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H.829

Introduced by Representatives LaClair of Barre Town, Bancroft of Westford,
Brumsted of Shelburne, Canfield of Fair Haven, Devereux of
Mount Holly, Gannon of Wilmington, and Harrison of
Chittenden

Referred to Committee on

Date:

Subject: Municipal law; grand juror; discretionary appointment

Statement of purpose of bill as introduced: This bill proposes to eliminate the
requirement that towns elect a grand juror and instead give town selectboards
the ability to appoint that officer.

An act relating to appointing town grand jurors

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 17 V.S.A. § 2646 is amended to read:

§ 2646. TOWN OFFICERS; QUALIFICATION; ELECTION

At the annual meeting, a town shall choose from among its registered voters
the following town officers, who shall serve until the next annual meeting and
until successors are chosen, unless otherwise provided by law:

* * *

(10) ~~One or more grand jurors.~~ [Repealed.]

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Sec. 2. 24 V.S.A. § 871 is amended to read:

§ 871. ORGANIZATION OF SELECTBOARD; APPOINTMENTS

(a) Forthwith after its election and qualification, the selectboard shall organize and elect a chair and, if so voted, a clerk from among its number, and file a certificate of such election for record in the office of the town clerk.

(b) The selectboard shall thereupon appoint from among the ~~legally~~ qualified registered voters a tree warden and may thereupon appoint from among the ~~legally qualified~~ registered voters the following officers who shall serve until their successors are appointed and qualified, and shall certify such appointments to the town clerk who shall record the same:

- (1) three fence viewers;
- (2) a poundkeeper, for each pound; voting residence in the town need not be a qualification for this office provided appointee gives his or her consent to the appointment;
- (3) one or more inspectors of lumber, shingles, and wood;
- (4) one or more weighers of coal; ~~and~~
- (5) one town service officer; and
- (6) one grand juror.

1 Sec. 3. 4 V.S.A. § 1107 is amended to read:

2 § 1107. APPEALS

3 * * *

4 (c) If a decision is appealed, the State's Attorney of the county in which the
5 violation occurred shall represent the State, and the State's Attorney, ~~grand~~
6 ~~juror, or~~ municipal attorney, or other designee of the legislative body of the
7 municipality shall represent the municipality.

8 * * *

9 Sec. 4. 7 V.S.A. § 104 is amended to read:

10 § 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

11 The Board shall supervise and manage the sale of spirits and fortified wines
12 within the State in accordance with the provisions of this title, and through the
13 Commissioner of Liquor Control shall:

14 (1)(A) See that the laws relating to alcohol and alcoholic beverages are
15 enforced, using for that purpose as much of the monies annually available to
16 the Liquor Control Board as may be necessary.

17 (B) The Liquor Control Board and its agents and investigators shall
18 act in this respect in collaboration with sheriffs, deputy sheriffs, constables,
19 law enforcement officers certified as Level II or Level III pursuant to
20 20 V.S.A. chapter 151, and members of village and city police forces, control

1 commissioners, the Attorney General, and State's Attorneys, ~~and town and city~~
2 ~~grand jurors~~.

3 * * *

4 Sec. 5. 7 V.S.A. § 212 is amended to read:

5 § 212. COMPLAINTS AND PROSECUTIONS

6 The Commissioner of Liquor Control or the local control commissioners
7 shall make complaint to the State's Attorney or ~~town grand juror~~ other
8 designee of the legislative body of the municipality of any unlawful furnishing,
9 selling, or keeping for sale of alcohol or alcoholic beverages, and provide
10 evidence in support of the complaint to the State's Attorney or ~~town grand~~
11 ~~juror~~ that municipal designee, who shall prosecute for the alleged violation.

12 Sec. 6. 7 V.S.A. § 562 is amended to read:

13 § 562. SEARCH WARRANTS

14 (a) If a State's Attorney, the Commissioner of Liquor Control, an
15 investigator duly acting for the Liquor Control Board, or a control
16 commissioner, ~~or a town grand juror~~ makes a complaint under oath or
17 affirmation to a judge of the Criminal Division of the Superior Court that he or
18 she or they have reason to believe that alcoholic beverages or alcohol ~~are~~ is
19 kept or deposited for sale or distribution contrary to law, or that alcohol is
20 manufactured or possessed contrary to law, in any kind of vehicle, air or water
21 craft, or other conveyance, or a dwelling house, railway car, or building or

1 place in the county, the judge shall issue a warrant to search the premises
2 described in the complaint.

3 * * *

4 Sec. 7. 7 V.S.A. § 563 is amended to read:

5 § 563. SEARCH OF PREMISES WITHOUT WARRANT

6 (a) A law enforcement officer, or selectboard member, ~~or grand juror~~ who
7 has information that alcoholic beverages or alcohol is kept with intent to sell,
8 or is sold contrary to law in any kind of public place for selling refreshments,
9 except a dwelling house, on or near the grounds of a public occasion of any
10 kind shall search the suspected place without a warrant.

11 * * *

12 Sec. 8. 7 V.S.A. § 564 is amended to read:

13 § 564. NOTICE OF SEIZURE; HEARING; FEES

14 (a) An officer who pursuant to section 562 or 563 of this chapter seizes
15 alcoholic beverages, alcohol, or a still or other apparatus for the manufacture
16 of alcohol, with or without a warrant, shall promptly give notice of the seizure
17 to a ~~grand juror of the town in which the seizure is made,~~ or to the State's
18 Attorney of the county.

19 (b) The ~~grand juror~~ or State's Attorney shall then attend and act in behalf of
20 the State at the hearing against the seized alcoholic beverages, alcohol, still, or
21 apparatus.

1 (c) An officer making a seizure without a warrant shall be allowed the same
2 fees as if he or she had acted under a warrant.

3 Sec. 9. 7 V.S.A. § 659 is amended to read:

4 § 659. REFUSAL OR NEGLECT OF OFFICERS TO PERFORM DUTIES

5 (a) The county sheriffs, sheriff's deputies, constables, officers, or members
6 of the village or city police, State Police, and investigators of the Liquor
7 Control Board shall have the authority and duty to see that the provisions of
8 this title and the rules adopted by the Liquor Control Board pursuant to this
9 title are enforced within their respective jurisdictions. Any officer who
10 willfully refuses or neglects to perform the duties imposed upon him or her by
11 this section shall be fined not more than \$500.00 or imprisoned not more than
12 90 days, or both.

13 (b) A control commissioner, or State's Attorney, ~~or town grand juror~~ who
14 willfully refuses or neglects to investigate a complaint for a violation of this
15 chapter, when accompanied by evidence in support of the complaint, shall be
16 fined \$300.00.

17 Sec. 10. 9 V.S.A. § 3063 is amended to read:

18 § 3063. REVOCATION BY ASSISTANT JUDGES OF SUPERIOR COURT

19 If the selectboard members do not revoke a license granted by them when
20 the public good so requires, the assistant judges of the Superior Court may
21 vacate the same on application of the State's Attorney of the county, ~~or the~~

1 ~~grand juror of the town~~ in which such license was granted. Six days' notice in
2 writing of the hearing on such application shall be given to the person licensed.

3 Sec. 11. 10 V.S.A. § 4504 is amended to read:

4 § 4504. DUTIES OF PROSECUTOR AND WARDEN

5 (a) When firearms, jacks, artificial lights, motor vehicles, and any other
6 devices used in the taking or transportation of big game are seized or taken by
7 a game warden or other officer, with or without a warrant, the officer who
8 makes the seizure shall forthwith give notice to ~~a grand juror of the town in~~
9 ~~which the seizure is made or to~~ the State's Attorney of the county.

10 (b) The ~~grand juror or~~ State's Attorney shall attend and act in behalf of the
11 State at the hearing against the devices so seized, and the officer making the
12 seizure without a warrant shall be allowed the same fees as if he or she had
13 acted under a warrant.

14 Sec. 12. 13 V.S.A. § 1812 is amended to read:

15 § 1812. OFFICERS TO MAKE SEIZURES

16 A district judge, sheriff, deputy sheriff, high bailiff, or constable ~~or grand~~
17 ~~juror~~ within his or her jurisdiction shall seize forged, false, or counterfeited
18 bank bills or notes, or coin and the instruments or implements made or kept for
19 the purpose of making, forging, changing, or counterfeiting gold or silver coin,
20 bank bills, or notes, and deliver the same as soon as may be to the state's

1 ~~attorney~~ State's Attorney of such county, with the names of the persons from
2 whom the same are taken.

3 Sec. 13. 13 V.S.A. § 4703 is amended to read:

4 § 4703. PAYMENT OF FEES

5 When the ~~state's attorney~~ State's Attorney of a county ~~or the grand juror of~~
6 ~~a town~~ in which a search is to be made applies for a search warrant or certifies
7 in writing on the warrant that the search ought to be made, the fees for such
8 warrant and the service thereof shall be paid by the ~~state~~ State.

9 Sec. 14. 13 V.S.A. § 5504 is amended to read:

10 § 5504. ~~PRESENTMENTS BY TOWN GRAND JUROR~~

11 ~~A town grand juror shall inquire into and make due presentment to proper~~
12 ~~authority of offenses which may come to his or her knowledge, within the~~
13 ~~town for which he or she is elected, or within an unorganized town or gore~~
14 ~~adjoining such town and which in his or her judgment ought to be prosecuted.~~

15 [Repealed.]

16 Sec. 15. 16 V.S.A. § 1127 is amended to read:

17 § 1127. NOTICE AND COMPLAINT BY TRUANT OFFICER; PENALTY

18 * * *

19 (c) The truant officer shall enter a complaint to the ~~town grand juror of the~~
20 ~~town in which such person resides, or to the~~ State's Attorney of the county,
21 and shall provide a statement of the evidence upon which the complaint is

1 based. The ~~grand juror or~~ State's Attorney shall prosecute the person. In the
2 prosecution, the complaint, information, or indictment shall be deemed
3 sufficient if it states that the respondent (naming the respondent) having the
4 control of a child of school age (naming the child) neglects to send that child to
5 a public school or an approved or recognized independent school or a home
6 study program as required by law.

7 Sec. 16. 18 V.S.A. § 4056 is amended to read:

8 § 4056. PROCEEDINGS

9 (a) Each State's Attorney ~~or city grand juror~~ to whom the Board reports
10 any violation of this chapter shall cause appropriate proceedings to be
11 instituted in the proper courts without delay and to be prosecuted in the manner
12 required by law.

13 (b) Before any violation of this chapter is reported to any such attorney for
14 the institution of a criminal proceeding, the person against whom the
15 proceeding is contemplated shall be given appropriate notice and an
16 opportunity to present his or her views before the Board or its designated
17 agent, either orally or in writing, in person, or by attorney, with regard to the
18 contemplated proceedings.

1 Sec. 17. 20 V.S.A. § 3623 is amended to read:

2 § 3623. CONSTABLE TO MAKE COMPLAINTS

3 A constable to whom such warrant has been issued shall make complaints
4 therein required to be made to the ~~town grand jurors~~ designee of the legislative
5 body of the municipality.

6 Sec. 18. 23 V.S.A. § 1746 is amended to read:

7 § 1746. VIOLATIONS; ADMISSION; WAIVER

8 (a) Any person who has violated any ordinance of the town that regulates,
9 districts, or defines the time, place, or manner of parking vehicles in the town
10 and who has not been convicted of any violation of the parking ordinances
11 more than twice before in the same calendar year may, within three business
12 days from the date of such violation, by a statement signed by him or her,
13 admit the violation and waive the issuance of any process and a trial by jury or
14 hearing, and may voluntarily pay to the police court of the town the penalty
15 herein prescribed; ~~provided, however, that,~~

16 (b) Notwithstanding the provisions of subsection (a) of this section,
17 whenever in the opinion of the court the gravity of the offense requires a fine
18 in excess of the prescribed penalty, as provided in section 1749 of this ~~title~~
19 chapter, the court may refuse to accept the signed statement and penalty and
20 refer the matter to the ~~grand juror or~~ State's Attorney who may proceed against
21 the offender in the manner prescribed by law. In that event, the signed

1 statement and penalty shall be returned to the offender and shall not be
2 considered as an admission or used as evidence in any court in this State.

3 Sec. 19. 24 V.S.A. § 831 is amended to read:

4 § 831. OATHS

5 The clerk, selectboard members, constables, listers, ~~grand jurors~~, and fence
6 viewers of a town shall be sworn before entering upon the duties of their
7 offices. A record thereof shall be made by the town clerk.

8 Sec. 20. 24 V.S.A. § 1974 is amended to read:

9 § 1974. ENFORCEMENT OF CRIMINAL ORDINANCES

10 * * *

11 (c) Prosecutions of criminal ordinances shall be brought before the
12 Superior Court pursuant to 4 V.S.A. § 32.

13 (d) Prosecutions of criminal ordinances may be brought on behalf of the
14 municipality by the municipal attorney, ~~grand juror~~, or other person designated
15 by the legislative body of the municipality.

16 Sec. 21. 24 V.S.A. § 1979 is amended to read:

17 § 1979. PROCEDURE

18 (a) Municipal ordinance violations shall be heard by the Bureau and the
19 procedure shall be as provided in 4 V.S.A. chapter 29.

1 (b) At the hearing, the municipal attorney, ~~grand juror~~, or designee of the
2 legislative body of the municipality may dismiss or amend the complaint,
3 subject to the approval of the hearing officer.

4 * * *

5 Sec. 22. 24 V.S.A. § 2201 is amended to read:

6 § 2201. THROWING, DEPOSITING, BURNING, AND DUMPING
7 REFUSE; PENALTY; SUMMONS AND COMPLAINT

8 * * *

9 (b) Prosecution of violations. A person who violates a provision of this
10 section commits a civil violation and shall be subject to a civil penalty of not
11 more than \$500.00.

12 (1) This violation shall be enforceable in the Judicial Bureau pursuant to
13 the provisions of 4 V.S.A. chapter 29 in an action that may be brought by a
14 municipal attorney, solid waste management district attorney, environmental
15 enforcement officer employed by the Agency of Natural Resources, ~~grand~~
16 ~~juror~~, or designee of the legislative body of the municipality, or by any duly
17 authorized law enforcement officer.

18 (2) If the throwing, placing, or depositing was done from a snowmobile,
19 vessel, or motor vehicle, except a motor bus, there shall be a rebuttable
20 presumption that the throwing, placing, or depositing was done by the operator
21 of such snowmobile, vessel, or motor vehicle.

1 (3) Nothing in this section shall be construed as affecting the operation
2 of an automobile graveyard or salvage yard as defined in section 2241 of this
3 title, nor shall anything in this section be construed as prohibiting the
4 installation and use of appropriate receptacles for solid waste provided by the
5 State or towns.

6 * * *

7 Sec. 23. 24 V.S.A. § 3106 is amended to read:

8 § 3106. REPORT; PROSECUTIONS; INJUNCTIONS

9 A building inspector shall:

10 (1) make a detailed report of his or her doings to the board of aldermen,
11 selectboard, or trustees, as the case may be, at least once in six months,
12 showing the number of certificates of permit granted, the number refused, and
13 such other information as may be of importance relating to the discharge of his
14 or her duties. ~~He or she shall; and~~

15 (2) inquire into and report to the ~~city~~ municipal attorney or ~~to the town~~
16 ~~grand juror,~~ other designee of the legislative body of the municipality for
17 prosecution, all violations of this chapter, and may apply, as building inspector,
18 to a Superior judge for an injunction or other legal or equitable remedy in aid
19 of his or her powers as he or she may be advised.

1 Sec. 24. 32 V.S.A. § 1223 is amended to read:

2 § 1223. ~~CITY GRAND JURORS, SALARIES~~

3 ~~Any provision in its city charter notwithstanding, a city council may fix the~~
4 ~~salary of a grand juror which shall be paid by the municipality. [Repealed.]~~

5 Sec. 25. 32 V.S.A. § 1518 is amended to read:

6 § 1518. ~~TOWN GRAND JURORS~~

7 ~~In criminal causes, the grand juror or other prosecuting officer shall be paid:~~

8 ~~(1) If the cause is disposed without trial, \$1.50;~~

9 ~~(2) For trial by court, \$2.00;~~

10 ~~(3) For trial by jury, \$2.50;~~

11 ~~(4) For each subsequent day, \$2.00 additional;~~

12 ~~(5) Ten cents a mile travel one way for one trip for each cause, provided~~
13 ~~a separate trip for such cause has been made; but if a separate trip has not been~~
14 ~~made, then at \$0.05 a mile one way for each cause;~~

15 ~~(6) No grand juror shall receive in fees more than \$400.00 in any one~~
16 ~~year. [Repealed.]~~

17 Sec. 26. 32 V.S.A. § 1519 is amended to read:

18 § 1519. ~~WHEN FEE NOT ALLOWED~~

19 ~~Fees shall not be paid to a grand juror in a criminal cause heard or~~
20 ~~prosecuted in a town or city in which a State's Attorney resides, unless such~~

1 ~~State's Attorney certifies that he or she was disqualified or unable to attend~~
2 ~~upon such cause. [Repealed.]~~

3 Sec. 27. 32 V.S.A. § 4009 is amended to read:

4 § 4009. EXAMINATION OF INVENTORIES

5 (a) Any inventory collected pursuant to section 4001 or 4452 of this title
6 that is in the custody of the town clerk shall be available for inspection,
7 tabulation, and copying by any commission authorized to do so by the General
8 Assembly, a member of such commission, the Attorney General, the Director,
9 the State's Attorney of the county, and any person designated in writing by the
10 commission, or by any officials listed in this section.

11 (b) Listers, selectboard members, treasurers, collectors of taxes, ~~town grand~~
12 ~~jurors~~, attorneys for the town, and any person designated by the town to assist
13 the town in appraising, as required under section 4041 of this title, the fair
14 market value of the property identified on the inventory form may examine any
15 inventory that they name, and the taxpayer, or the taxpayer's administrator or
16 executor, may examine the taxpayer's inventory.

17 (c) Town clerks shall upon request furnish a certified copy of an inventory
18 to an official or person entitled to examine the same, and upon subpoena for
19 that purpose, shall produce in court any inventory in the clerk's custody.

20 (d) Copies or abstracts so taken or furnished and any data or information
21 obtained by such examination or contained in such abstracts or copies shall not

1 be disclosed in any manner that will reveal the name or identity of the person
2 making such inventory, except for official use.

3 (e) Except as provided in this chapter, the town clerk shall not allow a
4 person to examine such inventories.

5 (f) An official or person entitled to examine an inventory or any other
6 person possessing such information by or through the town offices other than
7 the reporting taxpayer, who, in a manner not provided for in this chapter,
8 discloses any information so possessed shall be fined not more than \$100.00.

9 Sec. 28. TRANSITIONAL PROVISION

10 Any elected grand juror in office on the effective date of this act may serve
11 the remainder of his or her term.

12 Sec. 29. EFFECTIVE DATE

13 This act shall take effect on July 1, 2018.