

House Calendar

Monday, March 13, 2017

69th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 PM

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ACTION CALENDAR

Action Postponed Until March 13, 2017

Favorable

H. 494

An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

(Rep. Brennan of Colchester will speak for the Committee on Transportation.)

Rep. Helm of Fair Haven, for the Committee on Appropriations, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

ACTION CALENDAR

Favorable with Amendment

H. 42

An act relating to appointing municipal clerks and treasurers and to incompatible municipal offices

Rep. Gardner of Richmond, for the Committee on Government Operations, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Appointing Municipal Clerks and Treasurers * * *

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:

* * *

(2) A town clerk ~~for a~~, unless the town has voted to authorize the selectboard to appoint the town clerk as provided in section 2651e of this chapter. The term of office for a town clerk shall be for one year, unless a town votes that a town ~~the~~ clerk shall be elected for a term of three years. When a town votes for a three-year term for the office of town clerk, that

three-year term shall remain in effect until the town rescinds it by the majority vote of the legal voters present and voting at an annual meeting, duly warned for that purpose.

(3) A town treasurer ~~for a~~, unless the town has voted to authorize the selectboard to appoint the treasurer as provided in section 2651f of this chapter. The term of office of a town treasurer shall be for one year, unless a town votes that a town treasurer shall be elected for a term of three years. When a town votes for a three-year term for the office of town treasurer, that three-year term shall remain in effect until the town rescinds it by the majority vote of the legal voters present and voting at an annual meeting, duly warned for that purpose.

* * *

Sec. 2. 17 V.S.A. § 2651e is added to read:

§ 2651e. MUNICIPAL CLERK; APPOINTMENT; REMOVAL

(a) A municipality may vote at an annual meeting to authorize the legislative body to appoint the municipal clerk. A municipal clerk so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) A vote to authorize the legislative body to appoint the municipal clerk shall remain in effect until rescinded by the majority vote of the legal voters present and voting at an annual or special meeting, duly warned for that purpose.

(c) The term of office of a municipal clerk in office on the date a municipality votes to allow the legislative body to appoint a municipal clerk shall expire 45 calendar days after the vote or on the date upon which the legislative body appoints a municipal clerk under this section, whichever occurs first, unless a petition for reconsideration or rescission is filed in accordance with section 2661 of this title.

(d) The authority to authorize the legislative body to appoint the municipal clerk as provided in this section shall extend to all municipalities except those that have a charter that specifically provides for the election or appointment of the office of municipal clerk.

Sec. 3. 17 V.S.A. § 2651f is added to read:

§ 2651f. MUNICIPAL TREASURER; APPOINTMENT; REMOVAL

(a) A municipality may vote at an annual meeting to authorize the legislative body to appoint the municipal treasurer. A treasurer so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) A vote to authorize the legislative body to appoint the treasurer shall remain in effect until rescinded by the majority vote of the legal voters present and voting at an annual or special meeting, duly warned for that purpose.

(c) The term of office of a treasurer in office on the date a municipality votes to allow the legislative body to appoint a treasurer shall expire 45 calendar days after the vote or on the date upon which the legislative body appoints a treasurer under this section, whichever occurs first, unless a petition for reconsideration or rescission is filed in accordance with section 2661 of this title.

(d) The authority to authorize the legislative body to appoint the treasurer as provided in this section shall extend to all municipalities except those that have a charter that specifically provides for the election or appointment of the office of municipal treasurer.

* * * Municipal Audit Penalties * * *

Sec. 4. 24 V.S.A. § 1686 is amended to read:

§ 1686. PENALTY

(a) At any time in their discretion, town auditors may, and if requested by the selectboard, shall, examine and adjust the accounts of any town officer authorized by law to receive or disburse money belonging to the town.

(b) If the town has voted to eliminate the office of auditor, the public accountant employed by the selectboard shall perform the duties of the town auditors under subsection (a) of this section upon request of the selectboard.

(c) Any town officer who willfully refuses or neglects to submit his or her books, accounts, vouchers, or tax bills to the auditors or the public accountant upon request, or to furnish all necessary information in relation thereto, shall:

(1) be personally liable for a civil penalty in the amount of \$100.00 per day until he or she submits or furnishes the requested materials or information;

(2) be ineligible to reelection for the year ensuing; and

(3) be subject to the penalties otherwise prescribed by law.

(d) As used in this section, the term “town officer” shall not include an officer subject to the provisions of 16 V.S.A. § 323.

* * * Effective Date * * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to appointing municipal clerks and treasurers and to municipal audit penalties”

(**Committee Vote: 8-0-3**)

H. 197

An act relating to mental health parity for workers’ compensation

Rep. Copeland-Hanzas of Bradford, 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:

Sec. 1. 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:

* * *

(11) “Personal injury by accident arising out of and in the course of employment” includes an injury caused by the willful act of a third person directed against an employee because of that employment.

* * *

(I)(i) In the case of police officers, rescue or ambulance workers, or firefighters, post-traumatic stress disorder that is diagnosed by a mental health professional shall be presumed to have been incurred during service in the line of duty and shall be compensable, unless it is shown by a preponderance of the evidence that the post-traumatic stress disorder was caused by nonservice-connected risk factors or nonservice-connected exposure.

(ii) A police officer, rescue or ambulance worker, or firefighter who is diagnosed with post-traumatic stress disorder within three years of the last active date of employment as a police officer, rescue or ambulance worker, or firefighter shall be eligible for benefits under this subdivision (11).

(iii) As used in this subdivision (11)(I):

(I) “Firefighter” means a firefighter as defined in 20 V.S.A. § 3151(3) and (4).

(II) “Mental health professional” means a person with professional training, experience, and demonstrated competence in the treatment and diagnosis of mental conditions, who is certified or licensed by

this State to provide mental health care services and for whom diagnoses of mental conditions are within his or her scope of practice, including a physician, nurse with recognized psychiatric specialties, psychologist, clinical social worker, mental health counselor, or alcohol or drug abuse counselor.

(III) "Police officer" means a law enforcement officer who has been certified by the Vermont Criminal Justice Training Council pursuant to 20 V.S.A. chapter 151.

(IV) "Rescue or ambulance worker" means ambulance service, emergency medical personnel, first responder service, and volunteer personnel as defined in 24 V.S.A. § 2651.

* * *

(23) "Occupational disease" means a disease that results from causes and conditions characteristic of and peculiar to a particular trade, occupation, process, or employment, and to which an employee is not ordinarily subjected or exposed outside or away from the employment, and that arises out of and in the course of the employment. The term "occupational disease" shall include a mental condition as defined in 8 V.S.A. § 4089b, whether sudden or gradual in onset, that requires medical or psychiatric services or that results in physical or psychiatric disability or death.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(Committee Vote: 10-0-1)

Favorable

H. 59

An act relating to technical corrections

Rep. Hubert of Milton, for the Committee on Government Operations, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

H. 379

An act relating to providing an extension for the repeal of the Search and Rescue Council

Rep. Gannon of Wilmington, for the Committee on Government Operations, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

S. 38

An act relating to the Government Accountability Committee and the State Outcomes Report

Rep. Brumsted of Shelburne, 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 14, 2017)

NOTICE CALENDAR

Favorable with Amendment

H. 218

An act relating to the adequate shelter of dogs and cats

Rep. Bartholomew of Hartland, for the Committee on Agriculture & Forestry, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 351 is amended to read:

§ 351. DEFINITIONS

As used in this chapter:

(1) “Animal” means all living sentient creatures, not human beings.

* * *

(11) “Livestock” means cattle, bison, horses, sheep, goats, swine, cervidae, ratites, and camelids.

* * *

(13) “Livestock and poultry husbandry practices” means the raising, management, and using of animals to provide humans with food, fiber, or transportation in a manner consistent with:

(A) husbandry practices recommended for the species by agricultural colleges and the U.S. Department of Agriculture Extension Service;

(B) husbandry practices modified for the species to conform to the Vermont environment and terrain; and

(C) husbandry practices that minimize pain and suffering.

* * *

(15) “Living space” means any cage, crate, or other structure used to confine an animal that serves as its principal, primary housing and that

provides protection from the elements. Living space does not include a structure, such as a doghouse, in which an animal is not confined, or a cage, crate, or other structure in which the animal is temporarily confined.

(16) “Adequate food” means food that is not spoiled or contaminated and is of sufficient quantity and quality to meet the normal daily requirements for the condition and size of the animal and the environment in which it is kept. An animal shall be fed or have food available at least once each day, unless a licensed veterinarian instructs otherwise, or withholding food is in accordance with ~~accepted agricultural or veterinarian~~ veterinary practices or livestock and poultry husbandry practices.

(17) “Adequate water” means ~~fresh, potable water provided at suitable intervals for the species, and which, in no event, shall exceed 24 hours at any interval.~~ potable water that is either accessible to the animal at all times or is provided at suitable intervals for the species and in sufficient quantity for the health of the animal. In no event shall the interval when water is not provided exceed 24 hours. Snow or ice is not an adequate water source unless provided in accordance with livestock and poultry husbandry practices.

(18) “Adequate shelter” means shelter which protects the animal from injury and environmental hazards.

(19) “Enclosure” means any structure, fence, device, or other barrier used to restrict an animal or animals to a limited amount of space.

(20) “Livestock guardian dog” means a purpose-bred dog that is:

(A) specifically trained to live with livestock without causing them harm while repelling predators;

(B) being used to live with and guard livestock; and

(C) acclimated to local weather conditions.

Sec. 2. 13 V.S.A. § 365 is amended to read:

§ 365. SHELTER OF ANIMALS

(a) Adequate shelter. All livestock and animals ~~which~~ that are to be predominantly maintained ~~out-of-doors must~~ in an outdoor area shall be provided with adequate shelter to prevent direct exposure to the elements.

(b) Shelter for livestock.

(1) Adequate natural shelter, or a three-sided, roofed building with exposure out of the prevailing wind and of sufficient size to adequately accommodate all livestock maintained ~~out-of-doors in an outdoor area~~ shall be provided. The building opening size and height ~~must~~ shall, at a minimum,

extend one foot above the withers of the largest animal housed and ~~must~~ shall be maintained at that level even with manure and litter build-up. Nothing in this section shall control dairy herd housing facilities, either loose housing, comfort stall, or stanchion ties, or other housing under control of the ~~department of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. This section shall not apply to any accepted housing or grazing practices for any livestock industry.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, livestock may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with livestock and poultry husbandry practices, and are provided sufficient food, water, shelter, and proper ventilation.

(c) Minimum size of living space; dogs and cats.

(1) A dog, whether chained or penned, shall be provided an adequate living space no less than three feet by four feet for 25 pound and smaller dogs, four feet by four feet for 26-35 pound dogs, four feet by five feet for 36-50 pound dogs, five feet by five feet for 51-99 pound dogs, and six feet by five feet for 100 pound and larger dogs that is large enough to allow the dog, in a normal manner, to turn about freely, stand, sit, and lie down. A dog shall be presumed to have adequate living space if provided with floor space in the greater amount of the following:

(A) If the dog is:

(i) less than 33 pounds (15 kilograms), floor space of at least eight square feet;

(ii) 33 or more pounds (15 or more kilograms) up to and including 66 pounds (30 kilograms), floor space of at least 12 square feet; and

(iii) more than 66 pounds (30 kilograms), floor space of at least 24 square feet.

(B) Floor space in square footage calculated according to the following formula: floor space in square feet = (length of dog in inches + 6) × (length of dog in inches + 6) ÷ 144. The length of the dog in inches shall be measured from the tip of the nose of the dog to the base of its tail.

(2) The specifications required by subdivision (c)(1) of this section shall apply to be required for each dog, regardless of whether the dog is housed individually or with other animals.

(3)(A) A cat over the age of two months shall be provided adequate living space that is large enough to allow the cat, in a normal manner, to turn about freely, stand, sit, and lie down. A cat shall be presumed to have

adequate living space if provided with:

(i) floor space, including raised resting platforms, of at least eight square feet; and

(ii) a primary structure of at least 24 inches in height.

(B) The requirements of this subdivision (c)(3) shall apply to each cat regardless of whether the cat is housed individually or with other animals.

(4)(A) Each female dog with nursing puppies shall be provided the living space required under subdivision (1) of this subsection (c) plus sufficient additional floor space to allow for a whelping box and the litter, based on the size or the age of the puppies. When the puppies discontinue nursing, the living space requirements of subdivisions (1) and (2) of this subsection shall apply for all dogs housed in the same living space.

(B) Each female cat with nursing kittens shall be provided the living space required under subdivision (3) of this subsection (c) plus sufficient additional floor space to allow for a queening box and the litter, based on the size or the age of the kittens. When the kittens discontinue nursing, the living space requirements of subdivision (3) of this subsection shall apply for all cats housed in the same living space.

(5) Dogs or cats that are housed in the same primary living space or enclosure shall be compatible, as determined by observation, provided that:

(A) Females in heat (estrus) shall not be housed in the same primary living space or enclosure with males, except for breeding purposes.

(B) A dog or cat exhibiting a vicious or overly aggressive disposition shall be housed separately from other dogs or cats.

(6) All dogs or cats shall have access to adequate water and adequate food.

(d) Daily exercise; dogs or cats. A dog or cat confined in a living space shall be permitted outside the ~~cage, crate, or structure~~ living space for an opportunity of at least one hour of daily exercise, unless otherwise modified or restricted by a licensed veterinarian. Separate space for exercise is not required if an animal's living space is at least three times larger than the minimum requirements set forth in subdivision (c)(1) of this section.

(e) Shelter for dogs maintained outdoors in enclosures.

(1) ~~A Except as provided in subdivision (2) of this subsection, a dog or dogs maintained out-of-doors must outdoors in an enclosure shall be provided with suitable housing that assures that the dog is protected from wind and draft, and from excessive sun, rain and other environmental hazards~~

~~throughout the year~~ one or more shelter structures. A shelter structure shall:

(A) Provide each dog housed in the structure sufficient space to, in a normal manner, turn about freely, stand, sit, and lie down.

(B) Be structurally sound and constructed of suitable, durable material.

(C) Have four sides, a roof, and a ground or floor surface that enables the dog to stay clean and dry.

(D) Have an entrance or portal large enough to allow each dog housed in the shelter unimpeded access to the structure, and the entrance or portal shall be constructed with a windbreak or rainbreak.

(E) Provide adequate protection from cold and heat, including protection from the direct rays of the sun and the direct effect of wind, rain, or snow. Shivering due to cold is evidence of inadequate shelter for any dog.

(2) A shelter structure is not required for a healthy livestock guardian dog that is maintained outdoors in an enclosure.

(3) If multiple dogs are maintained outdoors in an enclosure at one time:

(A) Each dog will be provided with an individual structure, or the structure or structures provided shall be cumulatively large enough to contain all of the dogs at one time.

(B) A shelter structure shall be accessible to each dog in the enclosure.

(4) The following categories of dogs shall not be maintained outdoors in an enclosure when the ambient temperature is below 50 degrees Fahrenheit:

(A) dogs that are not acclimated to the temperatures prevalent in the area or region where they are maintained;

(B) dogs that cannot tolerate the prevalent temperatures of the area without stress or discomfort; and

(C) sick or infirm dogs or dogs that cannot regulate their own body temperature.

(5) Metal barrels, cars, refrigerators, freezers, and similar objects shall not be used as a shelter structure for a dog maintained in an outdoor enclosure.

(6) In addition to the shelter structure, one or more separate outdoor areas of shade shall be provided, large enough to contain all the animals and protect them from the direct rays of the sun.

(f) Tethering of dog.

(1) A Except as provided under subdivision (2) of this subsection, a dog chained to a shelter must predominantly maintained outdoors on a tether shall be on a tether chain that allows the dog to walk a distance in any one direction that is at least four times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter.

(2)(A) A dog regularly used in training or participation in competitive or recreational sled dog activities and housed outdoors in close proximity with other dogs may, if necessary for the safety of the dog, be maintained on a tether that allows the dog to walk a distance in any one direction that is at least two times the length of the dog, as measured from the tip of its nose to the base of its tail. The tether shall be attached to the anchor at a central point, allowing the dog access to a 360 degree area.

(B) If a tethering method involves the use of a trolley and cable and allows the dog to move freely along the length of the cable, the tether shall be long enough to allow the dog to lie down within its shelter without discomfort.

(3) A tether used for any dog shall be attached to both the dog and the anchor using swivels or similar devices that prevent the tether from becoming entangled or twisted. The tether shall be attached to a wellfitted collar or harness on the dog. The tether shall be of a size and weight that will not cause discomfort to a tethered dog. A choke collar shall not be used as part of a tethering method.

(g) A cat, over the age of two months, shall be provided minimum living space of nine square feet, provided the primary structure shall be constructed and maintained so as to provide sufficient space to allow the cat to turn about freely, stand, sit, and lie down. Each primary enclosure housing cats must be at least 24 inches high. These specifications shall apply to each cat regardless of whether the cat is housed individually or with other animals. [Repealed.]

(h) Notwithstanding the provisions of this section, animals may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with accepted agricultural or veterinarian practices, and are provided sufficient food, water, shelter, and proper ventilation. [Repealed.]

(i) Violations. Failure to comply with this section shall be a violation of subdivision 352(3) or (4) of this title.

(j) Notwithstanding the provisions of this section, an animal may be sheltered, chained, confined, or maintained out-of-doors if doing so is directed by a licensed veterinarian or is in accordance with accepted agricultural or veterinarian practices. [Repealed.]

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(Committee Vote: 11-0-0)

H. 265

An act relating to the State Long-Term Care Ombudsman

Rep. Noyes of Wolcott, for the Committee on Human Services, recommends the bill be amended as follows:

First: In Sec. 1, in 33 V.S.A. § 7501, in subdivision (1), by striking out “care or” preceding “services”, by inserting “and supports” following “services”, and by striking out “Medicaid” preceding “demonstration”

Second: In Sec. 1, in 33 V.S.A. § 7501, in subdivision (6), by striking out “services” preceding “through the Choices for Care program” and by striking out “Medicaid” preceding “demonstration”

Third: In Sec. 1, in 33 V.S.A. § 7501(7)(B), by inserting “or advance directive” following “power of attorney” and preceding the comma

Fourth: In Sec. 1, in 33 V.S.A. § 7503(7), by striking out “by rule” preceding “procedures”

Fifth: In Sec. 1, in 33 V.S.A. § 7504(a)(2)(A), by striking out “services” and inserting in lieu thereof “long-term care”

Sixth: In Sec. 1, in 33 V.S.A. § 7504(a), by redesignating the second subdivision (3) to be subdivision (4)

Seventh: In Sec. 1, in 33 V.S.A. § 7504(b)(2), in the second sentence, by striking out “Toward that end, long-term” at the beginning of the sentence and inserting in lieu thereof “Long-term”

Eighth: In Sec. 1, in 33 V.S.A. § 7504(b)(3), by striking out “services” following “long-term care”

Ninth: In Sec. 1, in 33 V.S.A. § 7508(b), by striking out “services” following “long-term care” both times it appears and by striking out “Medicaid” preceding “demonstration” both times it appears

Tenth: In Sec. 1, in 33 V.S.A. § 7509(a)(2), by striking out “services” and inserting in lieu thereof “long-term care” and by striking out “Medicaid” preceding “demonstration”

Eleventh: In Sec. 1, in 33 V.S.A. § 7509(a)(4), by striking out “services” and inserting in lieu thereof “long-term care” and by striking out “Medicaid” preceding “demonstration”

Twelfth: In Sec. 1, in 33 V.S.A. § 7509(b)(2), by striking out “services” and inserting in lieu thereof “long-term care” and by striking out “Medicaid” preceding “demonstration”

(Committee Vote: 10-0-1)

Favorable

H. 219

An act relating to the Vermont spaying and neutering program

Rep. Bartholomew of Hartland, for the Committee on Agriculture & Forestry, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

S. 13

An act relating to fees and costs allowed at a tax sale

Rep. Kitzmiller of Montpelier, for the Committee on Government Operations, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

S. 79

An act relating to freedom from compulsory collection of personal information

Rep. Viens of Newport City, for the Committee on Judiciary, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

Senate Proposal of Amendment

J.R.H. 4

Joint resolution reaffirming the General Assembly’s commitment to equal educational opportunity on the 20th anniversary of the Vermont Supreme Court’s decision in *Brigham v. State*

The Senate proposes to the House to amend the resolution in the *third* Whereas clause, by striking out the word “towns” and inserting in lieu thereof the words school districts

(For text see House Journal February 7, 2017)