

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations to which was referred House
3 Bill No. 562 entitled “An act relating to professions and occupations regulated
4 by the Office of Professional Regulation and to the review of professional
5 regulation” respectfully reports that it has considered the same and
6 recommends that the bill be amended as follows:

7 First: In Sec. 1, in 26 V.S.A. § 3104 (process for review of regulatory
8 laws), in subdivision (b)(4), following “to which the profession’s” by striking
9 out “educational training” and inserting in lieu thereof “education, training,”

10 Second: In Sec. 4, in 26 V.S.A. § 3235 (Director; duties), in subdivision
11 (b)(2), following “and alcohol and drug” by inserting “abuse”

12 Third: In Sec. 4, in 26 V.S.A. § 3235 (Director; duties), in subdivision
13 (b)(4), following “Requiring licensed” by striking out “drug and alcohol” and
14 inserting in lieu thereof “alcohol and drug abuse”

15 Fourth: In Sec. 4, following the end of 26 V.S.A. § 3241 (fees), by
16 inserting the following:

17 * * *

18 Fifth: By striking out in its entirety Sec. 8 (effective dates) and its reader
19 assistance heading and inserting in lieu thereof the following:

1 requirements, and restrictions as the ~~secretary~~ Secretary deems necessary to
2 preserve and protect the quality of the receiving waters, including ~~but not~~
3 ~~limited to~~ requirements concerning recording, reporting, monitoring, and
4 inspection of the operation and maintenance of waste treatment facilities and
5 waste collection systems; ~~and~~.

6 (4) ~~be~~ Be valid for the period of time specified therein, not to exceed
7 five years.

8 * * *

9 Sec. 9. 10 V.S.A. § 1975 is amended to read:

10 § 1975. DESIGNER LICENSES

11 (a) The ~~secretary~~ Director of the Office of Professional Regulation, after
12 due consultation with the Secretary, shall establish and implement a process to
13 license and periodically renew the licenses of designers of potable water
14 supplies or wastewater systems, establish different classes of licensing for
15 different potable water supplies and wastewater systems, and allow individuals
16 to be licensed in various categories.

17 (b) ~~No~~ A person shall not design a potable water supply or wastewater
18 system that requires a permit under this chapter without first obtaining a
19 designer license from the ~~secretary~~ Director of the Office of Professional
20 Regulation, except a professional engineer who is licensed in Vermont shall be
21 deemed to have a valid designer license under this chapter, provided that:

1 (1) the engineer is practicing within the scope of his or her engineering
2 specialty; and

3 (2) the engineer:

4 (A) has satisfactorily completed a college-level soils identification
5 course with specific instruction in the areas of soils morphology, genesis,
6 texture, permeability, color, and redoximorphic features; ~~or~~

7 (B) has passed a soils identification test administered by the ~~secretary~~
8 Secretary; or

9 (C) retains one or more licensed designers who have taken the course
10 specified in this subdivision or passed the soils identification test, whenever
11 performing work regulated under this chapter.

12 ~~(c) No person shall review or act on permit applications for a potable water~~
13 ~~supply or wastewater system that he or she designed or installed. [Repealed.]~~

14 (d) The ~~secretary~~ Secretary or the Director of the Office of Professional
15 Regulation may review, on a random basis, or in response to a complaint, or on
16 his or her own motion, the testing procedures employed by a licensed designer,
17 the systems designed by a licensed designer, the designs approved or
18 recommended for approval by a licensed designer, and any work associated
19 with the performance of these tasks.

20 ~~(e) After a hearing conducted under chapter 25 of Title 3, the secretary may~~
21 ~~suspend, revoke, or impose conditions on a designer license, except for one~~

1 ~~held by a professional engineer. This proceeding may be initiated on the~~
2 ~~secretary's own motion or upon a written request which contains facts or~~
3 ~~reasons supporting the request for imposing conditions, for suspension, or for~~
4 ~~revocation. Cause for imposing conditions, suspension, or revocation shall be~~
5 ~~conduct specified under 3 V.S.A. § 129a as constituting unprofessional~~
6 ~~conduct by a licensee. [Repealed.]~~

7 (f) If a person who signs a design or installation certification submitted
8 under this chapter certifies a design, installation, or related design or
9 installation information and, as a result of the person's failure to exercise
10 reasonable professional judgment, submits design or installation information
11 that is untrue or incorrect, or submits a design or installs a wastewater system
12 or potable water supply that does not comply with the rules adopted under this
13 chapter, the person who signed the certification may be ~~subject to penalties~~
14 disciplined by the Director of the Office of Professional Regulation and be
15 required to take all actions to remediate the affected project in accordance with
16 the provisions of chapters 201 and 211 of this title.

17 * * *

18 Sec. 10. 3 V.S.A. § 122 is amended to read:

19 § 122. OFFICE OF PROFESSIONAL REGULATION

20 An Office of Professional Regulation is created within the Office of the
21 Secretary of State. The Office shall have a Director who shall be appointed by

1 the Secretary of State and shall be an exempt employee. The following boards
2 or professions are attached to the Office of Professional Regulation:

3 * * *

4 (45) Potable water supply and wastewater system designers

5 (46) Water treatment facility operators

6 Sec. 11. 26 V.S.A. chapter 97 is added to read:

7 CHAPTER 97. POTABLE WATER SUPPLY AND WASTEWATER

8 SYSTEM DESIGNERS

9 Subchapter 1. General Provisions

10 § 5001. PURPOSE AND EFFECT

11 In order to safeguard the life and health of the people of this State, a person,
12 other than a professional engineer exempted under this chapter, shall not
13 design a potable water supply or wastewater system that requires a
14 permit or designer’s certification or license under the laws of this State unless
15 currently licensed under this chapter.

16 § 5002. DEFINITIONS

17 As used in this chapter:

18 (1) “Director” means the Director of the Office of Professional
19 Regulation.

20 (2) “License” means a current authorization granted by the Director
21 permitting the practice of potable water supply or wastewater system design.

1 (3) “Potable water supply or wastewater system designer” or “designer”
2 means a person who is licensed under this chapter to engage in the practice of
3 potable water supply or wastewater system design.

4 (4) “Practice of potable water supply or wastewater system design” or
5 “design” means planning the physical and operational characteristics of a
6 potable water supply or wastewater system that requires a permit or designer’s
7 certification or license under the laws of this State:

8 § 5003. PROHIBITIONS; OFFENSES

9 (a) It shall be a violation of this chapter for any person, including any
10 corporation, association, or individual, to:

11 (1) sell or fraudulently obtain or furnish any design degree, diploma,
12 certificate of registration, license, or any other related document or record or to
13 aid or abet therein;

14 (2) practice design under cover of any degree, diploma, registration,
15 license, or related document or record illegally or fraudulently obtained or
16 signed or issued unlawfully or under fraudulent representation;

17 (3) practice design unless duly registered and currently licensed or
18 otherwise authorized to do so under the provisions of this chapter;

19 (4) represent himself or herself as being licensed or otherwise
20 authorized by this State to practice design or use in connection with a name

1 any words, letters, signs, or figures that imply that a person is a licensed
2 designer when not licensed or otherwise authorized under this chapter;

3 (5) practice design during the time a license or authorization issued
4 under this chapter is suspended or revoked;

5 (6) employ an unlicensed or unauthorized person to practice as a
6 licensed designer; or

7 (7) practice or employ a licensed designer to practice beyond the scope
8 of his or her practice prescribed by rule.

9 (b) Any person violating this section shall be subject to the penalties
10 provided in 3 V.S.A. § 127.

11 § 5004. EXCEPTIONS

12 This chapter does not prohibit:

13 (1) the furnishing of assistance in the case of an emergency or disaster;

14 (2) the practice of design by a person employed by the U.S. government
15 or any bureau, division, or agency thereof while in the discharge of his or her
16 official federal duties; or

17 (3) the practice of any other occupation or profession by a person duly
18 licensed or otherwise authorized under the laws of this State.

1 § 5005. QUALIFIED PROFESSIONAL ENGINEERS EXEMPT

2 A licensed professional engineer may practice design without a license
3 under this chapter if he or she satisfies the criteria set forth in 10 V.S.A.
4 § 1975(b).

5 Subchapter 2. Administration

6 § 5011. DUTIES OF THE DIRECTOR

7 (a) The Director shall:

8 (1) provide general information to applicants for licensure as designers;

9 (2) receive applications for licensure, administer or approve
10 examinations, and provide licenses to applicants qualified under this chapter;

11 (3) administer fees as established by law;

12 (4) refer all disciplinary matters to an administrative law officer;

13 (5) renew, revoke, and reinstate licenses as ordered by an administrative
14 law officer; and

15 (6) explain appeal procedures to licensed designers and to applicants,
16 and complaint procedures to the public.

17 (b) The Director shall adopt rules necessary to perform his or her duties
18 under this section after due consultation with the Secretary of Natural
19 Resources and Commissioner of Environmental Conservation. These rules
20 may establish grades, types, classes, or subcategories of licenses corresponding
21 to prescribed scopes of practice.

1 The applicant's previous job description and experience in the design field may
2 be considered.

3 § 5022. LICENSE RENEWAL

4 (a)(1) A license shall be renewed every two years upon application,
5 payment of the required fee, and proof of compliance with such continuing
6 education or periodic reexamination requirements as the Director may by rule
7 prescribe. Failure to comply with the provisions of this section shall result in
8 suspension of all privileges granted to the licensee, beginning on the expiration
9 date of the license.

10 (2) A license that has lapsed shall be renewed upon payment of the
11 biennial renewal fee and the late renewal penalty.

12 (b) The Director may adopt rules necessary for the protection of the public
13 to assure the Director that an applicant whose license has lapsed or who has
14 not worked for more than three years as a licensed designer is professionally
15 qualified for license renewal. Conditions imposed under this subsection shall
16 be in addition to the requirements of subsection (a) of this section.

17 § 5023. APPLICATIONS

18 Applications for licensure and license renewal shall be on forms provided
19 by the Director. Each application shall contain a statement under oath showing
20 the applicant's education, experience, and other pertinent information and shall
21 be accompanied by the required fee.

1 § 5024. LICENSURE GENERALLY

2 The Director shall issue a license or renew a license, upon payment of the
3 fees required under this chapter, to an applicant or licensee who has
4 satisfactorily met all the requirements of this chapter.

5 § 5025. FEES

6 Applicants and persons regulated under this chapter shall pay those fees set
7 forth in 3 V.S.A. § 125(b).

8 § 5026. UNPROFESSIONAL CONDUCT

9 (a) Unprofessional conduct means the following conduct and the conduct
10 set forth in 3 V.S.A. § 129a committed by a licensee, an applicant, or a person
11 who later becomes an applicant:

12 (1) has made or caused to be made a false, fraudulent, or forged
13 statement or representation in procuring or attempting to procure registration
14 or renew a license to practice as a licensed designer;

15 (2) whether or not committed in this State, has been convicted of a
16 crime related to water system design or installation or a felony which evinces
17 an unfitness to practice design;

18 (3) is unable to practice design competently by reason of any cause;

19 (4) has willfully or repeatedly violated or caused the violation of any of
20 the provisions of this chapter, the terms of a permit, the Vermont Water

1 Pollution Control Permit Regulations, or the Vermont Water Quality

2 Standards;

3 (5) is habitually intemperate or is addicted to the use of habit-forming
4 drugs;

5 (6) has a mental, emotional, or physical disability, the nature of which
6 interferes with the ability to practice design competently;

7 (7) engages in conduct of a character likely to deceive, defraud, or harm
8 the public;

9 (8) has reviewed or acted on permit applications for a potable water
10 supply or wastewater system that he or she designed or installed.

11 (b) A person shall not be liable in a civil action for damages resulting from
12 the good faith reporting of information to the Director or the Office of
13 Professional Regulation about alleged incompetent, unprofessional, or
14 unlawful conduct of a licensed designer.

15 Sec. 12. TRANSITIONAL PROVISIONS

16 (a) The five years' experience required by 26 V.S.A. § 5012(a)(2) (advisor
17 appointees; qualifications of appointees) set forth in Sec. 11 of this act may
18 include experience while licensed pursuant to subchapter 7 of the Agency of
19 Natural Resources Wastewater System and Potable Water Supply Rules, and
20 an initial advisor appointee may be in the process of applying for licensure
21 from the Office of Professional Regulation if he or she otherwise meets the

1 requirements for licensure as an licensed designer and the other requirements
2 of 26 V.S.A. § 5012(a)(2).

3 (b) Pending adoption by the Director of administrative rules governing
4 licensed designers, the Director may license designers consistent with
5 subchapter 7 of the Agency of Natural Resources Wastewater System and
6 Potable Water Supply Rules.

7 (c) A person holding a design license from the Agency of Natural
8 Resources may obtain an equivalent license from the Office of Professional
9 Regulation at no charge, valid through the expiration date assigned by the
10 Agency, and thereafter renewable on a biennial schedule established by the
11 Office.

12 Sec. 13. 26 V.S.A. chapter 99 is added to read:

13 CHAPTER 99. WATER TREATMENT FACILITY OPERATORS

14 Subchapter 1. General Provisions

15 § 5101. PURPOSE AND EFFECT

16 In order to safeguard the life and health of the people of this State, a person
17 shall not practice or offer to practice water treatment facility operation unless
18 currently licensed under this chapter.

19 § 5102. DEFINITIONS

20 As used in this chapter:

1 (1) “Director” means the Director of the Office of Professional
2 Regulation.

3 (2) “License” means a current authorization granted by the Director
4 permitting the practice of water treatment facility operation.

5 (3) “Permit,” when used as a noun, means an authorization by the
6 Agency of Natural Resources to operate a facility regulated under 10 V.S.A.
7 chapter 47

8 (4) “Practice of water treatment facility operation” means the operation
9 and maintenance of a facility regulated under 10 V.S.A. chapter 47 by a person
10 required by the terms of a permit to hold particular credentials, including those
11 of an “operator,” “assistant chief operator,” or “chief operator.”

12 (5) “Water treatment facility operator” means a person who is licensed
13 under this chapter, or pursuant to rules developed pursuant to this chapter, to
14 engage in the practice of water treatment facility operation consistent with a
15 permit.

16 § 5103. PROHIBITIONS; OFFENSES

17 (a) It shall be a violation of this chapter for any person, including any
18 corporation, association, or individual, to:

19 (1) sell or fraudulently obtain or furnish any water treatment facility
20 operation degree, diploma, certificate of registration, license, or any other
21 related document or record or to aid or abet therein;

1 (2) practice or knowingly permit the practice of water treatment facility
2 operation under cover of any degree, diploma, registration, license, or related
3 document or record illegally or fraudulently obtained or signed or issued
4 unlawfully or under fraudulent representation;

5 (3) practice or permit the practice of water treatment facility operation
6 other than by a person duly registered and currently licensed or otherwise
7 authorized to do so under the provisions of this chapter;

8 (4) represent himself or herself as being licensed or otherwise
9 authorized by this State to practice water treatment facility operation or use in
10 connection with a name any words, letters, signs, or figures that imply that a
11 person is a water treatment facility operator when not licensed or otherwise
12 authorized under this chapter;

13 (5) practice water treatment facility operation during the time a license
14 or authorization issued under this chapter is suspended or revoked; or

15 (6) employ an unlicensed or unauthorized person to practice as a water
16 treatment facility operator.

17 (b) Any person violating this section shall be subject to the penalties
18 provided in 3 V.S.A. § 127(c).

19 § 5104. EXCEPTIONS

20 This chapter does not prohibit:

1 (b) The Director shall adopt rules necessary to perform his or her duties
2 under this section after due consultation with the Secretary of Natural
3 Resources and the Commissioner of Environmental Conservation. These rules
4 may establish grades, types, classes, or subcategories of licenses corresponding
5 to facilities of distinct types and complexity.

6 § 5112. ADVISOR APPOINTEES

7 (a)(1) The Secretary of State shall appoint two water treatment facility
8 operators for five-year staggered terms to serve at the Secretary's pleasure as
9 advisors in matters relating to water treatment facility operation. One of the
10 initial appointments may be for a term of fewer than five years.

11 (2) An appointee shall have not fewer than five years' experience as a
12 water treatment facility operator immediately preceding appointment, shall be
13 licensed as a water treatment facility operator in Vermont, and shall be actively
14 engaged in the practice of water treatment facility operation in this State during
15 incumbency.

16 (b) The Director shall seek the advice of the water treatment facility
17 operation advisor appointees in carrying out the provisions of this chapter.

18 Subchapter 3. Licenses

19 § 5121. ELIGIBILITY FOR LICENSURE

20 (a) To be eligible for licensure as a water treatment facility operator, an
21 applicant shall be at least 18 years of age; be able to read and write the English

1 language; hold a high school diploma, General Equivalency Diploma (GED),
2 or equivalent; and demonstrate such specific education, training, experience,
3 and examination performance as the Director may by rule require to hold the
4 class of license sought.

5 (b) The Director may waive examination for an applicant licensed or
6 certified in good standing by a foreign jurisdiction found by the Director to
7 enforce equivalent standards to obtain the class of license sought in this State.
8 The applicant's previous job description and experience in the wastewater field
9 may be considered.

10 § 5122. LICENSE RENEWAL

11 (a)(1) A license shall be renewed every two years upon application,
12 payment of the required fee, and proof of compliance with such continuing
13 education or periodic reexamination requirements as the Director may by rule
14 prescribe. Failure to comply with the provisions of this section shall result in
15 suspension of all privileges granted to the licensee, beginning on the expiration
16 date of the license.

17 (2) A license that has lapsed shall be renewed upon payment of the
18 biennial renewal fee and the late renewal penalty.

19 (b) The Director may adopt rules necessary for the protection of the public
20 to assure the Director that an applicant whose license has lapsed or who has
21 not worked for more than three years as a water treatment facility operator is

1 professionally qualified for license renewal. Conditions imposed under this
2 subsection shall be in addition to the requirements of subsection (a) of this
3 section.

4 § 5123. APPLICATIONS

5 Applications for licensure and license renewal shall be on forms provided
6 by the Director. Each application shall contain a statement under oath showing
7 the applicant's education, experience, and other pertinent information and shall
8 be accompanied by the required fee.

9 § 5124. LICENSURE GENERALLY

10 The Director shall issue a license or renew a license upon payment of the
11 fees required under this chapter to an applicant or licensee who has
12 satisfactorily met all the requirements of this chapter.

13 § 5125. FEES

14 Applicants and persons regulated under this chapter shall pay those fees set
15 forth in 3 V.S.A. § 125(b).

16 § 5126. UNPROFESSIONAL CONDUCT

17 (a) Unprofessional conduct means the following conduct and the conduct
18 set forth in 3 V.S.A. § 129a committed by a licensee, an applicant, or a person
19 who later becomes an applicant:

1 (1) has made or caused to be made a false, fraudulent, or forged
2 statement or representation in procuring or attempting to procure registration
3 or renew a license to practice as a water treatment facility operator;

4 (2) whether or not committed in this State, has been convicted of a
5 crime related to water treatment or environmental compliance or a felony
6 which evinces an unfitness to practice water treatment facility operation;

7 (3) is unable to practice water treatment facility operation competently
8 by reason of any cause;

9 (4) has willfully or repeatedly violated or caused the violation of any of
10 the provisions of this chapter, the terms of a permit, the Vermont Water
11 Pollution Control Permit Regulations, or the Vermont Water Quality
12 Standards;

13 (5) is habitually intemperate or is addicted to the use of habit-forming
14 drugs;

15 (6) has a mental, emotional, or physical disability, the nature of which
16 interferes with the ability to practice water treatment facility operation
17 competently;

18 (7) engages in conduct of a character likely to deceive, defraud, or harm
19 the public;

1 (8) fails to display prominently his or her water treatment facility
2 operator license in the office of a facility at which he or she performs licensed
3 activities; or

4 (9) unreasonably fails to assure adequate staffing of a facility by
5 licensed operators to ensure proper operations and maintenance of the facility.

6 (b) A person shall not be liable in a civil action for damages resulting from
7 the good faith reporting of information to the Director or the Office of
8 Professional Regulation about alleged incompetent, unprofessional, or
9 unlawful conduct of a water treatment facility operator or facility, corporation,
10 or municipal corporation employing such person.

11 Sec. 14. TRANSITIONAL PROVISIONS

12 (a) Notwithstanding the provision of 26 V.S.A. § 5112(a)(2) (advisor
13 appointees; qualifications of appointees) that requires an appointee to be
14 licensed as a water treatment facility operator in Vermont, an initial advisor
15 appointee may be in the process of applying for licensure if he or she otherwise
16 meets the requirements for licensure as a water treatment facility operator and
17 the other requirements of 26 V.S.A. § 5112(a)(2).

18 (b) Pending adoption by the Director of administrative rules governing
19 water treatment facility operators, the Director may license individuals to
20 operate water treatment facilities consistent with the Agency of Natural
21 Resources Wastewater Treatment Facility Operator Certification Rule.

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* * * Social Workers * * *

Sec. 17. 26 V.S.A. § 3202 is amended to read:

§ 3202. PROHIBITION; OFFENSES

* * *

(c) A State agency or a subdivision or contractor thereof shall not use or permit the use of the title “social worker” other than in relation to an employee holding a bachelor’s, master’s, or doctoral degree from an accredited school or program of social work.

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except Sec. 17 which shall take effect on July 1, 2017.

(Committee vote: _____)

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Representative _____

FOR THE COMMITTEE