIVE DATE

(a) This section and Sec. 1 shall take effect on passage.

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

(Committee vote: 10-0-1)

(For text see Senate Journal February 18, 2016)

S. 243

An act relating to combating opioid abuse in Vermont

Rep. Pugh of South Burlington, for the Committee on **Human Services**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Vermont Prescription Monitoring System * * *

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

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

* * *

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

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

* * *

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

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE

PROVIDERS AND DISPENSERS

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(e) The Commissioner of Health shall, after consultation with the Unified Pain Management System~~ Controlled Substances and Pain Management Advisory Council, adopt rules necessary to effect the purposes of this section. The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS, including whether health care providers should be required to query the VPMS prior to writing a prescription for any opioid Schedule II, III, or IV controlled substance or when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain, and the Commissioner may adopt rules accordingly.

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

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

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

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

* * * Rulemaking * * *

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

(a) The Commissioner of Health, after consultation with the Controlled Substances and Pain Management Advisory Council, shall adopt rules governing the prescription of opioids. The rules may include numeric and temporal limitations on the number of pills prescribed, including a maximum number of pills to be prescribed following minor medical procedures,

consistent with evidence-informed best practices for effective pain management. The rules may require the contemporaneous prescription of naloxone in certain circumstances, and shall require informed consent for patients that explains the risks associated with taking opioids, including addiction, physical dependence, side effects, tolerance, overdose, and death. The rules shall also require prescribers prescribing opioids to patients to provide information concerning the safe storage and disposal of controlled substances.

(b) The Commissioner of Health, after consultation with the Board of Pharmacy, retail pharmacists, and the Controlled Substances and Pain Management Advisory Council, shall adopt rules regarding the circumstances in which dispensers shall query the Vermont Prescription Monitoring System, which shall include:

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

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

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

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

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

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

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

CHAPTER 93. TREATMENT OF OPIOID ADDICTION

§ 4751. PURPOSE

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

§ 4752. OPIOID ADDICTION TREATMENT SYSTEM

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

* * *

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

* * *

§ 4753. CARE COORDINATION

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

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

§ 4100k. COVERAGE OF TELEMEDICINE SERVICES

* * *

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

(h) As used in this subchapter:

* * *

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

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

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(14)(A) “Practice of pharmacy” means:

(i) the interpretation and evaluation of prescription orders;

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

nonprescription drugs and commercially packaged legend drugs and legend devices);

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

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

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

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

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

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

(B) "Practice of clinical pharmacy" means:

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

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

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

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

* * *

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

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

§ 2023. CLINICAL PHARMACY

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

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

§ 4089j. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS

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

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

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

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

- (A) mail service pharmacy;
- (B) claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to beneficiaries;
- (C) clinical formulary development and management services;
- (D) rebate contracting and administration;
- (E) certain patient compliance, therapeutic intervention, and generic substitution programs; and
- (F) disease management programs.

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

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

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

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

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

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

* * * Continuing Medical Education * * *

Sec. 9. CONTINUING EDUCATION

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

and nonpharmacological alternatives to opioids for managing pain; medication tapering; and relevant State and federal laws and regulations concerning the prescription of opioid controlled substances.

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

* * * Medical Education Core Competencies * * *

Sec. 10. MEDICAL EDUCATION CORE COMPETENCIES;

PREVENTION AND MANAGEMENT OF PRESCRIPTION DRUG MISUSE

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

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

Sec. 11. REGIONAL PREVENTION PARTNERSHIPS

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

* * * Pharmaceutical Manufacturer Fee * * *

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

§ 2004. MANUFACTURER FEE

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

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

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

(d) A pharmaceutical manufacturer that fails to pay a fee as required under this section shall be assessed penalties and interest in the same amounts and under the same terms as apply to late payment of income taxes pursuant to 32 V.S.A. chapter 151. The Department shall maintain on its website a list of the manufacturers who have failed to provide timely payment as required under this section.

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

(a) The Evidence-Based Education and Advertising Fund is established in the State Treasury as a special fund to be a source of financing for activities relating to fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633; ~~for analysis of~~

prescription drug data needed by the Office of the Attorney General for enforcement activities; for the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A; for the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2; for statewide unused prescription drug disposal initiatives; for the prevention of prescription drug misuse, abuse, and diversion; for treatment of substance use disorder; for exploration of nonpharmacological approaches to pain management; for a hospital antimicrobial program for the purpose of reducing hospital-acquired infections; for the purchase and distribution of naloxone to emergency medical services personnel; and for the support of any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents. Monies deposited into the Fund shall be used for the purposes described in this section.

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

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

§ 4255. CONTROLLED SUBSTANCES AND PAIN MANAGEMENT

ADVISORY COUNCIL

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

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

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

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

(C) the Commissioner of Mental Health or designee;

(D) the Commissioner of Public Safety or designee;

(E) the Commissioner of Labor or designee;

(F) the Vermont Attorney General or designee;

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

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

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

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

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

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

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

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

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

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

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

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

(S) a representative of the Vermont Ethics Network;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d)(1) The Advisory Council shall provide advice to the Commissioner concerning rules for the appropriate use of controlled substances in treating acute pain and chronic noncancer pain; the appropriate use of the Vermont

Prescription Monitoring System; and the prevention of prescription drug abuse, misuse, and diversion.

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

(e) The Commissioner of Health may adopt rules pursuant to 3 V.S.A. chapter 25 regarding the appropriate use of controlled substances in treating acute pain and chronic noncancer pain; the appropriate use of the Vermont Prescription Monitoring System; and the prevention of prescription drug abuse, misuse, and diversion, after seeking the advice of the Council.

* * * Unused Prescription Drug Disposal Program * * *

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

§ 4224. UNUSED PRESCRIPTION DRUG DISPOSAL PROGRAM

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

* * * Acupuncture * * *

Sec. 15. INSURANCE COVERAGE FOR ACUPUNCTURE; REPORT

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

Sec. 15a. ACUPUNCTURE; MEDICAID PILOT PROJECT

(a) The Department of Vermont Health Access shall develop a pilot project to offer acupuncture services to Medicaid-eligible Vermonters with a diagnosis of chronic pain. The project would provide acupuncture services for a defined period of time to determine if acupuncture treatment as an alternative or

adjunctive to prescribing opioids is as effective or more effective than opioids alone for returning individuals to social, occupational, and psychological function. The project shall include:

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

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

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

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

* * * Health Department Position * * *

Sec. 16. HEALTH DEPARTMENT; POSITION

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

* * * Appropriations * * *

Sec. 17. APPROPRIATIONS

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

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

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

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

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

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

Sec. 18. REPEAL

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

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES

(a) Secs. 1–2 (VPMS), 3 (opioid addiction treatment care coordination), 4 (telemedicine), 13 (use of Evidence-Based Education and Advertising Fund), 14 (Controlled Substances and Pain Management Advisory Council), 16 (Health Department position), 17 (appropriations), and 18 (repeal) shall take

effect on July 1, 2016, except that in Sec. 2, 18 V.S.A. § 4289(f)(2) (dispenser reporting to VPMS) shall take effect 30 days following notice and a determination by the Commissioner of Health that daily reporting is practicable.

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

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

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

(Committee vote: 10-1-0)

(For text see Senate Journal March 30, 31, 2016)

Rep. Till of Jericho, for the Committee on **Ways and Means**, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on **Human Services** and when further amended as follows:

First: In Sec. 9, continuing education, in subsection (a), following “medication tapering”, by inserting before the semicolon “and cessation of the use of controlled substances”

Second: In Sec. 10, medical education core competencies; prevention and management of prescription drug misuse, by striking out “medical education programs”, and inserting in lieu thereof “undergraduate and graduate medical education and dental and pharmacy residency programs”

(Committee Vote: 11-0-0)

Rep. Keenan of St. Albans City, for the Committee on **Appropriations**, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committees on **Human Services** and **Ways and Means** and when further amended as follows:

First: In Sec. 12, 33 V.S.A. § 2004, by striking out the first sentence of subsection (d) in its entirety

Second: In Sec. 15a, acupuncture; Medicaid pilot project, by striking out the second sentence of subsection (a) in its entirety and inserting in lieu thereof the following: “The project shall offer acupuncture services for a defined period of time as an alternative or adjunctive to prescribing opioids and shall

assess the benefits of acupuncture treatment in returning individuals to social, occupational, and psychological function.”

Third: In Sec. 19, effective dates, in subsection (a), by striking out “18 V.S.A. § 4289(f)(2)” and inserting in lieu thereof “18 V.S.A. § 4289(d)(3)”

(Committee Vote: 11-0-0)

Amendment to be offered by Rep. McCullough of Williston to the recommendation of proposal of amendment of the Committee on Human Services to S. 243

In Sec. 15, insurance coverage for acupuncture; report, by striking out the title of the section, “insurance coverage for acupuncture; report”, and inserting in lieu thereof “complementary and alternative medicine”, by designating the existing language to be subsection (a), and by adding a subsection (b) to read as follows:

(b) The Green Mountain Care Board shall consider the use of nonpharmacological approaches to treating chronic pain and substance use disorder, including the use of complementary and alternative medicine, in lieu of or as a complement to a lower dose of a prescription drug. In its consideration, the Board shall review relevant studies published in peer-reviewed scientific journals and other evidence-based materials and may consult with interested stakeholders and others knowledgeable about the use of complementary and alternative medicine and its application in treating chronic pain or substance use disorder, or both.

S. 245

An act relating to notice to patients of new health care provider affiliations

Rep. Pearson of Burlington, for the Committee on **Health Care**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. GREEN MOUNTAIN CARE BOARD; NOTICE TO PATIENTS OF NEW AFFILIATION

The Green Mountain Care Board shall maintain a policy for reviewing new physician acquisitions and transfers as part of the Board’s hospital budget review responsibilities. The policy shall require hospitals to provide written notice about a new acquisition or transfer of health care providers to each patient served by an acquired or transferred health care provider, including:

(1) notifying the patient that the health care provider is now affiliated with the hospital;

(2) providing the hospital’s name and contact information;

(3) notifying the patient that the change in affiliation may affect his or her out-of-pocket costs, depending on the patient's health insurance plan and the services provided; and

(4) recommending that the patient contact his or her insurance company with specific questions or to determine his or her actual financial liability.

Sec. 2. 18 V.S.A. § 9405c is added to read:

§ 9405c. NOTICE OF ACQUISITION

(a) As used in this section:

(1) "Acquire" means a purchase or transfer through which a hospital will own or control the business of a medical practice.

(2) "Hospital" means a general hospital or hospital facility licensed under chapter 43 of this title.

(3) "Medical practice" means a business through which one or more physicians practice medicine.

(b) Each hospital shall provide notice to the Office of the Attorney General at least 90 days or as soon as practicable prior to the effective date of a transaction through which the hospital will acquire a medical practice. The notice shall include at least the following information:

(1) the name and address of the hospital acquiring the medical practice and contact information for a representative of the hospital; and

(2) the name and address of the medical practice being acquired and contact information for a representative of the medical practice.

(c) Information provided to the Office of the Attorney General pursuant to this section is exempt from public inspection and copying under the Public Records Act and shall be kept confidential except to the extent necessary to allow the Office to perform an inquiry into potentially anticompetitive practices.

Sec. 3. REDUCING PAYMENT DIFFERENTIALS; GUIDANCE AND IMPLEMENTATION; REPORT

(a) On or before July 15, 2016, the Green Mountain Care Board shall provide to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance a copy of each implementation plan for providing fair and equitable reimbursement amounts for professional services provided by academic medical centers and by other professionals, as required to be developed by health insurers pursuant to 2015 Acts and Resolves No. 54, Sec. 23(b).

(b) No later than 30 days following the Board's review of each implementation plan pursuant to 2015 Acts and Resolves No. 54, Sec. 23(b) but in no event later than December 1, 2016, the Board shall report to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance on its progress toward achieving fair and equitable reimbursement amounts for professional services provided by academic medical centers and by other professionals, without increasing health insurance premiums or public funding of health care, as required by 2015 Acts and Resolves No. 54, Sec. 23(b).

Sec. 4. EFFECTIVE DATES

(a) Secs. 1 (notice to patients) and 2 (notice to Attorney General) shall take effect on July 1, 2016.

(b) Sec. 3 (Green Mountain Care Board reports) and this section shall take effect on passage.

(Committee vote: 9-0-2)

(For text see Senate Journal March 15, 24, 2016)

Senate Proposal of Amendment

H. 570

An act relating to hunting, fishing, and trapping

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

First: In Sec. 2, 10 V.S.A. § 4611, by amending the title of the section as follows:

§ 4611. ~~SALE OF SALMON, TROUT, AND BLACK BASS FISH~~

Second: In Sec. 6, 10 V.S.A. § 4503, in the second sentence, after "4781, 4783," and before "4784" by striking out "and" and inserting or

Third: In Sec. 7, 10 V.S.A. § 4514, by striking out subdivision (b)(1) in its entirety and inserting in lieu thereof the following:

(1) Big game

no more than \$2,000.00
and no less than \$200.00
for the first offense and no
less than \$500.00
each for a second or
subsequent offense

Fourth: In Sec. 13, 10 V.S.A. § 4745, and in the second sentence, after “~~deerbig game~~ under” and before “of this title” by striking out “sections 4826, and 4827” and inserting in lieu thereof the following: section 4826 or 4827

Fifth: By striking out Sec. 19 in its entirety and inserting in lieu thereof the following:

Sec. 19. 10 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this chapter:

- (1) “Agency” means the Agency of Natural Resources.
- (2) “Secretary” means the Secretary of Natural Resources.
- (3) “Species” ~~includes all subspecies of~~ means wildlife or wild plants and any subspecies or other group of wildlife or wild plants of the same species, the members of which may interbreed when mature.
- (4) “Wildlife” means any member of a nondomesticated species of the animal kingdom, whether reared in captivity or not, including, without limitation, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and also including any part, product, egg, offspring, dead body, or part of the dead body of any such wildlife.
- (5) “Plant” means any member of the plant kingdom, including seeds, roots, and other parts thereof. As used in this chapter, plants shall include fungi.
- (6) “Endangered species” means a species listed ~~on the state endangered species list~~ as endangered under this chapter or ~~determined to be an “endangered species”~~ under the federal Endangered Species Act. ~~The term generally refers to species whose continued existence as a viable component of the State’s wild fauna or flora is in jeopardy.~~
- (7) “Threatened species” means a species listed ~~on the State~~ as a threatened species ~~list~~ under this chapter or determined to be a “threatened species” under the federal Endangered Species Act.
- (8) “Endangered Species Act” and “federal Endangered Species Act” means the Endangered Species Act of 1973, Public Law 93-205, as amended.
- (9) “Habitat” means the physical and biological environment in which a particular species of plant or animal lives.
- (10) “Conserve,” “conserving,” and “conservation” mean to use and the use of all methods and procedures ~~both~~ for maintaining or increasing:

(A) the number of individuals within a population of a species;

(B) the number of populations of a species; and

(C) populations of wildlife or wild plants to the optimum carrying capacity of the habitat, and for maintaining those numbers.

(11) “Optimum carrying capacity” for a species means a population level of that species which, in that habitat, can ~~indefinitely~~ sustainably coexist with healthy populations of all wildlife and wild plant species normally present.

(12) “Methods” and “procedures” means all activities associated with ~~scientific~~ natural resources management, including, ~~without limitation,~~ scientific research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplanting. The terms also include the periodic or continuous protection of species or populations, where appropriate, and the regulated taking of individuals of the species or population in extraordinary cases where population pressures within a habitat cannot be otherwise relieved.

~~(13) “Possession” of a member of a species means the state of possessing~~ means holding, controlling, exporting, importing, processing, selling, offering to sell, delivering, carrying, transporting, or shipping by any means a member of ~~that~~ a species.

(14) ~~“Taking,”~~ “Take” or “taking”:

~~(A) with~~ With respect to wildlife ~~means “taking” as defined in section 4001 of this title, and~~ designated a threatened or endangered species, means:

(i) pursuing, shooting, hunting, killing, capturing, trapping, harming, snaring, or netting wildlife;

(ii) an act that creates a risk of injury to wildlife, whether or not the injury occurs, including harassing, wounding, or placing, setting, drawing, or using any net or other device used to take animals; or

(iii) attempting to engage in or assisting another to engage in an act set forth under subdivision (i) or (ii) of this subdivision (14)(A).

~~(B) with~~ With respect to ~~wild plants~~ a wild plant designated a threatened or endangered species, means uprooting, transplanting, gathering seeds or fruit, cutting, injuring, harming, or killing or any attempt to do the same or assisting another who is doing or is attempting to do the same.

(15) “Accepted silvicultural practices” means the accepted silvicultural practices defined by the Commissioner of Forests, Parks and Recreation,

including the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont adopted by the Commissioner of Forests, Parks and Recreation.

(16) “Critical habitat” for a threatened species or endangered species means:

(A) a delineated location within the geographical area occupied by the species that:

(i) has the physical or biological features that are identifiable, concentrated, and decisive to the survival of a population of the species; and

(ii) is necessary for the conservation or recovery of the species; and

(iii) may require special management considerations or protection; or

(B) a delineated location outside the geographical area occupied by a species at the time it is listed under section 5402 of this title that:

(i)(I) was historically occupied by a species; or

(II) contains habitat that is hydrologically connected or directly adjacent to occupied habitat; and

(ii) contains habitat that is identifiable, concentrated, and decisive to the continued survival of a population of the species; and

(iii) is necessary for the conservation or recovery of the species.

(17) “Destroy or adversely impact” means, with respect to critical habitat, a direct or indirect activity that negatively affects the value of critical habitat for the survival, conservation, or recovery of a listed threatened or endangered species.

(18) “Farming” shall have the same meaning as used in subdivision 6001(22) of this title.

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

(20) “Harming,” as used in the definition of “take” or “taking” under subdivision (14) of this section, means:

(A) an act that kills or injures a threatened or endangered species; or

(B) the destruction or imperilment of habitat that kills or injures a threatened or endangered species by significantly impairing continued survival or essential behavioral patterns, including reproduction, feeding, or sheltering.

Sec. 20. 10 V.S.A. § 5402 is amended to read:

§ 5402. ENDANGERED AND THREATENED SPECIES LISTS

(a) The Secretary shall adopt by rule a ~~State endangered~~ State endangered species list and a ~~State threatened~~ State threatened species list. The listing for any species may apply to the whole State or to any part of the State and shall identify the species by its most recently accepted genus and species names and, if available, the common name.

(b) The Secretary shall determine a species to be endangered if it normally occurs in the State and its continued existence as ~~wildlife or a wild plant in the State~~ a sustainable component of the State's wildlife or wild plants is in jeopardy.

(c) The Secretary shall determine a species to be threatened if:

(1) it is a sustainable component of the State's wildlife or wild plants;

(2) it is reasonable to conclude based on available information that its numbers are significantly declining because of loss of habitat or human disturbance; and

(3) unless protected, it will become an endangered species.

(d) In determining whether a species is ~~endangered or threatened or endangered~~, the Secretary shall consider:

(1) the present or threatened destruction, degradation, fragmentation, modification, or curtailment of the range or habitat of the species;

(2) any killing, harming, or over-utilization of the species for commercial, sporting, scientific, educational, or other purposes;

(3) disease or predation affecting the species;

(4) the adequacy of existing regulation;

(5) actions relating to the species carried out or about to be carried out by any governmental agency or any other person who may affect the species; ~~and~~

(6) competition with other species, including nonnative invasive species;

(7) the decline in the population;

(8) cumulative impacts; and

(9) other natural or ~~man-made~~ human-made factors affecting the continued existence of the species.

(e) In determining whether a species is ~~endangered or threatened or endangered~~ or whether to delist a species, the Secretary shall:

(1) use the best scientific, commercial, and other data available;

(2) at least 30 days prior to commencement of rulemaking, notify and consult with interested state or appropriate officials in Canada, appropriate State and federal agencies, other states having a common interest in the species, affected landowners, and any interested persons; and

(3) notify the ~~governor~~ appropriate officials and agencies of Quebec or any state contiguous to Vermont in which the species affected is known to occur.

Sec. 21. 10 V.S.A. § 5402a is added to read:

§ 5402a. CRITICAL HABITAT; LISTING

(a) Except as provided for under subsection (f) of this section, the Secretary may, after the consultation required under subsection 5408(e) of this section, adopt or amend by rule a critical habitat designation list for threatened or endangered species. Critical habitat may be designated in any part of the State. The Secretary shall not be required to designate critical habitat for every State-listed threatened or endangered species. When the Secretary designates critical habitat, the Secretary shall identify the species for which the designation is made, including its most recently accepted genus and species names, and, if available, its common name.

(b) The Secretary shall designate only critical habitat that meets the definition of “critical habitat” under this chapter. In determining whether and where to designate critical habitat for a State-listed threatened or endangered species, the Secretary shall, after consultation with and consideration of recommendations of the Secretary of Agriculture, Food and Markets, the Secretary of Transportation, the Secretary of Commerce and Community Development, and the Commissioner of Forests, Parks and Recreation, consider the following:

(1) the current or historic use of the habitat by the listed species;

(2) the extent to which the habitat is decisive to the survival and recovery of the listed species at any stage of its life cycle;

(3) the space necessary for individual and population growth of the listed species;

(4) food, water, air, light, minerals, or other nutritional or physiological requirements of the listed species;

(5) cover or shelter for the listed species;

(6) sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; migration corridors; and overwintering;

(7) the present or threatened destruction, degradation, fragmentation, modification, or curtailment of the range or habitat of the listed species;

(8) the adequacy of existing regulation;

(9) actions relating to the listed species carried out or about to be carried out by any governmental agency or any other person that may affect the listed species;

(10) cumulative impacts; and

(11) natural or human-made factors affecting the continued existence of the listed species.

(c) In determining whether to designate critical habitat for a State-listed threatened or endangered species, the Secretary shall:

(1) use the best scientific, commercial, and other data available;

(2) notify and consult with appropriate officials in Canada, appropriate State and federal agencies, other states having a common interest in the species, affected landowners, any municipality where the proposed designation is located, and any interested persons at least 60 days prior to commencement of rulemaking;

(3) notify the appropriate officials and agencies of Quebec and any state contiguous to Vermont in which the species affected is known to occur; and

(4) if a critical habitat designation is proposed in a growth center, new town center, or neighborhood development area designated under 24 V.S.A. chapter 76A, notify the Secretary of Commerce and Community Development and any municipality in which the designation is proposed.

(d) Prior to initiating rulemaking under this section to designate critical habitat, the Secretary shall notify the owner of record of any land on which critical habitat is proposed for designation. The Secretary shall make all reasonable efforts to work cooperatively with affected landowners.

(e) Where appropriate, the Secretary shall include well-established mitigation practices and best management practices in the critical habitat designation rule.

(f) The Secretary shall not designate critical habitat in a designated downtown or village center, designated under 24 V.S.A. chapter 76A.

Sec. 22. 10 V.S.A. § 5403 is amended to read:

§ 5403. PROTECTION OF ENDANGERED AND THREATENED SPECIES

(a) Except as authorized under this chapter, a person shall not:

(1) take, possess, or transport wildlife or wild plants that are members of an endangered or a threatened or endangered species; or

(2) destroy or adversely impact critical habitat.

(b) Any person who takes a threatened or endangered species shall report the taking to the Secretary.

(c) The Secretary may, with advice of the Endangered Species Committee and after the consultation required under subsection 5408(e) of this section, adopt rules for the protection and, conservation, or recovery of endangered and threatened species. The rules may establish application requirements for an individual permit or general permits issued under this section, including requirements that differ from the requirements of subsection 5408(h) of this title.

(d) The Secretary may bring a civil an environmental enforcement action against any person who violates subsection (a) or (b) of this section or rules adopted under this chapter in accordance with chapters 201 and 211 of this title.

(e) Instead of bringing a civil an environmental enforcement action for a violation of this chapter or rules adopted under this chapter, the Secretary may refer violations of this chapter to the Commissioner of Fish and Wildlife for criminal enforcement.

(f) A In a criminal enforcement action, a person who knowingly violates a requirement of this chapter or a rule of the Secretary adopted under subsection (b)(c) of this section related to taking, possessing, transporting, buying, or selling a threatened or endangered species shall be fined not more than \$500.00 in accordance with section 4518 of this title, and the person shall pay restitution under section 4514 of this title.

(g) Any person who violates subsection (a) or (b) of this section by knowingly injuring a member of a threatened or endangered species or knowingly destroying or adversely impacting critical habitat and who is subject to criminal prosecution may be required by the court to pay restitution for:

(1) actual costs and related expenses incurred in treating and caring for the injured plant or animal to the person incurring these expenses, including the costs of veterinarian services and Agency of Natural Resources staff time; or

(2) reasonable mitigation and restoration costs such as: species restoration plans; habitat protection; and enhancement, transplanting, cultivation, and propagation ~~for plants~~.

Sec. 23. 10 V.S.A. § 5404 is amended to read:

§ 5404. ENDANGERED SPECIES COMMITTEE

(a) A ~~Committee~~ committee on endangered species is created to be known as the “Endangered Species Committee,” and shall consist of nine members, including the Secretary of Agriculture, Food and Markets, the Commissioner of Fish and Wildlife, the Commissioner of Forests, Parks and Recreation, and six members appointed by the Governor from the public at large. Of the six public members, two shall be actively engaged in agricultural or silvicultural activities, two shall be knowledgeable concerning flora, and two shall be knowledgeable concerning fauna. Members appointed by the Governor shall be entitled to reimbursement for expenses incurred in the attendance of meetings, as approved by the Chair. The Chair of the Committee shall be elected from among and by the members each year. Members who are not employees of the State shall serve terms of three years, except that the Governor may make appointments for a lesser term in order to prevent more than two terms from expiring in any year.

(b) The Endangered Species Committee shall advise the Secretary on all matters relating to endangered and threatened species, including whether to alter the lists of endangered and threatened species ~~and~~, how to protect those species, and whether and where to designate critical habitat.

(c) The Agency of Natural Resources shall provide the Endangered Species Committee with necessary staff services.

Sec. 24. 10 V.S.A. § 5405 is amended to read:

§ 5405. CONSERVATION PROGRAMS

The Secretary, with the advice of the Endangered Species Committee, may establish conservation programs and establish recovery plans for the conservation or recovery of threatened or endangered species of wildlife or plants or for the conservation or recovery of critical habitat. The programs may include the purchase of land or aquatic habitat and the formation of contracts for the purpose of management of wildlife or wild plant refuge areas or for other purposes.

Sec. 25. 10 V.S.A. § 5406 is amended to read:

§ 5406. COOPERATION BY OTHER AGENCIES

All agencies of this State shall review programs administered by them which may relate to this chapter and shall, in consultation with the Secretary, utilize their authorities only in a manner which does not jeopardize the threatened or endangered species, critical habitat, or the outcomes of conservation or recovery programs established by this chapter or by the Secretary under ~~its~~ his or her authority.

Sec. 26. 10 V.S.A. § 5407 is amended to read:

§ 5407. ENFORCEMENT AUTHORITY TO SEIZE THREATENED OR ENDANGERED SPECIES

In addition to other methods of enforcement authorized by law, the Secretary may direct under this section that wildlife or wild plants ~~which~~ that were seized because of violation of this chapter be rehabilitated, released, replanted, or transferred to a zoological, botanical, educational or scientific institution, and that the costs of the transfer and staff time related to a violation may be charged to the violator. The Secretary, with the advice of the Endangered Species Committee, may adopt rules for the implementation of this section.

Sec. 27. 10 V.S.A. § 5408 is amended to read:

§ 5408. LIMITATIONS AUTHORIZED TAKINGS; INCIDENTAL TAKINGS; DESTRUCTION OF CRITICAL HABITAT

(a) Authorized taking. Notwithstanding any provision of this chapter, after obtaining the advice of the Endangered Species Committee, the Secretary may permit, under such terms and conditions as the Secretary may, ~~prescribe by rule,~~ require as necessary to carry out the purposes of this chapter, the taking of a threatened or endangered species, the destruction of or adverse impact on critical habitat, or any act otherwise prohibited by this chapter if done for any of the following purposes:

- (1) scientific purposes;
- (2) to enhance the propagation or survival of a threatened or endangered species; economic hardship;
- (3) zoological exhibition;
- (4) educational purposes;
- (5) noncommercial cultural or ceremonial purposes; or

(6) special purposes consistent with the purposes of the federal Endangered Species Act.

(b) Incidental taking. After obtaining the advice of the Endangered Species Committee, the Secretary may permit, under such terms and conditions as necessary to carry out the purposes of this chapter, the incidental taking of a threatened or endangered species or the destruction of or adverse impact on critical habitat if:

(1) the taking is necessary to conduct an otherwise lawful activity;

(2) the taking is attendant or secondary to, and not the purpose of, the lawful activity;

(3) the impact of the permitted incidental take is minimized; and

(4) the incidental taking will not impair the conservation or recovery of any endangered species or threatened species.

(c) Transport through State. Nothing in this chapter shall prevent a person who holds a proper permit from the federal government or any other state from transporting a member of an ~~endangered~~ or a ~~threatened~~ endangered species from a point outside this State ~~to another point within or without this~~ through the State.

~~(e)~~(d) Possession. Nothing in this chapter shall prevent a person from possessing in this State wildlife or wild plants which are not determined to be “endangered” or “threatened” under the federal Endangered Species Act where the possessor is able to produce substantial evidence that the wildlife or wild plant was first taken or obtained in a place without violating the law of that place, provided that an importation permit may be required under section 4714 of this title or the rules of the Department of Fish and Wildlife.

~~(d)~~(e) Interference with agricultural or silvicultural practices. No rule adopted under this chapter shall cause undue interference with ~~normal agricultural or farming, forestry operations,~~ accepted silvicultural practices. This section shall not be construed to exempt any person from the provisions of the ~~federal Endangered Species Act~~ requirements of this chapter. The Secretary shall not adopt rules that affect farming, forestry operations, or accepted silvicultural practices without first consulting the Secretary of Agriculture, Food and Markets and the Commissioner of Forests, Parks and Recreation.

(f) Consistency with State law. Nothing in this chapter shall be interpreted to limit or amend the definitions and applications of necessary habitat in chapter 151 of this title or in 30 V.S.A. chapter 5.

~~(e)~~(g) Effect on federal law. Nothing in this section permits a person to violate any provision of federal law concerning federally protected threatened or endangered species.

(h) Permit application. An applicant for a permit under this section shall submit an application to the Secretary that includes the following information:

(1) a description of the activities that could lead to a taking of a listed threatened or endangered species or the destruction of or adverse impact on critical habitat;

(2) the steps that the applicant has or will take to avoid, minimize, and mitigate the impact to the relevant threatened or endangered species or critical habitat;

(3) a plan for ensuring that funding is available to conduct any required monitoring and mitigation, if applicable;

(4) a summary of the alternative actions to the taking or destruction of critical habitat that the applicant considered and the reasons that these alternatives were not selected, if applicable;

(5) the name or names and obligations and responsibilities of the person or persons that will be involved in the proposed taking or destruction of critical habitat; and

(6) any additional information that the Secretary may require.

~~(f)~~(i) Permit fees.

(1) Fees to be charged to a person applying to take a threatened or endangered species under this section shall be:

(A) ~~Fee to~~ take for scientific purposes, to enhance the propagation or survival of the species, noncommercial cultural or ceremonial purposes, or for educational purposes or special purposes consistent with the federal Endangered Species Act, \$50.00;

(B) ~~Fee to~~ take for a zoological or botanical exhibition ~~or to lessen an economic hardship~~, \$250.00 for each listed ~~animal or plant~~ wildlife or wild plant taken up to a maximum of \$25,000.00 ~~or, if the Secretary determines that it is in the best interest of the species, the parties may agree to mitigation in lieu of a monetary fee; and~~

(C) for an incidental taking, \$250.00 for each listed wildlife or wild plant taken up to a maximum of \$25,000.00.

(2) The Secretary may require the implementation of mitigation strategies and may collect mitigation funds, in addition to the permit fees, in

order to mitigate the impacts of a taking or the destruction of or adverse impact on critical habitat. Mitigation may include:

(A) a requirement to rectify the taking or adverse impact or to reduce the adverse impact over time;

(B) a requirement to manage or restore land within the area of the proposed activity or in an area outside the proposed area as habitat for the threatened or endangered species;

(C) compensation, including payment into the Threatened and Endangered Species Fund for the uses of that Fund, provided that any payment is commensurate with the taking or adverse impact proposed; or

(3) Fees ~~or~~ and mitigation payments collected under this subsection and interest on fees and mitigation payments shall be deposited in the Threatened and Endangered Species Fund ~~within the Fish and Wildlife Fund, which Fund is hereby created~~ and shall be used solely for expenditures of the Department of Fish and Wildlife related to threatened and endangered species. Expenditures may be made for monitoring, restoration, conservation, recovery, and the acquisition of property interests and other purposes consistent with this chapter. Where practical, the fees collected for takings shall be devoted to the conservation or recovery of the taken species or its habitat. Interest accrued on the Fund shall be credited to the Fund.

(g)(j) Permit term. A permit issued under this section shall be valid for the period of time specified in the permit, not to exceed five years. A permit issued under this section may be renewed upon application to the Secretary.

(k) Public notice. Prior to issuing a permit for an incidental taking and prior to the initial issuance or amendment of a general permit under this section, the Secretary shall provide for: public notice of no fewer than 30 days; opportunity for written comment; and opportunity to request a public informational hearing. The Secretary shall post permit applications, permit decisions, and the initial or amended general permits on the website of the Agency of Natural Resources. The Secretary also shall provide notice to interested persons who request notice of permit applications, permit decisions, and proposed general permits or proposed amendments to general permits.

(l) General permits.

(1) The Secretary may issue general permits for activities that will not affect the continued survival or recovery of a threatened or endangered species.

(2) A general permit issued under this chapter shall contain those terms and conditions necessary to ensure compliance with the provisions of this statute.

(3) These terms and conditions may include the implementation of best management practices and the adoption of specific mitigation measures and required surveying, monitoring, and reporting.

(4) The Secretary may issue a general permit to take a threatened or endangered species or destroy or adversely impact critical habitat only if an activity or class of activities satisfies one or more of the following criteria:

(A) the taking of a threatened or endangered species or the destruction of or adverse impact on critical habitat is necessary to address an imminent risk to human health;

(B) a proposed taking of a threatened or endangered species or the destruction of or adverse impact on critical habitat would enhance the overall long-term survival of the species; or

(C) the Secretary has approved best management practices that are designed, when applied, to minimize to the greatest extent possible the taking of a threatened or endangered species or the destruction of or adverse impact on critical habitat.

(5) On or before September 1, 2017, the Secretary shall issue a general permit for vegetation management and operational and maintenance activities conducted by a utility. The general permit shall have a five-year term. A one-time application for coverage by a utility shall be made for activities authorized by the general permit, and coverage under the general permit shall be for the term of the general permit. Until the general permit has been issued, no critical habitat designation for wild plants shall be made in utility right-of-way. As used in this subdivision (5), "utility" means an electric company, telecommunication company, pipeline operator, or railroad company.

(6) Prior to issuing an initial or amended general permit under this subsection, the Secretary shall:

(A) post a draft of the general permit on the Agency website;

(B) provide public notice of at least 30 days; and

(C) provide for written comments or a public hearing, or both.

(7) For applications for coverage under the terms of an issued general permit, the applicant shall provide notice on a form provided by the Secretary. The Secretary shall post notice of the application on the Agency website and shall provide an opportunity for written comment, regarding whether the application complies with the terms and conditions of the general permit, for ten days following receipt of the application.

(8) The Secretary may require any applicant for coverage under a general permit to submit additional information that the Secretary considers necessary and may refuse to approve coverage under the terms of a general permit until the information is furnished and evaluated.

(9) The Secretary may require any applicant for coverage under a general permit to seek an individual permit under this section if the applicant does not qualify for coverage.

(10) The Secretary may require a person operating under a general permit issued under this section to obtain an individual permit under this section if the person proposes to destroy or adversely impact critical habitat that was designated under section 5402a of this title after issuance of the general permit, unless existing best management practices approved under the general permit adequately protect the critical habitat or have been amended to do so prior to the critical habitat designation pursuant to section 5402a of this title.

Sec. 28. 10 V.S.A. § 5410 is amended to read:

§ 5410. LOCATION CONFIDENTIAL

(a) ~~All information~~ The Secretary shall not disclose information regarding the specific location of threatened or endangered species sites ~~shall be kept confidential in perpetuity~~ except that the Secretary shall disclose this information ~~to~~ regarding the location of the threatened or endangered species to:

(1) the owner of land upon which the species ~~has been~~ is located, ~~or to;~~

(2) a potential buyer of land upon which the species is located who has a bona fide contract to buy the land and applies to the Secretary for disclosure of threatened or endangered species information, ~~and to; or~~

(3) qualified individuals or organizations, public agencies and nonprofit organizations for scientific research or for preservation and planning purposes when the Secretary determines that the preservation of the species is not further endangered by the disclosure.

(b) When the Secretary issues a permit under this chapter to take a threatened or endangered species or destroy or adversely impact critical habitat and when the Secretary designates critical habitat by rule under section 5402a of this title, the Secretary shall disclose only the municipality and general location where the threatened or endangered species or designated critical habitat is located. When the Secretary designates critical habitat under section 5402a of this title, the Secretary shall notify the municipality in which the

critical habitat is located and shall disclose the general location of the designated critical habitat.

Sec. 29. STATUTORY REVISION

The Office of Legislative Council, in its statutory revision capacity, is directed to renumber the subdivisions of 10 V.S.A. § 5401 in numerical and alphabetical order and to correct any cross-references in statute to 10 V.S.A. § 5401 to reflect the renumbered subdivisions.

Sec. 30. FEE RECOMMENDATION; PERMIT TO DESTROY OR ADVERSELY IMPACT CRITICAL HABITAT

The consolidated Executive Branch fee report and request to be submitted on or before the third Tuesday of January 2018 pursuant to 32 V.S.A. § 605 shall include a recommendation from the Agency of Natural Resources of a fee for a permit under 10 V.S.A. § 5408 to destroy or adversely impact critical habitat of a State-listed threatened or endangered species. The recommendation shall include whether the owner of property where critical habitat is designated under 10 V.S.A. § 5402a should be required to pay a fee for a permit to destroy or adversely impact critical habitat on his or her property.

Sec. 31. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

(a) No person shall sell or offer for sale any interest in any subdivision located in this State, or commence construction on a subdivision or development, or commence development without a permit. This section shall not prohibit the sale, mortgage, or transfer of all, or an undivided interest in all, of a subdivision unless the sale, mortgage, or transfer is accomplished to circumvent the purposes of this chapter.

* * *

(w)(1) A permit or permit amendment shall not be required for a change to a sport shooting range, as defined in section 5227 of this title, if a jurisdictional opinion issued under subsection 6007(c) of this title determines that each of the following applies:

(A) The range was in operation before January 1, 2006 and has been operating since that date.

(B) The range has a lead management plan approved by the Department of Environmental Conservation under chapters 47 and 159 of this title that requires implementation of best management practices to mitigate environmental impacts to soil and water.

(C) The change is for the purpose of one or more of the following:

(i) To improve the safety of range employees, users of the range, or the public.

(ii) To abate noise from activities at the range. A qualified noise abatement professional may certify that a change in a sport shooting range is for this purpose and this certification shall be conclusive evidence that a purpose of the change is to abate noise from activities at the range.

(iii) To remediate, mitigate, or reduce impacts to air or water quality from the range or the deposit or disposal of waste generated by the range or its use.

(2) Obtaining a certification described in subdivision (1)(B)(ii) of this subsection shall be at the option of the range's owner.

Sec. 32. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except that Secs. 1 (regulation of fish), 2 (commercial sale of fish), and 3 (importation and stocking of fish) shall take effect on January 1, 2017.

(For text see House Journal March 11, 2016)

H. 876

An act relating to the transportation capital program and miscellaneous changes to transportation-related law

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

* * * Adoption of Proposed Transportation Program as Amended;
Definitions * * *

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation's proposed fiscal year 2017 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2017 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) "Agency" means the Agency of Transportation.

(2) "Secretary" means the Secretary of Transportation.

(3) The table heading "As Proposed" means the Transportation Program referenced in subsection (a) of this section; the table heading "As Amended"

means the amendments as made by this act; the table heading “Change” means the difference obtained by subtracting the “As Proposed” figure from the “As Amended” figure; and the term “change” or “changes” in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net “Change” in the applicable table heading.

(4) “TIB funds” or “TIB” refers to monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

* * * Appropriation of Transportation Funds * * *

Sec. 2. 19 V.S.A. § 11a is amended to read:

§ 11a. TRANSPORTATION FUNDS APPROPRIATED FOR THE
DEPARTMENT OF PUBLIC SAFETY

(a) No transportation funds shall be appropriated for the support of government other than for the Agency, the Board, Transportation Pay Act Funds, construction of transportation capital facilities, transportation debt service, the operation of information centers by the Department of Buildings and General Services, and the Department of Public Safety. The amount of transportation funds appropriated to the Department of Public Safety shall not exceed:

(1) \$25,250,000.00 in fiscal year 2014;

(2) \$22,750,000.00 in fiscal years 2015 and 2016; and

(3) ~~\$20,250,000.00~~ \$21,550,000.00 in fiscal year 2017; and ~~in succeeding fiscal years~~

(4) \$20,250,000.00 in fiscal year 2018 and in succeeding fiscal years.

(b) In fiscal year 2017 and in succeeding fiscal years, of the funds appropriated to the Department of Public Safety pursuant to subsection (a) of this section, the amount of \$2,100,000.00 is allocated exclusively for the purchase, outfitting, assignment, and disposal of State Police vehicles. Any unexpended and unencumbered funds remaining in this allocation at the close of a fiscal year shall revert to the Transportation Fund. The Department of Public Safety may periodically recommend to the General Assembly that this allocation be adjusted to reflect market conditions for the vehicles and equipment.

* * * Program Development Program * * *

Sec. 2a. PROGRAM DEVELOPMENT; SPENDING AUTHORITY

(a) Reduction in spending authority. Spending authority in the Program Development Program within the fiscal year 2017 Transportation Program hereby is reduced by:

- (1) \$461,136.00 in transportation funds;
- (2) \$86,204.00 in TIB funds;
- (3) \$2,189,360.00 in federal funds.

(b) Selection of projects; notification of delays. In his or her discretion, the Secretary shall select the projects for which spending will be reduced under subsection (a) of this section. In exercising his or her discretion, the Secretary shall not delay a project that otherwise would proceed in fiscal year 2017, unless the full amount of the reduction cannot be achieved from cost savings or the delay of projects due to unforeseen circumstances. If a project that otherwise would have proceeded in fiscal year 2017 is delayed, the Secretary shall promptly notify:

- (1) the House and Senate Committees on Transportation when the General Assembly is in session; or
- (2) the Joint Transportation Oversight Committee and the Joint Fiscal Office when the General Assembly is not in session.

(c) Contingent restoration of spending authority.

(1) As used in this subsection:

(A) "Transportation Fund balance" means a positive balance of unreserved monies remaining in the Transportation Fund at the end of fiscal year 2016.

(B) "TIB Fund balance" means a positive balance of unreserved monies remaining in the Transportation Infrastructure Bond Fund at the end of fiscal year 2016.

(2) Subject to the funding of the Transportation Fund Stabilization Reserve in accordance with 32 V.S.A. § 308a and to the limitations of 19 V.S.A. § 11f (Transportation Infrastructure Bond Fund), and notwithstanding 32 V.S.A. § 308c (Transportation Fund Balance Reserve), if a Transportation Fund balance, TIB Fund balance, or balance in both funds exists at the end of fiscal year 2016, spending authority reduced in subsection (a) of this section in the fiscal year 2017 Program Development Program shall be restored to the

extent of the balance or balances, up to a total of \$547,340.00 in transportation funds or TIB funds, and by up to \$2,189,360.00 in matching federal funds.

Sec. 2b. PROGRAM DEVELOPMENT; ALLOCATION FOR
EDUCATION INITIATIVES

Within authorized spending in the Program Development Program, the Secretary shall allocate up to \$100,000.00 in federal National Highway Transportation Safety Administration grant funds to the Share the Road Program and to other highway safety educational initiatives. These monies shall be used to educate the users of the State's transportation system on how to improve the safety of all users, including bicyclists and operators of motor vehicles.

* * * Roadway Program * * *

Sec. 3. ROADWAY PROGRAM; PROJECT CANCELLATION

Pursuant to 19 V.S.A. § 10g(h) (legislative approval for cancellation of projects), the General Assembly approves cancellation of the following project from the candidate list within the Roadway Program within the fiscal year 2017 Transportation Program: Colchester STP 0207().

* * * Traffic and Safety Program * * *

Sec. 4. TRAFFIC AND SAFETY PROGRAM; PROJECTS ADDED

The following projects are added to the candidate list of the Traffic and Safety Program within the fiscal year 2017 Transportation Program:

- (1) Derby – US 5/I-91 Exit 28 – intersection improvements.
- (2) Derby – US 5/VT 105 – intersection improvements.
- (3) St. Albans – VT 104/I-89 Exit 19 – intersection improvements.

* * * Bike and Pedestrian Program; Lamoille Valley Rail Trail * * *

Sec. 5. BIKE AND PEDESTRIAN FACILITIES PROGRAM; LAMOILLE
VALLEY RAIL TRAIL

(a)(1) The Bike and Pedestrian Facilities Program within the fiscal year 2017 Transportation Program is amended to add a project for the rehabilitation or replacement of structures, permitting activities, engineering services, and trail construction related to development of the State-owned Lamoille Valley Rail Trail (LVRT). The project shall be funded with:

(A) monies raised by the Vermont Association of Snow Travelers (VAST) before January 1, 2017; plus

(B) up to \$400,000.00 of State transportation funds or eligible federal funds, or both, to match each dollar raised by VAST.

(2) Any matching funds shall be identified by the Secretary from some combination of:

(A) the unanticipated delay of projects approved in the fiscal year 2017 Bike and Pedestrian Facilities Program;

(B) cost savings on projects approved in the fiscal year 2017 Bike and Pedestrian Facilities Program;

(C) Statewide New Awards—Federal Aid Construction Projects grant money authorized in the fiscal year 2017 Bike and Pedestrian Facilities Program.

(b) In its fiscal year 2018 Transportation Program proposal, the Agency shall include a project within the Bike and Pedestrian Facilities Program for the rehabilitation or replacement of structures, permitting activities, engineering services, and trail construction related to development of the LVRT. The project shall be funded with:

(1) monies raised by the Vermont Association of Snow Travelers (VAST) from January 1, 2017 to January 1, 2018; plus

(2) up to \$1,000,000.00 of State transportation funds or eligible federal funds, or both, to match each dollar raised by VAST.

* * * Municipal Mitigation Grant Program * * *

Sec. 6. MUNICIPAL MITIGATION GRANT PROGRAM

Notwithstanding 2015 Acts and Resolves No. 40, Sec. 21a, funding sources for the fiscal year 2017 Municipal Mitigation Grant Program are amended as follows:

<u>FY17</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
State	1,440,000	1,240,000	-200,000
Federal	0	200,000	200,000
Clean Water Fund	1,465,000	1,465,000	0
Total	2,905,000	2,905,000	0

* * * Central Garage * * *

Sec. 7. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2017, the amount of \$1,283,215.00 is transferred from the Transportation Fund to the Central Garage Fund created in 19 V.S.A. § 13.

* * * Positions * * *

Sec. 8. POSITIONS

(a) The Agency is authorized to establish two (2) new permanent classified positions related to water quality improvements.

(b) Seven (7) of the twenty-one (21) limited service positions authorized in 2012 Acts and Resolves No. 75, Sec. 87(e), as amended by 2014 Acts and Resolves No. 95, Sec. 64, hereby are converted to permanent classified positions.

(c) Nine (9) of the seventeen (17) limited service positions authorized in 2012 Acts and Resolves No. 153, Sec. 21(a), as amended by 2014 Acts and Resolves No. 95, Sec. 65, hereby are converted to permanent classified positions.

(d) One (1) limited service position, number 861864 (Civil Engineer VII), created on May 6, 2012 and due to expire on December 31, 2016, hereby is converted to a permanent classified position.

(e) Three (3) of the seventeen (17) limited service positions authorized in 2012 Acts and Resolves No. 153, Sec. 21(a), as amended by 2014 Acts and Resolves No. 95, Sec. 65, hereby are extended to June 30, 2019. The Agency may use these three positions for activities that are not related to the response to Tropical Storm Irene and the spring 2011 flooding.

(f) The following two (2) limited service positions hereby are extended through June 30, 2019: number 861837 (Administrative Services Coordinator I), created on March 11, 2012 and due to expire on June 30, 2016, and number 861865 (Civil Engineer I), created on May 6, 2012 and due to expire on December 31, 2016.

* * * Rail Program * * *

Sec. 9. FISCAL YEAR 2016 RAIL PROGRAM; PROJECT ADDED

The following project is added to the candidate list of the Rail Program within the fiscal year 2016 Transportation Program: Rutland – Burlington – TIGERVII () (Western VT Freight–Passenger Rail).

* * * Sale of State-Owned Railroad Property * * *

Sec. 10. APPROVAL OF SALE OF STATE-OWNED RAILROAD
PROPERTY

Upon receiving satisfactory evidence of release of the leasehold interest of Vermont Railway, Inc., the Secretary as agent for the State is authorized to convey to the Town of Bennington, in consideration of the sum of \$1.00, a parcel of land of approximately 2.5 acres (the "property") in the Town of Bennington located south of River Street and west of the 150 Depot Street parcel now or formerly owned by Station Realty, LLC. The conveyance must require that the Town's interest automatically will terminate in the event the property ceases to be used for public purposes, in which event the property will revert to the State. However, the Secretary and the Town may enter into a boundary adjustment agreement with the owner of the 150 Depot Street parcel in order to cure any title defect that may exist, and the Secretary as agent for the State may disclaim any reversionary interest in the boundary adjustment area.

* * * Rail Trespassing * * *

Sec. 11. 5 V.S.A. § 3734 is amended to read:

§ 3734. TRESPASS ON RAILROAD PROPERTY; PENALTY

~~A person who, without right, loiters or remains in a depot, or upon the platform, approaches, or grounds adjacent thereto, after being requested to leave by a railroad policeman, sheriff, deputy sheriff, constable, or policeman, shall be fined not more than \$20.00 nor less than \$2.00.~~

(a) Definitions. As used in this section:

(1) "Passenger" means a person traveling by train with lawful authority and who does not participate in the train's operation. The term "passenger" does not include a stowaway.

(2) "Railroad" means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways. "Railroad" does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(3) "Railroad carrier" means a person providing railroad transportation.

(4)(A) "Railroad property" means the following property owned, leased, or operated by a railroad carrier or used in its rail operations:

(i) a right-of-way, track, yard, station, shed, or depot;

(ii) a train, locomotive, engine, car, work equipment, rolling stock, or safety device; and

(iii) a "railroad structure," which means a bridge, tunnel, viaduct, trestle, culvert, abutment, communication tower, or signal equipment.

(B) "Railroad property" does not include inactive railroad property of the Twin State Railroad.

(5) "Right-of-way" means the track and roadbed owned, leased, or operated by a railroad carrier and property located on either side of the tracks that is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs.

(6) "Yard" means a system of parallel tracks, crossovers, and switches where railroad cars are switched and made up into trains, and where railroad cars, locomotives, and other rolling stock are kept when not in use or when awaiting repairs.

(b) Trespassing on railroad property prohibited. Except for the purpose of crossing railroad property at a public highway or other authorized crossing, a person shall not, without lawful authority or the railroad carrier's written permission, knowingly enter or remain upon railroad property by an act including:

(1) standing, sitting, resting, walking, jogging, or running, or operating a recreational or nonrecreational vehicle, including a bicycle, motorcycle, snowmobile, car, or truck; or

(2) engaging in recreational activity, including bicycling, hiking, camping, or cross-country skiing.

(c) Stowaways prohibited. A person shall not, without lawful authority or the railroad carrier's written permission, ride on the outside of a train or inside a passenger car, locomotive, or freight car, including a box car, flatbed, or container.

(d) Persons not subject to ticketing. The following is a nonexhaustive list of persons who, for the purposes of this section, are not subject to ticketing for trespass under subsections (b) and (c) of this section:

(1) passengers on trains, or employees of a railroad carrier while engaged in the performance of their official duties;

(2) police officers, firefighters, peace officers, and emergency response personnel, while engaged in the performance of their official duties;

(3) a person going upon railroad property in an emergency to rescue from harm a person or animal such as livestock, pets, or wildlife, or to remove an object that the person reasonably believes to pose an imminent hazard;

(4) a person on the station grounds or in the depot of the railroad carrier as a passenger or for the purpose of transacting lawful business;

(5) a person, or the person's family or invitee, or the person's employee or independent contractor going upon a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier or authorized by law in order to obtain access to land that the person owns, leases, or operates;

(6) a person who has permission from the owner, lessee, or operator of land served by a private crossing site approved by the railroad carrier or authorized by law, to use the crossing for recreational purposes and who enters upon the crossing for such purposes;

(7) a person having written permission from the railroad carrier to go upon the railroad property in question;

(8) representatives of the Transportation Board or Agency of Transportation while engaged in the performance of their official duties;

(9) representatives of the Federal Railroad Administration while engaged in the performance of their official duties;

(10) representatives of the National Transportation Safety Board while engaged in the performance of their official duties; or

(11) a person who enters or remains in a railroad right-of-way, but not within a rail yard or on a railroad structure, while lawfully engaged in hunting, fishing, or trapping; however, a person shall not be exempt from ticketing under this subdivision if he or she enters within an area extending eight feet outward from either side of the rail and within the rail unless he or she crosses and leaves this area quickly, safely, and at an angle of approximately 90 degrees to the direction of the rail.

(e) Nothing in this section is intended to modify the rights, duties, liabilities, or defenses available to any person under any other law or under a license or agreement.

(f) Penalty. A violation of this section is a traffic violation as defined in 23 V.S.A. chapter 24 and an action under this section shall be brought in accordance with 4 V.S.A. chapter 29. A person who violates this section shall be subject to a civil penalty of not more than \$200.00.

Sec. 12. 5 V.S.A. § 3735 is amended to read:

~~§ 3735. BOARDING TRAIN OR LOITERING ABOUT RAILROAD PROPERTY; PENALTY~~

~~A person boarding or riding without permission on a train, car, or locomotive, other than a passenger train, or a person boarding or riding on a passenger train without paying fare, or a person loitering in or about a railroad yard, station or car without permission, shall be imprisoned not more than 90 days, or fined not more than \$25.00, or both. [Repealed.]~~

Sec. 13. 23 V.S.A. § 2302(a) is amended to read:

(a) As used in this chapter, “traffic violation” means:

* * *

(7) a violation of 5 V.S.A. § 3408(c), relating to trail use of certain State-owned railroad corridors, or of 5 V.S.A. § 3734, related to trespassing on railroad property;

* * *

* * * Transportation Capital Program; Prioritization System * * *

Sec. 14. 19 V.S.A. § 10g(1) is amended to read:

(1) The Agency shall develop a numerical grading system to assign a priority rating to all Program Development Paving, Program Development Roadway, Program Development Safety and Traffic Operations, Program Development State and Interstate Bridge, Town Highway Bridge, and Bridge Maintenance projects. The rating system shall consist of two separate, additive components as follows:

(1) One component shall be limited to asset ~~management-based~~ management- and performance-based factors which are objective and quantifiable and shall consider, without limitation, the following:

(A) the existing safety conditions in the project area and the impact of the project on improving safety conditions;

(B) the average, seasonal, peak, and nonpeak volume of traffic in the project area, including the proportion of traffic volume relative to total volume in the region, and the impact of the project on congestion and mobility conditions in the region;

(C) the availability, accessibility, and usability of alternative routes;

(D) the impact of the project on future maintenance and reconstruction costs; ~~and~~

(E) the relative priority assigned to the project by the relevant regional planning commission ~~or the Chittenden County Metropolitan Planning Organization;~~

(F) the resilience of the transportation infrastructure to floods and other extreme weather events.

(2) The second component of the priority rating system shall consider, without limitation, the following factors:

(A) the ~~functional~~ importance of the ~~highway or bridge~~ transportation infrastructure as a ~~link~~ factor in the local, regional, or State economy; and

(B) the ~~functional~~ importance of the ~~highway or bridge~~ transportation infrastructure in the health, social, and cultural life of the surrounding communities.

(3) The priority rating system for Program Development Roadway projects shall award as bonus points an amount equal to 10 percent of the total base possible rating points to projects within a designated downtown development district established pursuant to 24 V.S.A. § 2793.

* * * Adjustments to Existing Projects * * *

Sec. 15. 19 V.S.A. § 10h is amended to read:

§ 10h. ~~ADJUSTMENTS TO EXISTING PROJECTS; SUSPENSION OF OVERRUNS; COOPERATIVE INTERSTATE AGREEMENT~~

~~(a) The agency shall report to the transportation board each project for which the current construction cost estimate exceeds the last approved construction cost estimate by a substantial level, as substantial level is defined by the transportation board. The transportation board shall review such a project, and may grant approval to proceed. If not approved by the transportation board, the project shall not proceed to contract award until approved by the general assembly. [Repealed.]~~

(b) In connection with any authorized construction project in the ~~state~~ State of Vermont which extends into or affects an adjoining state, the ~~agency~~ Agency, on behalf of the ~~state~~ State of Vermont, may enter into a cooperative agreement with the adjoining state or any political subdivision of an adjoining state which apportions duties and responsibilities for planning preliminary engineering, including environmental studies, right-of-way acquisition, construction, and maintenance.

Sec. 16. 19 V.S.A. § 10g(h) is amended to read:

(h) Should capital projects in the Transportation Program be delayed because of unanticipated problems with permitting, right-of-way acquisition, construction, local concern, or availability of federal or State funds, the Secretary is authorized to advance projects in the approved Transportation Program. The Secretary is further authorized to undertake projects to resolve emergency or safety issues. Upon authorizing a project to resolve an emergency or safety issue, the Secretary shall give prompt notice of the decision and action taken to the Joint Fiscal Office and to the House and Senate Committees on Transportation when the General Assembly is in session, and when the General Assembly is not in session, to the Joint Transportation Oversight Committee. Should an approved project in the current Transportation Program require additional funding to maintain the approved schedule, the Agency is authorized to allocate the necessary resources. However, the Secretary shall not delay or suspend work on approved projects to reallocate funding for other projects except when other funding options are not available. In such case, the Secretary shall notify the

members of the Joint Transportation Oversight Committee and the Joint Fiscal Office. With respect to projects in the approved Transportation Program, the Secretary shall notify, in the district affected, the regional planning commission, the municipality, Legislators, members of the Senate and House Committees on Transportation, and the Joint Fiscal Office of ~~any significant change in design, change in construction cost estimates requiring referral to the Transportation Board under section 10h of this title, or~~ any change which likely will affect the fiscal year in which the project is planned to go to construction. No project shall be cancelled without the approval of the General Assembly.

* * * Reporting Required in Proposed Transportation Program * * *

Sec. 17. 19 V.S.A. § 10g(g) is amended to read:

(g) The Agency's annual proposed Transportation Program shall include a ~~separate report~~ project updates referencing this section ~~describing and listing the following:~~

(1) all proposed projects in the Program ~~which~~ that would be new to the State Transportation Program if adopted;

(2) all projects for which total estimated costs have increased by more than \$8,000,000.00 or by more than 100 percent from the estimate in the prior fiscal year's approved Transportation Program;

(3) all projects funded for construction in the prior fiscal year's approved Transportation Program that are no longer funded in the proposed Transportation Program submitted to the General Assembly, the projected costs for such projects in the prior fiscal year's approved Transportation Program, and the total costs incurred over the life of each such project.

* * * Joint Transportation Oversight Committee * * *

Sec. 18. 19 V.S.A. § 12b is amended to read:

§ 12b. JOINT TRANSPORTATION OVERSIGHT COMMITTEE

(a) There is created a Joint Transportation Oversight Committee composed of the Chairs of the House and Senate Committees on Appropriations, the House and Senate Committees on Transportation, the House Committee on Ways and Means, and the Senate Committee on Finance. The Committee shall be chaired alternately by the Chairs of the House and Senate Committees on Transportation, and the two-year term shall run concurrently with the biennial session of the Legislature. The Chair of the Senate Committee on Transportation shall chair the Committee during the 2009–2010 legislative session.

(b) The Committee shall meet during adjournment for official duties. Meetings shall be convened by the Chair and when practicable shall be coordinated with the regular meetings of the Joint Fiscal Committee. Members shall be entitled to compensation and reimbursement pursuant to 2 V.S.A. § 406. The Committee shall have the assistance of the staff of the Office of Legislative Council and the Joint Fiscal Office.

(c) The Committee shall provide legislative ~~overview~~ oversight of the Transportation Fund revenues collection and the operation and administration of the Agency of Transportation construction, paving, and rehabilitation programs. The Secretary of Transportation shall report to the Oversight Committee upon request.

~~(d)(1) In coordination with the regular meetings of the Joint Fiscal Committee in mid November, the Secretary shall prepare a report on the status of the State's transportation finances and transportation programs. If a meeting of the Committee is not convened on the scheduled dates of the Joint Fiscal Committee meetings, the Secretary in advance shall transmit the report electronically to the Joint Fiscal Office for distribution to Committee members. The report shall list contract bid awards versus project estimates and all known or projected cost overruns, project savings, and funding availability from delayed projects with respect to:~~

~~(A) all paving projects other than statewide maintenance programs; and~~

~~(B) all projects in the Roadway, State Bridge, Interstate Bridge, or Town Bridge programs with authorized spending in the fiscal year of \$500,000.00 or more with a cost overrun equal to 20 percent or more of the authorized spending or generating project savings or delayed project available funding equal to 20 percent or more of the authorized spending.~~

~~(2) The report required under subdivision (1) of this subsection also shall describe the Agency's actions taken or planned to cover the cost overruns and to reallocate the project savings and delayed project funds, and shall discuss the Agency's plans to adjust spending to any changes in the consensus forecast for Transportation Fund revenues.~~

~~(3) If and when applicable, the Secretary shall submit electronically to the Joint Fiscal Office for distribution to members of the Joint Transportation Oversight Committee a report summarizing any plans or actions taken to delay project schedules as a result of:~~

~~(A)(1) a generalized increase in bids relative to project estimates;~~

~~(B)~~(2) changes in the consensus revenue forecast of the Transportation Fund or Transportation Infrastructure Bond Fund; or

~~(C)~~(3) changes in the availability of federal funds.

* * * Appropriation; State Aid for Town Highways * * *

Sec. 19. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

* * *

(d) State aid for nonfederal disasters. There shall be an annual appropriation for emergency aid in repairing, building, ~~or rebuilding~~ or reconstructing class 1, 2, or 3 town highways ~~and bridges~~ and for repairing or replacing drainage structures including bridges on class 1, 2, 3, and 4 town highways damaged by natural or man-made disasters. Eligibility for use of emergency aid under this appropriation shall be subject to the following criteria:

(1) The Secretary of Transportation shall determine that the disaster is of such magnitude that State aid is both reasonable and necessary to preserve the public good. If total cumulative damages to town highways and drainage structures are less than the value of 10 percent of the town's overall total highway budget excluding the town's winter maintenance budget, the disaster shall not qualify for assistance under this subsection.

(2) The disaster shall not qualify for major disaster assistance from the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121 et seq., or from the Federal Highway Administration (FHWA) under the 23 C.F.R. Part 668 Emergency Relief Program for federal-aid highways.

(3) Towns shall be eligible for reimbursement for repair or replacement costs of either up to 90 percent of the eligible repair or replacement costs or the eligible repair or replacement costs, minus an amount equal to 10 percent of the overall total highway budget, minus the town's winter maintenance budget, whichever is greater.

(4) For towns that have adopted road and bridge standards, eligibility for reimbursement for repair or replacement of infrastructure shall be to those standards. For towns that have not adopted these standards, eligibility for reimbursement for repair or replacement of infrastructure shall be limited to the specifications of the infrastructure that preexisted the emergency event; however, the repair or replacement shall be to standards approved by the Agency of Transportation.

(5) For a drainage structure on a class 4 town highway to be eligible for repair or replacement under this subsection, the town must document that it maintained the structure prior to the nonfederal disaster.

(6) Such additional criteria as may be adopted by the Agency of Transportation through rulemaking under 3 V.S.A. chapter 25.

* * *

* * * Highways; Alterations; Quasi-Judicial Process * * *

Sec. 20. 19 V.S.A. § 923 is amended to read:

§ 923. QUASI-JUDICIAL PROCESS

In order to protect the rights of ~~property owners~~ interested persons and the public, the process described in this section shall be used whenever so provided by other provisions of this title. As used in this section, “interested person” means a person who has a legal interest of record in the property that would be affected by the proposed action.

(1) ~~Notice~~ Written notice by certified mail shall be given Notice. The selectboard shall give written notice by certified mail or by one of the methods allowed by Rule 4 of the Vermont Rules of Civil Procedure for service of original process to the property owner or any interested person describing the proposed activity affecting the property. The notice shall include a date and time when the selectboard shall inspect the premises. The notice shall precede the inspection by 30 days or more except in the case of an emergency.

(2) Inspection of premises— The ~~selectmen~~ selectboard shall view the area and receive any testimony pertinent to the problem including suggested awards for damages, if any.

(3) Necessity— The ~~selectmen~~ selectboard shall decide on the necessity for the activity or work proposed and establish any conditions for accomplishing it. This includes the award of damages, if applicable. The selectboard shall announce the decision and the reason for it ~~shall be announced~~ within 10 days of the inspection unless the selectboard formally ~~delayed by the selectboard~~ delays the proceeding in order to receive more testimony.

(4) Notifying parties— The ~~selectmen~~ selectboard shall notify the ~~property owner~~ interested persons and other interested parties of their decision. They shall file a copy of their decision with the town clerk within 10 days of its announcement.

(5) Appeal— If an ~~owner~~ interested person is dissatisfied with the award for damages, he or she may appeal using any of the procedures listed in

chapter 5 of this title. Notice or petition for appeal shall not delay the proposed work or activity.

Sec. 21. 19 V.S.A. § 518 is amended to read:

§ 518. MINOR ALTERATIONS TO EXISTING FACILITIES

(a) ~~For purposes of~~ As used in this section, the term “minor alterations to existing facilities” means any of the following activities involving existing facilities, provided the activity does not require a permit under 10 V.S.A. chapter 151 (Act 250):

(1) Activities which qualify as “categorical exclusions” under 23 C.F.R. § 771.117 and the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321–4347.

(2) Activities involving emergency repairs to or emergency replacement of an existing bridge, culvert, highway, or State-owned railroad, even if the need for repairs or replacement does not arise from damage caused by a natural disaster or catastrophic failure from an external cause. Any temporary rights under this subdivision shall be limited to 10 years from the date of taking.

(b) In cases involving minor alterations to existing facilities, the Agency, following the procedures of section 923 of this title, may exercise the powers of a selectboard. However, if an interested person has not provided the Agency with identification information necessary to process payment, or if an owner refuses an offer of payment, payment shall be deemed to be tendered when the Agency makes payment into an escrow account that is accessible by the owner upon his or her providing any necessary identification information. If Further, if an appeal is taken under subdivision 923(5) of this title, the person taking the appeal shall follow the procedure specified in section 513 of this title.

* * * Water Quality * * *

Sec. 22. FINDINGS; AGENCY OF TRANSPORTATION; STORMWATER CREDIT

For the purposes of this section and Secs. 23–29 of this act (Agency of Transportation stormwater credit), the General Assembly finds and declares that:

(1) the federal Clean Water Act, State water quality requirements under 10 V.S.A. chapter 47, and the municipal separate storm sewer system permit for transportation infrastructure, require the treatment and control of stormwater from State highway rights-of-way and other property owned, controlled, or managed by the Agency; and

(2) because of the traditional and continuing expenditures of the Agency for the construction, operation, and maintenance of stormwater control infrastructure designed to control stormwater runoff from State highway rights-of-way and developed lands owned, controlled, or managed by the Agency, it is fair and equitable to provide the Agency with a uniform credit against fees assessed by municipalities for the management of stormwater.

Sec. 23. 24 V.S.A. § 3501(7) is amended to read:

(7) “Storm water” or “storm sewage” ~~is the excess water from rainfall or continuously following therefrom~~ shall have the same meaning as “stormwater runoff” under 10 V.S.A. § 1264.

Sec. 24. 24 V.S.A. § 3615 is amended to read:

§ 3615. RENTS; RATES

(a) Such municipal corporation, through its board of sewage disposal commissioners, may establish charges to be called “sewage disposal charges,” to be paid at such times and in such manner as the commissioners may prescribe. The commissioners may establish annual charges separately for bond repayment, fixed operations and maintenance costs (not dependent on actual use), and variable operations and maintenance ~~cost~~ costs dependent on flow. Such charges may be based upon:

(1) the metered consumption of water on premises connected with the sewer system, however, the commissioners may determine no user will be billed for fixed operations and maintenance costs and bond payment less than the average single family charge;

(2) the number of equivalent units connected with or served by the sewage system based upon their estimated flows compared to the estimated flows from a single family dwelling however, the commissioners may determine no user will be billed less than the minimum charge determined for the single family dwelling charge for fixed operations and maintenance costs and bond payment;

(3) the strength and flow where wastes stronger than household wastes are involved;

(4) the appraised value of premises, in the event that the commissioners shall determine the sewage disposal plant to be of general benefit to the municipality regardless of actual connection with the same;

(5) the commissioners’ determination developed using any other equitable basis such as the number and kind of plumbing fixtures, the number of persons residing on or frequenting the premises served by those sewers, the topography, size, type of use, or impervious area of any premises; or

(6) any combination of these bases, so long as the combination is equitable.

(b) The basis for establishing sewer disposal charges shall be reviewed annually by sewage disposal commissioners. No premises otherwise exempt from taxation, including premises owned by the ~~state~~ State of Vermont, shall, by virtue of any such exemption, be exempt from charges established hereunder. The commissioners may change the rates of such charges from time to time as may be reasonably required. Where one of the bases of such charge is the appraised value and the premises to be appraised are tax exempt, the commissioners may cause the listers to appraise such property, including ~~state~~ State property, for the purpose of determining the sewage disposal charges. The right of appeal from such appraisal shall be the same as provided in 32 V.S.A. chapter 131 of Title 32. The ~~commissioner of finance and management~~ Commissioner of Finance and Management is authorized to issue his or her warrants for sewage disposal charges against ~~state~~ State property and transmit to the ~~state treasurer~~ State Treasurer who shall draw a voucher in payment thereof. No charge so established and no tax levied under the provisions of section 3613 of this title shall be considered to be a part of any tax authorized to be assessed by the legislative body of any municipality for general purposes, but shall be in addition to any such tax so authorized to be assessed. Sewage disposal charges established in accord with this section may be assessed by the board of sewage disposal commissioners as provided in section 3614 of this title to derive the revenue required to pay pollution charges assessed against a municipal corporation under ~~section 10 V.S.A. § 1265 of Title 10~~.

(c) When a sewage disposal charge established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the charge shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a 35 percent credit on the charge. The Agency of Transportation shall receive no other credit on the charge from the municipal corporation.

Sec. 25. 24 V.S.A. § 3507 is amended to read:

§ 3507. DUTIES

(a) Such sewage system commissioners shall have the supervision of such municipal sewage system and shall make and establish all needed rates for rent, with rules and regulations for its control and operation. Such commissioners may appoint or remove a superintendent at their pleasure. The rents and receipts for the use of such sewage system shall be used and applied to pay the interest and principal of the sewage system bonds of such municipal

corporation, the expense of maintenance and operation of the sewage system, as well as dedicated fund payments provided for in section 3616 of this title.

(b) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a 35 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the municipal corporation.

Sec. 26. 24 V.S.A. § 3679(c) is added to read:

(c) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a 35 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the consolidated sewer district.

Sec. 27. 10 V.S.A. § 1251(18) is added to read:

(18) "Stormwater utility" means a system adopted by a municipality or group of municipalities under 24 V.S.A. chapter 97, 101, or 105 for the management of stormwater runoff.

Sec. 28. 10 V.S.A. § 1389(e) is amended to read:

(e) Priorities.

(1) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize:

* * *

(H) Funding to municipalities for the establishment and operation of stormwater utilities.

(2) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Clean Water Fund Board shall, during the first three years of its existence and within the priorities established under subdivision (1) of this subsection (e), prioritize awards or assistance to municipalities for municipal compliance with water quality requirements, and to municipalities for the establishment and operation of stormwater utilities.

* * *

Sec. 29. STORMWATER UTILITY REPORT

On or before January 15, 2017, and annually thereafter until January 15, 2021, the Agency shall report to the House and Senate Committees on Transportation, the House Committee on Fish, Wildlife and Water Resources, and the Senate Committee on Natural Resources and Energy regarding the status of municipal establishment and implementation of stormwater utilities in the State. The report shall include:

(1) the number of municipal stormwater utilities in existence at the time of each report, as indicated by the number of unique municipal rate structures for stormwater mitigation under which the Agency was invoiced in the calendar year preceding a report submitted under this section;

(2) the number of new municipal stormwater utilities established in the State in the calendar year preceding a report submitted under this section;

(3) the amount of fees paid by the Agency to stormwater utilities in the calendar year preceding a report submitted under this section; and

(4) a list of the stormwater projects or programs implemented by the Agency in municipalities with stormwater utilities in the calendar year preceding a report submitted under this section.

* * * Statewide Property Parcel Mapping Program * * *

Sec. 30. DEVELOPMENT OF STATEWIDE PROPERTY PARCEL
DATA LAYER

(a) The General Assembly finds that the State has an interest in creating a statewide property parcel data layer. The data layer will include all property parcels in each Vermont town, city, incorporated village, gore, and grant in a standard format and integrate all municipal property parcel maps into one property parcel map for the State.

(b) The General Assembly further finds that a statewide property parcel data layer will be useful to the Agency for the following applications:

(1) mapping highway centerlines that end at property boundaries;

(2) enabling the Agency to evaluate properties for alternative energy and other possible uses;

(3) providing right-of-way data to analyze Transportation Separate Storm Sewer System (TS4) assessments;

(4) streamlining title searches during the project development phase of transportation projects;

(5) providing linkages between grand list and property parcel data in order to enable the identification of all public land;

(6) locating encroachments on highways and providing notice to adjoining landowners;

(7) mapping the locations of surplus and excess property;

(8) assisting in the appraisal of land and acquisition of rights for transportation projects;

(9) improving emergency response capabilities;

(10) identifying encroachments on State-owned railroads and providing notice to adjoining landowners;

(11) evaluating applications for highway access under 19 V.S.A. § 1111, including utility installations and driveways; and

(12) improving the State's ability to identify its assets by accurately cataloguing the location and extent of State-owned rights-of-way.

(c)(1) Consistent with Secs. 31–32 of this act, starting in fiscal year 2017, the Agency shall commence development of the statewide digital parcel data layer as part of the Statewide Property Parcel Mapping Program.

(2) According to the Agency:

(A) development of the data layer is expected to take three years;

(B) 80 percent of development costs and future operating costs are expected to be funded with Federal Highway Administration funds and 20 percent with State matching funds; and

(C) transportation funds will cover the 20 percent State match in fiscal year 2017.

(3) The Agency shall continue to work with State agencies and external partners benefited by the data layer, including private funding partners, to develop a memorandum of understanding to address funding sources other than the Transportation Fund for the 20 percent State match for fiscal year 2018 and in succeeding fiscal years.

Sec. 31. 19 V.S.A. § 10 is amended to read:

§ 10. DUTIES

The Agency shall, except where otherwise specifically provided by law:

* * *

(17) Administer the Statewide Property Parcel Mapping Program.

Sec. 32. 19 V.S.A. § 44 is added to read:

§ 44. STATEWIDE PROPERTY PARCEL MAPPING PROGRAM

(a) Purpose. The purpose of the Statewide Property Parcel Mapping Program is to:

- (1) develop a statewide property parcel data layer;
- (2) ensure regular maintenance, including updates, of the data layer; and
- (3) make property parcel data available to State agencies and departments, regional planning commissions, municipalities, and the public.

(b) Property Parcel Data Advisory Board. A Property Parcel Data Advisory Board (Board) is created for the purpose of monitoring the Statewide Property Parcel Mapping Program and making recommendations to the Agency of how the Program can be improved to enhance the usefulness of statewide property parcel data for State agencies and departments, regional planning commissions, municipalities, and the public. The Board shall comprise:

- (1) the Secretary of Transportation or designee, who shall serve as chair;
- (2) the Secretary of Natural Resources or designee;
- (3) the Secretary of Commerce and Community Development or designee;
- (4) the Commissioner of Taxes or designee;
- (5) a representative of the Vermont Association of Planning and Development Agencies;
- (6) a representative of the Vermont League of Cities and Towns; and
- (7) a land surveyor licensed under 26 V.S.A. chapter 45 designated by the Vermont Society of Land Surveyors.

(c) Meetings of Board. The Board shall meet at the call of the Chair or at the request of a majority of its members. The Agency shall provide administrative assistance to the Board and such other assistance as the Board may require to carry out its duties.

(d) Standards. The Agency shall update the statewide property parcel data layer in accordance with the standards of the Vermont Geographic Information System (VGIS), as specified in 10 V.S.A. § 123 (powers and duties of Vermont Center for Geographic Information).

(e) Funding sources. Federal transportation funds shall be used for the development and operation of the Program. In fiscal year 2018 and in

succeeding fiscal years, the Agency shall make every effort to ensure that all State matching funds are provided by other State agencies or external partners or both that benefit from the Program.

* * * Quechee Gorge Bridge Safety Issues * * *

Sec. 33. QUECHEE GORGE BRIDGE SAFETY ISSUES

(a) On or before September 1, 2016, or as soon as practicable thereafter if a longer period is required to obtain necessary permits or satisfy federal requirements, the Agency shall complete a project on or proximate to Bridge 61 on US Route 4 in the town of Hartford (Quechee Gorge Bridge) to install a structure providing information and resources, signs, or communication devices, or some combination of these, aimed at preventing suicides at the Quechee Gorge Bridge.

(b) In consultation with the Agency of Commerce and Community Development, the Department of Health, the Department of Mental Health, the Department of Public Safety, local officials, local emergency personnel, the Hartford Area Chamber of Commerce, mental health practitioners, local business owners, and other interested stakeholders, the Agency of Transportation shall thoroughly review suicide prevention as well as pedestrian, first responder, and other safety measures that could be taken, and the merits of taking such measures, at the Quechee Gorge Bridge. In conducting this review, the Agency shall identify:

(1) short- and long-term suicide prevention as well as pedestrian, first responder, and other safety measures for all users that could be taken at the Quechee Gorge Bridge in addition to the measures taken pursuant to subsection (a) of this section, including:

(A) providing information and resources, including emergency contact information and means of emergency communication; and

(B) physical improvements to the bridge structure and the surrounding area;

(2) estimated costs and benefits and an expected timeline associated with implementing the measures identified in subdivision (1) of this subsection; and

(3) economic, community, and tourism concerns associated with implementing the measures identified in subdivision (1) of this subsection.

(c) On or before January 10, 2017, the Agency shall report the results of the review required under subsection (b) of this section to the House and Senate Committees on Transportation.

* * * Ignition Interlock Devices * * *

Sec. 34. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(9)(A) “Ignition interlock restricted driver’s license” or “ignition interlock RDL” or “RDL” means a restricted license or privilege to operate a motor vehicle issued by the Commissioner allowing a ~~person~~ resident whose license or privilege to operate has been suspended or revoked for operating under the influence of intoxicating liquor or in excess of legal limits of alcohol concentration, or for refusing an enforcement officer’s reasonable request for an evidentiary test, to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved ignition interlock device.

(B) “Ignition interlock certificate” means a restricted privilege to operate a motor vehicle issued by the Commissioner allowing a nonresident whose privilege to operate a motor vehicle in Vermont has been suspended or revoked for operating under the influence of intoxicating liquor or in excess of legal limits of alcohol concentration, or for refusing an enforcement officer’s reasonable request for an evidentiary test, to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved ignition interlock device.

* * *

Sec. 35. 23 V.S.A. § 1209a is amended to read:

§ 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND
DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

(a) Conditions of reinstatement. No license or privilege to operate suspended or revoked under this subchapter, except a license or privilege to operate suspended under section 1216 of this title, shall be reinstated except as follows:

(1) In the case of a first suspension, a license or privilege to operate shall be reinstated only:

(A) after the person has successfully completed an Alcohol and Driving Education Program, at the person’s own expense, followed by an assessment of the need for further treatment by a State-designated counselor, at the person’s own expense, to determine whether reinstatement should be

further conditioned on satisfactory completion of a therapy program agreed to by the person and the Drinking Driver Rehabilitation Program Director;

(B) if the screening indicates that therapy is needed, after the person has satisfactorily completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the Driver Rehabilitation Program Director;

(C) if the person elects to operate under an ignition interlock RDL or ignition interlock certificate, after:

~~(i) a period of nine months (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of six months (the person operates under the RDL or certificate for the applicable period set forth in subsection 1205(a) or section 1206 of this title, plus any extension of this period arising from a violation of section 1213 of this title) in all other cases; and~~

(D) if the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(2) In the case of a second suspension, a license or privilege to operate shall not be reinstated until:

(A) the person has successfully completed an alcohol and driving rehabilitation program;

(B) the person has completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the Driver Rehabilitation Program Director;

(C) ~~if the person elects to operate~~ after the person operates under an ignition interlock RDL, ~~after:~~

~~(i) a period of two years (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of 18 months (~~ or ignition interlock certificate for 18 months or, in the case of a person subject to the one year hard suspension prescribed in subdivision 1213(a)(1)(C) of this title, for one year, plus any extension of this the relevant period arising from a violation of section 1213 of this title) in all other cases, except if otherwise provided in subdivision (a)(4) of this section; and

(D) the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(3) In the case of a third or subsequent suspension or a revocation, a license or privilege to operate shall not be reinstated until:

(A) the person has successfully completed an alcohol and driving rehabilitation program;

(B) the person has completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the Driver Rehabilitation Program Director;

(C) the person has satisfied the requirements of subsection (b) of this section; and

~~(D) if the person elects to operate under an ignition interlock RDL, after:~~

~~(i) a period of four years (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of three years (plus any extension of this period arising from a violation of section 1213 of this title) in all other cases; and~~

~~(E) the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.~~

(4) The Commissioner shall waive a requirement under subdivision (2) of this subsection or subsection (b) of this section that a person operate under an ignition interlock RDL or certificate prior to eligibility for reinstatement if:

(A) the person furnishes sufficient proof as prescribed by the Commissioner that he or she is incapable of using an ignition interlock device because of a medical condition that will persist permanently or at least for the term of the suspension or, in the case of suspensions or revocations for life, for a period of at least three years; or

(B) the underlying offenses arose solely from being under the influence of a drug other than alcohol.

(b) Abstinence.

(1) Notwithstanding any other provision of this subchapter, a person whose license or privilege to operate has been suspended or revoked for life under this subchapter may apply to the Driver Rehabilitation School Director and to the Commissioner for reinstatement of his or her driving privilege. The

person shall have completed three years of total abstinence from consumption of alcohol or drugs, or both. The beginning date for the period of abstinence shall be no sooner than the effective date of the suspension or revocation from which the person is requesting reinstatement and shall not include any period during which the person is serving a sentence of incarceration to include furlough. The application shall include the applicant's authorization for a urinalysis examination to be conducted prior to reinstatement under this subdivision. The application to the Commissioner shall be accompanied by a fee of \$500.00. The Commissioner shall have the discretion to waive the application fee if the Commissioner determines that payment of the fee would present a hardship to the applicant.

(2) If the Commissioner, or a medical review board convened by the Commissioner, is satisfied by a preponderance of the evidence that the applicant has abstained for the required number of years immediately preceding the application and hearing, has successfully completed a therapy program as required under this section, has operated under a valid ignition interlock RDL or under an ignition interlock certificate for at least three years following the suspension or revocation, and the person appreciates that he or she cannot drink any amount of alcohol and drive safely, the person's license or privilege to operate shall be reinstated immediately, subject to the condition that the person's suspension or revocation will be put back in effect in the event any further investigation reveals a return to the consumption of alcohol or drugs and to such additional conditions as the Commissioner may impose and, ~~if the person has not previously operated for three years under an ignition interlock RDL, subject to the additional condition that the person shall operate under an ignition interlock restricted driver's license for a period of at least one year following reinstatement under this subsection. However, the Commissioner may waive this one-year requirement to operate under an ignition interlock restricted driver's license if the person furnishes proof as prescribed by the Commissioner that he or she is incapable of using an ignition interlock device because of a medical condition that will persist permanently or at least for one year.~~ The requirement to operate under an ignition interlock RDL or ignition interlock certificate shall not apply if the person is exempt under subdivision (a)(4) of this section.

(3) If after notice and hearing the Commissioner later finds that the person was violating the conditions of the person's reinstatement under this subsection, the person's operating license or privilege to operate shall be immediately suspended or revoked ~~for the period of the original suspension life.~~

(4) If the Commissioner finds that a person reinstated under this subsection was suspended pursuant to section 1205 of this title, or was

convicted of a violation of section 1201 of this title, the person shall be conclusively presumed to be in violation of the conditions of his or her reinstatement.

(5) A person shall be eligible for reinstatement under this subsection only once following a suspension or revocation for life.

(6)(A) If an applicant for reinstatement under this subsection resides in a jurisdiction other than Vermont, the Commissioner may elect not to conduct an investigation. If the Commissioner elects not to conduct an investigation, he or she shall provide a letter to the applicant's jurisdiction of residence stating that Vermont does not object to the jurisdiction issuing the applicant a license if the applicant is ~~authorized~~ required to operate only vehicles equipped with an ignition interlock device for at least a three-year period, unless exempt under subdivision (a)(4) of this section, and is required to complete any alcohol rehabilitation or treatment requirements of the licensing jurisdiction.

(B) If the applicant's jurisdiction of residence is prepared to issue or has issued a license in accordance with subdivision (A) of this subdivision (6) and the applicant satisfies the requirements of section 675 of this title, the Commissioner shall update relevant State and federal databases to reflect that the applicant's lifetime suspension or revocation in Vermont under chapter 13, subchapter 13 of this title has terminated.

* * *

Sec. 36. 23 V.S.A. § 1213 is amended to read:

§ 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE OR CERTIFICATE; PENALTIES

(a)(1) ~~First offense.~~ A person whose license or privilege to operate is suspended ~~for a first offense~~ or revoked under this subchapter ~~shall be permitted to~~ may operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL or ignition interlock certificate. ~~The~~ Upon application, the Commissioner shall issue an ignition interlock RDL ~~to a person eligible under section 1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of this title upon receipt of~~ or ignition interlock certificate to a person otherwise licensed or eligible to be licensed to operate a motor vehicle if:

(A) the person submits a \$125.00 application fee, ~~and upon receipt of;~~

(B) the person submits satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, ~~and of financial responsibility as provided in section 801 of this title, and enrollment~~

~~in an Alcohol and Driving Education Program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of this title;~~

(C) at least one year has passed since the suspension or revocation was imposed if the offense involved death or serious bodily injury to a person other than the operator; and

(D) the applicable period set forth below has passed since the suspension or revocation was imposed if the offense involved refusal of an enforcement officer's reasonable request for an evidentiary test:

(i) 30 days for a first offense;

(ii) 90 days for a second offense;

(iii) one year for a third or subsequent offense.

(2) A new ignition interlock RDL or ignition interlock certificate shall expire at midnight on the eve of the second birthday of the applicant following the date of issue, and may be renewed for one-year terms. The Commissioner shall send by first class mail an application for renewal of the RDL or certificate at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be \$125.00.

~~(b) Second offense. A person whose license or privilege to operate is suspended for a second offense under this subchapter shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The Commissioner shall issue an ignition interlock RDL to a person eligible under section 1205(m), 1208(a), or 1216(a)(2) of this title upon receipt of a \$125.00 application fee, and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, financial responsibility as provided in section 801 of this title, and enrollment in an Alcohol and Driving Rehabilitation Program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(m), 1208(a), or 1216(a)(2) of this title. A new ignition interlock RDL shall expire at midnight on the eve of the second birthday of the applicant following the date of issue, and may be renewed for one-year terms. The Commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be \$125.00. [Repealed.]~~

~~(c) Third or subsequent offense. A person whose license or privilege to operate is suspended or revoked for a third or subsequent offense under this subchapter shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The Commissioner shall issue an ignition interlock RDL to a person eligible under section 1205(a)(3), 1205(m), 1208(b), or 1216(a)(2) of this title upon receipt of a \$125.00 application fee, and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, financial responsibility as provided in section 801 of this title, and enrollment in an Alcohol and Driving Rehabilitation Program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(a)(3), 1205(m), 1208(b), or 1216(a)(2) of this title. A new ignition interlock RDL shall expire at midnight on the eve of the second birthday of the applicant following the date of issue, and may be renewed for one year terms. The Commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be \$125.00. [Repealed.]~~

(d) If a fine is to be imposed for a conviction of a violation of section 1201 of this title, upon receipt of proof of installation of an approved ignition interlock device, the Court may order that the fine of an indigent person conditionally be reduced by one-half to defray the costs of the ignition interlock device, subject to the person's ongoing operation under, and compliance with the terms of, a valid ignition interlock RDL or ignition interlock certificate as set forth in this section. In considering whether a person's fine should be reduced under this subsection, the Court shall take into account any discount already provided by the device manufacturer or provider.

(e) ~~The~~ Except as provided in subsection (m) of this section, the holder of an ignition interlock RDL or ignition interlock certificate shall pay the costs of installing, purchasing or leasing, and removing the ignition interlock device as well as calibrating the device and retrieving data from it periodically as may be specified by the Commissioner.

(f)(1) Prior to the issuance of an ignition interlock RDL or ignition interlock certificate under this section, the Commissioner shall notify the applicant ~~of the applicable~~ that the period prior to eligibility for reinstatement under section 1209a or 1216 of this title, ~~and that the reinstatement period may be extended under this subsection (f) or subsections (g)–(h) of this section.~~

(2)(A) Prior to any such extension of the reinstatement period, the ignition interlock RDL or certificate holder shall be given notice and

opportunity for a hearing. Service of the notice shall be sent by first class mail to the last known address of the person. The notice shall include a factual description of the grounds for an extension, a reference to the particular law allegedly violated, and a warning that the right to a hearing will be deemed waived, and an extension of the reinstatement period will be imposed, if a written request for a hearing is not received at the Department of Motor Vehicles within 15 days after the date of the notice.

* * *

(3)(A) A holder of an ignition interlock RDL or certificate who, prior to eligibility for reinstatement under section 1209a or 1216 of this title, is prevented from starting a motor vehicle because the ignition interlock device records a blood alcohol concentration of 0.04 or above, shall be subject to a three-month extension of the applicable reinstatement period in the event of three such recorded events, and to consecutive three-month extensions for every additional three recorded events thereafter. The Commissioner shall disregard a recording of 0.04 or above for the purposes of this subdivision if the Commissioner in his or her discretion finds, based on a pattern of tests or other reliable information, that the recording does not indicate the consumption of intoxicating liquor by the holder. The Commissioner shall notify the holder in writing after every recording of 0.04 or above that indicates the consumption of intoxicating liquor by the holder and, prior to any extension under this subdivision, the holder shall have the opportunity to be heard pursuant to subdivision (2) of this subsection (f).

(B) A holder of an ignition interlock RDL or certificate who, prior to eligibility for reinstatement under section 1209a or 1216 of this title, fails a random retest because the ignition interlock device records a blood alcohol concentration of 0.04 or above and below 0.08, shall be subject to consecutive three-month extensions of the applicable reinstatement period for every such recorded event. A holder who fails a random retest because of a recording of 0.08 or above shall be subject to consecutive six-month extensions of the applicable reinstatement period for every such recorded event. The Commissioner shall disregard a recording of 0.04 or above for the purposes of this subdivision if the Commissioner in his or her discretion finds, based on a pattern of tests or other reliable information, that the recording does not indicate the consumption of intoxicating liquor by the holder. The Commissioner shall notify the holder in writing after every recording of 0.04 or above that is indicative of the consumption of intoxicating liquor by the holder and, prior to any extension under this subdivision, the holder shall have the opportunity to be heard pursuant to subdivision (2) of this subsection (f).

(g) The holder of an ignition interlock RDL or certificate shall operate only motor vehicles equipped with an ignition interlock device, shall not attempt or take any action to tamper with or otherwise circumvent an ignition interlock device, and, after failing a random retest, shall pull over and shut off the vehicle's engine as soon as practicable. A person who violates any provision of this section commits a criminal offense, shall be subject to the sanctions and procedures provided for in subsections 674(b)–(i) of this title, and, upon conviction, the applicable period prior to eligibility for reinstatement under section 1209a or 1216 of this title shall be extended by six months.

(h) A person who violates a rule adopted by the Commissioner pursuant to subsection (l) of this section shall, after notice and an opportunity to be heard is provided pursuant to subdivision (f)(2) of this section, be subject to an extension of the period prior to eligibility for reinstatement under section 1209a or 1216 of this title in accordance with rules adopted by the Commissioner.

(i) Upon receipt of notice that the holder of an ignition interlock RDL or certificate has been ~~adjudicated~~ convicted of an offense under this title that would result in suspension, revocation, or recall of a license or privilege to operate, the Commissioner shall suspend, revoke, or recall the person's ignition interlock RDL or certificate for the same period that the license or privilege to operate would have been suspended, revoked, or recalled. The Commissioner may impose a reinstatement fee in accordance with section 675 of this title and require, prior to reinstatement, satisfactory proof of installation of an approved ignition interlock device; and of financial responsibility as provided in section 801 of this title, ~~and enrollment in or completion of an alcohol and driving education or rehabilitation program.~~

* * *

(l)(1) The Commissioner, in consultation with any individuals or entities the Commissioner deems appropriate, shall adopt rules and may enter into agreements to implement the provisions of this section. The Commissioner shall not approve a manufacturer of ignition interlock devices as a provider in this State unless the manufacturer agrees to reduce the cost of installing, leasing, and deinstalling the device by at least 50 percent for persons who furnish proof of receipt of 3SquaresVT, LIHEAP, or Reach Up benefits or like benefits in another state.

(2) The rules shall establish uniform performance standards for ignition interlock devices including required levels of accuracy in measuring blood alcohol concentration, efficacy in distinguishing valid breath samples, the occurrence of random retests while the vehicle is running, and automatic signaling by the vehicle if the operator fails such a retest. The Commissioner

shall certify devices that meet these standards, specify any periodic calibration that may be required to ensure accuracy of the devices, and specify the means and frequency of the retrieval and sharing of data collected by ignition interlock devices. Persons who elect to obtain an ignition interlock RDL or certificate following a conviction under this subchapter when the person's blood alcohol concentration is proven to be 0.16 or more shall be required to install an ignition interlock device with a Global Positioning System feature. The rules also shall establish a schedule of extensions of the period prior to eligibility for reinstatement as authorized under subsection (h) of this section.

(m)(1) There is created an Ignition Interlock Device Special Fund which shall be a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5.

(2) The Ignition Interlock Device Special Fund shall consist of funds appropriated by the General Assembly and of monies transferred to the Fund or from gifts, grants, and donations. Interest earned on monies in the Fund shall be retained in the Fund for use in accordance with the purposes of the Fund.

(3) Upon application by an eligible person, available monies in the Ignition Interlock Device Special Fund shall be used by the Department of Motor Vehicles to pay the balance of costs of installing, leasing, and deinstalling an ignition interlock device after a manufacturer's discount has been applied, on behalf of a person who:

(A) is qualified to obtain an ignition interlock RDL under this section;

(B) is required to operate under an ignition interlock RDL as a condition of reinstatement of his or her regular operator's license or privilege to operate a motor vehicle in Vermont; and

(C) furnishes proof to the Commissioner of Motor Vehicles of receipt of 3SquaresVT, LIHEAP, or Reach Up benefits from the State of Vermont.

Sec. 36a. FY16 MAINTENANCE PROGRAM SPENDING AUTHORITY;
TRANSFER TO SPECIAL FUND; FY17 DMV SPENDING
AUTHORITY

(a) Spending authority in the Maintenance Program within the fiscal year 2016 Transportation Program hereby is reduced by \$25,000.00 in transportation funds.

(b) The sum of \$25,000.00 hereby is transferred from the Transportation Fund to the Ignition Interlock Device Special Fund for use in fiscal year 2017 for the purpose specified in 23 V.S.A. § 1213(m).

(c) Spending authority for the Department of Motor Vehicles within the fiscal year 2017 Transportation Program hereby is increased by \$25,000.00 in transportation funds for use in fiscal year 2017 for the purpose specified in 23 V.S.A. § 1213(m).

Sec. 37. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

(a) Refusal; alcohol concentration above legal limits; suspension periods.

(1) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person refused to submit to a test, the Commissioner shall suspend the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for a period of six months and until the person complies with section 1209a of this title. However, a during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title ~~after 30 days of this six month period unless the alleged offense involved a collision resulting in serious bodily injury or death to another.~~

(2) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was above a limit specified in subsection 1201(a) of this title, at the time of operating, attempting to operate, or being in actual physical control, the Commissioner shall suspend the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days and until the person complies with section 1209a of this title. However, a during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title ~~after 30 days of this 90 day period unless the alleged offense involved a collision resulting in serious bodily injury or death to another.~~

(3) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of subdivision 1201(d)(2) of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was 0.02 or more at the time of operating, attempting to operate, or being in actual physical control,

the Commissioner shall suspend the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for life. However, a during the suspension, an eligible person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of this lifetime suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

* * *

(d) Form of notice. The notice of intention to suspend and of suspension shall be in a form prescribed by the Supreme Court. The notice shall include an explanation of rights, a form to be used to request a hearing, and, if a hearing is requested, the date, time, and location of the Criminal Division of the Superior Court where the person must appear for a preliminary hearing. The notice shall also contain, in boldface print, the following:

(1) You have the right to ask for a hearing to contest the suspension of your operator's license.

(2) This notice shall serve as a temporary operator's license and is valid until 12:01 a.m. of the date of suspension. If this is your first violation of section 1201 of this title and if you do not request a hearing, your license will be suspended as provided in this notice. If this is your second or subsequent violation of section 1201 of this title, your license will be suspended on the 11th day after you receive this notice. It is a crime to drive while your license is suspended unless you have been issued an ignition interlock restricted driver's license or ignition interlock certificate.

* * *

(m) Second and subsequent suspensions. For a second suspension under this subchapter, the period of suspension shall be 18 months and until the person complies with section 1209a of this title. However, a during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title after 90 days of this 18 month period unless the alleged offense involved a collision resulting in serious bodily injury or death to another. For a third or subsequent suspension under this subchapter, the period of suspension shall be life. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of during this lifetime suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another, an eligible

person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

* * *

Sec. 38. 23 V.S.A. § 1206 is amended to read:

§ 1206. SUSPENSION OF LICENSE FOR DRIVING WHILE UNDER INFLUENCE; FIRST CONVICTIONS

(a) ~~First conviction—generally. Except as otherwise provided, upon conviction of a person for violating a provision of section 1201 of this title, or upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person’s operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days and until the defendant complies with section 1209a of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 30 days of this 90-day period unless the offense involved a collision resulting in serious bodily injury or death to another.~~

(b) ~~Extended suspension—fatality or serious bodily injury. In cases resulting in a fatality or serious bodily injury to a person other than the defendant, the period of suspension shall be one year and until the defendant complies with section 1209a of this title.~~

(c) ~~Extended suspension—refusal; serious bodily injury. Upon conviction of a person for violating a provision of subsection 1201(e) of this title involving a collision in which serious bodily injury resulted, or upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person’s operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for a period of six months, and until the defendant complies with section 1209a of this title. During a suspension under this section, an eligible person may operate a motor vehicle under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.~~

Sec. 39. 23 V.S.A. § 1208 is amended to read:

§ 1208. SUSPENSIONS FOR SUBSEQUENT CONVICTIONS

(a) Second conviction. Upon a second conviction of a person violating a provision of section 1201 of this title and upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately

suspend the person's operating license, or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for 18 months and until the defendant complies with section 1209a of this title. However, during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title after 90 days of this 18-month period unless the alleged offense involved a collision resulting in serious bodily injury or death to another.

(b) Third conviction. Upon a third or subsequent conviction of a person violating a provision of section 1201 of this title and upon final determination of any appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately revoke the person's operating license, or nonresident operating privilege or the privilege of an unlicensed operator to operate a motor vehicle for life. However, ~~a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of~~ during this lifetime suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another revocation, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

Sec. 40. 23 V.S.A. § 1216 is amended to read:

§ 1216. PERSONS UNDER 21 YEARS OF AGE; ALCOHOL CONCENTRATION OF 0.02 OR MORE

(a) A person under ~~the age of~~ 21 years of age who operates, attempts to operate, or is in actual physical control of a vehicle on a highway when the person's alcohol concentration is 0.02 or more, commits a civil traffic violation subject to the jurisdiction of the Judicial Bureau and subject to the following sanctions:

(1) For a first violation, the person's license or privilege to operate shall be suspended for six months and until the person complies with subdivision 1209a(a)(1) of this title. However, during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title after 30 days of this six-month period unless the offense involved a collision resulting in serious bodily injury or death to another. A person who elects to operate under an RDL or certificate shall not be eligible for reinstatement unless he or she operates under the RDL or certificate for six months plus any extension of this period arising from a violation of section 1213 of this title.

(2) For a second or subsequent violation, the person's license or privilege to operate shall be suspended until the person reaches ~~the age of~~ 21 years of age or for one year, whichever is longer, and complies with subdivision 1209a(a)(2)(A), (B), and (D) of this title. However, a during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title after 90 days of the applicable suspension period unless the offense involved a collision resulting in serious bodily injury or death to another. A person who elects to operate under an RDL or certificate shall not be eligible for reinstatement unless he or she operates under the RDL or certificate for one year or until the person reaches 21 years of age, whichever is longer, plus any extension of this period arising from a violation of section 1213 of this title.

(b) A person's license or privilege to operate that has been suspended under this section shall not be reinstated until:

~~(1) the Commissioner has received satisfactory evidence that the person has complied with section 1209a of this title and the provider of the therapy program has been paid in full;~~

~~(2) the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter; and~~

~~(3)(A) for persons operating under an ignition interlock RDL for a first offense, after:~~

~~(i) a period of one year (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of nine months (plus any extension of this period arising from a violation of section 1213 of this title) in all other cases; or~~

~~(B) for persons operating under an ignition interlock RDL for a second or subsequent offense, after:~~

~~(i) a period of two years (plus any extension of this period arising from a violation of section 1213 of this title) or until the person is 21, whichever is longer, if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of 18 months (plus any extension of this period arising from a violation of section 1213 of this title) or until the person is 21, whichever is longer, in all other cases. [Repealed.]~~

* * *

* * * Signs for Census-designated Places Within Towns * * *

Sec. 41. Sec. 1. 10 V.S.A. § 494 is amended to read:

§ 494. EXEMPT SIGNS

The following signs are exempt from the requirements of this chapter except as indicated in section 495 of this title:

* * *

(4) Signs erected and maintained by or with the approval of a town outside the highway right-of-way, each of which does not exceed 64 square feet in area, excluding panel and frame, which may show the place and time of services or meetings of churches and civic organizations in the town, and which may include a panel which identifies the name of the town, the charter date, the date the town was founded, or any other significant date in the history of the town, and which the town wishes to identify. The panel may bear the wording “welcome to” the particular town. Not more than two such signs may be erected and maintained readable by traffic proceeding in any one direction on any one highway. The signs shall meet the criteria of the Agency of Transportation and the Travel Information Council. A sign that otherwise meets the requirements of this subdivision may refer to a census-designated place within a town rather than the town itself. As used in this subdivision, “census-designated place” means a statistical entity consisting of a settled concentration of population that is identifiable by name, is not legally incorporated under the laws of the State, and is delineated as such a place by the U.S. Census Bureau according to its guidelines.

* * *

* * * Dealers * * *

Sec. 42. 23 V.S.A. § 4(8)(A)(ii)(III) is amended to read:

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

Sec. 43. DEALER REGULATION REVIEW

(a) The Commissioner of Motor Vehicles shall review Vermont statutes, rules, and procedures regulating motor vehicle, snowmobile, motorboat, and all-terrain vehicle dealers, and review the regulation of such dealers by other

states, to determine whether and how Vermont's regulation of dealers and associated motor vehicle laws should be amended to:

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

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

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

(c) The Commissioner shall review:

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

(2) physical location requirements of dealers;

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

(4) the permitted uses of dealer plates;

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

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

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

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

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

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

Sec. 44. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

* * *

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

* * *

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

* * *

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

Sec. 45. 23 V.S.A. § 327 is amended to read:

§ 327. REFUND WHEN PLATES NOT USED

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

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

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

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

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

Sec. 46. 23 V.S.A. § 208 is added to read:

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

As determined by the Commissioner, and consistent with section 601 of this title, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. However, these exemptions shall be operative only to the extent that under the laws of the foreign country or state of the owner's or operator's residence like exemptions and privileges are granted to owners of motor vehicles duly registered and to operators duly licensed or permitted under the laws of this State, except that if the owner or operator is a resident of a country not adjoining the United States, the exemptions shall be operative for a period of not more than 30 days for vacation purposes even if the country does not grant like privileges to residents of this State.

Sec. 47. 23 V.S.A. § 411 is amended to read:

§ 411. RECIPROCAL PROVISIONS

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

* * * Operator's Licenses * * *

Sec. 48. 23 V.S.A. § 601 is amended to read:

§ 601. LICENSE REQUIRED

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

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

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

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

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

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

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

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

* * *

(c) At least 30 days before a license is scheduled to expire, the Commissioner shall mail first class to the licensee or send the licensee electronically an application for renewal of the license; a cardholder shall be sent the renewal notice by mail unless the cardholder opts in to receive electronic notification. A person shall not operate a motor vehicle unless properly licensed.

* * *

Sec. 49. CONFORMING CHANGES

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

* * * Special Examinations; Conforming Changes * * *

Sec. 50. 23 V.S.A. § 637 is amended to read:

§ 637. EXAMINERS OF PHYSICAL AND MENTAL CONDITIONS

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

Sec. 51. 23 V.S.A. § 638 is amended to read:

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

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

Sec. 52. 23 V.S.A. § 639 is amended to read:

§ 639. FEES FOR PHYSICAL AND MENTAL EXAMINATIONS

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

* * * State Highway Restrictions and Chain Up Requirements * * *

Sec. 53. 23 V.S.A. § 1006b is amended to read:

§ 1006b. ~~SMUGGLERS~~ SMUGGLERS' NOTCH; WINTER CLOSURE OF VERMONT ROUTE 108; COMMERCIAL VEHICLE OPERATION PROHIBITED

(a) The Agency of Transportation may close the ~~Smugglers~~ Smugglers' Notch segment of Vermont Route 108 during periods of winter weather. ~~To enforce the winter closure, the Agency shall erect signs conforming to the standards established by section 1025 of this title.~~

(b)(1) As used in this subsection, "commercial vehicle" means truck-tractor-semitrailer combinations and truck-tractor-trailer combinations.

(2) Commercial vehicles are prohibited from operating on the Smugglers' Notch segment of Vermont Route 108.

(3) Either the operator of a commercial vehicle who violates this subsection, or the operator's employer, shall be subject to a civil penalty of \$1,000.00. If the violation results in substantially impeding the flow of traffic on Vermont Route 108, the penalty shall be \$2,000.00. For a second or subsequent conviction within a three-year period, the penalty shall be doubled.

(c) The Agency shall erect signs conforming to the standards established by section 1025 of this title to indicate the closures and restrictions authorized under this section.

Sec. 54. 23 V.S.A. § 1006c is amended to read:

§ 1006c. ~~TRUCKS AND BUSES; CHAINS AND TIRE CHAIN~~ REQUIREMENTS FOR VEHICLES WITH WEIGHT RATINGS OF MORE THAN 26,000 POUNDS

(a) As used in this section, "chains" means link chains, cable chains, or another device that attaches to a vehicle's tire or wheel or to the vehicle itself and is designed to augment the traction of the vehicle under conditions of snow or ice.

(b) The ~~Traffic Committee~~ Secretary of Transportation, the Commissioner of Motor Vehicles, or the Commissioner of Public Safety, or their designees, may require the use of tire chains ~~or winter tires~~ on specified portions of State highways during periods of winter weather for ~~motor coaches, truck-tractor-semitrailer combinations, and truck-tractor-trailer combinations~~ vehicles with a gross vehicle weight rating (GVWR) of more than 26,000 pounds or gross combination weight rating (GCWR) of more than 26,000 pounds.

~~(b)~~(c) When tire chains ~~or winter tires~~ are required, advance notice shall be given to the traveling public through signage and, whenever possible, through public service announcements. In areas where tire chains ~~or winter tires~~ are required, there shall be an adequate area for vehicles to pull off the traveled way to affix any chains that might be required.

~~(e)~~(d) Under 3 V.S.A. chapter 25, the Traffic Committee may adopt such rules as are necessary to administer this section and may delegate this authority to the Secretary.

(e) When signs are posted and chains required in accordance with this section, chains shall be affixed as follows on vehicles with a GVWR or a GCWR of more than 26,000 pounds:

(1) Solo vehicles. A vehicle not towing another vehicle:

(A) that has a single-drive axle shall have chains on one tire on each side of the drive axle; or

(B) that has a tandem-drive axle shall have chains on:

(i) two tires on each side of the primary drive axle; or

(ii) if both axles are powered by the drive line, on one tire on each side of each drive axle.

(2) Vehicles with semitrailers or trailers. A vehicle towing one or more semitrailers or trailers:

(A) that has a single-drive axle towing a trailer shall have chains on two tires on each side of the drive axle and one tire on the front axle and one tire on one of the rear axles of the trailer;

(B) that has a single-drive axle towing a semitrailer shall have chains on two tires on each side of the drive axle and two tires, one on each side, of any axle of the semitrailer;

(C) that has a tandem-drive axle towing a trailer shall have:

(i) chains on two tires on each side of the primary drive axle, or if both axles of the vehicle are powered by the drive line, one tire on each side of each drive axle; and

(ii) chains on one tire of the front axle and one tire on one of the rear axles of the trailer;

(D) that has a tandem-drive axle towing a semitrailer shall have:

(i) chains on two tires on each side of the primary drive axle, or if both axles of the vehicle are powered by the drive line, one tire on each side of each drive axle; and

(ii) chains on two tires, one on each side, of any axle of the semitrailer.

(f) Either the operator of a vehicle required to be chained under this section who fails to affix chains as required herein, or the operator's employer, shall be subject to a civil penalty of \$1,000.00. If the violation results in substantially impeding the flow of traffic on a highway, the penalty shall be \$2,000.00. For a second or subsequent conviction within a three-year period, the penalty shall be doubled.

Sec. 55. 23 V.S.A. § 2302 is amended to read:

§ 2302. TRAFFIC VIOLATION DEFINED

(a) As used in this chapter, "traffic violation" means:

* * *

(11) a violation of subsection 1006b(b), section 1006c, or subsections 4120(a) and (b) of this title; or

* * *

* * * School Bus Operators * * *

Sec. 56. 23 V.S.A. § 1282(d) is amended to read:

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

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

(B) a certificate signed by a properly registered and authorized medical doctor, ophthalmologist, optometrist, or nurse practitioner certifying

that he or she meets or exceeds the minimum vision standards as prescribed by the Commissioner.

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

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

* * * Overweight and Overdimension Vehicles * * *

Sec. 57. 23 V.S.A. § 1391a(d) is amended to read:

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

Sec. 58. 23 V.S.A. § 1400(d) is amended to read:

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

* * * Motor Vehicle Titles * * *

Sec. 59. 23 V.S.A. § 2001 is amended to read:

§ 2001. DEFINITIONS

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

* * *

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

* * *

(17) "Salvage certificate of title" means a title that is stamped or otherwise branded to indicate that the vehicle described thereon is a salvaged motor vehicle ~~or has been scrapped, dismantled, destroyed, or declared a total loss by an insurance company, or both.~~

* * *

Sec. 60. 23 V.S.A. § 2019 is amended to read:

§ 2019. MAILING OR DELIVERING CERTIFICATE

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

Sec. 61. 23 V.S.A. § 2091 is amended to read:

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

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

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

(1) any certificate of title; and

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

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

this section if the application for the salvage certificate of title is accompanied by:

(A) the required fee;

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

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

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

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

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

* * * Abandoned Motor Vehicles * * *

Sec. 62. 23 V.S.A. chapter 21, subchapter 7 is amended to read:

Subchapter 7. Abandoned Motor Vehicles

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

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

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

(i) a motor vehicle that has remained on public or private property or on or along a highway for more than 48 hours without the consent of the

owner or person in control of the property ~~for more than 48 hours~~, and has a valid registration plate or public vehicle identification number which has not been removed, destroyed, or altered; or

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

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

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

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

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

§ 2152. AUTHORIZED REMOVAL OF ABANDONED MOTOR VEHICLES

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

(b) Private property.

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

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

§ 2153. ABANDONED MOTOR VEHICLE CERTIFICATION

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

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

§ 2154. IDENTIFICATION AND RECLAMATION OF ABANDONED MOTOR VEHICLES

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

(1) If the abandoned motor vehicle is not identifiable by its registration plates or public vehicle identification number, and if no owner can be determined within 21 days of the date of receipt of the abandoned motor vehicle certification form, the Commissioner of ~~Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with an appropriate title or salvage title.

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

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

§ 2155. FEES AND CHARGES

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

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

* * *

* * * Repeals and Conforming Changes * * *

Sec. 63. REPEALS

The following sections are repealed:

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

(2) 23 V.S.A. § 423 (negotiating and entering into an interstate compact regarding truck license fees).

(3) 23 V.S.A. § 605 (unsatisfied judgment; suspension).

Sec. 64. 23 V.S.A. § 369 is amended to read:

§ 369. TRACTORS OTHER THAN FARM TRACTORS

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

Sec. 65. 23 V.S.A. § 603(a)(2) is amended to read:

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

* * * Chemicals of High Concern to Children; Vehicle Exemptions * * *

Sec. 66. 18 V.S.A. § 1772 is amended to read:

§ 1772. DEFINITIONS

As used in this chapter:

* * *

(8) “Consumer product” means any product that is regularly used or purchased to be used for personal, family, or household purposes. “Consumer product” shall not mean:

* * *

(G) an aircraft, motor vehicle, wheelchair, or vessel;

* * *

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

* * *

* * * Study of DUI Drug Offense Enforcement Challenges * * *

Sec. 67. STUDY OF DUI DRUG OFFENSE ENFORCEMENT CHALLENGES

The Executive Director of the Department of State’s Attorneys and Sheriffs or designee, in consultation with the Commissioner of Public Safety or designee, the Impaired Driving Project Manager of the Governor’s Highway Safety Program, and attorneys representing DUI defendants, shall study challenges in the enforcement of DUI drug offenses, including the lack of a rapid roadside screening tool to detect drugs other than alcohol, and identify recommended improvements in the processes used to detect, arrest, and process drug-impaired drivers and to the laws that govern these processes. On or before November 1, 2016, the Executive Director shall report his or her findings and recommendations to the Joint Legislative Justice Oversight Committee, the House and Senate Committees on Judiciary, and the House and Senate Committees on Transportation.

* * * Effective Dates and Applicability * * *

Sec. 68. EFFECTIVE DATES; APPLICABILITY TO DUI MATTERS

(a) This section, Secs. 8 (positions), 9 (Rail Program), 10 (sale of State-owned rail property), 22–28 (stormwater utilities; rates; incentives), 30 (statewide property parcel data layer), 33 (Quechee Gorge Bridge safety issues), in Sec. 36, 23 V.S.A. § 1213(m) (Ignition Interlock Device Special Fund), Sec. 36a (spending authority and transfer to the Ignition Interlock Device Special Fund), Sec. 66 (chemicals of high concern to children; exempt vehicles), and Sec. 67 (study of DUI drug offense enforcement challenges) shall take effect on passage.

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

(c) The requirement for a second or subsequent DUI offender to operate under an ignition interlock RDL or certificate as a condition of eligibility for

reinstatement of the offender's regular operator's license or privilege to operate, created under Sec. 35, amending 23 V.S.A. § 1209a, shall apply only in connection with a second or subsequent DUI offense that occurs on or after July 1, 2016.

(For text see House Journal March 29, 30, 2016)

Amendment to be offered by Reps. Brennan of Colchester and Corcoran of Bennington to H. 876

Reps. Brennan of Colchester and Corcoran of Bennington move that the House concur in the Senate Proposal of Amendment with further amendment thereto by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Adoption of Proposed Transportation Program as Amended;

Definitions * * *

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation's proposed fiscal year 2017 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2017 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) "Agency" means the Agency of Transportation.

(2) "Secretary" means the Secretary of Transportation.

(3) The table heading "As Proposed" means the Transportation Program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As Amended" figure; and the term "change" or "changes" in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net "Change" in the applicable table heading.

(4) "TIB funds" or "TIB" refers to monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

* * * Program Development Program * * *

Sec. 2. PROGRAM DEVELOPMENT; SPENDING AUTHORITY

(a) Reduction in spending authority. Spending authority in the Program Development Program within the fiscal year 2017 Transportation Program hereby is reduced by:

(1) \$1,461,136.00 in transportation funds;

(2) \$86,204.00 in TIB funds;

(3) \$6,189,360.00 in federal funds.

(b) Selection of projects; notification of delays. In his or her discretion, the Secretary shall select the projects for which spending will be reduced under subsection (a) of this section. In exercising his or her discretion, the Secretary shall not delay a project that otherwise would proceed in fiscal year 2017, unless the full amount of the reduction cannot be achieved from cost savings or the delay of projects due to unforeseen circumstances. If a project that otherwise would have proceeded in fiscal year 2017 is delayed, the Secretary shall promptly notify:

(1) the House and Senate Committees on Transportation when the General Assembly is in session; or

(2) the Joint Transportation Oversight Committee and the Joint Fiscal Office when the General Assembly is not in session.

(c) Contingent restoration of spending authority.

(1) As used in this subsection:

(A) "Transportation Fund balance" means a positive balance of unreserved monies remaining in the Transportation Fund at the end of fiscal year 2016.

(B) "TIB Fund balance" means a positive balance of unreserved monies remaining in the Transportation Infrastructure Bond Fund at the end of fiscal year 2016.

(2) Subject to the funding of the Transportation Fund Stabilization Reserve in accordance with 32 V.S.A. § 308a and to the limitations of 19 V.S.A. § 11f (Transportation Infrastructure Bond Fund), and notwithstanding 32 V.S.A. § 308c (Transportation Fund Balance Reserve), if a Transportation Fund balance, TIB Fund balance, or balance in both funds exists at the end of fiscal year 2016, spending authority reduced in subsection (a) of this section in the fiscal year 2017 Program Development Program shall be restored to the extent of the balance or balances, up to a total of \$1,547,340.00 in Transportation Funds or TIB funds, and by up to \$6,189,360 in matching federal funds.

* * * FY17 Town Highway Aid Program * * *

Sec. 3. TOWN HIGHWAY AID PROGRAM

Spending authority for the fiscal year 2017 Town Highway Aid Program is amended as follows:

<u>FY17</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	25,982,744	26,982,744	1,000,000
Total	25,982,744	26,982,744	1,000,000
<u>Sources of funds</u>			
State	25,982,744	26,982,744	1,000,000
Federal	0	0	0
Total	25,982,744	26,982,744	1,000,000

* * * Appropriation of Transportation Funds * * *

Sec. 4. 19 V.S.A. § 11a is amended to read:

§ 11a. TRANSPORTATION FUNDS APPROPRIATED FOR THE
DEPARTMENT OF PUBLIC SAFETY

(a) No transportation funds shall be appropriated for the support of government other than for the Agency, the Board, Transportation Pay Act Funds, construction of transportation capital facilities, transportation debt service, the operation of information centers by the Department of Buildings and General Services, and the Department of Public Safety. The amount of transportation funds appropriated to the Department of Public Safety shall not exceed:

- (1) \$25,250,000.00 in fiscal year 2014;
- (2) \$22,750,000.00 in fiscal years 2015 and 2016; and
- (3) ~~\$20,250,000.00~~ \$21,550,000.00 in fiscal year 2017; and ~~in succeeding fiscal years~~
- (4) \$20,000,000.00 in fiscal year 2018 and in succeeding fiscal years.

(b) In fiscal year 2017 and in succeeding fiscal years, of the funds appropriated to the Department of Public Safety pursuant to subsection (a) of this section, the amount of \$2,100,000.00 is allocated exclusively for the purchase, outfitting, assignment, and disposal of State Police vehicles. Any unexpended and unencumbered funds remaining in this allocation at the close of a fiscal year shall revert to the Transportation Fund. The Department of Public Safety may periodically recommend to the General Assembly that this allocation be adjusted to reflect market conditions for the vehicles and equipment.

* * * Future TH Aid Program Appropriations * * *

Sec. 5. PERMANENT INCREASE TO TOWN HIGHWAY AID
PROGRAM; LEGISLATIVE INTENT

The General Assembly intends that at least \$1,000,000.00 of the \$1,550,000.00 reduction in the amount of transportation funds appropriated to the Department of Public Safety scheduled to occur under 19 V.S.A. § 11a in fiscal year 2018 be allocated to fund a permanent increase of at least \$1,000,000.00 in transportation funds appropriated to the Town Highway Aid Program. This allocation shall be in addition to the \$25,982,744.00 in transportation funds allocated to the Town Highway Aid Program between fiscal years 2013 and 2016.

Sec. 6. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

(a) General State aid to town highways. An annual appropriation to class 1, 2, and 3 town highways shall be made. This appropriation shall ~~increase or decrease over the previous year's appropriation by the same percentage as any increase or decrease in the Transportation Agency's total appropriations funded by Transportation Fund revenues, excluding the town highway appropriations for that year~~ not be less than \$26,982,744.00. The funds appropriated shall be distributed to towns as follows:

(1) Six percent of the State's annual town highway appropriation shall be apportioned to class 1 town highways. The apportionment for each town shall be that town's percentage of class 1 town highways of the total class 1 town highway mileage in the State.

(2) Forty-four percent of the State's annual town highway appropriation shall be apportioned to class 2 town highways. The apportionment for each town shall be that town's percentage of class 2 town highways of the total class 2 town highway mileage in the State.

(3) Fifty percent of the State's annual town highway appropriation shall be apportioned to class 3 town highways. The apportionment for each town shall be that town's percentage of class 3 town highways of the total class 3 town highway mileage in the State.

(4) Monies apportioned under subdivisions (1), (2), and (3) of this subsection shall be distributed to each town in quarterly payments beginning July 15 in each year.

(5) Each town shall use the monies apportioned to it solely for town highway construction, improvement, and maintenance purposes or as the

nonfederal share for public transit assistance. These funds may also be used for the establishment and maintenance of bicycle routes. The members of the selectboard shall be personally liable to the State, in a civil action brought by the Attorney General, for making any unauthorized expenditures from money apportioned to the town under this section.

* * *

Sec. 7. PROGRAM DEVELOPMENT; ALLOCATION FOR
EDUCATION INITIATIVES

Within authorized spending in the Program Development Program, the Secretary shall allocate up to \$100,000.00 in federal National Highway Transportation Safety Administration grant funds to the Share the Road Program and to other highway safety educational initiatives. These monies shall be used to educate the users of the State's transportation system on how to improve the safety of all users, including bicyclists and operators of motor vehicles.

* * * Roadway Program * * *

Sec. 8. ROADWAY PROGRAM; PROJECT CANCELLATION

Pursuant to 19 V.S.A. § 10g(h) (legislative approval for cancellation of projects), the General Assembly approves cancellation of the following project from the candidate list within the Roadway Program within the fiscal year 2017 Transportation Program: Colchester STP 0207().

* * * Traffic and Safety Program * * *

Sec. 9. TRAFFIC AND SAFETY PROGRAM; PROJECTS ADDED

The following projects are added to the candidate list of the Traffic and Safety Program within the fiscal year 2017 Transportation Program:

- (1) Derby – US 5/I-91 Exit 28 – intersection improvements.
- (2) Derby – US 5/VT 105 – intersection improvements.
- (3) St. Albans – VT 104/I-89 Exit 19 – intersection improvements.

* * * Municipal Mitigation Grant Program * * *

Sec. 10. MUNICIPAL MITIGATION GRANT PROGRAM

Notwithstanding 2015 Acts and Resolves No. 40, Sec. 21a, funding sources for the fiscal year 2017 Municipal Mitigation Grant Program are amended as follows:

<u>FY17</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
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State	1,440,000	1,240,000	-200,000
Federal	0	200,000	200,000
Clean Water Fund	1,465,000	1,465,000	0
Total	2,905,000	2,905,000	0

* * * Central Garage * * *

Sec. 11. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2017, the amount of \$1,283,215.00 is transferred from the Transportation Fund to the Central Garage Fund created in 19 V.S.A. § 13.

* * * Positions * * *

Sec. 12. POSITIONS

(a) The Agency is authorized to establish two (2) new permanent classified positions related to water quality improvements.

(b) Seven (7) of the twenty-one (21) limited service positions authorized in 2012 Acts and Resolves No. 75, Sec. 87(e), as amended by 2014 Acts and Resolves No. 95, Sec. 64, hereby are converted to permanent classified positions.

(c) Nine (9) of the seventeen (17) limited service positions authorized in 2012 Acts and Resolves No. 153, Sec. 21(a), as amended by 2014 Acts and Resolves No. 95, Sec. 65, hereby are converted to permanent classified positions.

(d) One (1) limited service position, number 861864 (Civil Engineer VII), created on May 6, 2012 and due to expire on December 31, 2016, hereby is converted to a permanent classified position.

(e) Three (3) of the seventeen (17) limited service positions authorized in 2012 Acts and Resolves No. 153, Sec. 21(a), as amended by 2014 Acts and Resolves No. 95, Sec. 65, hereby are extended to June 30, 2019. The Agency may use these three positions for activities that are not related to the response to Tropical Storm Irene and the spring 2011 flooding.

(f) The following two (2) limited service positions hereby are extended through June 30, 2019: number 861837 (Administrative Services Coordinator I), created on March 11, 2012 and due to expire on June 30, 2016, and number 861865 (Civil Engineer I), created on May 6, 2012 and due to expire on December 31, 2016.

* * * Rail Program * * *

Sec. 13. FISCAL YEAR 2016 RAIL PROGRAM; PROJECT ADDED

The following project is added to the candidate list of the Rail Program within the fiscal year 2016 Transportation Program: Rutland – Burlington – TIGERVII () (Western VT Freight–Passenger Rail).

* * * Sale of State-Owned Railroad Property * * *

Sec. 14. APPROVAL OF SALE OF STATE-OWNED RAILROAD
PROPERTY

Upon receiving satisfactory evidence of release of the leasehold interest of Vermont Railway, Inc., the Secretary as agent for the State is authorized to convey to the Town of Bennington, in consideration of the sum of \$1.00, a parcel of land of approximately 2.5 acres (the “property”) in the Town of Bennington located south of River Street and west of the 150 Depot Street parcel now or formerly owned by Station Realty, LLC. The conveyance must require that the Town’s interest automatically will terminate in the event the property ceases to be used for public purposes, in which event the property will revert to the State. However, the Secretary and the Town may enter into a boundary adjustment agreement with the owner of the 150 Depot Street parcel in order to cure any title defect that may exist, and the Secretary as agent for the State may disclaim any reversionary interest in the boundary adjustment area.

* * * Rail Trespassing * * *

Sec. 15. 5 V.S.A. § 3734 is amended to read:

§ 3734. TRESPASS ON RAILROAD PROPERTY; PENALTY

~~A person who, without right, loiters or remains in a depot, or upon the platform, approaches, or grounds adjacent thereto, after being requested to leave by a railroad policeman, sheriff, deputy sheriff, constable, or policeman, shall be fined not more than \$20.00 nor less than \$2.00.~~

(a) Definitions. As used in this section:

(1) “Passenger” means a person traveling by train with lawful authority and who does not participate in the train’s operation. The term “passenger” does not include a stowaway.

(2) “Railroad” means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways. “Railroad” does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(3) “Railroad carrier” means a person providing railroad transportation.

(4)(A) “Railroad property” means the following property owned, leased, or operated by a railroad carrier or used in its rail operations:

(i) a right-of-way, track, yard, station, shed, or depot;

(ii) a train, locomotive, engine, car, work equipment, rolling stock, or safety device; and

(iii) a “railroad structure,” which means a bridge, tunnel, viaduct, trestle, culvert, abutment, communication tower, or signal equipment.

(B) “Railroad property” does not include inactive railroad property of the Twin State Railroad.

(5) “Right-of-way” means the track and roadbed owned, leased, or operated by a railroad carrier and property located on either side of the tracks that is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs.

(6) “Yard” means a system of parallel tracks, crossovers, and switches where railroad cars are switched and made up into trains, and where railroad cars, locomotives, and other rolling stock are kept when not in use or when awaiting repairs.

(b) Trespassing on railroad property prohibited. Except for the purpose of crossing railroad property at a public highway or other authorized crossing, a person shall not, without lawful authority or the railroad carrier’s written permission, knowingly enter or remain upon railroad property by an act including:

(1) standing, sitting, resting, walking, jogging, or running, or operating a recreational or nonrecreational vehicle, including a bicycle, motorcycle, snowmobile, car, or truck; or

(2) engaging in recreational activity, including bicycling, hiking, camping, or cross-country skiing.

(c) Stowaways prohibited. A person shall not, without lawful authority or the railroad carrier’s written permission, ride on the outside of a train or inside a passenger car, locomotive, or freight car, including a box car, flatbed, or container.

(d) Persons not subject to ticketing. The following is a nonexhaustive list of persons who, for the purposes of this section, are not subject to ticketing for trespass under subsections (b) and (c) of this section:

(1) passengers on trains, or employees of a railroad carrier while engaged in the performance of their official duties;

(2) police officers, firefighters, peace officers, and emergency response personnel, while engaged in the performance of their official duties;

(3) a person going upon railroad property in an emergency to rescue from harm a person or animal such as livestock, pets, or wildlife, or to remove an object that the person reasonably believes to pose an imminent hazard;

(4) a person on the station grounds or in the depot of the railroad carrier as a passenger or for the purpose of transacting lawful business;

(5) a person, or the person's family or invitee, or the person's employee or independent contractor going upon a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier or authorized by law in order to obtain access to land that the person owns, leases, or operates;

(6) a person who has permission from the owner, lessee, or operator of land served by a private crossing site approved by the railroad carrier or authorized by law, to use the crossing for recreational purposes and who enters upon the crossing for such purposes;

(7) a person having written permission from the railroad carrier to go upon the railroad property in question;

(8) representatives of the Transportation Board or Agency of Transportation while engaged in the performance of their official duties;

(9) representatives of the Federal Railroad Administration while engaged in the performance of their official duties;

(10) representatives of the National Transportation Safety Board while engaged in the performance of their official duties; or

(11) a person who enters or remains in a railroad right-of-way, but not within a rail yard or on a railroad structure, while lawfully engaged in hunting, fishing, or trapping; however, a person shall not be exempt from ticketing under this subdivision if he or she enters within an area extending eight feet outward from either side of the rail and within the rail unless he or she crosses and leaves this area quickly, safely, and at an angle of approximately 90 degrees to the direction of the rail.

(e) Nothing in this section is intended to modify the rights, duties, liabilities, or defenses available to any person under any other law or under a license or agreement.

(f) Penalty. A violation of this section is a traffic violation as defined in 23 V.S.A. chapter 24 and an action under this section shall be brought in accordance with 4 V.S.A. chapter 29. A person who violates this section shall be subject to a civil penalty of not more than \$200.00.

Sec. 16. 5 V.S.A. § 3735 is amended to read:

~~§ 3735. BOARDING TRAIN OR LOITERING ABOUT RAILROAD
PROPERTY; PENALTY~~

~~A person boarding or riding without permission on a train, car, or locomotive, other than a passenger train, or a person boarding or riding on a passenger train without paying fare, or a person loitering in or about a railroad~~

~~yard, station or car without permission, shall be imprisoned not more than 90 days, or fined not more than \$25.00, or both. [Repealed.]~~

Sec. 17. 23 V.S.A. § 2302(a) is amended to read:

(a) As used in this chapter, “traffic violation” means:

* * *

(7) a violation of 5 V.S.A. § 3408(c), relating to trail use of certain State-owned railroad corridors, or of 5 V.S.A. § 3734, related to trespassing on railroad property;

* * *

* * * Transportation Capital Program; Prioritization System * * *

Sec. 18. 19 V.S.A. § 10g(1) is amended to read:

(1) The Agency shall develop a numerical grading system to assign a priority rating to all Program Development Paving, Program Development Roadway, Program Development Safety and Traffic Operations, Program Development State and Interstate Bridge, Town Highway Bridge, and Bridge Maintenance projects. The rating system shall consist of two separate, additive components as follows:

(1) One component shall be limited to asset ~~management-based~~ management- and performance-based factors which are objective and quantifiable and shall consider, without limitation, the following:

(A) the existing safety conditions in the project area and the impact of the project on improving safety conditions;

(B) the average, seasonal, peak, and nonpeak volume of traffic in the project area, including the proportion of traffic volume relative to total volume in the region, and the impact of the project on congestion and mobility conditions in the region;

(C) the availability, accessibility, and usability of alternative routes;

(D) the impact of the project on future maintenance and reconstruction costs; ~~and~~

(E) the relative priority assigned to the project by the relevant regional planning commission ~~or the Chittenden County Metropolitan Planning Organization;~~

(F) the resilience of the transportation infrastructure to floods and other extreme weather events.

(2) The second component of the priority rating system shall consider, without limitation, the following factors:

(A) the ~~functional~~ importance of the ~~highway or bridge~~ transportation infrastructure as a ~~link~~ factor in the local, regional, or State economy; and

(B) the ~~functional~~ importance of the ~~highway or bridge~~ transportation infrastructure in the health, social, and cultural life of the surrounding communities.

(3) The priority rating system for Program Development Roadway projects shall award as bonus points an amount equal to 10 percent of the total base possible rating points to projects within a designated downtown development district established pursuant to 24 V.S.A. § 2793.

* * * Adjustments to Existing Projects * * *

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

§ 10h. ~~ADJUSTMENTS TO EXISTING PROJECTS; SUSPENSION OF OVERRUNS; COOPERATIVE INTERSTATE AGREEMENT~~

~~(a) The agency shall report to the transportation board each project for which the current construction cost estimate exceeds the last approved construction cost estimate by a substantial level, as substantial level is defined by the transportation board. The transportation board shall review such a project, and may grant approval to proceed. If not approved by the transportation board, the project shall not proceed to contract award until approved by the general assembly. [Repealed.]~~

(b) In connection with any authorized construction project in the ~~state~~ State of Vermont which extends into or affects an adjoining state, the ~~agency~~ Agency, on behalf of the ~~state~~ State of Vermont, may enter into a cooperative agreement with the adjoining state or any political subdivision of an adjoining state which apportions duties and responsibilities for planning preliminary engineering, including environmental studies, right-of-way acquisition, construction, and maintenance.

Sec. 20. 19 V.S.A. § 10g(h) is amended to read:

(h) Should capital projects in the Transportation Program be delayed because of unanticipated problems with permitting, right-of-way acquisition, construction, local concern, or availability of federal or State funds, the Secretary is authorized to advance projects in the approved Transportation Program. The Secretary is further authorized to undertake projects to resolve emergency or safety issues. Upon authorizing a project to resolve an emergency or safety issue, the Secretary shall give prompt notice of the decision and action taken to the Joint Fiscal Office and to the House and

Senate Committees on Transportation when the General Assembly is in session, and when the General Assembly is not in session, to the Joint Transportation Oversight Committee. Should an approved project in the current Transportation Program require additional funding to maintain the approved schedule, the Agency is authorized to allocate the necessary resources. However, the Secretary shall not delay or suspend work on approved projects to reallocate funding for other projects except when other funding options are not available. In such case, the Secretary shall notify the members of the Joint Transportation Oversight Committee and the Joint Fiscal Office. With respect to projects in the approved Transportation Program, the Secretary shall notify, in the district affected, the regional planning commission, the municipality, Legislators, members of the Senate and House Committees on Transportation, and the Joint Fiscal Office of ~~any significant change in design, change in construction cost estimates requiring referral to the Transportation Board under section 10h of this title, or~~ any change which likely will affect the fiscal year in which the project is planned to go to construction. No project shall be cancelled without the approval of the General Assembly.

* * * Reporting Required in Proposed Transportation Program * * *

Sec. 21. 19 V.S.A. § 10g(g) is amended to read:

(g) The Agency's annual proposed Transportation Program shall include a ~~separate report~~ project updates referencing this section ~~describing and listing~~ the following:

(1) all proposed projects in the Program ~~which~~ that would be new to the State Transportation Program if adopted;

(2) all projects for which total estimated costs have increased by more than \$8,000,000.00 or by more than 100 percent from the estimate in the prior fiscal year's approved Transportation Program;

(3) all projects funded for construction in the prior fiscal year's approved Transportation Program that are no longer funded in the proposed Transportation Program submitted to the General Assembly, the projected costs for such projects in the prior fiscal year's approved Transportation Program, and the total costs incurred over the life of each such project.

* * * Joint Transportation Oversight Committee * * *

Sec. 22. 19 V.S.A. § 12b is amended to read:

§ 12b. JOINT TRANSPORTATION OVERSIGHT COMMITTEE

(a) There is created a Joint Transportation Oversight Committee composed of the Chairs of the House and Senate Committees on Appropriations, the

House and Senate Committees on Transportation, the House Committee on Ways and Means, and the Senate Committee on Finance. The Committee shall be chaired alternately by the Chairs of the House and Senate Committees on Transportation, and the two-year term shall run concurrently with the biennial session of the Legislature. The Chair of the Senate Committee on Transportation shall chair the Committee during the 2009–2010 legislative session.

(b) The Committee shall meet during adjournment for official duties. Meetings shall be convened by the Chair and when practicable shall be coordinated with the regular meetings of the Joint Fiscal Committee. Members shall be entitled to compensation and reimbursement pursuant to 2 V.S.A. § 406. The Committee shall have the assistance of the staff of the Office of Legislative Council and the Joint Fiscal Office.

(c) The Committee shall provide legislative ~~overview~~ oversight of the Transportation Fund revenues collection and the operation and administration of the Agency of Transportation construction, paving, and rehabilitation programs. The Secretary of Transportation shall report to the Oversight Committee upon request.

~~(d)(1) In coordination with the regular meetings of the Joint Fiscal Committee in mid November, the Secretary shall prepare a report on the status of the State's transportation finances and transportation programs. If a meeting of the Committee is not convened on the scheduled dates of the Joint Fiscal Committee meetings, the Secretary in advance shall transmit the report electronically to the Joint Fiscal Office for distribution to Committee members. The report shall list contract bid awards versus project estimates and all known or projected cost overruns, project savings, and funding availability from delayed projects with respect to:~~

~~(A) all paving projects other than statewide maintenance programs; and~~

~~(B) all projects in the Roadway, State Bridge, Interstate Bridge, or Town Bridge programs with authorized spending in the fiscal year of \$500,000.00 or more with a cost overrun equal to 20 percent or more of the authorized spending or generating project savings or delayed project available funding equal to 20 percent or more of the authorized spending.~~

~~(2) The report required under subdivision (1) of this subsection also shall describe the Agency's actions taken or planned to cover the cost overruns and to reallocate the project savings and delayed project funds, and shall discuss the Agency's plans to adjust spending to any changes in the consensus forecast for Transportation Fund revenues.~~

(3) If and when applicable, the Secretary shall submit electronically to the Joint Fiscal Office for distribution to members of the Joint Transportation Oversight Committee a report summarizing any plans or actions taken to delay project schedules as a result of:

(A)(1) a generalized increase in bids relative to project estimates;

(B)(2) changes in the consensus revenue forecast of the Transportation Fund or Transportation Infrastructure Bond Fund; or

(C)(3) changes in the availability of federal funds.

* * * Appropriation; State Aid for Town Highways * * *

Sec. 23. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

* * *

(d) State aid for nonfederal disasters. There shall be an annual appropriation for emergency aid in repairing, building, ~~or rebuilding~~ or reconstructing class 1, 2, or 3 town highways ~~and bridges~~ and for repairing or replacing drainage structures including bridges on class 1, 2, 3, and 4 town highways damaged by natural or man-made disasters. Eligibility for use of emergency aid under this appropriation shall be subject to the following criteria:

(1) The Secretary of Transportation shall determine that the disaster is of such magnitude that State aid is both reasonable and necessary to preserve the public good. If total cumulative damages to town highways and drainage structures are less than the value of 10 percent of the town's overall total highway budget excluding the town's winter maintenance budget, the disaster shall not qualify for assistance under this subsection.

(2) The disaster shall not qualify for major disaster assistance from the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121 et seq., or from the Federal Highway Administration (FHWA) under the 23 C.F.R. Part 668 Emergency Relief Program for federal-aid highways.

(3) Towns shall be eligible for reimbursement for repair or replacement costs of either up to 90 percent of the eligible repair or replacement costs or the eligible repair or replacement costs, minus an amount equal to 10 percent of the overall total highway budget, minus the town's winter maintenance budget, whichever is greater.

(4) For towns that have adopted road and bridge standards, eligibility for reimbursement for repair or replacement of infrastructure shall be to those

standards. For towns that have not adopted these standards, eligibility for reimbursement for repair or replacement of infrastructure shall be limited to the specifications of the infrastructure that preexisted the emergency event; however, the repair or replacement shall be to standards approved by the Agency of Transportation.

(5) For a drainage structure on a class 4 town highway to be eligible for repair or replacement under this subsection, the town must document that it maintained the structure prior to the nonfederal disaster.

(6) Such additional criteria as may be adopted by the Agency of Transportation through rulemaking under 3 V.S.A. chapter 25.

* * *

* * * Highways; Alterations; Quasi-Judicial Process * * *

Sec. 24. 19 V.S.A. § 923 is amended to read:

§ 923. QUASI-JUDICIAL PROCESS

In order to protect the rights of ~~property owners~~ interested persons and the public, the process described in this section shall be used whenever so provided by other provisions of this title. As used in this section, “interested person” means a person who has a legal interest of record in the property that would be affected by the proposed action.

(1) ~~Notice~~ Written notice by certified mail shall be given Notice. The selectboard shall give written notice by certified mail or by one of the methods allowed by Rule 4 of the Vermont Rules of Civil Procedure for service of original process to the property owner or any interested person describing the proposed activity affecting the property. The notice shall include a date and time when the selectboard shall inspect the premises. The notice shall precede the inspection by 30 days or more except in the case of an emergency.

(2) Inspection of premises— The selectmen selectboard shall view the area and receive any testimony pertinent to the problem including suggested awards for damages, if any.

(3) Necessity— The selectmen selectboard shall decide on the necessity for the activity or work proposed and establish any conditions for accomplishing it. This includes the award of damages, if applicable. The selectboard shall announce the decision and the reason for it shall be announced within 10 days of the inspection unless the selectboard formally delayed by the selectboard delays the proceeding in order to receive more testimony.

(4) Notifying parties— The selectmen selectboard shall notify the property owner interested persons and other interested parties of their decision.

They shall file a copy of their decision with the town clerk within 10 days of its announcement.

(5) Appeal—~~If an owner~~ interested person is dissatisfied with the award for damages, he or she may appeal using any of the procedures listed in chapter 5 of this title. Notice or petition for appeal shall not delay the proposed work or activity.

Sec. 25. 19 V.S.A. § 518 is amended to read:

§ 518. MINOR ALTERATIONS TO EXISTING FACILITIES

(a) ~~For purposes of~~ As used in this section, the term “minor alterations to existing facilities” means any of the following activities involving existing facilities, provided the activity does not require a permit under 10 V.S.A. chapter 151 (Act 250):

(1) Activities which qualify as “categorical exclusions” under 23 C.F.R. § 771.117 and the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321–4347.

(2) Activities involving emergency repairs to or emergency replacement of an existing bridge, culvert, highway, or State-owned railroad, even if the need for repairs or replacement does not arise from damage caused by a natural disaster or catastrophic failure from an external cause. Any temporary rights under this subdivision shall be limited to 10 years from the date of taking.

(b) In cases involving minor alterations to existing facilities, the Agency, following the procedures of section 923 of this title, may exercise the powers of a selectboard. However, if an interested person has not provided the Agency with identification information necessary to process payment, or if an owner refuses an offer of payment, payment shall be deemed to be tendered when the Agency makes payment into an escrow account that is accessible by the owner upon his or her providing any necessary identification information. ~~If~~ Further, if an appeal is taken under subdivision 923(5) of this title, the person taking the appeal shall follow the procedure specified in section 513 of this title.

Sec. 26. [Reserved.]

* * * Water Quality * * *

Sec. 27. FINDINGS; AGENCY OF TRANSPORTATION; STORMWATER CREDIT

For the purposes of this section and Secs. 28–33 of this act (Agency of Transportation stormwater credit), the General Assembly finds and declares that:

(1) the federal Clean Water Act, State water quality requirements under 10 V.S.A. chapter 47, and the municipal separate storm sewer system permit for transportation infrastructure, require the treatment and control of stormwater from State highway rights-of-way and other property owned, controlled, or managed by the Agency; and

(2) because of the traditional and continuing expenditures of the Agency for the construction, operation, and maintenance of stormwater control infrastructure designed to control stormwater runoff from State highway rights-of-way and developed lands owned, controlled, or managed by the Agency, it is fair and equitable to provide the Agency with a uniform credit against fees assessed by municipalities for the management of stormwater.

Sec. 28. 24 V.S.A. § 3501(7) is amended to read:

(7) “Storm water” or “storm sewage” ~~is the excess water from rainfall or continuously following therefrom~~ shall have the same meaning as “stormwater runoff” under 10 V.S.A. § 1264.

Sec. 29. 24 V.S.A. § 3615 is amended to read:

§ 3615. RENTS; RATES

(a) Such municipal corporation, through its board of sewage disposal commissioners, may establish charges to be called “sewage disposal charges,” to be paid at such times and in such manner as the commissioners may prescribe. The commissioners may establish annual charges separately for bond repayment, fixed operations and maintenance costs (not dependent on actual use), and variable operations and maintenance ~~cost~~ costs dependent on flow. Such charges may be based upon:

(1) the metered consumption of water on premises connected with the sewer system, however, the commissioners may determine no user will be billed for fixed operations and maintenance costs and bond payment less than the average single family charge;

(2) the number of equivalent units connected with or served by the sewage system based upon their estimated flows compared to the estimated flows from a single family dwelling however, the commissioners may determine no user will be billed less than the minimum charge determined for the single family dwelling charge for fixed operations and maintenance costs and bond payment;

(3) the strength and flow where wastes stronger than household wastes are involved;

(4) the appraised value of premises, in the event that the commissioners shall determine the sewage disposal plant to be of general benefit to the municipality regardless of actual connection with the same;

(5) the commissioners' determination developed using any other equitable basis such as the number and kind of plumbing fixtures, the number of persons residing on or frequenting the premises served by those sewers, the topography, size, type of use, or impervious area of any premises; or

(6) any combination of these bases, so long as the combination is equitable.

(b) The basis for establishing sewer disposal charges shall be reviewed annually by sewage disposal commissioners. No premises otherwise exempt from taxation, including premises owned by the ~~state~~ State of Vermont, shall, by virtue of any such exemption, be exempt from charges established hereunder. The commissioners may change the rates of such charges from time to time as may be reasonably required. Where one of the bases of such charge is the appraised value and the premises to be appraised are tax exempt, the commissioners may cause the listers to appraise such property, including ~~state~~ State property, for the purpose of determining the sewage disposal charges. The right of appeal from such appraisal shall be the same as provided in 32 V.S.A. chapter 131 of Title 32. The ~~commissioner of finance and management~~ Commissioner of Finance and Management is authorized to issue his or her warrants for sewage disposal charges against ~~state~~ State property and transmit to the ~~state treasurer~~ State Treasurer who shall draw a voucher in payment thereof. No charge so established and no tax levied under the provisions of section 3613 of this title shall be considered to be a part of any tax authorized to be assessed by the legislative body of any municipality for general purposes, but shall be in addition to any such tax so authorized to be assessed. Sewage disposal charges established in accord with this section may be assessed by the board of sewage disposal commissioners as provided in section 3614 of this title to derive the revenue required to pay pollution charges assessed against a municipal corporation under ~~section 10 V.S.A. § 1265 of Title 10~~.

(c) When a sewage disposal charge established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the charge shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a 30 percent credit on the charge. The Agency of Transportation shall receive no other credit on the charge from the municipal corporation.

Sec. 29a. 24 V.S.A. § 3615(c) is amended to read:

(c) When a sewage disposal charge established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the charge shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a ~~30~~ 35 percent credit on the charge. The Agency of Transportation shall receive no other credit on the charge from the municipal corporation.

Sec. 29b. 24 V.S.A. § 3615(c) is amended to read:

(c) When a sewage disposal charge established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the charge shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a ~~35~~ 40 percent credit on the charge. The Agency of Transportation shall receive no other credit on the charge from the municipal corporation.

Sec. 30. 24 V.S.A. § 3507 is amended to read:

§ 3507. DUTIES

(a) Such sewage system commissioners shall have the supervision of such municipal sewage system and shall make and establish all needed rates for rent, with rules and regulations for its control and operation. Such commissioners may appoint or remove a superintendent at their pleasure. The rents and receipts for the use of such sewage system shall be used and applied to pay the interest and principal of the sewage system bonds of such municipal corporation, the expense of maintenance and operation of the sewage system, as well as dedicated fund payments provided for in section 3616 of this title.

(b) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a 30 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the municipal corporation.

Sec. 30a. 24 V.S.A. § 3507(b) is amended to read:

(b) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a ~~30~~ 35 percent credit on the rate. The Agency of

Transportation shall receive no other credit on the rate from the municipal corporation.

Sec. 30b. 24 V.S.A. § 3507(b) is amended to read:

(b) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a ~~35~~ 40 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the municipal corporation.

Sec. 31. 24 V.S.A. § 3679(c) is added to read:

(c) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a 30 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the consolidated sewer district.

Sec. 31a. 24 V.S.A. § 3679(c) is added to read:

(c) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a ~~30~~ 35 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the consolidated sewer district.

Sec. 31b. 24 V.S.A. § 3679(c) is added to read:

(c) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a ~~35~~ 40 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the consolidated sewer district.

Sec. 32. 10 V.S.A. § 1251(18) is added to read:

(18) "Stormwater utility" means a system adopted by a municipality or group of municipalities under 24 V.S.A. chapter 97, 101, or 105 for the management of stormwater runoff.

Sec. 33. 10 V.S.A. § 1389(e) is amended to read:

(e) Priorities.

(1) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize:

* * *

(H) Funding to municipalities for the establishment and operation of stormwater utilities.

(2) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Clean Water Fund Board shall, during the first three years of its existence and within the priorities established under subdivision (1) of this subsection (e), prioritize awards or assistance to municipalities for municipal compliance with water quality requirements, and to municipalities for the establishment and operation of stormwater utilities.

* * *

Sec. 34. STORMWATER UTILITY REPORT

On or before January 15, 2017, and annually thereafter until January 15, 2021, the Agency shall report to the House and Senate Committees on Transportation, the House Committee on Fish, Wildlife and Water Resources, and the Senate Committee on Natural Resources and Energy regarding the status of municipal establishment and implementation of stormwater utilities in the State. The report shall include:

(1) the number of municipal stormwater utilities in existence at the time of each report, as indicated by the number of unique municipal rate structures for stormwater mitigation under which the Agency was invoiced in the calendar year preceding a report submitted under this section;

(2) the number of new municipal stormwater utilities established in the State in the calendar year preceding a report submitted under this section;

(3) the amount of fees paid by the Agency to stormwater utilities in the calendar year preceding a report submitted under this section; and

(4) a list of the stormwater projects or programs implemented by the Agency in municipalities with stormwater utilities in the calendar year preceding a report submitted under this section.

* * * Statewide Property Parcel Mapping Program * * *

Sec. 35. DEVELOPMENT OF STATEWIDE PROPERTY PARCEL

DATA LAYER

(a) The General Assembly finds that the State has an interest in creating a statewide property parcel data layer. The data layer will include all property parcels in each Vermont town, city, incorporated village, gore, and grant in a standard format and integrate all municipal property parcel maps into one property parcel map for the State.

(b) The General Assembly further finds that a statewide property parcel data layer will be useful to the Agency for the following applications:

(1) mapping highway centerlines that end at property boundaries;

(2) enabling the Agency to evaluate properties for alternative energy and other possible uses;

(3) providing right-of-way data to analyze Transportation Separate Storm Sewer System (TS4) assessments;

(4) streamlining title searches during the project development phase of transportation projects;

(5) providing linkages between grand list and property parcel data in order to enable the identification of all public land;

(6) locating encroachments on highways and providing notice to adjoining landowners;

(7) mapping the locations of surplus and excess property;

(8) assisting in the appraisal of land and acquisition of rights for transportation projects;

(9) improving emergency response capabilities;

(10) identifying encroachments on State-owned railroads and providing notice to adjoining landowners;

(11) evaluating applications for highway access under 19 V.S.A. § 1111, including utility installations and driveways; and

(12) improving the State's ability to identify its assets by accurately cataloguing the location and extent of State-owned rights-of-way.

(c)(1) Consistent with Secs. 36–37 of this act, starting in fiscal year 2017, the Agency shall commence development of the statewide digital parcel data layer as part of the Statewide Property Parcel Mapping Program.

(2) According to the Agency:

(A) development of the data layer is expected to take three years;

(B) 80 percent of development costs and future operating costs are expected to be funded with Federal Highway Administration funds and 20 percent with State matching funds; and

(C) transportation funds will cover the 20 percent State match in fiscal year 2017.

(3) The Agency shall continue to work with State agencies and external partners benefited by the data layer, including private funding partners, to develop a memorandum of understanding to address funding sources other than the Transportation Fund for the 20 percent State match for fiscal year 2018 and in succeeding fiscal years.

Sec. 36. 19 V.S.A. § 10 is amended to read:

§ 10. DUTIES

The Agency shall, except where otherwise specifically provided by law:

* * *

(17) Administer the Statewide Property Parcel Mapping Program.

Sec. 37. 19 V.S.A. § 44 is added to read:

§ 44. STATEWIDE PROPERTY PARCEL MAPPING PROGRAM

(a) Purpose. The purpose of the Statewide Property Parcel Mapping Program is to:

- (1) develop a statewide property parcel data layer;
- (2) ensure regular maintenance, including updates, of the data layer; and
- (3) make property parcel data available to State agencies and departments, regional planning commissions, municipalities, and the public.

(b) Property Parcel Data Advisory Board. A Property Parcel Data Advisory Board (Board) is created for the purpose of monitoring the Statewide Property Parcel Mapping Program and making recommendations to the Agency of how the Program can be improved to enhance the usefulness of statewide property parcel data for State agencies and departments, regional planning commissions, municipalities, and the public. The Board shall comprise:

- (1) the Secretary of Transportation or designee, who shall serve as chair;
- (2) the Secretary of Natural Resources or designee;
- (3) the Secretary of Commerce and Community Development or designee;

(4) the Commissioner of Taxes or designee;

(5) a representative of the Vermont Association of Planning and Development Agencies;

(6) a representative of the Vermont League of Cities and Towns; and

(7) a land surveyor licensed under 26 V.S.A. chapter 45 designated by the Vermont Society of Land Surveyors.

(c) Meetings of Board. The Board shall meet at the call of the Chair or at the request of a majority of its members. The Agency shall provide administrative assistance to the Board and such other assistance as the Board may require to carry out its duties.

(d) Standards. The Agency shall update the statewide property parcel data layer in accordance with the standards of the Vermont Geographic Information System (VGIS), as specified in 10 V.S.A. § 123 (powers and duties of Vermont Center for Geographic Information).

(e) Funding sources. Federal transportation funds shall be used for the development and operation of the Program. In fiscal year 2018 and in succeeding fiscal years, the Agency shall make every effort to ensure that all State matching funds are provided by other State agencies or external partners or both that benefit from the Program.

* * * Quechee Gorge Bridge Safety Issues * * *

Sec. 38. QUECHEE GORGE BRIDGE SAFETY ISSUES

(a) On or before July 1, 2016, or as soon as practicable thereafter if a longer period is required to obtain necessary permits or satisfy federal requirements, the Agency shall complete a project on or proximate to Bridge 61 on US Route 4 in the town of Hartford (Quechee Gorge Bridge) to install a structure providing information and resources, signs, or communication devices, or some combination of these, aimed at preventing suicides at the Quechee Gorge Bridge.

(b) In consultation with the Agency of Commerce and Community Development, the Department of Health, the Department of Mental Health, the Department of Public Safety, local officials, local emergency personnel, the Hartford Area Chamber of Commerce, mental health practitioners, local business owners, and other interested stakeholders, the Agency of Transportation shall thoroughly review suicide prevention as well as pedestrian, first responder, and other safety measures that could be taken, and the merits of taking such measures, at the Quechee Gorge Bridge. In conducting this review, the Agency shall identify:

(1) short- and long-term suicide prevention as well as pedestrian, first responder, and other safety measures for all users that could be taken at the Quechee Gorge Bridge in addition to the measures taken pursuant to subsection (a) of this section, including:

(A) providing information and resources, including emergency contact information and means of emergency communication; and

(B) physical improvements to the bridge structure and the surrounding area;

(2) estimated costs and benefits and an expected timeline associated with implementing the measures identified in subdivision (1) of this subsection; and

(3) economic, community, and tourism concerns associated with implementing the measures identified in subdivision (1) of this subsection.

(c) On or before January 10, 2017, the Agency shall report the results of the review required under subsection (b) of this section to the House and Senate Committees on Transportation.

* * * Vulnerable Users * * *

Sec. 39. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS

(a) Passing motor vehicles. Motor vehicles proceeding in the same direction may be overtaken and passed only as follows:

(1) The driver of a motor vehicle overtaking another motor vehicle proceeding in the same direction may pass to its left at a safe distance, and when so doing shall exercise due care, shall not pass to the left of the center of the highway ~~unless the way ahead is clear of approaching traffic~~ except as authorized in section 1035 of this title, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken motor vehicle shall give way to the right in favor of the overtaking motor vehicle ~~on audible signal~~ and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(b) Passing vulnerable users. The operator of a motor vehicle approaching or passing a vulnerable user as defined in subdivision 4(81) of this title shall exercise due care, which includes increasing clearance to at least four feet, to pass the vulnerable user safely, and shall cross the center of the highway only as provided in ~~subdivision (a)(1) of this section~~ section 1035 of this title. A person

who violates this subsection shall be subject to a civil penalty of not less than \$200.00.

Sec. 40. 23 V.S.A. § 1035 is amended to read:

§ 1035. LIMITATIONS

(a) ~~No~~ A vehicle shall not be driven to the left side of the center of the roadway in overtaking and passing another vehicle or a vulnerable user proceeding in the same direction unless authorized by the provisions of this chapter and unless the left side is clearly visible and free of oncoming traffic and vulnerable users for a sufficient distance ahead to permit overtaking and passing to be completed without interfering with the operation of any vehicle or with any vulnerable user approaching from the opposite direction or with the operation of any vehicle or with any vulnerable user overtaken. In every event, the overtaking vehicle shall return to an authorized lane of travel as soon as practicable and, if the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any approaching vehicle or a vulnerable user.

(b) A vehicle shall not pass another from the rear under any of the following conditions:

(1) when approaching or upon the crest of a grade or upon a curve in the highway where the driver's view is in any way obstructed;

(2) when approaching within 100 feet of, or traversing, any intersection or railroad grade crossing unless otherwise indicated by official traffic control devices; or

(3) when the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.

(c) The foregoing limitations do not apply upon a one-way roadway, or when subdivision 1031(a)(2) of this title applies, or where a vehicle is turning left into an alley, private road, or driveway.

Sec. 41. 23 V.S.A. § 1049 is amended to read:

§ 1049. VEHICLE ENTERING FROM PRIVATE ROAD

The driver of a vehicle about to enter or cross a highway from an alley, building, private road, or driveway shall yield the right of way to all vehicles and vulnerable users approaching on the highway.

Sec. 42. 23 V.S.A. § 1049a is added to read:

§ 1049a. OBLIGATIONS TO VULNERABLE USERS WHEN
TURNING

Notwithstanding any provision of this title to the contrary, a person operating a vehicle shall not turn right or left unless the turn can be made at a safe distance from a vulnerable user. A person who violates this section shall be subject to a civil penalty of not less than \$200.00.

Sec. 43. 23 V.S.A. § 1064 is amended to read:

§ 1064. SIGNALS REQUIRED; GENERAL OBLIGATION TO TURN AND MOVE SAFELY

(a) Before changing direction or materially slackening speed, a driver shall give warning of his or her intention with the hand signals as provided in section 1065 of this title, or with a mechanical or lighting device approved by the Commissioner of Motor Vehicles. A bicyclist shall give such hand signals unless he or she cannot do so safely.

(b) ~~No person may~~ A person shall not turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in section 1061 of this title, or turn a vehicle to enter an alley, private road, or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless such movement can be made with reasonable safety.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(d) A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning. A bicyclist shall comply with this subsection unless he or she cannot do so safely.

(e) The signals provided for in section 1065 of this title shall be used to indicate an intention to turn, change lanes, or start from a parked position and may not be flashed on one side only on a parked or disabled vehicle, or flashed as a courtesy or “do pass” signal to operators of other vehicles approaching from the rear.

Sec. 44. 23 V.S.A. chapter 13, subchapter 12 is amended to read:

Subchapter 12. Operation of Bicycles, Electric Personal Assistive Mobility Devices, and Play Vehicles

§ 1136. APPLICATION OF SUBCHAPTER; RIGHTS AND OBLIGATIONS OF BICYCLISTS UNDER OTHER LAWS

(a) The parent of any child and the guardian of any ward may not authorize or knowingly permit any such child or ward to violate any of the provisions of

this subchapter.

(b) This subchapter applies whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

(c) Every person riding a bicycle is granted all of the rights and is subject to all of the duties applicable to operators of vehicles, except as to those provisions ~~which~~ that:

(1) are inconsistent with provisions that specifically address the rights and duties of vulnerable users generally or bicyclists specifically; or

(2) by their very nature can have no application.

(d) Except as otherwise may be required under subdivision 1139(a)(1) of this chapter, and notwithstanding any provision of this title to the contrary, a bicyclist riding consistent with the obligations of subsection 1139(a) of this chapter may keep to the right when passing a motor vehicle, regardless of whether the passing movement results from the motor vehicle's slowing down, the bicyclist's continuing forward, or other circumstances that result in the passing.

* * *

§ 1139. RIDING ON ROADWAYS AND BICYCLE PATHS

(a) A person operating a bicycle upon a roadway shall exercise due care when passing a standing vehicle or one proceeding in the same direction ~~and~~. Bicyclists generally shall ride as near to the right side of the roadway as practicable, but shall ride to the left or in a left lane improved area of the highway right-of-way as is safe, except that a bicyclist:

(1) Shall ride to the left or in a left lane when:

~~(1)(A)~~ (A) preparing for a left turn at an intersection or into a private roadway or driveway;

~~(2)(B)~~ (B) approaching an intersection with a right-turn lane if not turning right at the intersection; or

~~(3)(C)~~ (C) overtaking another highway vulnerable user; ~~or.~~

~~(4)(2)~~ (2) May ride to the left or in a left lane when taking reasonably necessary precautions to avoid hazards or road conditions. Examples include objects on the road, parked or moving vehicles, pedestrians, animals, surface conditions that may impair the bicyclist's stability, or safety hazards caused by a narrow road or steep embankment, road geometry, or unfavorable atmospheric conditions.

* * *

* * * Ignition Interlock Devices * * *

Sec. 45. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(9)(A) “Ignition interlock restricted driver’s license” or “ignition interlock RDL” or “RDL” means a restricted license or privilege to operate a motor vehicle issued by the Commissioner allowing a ~~person~~ resident whose license or privilege to operate has been suspended or revoked for operating under the influence of intoxicating liquor or in excess of legal limits of alcohol concentration, or for refusing an enforcement officer’s reasonable request for an evidentiary test, to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved ignition interlock device.

(B) “Ignition interlock certificate” means a restricted privilege to operate a motor vehicle issued by the Commissioner allowing a nonresident whose privilege to operate a motor vehicle in Vermont has been suspended or revoked for operating under the influence of intoxicating liquor or in excess of legal limits of alcohol concentration, or for refusing an enforcement officer’s reasonable request for an evidentiary test, to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved ignition interlock device.

* * *

Sec. 46. 23 V.S.A. § 1209a is amended to read:

§ 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND
DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

(a) Conditions of reinstatement. No license or privilege to operate suspended or revoked under this subchapter, except a license or privilege to operate suspended under section 1216 of this title, shall be reinstated except as follows:

(1) In the case of a first suspension, a license or privilege to operate shall be reinstated only:

(A) after the person has successfully completed an Alcohol and Driving Education Program, at the person’s own expense, followed by an assessment of the need for further treatment by a State-designated counselor, at

the person's own expense, to determine whether reinstatement should be further conditioned on satisfactory completion of a therapy program agreed to by the person and the Drinking Driver Rehabilitation Program Director;

(B) if the screening indicates that therapy is needed, after the person has satisfactorily completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the Driver Rehabilitation Program Director;

(C) if the person elects to operate under an ignition interlock RDL or ignition interlock certificate, after:

~~(i) a period of nine months (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of six months (the person operates under the RDL or certificate for the applicable period set forth in subsection 1205(a) or section 1206 of this title, plus any extension of this period arising from a violation of section 1213 of this title) in all other cases; and~~

(D) if the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(2) In the case of a second suspension, a license or privilege to operate shall not be reinstated until:

(A) the person has successfully completed an alcohol and driving rehabilitation program;

(B) the person has completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the Driver Rehabilitation Program Director;

(C) ~~if the person elects to operate~~ after the person operates under an ignition interlock RDL, ~~after:~~

~~(i) a period of two years (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of 18 months (~~ or ignition interlock certificate for 18 months or, in the case of a person subject to the one year hard suspension prescribed in subdivision 1213(a)(1)(C) of this title, for one year, plus any extension of ~~this~~ the relevant period arising from a violation of section 1213 of

~~this title) in all other cases, except if otherwise provided in subdivision (a)(4) of this section; and~~

(D) the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(3) In the case of a third or subsequent suspension or a revocation, a license or privilege to operate shall not be reinstated until:

(A) the person has successfully completed an alcohol and driving rehabilitation program;

(B) the person has completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the Driver Rehabilitation Program Director;

(C) the person has satisfied the requirements of subsection (b) of this section; and

~~(D) if the person elects to operate under an ignition interlock RDL, after:~~

~~(i) a period of four years (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of three years (plus any extension of this period arising from a violation of section 1213 of this title) in all other cases; and~~

~~(E) the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.~~

(4) The Commissioner shall waive a requirement under subdivision (2) of this subsection or subsection (b) of this section that a person operate under an ignition interlock RDL or certificate prior to eligibility for reinstatement if:

(A) the person furnishes sufficient proof as prescribed by the Commissioner that he or she is incapable of using an ignition interlock device because of a medical condition that will persist permanently or at least for the term of the suspension or, in the case of suspensions or revocations for life, for a period of at least three years; or

(B) the underlying offenses arose solely from being under the influence of a drug other than alcohol.

(b) Abstinence.

(1) Notwithstanding any other provision of this subchapter, a person whose license or privilege to operate has been suspended or revoked for life

under this subchapter may apply to the Driver Rehabilitation School Director and to the Commissioner for reinstatement of his or her driving privilege. The person shall have completed three years of total abstinence from consumption of alcohol or drugs, or both. The beginning date for the period of abstinence shall be no sooner than the effective date of the suspension or revocation from which the person is requesting reinstatement and shall not include any period during which the person is serving a sentence of incarceration to include furlough. The application shall include the applicant's authorization for a urinalysis examination to be conducted prior to reinstatement under this subdivision. The application to the Commissioner shall be accompanied by a fee of \$500.00. The Commissioner shall have the discretion to waive the application fee if the Commissioner determines that payment of the fee would present a hardship to the applicant.

(2) If the Commissioner, or a medical review board convened by the Commissioner, is satisfied by a preponderance of the evidence that the applicant has abstained for the required number of years immediately preceding the application and hearing, has successfully completed a therapy program as required under this section, has operated under a valid ignition interlock RDL or under an ignition interlock certificate for at least three years following the suspension or revocation, and the person appreciates that he or she cannot drink any amount of alcohol and drive safely, the person's license or privilege to operate shall be reinstated immediately, subject to the condition that the person's suspension or revocation will be put back in effect in the event any further investigation reveals a return to the consumption of alcohol or drugs and to such additional conditions as the Commissioner may impose ~~and, if the person has not previously operated for three years under an ignition interlock RDL, subject to the additional condition that the person shall operate under an ignition interlock restricted driver's license for a period of at least one year following reinstatement under this subsection. — However, the Commissioner may waive this one-year requirement to operate under an ignition interlock restricted driver's license if the person furnishes proof as prescribed by the Commissioner that he or she is incapable of using an ignition interlock device because of a medical condition that will persist permanently or at least for one year. The requirement to operate under an ignition interlock RDL or ignition interlock certificate shall not apply if the person is exempt under subdivision (a)(4) of this section.~~

(3) If after notice and hearing the Commissioner later finds that the person was violating the conditions of the person's reinstatement under this subsection, the person's operating license or privilege to operate shall be immediately suspended or revoked ~~for the period of the original suspension life.~~

(4) If the Commissioner finds that a person reinstated under this subsection was suspended pursuant to section 1205 of this title, or was convicted of a violation of section 1201 of this title, the person shall be conclusively presumed to be in violation of the conditions of his or her reinstatement.

(5) A person shall be eligible for reinstatement under this subsection only once following a suspension or revocation for life.

(6)(A) If an applicant for reinstatement under this subsection resides in a jurisdiction other than Vermont, the Commissioner may elect not to conduct an investigation. If the Commissioner elects not to conduct an investigation, he or she shall provide a letter to the applicant's jurisdiction of residence stating that Vermont does not object to the jurisdiction issuing the applicant a license if the applicant is ~~authorized~~ required to operate only vehicles equipped with an ignition interlock device for at least a three-year period, unless exempt under subdivision (a)(4) of this section, and is required to complete any alcohol rehabilitation or treatment requirements of the licensing jurisdiction.

(B) If the applicant's jurisdiction of residence is prepared to issue or has issued a license in accordance with subdivision (A) of this subdivision (6) and the applicant satisfies the requirements of section 675 of this title, the Commissioner shall update relevant State and federal databases to reflect that the applicant's lifetime suspension or revocation in Vermont under chapter 13, subchapter 13 of this title has terminated.

* * *

Sec. 47. 23 V.S.A. § 1213 is amended to read:

§ 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE OR
CERTIFICATE; PENALTIES

(a)(1) ~~First offense.~~ A person whose license or privilege to operate is suspended ~~for a first offense or revoked~~ under this subchapter ~~shall be permitted to~~ may operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL or ignition interlock certificate. ~~The~~ Upon application, the Commissioner shall issue an ignition interlock RDL ~~to a person eligible under section 1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of this title upon receipt of~~ or ignition interlock certificate to a person otherwise licensed or eligible to be licensed to operate a motor vehicle if:

(A) the person submits a \$125.00 application fee, ~~and upon receipt of;~~

(B) the person submits satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated; and of financial responsibility as provided in section 801 of this title; and enrollment in an Alcohol and Driving Education Program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of this title;

(C) at least one year has passed since the suspension or revocation was imposed if the offense involved death or serious bodily injury to a person other than the operator; and

(D) the applicable period set forth below has passed since the suspension or revocation was imposed if the offense involved refusal of an enforcement officer's reasonable request for an evidentiary test:

(i) 30 days for a first offense;

(ii) 90 days for a second offense;

(iii) one year for a third or subsequent offense.

(2) A new ignition interlock RDL or ignition interlock certificate shall expire at midnight on the eve of the second birthday of the applicant following the date of issue, and may be renewed for one-year terms. The Commissioner shall send by first class mail an application for renewal of the RDL or certificate at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be \$125.00.

(b) Second offense. A person whose license or privilege to operate is suspended for a second offense under this subchapter shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The Commissioner shall issue an ignition interlock RDL to a person eligible under section 1205(m), 1208(a), or 1216(a)(2) of this title upon receipt of a \$125.00 application fee, and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated; financial responsibility as provided in section 801 of this title, and enrollment in an Alcohol and Driving Rehabilitation Program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(m), 1208(a), or 1216(a)(2) of this title. A new ignition interlock RDL shall expire at midnight on the eve of the second birthday of the applicant following the date of issue, and may be renewed for one year terms. The Commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the

~~same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be \$125.00. [Repealed.]~~

~~(c) Third or subsequent offense. A person whose license or privilege to operate is suspended or revoked for a third or subsequent offense under this subchapter shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The Commissioner shall issue an ignition interlock RDL to a person eligible under section 1205(a)(3), 1205(m), 1208(b), or 1216(a)(2) of this title upon receipt of a \$125.00 application fee, and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, financial responsibility as provided in section 801 of this title, and enrollment in an Alcohol and Driving Rehabilitation Program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(a)(3), 1205(m), 1208(b), or 1216(a)(2) of this title. A new ignition interlock RDL shall expire at midnight on the eve of the second birthday of the applicant following the date of issue, and may be renewed for one-year terms. The Commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be \$125.00. [Repealed.]~~

(d) If a fine is to be imposed for a conviction of a violation of section 1201 of this title, upon receipt of proof of installation of an approved ignition interlock device, the Court may order that the fine of an indigent person conditionally be reduced by one-half to defray the costs of the ignition interlock device, subject to the person's ongoing operation under, and compliance with the terms of, a valid ignition interlock RDL or ignition interlock certificate as set forth in this section. In considering whether a person's fine should be reduced under this subsection, the Court shall take into account any discount already provided by the device manufacturer or provider.

(e) The Except as provided in subsection (m) of this section, the holder of an ignition interlock RDL or ignition interlock certificate shall pay the costs of installing, purchasing or leasing, and removing the ignition interlock device as well as calibrating the device and retrieving data from it periodically as may be specified by the Commissioner.

(f)(1) Prior to the issuance of an ignition interlock RDL or ignition interlock certificate under this section, the Commissioner shall notify the applicant ~~of the applicable~~ that the period prior to eligibility for reinstatement ~~under section 1209a or 1216 of this title, and that the reinstatement period~~ may be extended under this subsection (f) or subsections (g)–(h) of this section.

(2)(A) Prior to any such extension of the reinstatement period, the ignition interlock RDL or certificate holder shall be given notice and opportunity for a hearing. Service of the notice shall be sent by first class mail to the last known address of the person. The notice shall include a factual description of the grounds for an extension, a reference to the particular law allegedly violated, and a warning that the right to a hearing will be deemed waived, and an extension of the reinstatement period will be imposed, if a written request for a hearing is not received at the Department of Motor Vehicles within 15 days after the date of the notice.

* * *

(3)(A) A holder of an ignition interlock RDL or certificate who, prior to eligibility for reinstatement under section 1209a or 1216 of this title, is prevented from starting a motor vehicle because the ignition interlock device records a blood alcohol concentration of 0.04 or above, shall be subject to a three-month extension of the applicable reinstatement period in the event of three such recorded events, and to consecutive three-month extensions for every additional three recorded events thereafter. The Commissioner shall disregard a recording of 0.04 or above for the purposes of this subdivision if the Commissioner in his or her discretion finds, based on a pattern of tests or other reliable information, that the recording does not indicate the consumption of intoxicating liquor by the holder. The Commissioner shall notify the holder in writing after every recording of 0.04 or above that indicates the consumption of intoxicating liquor by the holder and, prior to any extension under this subdivision, the holder shall have the opportunity to be heard pursuant to subdivision (2) of this subsection (f).

(B) A holder of an ignition interlock RDL or certificate who, prior to eligibility for reinstatement under section 1209a or 1216 of this title, fails a random retest because the ignition interlock device records a blood alcohol concentration of 0.04 or above and below 0.08, shall be subject to consecutive three-month extensions of the applicable reinstatement period for every such recorded event. A holder who fails a random retest because of a recording of 0.08 or above shall be subject to consecutive six-month extensions of the applicable reinstatement period for every such recorded event. The Commissioner shall disregard a recording of 0.04 or above for the purposes of this subdivision if the Commissioner in his or her discretion finds, based on a pattern of tests or other reliable information, that the recording does not indicate the consumption of intoxicating liquor by the holder. The Commissioner shall notify the holder in writing after every recording of 0.04 or above that is indicative of the consumption of intoxicating liquor by the holder and, prior to any extension under this subdivision, the holder shall have the opportunity to be heard pursuant to subdivision (2) of this subsection (f).

(g) The holder of an ignition interlock RDL or certificate shall operate only motor vehicles equipped with an ignition interlock device, shall not attempt or take any action to tamper with or otherwise circumvent an ignition interlock device, and, after failing a random retest, shall pull over and shut off the vehicle's engine as soon as practicable. A person who violates any provision of this section commits a criminal offense, shall be subject to the sanctions and procedures provided for in subsections 674(b)–(i) of this title, and, upon conviction, the applicable period prior to eligibility for reinstatement under section 1209a or 1216 of this title shall be extended by six months.

(h) A person who violates a rule adopted by the Commissioner pursuant to subsection (l) of this section shall, after notice and an opportunity to be heard is provided pursuant to subdivision (f)(2) of this section, be subject to an extension of the period prior to eligibility for reinstatement under section 1209a or 1216 of this title in accordance with rules adopted by the Commissioner.

(i) Upon receipt of notice that the holder of an ignition interlock RDL or certificate has been ~~adjudicated~~ convicted of an offense under this title that would result in suspension, revocation, or recall of a license or privilege to operate, the Commissioner shall suspend, revoke, or recall the person's ignition interlock RDL or certificate for the same period that the license or privilege to operate would have been suspended, revoked, or recalled. The Commissioner may impose a reinstatement fee in accordance with section 675 of this title and require, prior to reinstatement, satisfactory proof of installation of an approved ignition interlock device; and of financial responsibility as provided in section 801 of this title, ~~and enrollment in or completion of an alcohol and driving education or rehabilitation program.~~

* * *

(l)(1) The Commissioner, in consultation with any individuals or entities the Commissioner deems appropriate, shall adopt rules and may enter into agreements to implement the provisions of this section. The Commissioner shall not approve a manufacturer of ignition interlock devices as a provider in this State unless the manufacturer agrees to reduce the cost of installing, leasing, and deinstalling the device by at least 50 percent for persons who furnish proof of receipt of 3SquaresVT, LIHEAP, or Reach Up benefits or like benefits in another state.

(2) The rules shall establish uniform performance standards for ignition interlock devices including required levels of accuracy in measuring blood alcohol concentration, efficacy in distinguishing valid breath samples, the occurrence of random retests while the vehicle is running, and automatic signaling by the vehicle if the operator fails such a retest. The Commissioner

shall certify devices that meet these standards, specify any periodic calibration that may be required to ensure accuracy of the devices, and specify the means and frequency of the retrieval and sharing of data collected by ignition interlock devices. Persons who elect to obtain an ignition interlock RDL or certificate following a conviction under this subchapter when the person's blood alcohol concentration is proven to be 0.16 or more shall be required to install an ignition interlock device with a Global Positioning System feature. The rules also shall establish a schedule of extensions of the period prior to eligibility for reinstatement as authorized under subsection (h) of this section.

Sec. 48. [Reserved.]

Sec. 49. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

(a) Refusal; alcohol concentration above legal limits; suspension periods.

(1) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person refused to submit to a test, the Commissioner shall suspend the person's operating license; or nonresident operating privilege; or the privilege of an unlicensed operator to operate a vehicle for a period of six months and until the person complies with section 1209a of this title. However, a during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title ~~after 30 days of this six-month period unless the alleged offense involved a collision resulting in serious bodily injury or death to another.~~

(2) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was above a limit specified in subsection 1201(a) of this title, at the time of operating, attempting to operate, or being in actual physical control, the Commissioner shall suspend the person's operating license; or nonresident operating privilege; or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days and until the person complies with section 1209a of this title. However, a during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title ~~after 30 days of this 90-day period unless the alleged offense involved a collision resulting in serious bodily injury or death to another.~~

(3) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of subdivision 1201(d)(2) of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was 0.02 or more at the time of operating, attempting to operate, or being in actual physical control, the Commissioner shall suspend the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for life. However, a during the suspension, an eligible person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of this lifetime suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

* * *

(d) Form of notice. The notice of intention to suspend and of suspension shall be in a form prescribed by the Supreme Court. The notice shall include an explanation of rights, a form to be used to request a hearing, and, if a hearing is requested, the date, time, and location of the Criminal Division of the Superior Court where the person must appear for a preliminary hearing. The notice shall also contain, in boldface print, the following:

(1) You have the right to ask for a hearing to contest the suspension of your operator's license.

(2) This notice shall serve as a temporary operator's license and is valid until 12:01 a.m. of the date of suspension. If this is your first violation of section 1201 of this title and if you do not request a hearing, your license will be suspended as provided in this notice. If this is your second or subsequent violation of section 1201 of this title, your license will be suspended on the 11th day after you receive this notice. It is a crime to drive while your license is suspended unless you have been issued an ignition interlock restricted driver's license or ignition interlock certificate.

* * *

(m) Second and subsequent suspensions. For a second suspension under this subchapter, the period of suspension shall be 18 months and until the person complies with section 1209a of this title. However, a during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title ~~after 90 days of this 18-month period unless the alleged offense involved a collision resulting in serious bodily injury or death to another~~. For

a third or subsequent suspension under this subchapter, the period of suspension shall be life. However, ~~a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of~~ during this lifetime suspension ~~unless the alleged offense involved a collision resulting in serious bodily injury or death to another,~~ an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

* * *

Sec. 50. 23 V.S.A. § 1206 is amended to read:

§ 1206. SUSPENSION OF LICENSE FOR DRIVING WHILE UNDER INFLUENCE; FIRST CONVICTIONS

(a) ~~First conviction—generally. Except as otherwise provided, upon conviction of a person for violating a provision of section 1201 of this title, or upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person’s operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days and until the defendant complies with section 1209a of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 30 days of this 90 day period unless the offense involved a collision resulting in serious bodily injury or death to another.~~

(b) ~~Extended suspension—fatality or serious bodily injury. In cases resulting in a fatality or serious bodily injury to a person other than the defendant, the period of suspension shall be one year and until the defendant complies with section 1209a of this title.~~

(c) ~~Extended suspension—refusal; serious bodily injury. Upon conviction of a person for violating a provision of subsection 1201(c) of this title involving a collision in which serious bodily injury resulted, or upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person’s operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for a period of six months, and until the defendant complies with section 1209a of this title. During a suspension under this section, an eligible person may operate a motor vehicle under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.~~

Sec. 51. 23 V.S.A. § 1208 is amended to read:

§ 1208. SUSPENSIONS FOR SUBSEQUENT CONVICTIONS

(a) Second conviction. Upon a second conviction of a person violating a provision of section 1201 of this title and upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person's operating license, or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for 18 months and until the defendant complies with section 1209a of this title. However, during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title ~~after 90 days of this 18-month period unless the alleged offense involved a collision resulting in serious bodily injury or death to another.~~

(b) Third conviction. Upon a third or subsequent conviction of a person violating a provision of section 1201 of this title and upon final determination of any appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately revoke the person's operating license, or nonresident operating privilege or the privilege of an unlicensed operator to operate a motor vehicle for life. However, ~~a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of~~ during this lifetime suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another revocation, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

Sec. 52. 23 V.S.A. § 1216 is amended to read:

§ 1216. PERSONS UNDER 21 YEARS OF AGE; ALCOHOL
CONCENTRATION OF 0.02 OR MORE

(a) A person under ~~the age of 21~~ years of age who operates, attempts to operate, or is in actual physical control of a vehicle on a highway when the person's alcohol concentration is 0.02 or more, commits a civil traffic violation subject to the jurisdiction of the Judicial Bureau and subject to the following sanctions:

(1) For a first violation, the person's license or privilege to operate shall be suspended for six months and until the person complies with subdivision 1209a(a)(1) of this title. However, during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock

certificate issued pursuant to section 1213 of this title after 30 days of this six-month period unless the offense involved a collision resulting in serious bodily injury or death to another. A person who elects to operate under an RDL or certificate shall not be eligible for reinstatement unless he or she operates under the RDL or certificate for six months plus any extension of this period arising from a violation of section 1213 of this title.

(2) For a second or subsequent violation, the person's license or privilege to operate shall be suspended until the person reaches ~~the age of~~ 21 years of age or for one year, whichever is longer, and complies with subdivision 1209a(a)(2)(A), (B), and (D) of this title. However, a during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title after 90 days of the applicable suspension period unless the offense involved a collision resulting in serious bodily injury or death to another. A person who elects to operate under an RDL or certificate shall not be eligible for reinstatement unless he or she operates under the RDL or certificate for one year or until the person reaches 21 years of age, whichever is longer, plus any extension of this period arising from a violation of section 1213 of this title.

(b) A person's license or privilege to operate that has been suspended under this section shall not be reinstated until:

~~(1) the Commissioner has received satisfactory evidence that the person has complied with section 1209a of this title and the provider of the therapy program has been paid in full;~~

~~(2) the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter; and~~

~~(3)(A) for persons operating under an ignition interlock RDL for a first offense, after:~~

~~(i) a period of one year (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of nine months (plus any extension of this period arising from a violation of section 1213 of this title) in all other cases; or~~

~~(B) for persons operating under an ignition interlock RDL for a second or subsequent offense, after:~~

~~(i) a period of two years (plus any extension of this period arising from a violation of section 1213 of this title) or until the person is 21, whichever is longer, if the person's license or privilege to operate is suspended~~

~~after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of 18 months (plus any extension of this period arising from a violation of section 1213 of this title) or until the person is 21, whichever is longer, in all other cases. [Repealed.]~~

* * *

* * * Signs for Census-designated Places Within Towns * * *

Sec. 53. 10 V.S.A. § 494 is amended to read:

§ 494. EXEMPT SIGNS

The following signs are exempt from the requirements of this chapter except as indicated in section 495 of this title:

* * *

(4) Signs erected and maintained by or with the approval of a town outside the highway right-of-way, each of which does not exceed 64 square feet in area, excluding panel and frame, which may show the place and time of services or meetings of churches and civic organizations in the town, and which may include a panel which identifies the name of the town, the charter date, the date the town was founded, or any other significant date in the history of the town, and which the town wishes to identify. The panel may bear the wording "welcome to" the particular town. Not more than two such signs may be erected and maintained readable by traffic proceeding in any one direction on any one highway. The signs shall meet the criteria of the Agency of Transportation and the Travel Information Council. A sign that otherwise meets the requirements of this subdivision may refer to a census-designated place within a town rather than the town itself. As used in this subdivision, "census-designated place" means a statistical entity consisting of a settled concentration of population that is identifiable by name, is not legally incorporated under the laws of the State, and is delineated as such a place by the U.S. Census Bureau according to its guidelines.

* * *

* * * Dealers * * *

Sec. 54. 23 V.S.A. § 4(8)(A)(ii)(III) is amended to read:

(III) For a dealer in trailers, semi-trailers, or trailer coaches, "engaged in the business" means having sold or exchanged at least one trailer, semi-trailer, or trailer coach in the immediately preceding year or a combination of two such vehicles in the two immediately preceding years.

However, the sale or exchange of a trailer with a gross vehicle weight rating of 3,500 pounds or less shall be excluded under this subdivision (8)(A)(ii)(III).

Sec. 55. DEALER REGULATION REVIEW

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

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

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

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

(c) The Commissioner shall review:

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

(2) physical location requirements of dealers;

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

(4) the permitted uses of dealer plates;

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

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

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

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

(d) On or before January 15, 2017, the Commissioner shall report his or her findings and recommendations to the Senate and House Committees on

Transportation and submit proposed legislation as may be required to implement the recommendations.

* * * Motor-Assisted Bicycles * * *

Sec. 56. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

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

* * *

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

(B)(i) “Motor-assisted bicycle” means any bicycle or tricycle with fully operable pedals and equipped with a motor that:

(I) has a power output of not more than 1,000 watts or 1.3 horsepower; and

(II) in itself is capable of producing a top speed of no more than 20 miles per hour on a paved level surface when ridden by an operator who weighs 170 pounds.

(ii) Motor-assisted bicycles shall be regulated in accordance with section 1136 of this title.

* * *

Sec. 57. 23 V.S.A. § 1136(d) is added to read:

(d)(1) Except as provided in this subsection, motor-assisted bicycles shall be governed as bicycles under Vermont law, and operators of motor-assisted bicycles shall be subject to all of the rights and duties applicable to bicyclists under Vermont law. Motor-assisted bicycles and their operators shall be

exempt from motor vehicle registration and inspection and operator's license requirements. A person shall not operate a motor-assisted bicycle on a sidewalk in Vermont.

(2) A person under 16 years of age shall not operate a motor-assisted bicycle on a highway in Vermont.

(3) Nothing in this subsection shall interfere with the right of municipalities to regulate the operation and use of motor-assisted bicycles pursuant to 24 V.S.A. § 2291(1) and (4), as long as the regulations do not conflict with this subsection.

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

Sec. 58. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

* * *

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

* * *

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

* * *

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

Sec. 59. 23 V.S.A. § 327 is amended to read:

§ 327. REFUND WHEN PLATES NOT USED

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

shall notify the Commissioner of Finance and Management, who shall issue a refund as follows:

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

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

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

* * * Exhibition Vehicles; Year of Manufacture Plates * * *

Sec. 60. 23 V.S.A. § 373 is amended to read:

§ 373. EXHIBITION VEHICLES; YEAR OF MANUFACTURE PLATES

(a) The annual fee for the registration of a motor vehicle which is maintained solely for use in exhibitions, club activities, parades, and other functions of public interest and which is not used for the transportation of passengers or property on any highway, except to attend such functions, shall be ~~\$15.00~~ \$21.00, in lieu of fees otherwise provided by law.

(b) Pursuant to the provisions of section 304 of this title, one registration plate shall be issued to those vehicles registered under subsection (a) of this section.

(c) ~~The Vermont registration plates of any motor vehicle~~ issued prior to ~~1939~~ 1968 may be displayed on a motor vehicle registered under this section instead of the ~~plates~~ plate issued under this section, if the ~~current plates are~~ issued plate is maintained within the vehicle and produced upon request of any enforcement officer as defined in subdivision 4(11) of this title.

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

Sec. 61. 23 V.S.A. § 208 is added to read:

§ 208. RECIPROCAL RECOGNITION OF NONRESIDENT

REGISTRATIONS, LICENSES, AND PERMITS; FOREIGN VISITORS

As determined by the Commissioner, and consistent with section 601 of this title, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. However, these exemptions shall be operative only to the extent that under the laws of the foreign country or state of the owner's or operator's residence like exemptions and privileges are granted to owners of motor vehicles duly registered and to operators duly licensed or permitted under the laws of this State, except that if the owner or operator is a resident of a country not adjoining the United States, the exemptions shall be operative for a period of not more than 30 days for vacation purposes even if the country does not grant like privileges to residents of this State.

Sec. 62. 23 V.S.A. § 411 is amended to read:

§ 411. ~~RECIPROCAL PROVISIONS~~

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

* * * Operator's Licenses * * *

Sec. 63. 23 V.S.A. § 601 is amended to read:

§ 601. LICENSE REQUIRED

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

within 60 days of moving to the State. Except as provided in subsection 603(d) of this title, licenses shall not be issued to nonresidents.

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

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

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

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

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

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

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

* * *

(c) At least 30 days before a license is scheduled to expire, the Commissioner shall mail first class to the licensee or send the licensee electronically an application for renewal of the license; a cardholder shall be sent the renewal notice by mail unless the cardholder opts in to receive electronic notification. A person shall not operate a motor vehicle unless properly licensed.

* * *

Sec. 64. CONFORMING CHANGES

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

* * * Special Examinations; Conforming Changes * * *

Sec. 65. 23 V.S.A. § 637 is amended to read:

§ 637. EXAMINERS OF PHYSICAL AND MENTAL CONDITIONS

The Commissioner may designate physicians, certified physician assistants, licensed advance practice registered nurses, ophthalmologists, oculists, and optometrists properly registered and authorized to practice in this State or in an

adjoining state as examiners of operators. The Commissioner may refer any matter relative to the issuing, suspending, or reinstating of licenses ~~which concern~~ that concerns the physical or mental condition or eyesight of any applicant for or holder of a license or any petitioner for reinstatement to, and require the applicant or other person to be examined by, such examiner in the vicinity of the person's residence as he or she determines to be qualified to examine and report. Such examiner shall report to the Commissioner the true and actual result of examinations made by him or her together with his or her decision as to whether the person examined should be granted or allowed to retain an operator's license or permitted to operate a motor vehicle.

Sec. 66. 23 V.S.A. § 638 is amended to read:

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

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

Sec. 67. 23 V.S.A. § 639 is amended to read:

§ 639. FEES FOR PHYSICAL AND MENTAL EXAMINATIONS

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

* * * State Highway Restrictions and Chain Up Requirements * * *

Sec. 68. 23 V.S.A. § 1006b is amended to read:

§ 1006b. ~~SMUGGLERS~~ SMUGGLERS' NOTCH; WINTER CLOSURE OF
VERMONT ROUTE 108; COMMERCIAL VEHICLE
OPERATION PROHIBITED

(a) The Agency of Transportation may close the ~~Smugglers~~ Smugglers' Notch segment of Vermont Route 108 during periods of winter weather. ~~To enforce the winter closure, the Agency shall erect signs conforming to the standards established by section 1025 of this title.~~

(b)(1) As used in this subsection, “commercial vehicle” means truck-tractor-semitrailer combinations and truck-tractor-trailer combinations.

(2) Commercial vehicles are prohibited from operating on the Smugglers’ Notch segment of Vermont Route 108.

(3) Either the operator of a commercial vehicle who violates this subsection, or the operator’s employer, shall be subject to a civil penalty of \$1,000.00. If the violation results in substantially impeding the flow of traffic on Vermont Route 108, the penalty shall be \$2,000.00. For a second or subsequent conviction within a three-year period, the penalty shall be doubled.

(c) The Agency shall erect signs conforming to the standards established by section 1025 of this title to indicate the closures and restrictions authorized under this section.

Sec. 69. 23 V.S.A. § 1006c is amended to read:

§ 1006c. TRUCKS AND BUSES; CHAINS AND TIRE CHAIN

REQUIREMENTS FOR VEHICLES WITH WEIGHT RATINGS

OF MORE THAN 26,000 POUNDS

(a) As used in this section, “chains” means link chains, cable chains, or another device that attaches to a vehicle’s tire or wheel or to the vehicle itself and is designed to augment the traction of the vehicle under conditions of snow or ice.

(b) The ~~Traffic Committee~~ Secretary of Transportation, the Commissioner of Motor Vehicles, or the Commissioner of Public Safety, or their designees, may require the use of tire chains ~~or winter tires~~ on specified portions of State highways during periods of winter weather for ~~motor coaches, truck-tractor-semitrailer combinations, and truck-tractor-trailer combinations~~ vehicles with a gross vehicle weight rating (GVWR) of more than 26,000 pounds or gross combination weight rating (GCWR) of more than 26,000 pounds.

~~(b)~~(c) When tire chains ~~or winter tires~~ are required, advance notice shall be given to the traveling public through signage and, whenever possible, through public service announcements. In areas where tire chains ~~or winter tires~~ are required, there shall be an adequate area for vehicles to pull off the traveled way to affix any chains that might be required.

~~(e)~~(d) Under 3 V.S.A. chapter 25, the Traffic Committee may adopt such rules as are necessary to administer this section and may delegate this authority to the Secretary.

(e) When signs are posted and chains required in accordance with this section, chains shall be affixed as follows on vehicles with a GVWR or a GCWR of more than 26,000 pounds:

(1) Solo vehicles. A vehicle not towing another vehicle:

(A) that has a single-drive axle shall have chains on one tire on each side of the drive axle; or

(B) that has a tandem-drive axle shall have chains on:

(i) two tires on each side of the primary drive axle; or

(ii) if both axles are powered by the drive line, on one tire on each side of each drive axle.

(2) Vehicles with semitrailers or trailers. A vehicle towing one or more semitrailers or trailers:

(A) that has a single-drive axle towing a trailer shall have chains on two tires on each side of the drive axle and one tire on the front axle and one tire on one of the rear axles of the trailer;

(B) that has a single-drive axle towing a semitrailer shall have chains on two tires on each side of the drive axle and two tires, one on each side, of any axle of the semitrailer;

(C) that has a tandem-drive axle towing a trailer shall have:

(i) chains on two tires on each side of the primary drive axle, or if both axles of the vehicle are powered by the drive line, one tire on each side of each drive axle; and

(ii) chains on one tire of the front axle and one tire on one of the rear axles of the trailer;

(D) that has a tandem-drive axle towing a semitrailer shall have:

(i) chains on two tires on each side of the primary drive axle, or if both axles of the vehicle are powered by the drive line, one tire on each side of each drive axle; and

(ii) chains on two tires, one on each side, of any axle of the semitrailer.

(f) Either the operator of a vehicle required to be chained under this section who fails to affix chains as required herein, or the operator's employer, shall be subject to a civil penalty of \$1,000.00. If the violation results in substantially impeding the flow of traffic on a highway, the penalty shall be \$2,000.00. For

a second or subsequent conviction within a three-year period, the penalty shall be doubled.

Sec. 70. 23 V.S.A. § 2302 is amended to read:

§ 2302. TRAFFIC VIOLATION DEFINED

(a) As used in this chapter, “traffic violation” means:

* * *

(11) a violation of subsection 1006b(b), section 1006c, or subsections 4120(a) and (b) of this title; or

* * *

* * * School Bus Operators * * *

Sec. 71. 23 V.S.A. § 1282(d) is amended to read:

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

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

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

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

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

* * * Overweight and Overdimension Vehicles * * *

Sec. 72. 23 V.S.A. § 1391a(d) is amended to read:

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

Sec. 73. 23 V.S.A. § 1400(d) is amended to read:

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

* * * Motor Vehicle Titles * * *

Sec. 74. 23 V.S.A. § 2001 is amended to read:

§ 2001. DEFINITIONS

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

* * *

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

* * *

(17) “Salvage certificate of title” means a title that is stamped or otherwise branded to indicate that the vehicle described thereon is a salvaged motor vehicle ~~or has been scrapped, dismantled, destroyed, or declared a total loss by an insurance company, or both.~~

* * *

Sec. 75. 23 V.S.A. § 2019 is amended to read:

§ 2019. MAILING OR DELIVERING CERTIFICATE

The certificate of title shall be mailed or personally delivered, upon proper

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

Sec. 76. 23 V.S.A. § 2091 is amended to read:

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

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

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

(1) any certificate of title; and

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

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

(A) the required fee;

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

(C) a copy of the insurer's written request for the certificate of title sent at least 30 days prior to the application to the vehicle owner and to any lienholder identified in the records of certificates of title of the Department,

proof that the request was sent by certified mail or was delivered by a courier service that provides proof of delivery, and copies of any responses from the vehicle owner or lienholder.

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

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

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

* * * Abandoned Motor Vehicles * * *

Sec. 77. 23 V.S.A. chapter 21, subchapter 7 is amended to read:

Subchapter 7. Abandoned Motor Vehicles

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

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

(1)(A) “Abandoned motor vehicle” means:

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

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

(B) “Abandoned motor vehicle” does not include a vehicle or other equipment used or to be used in construction or in the operation or

maintenance of highways or public utility facilities, which is left in a manner which does not interfere with the normal movement of traffic.

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

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

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

§ 2152. AUTHORIZED REMOVAL OF ABANDONED MOTOR VEHICLES

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

(b) Private property.

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

(2) ~~An owner or agent of an owner~~ A landowner of private property is authorized to remove or cause removal of an abandoned motor vehicle from that property or to any other place on any property of the landowner, and may contact a towing service for its removal ~~from that property of an abandoned vehicle~~. ~~If an owner or agent of an owner~~ A landowner who removes or causes removal of an abandoned motor vehicle, ~~the owner or agent~~ shall immediately notify the police agency in the jurisdiction from which the vehicle is removed. ~~Notification shall include identification of~~ and provide the registration plate number, the public vehicle identification number, if available, and the make, model, and color of the vehicle. ~~The owner or agent of an owner of property~~

~~upon which a motor vehicle is abandoned~~ landowner may remove the vehicle from the place where it is discovered to any other place on any property owned by him or her, or cause the vehicle to be removed by a towing service under the provisions of this subsection, without incurring any civil liability to the owner of the abandoned vehicle.

§ 2153. ABANDONED MOTOR VEHICLE CERTIFICATION

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

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

§ 2154. IDENTIFICATION AND RECLAMATION OF ABANDONED MOTOR VEHICLES

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

(1) If the abandoned motor vehicle is not identifiable by its registration plates or public vehicle identification number, and if no owner can be determined within 21 days of the date of receipt of the abandoned motor vehicle certification form, the Commissioner ~~of Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with an appropriate title or salvage title.

(2) If the abandoned motor vehicle is identifiable by its registration plates or public vehicle identification number, the Department ~~of Motor Vehicles~~ shall, within three business days of receipt of the form for certification of abandoned motor vehicle, send notice to the last known

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

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

§ 2155. FEES AND CHARGES

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

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

* * *

* * * Repeals and Conforming Change * * *

Sec. 78. REPEALS

The following sections are repealed:

- (1) 23 V.S.A. § 366 (log-haulers; registration).
- (2) 23 V.S.A. § 423 (negotiating and entering into an interstate compact regarding truck license fees).

(3) 23 V.S.A. § 605 (unsatisfied judgment; suspension).

Sec. 79. 23 V.S.A. § 369 is amended to read:

§ 369. TRACTORS OTHER THAN FARM TRACTORS

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

Sec. 80. 23 V.S.A. § 603(a)(2) is amended to read:

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

* * * Chemicals of High Concern to Children; Vehicle Exemptions * * *

Sec. 81. 18 V.S.A. § 1772 is amended to read:

§ 1772. DEFINITIONS

As used in this chapter:

* * *

(8) “Consumer product” means any product that is regularly used or purchased to be used for personal, family, or household purposes. “Consumer product” shall not mean:

* * *

(G) an aircraft, motor vehicle, wheelchair, or vessel;

* * *

(13) “Motor vehicle” means ~~every vehicle intended primarily for use and operation on the public highways and shall include snowmobiles, all-terrain vehicles, and farm tractors and other machinery used in the production, harvesting, and care of farm products~~ all vehicles propelled or drawn by power other than muscular power, including snowmobiles, motorcycles, all-terrain vehicles, farm tractors, vehicles running only upon stationary rails or tracks,

motorized highway building equipment, road making appliances, or tracked vehicles or electric personal assistive mobility devices.

* * *

* * * Signage on State Property Regarding Unlawful Idling * * *

Sec. 82. INSTALLATION OF SIGNAGE REGARDING UNLAWFUL
IDLING OF MOTOR VEHICLE ENGINES

(a) Before July 1, 2017, the Department of Buildings and General Services (Department), in consultation with the Agency of Transportation, shall oversee completion of a project to install signs on property owned or controlled by the State where parking is permitted indicating that idling of motor vehicle engines in violation of 23 V.S.A. § 1110 is prohibited. At a minimum, the Department shall install at least one such sign at each rest area, information center, park and ride facility, parking structure, and building owned or controlled by the State with a parking capacity of 25 pleasure cars or more. In its discretion, the Department may install additional signs at each such facility or at other State-owned or -controlled facilities where parking is permitted.

(b) On or before January 15, 2017, the Commissioner of Buildings and General Services, after consulting with the Secretary of Transportation, shall submit an interim written report to the House and Senate Committees on Transportation on the Department's activities and plans to complete the project required under subsection (a) of this section.

* * * Driving Under the Influence; Saliva Testing * * *

Sec. 83. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(3) "Evidentiary test" means a breath, saliva, or blood test which indicates the person's alcohol concentration or the presence of other drug and which is intended to be introduced as evidence.

* * *

Sec. 84. 23 V.S.A. § 1201 is amended to read:

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF
INTOXICATING LIQUOR OR OTHER SUBSTANCE; CRIMINAL
REFUSAL; ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person's alcohol concentration is:

(A) 0.08 or more; or

(B) 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(C) 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title; or

(D) 0.05 or more and the person has 1.5 nanograms per milliliter of delta-9 tetrahydrocannabinol in the person's blood; or

(2) when the person is under the influence of intoxicating liquor; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug; ~~or~~

~~(4) when the person's alcohol concentration is 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title.~~

(b) A person who has previously been convicted of a violation of this section shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer had reasonable grounds to believe the person was in violation of subsection (a) of this section.

(c) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and be involved in an accident or collision resulting in serious bodily injury or death to another and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer has reasonable grounds to believe the person has any amount of alcohol or drugs in the system.

* * *

Sec. 85. 23 V.S.A. § 1202 is amended to read:

§ 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD ALCOHOL CONTENT OR DRUG IMPAIRMENT

(a)~~(1)~~ Implied consent.

(1) Breath test. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to

have given consent to an evidentiary test of that person's breath for the purpose of determining the person's alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2)(A) Blood test. If A person is deemed to have given consent to the taking of an evidentiary sample of blood if:

(i) breath testing equipment is not reasonably available; or ~~if~~

(ii) the law enforcement officer has ~~reason~~ reasonable grounds to believe that the person:

(I) is unable to give a sufficient sample of breath for testing; or ~~if the law enforcement officer has reasonable grounds to believe that the person~~

(II) is under the influence of a drug other than alcohol; or

(III) the person is deemed to have given consent to the taking of an evidentiary sample of blood is under the influence of alcohol and a drug.

(B) If in the officer's opinion the person is incapable of decision or unconscious or dead, it is deemed that the person's consent is given and a sample of blood shall be taken.

(3) Saliva test. If the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, the person is deemed to have given consent to the taking of an evidentiary sample of saliva. Any saliva test administered under this section shall be used only for the limited purpose of detecting the presence of a drug in the person's body, and shall not be used to extract DNA information.

~~(3)~~(4) Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

~~(4)~~(5) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

* * *

Sec. 86. 23 V.S.A. § 1203 is amended to read:

§ 1203. ADMINISTRATION OF TESTS; RETENTION OF TEST AND
VIDEOTAPE

(a) A breath test shall be administered only by a person who has been certified by the Vermont Criminal Justice Training Council to operate the breath testing equipment being employed. In any proceeding under this subchapter, a person's testimony that he or she is certified to operate the breath testing equipment employed shall be prima facie evidence of that fact.

(b) Only a physician, licensed nurse, medical technician, physician assistant, medical technologist, or laboratory assistant acting at the request of a law enforcement officer may withdraw blood for the purpose of determining the presence of alcohol or other drug. This limitation does not apply to the taking of a breath or saliva sample.

(c) When a breath test which is intended to be introduced in evidence is taken with a crimper device, or when blood is withdrawn at an officer's request, a sufficient amount of breath, or blood, as the case may be, shall be taken to enable the person to have made an independent analysis of the sample, and shall be held for at least 45 days from the date the sample was taken. At any time during that period, the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent analysis. The Department of Public Safety shall adopt rules providing for the security of the sample. At no time shall the defendant or any agent of the defendant have access to the sample. A preserved sample of breath shall not be required when an infrared breath-testing instrument is used. A person tested with an infrared breath-testing instrument shall have the option of having a second infrared test administered immediately after receiving the results of the first test.

(d) In the case of a breath test administered using an infrared ~~breath-testing~~ breath-testing instrument, the test shall be analyzed in compliance with rules adopted by the Department of Public Safety. The analyses shall be retained by the State. A sample is adequate if the infrared ~~breath-testing~~ breath-testing instrument analyzes the sample and does not indicate the sample is deficient. Analysis of the person's breath, saliva, or blood which is available to that person for independent analysis shall be considered valid when performed according to methods approved by the Department of Public Safety. The analysis performed by the State shall be considered valid when performed according to a method or methods selected by the Department of Public Safety. The Department of Public Safety shall use ~~rule-making~~ rulemaking procedures to select its method or methods. Failure of a person to provide an adequate breath or saliva sample constitutes a refusal.

(e) [Repealed.]

(f) When a law enforcement officer has reason to believe that a person may be violating or has violated section 1201 of this title, the officer may request the person to provide a sample of breath or saliva for a preliminary screening test using a device approved by the Commissioner of Public Safety for this purpose. The person shall not have the right to consult an attorney prior to submitting to this preliminary ~~breath-alcohol~~ screening test. The results of this preliminary screening ~~test~~ may be used for the purpose of deciding whether an arrest should be made and whether to request an evidentiary test and shall not be used in any court proceeding except on those issues. Following the screening ~~test~~, additional tests may be required of the operator pursuant to the provisions of section 1202 of this title.

(g) The Office of the Chief Medical Examiner shall report in writing to the Department of Motor Vehicles the death of any person as the result of an accident involving a vehicle and the circumstances of ~~such~~ the accident within five days of ~~such~~ the death.

(h) A Vermont law enforcement officer shall have a right to request a breath, saliva, or blood sample in an adjoining state or country under this section unless prohibited by the law of the other state or country. If the law in an adjoining state or country does not prohibit an officer acting under this section from taking a breath, saliva, or blood sample in its jurisdiction, evidence of such sample shall not be excluded in the courts of this State solely on the basis that the test was taken outside the State.

(i) The Commissioner of Public Safety shall adopt emergency rules relating to the operation, maintenance, and use of preliminary drug or alcohol screening devices for use by law enforcement officers in enforcing the provisions of this title. ~~The commissioner~~ Commissioner shall consider relevant standards of the National Highway Traffic Safety Administration in adopting such rules. Any preliminary alcohol screening device authorized for use under this title shall be on the qualified products list of the National Highway Traffic Safety Administration.

* * *

Sec. 87. 23 V.S.A. § 1203a is amended to read:

§ 1203a. INDEPENDENT CHEMICAL TEST; BLOOD TESTS

(a) A person tested has the right at the person's own expense to have someone of the person's own choosing administer a chemical test or tests in addition to any administered at the direction of the law enforcement officer under section 1203 of this title. The failure or inability to obtain an additional test or tests by a person shall not preclude the admission in evidence of the test

taken at the direction of an enforcement officer unless the additional test was prevented or denied by the enforcement officer.

(b) Arrangements for a blood test shall be made by the person submitting to the evidentiary breath or saliva test, by the person's attorney, or by some other person acting on the person's behalf unless the person is detained in custody after administration of the evidentiary test and upon completion of processing, in which case the law enforcement officer having custody of the person shall make arrangements for administration of the blood test upon demand but at the person's own expense.

* * *

Sec. 88. 23 V.S.A. § 1204 is amended to read:

§ 1204. PERMISSIVE INFERENCES

(a) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by a person while operating, attempting to operate, or in actual physical control of a vehicle on a highway, the person's alcohol concentration or alcohol concentration and evidence of delta-9 tetrahydrocannabinol shall give rise to the following permissive inferences:

(1) If the person's alcohol concentration at that time was less than 0.08, such fact shall not give rise to any presumption or permissive inference that the person was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor.

(2) If the person's alcohol concentration at that time was 0.08 or more, it shall be a permissive inference that the person was under the influence of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.

(3) If the person's alcohol concentration at that time was 0.05 or more and the person had 1.5 nanograms per milliliter of delta-9 tetrahydrocannabinol in the person's blood, it shall be a permissive inference that the person was under the combined influence of alcohol and any other drug in violation of subdivision 1201(a)(3) of this title.

(4) If the person's alcohol concentration at any time within two hours of the alleged offense was 0.10 or more, it shall be a permissive inference that the person was under the influence of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.

(b) The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor, nor shall

they be construed as requiring that evidence of the amount of alcohol in the person's blood, breath, urine, or saliva must be presented.

* * * Colored Lights on Fire Department and EMS Vehicles * * *

Sec. 89. 23 V.S.A. § 1252 is amended to read:

§ 1252. ISSUANCE OF PERMITS FOR SIRENS OR COLORED LAMPS,
OR BOTH; USE OF AMBER LAMPS

(a) When satisfied as to the condition and use of the vehicle, the Commissioner shall issue and may revoke, for cause, permits for sirens or colored signal lamps in the following manner:

(1)(A) Sirens or blue or blue and white signal lamps, or a combination of these, may be authorized for all law enforcement vehicles owned or leased by a law enforcement agency, a certified law enforcement officer, or the Vermont Criminal Justice Training Council. If the applicant is a constable, the application shall be accompanied by a certification by the town clerk that the applicant is the duly elected or appointed constable and attesting that the town has not voted to limit the constable's authority to engage in enforcement activities under 24 V.S.A. § 1936a.

(B) One blue signal lamp may be authorized for use on a vehicle owned or leased by a fire department or on an emergency medical service (EMS) vehicle, provided that the Commissioner shall require the lamp to be mounted so as to be visible primarily from the rear of the vehicle.

(2) Sirens and red or red and white signal lamps may be authorized for all ambulances and other EMS vehicles, fire apparatus department vehicles, vehicles used solely in rescue operations, or vehicles owned or leased by, or provided to, volunteer firefighters and voluntary rescue squad members, including a vehicle owned by a volunteer's employer when the volunteer has the written authorization of the employer to use the vehicle for emergency fire or rescue activities.

~~(3) No vehicle may be authorized a permit for more than one of the combinations described in subdivisions (1) and (2) of this subsection. [Repealed.]~~

(4) No motor vehicle, other than one owned by the applicant, shall be issued a permit until the Commissioner has recorded the information regarding both the owner of the vehicle and the applicant for the permit.

(5) Upon application to the Commissioner, the Commissioner may issue a single permit for all the vehicles owned or leased by the applicant.

(6) Sirens and red or red and white signal lamps, or sirens and blue or blue and white signal lamps, may be authorized for restored emergency or enforcement vehicles used for exhibition purposes. Sirens and lamps authorized under this subdivision may only be activated during an exhibition, such as a car show or parade.

* * *

Sec. 90. 23 V.S.A. § 1255 is amended to read:

§ 1255. EXCEPTIONS

~~(1)(a)~~ The provisions of section 1251 of this title shall not apply to directional signal lamps of a type approved by the Commissioner of Motor Vehicles.

~~(2)(b)~~ All persons with motor vehicles equipped as provided in ~~subdivision~~ subdivisions 1252(a)(1) and (2) of this title, shall use the sirens or colored signal lamps, or both, only in the direct performance of their official duties. When any person other than a law enforcement officer, firefighter, or emergency medical service (EMS) responder is operating a motor vehicle equipped as provided in subdivision 1252(a)(1) of this title, the colored signal lamp shall be either removed, covered, or hooded. When any person, other than an authorized ~~ambulance~~ EMS vehicle operator, firefighter, or authorized operator of vehicles used in a rescue operation, is operating a motor vehicle equipped as provided in subdivision 1252(a)(2) of this title, the colored signal lamps shall be either removed, covered, or hooded unless the operator holds a senior operator license.

* * * Effective Dates and Transition Provision * * *

Sec. 91. EFFECTIVE DATES; CONTINGENT EFFECTIVE DATES;

APPLICABILITY TO DUI MATTERS

(a) This section and Secs. 12 (positions); 13 (Rail Program); 14 (sale of State-owned rail property); Secs. 26, 27, 28, 29, 30, 31, 32, and 33 (stormwater utilities; rates; incentives); 35 (statewide property parcel data layer; findings); 38 (Quechee Gorge Bridge safety issues); Sec. 81 (chemicals of high concern to children); and 82 (prohibited idling of motor vehicles; signs) shall take effect on passage.

(b) Secs. 29a, 30a, and 31a shall take effect if and when two stormwater utilities, as defined in 10 V.S.A. § 1251(18), are adopted by municipalities after the effective date of Secs. 29, 30, and 31 of this act.

(c) Sec. 29b, 30b, and 31b shall take effect if and when three stormwater utilities, as defined in 10 V.S.A. § 1251(18), are adopted by municipalities

- (16) Statewide, ADA projects, State-owned buildings and courthouses: \$74,000.00
- (17) Montpelier, 115 State Street and One Baldwin Street, data wiring: \$40,000.00
- (18) Montpelier, 11 and 13 Green Mountain Drive, planning and siting options for Department of Liquor Control and warehouse: \$75,000.00
- (19) Waterbury State Office Complex projects, true up: \$2,000,000.00

* * *

(e) The Commissioner of Buildings and General Services is authorized to use funds from the amount appropriated in subdivision (c)(5) of this section to:

(1) conduct engineering and design for either a single generator for the State House or a shared generator for the State House and the Capitol Complex, and the related upgrades for the electrical switch gear; and

(2) pay for or reimburse, up to \$150,000.00, for costs associated with repairing damage related to the removal of Vermont Interactive Technologies' equipment and wiring; provided, however, that the Commissioner of Buildings and General Services shall not pay for or reimburse labor costs associated with the repair.

(f) The Commissioner of Buildings and General Services is authorized to begin the design of the parking garage at 108 Cherry Street in Burlington, as described in subdivision (c)(14) of this section, prior to the start of the 2017 legislative session if the Commissioner determines it is in the best interest of the State.

Appropriation – FY 2016	\$41,313,990.00
Appropriation – FY 2017	\$29,450,622.00 \$33,265,235.00
Total Appropriation – Section 2	\$70,764,612.00 \$74,579,225.00

Sec. 2. 2015 Acts and Resolves No. 26, Sec. 3 is amended to read:

Sec. 3. ADMINISTRATION

(a) The following sums are sum of \$125,000.000 is appropriated in FY 2016 to the Department of Taxes for the Vermont Center for Geographic Information for an ongoing project to update statewide quadrangle maps through digital orthophotographic quadrangle mapping:

- ~~(1) \$125,000.00 is appropriated in FY 2016.~~
- ~~(2) \$125,000.00 is appropriated in FY 2017.~~

(b) The following sums are appropriated to the Department of Finance and Management for the ERP expansion project (Phase II):

(1) \$5,000,000.00 is appropriated in FY 2016.

(2) ~~\$9,267,470.00~~ \$6,313,881.00 is appropriated in FY 2017.

(c) The sum of \$5,463,211.00 is appropriated in FY 2017 to the Agency of Human Services for the Health and Human Services Enterprise IT System.

Appropriation – FY 2016	\$5,125,000.00
Appropriation – FY 2017	\$14,855,681.00 <u>\$11,777,092.00</u>
Total Appropriation – Section 3	\$19,980,681.00 <u>\$16,902,092.00</u>

Sec. 3. 2015 Acts and Resolves No. 26, Sec. 5 is amended to read:

Sec. 5. JUDICIARY

* * *

(c) The following sums are appropriated in FY 2017 to the Judiciary:

(1) Statewide court security systems and improvements: ~~\$125,000.00~~
\$740,000.00

(2) Judicial case management system: \$4,000,000.00

(d) The following sums are appropriated in FY 2017 to the Department of Buildings and General Services for the Judiciary:

(1) Orleans State Courthouse, building assessment and feasibility study:
\$50,000.00

(2) Barre State Courthouse and Office Building, infrastructure evaluation and design for the Courthouse:
\$40,000.00

Appropriation – FY 2016	\$5,880,000.00
Appropriation – FY 2017	\$4,125,000.00 <u>\$4,830,000.00</u>
Total Appropriation – Section 5	\$10,005,000.00 <u>\$10,710,000.00</u>

Sec. 4. 2015 Acts and Resolves No. 26, Sec. 6 is amended to read:

Sec. 6. COMMERCE AND COMMUNITY DEVELOPMENT

* * *

(d) The following sums are appropriated in FY 2017 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Underwater preserves: \$30,000.00

(2) Placement and replacement of roadside historic markers: \$15,000.00

(3) Update statewide quadrangle maps through digital orthophotographic quadrangle mapping: \$125,000.00

Appropriation – FY 2016 \$393,000.00

Appropriation – FY 2017 ~~\$295,000.00~~ \$420,000.00

Total Appropriation – Section 6 ~~\$688,000.00~~ \$813,000.00

Sec. 5. 2015 Acts and Resolves No. 26, Sec. 7 is amended to read:

Sec. 7. GRANT PROGRAMS

* * *

(h) The sum of \$200,000.00 is appropriated in FY 2017 to the Enhanced 911 Board for the Enhanced 911 Compliance Grant Program.

Appropriation – FY 2016 \$1,400,000.00

Appropriation – FY 2017 ~~\$1,400,000.00~~ \$1,600,000.00

Total Appropriation – Section 7 ~~\$2,800,000.00~~ \$3,000,000.00

Sec. 6. 2015 Acts and Resolves No. 26, Sec. 8 is amended to read:

Sec. 8. EDUCATION

(a) The following sums are appropriated in FY 2016 to the Agency of Education for funding the State share of completed school construction projects pursuant to 16 V.S.A. § 3448 and emergency projects:

(1) Emergency projects: ~~\$82,188.00~~ \$62,175.00

(2) School construction projects: ~~\$3,975,500.00~~ \$3,995,513.00

(b) The sum of \$60,000.00 is appropriated in FY 2017 to the Agency of Education for State aid for emergency projects.

Appropriation – FY 2016 \$4,057,688.00

Appropriation – FY 2017 \$60,000.00

Total Appropriation – Section 8 \$4,117,688.00

Sec. 7. 2015 Acts and Resolves No. 26, Sec. 9 is amended to read:

Sec. 9. UNIVERSITY OF VERMONT

* * *

(b) The sum of \$1,400,000.00 is appropriated in FY 2017 to the University of Vermont for construction, renovation, and major maintenance:

\$1,400,000.00

(c) The General Assembly acknowledges that, pursuant to the terms of the deed, the property located at 195 Colchester Avenue in Burlington shall be transferred from the State to the University of Vermont at no cost to the University, and that the University of Vermont shall retain any proceeds from the sale of the property.

Appropriation – FY 2016	\$1,400,000.00
Appropriation – FY 2017	\$1,400,000.00
Total Appropriation – Section 9	\$2,800,000.00

Sec. 8. 2015 Acts and Resolves No. 26, Sec. 10 is amended to read:

Sec. 10. VERMONT STATE COLLEGES

(a) The following sums are appropriated in FY 2016 to the Vermont State Colleges:

(1) Construction, renovation, and major maintenance: \$1,400,000.00

(2) ~~Engineering~~ Randolph, Vermont Technical College, engineering technology laboratories, plan, design, and upgrade:
\$1,000,000.00

(b) The following sums are appropriated in FY 2017 to the Vermont State Colleges:

(1) Construction, renovation, and major maintenance: \$1,400,000.00

(2) ~~Engineering~~ Randolph, Vermont Technical College, engineering technology laboratories, plan, design, and upgrade:
\$500,000.00

(3) Castleton, Castleton University, science laboratories, plan, design, and upgrade:
\$1,000,000.00

(4) Lyndon, Lyndon State College, installation of solar thermal system, sound monitoring equipment:
\$150,000.00

(c) It is the intent of the General Assembly that the amount appropriated in subdivision (b)(2) of this section shall be used as a challenge grant to raise funds to upgrade engineering technology laboratories at the Vermont Technical College. The funds shall only become available after the Vermont Technical College has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of

Finance and Management that \$500,000.00 in committed funds has been raised to match the appropriation in subdivision (b)(2) of this section and finance additional costs of comprehensive laboratory improvements.

(d) It is the intent of the General Assembly that the amount appropriated in subdivision (b)(3) of this section shall be used as a challenge grant to raise funds to upgrade science laboratories at Castleton University. Of the amount appropriated, \$500,000.00 shall become available upon passage of this act, and the remaining funds shall only become available after Castleton University has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that \$500,000.00 in committed funds has been raised as a match to finance costs associated with comprehensive laboratory improvements.

(e) It is the intent of the General Assembly that of the amount appropriated in subdivision (b)(4) of this section, \$100,000.00 shall become available upon passage of this act for the installation of the solar thermal system, and the remaining funds shall only become available after Lyndon State College has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that \$50,000.00 in committed funds has been raised as a match to finance costs associated with the purchase of sound monitoring equipment.

Appropriation – FY 2016		\$2,400,000.00
Appropriation – FY 2017	\$1,900,000.00	\$3,050,000.00
Total Appropriation – Section 10	\$4,300,000.00	<u>\$5,450,000.00</u>

Sec. 9. 2015 Acts and Resolves No. 26, Sec. 11 is amended to read:

Sec. 11. NATURAL RESOURCES

* * *

(d) The following sums are appropriated in FY 2017 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) the Water Pollution Control Fund for the Clean Water State/EPA Revolving Loan Fund (CWSRF) match: \$1,300,000.00

* * *

(3) the Drinking Water Supply, Drinking Water State Revolving Fund: ~~\$2,538,000.00~~ \$2,738,000.00

* * *

(7) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies: \$2,276,494.00

(8) Bristol, closure of town landfill: \$145,000.00

* * *

(f) The following sums are appropriated in FY 2017 to the Agency of Natural Resources for the Department of Fish and Wildlife:

(1) General infrastructure projects: \$875,000.00

(2) Lake Champlain Walleye Association, Inc. to upgrade and repair the walleye rearing, restoration, and stocking infrastructure: \$25,000.00

(g) The sum of \$2,300,000.00 is appropriated in FY 2017 to the Department of Buildings and General Services for the Department of Fish and Wildlife for the Roxbury fish hatchery reconstruction project.

(h) Notwithstanding any other provision of law, the Commissioner of Environmental Conservation may transfer any funds appropriated in a capital construction act to the Department of Environmental Conservation to support the response to PFOA contamination. If a responsible party reimburses the Department for the cost of any such response, the Department shall use those funds to support the original capital appropriation and shall notify the House Committee on Corrections and Institutions and the Senate Committee on Institutions of the reimbursement.

Appropriation – FY 2016 \$13,481,601.00

Appropriation – FY 2017 \$13,243,000.00 \$18,164,494.00

Total Appropriation – Section 11 \$26,724,601.00 \$31,646,095.00

Sec. 10. 2015 Acts and Resolves No. 26, Sec. 12 is amended to read:

Sec. 12. MILITARY

* * *

(b) The sum of \$750,000.00 is appropriated in FY 2017 to the Department of Military for maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds. The following sums are appropriated in FY 2017 to the Department of Military for the projects described in this subsection:

(1) Construction, maintenance, renovations, roof replacements, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds: \$750,000.00

(2) Randolph, Vermont Veterans Memorial Cemetery, project costs not covered by federal grant funds: \$188,000.00

(3) ADA projects, State armories. To the extent feasible, these funds shall be used to match federal funds: \$120,000.00

Appropriation – FY 2016 \$809,759.00

Appropriation – FY 2017 \$750,000.00 \$1,058,000.00

Total Appropriation – Section 12 \$1,559,759.00 \$1,867,759.00

Sec. 11. 2015 Acts and Resolves No. 26, Sec. 13 is amended to read:

Sec. 13. PUBLIC SAFETY

* * *

(c) The following sums are appropriated in FY 2017 to the Department of Buildings and General Services for the Department of Public Safety as described in this subsection:

(1) Williston, State Police Barracks, site location and proposal, feasibility studies, and program analysis: \$250,000.00

(2) Westminster, DPS Facility, project cost adjustment for unanticipated site conditions and code modifications: \$400,000.00

(3) Waterbury State Office Complex, blood analysis laboratory, renovations: \$460,000.00

(d) The Commissioner of Buildings and General Services is authorized to use up to \$50,000.00 of the amount appropriated in subdivision (c)(1) of this section for acoustical enhancements at the Williston Public Safety Answer Point Center (PSAP), if deemed necessary after consultation with the Department of Public Safety. Any funds remaining at the end of the fiscal year may be used to evaluate options to replace the Middlesex State Police Barracks.

Appropriation – FY 2016 \$300,000.00

Appropriation – FY 2017 \$1,110,000.00

Total Appropriation – § 13 Total Appropriation – Section 13 \$1,410,000.00

Sec. 12. 2015 Acts and Resolves No. 26, Sec. 14 is amended to read:

Sec. 14. AGRICULTURE, FOOD AND MARKETS

* * *

(b) The following sums are appropriated in FY 2017 to the Agency of Agriculture, Food and Markets for the projects described in this subsection:

(1) Best Management Practices and Conservation Reserve Enhancement Program:	\$1,800,000.00
(2) Vermont Exposition Center Building, upgrades:	\$115,000.00
(3) <u>Vermont Environment and Agricultural Laboratory, equipment:</u>	<u>\$455,000.00</u>
Appropriation – FY 2016	\$2,202,412.00
Appropriation – FY 2017	\$1,915,000.00 <u>\$2,370,000.00</u>
Total Appropriation – Section 14	\$4,117,412.00 <u>\$4,572,412.00</u>

Sec. 13. 2015 Acts and Resolves No. 26, Sec. 18 is amended to read:

Sec. 18. VERMONT HOUSING AND CONSERVATION BOARD

* * *

(b) The following amounts are appropriated in FY 2017 to the Vermont Housing and Conservation Board.

(1) Statewide, water quality improvement projects:	\$1,000,000.00
(2) Housing:	\$1,800,000.00
(3) <u>Downtown development projects:</u>	<u>\$1,200,000.00</u>

(c) The Vermont Housing and Conservation Board shall use the funds appropriated in subdivision (b)(3) of this section to leverage other resources to assist economically distressed downtowns in the Northeast Kingdom. The funds shall be held in reserve until appropriate affordable housing, historic preservation, community parks, public facilities, or public access to water projects can be developed. The Vermont Housing and Conservation Board may allocate up to ten percent of the funds to assist communities or community-based nonprofit organizations to support predevelopment or planning activities necessary for project implementation. It is the intent of the General Assembly that priority is given to communities acting on recommendations from a Vermont Council on Rural Development community visit, and that priority projects shall include distressed historic buildings where investment can help stabilize and improve the surrounding neighborhood.

(d) Notwithstanding the amounts allocated in subsection (b) of this section, the Vermont Housing and Conservation Board may use the amounts

appropriated in subdivisions (b)(2) and (b)(3) of this section to increase the amount it allocates to conservation grant awards; provided, however, that the Vermont Housing and Conservation Board increases any affordable housing investments by the same amount from funds appropriated to the Vermont Housing and Conservation Board in the FY 2017 Appropriations Act.

Appropriation – FY 2016	\$4,550,000.00
Appropriation – FY 2017	\$2,800,000.00 <u>\$4,000,000.00</u>
Total Appropriation – Section 18	\$7,350,000.00 <u>\$8,550,000.00</u>

Sec. 14. 2015 Acts and Resolves No. 26, Sec. 19 is amended to read:

Sec. 19. VERMONT INTERACTIVE TECHNOLOGIES

~~\$220,000.00~~ The sum of \$110,810.64 is appropriated in FY 2016 to the Vermont State Colleges on behalf of Vermont Interactive Technologies (VIT) for all costs associated with the dissolution of VIT’s operations.

Total Appropriation – Section 19	\$220,000.00 <u>\$110,810.64</u>
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Sec. 15. 2015 Acts and Resolves No. 26, Sec. 20 is amended to read:

Sec. 20. GENERAL ASSEMBLY

* * *

(b) The sum of \$60,000.00 is appropriated in FY 2016 to the Joint Fiscal Office to hire consultant services for a security and safety protocol for the State House, as described in Sec. 46 of this act. Any funds remaining at the end of the fiscal year shall be reallocated to the Sergeant at Arms to support the project described in subsection (c) of this section.

(c) The sum of \$145,000.00 is appropriated in FY 2017 to the Sergeant at Arms for security enhancements in the State House, as described in Sec. 36 of this act.

Total Appropriation – Section 20	\$180,000.00 <u>\$325,000.00</u>
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Sec. 16. 2015 Acts and Resolves No. 26, Sec. 20a is added to read:

Sec. 20a. PUBLIC SERVICE

The sum of \$300,000.00 is appropriated to the Department of Public Service for the Connectivity Initiative, established in 30 V.S.A. § 7515b.

<u>Appropriation – FY 2017</u>	<u>\$300,000.00</u>
<u>Total Appropriation – Section 20a</u>	<u>\$300,000.00</u>

Sec. 17. 2015 Acts and Resolves No. 26, Sec. 21 is amended to read:

Sec. 21. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

* * *

(3) of the amount appropriated in ~~2011~~ 2012 Acts and Resolves No. ~~40~~ 104, Sec. ~~2(b)~~ 2(c)(8) (State House committee renovations): \$28,702.15

* * *

(11) of the amount appropriated in 2008 Acts and Resolves No. 200, Sec. 20 (Vermont Veterans Home): \$206.36

(12) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 2(b) (Hebard State Office Building): \$5,838.85

(13) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 4(a) (Health laboratory): \$0.06

(14) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 7(b)(2) (Historic Barns Preservation Grants): \$2,050.00

(15) of the amount appropriated in 2012 Acts and Resolves No. 104, Sec. 2(c)(7) (Vermont Veterans Memorial Cemetery Master Plan): \$1,622.94

(16) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 2(b)(16) (Barre Courthouse and State Office Building, pellet boiler): \$96,389.57

(17) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 11(a)(water pollution control): \$16,464.86

(18) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 13(c) (land purchase and feasibility studies): \$150,000.00

(19) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 13(d) (Public Safety land purchases): \$299,022.00

(20) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2(b) (Department of Labor parking lot expansion): \$71,309.26

(21) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 2(c) (BGS engineering, project management, and architectural cost): \$113,411.93

(22) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 2(c)(17)(State House, security enhancements): \$142,732.59

(23) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 2(c)(18) (State House maintenance and upgrades and renovations):
\$100,000.00

(24) of the amount appropriated to the Historic Property Stabilization and Rehabilitation Special Fund established in 29 V.S.A. § 155: \$50,000.00

(25) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 12(a) to the Vermont Veterans Memorial Cemetery: \$38,135.00

(b) The following unexpended funds appropriated to the Agency of Natural Resources for capital construction projects are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

* * *

(6) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 6 (water pollution control projects): \$3,253.00

(7) of the amount appropriated to the Vermont Pollution Control Revolving Fund established in 24 V.S.A. § 4753: \$496,147.71

(8) of the amount appropriated to the Vermont Water Source Protection Fund established in 24 V.S.A. § 4753: \$200,000.00

(c) The following sums are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

* * *

(6) of the proceeds from the sale of property authorized in 2009 Acts and Resolves No. 43, Sec. 25 (1193 North Ave., Thayer School): \$60,991.12

(d) The amount appropriated in subdivision (b)(8) of this section shall be directed to the amount appropriated to the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund in Sec. 11(d)(3) of this act.

Reallocations and Transfers – FY 2016 \$1,648,656.08

Reallocations and Transfers – FY 2017 \$1,847,575.25

Total Reallocations and Transfers – Section 21 ~~\$1,648,656.08~~ \$3,496,231.33

Sec. 18. 2015 Acts and Resolves No. 26, Sec. 22 is amended to read:

Sec. 22. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

Sec. 22. VERMONT AGRICULTURE AND ENVIRONMENTAL
LABORATORY; BIOMASS FACILITY

(a) The Commissioner of Buildings and General Services shall evaluate opportunities for the future development of biomass facilities to support the Vermont Agriculture and Environmental laboratory in Randolph if the Commissioner determines that it is in the best interest of the State. The Commissioner shall ensure that all opportunities are consistent with the State Agency Energy Plan.

(b) On or before December 1, 2016, the Commissioner shall report back to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the findings of the evaluation described in subsection (a) of this section.

Sec. 23. VERMONT AGRICULTURE AND ENVIRONMENTAL
LABORATORY; ROXBURY HATCHERY; CONSTRUCTION

The Department of Buildings and General Services is authorized to enter into contractual obligations for construction for the following projects:

(1) the Vermont Agriculture and Environmental Laboratory, located at the Vermont Technical College site in Randolph, Vermont; and

(2) Roxbury Fish Hatchery, located in Roxbury, Vermont.

Sec. 24. 2011 Acts and Resolves No. 40, Sec. 26(b) is amended to read:

~~(b) The commissioner of buildings and general services~~ Commissioner of Buildings and General Services on behalf of the ~~division for historic preservation~~ Division for Historic Preservation is authorized to enter into the agreements specified for the following properties, the proceeds of which shall be dedicated to the fund created by Sec. 30 of this act:

(1) Fuller farmhouse at the Hubbardton Battlefield state State historic site, authority to sell or enter into a long term lease with covenants demolish the farmhouse if the Town of Hubbardton and the Hubbardton Historical Society are not able to find adequate funding to use the farmhouse by July 1, 2016; provided, however, that if the farmhouse is demolished, the foundation shall be capped to preserve any potential archaeological sites.

* * *

(3) Bishop Cabin at Mount Independence State Historic Site in Orwell, authority to sell or enter into a long term lease with covenants on the land demolish the Cabin and remove all materials.

* * *

Sec. 25. 2011 Acts and Resolves No. 40, Sec. 29, amending 2010 Acts and Resolves No. 161, Sec. 25(f), is amended to read:

(f) Following consultation with the ~~state advisory council on historic preservation~~ State Advisory Council on Historic Preservation as required by 22 V.S.A. § 742(7) and pursuant to 29 V.S.A. § 166, the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services is authorized to subdivide and sell the house, barn, and up to 10 acres of land at 3469 Lower Newton Road in St. Albans. ~~Net proceeds of the sale shall be deposited in the historic property stabilization and rehabilitation fund established in Sec. 30 of this act.~~

Sec. 26. 29 V.S.A. § 155 is amended to read:

~~§ 155. HISTORIC PROPERTY STABILIZATION AND REHABILITATION SPECIAL FUND~~

~~(a) There is established a special fund managed by and under the authority and control of the Commissioner, comprising net revenue from the sale or lease of underutilized State owned historic property to be used for the purposes set forth in this section. Any remaining balance at the end of the fiscal year shall be carried forward in the Fund; provided, however, that if the Fund balance exceeds \$250,000.00 as of November 15 in any year, then the General Assembly shall reallocate funds not subject to encumbrances for other purposes in the next enacted capital appropriations bill.~~

~~(b) Monies in the Fund shall be available to the Department for the rehabilitation or stabilization of State owned historic properties that are authorized by the General Assembly to be in the Fund program, for payment of costs of historic resource evaluations and archeological investigations, for building assessments related to a potential sale or lease, for one time fees for easement stewardship and monitoring, and for related one-time expenses.~~

~~(c) On or before January 15 of each year, the Department shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions concerning deposits into and disbursements from the Fund occurring in the previous calendar year, the properties sold, leased, stabilized, or rehabilitated during that period, and the Department's plans for future stabilization or rehabilitation of State owned historic properties.~~

~~(d) Annually, the list presented to the General Assembly of State owned property the Commissioner seeks approval to sell pursuant to section 166 of this title shall identify those properties the Commissioner has identified as underutilized State owned historic property pursuant to subsection (b) of this section.~~

~~(e) For purposes of this section, “historic property” has the same meaning as defined in 22 V.S.A. § 701. [Repealed.]~~

Sec. 27. 29 V.S.A. § 1556 is amended to read:

§ 1556. STATE SURPLUS PROPERTY

(a) All material, equipment, and supplies found to be surplus by any ~~state~~ State agency or department shall be transferred to the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services. The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services shall be responsible for the disposal of surplus ~~state~~ State property. The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services may:

(1) transfer the property to any other ~~state~~ State agency or department having a justifiable need for the property, or transfer to any municipality, school, or nonprofit organization having a justifiable need as determined by a State agency or department, and assess an administrative fee if deemed appropriate;

(2) store or warehouse the property for future needs of the ~~state~~ State;

(3) transfer the property to municipalities for town highways and bridges;

(4) after giving priority to the provisions of subdivisions (1), (2), and (3) of this ~~section~~ subsection, transfer used bridge beams and other surplus material, equipment, and supplies to VAST, the local affiliates of VAST, or to municipalities cooperating with VAST or municipalities developing and maintaining their own trail system;

(5) recondition and repair any property for use or sale when economically feasible;

(6) sell surplus property by any suitable means, including ~~but not limited to,~~ bids or auctions;

(7) donate, at no charge, surplus motor vehicles and related equipment, to any nonprofit entity engaged in rehabilitating and redistributing motor vehicles to ~~low income~~ Vermont residents with low income, provided that the ~~commissioner~~ Commissioner has first attempted to sell or satisfy the needs of the ~~state~~ State for the vehicles or equipment concerned.

(b) Any municipality, school, or nonprofit organization that receives a transfer of property pursuant to this section shall assume ownership of the property from the State.

Sec. 28. 29 V.S.A. § 821(b) is amended to read:

(b) State correctional facilities. The names of State correctional facilities shall be as follows:

* * *

~~(10) In Waterbury, "Dale Correctional Facility."~~

Sec. 29. SOUTHEAST STATE CORRECTIONAL FACILITY; WINDSOR;
LAND TRANSFER

(a) On or before August 1, 2016, the Department of Buildings and General Services shall conduct a survey of the 160-acre portion of the State-owned parcel in the Town of Windsor known as the "Windsor Prison Farm" that is under the jurisdiction of the Department of Buildings and General Services and described in Executive Order 08-15. The survey shall identify the boundaries for all of the land used by the Departments of Corrections and of Buildings and General Services for the operation and security of the Southeast State Correctional Facility.

(b) Within 30 days of receipt of the survey described in subsection (a) of this section, the Commissioner of Buildings and General Services shall transfer to the jurisdiction of the Department of Fish and Wildlife the portion of the land identified in the survey that is not used by the Departments of Buildings and General Services and of Corrections for the operation and security of the Southeast State Correctional Facility.

* * * Corrections * * *

Sec. 30. STATE CORRECTIONAL FACILITIES; COMMITTEE;
ASSESSMENT; REPORT

(a) Creation. There is created a Correctional Facility Planning Committee to develop a 20-year capital plan for, and assess the population needs at, State correctional facilities.

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

(1) the Commissioner of Corrections or designee, who shall serve as chair;

(2) the Commissioner of Finance and Management or designee;

(3) the Commissioner of Buildings and General Services or designee;

(4) the Commissioner for Children and Families or designee;

(5) the Commissioner of Mental Health or designee;

(6) the Commissioner of Disabilities, Aging, and Independent Living or designee; and

(7) the Executive Director of the Crime Research Group or designee.

(c) Powers and duties. The Committee shall assess the capital and programming needs of State correctional facilities, which shall include the following:

(1) An evaluation of the use, condition, and maintenance needs of each State correctional facility, including whether any facility should be closed renovated, relocated, or repurposed. This evaluation shall include an update of the most recent facilities assessment as of June 30, 2016:

(A) each facility's replacement value;

(B) each facility's deferred maintenance schedule; and

(C) the cost of each facility's five-, ten-, and 15-year scheduled maintenance.

(2) An analysis of the historic population trends of State correctional facilities, and anticipated future population trends, including age, gender, and medical, mental health, and substance abuse conditions.

(3) An evaluation of whether the design and use of existing facilities adequately serve the current population and anticipated future populations, including whether the Out-of-State inmate program may be eliminated and the feasibility of constructing new infrastructure more suitable for current and future populations.

(4) An investigation into the options for cost savings, including public-private partnerships.

(5) An evaluation on potential site locations for a replacement State correctional facility.

(d) Report and recommendations. On or before February 1, 2017, the Committee shall submit a report based on the assessment described in subsection (c) of this section, and any recommendations for legislative action, to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

* * * Judiciary * * *

Sec. 31. 4 V.S.A. § 38 is added to read:

§ 38. CAPITAL BUDGET REQUESTS; COUNTY COURTHOUSES

(a) On or before October 1 each year, any county requesting capital funds for its courthouse, or court operations, shall submit a request to the Court Administrator.

(b) The Court Administrator shall evaluate requests based on the following criteria:

(1) whether the funding request relates to an emergency that will affect the court operations and the administration of justice;

(2) whether there is a State-owned courthouse in the county that could absorb court activities in lieu of this capital investment;

(3) whether the county consistently has invested in major maintenance in the courthouse;

(4) whether the request relates to a State-mandated function;

(5) whether the request diverts resources of other current Judiciary capital priorities;

(6) whether the request is consistent with the long-term capital needs of the Judiciary, including providing court services adapted to modern needs and requirements; and

(7) any other criteria as deemed appropriate by the Court Administrator.

(c) Based on the criteria described in subsection (b) of this section, the Court Administrator shall make a recommendation to the Commissioner of Buildings and General Services regarding whether the county's request should be included as part of the Judiciary's request for capital funding in the Governor's annual proposed capital budget request.

(d) On or before January 15 of each year, the Court Administrator shall advise the House Committee on Corrections and Institutions and the Senate Committee on Institutions of all county requests received and the Court Administrator's recommendations for the proposed capital budget request.

* * * Natural Resources * * *

Sec. 32. HAZARDOUS MATERIAL RESPONSE; PROJECTED CAPITAL NEEDS;

On or before January 15, 2017, the Commissioner of Environmental Conservation shall submit a report to the House Committees on Corrections and Institutions and on Ways and Means, and the Senate Committees on Finance and on Institutions, on the following:

(1) the projected costs in fiscal year 2018, including capital costs, for the Department to investigate and respond to the effects of hazardous material releases to the environment;

(2) other projected obligations of the Environmental Contingency Fund, established in 10 V.S.A. § 1283; and

(3) specific recommendations for funding the Environmental Contingency Fund in order to meet the State's obligations with respect to releases of hazardous materials.

* * * Public Safety * * *

Sec. 33. BRADFORD STATE POLICE BARRACKS

On or before December 1, 2016, the Commissioners of Buildings and General Services and of Public Safety shall investigate opportunities for the Bradford State Police Barracks, including selling, leasing, or gifting the property, and shall report back with the findings to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

Sec. 34. PUBLIC SAFETY; PUBLIC SAFETY FIELD STATION; SITE LOCATION; WILLISTON POLICE BARRACKS

(a) The Commissioner of Buildings and General Services, in consultation with the Commissioner of Public Safety, is authorized to use funds appropriated in Sec. 11 of this act to evaluate options for the site location of a public safety field station and an equipment storage facility. The investigation may include conducting feasibility studies and program analysis, site selection, purchase and lease-purchase opportunities, and consolidation of the two facilities.

(b) On or before October 10, 2016, the Commissioner of Buildings and General Services, in consultation with the Commissioner of Public Safety, shall submit a recommendation for a site location for the public safety field station and the equipment storage facility to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, based on the evaluation described in subsection (a) of this section. It is the intent of the General Assembly that when evaluating site locations, preference shall be first given to State-owned property located in Chittenden County.

(c) The Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, in consultation with the members of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, shall review the recommendation described in subsection (a) of this section. The House Committee on Corrections and Institutions and the Senate Committee on Institutions may each meet up to one time when the General Assembly is not in session to review the recommendation. The Committees shall notify the Commissioners of Buildings and General Services and of Public Safety of any meeting. Committee members shall be entitled to receive a per diem and expenses as provided in 2 V.S.A. § 406.

(d) On or before December 1, 2016, the Commissioner of Buildings and General Services, in consultation with the Commissioner of Public Safety, shall develop a detailed proposal on the site location based on the recommendation described in subsection (a) of this section; provided, however, that the Commissioner shall not proceed without unanimous approval of the site location by the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions. The proposal shall include programming, size, design, and preliminary cost estimates for either separate or consolidated facilities.

(e) The Commissioner of Buildings and General Services shall notify the House Committee on Corrections and Institutions and the Senate Committee on Institutions at least monthly of updates on the proposals described in this section.

Sec. 35. 24 V.S.A. § 5609 is added to read:

§ 5609. ENHANCED 911 COMPLIANCE GRANTS PROGRAM

(a) Grant guidelines. The following guidelines shall apply to capital grants associated with the planning and implementation of the Enhanced 911 program in schools pursuant to 30 V.S.A. § 7057:

(1) Grants shall be awarded competitively to schools for fees and equipment necessary to comply with and implement the Enhanced 911 program.

(2) The Program is authorized to award matching grants of up to \$25,000.00 per project. The required match shall be met through dollars raised and not in-kind services.

(b) Administration. The Enhanced 911 Board, established in 30 V.S.A. § 7052, shall administer and coordinate grants made pursuant to this section, and shall have the authority to award grants in its sole discretion.

* * * Security * * *

Sec. 36. STATE HOUSE SECURITY

(a) The Sergeant at Arms is authorized to use funds appropriated in Sec. 15 of this act to:

(1) install seven security cameras in the State House;

(2) install a remote lockdown system for doors to the State House; and

(3) conduct trainings at the State House.

(b) The Sergeant at Arms shall consult with the Commissioner of Buildings and General Services on the design and installation of the security enhancements described in subsection (a) of this section.

(c) On or before August 1, 2016, the Capitol Complex Security Advisory Committee, established in 2 V.S.A. § 991, shall develop both a camera retention procedure and lockdown guidelines for the State House; provided, however, that any camera procedure developed by the Committee shall limit access to the Sergeant at Arms and the Capitol Police, and shall limit data retention to no more than 30 days. The camera retention procedure and lockdown guidelines shall only become effective after unanimous approval by the Senate President Pro Tempore or designee, the Speaker of the House or designee, the Sergeant at Arms, and the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions. No cameras shall be installed until the procedures have been approved.

(d) It is the intent of the General Assembly that the cameras described in subdivision (a)(1) of this section shall be installed at the entrances of the State House and shall be fixed on points of ingress.

* * * Effective Dates * * *

Sec. 37. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 26 (Historic Property Stabilization and Rehabilitation Special Fund; repeal) shall take effect on July 1, 2017.

(For text see House Journal March 31, 2016, April 1, 2016)

Committee of Conference Report

S. 174

An act relating to a model State policy for use of body cameras by law enforcement officers

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S. 174 An act relating to a model State policy for use of body cameras by law enforcement officers

Respectfully report that they have met and considered the same and recommend that the Senate accede to the House proposal of amendment:

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

First: In Sec. 1, subdivision (a)(1), after the word “report” by inserting the words “in the form of proposed legislation”

Second: In Sec. 1, by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) A law enforcement agency or constable that does not use body cameras shall not be required to adopt a model policy regarding their use.

Rep. Hubert

Rep. Evans

Rep. Lewis

Committee on the part of the House

Sen. Nitka

Sen. White

Sen. Benning

Committee on the part of the Senate

Action Postponed Until May 2, 2016

Favorable with Amendment

H. 866

An act relating to prescription drug manufacturer cost transparency

Rep. Pearson of Burlington, for the Committee on **Health Care**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

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

Sec. 1. FINDINGS

The General Assembly finds that:

(1) The costs of prescription drugs have been increasing dramatically without any apparent reason.

(2) Containing health care costs requires containing prescription drug costs.

(3) In order to contain prescription drug costs, it is essential to understand the drivers of those costs, as transparency is typically the first step toward cost containment.

Sec. 2. 18 V.S.A. § 4635 is added to read:

§ 4635. PHARMACEUTICAL COST TRANSPARENCY

(a) As used in this section:

(1) “Manufacturer” shall have the same meaning as “pharmaceutical manufacturer” in section 4631a of this title.

(2) “Prescription drug” means a drug as defined in 21 U.S.C. § 321.

(b) The Green Mountain Care Board, in collaboration with the Department of Vermont Health Access, shall identify annually up to 15 prescription drugs on which the State spends significant health care dollars and for which the price has increased by 50 percent or more over the past five years or by 15 percent or more over the past 12 months, creating a substantial public interest in understanding the development of the drugs’ pricing. The drugs identified shall represent different drug classes, with some of the drugs being generic drugs, some brand-name drugs, and some specialty drugs. The Board shall provide the list of prescription drugs to the Office of the Attorney General.

(c)(1) For each prescription drug identified pursuant to subsection (b) of this section, the Office of the Attorney General shall require the drug’s manufacturer to report the following information by drug name, in a format that the Attorney General determines to be understandable and appropriate:

(A) the number of years the drug has been available for purchase in the United States;

(B) the year the patent for each formulation of the drug was approved and the number of years remaining, if any, on the patent for each formulation of the drug;

(C) the total research and development costs paid by the manufacturer over the preceding seven years and, separately and to the extent the manufacturer has the information, the total research and development costs paid by any predecessor and by any third party, public or private, in the development of the drug, showing both the total amounts spent on research and development by the manufacturer, its predecessors, and third parties over time and the amounts spent by each per year as well as any amounts from federal, State, or other governmental programs and any form of subsidies, grants, tax credits, or other support;

(D) the costs of clinical trials and other regulatory costs paid by the manufacturer by year and by clinical trial phase and, separately and to the extent the manufacturer has the information, the costs of clinical trials and other regulatory costs paid by any predecessor in the development of the drug,

as well as the cost of any postclinical studies mandated by the U.S. Food and Drug Administration;

(E) amounts spent per year for the preceding seven years on direct-to-consumer advertising for the drug and on physician detailing activities related to the drug, both in Vermont and nationally;

(F) a cumulative annual history of increases in the average wholesale price and wholesale acquisition cost of the drug, using the National Drug Code, over the preceding five-year period, expressed as percentages, and the month each such increase took effect;

(G) prices charged to direct purchasers in Vermont during the previous year, including pharmacies, pharmacy chains, pharmacy wholesalers, hospitals, physician practices, and other direct purchasers of prescription drugs; and

(H) prices charged to mail-order pharmacies for distribution in Vermont during the previous year.

(2) The manufacturer may provide to the Office of the Attorney General any additional information the manufacturer believes may be pertinent to the Attorney General's complete understanding of the costs related to developing and manufacturing the drug or to the drug's price, such as costs related to acquisition of the drug, and to its understanding of the reasons for the increases in the drug's price.

(3) The manufacturer shall certify, subject to the penalties of perjury, that the information provided is truthful, accurate, and complete.

(4) The manufacturer may indicate that a component of the required information is not available in the format requested if the manufacturer provides the information in an alternative format acceptable to the Attorney General as in keeping with the purposes of this section and the manufacturer includes a detailed explanation of the reasons the manufacturer is unable to provide the information in the requested format.

(d) The Attorney General, in consultation with the Department of Vermont Health Access, shall provide a report to the General Assembly on or before December 1 of each year based on the information received from manufacturers pursuant to this section.

(1) The report shall be based on the Attorney General's review and analysis of the data. The Attorney General shall aggregate the data to determine trends in components of drug production costs and shall provide recommendations for legislative, administrative, or other policy changes that may contribute to containing growth in prescription drug prices.

(2) The Attorney General shall report aggregated data separately for generic, brand name, and specialty drugs in a manner that maximizes the utility of the data while protecting the financial, competitive, or proprietary nature of the information.

(3) The report shall include a statement of total State spending for the year for each drug identified pursuant to subsection (a) of this section paid for through the State Employees Health Benefit Plan, Medicaid, VPharm, and any other State program for the purchase of prescription drugs, as well as the number of prescriptions for each drug dispensed to individuals enrolled in these programs.

(4) The Attorney General shall also post the report on the Office of the Attorney General's website.

(e) Information provided to the Office of the Attorney General pursuant to this section is exempt from public inspection and copying under the Public Records Act and shall not be released in a manner that allows for the identification of an individual drug or manufacturer or that is likely to compromise the financial, competitive, or proprietary nature of the information.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 9-2-0)