

House Calendar

Friday, May 05, 2017

122nd DAY OF THE BIENNIAL SESSION

House Convenes at 9:30 A.M.

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ACTION CALENDAR

Unfinished Business of Wednesday, May 3 2017

Senate Proposal of Amendment

H. 167

An act relating to alternative approaches to addressing low-level illicit drug use

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

* * * Misdemeanor Possession of Drugs Study * * *

Sec. 1. MISDEMEANOR POSSESSION OF DRUGS; PRETRIAL SERVICES

(a) It is the intent of the General Assembly to encourage persons cited or arrested for a misdemeanor drug possession charge to engage with pretrial services, and, if appropriate, enter treatment, and that, in turn, a person who complies with such conditions will be eligible for dismissal of the charge.

(b) The Attorney General, the Defender General, and the Executive Director of the Department of State's Attorneys and Sheriffs shall work collaboratively to develop a specific legislative proposal to accomplish this intent with an implementation date of July 1, 2018 and report to the Senate and House Committees on Judiciary and on Appropriations, the Senate Committee on Health and Welfare, and the House Committee on Human Services on or before November 1, 2017.

* * * Findings * * *

Sec. 2. 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) 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.

* * * Prevention * * *

Sec. 3. 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 Agency of Agriculture, Food, and Markets, 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 youth 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 youth 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 youth who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) On or before March 15, 2018, 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, 2018.

(b) The Department shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youth 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 youth shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

* * * Legal Possession; Civil and Criminal Penalties * * *

Sec. 4. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

It is the intent of the General Assembly to eliminate all civil penalties for possession of one ounce or less of marijuana and a small number of marijuana plants for a person who is 21 years of age or older while retaining the current criminal penalties for possession of larger amounts of marijuana and criminal penalties for unauthorized dispensing or sale of marijuana. This act also retains the current civil and criminal penalties for possession of marijuana by a person under 21 years of age, which are the same as possession of alcohol by a person under 21 years of age.

Sec. 5. 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. 6. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two mature marijuana plants or four immature marijuana plants. For a first offense under this subdivision (A), a person shall be provided the

opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating more than two mature marijuana plants or four immature marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing two ounces of marijuana or 10 grams of hashish or knowingly and unlawfully cultivating more than ~~three plants of~~ four mature marijuana plants or eight immature marijuana plants shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing more than one pound or more of marijuana or more than 2.8 ounces or more of hashish or knowingly and unlawfully cultivating more than ~~10 plants of~~ six mature marijuana plants or 12 immature marijuana plants shall be imprisoned not more than five years or fined not more than ~~\$100,000.00~~ \$10,000.00, or both.

(4) A person knowingly and unlawfully possessing more than 10 pounds or more of marijuana or more than one pound or more of hashish or knowingly and unlawfully cultivating more than ~~25 plants of~~ 12 mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5) If a court fails to provide the defendant with notice of collateral consequences in accordance with 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.

(6) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

* * *

Sec. 7. 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 and two mature marijuana plants or fewer or four immature marijuana plants or fewer 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. The one-ounce limit of marijuana or five grams of hashish that may be possessed by a person 21 years of age or older shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.~~

~~(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 or chapter 37 of this title or 16 V.S.A. § 140.~~

~~(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.~~

~~(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.:~~

(1) 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;

(2) 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;

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

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

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

(6) 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.

~~(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. 8. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; CIVIL VIOLATION

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of

hashish or two mature marijuana plants or fewer or four immature marijuana plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

* * *

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

§ 4230e. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants 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) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4230a of this title provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with section 4230 of this title.

(b)(1) Personal cultivation of marijuana only shall occur:

(A) on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property; and

(B) in an enclosure that is screened from public view and reasonable precautions are taken to prevent unauthorized access to the marijuana.

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

(A) not more than \$100.00 for a first offense;

(B) not more than \$200.00 for a second offense; and

(C) not more than \$500.00 for a third or subsequent offense.

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

§ 4230f. 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) 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.

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

§ 4230g. 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. 12. 18 V.S.A. § 4230h is added to read:

§ 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE
PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.

(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.

* * * Commercial Marijuana Regulation * * *

Sec. 13. 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) “Agency” means the Agency of Agriculture, Food, and Markets.

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

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

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

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

(7) “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.

(8) “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.

(9) “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.

(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 Agency 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 Agency to engage in commercial marijuana activity in accordance with this chapter.

(13) “Marijuana retailer” or “retailer” means a person licensed by the Agency 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 Agency 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.

(22) “Secretary” means the Secretary of Agriculture, Food, and Markets.

§ 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 chapter 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 (a) 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; or

(3) is designed to appeal to children or persons under 18 years of age by portraying anyone under 18 years of age or objects suggestive of the presence of anyone under 18 years of age, or containing the use of a figure, a symbol, or language that is customarily associated with anyone under 18 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) In accordance with section 4512 of this chapter, the Agency 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.

(d) 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 Agency 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) There is established the Marijuana Advisory Board within the Agency for the purpose of advising the Agency 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 Secretary of Agriculture, Food and Markets or designee;

(B) the Commissioner of Public Safety 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 Secretary of Administration shall convene the first meeting of the Board on or before June 1, 2017 and shall attend Board meetings.

§ 4512. RULEMAKING

(a) The Agency shall adopt rules to implement this chapter on or before March 15, 2018, in accordance with subdivisions (1)–(4) of this subsection.

(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) The Agency shall consult with the Department in the development and adoption of the following rules identified in subsection (a) of this section:

(1) regarding any marijuana establishment, subdivisions (1)(B), (G), (K), (L), (P), and (Q);

(2) regarding cultivators, subdivision (2)(A)(vi);

(3) regarding retailers, subdivisions (4)(B), (C), and (E); and

(4) regarding testing laboratories, subdivisions (5)(B), (C), and (D).

§ 4513. IMPLEMENTATION

(a)(1) On or before April 15, 2018, the Agency shall begin accepting applications for cultivator licenses and testing laboratory licenses. The initial application period shall remain open for 30 days. The Agency may reopen the application process for any period of time at its discretion.

(2) On or before June 15, 2018, the Agency shall begin issuing cultivator licenses and testing laboratory licenses to qualified applicants.

(b)(1) On or before May 15, 2018, the Agency shall begin accepting applications for retail licenses. The initial application period shall remain open for 30 days. The Agency may reopen the application process for any period of time at its discretion.

(2) On or before September 15, 2018, the Agency 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, 2019.

(c)(1) Prior to July 1, 2019, provided applicants meet the requirements of this chapter, the Agency shall issue:

(A) an unlimited number of cultivator licenses that permit a cultivation space of not more than 500 square feet;

(B) a maximum of 20 cultivator licenses that permit a cultivation

space of more than 500 square feet but not more than 1,000 square feet;

(C) a maximum of 15 cultivator licenses that permit a cultivation space of more than 1,000 square feet up to 2,500 square feet;

(D) a maximum of 10 cultivator licenses that permit a cultivation space of more than 2,500 square feet up to 5,000 square feet;

(E) a maximum of five cultivator licenses that permit a cultivation space of more than 5,000 square feet up to 10,000 square feet;

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

(G) a maximum of 42 retailer licenses.

(2) On or after July 1, 2019, the limitations in subdivision (1) of this subsection shall not apply and the Agency 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 prior to July 1, 2019 may apply to the Agency to modify its license to expand its cultivation space.

§ 4514. CIVIL CITATIONS; SUSPENSION AND REVOCATION OF LICENSES

(a) The Agency 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 Agency 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 Agency.

(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 Agency 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 Agency. 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 Agency. Failure to provide proof of insurance to the Agency, 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 chapters 84 or 86 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 Agency, 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 Agency 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

Agency 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 Agency 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 Agency 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 Agency. A license shall not be renewed unless the records of the Agency 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 Agency 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 Agency. 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 Agency 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 Agency shall obtain from the Department 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 Agency and 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 Agency.

(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 Agency, in consultation with 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. Previous nonviolent drug-related convictions shall not automatically disqualify an applicant. 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 Agency's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(f) 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 which is either indoors, or if outdoors, not visible to the public, and which can only be accessed by principal officers and employees of the licensee who have valid identification cards.

(c) An applicant shall designate on his or her 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 Agency.

(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. Rules shall take into consideration that different labeling requirements may be appropriate depending on whether the marijuana is sold to a wholesaler, product manufacturer, or retailer.

(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 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 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;

(2) purchase marijuana from a licensed cultivator; and

(3) provide marijuana to a licensed testing laboratory.

(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 Agency 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 Agency 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 Agency 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:

(A) \$1,000.00 for a cultivation space that does not exceed 500 square feet.

(B) \$3,000.00. for a cultivation space of more than 500 square feet but not more than 1,000 square feet.

(C) \$7,500.00 for a cultivation space of 1,001–2,500 square feet.

(D) \$15,000.00 for a cultivation space of 2,501–5,000 square feet.

(E) \$30,000.00 for a cultivation space of 5,001–10,000 square feet.

(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 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, 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:

(A) \$1,000.00 for a cultivation space that does not exceed 500 square feet.

(B) \$3,000.00. for a cultivation space of more than 500 square feet but not more than 1,000 square feet.

(C) \$7,500.00 for a cultivation space of 1,001–2,500 square feet.

(D) \$15,000.00 for a cultivation space of 2,501–5,000 square feet.

(E) \$30,000.00 for a cultivation space of 5,001–10,000 square feet.

(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 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) two members of the public appointed by the Governor;

(2) two members of the House of Representatives, appointed by the Speaker of the House;

(3) two members of the Senate, appointed by the Committee on Committees; and

(4) the Attorney General or designee.

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

§ 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) 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;

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

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

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

(7) 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;

(8) monitor supply and demand of marijuana cultivated and sold pursuant to this act for the purpose of assisting the Agency of Agriculture, Food, and Markets 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;

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

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

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

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

(13) 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

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

(b) On or before January 15, 2020, 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, 2017.

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

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

(4) 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. 14. 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 Agency of Agriculture, Food, and Markets.

(b) The Agency of Agriculture, Food, and Markets 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. 15. 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. 16. 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. 17. 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. 18. 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. 19. 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. 20. 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. 21. 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 comprehensively address 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, 2018 regarding implementation of this section.

Sec. 22. 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.

Sec. 23. TRAINING FOR LAW ENFORCEMENT; IMPAIRED DRIVING

(a) It is imperative that Vermont provide adequate training to both local and State law enforcement officers regarding the detection of impaired driving. Advanced Roadside Impaired Driving Enforcement (ARIDE) training provides instruction to officers at a level above Basic Standardized Sobriety Testing and proves helpful to an officer in determining when a Drug Recognition Expert (DRE) should be called. Vermont should endeavor to train as many law enforcement officers as possible in ARIDE. DREs receive a more advanced training in the detection of drugged driving and should be an available statewide resource for officers in the field.

(b) The Secretary of Transportation and the Commissioner of Public Safety shall work collaboratively to ensure that funding is available, either through the Governor's Highway Safety Program's administration of National Highway Traffic Safety Administration funds or other State funding sources, for training the number of officers necessary to provide sufficient statewide coverage for the enforcement impaired driving.

* * * Appropriations and Positions * * *

Sec. 24. FISCAL YEAR 2018 APPROPRIATIONS FROM THE
MARIJUANA REGULATION AND RESOURCE FUND

In fiscal year 2018 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) Agency of Agriculture, Food and Markets:

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

(B) \$272,500.00 for staffing expenses related to rulemaking, program administration, and processing of applications and licenses.

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

Sec. 25. EXECUTIVE BRANCH POSITION AUTHORIZATIONS

The establishment of the following new permanent classified positions is authorized in fiscal year 2018 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 Agency of Agriculture, Food and Markets—one (1) Agriculture Chemist and two (2) Program Administrator.

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

Sec. 26. MARIJUANA REGULATION AND RESOURCE FUND
BUDGET AND REPORT

Annually, through 2019, 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. 27. 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. 28. 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. 29. WORKFORCE STUDY COMMITTEE

(a) Creation. There is created the 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, employer-wide, 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, 2017, 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, 2017.

(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, 2017.

Sec. 30. 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 and 18 V.S.A. § 4230e relating to cultivation of marijuana.

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

(a) This section and Secs. 1 (misdemeanor drug possession study), 2 (legislative findings and intent), 3 (marijuana youth education and prevention), 13 (marijuana establishments), 14 (marijuana taxes), and 29 (Workforce Study Committee) shall take effect on passage.

(b) Secs. 12 (chemical extraction via butane or hexane prohibited),

17 (consumption or possession of marijuana by the operator of a motor vehicle), 18 (consumption or possession of marijuana by a passenger of a motor vehicle), 21 (Vermont Governor's Highway Safety Program), 22 (reporting impaired driving data), 23 (training for law enforcement; impaired driving), 24 (appropriations), 25 (positions), 26 (Marijuana Regulation and Resource Fund budget and report), 27 (local authority to regulate marijuana establishments), and 28 (zoning) shall take effect on July 1, 2017.

(c) Sec. 15 (taxes; definitions) shall take effect on January 1, 2018 and shall apply to taxable year 2018 and after.

(d) Secs. 4 (legislative intent; civil and criminal penalties), 5 (marijuana definition), 6 (marijuana; criminal), 7 (marijuana; civil), 8 (marijuana possession by a person under 21 years of age), 9 (cultivation of marijuana by a person 21 years of age or older), 10 (sale or furnishing marijuana to a person under 21 years of age; criminal), 11 (sale of furnishing marijuana to a person under 21 years of age; civil action for damages), 16 (sales tax), 19 (commercial motor vehicle), 20 (disqualification; commercial motor vehicle), and 30 (Judicial Bureau; jurisdiction) shall take effect on January 2, 2019.

(For text see House Journal March 21, 2017)

Action Postponed Until May 5, 2017

Favorable with Amendment

S. 122

An act relating to increased flexibility for school district mergers

Rep. Sharpe of Bristol, for the Committee on Education, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 1 (Findings), with its reader assistance, by striking out the reader assistance in its entirety and inserting in lieu thereof the following:

* * * Findings and Purpose * * *

Second: In Sec. 1, by striking out the section heading in its entirety and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND PURPOSE

Third: In Sec. 1, by adding a new subsection (b) to read:

(b) While Vermont generally does an excellent job educating our children, we fall short in two critical areas. First, we are not as successful as we need to be in educating children from families with low income, and second, while we have a very high graduation rate from our high schools, not enough of our

graduates continue their education. Fulfilling the goals of Act 46 is a critical step in addressing these shortcomings.

and by relettering the remaining sections to be alphabetically correct

Fourth: In Sec. 1, in relettered subsection (e), by striking out the last sentence in its entirety

Fifth: In Sec. 1, by adding a subsection (f) to read:

(f) This act is designed to make useful changes to the merger time lines and allowable governance structures under Act 46 without weakening or eliminating the Act's fundamental phased merger and incentive structures and requirements. Nothing in this act should suggest that it is acceptable for a school district to fail to take reasonable and robust action to seek to meet the goals of Act 46.

Sixth: In Sec. 2, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The incentives provided under this act shall be available only if the new districts receive final approval of their electorate on or before November 30, 2017. This section is repealed on July 1, 2017 2019.

Seventh: By striking out Sec. 3 in its entirety and inserting in lieu thereof the following:

Sec. 3. THREE-BY-ONE SIDE-BY-SIDE STRUCTURE; EXEMPTION
FROM STATEWIDE PLAN

(a) If the conditions of this section are met, the Merged District and the Existing District or Districts shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10, to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's statewide plan.

(1) The new district is formed by the merger of at least three existing districts (Merged District) and, together with one or two existing districts (each an Existing District), are, following the receipt of all approvals required under this section, members of the same supervisory union (Three-by-One Side-by-Side Structure).

(2) As of March 7, 2017, town meeting day, each Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education; or

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District.

(3) The Merged District and each Existing District have, following the receipt of all approvals required under this section, a model of operating schools or paying tuition that is different from the model of each other; provided, however, that if two Existing Districts are members of the Three-by-One Side-by-Side Structure, the Existing Districts may have the same model of operating schools or paying tuition if they are geographically isolated from each other, within the meaning of subdivision (2)(A) of this subsection. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) Each Existing District and the districts proposing to merge into the Merged District jointly submit a proposal to the State Board after the effective date of this section and demonstrate in their proposal that:

(A) the Three-by-One Side-by-Side Structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6 and will meet the goals set forth in Sec. 2 of that act;

(B) each Existing District meets one or more of the criteria set forth in subdivision (2) of this subsection (a);

(C) each Existing District has a detailed action plan it proposes to take to continue to improve its performance in connection with each of the goals set forth in 2015 Acts and Resolves No. 46, Sec. 2.

(5) Each Existing District and the districts proposing to merge into the Merged District obtain State Board approval of their proposal to form the proposed Three-by-One Side-by-Side Structure.

(6) Each Existing District obtains the approval of its electorate to be an Existing District in the proposed Three-by-One Side-by-Side Structure on or before November 30, 2017.

(7) The districts proposing to merge into the Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and the Merged District becomes fully operational on or before July 1, 2019.

(8) The Three-by-One Side-by-Side Structure is formed on or before November 30, 2019 in the manner approved by the State Board.

(b) The districts that are proposing to merge into the Merged District may include:

(1) districts that have not received, as of the effective date of this section, approval from their electorate to merge, regardless of whether the Merged District will be eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended; and

(2) districts that received, on or after July 1, 2010 but prior to the effective date of this section, approval from their electorate to merge but are not operational as a Merged District as of the effective date of this section, regardless of whether the Merged District is eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended.

(c) The formation of a Three-by-One Side-by-Side Structure shall not entitle the Merged District or an Existing District to qualify for the incentives provided in 2010 Acts and Resolves No. 153, Sec. 4. However, a Merged District that is otherwise entitled to incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, shall not lose these incentives due to its participation as a member of a Three-by-One Side-by-Side Structure.

Eighth: By striking out Sec. 4 in its entirety and inserting in lieu thereof the following:

Sec. 4. TWO-BY-TWO-BY-ONE SIDE-BY-SIDE STRUCTURE;
REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) that requires a single regional education district (RED) to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible for the incentives provided in No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46 if:

(1) Each new district is formed by the merger of at least two existing districts (each a Merged District) and, together with an Existing District, are, following the receipt of all approvals required under this section, members of the same supervisory union (Two-by-Two-by-One Side-by-Side Structure).

(2) As of March 7, 2017, town meeting day, the Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education; or

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District.

(3) Each Merged District and the Existing District, following the receipt of all approvals required under this section, have a model of operating schools or paying tuition that is different from the model of each other. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) The Two-by-Two-by-One Side-by-Side Structure meets all criteria for RED formation other than the size criterion of 2010 Acts and Resolves No. 153, Sec. 3(a)(1) (average daily membership of at least 1,250) and otherwise as provided in this section.

(5) The Existing District and the districts proposing to merge into the Merged Districts jointly submit a proposal to the State Board after the effective date of this section and demonstrate in their proposal that:

(A) the Two-by-Two-by-One Side-by-Side Structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6 and will meet the goals set forth in Sec. 2 of that act;

(B) the Existing District meets one or more of the criteria set forth in subdivision (2) of this subsection (a); and

(C) the Existing District has a detailed action plan it proposes to take to continue to improve its performance in connection with each of the goals set forth in 2015 Acts and Resolves No. 46, Sec. 2.

(6) The Existing District and the districts proposing to merge into the Merged Districts obtain State Board approval of their proposal to form the proposed Two-by-Two-by-One Side-by-Side Structure.

(7) The Existing District obtains the approval of its electorate to be an Existing District in the proposed Two-by-Two-by-One Side-by-Side Structure on or before November 30, 2017.

(8) The districts proposing to merge into each Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and each Merged District becomes fully operational on or before July 1, 2019.

(9) Each Merged District has the same effective date of merger.

(10) The Two-by-Two-by-One Side-by-Side Structure is formed on or before November 30, 2019 in the manner approved by the State Board.

(b) The districts that are proposing to merge into the Merged Districts may include:

(1) districts that have not received, as of the effective date of this section, approval from their electorate to merge, regardless of whether the Merged District will be eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended; and

(2) districts that received, on or after July 1, 2010 but prior to the effective date of this section, approval from their electorate to merge but are not operational as a Merged District as of the effective date of this section, regardless of whether the Merged District is eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended.

(c) If the conditions of this section are met, the incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 shall be available to each Merged District, unless the Merged District has already received incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended. These incentives shall not be available to the Existing District.

(d) If the conditions of this section are met, the Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10, to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and exempt from the State Board's statewide plan.

Ninth: By adding three new sections, to be Secs. 6a, 6b, and 6c, with reader assistances, to read as follows:

* * * Reduction of Average Daily Membership; Guidelines for Alternative Structures * * *

Sec. 6a. 2015 Acts and Resolves No. 46, Sec. 5 is amended to read:

Sec. 5. PREFERRED EDUCATION GOVERNANCE STRUCTURE;
ALTERNATIVE STRUCTURE

* * *

(c) Alternative structure: supervisory union with member districts. An Education District as envisioned in subsection (b) of this section may not be possible or the best model to achieve Vermont's education goals in all regions of the State. In such situations, a supervisory union composed of multiple member districts, each with its separate school board, ~~can~~ may meet the State's goals, particularly if:

(1) the member districts consider themselves to be collectively responsible for the education of all prekindergarten through grade 12 students residing in the supervisory union;

(2) the supervisory union operates in a manner that complies with its obligations under 16 V.S.A. § 261a and that maximizes efficiencies through economies of scale and the flexible management, transfer, and sharing of nonfinancial resources among the member districts, which may include a common personnel system, with the goal of increasing the ratio of students to full-time equivalent staff;

(3) the supervisory union has the smallest number of member school districts practicable, achieved wherever possible by the merger of districts with similar operating and tuitioning patterns; ~~and~~

(4) the supervisory union has the smallest number of member school districts practicable after consideration of greatly differing levels of indebtedness among the member districts; and

~~(4)~~(5) the combined average daily membership of all member districts is not less than ~~1,100~~ 900.

* * * Secretary and State Board; Consideration of Alternative Structure
Proposals * * *

Sec. 6b. 2015 Acts and Resolves No. 46, Sec. 10 is amended to read:

Sec. 10. TRANSITION TO SUSTAINABLE GOVERNANCE

STRUCTURES; PROPOSAL; FINAL PLAN

* * *

(c) Process. On and after October 1, 2017, the Secretary and State Board shall consider any proposals submitted by districts or groups of districts under Sec. 9 of this act. Districts that submit such a proposal shall have the opportunity to add to or otherwise amend their proposal in connection with the Secretary's consideration of the proposal and conversations with the district or districts under subsection (a) of this section, and in connection with testimony presented to the State Board under subsection (b) of this section. The State

Board may, in its discretion, approve an alternative governance proposal at any time on or before November 30, 2018.

(d) The statewide plan required by subsection (b) of this section shall include default Articles of Agreement to be used by all new unified union school districts created under the plan until the board of the new district votes to approve new or amended articles.

(e) After the State Board of Education issues the statewide plan under subsection (b) of this section, districts subject to merger shall have 90 days to form a study committee under 16 V.S.A. § 706b and to draft Articles of Agreement for the new district. During this period, the study committee shall hold at least one public hearing to consider and take comments on the draft Articles of Agreement.

(f) If the study committee formed under subsection (e) of this section does not approve Articles of Agreement within the 90-day period provided in that subsection, the provisions in the default Articles of Agreement included in the statewide plan shall apply to the new district.

(e)(g) Applicability. This section shall not apply to:

(1) an interstate school district;

(2) a regional career technical center school district formed under 16 V.S.A. chapter 37, subchapter 5A; or

(3) a district that, between June 30, 2013 and July 2, 2019, began to operate as a unified union school district and:

(A) voluntarily merged into the preferred education governance structure, an Education District, as set forth Sec. 5(b) of this act; or

(B) is a regional education district or any other district eligible to receive incentives pursuant to 2010 Acts and Resolves No. 153, as amended by 2012 Acts and Resolves No. 156.

* * * Deadline for Small School Support Metrics * * *

Sec. 6c. 2015 Acts and Resolves No. 46, Sec. 21 is amended to read:

Sec. 21. SMALL SCHOOL SUPPORT; METRICS

On or before July 1, 2018, the State Board of Education shall adopt and publish metrics by which it will make determinations whether to award small school support grants pursuant to 16 V.S.A. § 4015 on and after July 1, 2019, as amended by Sec. 20 of this act; provided, however, that on or before September 30, 2017, the State Board shall publish a list of districts that it determines to be geographically isolated pursuant to that section as amended by Sec. 20 of this act.

Tenth: By striking out Sec. 7 (Self-Evaluation, Meetings, and Proposal) in its entirety and inserting in lieu thereof the following:

Sec. 7. 2015 Acts and Resolves No. 46, Sec. 9 is amended to read:

Sec. 9. SELF-EVALUATION, MEETINGS, AND PROPOSAL

(a) On or before November 30, 2017 the date that is the earlier of six months after the date the State Board's rules on the process for submitting alternative governance proposals take effect or January 31, 2018, the board of each school district in the State that has a governance structure different from the preferred structure identified in Sec. 5(b) of this act (Education District), or that does not expect to become or will not become an Education District on or before July 1, 2019, shall perform each of the following actions, unless the district qualifies for an exemption under Sec. 10(g) of this act.

* * *

Eleventh: In Sec. 9, in subsection (e), by deleting subsection (e) in its entirety

Twelfth: By adding a new section, to be Sec. 17, to read as follows:

Sec. 17. QUALIFICATION FOR INCENTIVES; ASSIGNMENT TO A SUPERVISORY UNION BY THE STATE BOARD

Notwithstanding any requirement under 2015 Acts and Resolves No. 46, Secs. 6 and 7 that the newly formed school district be its own supervisory district, the newly formed school district shall qualify for the incentives under this section even if it is assigned to a supervisory union by the State Board of Education and that assignment by the State Board is not made at the request of the school district.

Thirteen: By adding four new sections, to be Secs. 18, 19, 20, and 21, with reader assistances, to read as follows:

* * * State Board Rulemaking Authority * * *

Sec. 18. 2015 Acts and Resolves No. 46, Sec. 8 is amended to read:

Sec. 8. EVALUATION BY THE STATE BOARD OF EDUCATION

* * *

(c) The State Board may adopt rules designed to assist districts in submitting alternative structure proposals, but shall not by rule or otherwise impose more stringent requirements than those in this act.

* * * Tax Provisions * * *

Sec. 19. CALCULATION OF EDUCATION PROPERTY TAX SPENDING ADJUSTMENT AND EDUCATION INCOME TAX SPENDING

ADJUSTMENT FOR CERTAIN SCHOOL DISTRICTS

(a) Under this section, a qualifying school district is a school district:

(1) that operates no schools and pays tuition for all resident students in prekindergarten through grade 12;

(2) that, on or before November 15, 2017, obtains final approval from its electorate to consolidate with an existing unified union school district that is eligible to receive incentives under 2010 Acts and Resolves No. 153 (consolidated district), as amended; and

(3) for which either:

(A) the education property tax spending adjustment under 32 V.S.A. § 5401(13)(A) for the district's fiscal year 2017 exceeded the district's education property tax spending adjustment for the district's 2015 fiscal year by more than 100 percent; or

(B) the education income tax spending adjustment under 32 V.S.A. § 5401(13)(B) for the district's fiscal year 2017 exceeded the district's education income tax spending adjustment for the district's 2015 fiscal year by more than 100 percent.

(b) Notwithstanding any provision of law to the contrary:

(1) for the first year in which the consolidated district's equalized homestead tax rate or household income percentage is reduced under 2010 Acts and Resolves No. 153, as amended, the equalized homestead tax rate and household income percentage for the town associated with the qualifying district shall be set at the average equalized homestead tax rate and household income percentage of the towns associated with the other districts that merge into the consolidated district; and

(2) 2010 Acts and Resolves No. 153, Sec. 4(a)(2), which limits the amount by which tax rates are permitted to change, shall not apply to the town associated with the qualifying district for the first year for which the consolidated district's equalized homestead tax rate or household income percentage is reduced under that act.

Sec. 20. MODIFIED UNIFIED UNION SCHOOL DISTRICTS; TAX RATE CALCULATIONS

The tax rate provisions in 2010 Acts and Resolves No. 155, Sec. 13(a)(1), as amended, shall not apply to the calculation of tax rates in a member of a modified unified union school district (MUUSD) formed under 2012 Acts and Resolves No. 156, Sec. 17, as amended, if that member is a member for fewer than all grades, prekindergarten through grade 12. This section shall apply to

the calculation of taxes in any MUUSD that began full operation after July 1, 2015.

* * * Elections to Unified Union School District Board * * *

Sec. 21. ELECTIONS TO UNIFIED UNION SCHOOL DISTRICT BOARD

(a) Notwithstanding any provision to the contrary under 16 V.S.A. § 706k, the election of a director on the board of a unified union school district who is to serve on the board after expiration of the term for an initial director shall be held at the unified union school district’s annual meeting in accordance with the district’s articles of agreement.

(b) Notwithstanding any provision to the contrary under 16 V.S.A. § 706l, if a vacancy occurs on the board of a unified union school district and the vacancy is in a seat that is allocated to a specific town, the clerk shall immediately notify the selectboard of the town. Within 30 days of the receipt of that notice, the unified union school district board, in consultation with the selectboard, shall appoint a person who is otherwise eligible to serve as a member of the unified union school district board to fill the vacancy until an election is held in accordance with the unified union school district’s articles of agreement.

(c) This section is repealed on July 1, 2018.

and by renumbering the remaining section (Effective Date) to be numerically correct

(Committee vote: 11-0-0)

(For text see Senate Journal March 30, 31, 2017)

Rep. Ancel of Calais, 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 Education and when further amended as follows:

House propose to the Senate that the report be amended in the ninth instance of amendment, in Sec. 6a, amending 2015 Acts and Resolves No. 46, Sec. 5 (preferred education governance structure; alternative structure), by striking out the section designation “PREFERRED EDUCATION GOVERNANCE STRUCTURE; ALTERNATIVE STRUCTURE” and inserting in lieu thereof “PREFERRED EDUCATION GOVERNANCE STRUCTURE; ALTERNATIVE STRUCTURE GUIDELINES”.

(Committee Vote: 10-0-1)

Rep. Juskiewicz of Cambridge, for the Committee on Appropriations, recommends the bill ought to pass in concurrence of amendment as recommended by the Committees on Education and Ways and Means.

(Committee Vote: 11-0-0)

ACTION CALENDAR

Third Reading

S. 103

An act relating to the regulation of toxic substances and hazardous materials

S. 131

An act relating to State's Attorneys and sheriffs

NOTICE CALENDAR

Favorable with Amendment

S. 95

An act relating to sexual assault nurse examiners

Rep. Wood of Waterbury, 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:

Sec. 1. 13 V.S.A. chapter 167, subchapter 5 is amended to read:

Subchapter 5. Sexual Assault Nurse Examiners

§ 5431. DEFINITION; CERTIFICATION

(a) As used in this subchapter, "SANE" means a sexual assault nurse examiner.

(b) A person licensed under 26 V.S.A. chapter 28 (nursing) may obtain a specialized certification from the SANE Program as a sexual assault nurse examiner if he or she demonstrates compliance with the requirements for specialized certification as established by the SANE Board.

§ 5432. SANE BOARD

(a) The SANE Board is created for the purpose of ~~regulating sexual assault nurse examiners~~ advising the Sexual Assault Nurse Examiners Program.

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

(1) the Executive Director of the Vermont State Nurses Association or designee;

(2) the President of the Vermont Association of Hospitals and Health

Systems;

(3) the Director of the Vermont Forensic Laboratory or designee;

(4) the Director of the Vermont Network Against Domestic and Sexual Violence or designee;

(5) an attorney with experience prosecuting sexual assault crimes, appointed by the Attorney General;

(6) the Executive Director of the Vermont Center for Crime Victim Services or designee;

(7) a law enforcement officer assigned to one of Vermont's special units of investigation, appointed by the Commissioner of Public Safety;

(8) a law enforcement officer employed by a municipal police department, appointed by the Executive Director of the Vermont Criminal Justice Training Council;

(9) three sexual assault nurse examiners, appointed by the Attorney General;

(10) a ~~physician~~ health care provider as defined in 18 V.S.A. § 9402 whose practice includes the care of victims of sexual assault, appointed by the ~~Vermont Medical Society~~ Commissioner of Health;

(11) a pediatrician whose practice includes the care of victims of sexual assault, appointed by the Vermont Chapter of the American Academy of Pediatrics;

(12) the Coordinator of the Vermont Victim Assistance Program or designee;

(13) the President of the Vermont Alliance of Child Advocacy Centers or designee;

(14) the Chair of the Vermont State Board of Nursing or designee; ~~and~~

(15) the Commissioner for Children and Families or designee; and

(16) the Commissioner of Health or designee.

(c) The SANE Board shall advise the SANE Program on the following:

(1) statewide program priorities;

(2) training and educational requirements;

(3) a standardized sexual assault protocol and kit to be used by all physicians and hospitals in this State when providing forensic examinations of victims of alleged sexual offenses; and

(4) statewide policy development related to sexual assault nurse examiner programs.

§ 5433. SANE PROGRAM CLINICAL COORDINATOR

~~A grant program shall be established by~~ A clinical coordinator position shall be funded by either the Vermont Center for Crime Victim Services, subject to available funding, to fund a clinical coordinator position or through other identified State funding options for the purpose of staffing the SANE program ~~Program~~. The position shall be contracted through the Vermont Network Against Domestic and Sexual Violence. The Clinical Coordinator shall consult with the SANE Board in performing the following duties:

(1) overseeing the recruitment and retention of SANEs in the State of Vermont;

(2) administering a statewide ~~training~~ educational program, including:

(A) the initial SANE certification training;

(B) ongoing training to ensure currency of practice for SANEs; and

(C) advanced training programs as needed;

(3) providing consultation ~~and~~ technical assistance, and training to SANEs and acute care hospitals regarding the ~~standardized sexual assault protocol~~ standards of care for sexual assault patients; and

(4) providing training and outreach to criminal justice and community-based agencies as needed; and

(5) coordinating and managing a system for ensuring best practices;

(6) granting certifications, pursuant to section 5431 of this title, to candidates who demonstrate compliance with the requirements for specialized certification as established by the SANE Board.

§ 5434. SANE BOARD DUTIES

~~(a) A person licensed under 26 V.S.A. chapter 28 (nursing) may obtain a specialized certification as a sexual assault nurse examiner if he or she demonstrates compliance with the requirements for specialized certification as established by the SANE Board by rule.~~

~~(b) The SANE Board shall adopt the following by rule:~~

~~(1) educational requirements for obtaining specialized certification as a sexual assault nurse examiner and statewide standards for the provision of education;~~

~~(2) continuing education requirements and clinical experience necessary for maintenance of the SANE specialized certification;~~

~~(3) a standardized sexual assault protocol and kit to be used by all physicians and hospitals in this State when providing forensic examinations of victims of alleged sexual offenses;~~

~~(4) a system of monitoring for compliance; and~~

~~(5) processes for investigating complaints, revoking certification, and appealing decisions of the Board.~~

~~(e) The SANE Board may investigate complaints against a sexual assault nurse examiner and may revoke certification as appropriate. [Repealed.]~~

§ 5435. ACCESS TO A SEXUAL ASSAULT NURSE EXAMINER

(a) On or before September 1, 2017, the Vermont Association of Hospitals and Health Systems (VAHHS) and the Vermont SANE Program shall enter into a memorandum of understanding (MOU) to ensure improved access to sexual assault nurse examiners (SANE) for victims of sexual assault in underserved regions. Improved access may include all acute care hospitals to provide patients with care from a paid employee who is also a certified sexual assault nurse examiner or access to a shared regional staffing pool that includes certified sexual assault nurse examiners.

(b) The Vermont SANE Program shall develop and offer an annual training regarding standards of care and forensic evidence collection to emergency department appropriate health care providers at acute care hospitals in Vermont. Personnel who are certified sexual assault nurse examiners shall not be subject to this subsection.

(c) On or before January 1, 2018, the SANE Program shall report to the General Assembly on training participation rates pursuant to subsection (b) of this section.

Sec. 2. SEXUAL ASSAULT EVIDENCE KITS; STUDY COMMITTEE

(a) Creation. There is created the Sexual Assault Evidence Kit Study Committee for the purpose of conducting a comprehensive examination of issues related to sexual assault evidence kits.

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

(1) the Director of the Vermont Forensic Laboratory or designee;

(2) the Executive Director of the Vermont Center for Crime Victims Services or designee;

(3) the Commissioner of Health or designee;

(4) a representative of the Vermont Sexual Assault Nurse Examiners

(SANE) Program;

(5) a representative of the county special investigative units appointed by the Executive Director of the State's Attorneys and Sheriffs; and

(6) a law enforcement professional appointed by the Commissioner of Public Safety.

(c) Powers and duties. The Committee shall address the following issues:

(1) the current practices for kit tracking;

(2) the effectiveness and cost of a system allowing for the online completion of sexual assault evidence kit documentation with electronic notification after reports are submitted;

(3) the feasibility and cost of a web-based tracking system to allow agencies involved in the response and prosecution of sexual assault to track sexual assault evidence kits, pediatric sexual assault evidence kits, and toxicology kits using a bar code number uniquely assigned to each kit;

(4) the effectiveness and challenges of the current system of police transport of evidence kits from hospitals to the Vermont Forensic Laboratory; and

(5) the feasibility and cost of alternative methods of transport of sexual assault evidence kits such as mail, delivery service, or courier.

(d) Assistance. The Center for Crime Victim Services shall convene the first meeting of the Committee and provide support services.

(e) Report. On or before November 1, 2017, the SANE Program, on behalf of the Committee, shall submit a written report to the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Center for Crime Victim Services shall call the first meeting of the Committee to occur on or before August 1, 2017.

(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 January 15, 2018.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(Committee vote: 10-0-1)

(For text see Senate Journal March 23, 2017)

S. 100

An act relating to promoting affordable and sustainable housing

Rep. Baser of Bristol, for the Committee on Ways and Means, 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 Housing and Conservation Board;

Housing Bond Proceeds for Affordable Housing * * *

Sec. 1. FINDINGS AND PURPOSE; AFFORDABLE HOUSING BOND

(a) Findings.

(1) The General Assembly finds that investments are needed to help house the most vulnerable as well as creating more homes for workers.

(2) The shortage of affordable and available homes has been highlighted recently by:

(A) the Vermont Futures Project of the Vermont Chamber of Commerce, which set a growth target of 5,000 new and improved housing units annually;

(B) a national consultant's recommendations for a Roadmap to End Homelessness, which calls for, over the next five years, 368 new units for permanent supportive housing and 1,251 new homes affordable to families with income that is not more than 30 percent of the median; and

(C) the 2015 statewide housing needs assessment by Bowen National Research, which found the largest gaps in housing affordable to households with income below 30 percent of median and households with income between 85 percent and 120 percent of median, and found a lack of housing availability across the income spectrum.

(b) Purpose. The purpose of this act is to promote the development and improvement of housing for Vermonters.

Sec. 2. 10 V.S.A. § 314 is added to read:

§ 314. AFFORDABLE HOUSING BOND; INVESTMENT

The Vermont Housing and Conservation Board shall use the proceeds of

bonds, notes, and other obligations issued by the Vermont Housing Finance Agency pursuant to subdivision 621(22) of this title and transferred to the Vermont Housing and Conservation Trust Fund to fund the creation and improvement of owner-occupied and rental housing for Vermonters with very low to middle income, in areas targeted for growth and reinvestment, as follows:

(1) not less than 25 percent of the housing shall be targeted to Vermonters with very low income, meaning households with income below 50 percent of area median income;

(2) not less than 25 percent of the housing shall be targeted to Vermonters with moderate income, meaning households with income between 80 and 120 percent of area median income; and

(3) the remaining housing shall be targeted to Vermonters with income that is less than or equal to 120 percent of area median income, consistent with the provisions of this chapter.

Sec. 2a. 10 V.S.A. § 315 is added to read:

§ 315. AFFORDABLE HOUSING FUND

There is created the Affordable Housing Fund, the sole purpose of which shall be to serve as the depository of the first \$2,500,000.00 of revenues from the property transfer tax pursuant to 32 V.S.A. § 9610(d), which shall be distributed to the Vermont Housing Finance Agency to service the debt for bonds, notes, and other obligations pursuant to subdivision 621(22) of this title, the proceeds of which the Vermont Housing and Conservation Trust Fund shall use for the creation and improvement of affordable housing pursuant to section 314 of this title.

Sec. 3. 10 V.S.A. § 323 is amended to read:

§ 323. ANNUAL REPORT

Prior to January 31 of each year, the ~~board~~ Board shall submit a report concerning its activities to the ~~governor~~ Governor and ~~legislative committees on agriculture, natural resources and energy, appropriations, ways and means, finance, and institutions~~ to the House Committees on Agriculture and Forestry, on Appropriations, on Corrections and Institutions, on Natural Resources, Fish and Wildlife, and on Ways and Means and the Senate Committees on Agriculture, on Appropriations, on Finance, on Institutions, and on Natural Resources and Energy. The report shall include, ~~but not be limited to~~, the following:

(1) a list and description of activities funded by the ~~board~~ Board during the preceding year, including commitments made to fund projects through

housing bond proceeds pursuant to section 314 of this title, and project descriptions, levels of affordability, and geographic location;

* * *

* * * Allocation of Property Transfer Tax Revenues * * *

Sec. 4. 32 V.S.A. § 9610 is amended to read:

§ 9610. REMITTANCE OF RETURN AND TAX; INSPECTION OF
RETURNS

(a) Not later than 30 days after the receipt of any property transfer return, a town clerk shall file the return in the office of the town clerk and electronically forward a copy of the acknowledged return to the Commissioner; provided, however, that with respect to a return filed in paper format with the town, the Commissioner shall have the discretion to allow the town to forward a paper copy of that return to the ~~department~~ Department.

(b) The copies of property transfer returns in the custody of the town clerk may be inspected by any member of the public.

(c) Prior to distributions of property transfer tax revenues under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), and ~~32 V.S.A. § subdivision~~ subdivision 435(b)(10) of this title, one two percent of the revenues received from the property transfer tax shall be deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs.

(d)(1) Prior to any distribution of property transfer tax revenue under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and subsection (c) of this section, \$2,500,000.00 of the revenue received from the property transfer tax shall be deposited in the Affordable Housing Fund created in 10 V.S.A. § 315 and distributed to the Vermont Housing Finance Agency to pay the principal of and interest due on the bonds, notes, and other obligations authorized to be issued by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(2) As long as the bonds, notes, and other obligations incurred pursuant to subdivision (1) of this subsection remain outstanding, the rate of tax imposed pursuant to section 9602 of this title shall not be reduced below a rate estimated, at the time of any reduction, to generate annual revenues of at least \$12,000,000.00.

* * * Vermont Housing Finance Agency; Authority to Issue Bonds for
Affordable Housing * * *

Sec. 5. 10 V.S.A. § 621 is amended to read:

§ 621. GENERAL POWERS AND DUTIES

The Agency shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including without limitation those general powers provided a business corporation by 11A V.S.A. § 3.02 and those general powers provided a nonprofit corporation by 11B V.S.A. § 3.02 and including, without limiting the generality of the foregoing, the power to:

* * *

(21) use funds received from real estate trust and escrow accounts established under 26 V.S.A. § 2214(c), IORTA funds, for down payment and closing cost assistance with priority given to persons and families at or below 90 percent of median income and to persons and families purchasing perpetually affordable housing;

(22) issue bonds, notes, and other obligations secured by the property transfer tax revenues transferred to the Agency pursuant to 32 V.S.A. § 9610(d).

Sec. 6. 10 V.S.A. § 631(1) is added to read:

(1)(1) The bonds, notes, and other obligations authorized to be issued pursuant to subdivision 621(22) of this title shall be secured by a pledge of the property transfer tax revenues to be transferred to the Agency pursuant to 32 V.S.A. § 9610(d) and shall mature on or before June 30, 2039.

(2) The Agency may issue the bonds, notes, and other obligations in one or more series at one time or from time to time, provided that the aggregate annual debt service on the bonds, notes, and other obligations shall not exceed \$2,500,000.00 at any time.

(3) The Agency shall transfer the proceeds of the bonds, notes, and other obligations, less issuance fees and costs and required reserves, to the Vermont Housing and Conservation Trust Fund established pursuant to section 312 of this title for use by the Vermont Housing and Conservation Board as provided in section 314 of this title.

(4) The Agency, the Vermont Housing and Conservation Board, and the State Treasurer may execute one or more agreements governing the terms and conditions under which the property transfer tax revenues that secure the bonds, notes, and obligations shall be transferred to the Agency, and any other issues they determine appropriate.

* * * Funding for Affordable Housing Bond Program;

Allocation of Revenues; Intent * * *

Sec. 7. INTENT; FUNDING FOR AFFORDABLE HOUSING BOND PROGRAM; ALLOCATION OF PROPERTY TRANSFER TAX REVENUES

(a) Revenues from the property transfer tax, before the passage of this act, were allocated pursuant to statute as follows:

(1) The first two percent is deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs pursuant to 32 V.S.A. § 9610(c).

(2) Of the remaining 98 percent of the revenues:

(A) 17 percent is deposited in the Municipal and Regional Planning Fund created in 24 V.S.A. § 4306.

(B) 50 percent is deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

(C) 33 percent is deposited in the General Fund created in 32 V.S.A. § 435.

(b) Pursuant to Sec. 4 of this act, in 32 V.S.A. § 9610(d), the first \$2,500,000.00 of revenue generated from the property transfer tax is deposited in the Affordable Housing Fund created in 10 V.S.A. § 315 and distributed to the Vermont Housing Finance Agency to service the bonds, notes, and other obligations incurred by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(c) Transferring the first \$2,500,000.00 of property transfer tax revenues to the Vermont Housing Finance Agency for debt service reduces the amount of revenues available for allocation to the respective statutory recipients identified in subsection (a) of this section.

(d) To compensate for this reduction of available property transfer tax revenue, it is the intent of the General Assembly through this act to provide for the transfer of \$2,500,000.00 to the Vermont Housing and Conservation Trust Fund, as follows:

(1) Sec. D.100(a)(2) of H.518 (2017) appropriates \$11,304,840.00 in fiscal year 2018 from the Vermont Housing and Conservation Trust Fund to the Vermont Housing and Conservation Board. Upon the effective date of this act, the amount of \$1,500,000.00 shall revert to the Vermont Housing and Conservation Trust Fund, resulting in a fiscal year 2018 total appropriation to the Board of \$9,804,840.00. In fiscal year 2018 only, the amount of \$1,500,000.00 shall be transferred from the Vermont Housing and

Conservation Trust Fund to the General Fund.

(2) As provided in Sec. 9 of this act, from July 1, 2017 until July 1, 2039, pursuant to 32 V.S.A. § 9602a(d), the first \$1,000,000.00 in revenue generated by the clean water surcharge of 0.2 percent shall be transferred to the Vermont Housing and Conservation Trust Fund. In fiscal year 2018 only, the Commissioner shall transfer the amount of \$1,000,000.00 from the Vermont Housing and Conservation Trust Fund to the General Fund.

* * * Clean Water Surcharge; Repeal of 2018 Sunset * * *

Sec. 8. REPEAL; SUNSET OF CLEAN WATER SURCHARGE

2015 Acts and Resolves No. 64, Sec. 39 (sunset of clean water surcharge in 2018) is repealed.

* * * Clean Water Surcharge; Allocation of
First \$1 Million in Revenue until 2039 * * *

Sec. 9. 32 V.S.A. § 9602a is amended to read:

§ 9602a. CLEAN WATER SURCHARGE

There shall be a surcharge of 0.2 percent on the value of property subject to the property transfer tax under section 9602 of this title, except that there shall be no surcharge on the first \$100,000.00 in value of property to be used for the principal residence of the transferee or the first \$200,000.00 in value of property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase. The surcharge shall be in addition to any tax assessed under section 9602 of this title. The surcharge assessed under this section shall be paid, collected, and enforced under this chapter in the same manner as the tax assessed under section 9602 of this title. The Commissioner shall deposit the surcharge collected under this section in the Clean Water Fund under 10 V.S.A. § 1388, except for the first \$1,000,000.00 of revenue generated by the surcharge, which shall be deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

* * * Clean Water Surcharge; Allocation of
Revenue after 2039 * * *

Sec. 10. 32 V.S.A. § 9602a is amended to read:

§ 9602a. CLEAN WATER SURCHARGE

There shall be a surcharge of 0.2 percent on the value of property subject to

the property transfer tax under section 9602 of this title, except that there shall be no surcharge on the first \$100,000.00 in value of property to be used for the principal residence of the transferee or the first \$200,000.00 in value of property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase. The surcharge shall be in addition to any tax assessed under section 9602 of this title. The surcharge assessed under this section shall be paid, collected, and enforced under this chapter in the same manner as the tax assessed under section 9602 of this title. The Commissioner shall deposit the surcharge collected under this section in the Clean Water Fund under 10 V.S.A. § 1388, ~~except for the first \$1,000,000.00 of revenue generated by the surcharge, which shall be deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.~~

* * * Repeal of Affordable Housing Bond Provisions After Life of Bond * * *

Sec. 11. REPEAL

The following shall be repealed on July 1, 2039:

(1) 10 V.S.A. § 314 (Vermont Housing and Conservation Board; affordable housing bond and investments).

(2) 10 V.S.A. § 315 (Affordable Housing Fund).

(3) 10 V.S.A. § 621(22) (Vermont Housing Finance Agency (VHFA) authority to issue debt obligations secured by property transfer tax).

(4) 10 V.S.A. § 631(l) (debt obligations issued by VHFA).

(5) 32 V.S.A. § 9610(d) (property transfer tax priority for affordable housing debt repayment).

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except for Sec. 10 (entire clean water surcharge to clean water fund), which shall take effect on July 1, 2039.

(Committee vote: 8-3-0)

(For text see Senate Journal May 3, 2017)

Senate Proposal of Amendment

H. 495

An act relating to miscellaneous agriculture subjects

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

* * * Administrative Penalty Process * * *

Sec. 1. 6 V.S.A. § 13 is amended to read:

§ 13. ASSURANCES OF DISCONTINUANCE

(a) As an alternative to administrative or judicial proceedings, the ~~secretary~~ Secretary may accept an assurance of discontinuance of any violation. An assurance of discontinuance may include, ~~but need not be limited to:~~

- (1) specific actions to be taken;
- (2) abatement or mitigation schedules;
- (3) payment of a civil or administrative penalty and the costs of investigation; or
- (4) payment of an amount to be held in escrow pending the outcome of an action, or as restitution to aggrieved persons.

(b) An assurance of discontinuance shall be in writing, and may by its terms be filed with the ~~superior court~~ Superior Court having jurisdiction over the subject matter and become an order of the court. Evidence of a violation of an assurance of discontinuance shall be prima facie proof of the violation.

(c) Any violation of an assurance of discontinuance shall constitute a separate and distinct offense of the underlying regulatory program and shall be subject to the applicable general penalties for violations of the law under that program, in addition to any other applicable penalties.

(d) Costs of investigations collected under subsection (a) of this section shall be credited to a special fund and shall be available to the ~~agency~~ Agency to offset these costs.

Sec. 2. 6 V.S.A. § 16 is amended to read:

§ 16. NOTICE AND FAIR HEARING REQUIREMENTS

(a) The ~~secretary~~ Secretary shall use the following procedures in assessing the penalty under section 15 of this title: the alleged violator shall be given an opportunity for hearing after reasonable notice and the notice shall be served by personal service or by certified mail, ~~return receipt requested~~ sent to the last address of record on file with the Agency. If the alleged violator is not an

applicant for or holder of a license, permit, registration, or certification issued by the Agency, the notice shall be served by personal service or by certified mail, return receipt requested. The notice shall include:

(1) a A statement of the legal authority and jurisdiction under which the hearing is to be held;

(2) a A statement of the matter at issue, including reference to the particular statute or administrative rule allegedly violated and a factual description of the alleged violation;

(3) ~~the~~ The amount of the proposed administrative penalty; and required corrective action, abatement, or mitigation.

(4) a A warning that the decision shall become final and the penalty shall be imposed if no hearing is requested within 15 days of receipt service of the notice. The notice shall specify the requirements ~~which~~ that must be met in order to avoid being deemed to have waived the right to a hearing, or the manner of payment if the person elects to pay the penalty and waive a hearing.

(b) Any person who receives notification pursuant to this section shall be deemed to have waived the right to a hearing unless, within 15 days of the receipt of the notice, the person requests a hearing in writing. If the person waives the right to a hearing, the ~~secretary~~ Secretary shall issue a final order finding the person in default and imposing the penalty and any required corrective action, abatement, or mitigation. A copy of the final default order shall be ~~sent to~~ served upon the violator by certified mail, return receipt requested, or by personal service.

(c) When an alleged violator requests a hearing in a timely fashion, the ~~secretary~~ Secretary shall hold the hearing pursuant to 3 V.S.A. chapter 25.

Sec. 3. 6 V.S.A. § 17 is amended to read:

§ 17. COLLECTIONS

(a) The ~~secretary~~ Secretary may collect an unpaid administrative or civil penalty by filing a civil collection action in any ~~district or superior court,~~ Superior Court or through any other means available to ~~state~~ State agencies.

(b) The ~~secretary~~ Secretary may, subject to 3 V.S.A. chapter 25, suspend any license, certificate, registration, or permit issued pursuant to his or her authority for failure to pay a penalty under this chapter more than ~~60~~ 45 days after the penalty was ~~issued~~ imposed by order and served.

* * * Acceptance of Gifts of Real Property * * *

Sec. 4. 6 V.S.A. § 14 is amended to read:

§ 14. ACCEPTANCE OF GIFTS OF REAL PROPERTY

The ~~secretary~~ Secretary, with the approval of the ~~governor~~ Governor, may accept gifts of the rights and interests in real property in the manner provided by 10 V.S.A. chapter 155. Rights or interests in real property acquired by the Secretary through transactions funded in whole or in part by the Vermont Housing and Conservation Board are deemed as accepted by the Governor.

* * * Meat Inspection * * *

Sec. 5. 6 V.S.A. § 3306(i) is amended to read:

(i) All applicants for licensure or relicensure as a commercial slaughter facility shall submit a written humane livestock handling plan or a good commercial practices plan for poultry for review and approval by the Secretary of Agriculture, Food and Markets or designee. The Secretary may suspend, revoke, or condition any commercial slaughter facility license, after notice and opportunity for hearing, for a licensee's failure to adhere to the written plan.

* * * Weights and Measures * * *

Sec. 6. 9 V.S.A. § 2730(c) is amended to read:

(c) Any person wishing to obtain a license to operate a weighing or measuring device shall annually apply to the Secretary, on forms provided by the Secretary, on or before January 1. Each application shall be accompanied by a fee as specified in this section. Except for new applicants, any applicant who applies for a license after January 1 shall pay an additional late fee equal to 10 percent of the specified fee a late fee as provided for under 6 V.S.A. § 1(a)(13).

* * * Working Lands * * *

Sec. 7. 6 V.S.A. § 4607(b) is amended to read:

(b) Powers. The Vermont Working Lands Enterprise Board shall have the authority:

* * *

(6) to establish an application process and, eligibility criteria, and criteria for prioritizing assistance for awarding grants, loans, incentives, and other investments in agricultural and forestry enterprises and in food and forest systems, provided that the Board shall prioritize assistance under this chapter to a person engaged in farming or forestry before providing assistance to a nonprofit organization or nonprofit corporation for a project that competes with a person engaged in farming or forestry;

* * *

Sec. 8. WORKING LANDS ENTERPRISE BOARD; CRITERIA FOR PRIORITIZING AWARDS

On or before January 15, 2018, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry the guidelines that the Working Lands Enterprise Board shall use in prioritizing awards of assistance under 10 V.S.A. § 4607(b)(6).

* * * Multi-year Licensing * * *

Sec. 9. 6 V.S.A. § 1 is amended to read:

§ 1. GENERAL POWERS OF AGENCY; SECRETARY OF AGRICULTURE, FOOD AND MARKETS

(a) The Agency of Agriculture, Food and Markets shall be administered by a Secretary of Agriculture, Food and Markets. The Secretary shall supervise and be responsible for the execution and enforcement of all laws relating to agriculture and standards of weight and measure. The Secretary may:

* * *

(13) Notwithstanding any law to the contrary in this title or Title 9 or 20, issue all licenses, permits, registrations, or certificates under a program administered by the Secretary for a term of up to three years; renew and issue such licenses, permits, registrations, and certificates on any calendar cycle; collect any annual fee set by law for ~~such~~ the multiyear licensure, permit, registration, or certificate on a pro-rated basis, which shall not exceed 150 percent of the annual fee for an 18-month cycle, 200 percent of the annual fee for a two-year cycle, or 300 percent of the annual fee for a three-year cycle; and conduct inspections at regulated premises at least once every three years when inspection is required by law. The authority to mandate licenses, permits, registrations, or certificates for more than one year shall not extend to any program administered by the Secretary ~~where~~ for which the annual fee is more than ~~\$125.00~~ \$175.00. The Secretary shall only provide refunds for overpayments of \$25.00 or more on a license, permit, registration, or certificate issued by the Secretary. The Secretary may assess a late fee of \$27.00, provided that the late fee is no greater than the fee due, in which case the late fee shall equal the fee due, for any license, registration, permit, or certification renewal that is received more than 30 days past expiration, unless a higher late renewal fee is otherwise prescribed by statute.

* * *

* * * Subsurface Tile Drainage * * *

Sec. 10. 6 V.S.A. § 4810a(b) is amended to read:

(b)(1) On or before December 1, 2019, and prior to prefiling a rule under 3 V.S.A. § 837, the Secretary of Agriculture, Food and Markets shall submit to

the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry draft rules amending the required agricultural practices, in order to include requirements for reducing nutrient contribution to waters of the State from subsurface tile drainage. On or before January 15, 2018 July 1, 2020, the Secretary of Agriculture, Food and Markets shall amend by rule initiate rulemaking to amend the required agricultural practices, in order to include requirements for reducing nutrient contribution to waters of the State from subsurface tile drainage. Upon adoption of requirements for subsurface tile drainage, the Secretary may require an existing subsurface tile drain to comply with the requirements of the RAPs for subsurface tile drainage, upon a determination that compliance is necessary to reduce adverse impacts to water quality from the subsurface tile drain.

(2)(A) Beginning on July 1, 2017, the Secretary of Natural Resources, in consultation with the Secretary of Agriculture, Food and Markets, shall establish a program to map the location of subsurface tile drainage on farms in the State and to monitor, to the extent possible, the water quality effects of subsurface tile drainage on State waters. Beginning on January 1, 2018, and annually thereafter, the Secretary of Natural Resources shall submit to the Senate Committees on Natural Resources and Energy and on Agriculture and the House Committees on Natural Resources, Fish and Wildlife and on Agriculture and Forestry a report that includes:

(i) a map of identified subsurface tile drainage in the State; and

(ii) a list of the specific response or enforcement actions taken by the Agency of Natural Resources or the Agency of Agriculture, Food and Markets to address the effects of subsurface tile drainage on the waters of the State.

(B) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

* * * Use Value Appraisal; Agricultural Lands * * *

Sec. 11. 32 V.S.A. § 3752 is amended to read:

§ 3752. DEFINITIONS

As used in this subchapter:

(1) “Agricultural land” means any land, exclusive of any housesite, in active use to grow hay or cultivated crops, pasture livestock ~~or to~~ cultivate trees bearing edible fruit, or produce an annual maple product, and ~~which~~ that is 25 acres or more in size, except as provided in this subdivision (1). Agricultural land shall include buffer zones as defined and required in the Agency of Agriculture, Food and Markets’ Required Agricultural Practices rule adopted under 6 V.S.A. chapter 215. There shall be a presumption that

the land is used for agricultural purposes if:

(A) it is owned by a farmer and is part of the overall farm unit; or

(B) it is used by a farmer as part of his or her farming operation under written lease for at least three years; or

(C) it has produced an annual gross income from the sale of farm crops in one of two, or three of the five, calendar years preceding of at least:

(i) \$2,000.00 for parcels of up to 25 acres; and

(ii) \$75.00 per acre for each acre over 25, with the total income required not to exceed \$5,000.00.

(iii) Exceptions to these income requirements may be made in cases of orchard lands planted to ~~fruit-producing~~ fruit-producing trees, bushes, or vines ~~which that~~ are not yet of bearing age. As used in this section, the term “farm crops” also includes animal fiber, cider, wine, and cheese, produced on the enrolled land or on a housesite adjoining the enrolled land, from agricultural products grown on the enrolled land.

* * *

(14) “Farm buildings” means all farm buildings and other farm improvements ~~which that~~ are actively used by a farmer as part of a farming operation, are owned by a farmer or leased to a farmer under a written lease for a term of three years or more, and are situated on land that is enrolled in a use value appraisal program or on a housesite adjoining enrolled land. “Farm buildings” shall include up to \$100,000.00 of the value of a farm facility processing farm crops, a minimum of 75 percent of which are produced on the farm and shall not include any dwelling, other than a dwelling in use during the ~~preceding tax year~~ prior 12 months exclusively to house one or more farm employees, as defined in 9 V.S.A. § 4469a, and their families, as a nonmonetary benefit of the farm employment. This subdivision shall not affect the application of the definition of “farming” in 10 V.S.A. § 6001(22) or the definition of “farm structure” in 24 V.S.A. § 4413(d)(1).

* * *

Sec. 12. 32 V.S.A. § 3755 is amended to read:

§ 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

(a) Except as modified by subsection (b) of this section, any agricultural land, managed forestland, and farm buildings ~~which that~~ meet the criteria contained in this subchapter and in the ~~regulations~~ rules adopted by the Board shall be eligible for use value appraisal.

* * *

(d) After a parcel of managed forestland has been removed from use value appraisal due to an adverse inspection report under subdivision 3756(i)(1) of this title, a new application for use value appraisal ~~will~~ shall not be considered for a period of five years, and then shall be approved by the Department of Forests, Parks and Recreation only if a compliance report has been filed with the new application, certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

* * *

(f) On or before ~~September~~ November 1 of each year, the owner of agricultural land or buildings enrolled in the use value program as agricultural land or buildings shall certify in writing under oath to the Commissioner that the agricultural land or buildings enrolled by that owner continue to meet the requirements for enrollment in the use value program at the time of the certification. The form of the certification shall be made on a form specified by the Director of Property Valuation and Review.

* * * Raw Milk * * *

Sec. 13. 6 V.S.A. § 2776 is amended to read:

§ 2776. DEFINITIONS

In this chapter:

(1) “Consumer” means a customer who purchases, barter for, receives delivery of, or otherwise acquires unpasteurized milk according to the requirements of this chapter.

(2) “Milk” shall have the same meaning as set forth in section 2672 of this title.

(3) “Personal consumption” means the use by a consumer of unpasteurized milk for food or to create a food product made with or from unpasteurized milk that is intended to be ingested by the consumer, members of his or her household, or any nonpaying guests.

(3)(4) “Unpasteurized milk” or “unpasteurized (raw) milk” means milk that is unprocessed.

(4)(5) “Unprocessed” means milk that has not been modified from the natural state it was in as it left the animal, other than filtering, packaging, and cooling.

* * * Department of Forests, Parks and Recreation;

Water Quality Assistance * * *

Sec. 14. 10 V.S.A. § 2622a is added to read:

§ 2622a. WATER QUALITY ASSISTANCE PROGRAM

(a) Creation of program. There is established the Water Quality Assistance Program under which the Commissioner of Forests, Parks and Recreation shall provide technical and financial assistance to timber harvesters and others for compliance with water quality requirements in the State. The Commissioner of Forests, Parks and Recreation shall coordinate with natural resources conservation districts in the implementation of the Program.

(b) Eligible assistance. Under the Program, the Commissioner of Forests, Parks and Recreation is authorized to expend monies for the following activities in order to facilitate compliance with water quality requirements:

(1) Award financial assistance in the form of grants to timber harvesters and others to purchase or construct skidder bridges and other equipment.

(2) Purchase premade skidder bridges and other equipment to loan or lease to timber harvesters and others.

(3) Purchase available, premade skidder bridges and other equipment and provide those bridges or equipment to cooperating processing plants for sale to timber harvesters and others at cost, subject to storage and handling fees.

(4) If premade skidder bridges are not available on the commercial market, issue in a calendar year two requests for proposal for the construction of skidder bridges for delivery to cooperating processing plants for sale to timber harvesters and others at cost, subject to storage and handling fees. The Commissioner shall issue one request for proposal for the northern part of the State and one request for proposal for the southern part of the State.

(c) Financial assistance. An applicant for a grant under this section shall pay at least 10 percent of the total cost of the equipment. The dollar amount of a State grant shall be equal to the total cost of the equipment, less 10 percent of the total as paid by the applicant. A grant awarded under this section shall be awarded in accordance with terms and conditions established by the Commissioner.

(d) Spill kit. The Commissioner shall provide a person who purchases, constructs, or loans out a skidder bridge under subsection (b) of this section with a spill kit for containing or absorbing fluids released during timber harvesting activities.

Sec. 15. APPROPRIATIONS

Of the capital funds appropriated to the Agency of Natural Resources in FY 2018 for ecosystem restoration and protection, up to \$50,000.00 shall be

used by the Department of Forests, Parks and Recreation for implementation of the Water Quality Assistance Program under 10 V.S.A. § 2622a.

* * * Forestry Equipment; Sales Tax; Gasoline Tax; Diesel Tax * * *

Sec. 16. 23 V.S.A. chapter 28, subchapter 1 is amended to read:

Subchapter 1: General Gasoline Tax

§ 3101. DEFINITIONS

As used in this chapter:

* * *

(3) As used in this subchapter, “gasoline or other motor fuel” or “motor fuel” shall not include the following: kerosene, diesel-oil clear or undyed diesel “fuel” as defined in section 3002 of this title, “railroad fuel” as defined in section 3002 of this title, aircraft jet fuel, or natural gas in any form. Except for “railroad fuel” taxed under section 3003 of this title, the taxation or exemption from taxation of dyed diesel fuel is not addressed under this title.

* * *

Sec. 17. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(7)(A) Sales Except as provided in subdivision (B) of this subdivision (7), sales of:

(i) motor fuels taxed or exempted under 23 V.S.A. chapter 28;

(ii) dyed diesel used to power machinery described in subdivision (51) of this section; and

(iii) dyed diesel used to propel a vehicle off the highways of the State.

(B) provided, however, that aviation jet fuel and natural gas used to propel a motor vehicle shall be taxed under this chapter with the proceeds to be allocated to the ~~transportation fund~~ Transportation Fund in accordance with 19 V.S.A. § 11.

* * *

(51) The following machinery, including repair parts, used for timber

cutting, timber removal, and processing of timber or other solid wood forest products intended to be sold ultimately at retail: skidders with grapple and cable, feller bunchers, cut-to-length processors, forwarders, delimiters, loader slashers, log loaders, whole-tree chippers, stationary screening systems, and firewood processors, elevators, and screens. The Department of Taxes shall publish guidance relating to the application of this exemption.

Sec. 18. 32 V.S.A. § 9706 is amended to read:

§ 9706. STATUTORY PURPOSES

* * *

(d) The statutory purpose of the exemption for fuels for railroads and boats, to propel vehicles, and to power machinery used in the timber industry, in subdivision 9741(7) of this title is to avoid the taxation of fuels:

(1) for the types of transportation for which public expenditure on infrastructure is unnecessary;

(2) that are already subject to taxation under 23 V.S.A. chapter 27 or 28 in support of public expenditure on infrastructure or are specifically exempt from taxation under either of those chapters; and

(3) in order to promote Vermont's commercial timber and forest products economy.

* * *

(kk) The statutory purpose of the exemption for timber cutting, removal, and processing machinery in subdivision 9741(51) of this title is to promote Vermont's commercial timber and forest products economy.

* * *Nutrient Management Plans* * *

Sec. 18a. 6 V.S.A. § 61 is amended to read:

§ 61. INFORMATION COLLECTION AND CONFIDENTIALITY

(a) ~~The secretary~~ Secretary may collect information on subjects within the jurisdiction of the ~~agency~~ Agency, including data obtained from questionnaires, surveys, physical samples, and laboratory analyses conducted by the ~~agency~~ Agency. Such information shall be available upon request to the public, provided that it is presented in a form ~~which~~ that does not disclose the identity of individual persons, households, or businesses from whom the information was obtained, or whose characteristics, activities, or products the information is about.

(b) Nutrient management plans or nutrient management plan data produced or acquired by the Agency under chapter 215 of this title are exempt from

public inspection and copying under the Public Records Act. The Agency may release to the public nutrient management data compiled in aggregate form, provided that the Agency does not disclose the identity of individual persons, households, or businesses from whom the information was obtained.

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES

(a) This section and Secs. 13 (raw milk) and 14 (Forestry Water Quality Assistance Program) shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2017.

(For text see House Journal March 2, 2017)

Committee of Conference Report

H. 171

An act relating to expungement

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House Bill entitled:

H. 171 An act relating to expungement

Respectfully report that they have met and considered the same and recommend that the the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 8005 is amended to read:

§ 8005. NOTICE OF COLLATERAL CONSEQUENCES AND
ELIGIBILITY FOR EXPUNGEMENT IN PRETRIAL
PROCEEDING

* * *

(b) Before the ~~Court~~ court accepts a plea of guilty or nolo contendere from an individual, the ~~Court~~ court shall:

(1) confirm that the individual received the notice required by subsection (a) of this section and had an opportunity to discuss the notice with counsel, if represented, and understands that there may be collateral consequences to a conviction; and

(2) provide written notice, as part of a written plea agreement or through another form, of the following:

(A) that collateral consequences may apply because of the conviction;

(B) the Internet address of the collection of laws published under this chapter;

(C) that there may be ways to obtain relief from collateral consequences;

(D) that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title;

(E) contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and

~~(E)~~(F) that conviction of a crime in this State does not prohibit an individual from voting in this State.

Sec. 2. 13 V.S.A. § 8006 is amended to read:

§ 8006. NOTICE OF COLLATERAL CONSEQUENCES AND

ELIGIBILITY FOR EXPUNGEMENT UPON RELEASE

(a) Prior to the completion of a sentence, an individual in the custody of the Commissioner of Corrections shall be given written notice of the following:

(1) that collateral consequences may apply because of the conviction;

(2) the Internet address of the collection of laws published under this chapter;

(3) that there may be ways to obtain relief from collateral consequences;

(4) that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title;

(5) contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and

~~(5)~~(6) that conviction of a crime in this State does not prohibit an individual from voting in this State.

(b) For persons sentenced to incarceration, the notice shall be provided not more than 30 days and at least 10 days before completion of the sentence. If the sentence is for a term of less than 30 days then notice shall be provided when the sentence is completed.

(c) For persons receiving a sentence involving community supervision,

such as probation, furlough, home confinement, conditional reentry, or parole, the notice shall be provided by the Department of Corrections in keeping with its mission of ensuring rehabilitation and public safety.

(d) For persons receiving a penalty involving a fine only, the court shall, at the time of the judgment, provide either oral or written notice that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title.

Sec. 3. 13 V.S.A. § 7601(4) is amended to read:

(4) “Qualifying crime” means:

(A) a misdemeanor offense ~~which~~ that is not:

(i) a listed crime as defined in subdivision 5301(7) of this title;

(ii) an offense involving sexual exploitation of children in violation of chapter 64 of this title;

(iii) an offense involving violation of a protection order in violation of section 1030 of this title;

(iv) a prohibited act prostitution as defined in section 2632 of this title, or prohibited conduct under section 2601a of this title; or

(v) a predicate offense;

(B) a violation of subsection 3701(a) of this title related to criminal mischief;

(C) a violation of section 2501 of this title related to grand larceny;
or

(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title; or

(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit.

Sec. 4. 13 V.S.A. § 7602 is amended to read:

§ 7602. EXPUNGEMENT AND SEALING OF RECORD,
POSTCONVICTION; PROCEDURE

* * *

(b)(1) The ~~Court~~ court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(A) At least ~~10~~ five years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the

conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least ~~10~~ five years previously.

(B) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted for the qualifying crime.

(C) Any restitution ordered by the ~~Court~~ court has been paid in full.

(D) The ~~Court~~ court finds that expungement of the criminal history record serves the interest of justice.

(2) The ~~Court~~ court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), and (C) of this subsection are met and the ~~Court~~ court finds that:

(A) sealing the criminal history record better serves the interest of justice than expungement; and

(B) the person committed the qualifying crime after reaching 19 years of age.

(c)(1) The ~~Court~~ court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(A) At least ~~20~~ 10 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction.

(B) The person has not been convicted of a felony arising out of a new incident or occurrence since the person was convicted of the qualifying crime.

(C) The person has not been convicted of a misdemeanor during the past ~~15~~ five years.

(D) Any restitution ordered by the ~~Court~~ court for any crime of which the person has been convicted has been paid in full.

(E) After considering the particular nature of any subsequent offense, the ~~Court~~ court finds that expungement of the criminal history record for the qualifying crime serves the interest of justice.

(2) The ~~Court~~ court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), (C), and (D) of this subsection are met and the ~~Court~~ court finds that:

~~(A) sealing the criminal history record better serves the interest of justice than expungement; and~~

~~(B) the person committed the qualifying crime after reaching 19 years of age.~~

~~(d) The Court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:~~

~~(1) The petitioner committed the qualifying crime or crimes prior to reaching 25 years of age.~~

~~(2) At least five years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously.~~

~~(3) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of the qualifying crime.~~

~~(4) The person successfully completed a term of regular employment or public service, independent of any service ordered as a part of the petitioner's sentence for the conviction, and as approved by the Community Justice Network of Vermont, which may include:~~

~~(A) community service hours completed without compensation, reparation of harm to the victim, or education regarding ways not to reoffend, or a combination of the three;~~

~~(B) at least one year of service in the U.S. Armed Forces, followed by an honorable discharge or continued service in good standing;~~

~~(C) at least one year of service in AmeriCorps or another local, state, national, or international service program, followed by successful completion of the program or continued service in good standing; or~~

~~(D) at least one year of regular employment.~~

~~(5) Any restitution ordered by the Court for any crime of which the person has been convicted has been paid in full.~~

~~(6) The Court finds that expungement of the criminal history record serves the interest of justice.~~

~~(e) For petitions filed pursuant to subdivision (a)(1)(B) of this section, unless the court finds that expungement would not be in the interest of justice, the Court court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the~~

following conditions are met:

(1) ~~At least one year has elapsed since the completion of~~ The petitioner has completed any sentence or supervision for the offense, whichever is later.

(2) Any restitution ordered by the ~~Court~~ court has been paid in full.

(3) ~~The Court finds that expungement of the criminal history record serves the interest of justice.~~

* * *

Sec. 5. 13 V.S.A. § 7605 is amended to read:

§ 7605. DENIAL OF PETITION

If a petition for expungement is denied by the ~~Court~~ court pursuant to this chapter, no further petition shall be brought for at least ~~five~~ two years, unless a shorter duration is authorized by the court.

Sec. 6. 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 an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. The ~~Court~~ 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~~ 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. 7. SECRETARY OF STATE; ATTORNEY GENERAL; REPORT

The Secretary of State, in consultation with the Attorney General, shall evaluate how to comply with the requirements of 13 V.S.A. chapter 230 and, on or before January 15, 2018, report to the House and Senate Committees on Judiciary to confirm such compliance.

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except for Sec. 3 (13 V.S.A.

§ 7601(4), subdivision (E), which shall take effect on January 1, 2018.

Rep. Martin LaLonde

Rep. Charles Conquest

Rep. Janssen Willhoit

Committee on the part of the House

Sen. Alice Nitka

Sen. Richard Sears

Sen. Joseph Benning

Committee on the part of the Senate

S. 16

An act relating to expanding patient access to the Medical Marijuana Registry

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. 16 An act relating to expanding patient access to the Medical Marijuana Registry

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4472 is amended to read:

§ 4472. DEFINITIONS

As used in this subchapter:

(1)(A) “Bona fide health care professional-patient relationship” means a treating or consulting relationship of not less than 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 three-month requirement shall not apply if:

(i) a patient has been diagnosed with:

(I) a terminal illness;

(II) cancer; or

(III) acquired immune deficiency syndrome; or

~~(IV) is currently under hospice care.~~

(ii) a patient is currently under hospice care;

~~(ii)(iii)~~ (iii) 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)(iv)~~ (iv) a patient who is already on the ~~registry~~ 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;

(v) a patient is referred by his or her health care professional to another health care professional who has completed advanced education and clinical training in specific debilitating medical conditions, and that health care professional conducts a full assessment of the patient's medical history and current medical condition, including a personal physical examination; or

(vi) a patient's debilitating medical condition is of recent or sudden onset.

* * *

(4) ~~“Debilitating 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 to relieve the symptoms, means:~~

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

(B) post-traumatic stress disorder, provided the Department confirms the applicant is undergoing psychotherapy or counseling with a licensed mental health care provider; or

(C) a disease, or medical condition, or its treatment that is chronic, debilitating, and produces one or more of the following intractable symptoms:

cachexia or wasting syndrome; chronic pain; severe nausea; or seizures.

(5) “Dispensary” means a ~~nonprofit entity~~ business organization registered under section 4474e of this title which ~~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. A ~~dispensary may provide marijuana for symptom relief to registered patients at only one facility or location,~~ but may have a second location associated with the dispensary where the marijuana is cultivated or processed. Both locations are considered to be part of the same dispensary. A dispensary may serve patients and caregivers at not more than two locations, as approved by the Department in consideration of factors provided in subsection 4474f(e) of this title, and may cultivate and process marijuana at a separate location from where patients and caregivers are served. All locations shall be considered part of the same dispensary operation under one registration.

(6) “Financier” means a person, other than a financial institution as defined in 8 V.S.A. § 11101, that makes an investment in, or a gift, loan, or other financing to, another person with the expectation of a financial return. If a financier is a business organization, as used in this chapter, the term “financier” includes each owner and principal of that organization.

~~(6)~~(7)(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, 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) This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

~~(7)~~(8) “Immature marijuana plant” means a female marijuana plant that has not flowered and which does not have buds that may be observed by visual examination.

~~(8)~~(9) “Marijuana” shall have the same meaning as provided in subdivision 4201(15) of this title.

~~(9)~~(10) “Mature marijuana plant” means a female marijuana plant that has flowered and ~~which that~~ has buds that may be observed by visual examination.

(11) “Mental health care provider” means a person licensed to practice

medicine who specializes in the practice of psychiatry; a psychologist, a psychologist-doctorate, or a psychologist-master as defined in 26 V.S.A. § 3001; a clinical social worker as defined in 26 V.S.A. § 3201; or a clinical mental health counselor as defined in 26 V.S.A. § 3261.

(12) “Ounce” means 28.35 grams.

(13) “Owner” means:

(A) a person that has a direct or beneficial ownership interest of ten percent or more in a business organization, including attribution of the ownership interests of a spouse or domestic partner, parent, spouse’s or domestic partner’s parent, sibling, and children; or

(B) a person that has the power to direct, or cause the direction of, the management and policies of a business organization, including through the ownership of voting securities, by contract, or otherwise.

~~(10)~~(14) “Possession limit” means the amount of marijuana collectively possessed between the registered patient and the patient’s registered caregiver which that is no more than two mature marijuana plants, seven immature plants, and two ounces of usable marijuana.

(15) “Principal” means a person that has the authority to conduct, manage, or supervise the operation of a business organization, and includes the president, vice president, secretary, treasurer, manager, or similar executive officer of a business organization; a director of a business corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; a manager of a manager-managed limited liability company; and a general partner of a partnership, limited partnership, or limited liability partnership.

~~(11)~~(16) “Registered caregiver” means a person who is at least 21 years of age, 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.

~~(12)~~(17) “Registered patient” means a resident of Vermont who has been issued a registration card by the Department of Public Safety, identifying the person as having a debilitating medical condition pursuant to the provisions of this subchapter. “Resident of Vermont” means a person whose domicile is Vermont.

~~(13)~~(18) “Secure indoor facility” means a building or room equipped with locks or other security devices that permit access only by a registered caregiver, or registered patient, or a principal officer or employee of a dispensary.

(14)(19) “Transport” means the movement of marijuana and marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, to registered patients and registered caregivers in accordance with delivery protocols, or as otherwise allowed under this subchapter.

(15)(20) “Usable marijuana” means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stalks, and roots of the plant.

(16)(21) “Use for symptom relief” means the acquisition, possession, cultivation, use, transfer, or transportation of marijuana, or of paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a registered patient’s debilitating medical condition ~~which~~ that is in compliance with all the limitations and restrictions of this subchapter.

Sec. 2. 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:

(1) A patient with a debilitating medical condition shall submit a signed application for registration to the Department. ~~A patient’s initial application to the registry shall be notarized, but subsequent renewals shall not require notarization.~~ If the patient is under 18 years of age, the application must be signed by both the patient and a parent or guardian. The application shall require identification and contact information for the patient and the patient’s registered caregiver applying for authorization under section 4474 of this title, if any, and the patient’s designated dispensary under section 4474e of this title, if any. The applicant shall attach to the application a medical verification form developed by the Department pursuant to subdivision (2) of this subsection.

(2) The Department of Public Safety shall develop a medical verification form to be completed by a health care professional and submitted by a patient applying for registration in the program. The form shall include:

(A) A cover sheet ~~which~~ that includes the following:

(i) A statement of the penalties for providing false information.

(ii) Definitions of the following statutory terms:

(I) “Bona fide health care professional-patient relationship” as defined in section 4472 of this title.

(II) “Debilitating medical condition” as defined in section 4472 of this title.

(III) “Health care professional” as defined in section 4472 of this title.

(iii) A statement that the medical verification form is not considered a prescription and that the only purpose of the medical verification form is to confirm that the applicant patient has a debilitating medical condition.

(B) A verification sheet ~~which~~ that includes the following:

(i) A statement that a bona fide health care professional-patient relationship exists under section 4472 of this title, ~~or that, under subdivision (3)(A) of this subsection (b), the debilitating medical condition is of recent or sudden onset, and the patient has not had a previous health care professional who is able to verify the nature of the disease and its symptoms.~~

~~(ii) A statement that reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms. [Repealed.]~~

(iii) A statement that the patient has a debilitating medical condition as defined in section 4472 of this title, including the specific disease or condition ~~which~~ that the patient has and whether the patient meets the criteria under section 4472.

(iv) A signature line ~~which~~ that provides in substantial part: “I certify that I meet the definition of ‘health care professional’ under 18 V.S.A. § 4472, that I am a health care professional in good standing in the State of, and that the facts stated above are accurate to the best of my knowledge and belief.”

(v) The health care professional’s contact information, license number, category of his or her health care profession as defined in subdivision 4472(6) of this title, and contact information for the out-of-state licensing agency, if applicable. ~~The Department of Public Safety shall adopt rules for verifying the goodstanding of out-of-state health care professionals.~~

(vi) A statement that the medical verification form is not considered a prescription and that the only purpose of the medical verification form is to confirm that the applicant patient has a debilitating medical condition.

~~(3)(A) The Department of Public Safety shall transmit the completed medical verification form to the health care professional and contact him or her for purposes of confirming the accuracy of the information contained in~~

the form. ~~The Department may approve an application, notwithstanding the six-month requirement in section 4472 of this title, if the Department is satisfied that the medical verification form confirms that the debilitating medical condition is of recent or sudden onset, and that the patient has not had a previous health care professional who is able to verify the nature of the disease and its symptoms.~~

(B) If the health care professional is licensed in another state as provided section 4472 of this title, the Department shall verify that the health care professional is in good standing in that state.

* * *

Sec. 3. 18 V.S.A. § 4474(c)(1) is amended to read:

(c)(1) Except as provided in subdivision (2) of this subsection, a registered caregiver may serve only one registered patient at a time, and a registered patient may have only one registered caregiver at a time. A registered patient may serve as a registered caregiver for one other registered patient.

Sec. 4. 18 V.S.A. § 4474d is amended to read:

§ 4474d. LAW ENFORCEMENT VERIFICATION OF INFORMATION;
RULEMAKING

* * *

(b) In response to a person-specific or property-specific inquiry by a law enforcement officer or agency made in the course of a bona fide investigation or prosecution, the Department may verify the identities and registered property addresses of the registered patient and the patient's registered caregiver, a dispensary, ~~and the principal officer, the Board members, and an owner, a principal, a financier, and the employees of a dispensary.~~

(c) The Department shall maintain a separate secure electronic database accessible to law enforcement personnel 24 hours a day that uses a unique identifier system to allow law enforcement to verify that a person or entity is a registered patient, a registered caregiver, a dispensary, ~~or the principal officer, a board member~~ an owner, a principal, a financier, or an employee of a dispensary.

* * *

Sec. 5. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

* * *

(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~~ a secure, locked facility which is either indoors or ~~otherwise outdoors, but~~ not visible to the public and which that can only be accessed by ~~principal officers and the owners, principals, financiers, and employees of the dispensary who have valid registry identification cards. An outdoor facility is not required to have a roof, provided all other requirements are met.~~ 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 Registry identification numbers to protect their confidentiality.

* * *

(f) A person may be denied the right to serve as ~~an owner, a principal officer, board member, financier, or employee of a dispensary because of the person's criminal history record in accordance with section 4474g of this title and rules adopted by the Department of Public Safety pursuant to that section.~~

(g)(1) A dispensary shall notify the Department of ~~Public Safety~~ within 10 days of when ~~a principal officer, board member, an owner, principal, financier, or employee ceases to be associated with or work at the dispensary. His or her registry Registry identification card shall be deemed null and void, and the person shall be liable for any penalties that may apply.~~

(2) A dispensary shall notify the Department of ~~Public Safety~~ in writing of the name, address, and date of birth of any proposed new ~~principal officer, board member~~ owner, principal, financier, or employee and shall submit a fee for a new ~~registry Registry~~ Registry identification card before a new ~~principal officer, board member~~ owner, principal, financier, or employee begins his or her official duties related to the dispensary and shall submit a complete set of fingerprints for the each prospective ~~principal officer, board member~~ owner,

principal, financier, or employee who is a natural person.

* * *

(k)(1) No dispensary, ~~principal officer, board member~~ owner, principal, or financier of a dispensary shall:

* * *

(B) acquire usable marijuana or marijuana plants from any source other than registered dispensary ~~principal officers, board members~~ owners, principals, financiers, or employees who cultivate marijuana in accordance with this subchapter;

(C) dispense more than two ounces of usable marijuana to a registered patient directly or through the qualifying patient's registered caregiver during a 30-day period;

(D) dispense an amount of usable marijuana to a qualifying patient or a designated caregiver that the ~~principal officer, board member~~ owner, principal, financier, or employee knows would cause the recipient to possess more marijuana than is permitted under this subchapter;

(E) dispense marijuana to a person other than a registered patient who has designated the dispensary to provide for his or her needs or other than the patient's registered caregiver.

(2) A person found to have violated subdivision (1) of this subsection may no longer serve as a ~~principal officer, board member~~ an owner, principal, financier, or employee of any dispensary, and such person's ~~registry~~ Registry identification card shall be immediately revoked by the Department of ~~Public Safety~~.

(l)(1) A registered dispensary shall not be subject to the following, provided that it is in compliance with this subchapter:

(A) prosecution for the acquisition, possession, cultivation, manufacture, transfer, transport, supply, sale, or dispensing of marijuana, marijuana-infused products, or marijuana-related supplies for symptom relief in accordance with the provisions of this subchapter and any rule adopted by the Department of ~~Public Safety~~ pursuant to this subchapter;

(B) inspection and search, except pursuant to this subchapter or upon a search warrant issued by a court or judicial officer;

(C) seizure of marijuana, marijuana-infused products, and marijuana-related supplies, except upon a valid order issued by a court;

(D) imposition of any penalty or ~~denied~~ denial of any right or privilege, including imposition of a civil penalty or disciplinary action by an

occupational or professional licensing board or entity, solely for acting in accordance with this subchapter to assist registered patients or registered caregivers.

(2) No ~~principal officer, board member~~ owner, principal, financier, or employee of a dispensary shall be subject to arrest, prosecution, search, seizure, or penalty in any manner or ~~denied~~ denial of any right or privilege, including civil penalty or disciplinary action by an occupational or professional licensing board or entity, solely for working for or with a dispensary to engage in acts permitted by this subchapter.

* * *

Sec. 6. 18 V.S.A. § 4474f is amended to read:

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND
REGISTRATION

* * *

~~(b)(1) Within 30 days of the adoption of rules, the Department shall begin accepting applications for the operation of dispensaries. Within 365 days of the effective date of this section, the Department shall grant registration certificates to four dispensaries, provided at least four applicants apply and meet the requirements of this section. No~~ Except as provided in subdivision (2) of this subsection, no more than ~~four~~ five dispensaries shall hold valid registration certificates at one time. Any time a dispensary registration certificate is revoked, is relinquished, or expires, the Department shall accept applications for a new dispensary. ~~If at any time after one year after the effective date of this section fewer than four dispensaries hold valid registration certificates in Vermont, the Department of Public Safety shall accept applications for a new dispensary.~~

(2) Once the Registry reaches 7,000 registered patients, the number of dispensary registrations shall expand to six and the Department shall begin accepting applications forthwith.

* * *

(c) Each application for a dispensary registration certificate shall include all of the following:

(1) a nonrefundable application fee in the amount of \$2,500.00 paid to the Department of ~~Public Safety~~;

(2) the legal name, articles of incorporation, and bylaws of the dispensary and the organizational documents that create the dispensary, govern its operation and internal affairs, and govern relations between and among its

owners;

(3) the proposed physical address of the dispensary, if a precise address has been determined or, if not, the general location where it would be located;

(4) a description of the ~~enclosed~~ secure, locked facility where marijuana will be grown, cultivated, harvested, or otherwise prepared for distribution by the dispensary;

(5) the name, address, and date of birth of each ~~principal officer and board member~~ owner, principal, and financier of the dispensary who is a natural person and a complete set of fingerprints for each of them;

(6) proposed security and safety measures, which shall include at least one security alarm system for each location and planned measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana;

(7) proposed procedures to ensure accurate record-keeping.

(d) Any time one or more dispensary registration applications are being considered, the Department of ~~Public Safety~~ shall solicit input from registered patients and registered caregivers.

(e) Each time a dispensary certificate is granted, the decision shall be based on the overall health needs of qualified patients. The following factors shall weigh heavily in the consideration of an application:

(1) geographic convenience to patients from throughout the State of Vermont to a dispensary if the applicant were approved;

(2) the entity's ability to provide an adequate supply to the registered patients in the State;

(3) the entity's ability to demonstrate ~~its board members'~~ that its owners, principals, and financiers have sufficient experience running a ~~nonprofit organization or~~ business;

(4) the comments, if any, of registered patients and registered caregivers regarding which applicant should be granted a registration certificate;

(5) the sufficiency of the applicant's plans for record-keeping, which records shall be considered confidential health care information under Vermont law and are intended to be deemed protected health care information for purposes of the federal Health Insurance Portability and Accountability Act of 1996, as amended;

(6) the sufficiency of the applicant's plans for safety and security, including the proposed location and security devices employed.

(f) The Department of ~~Public Safety~~ may deny an application for a dispensary if it determines that an applicant's criminal history record indicates that the ~~person's~~ association of an owner, principal, or financier with a dispensary would pose a demonstrable threat to public safety.

(g) After a dispensary is approved but before it begins operations, it shall submit the following to the Department:

(1) the legal name ~~and articles of incorporation~~ of the dispensary and the organizational documents that create the dispensary, govern its operation and internal affairs, and govern relations between and among its owners;

(2) the physical address of the dispensary;

(3) the name, address, and date of birth of each ~~principal officer and board member~~ owner, principal, and financier of the dispensary along with a complete set of fingerprints for each;

(4) a registration fee of \$20,000.00 for the first year of operation, and an annual fee of \$25,000.00 in subsequent years.

Sec. 7. 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~~ owner, principal, financier, and employee of a dispensary a ~~registry~~ 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~~ an owner, principal, financier, or employee. A person shall not serve as ~~principal officer, Board member~~ an owner, principal, financier, or employee of a dispensary until that person has received a ~~registry~~ Registry identification card issued under this section. Each card shall specify whether the cardholder is a ~~principal officer, Board member~~ an owner, principal, financier, 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~~ Registry identification card; and

(5) a photograph of the person.

(b) Prior to acting on an application for a ~~registry~~ 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.

(c) When the Department of ~~Public Safety~~ obtains a criminal history record, the Department shall promptly provide a copy of the record to the applicant and to the ~~principal officer and Board~~ owner, principal, or financier of the dispensary if the applicant is to be an employee. The Department shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Department.

(d) The Department of ~~Public Safety~~ 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 subchapter.

(e) The Department of ~~Public Safety~~ shall not issue a ~~registry~~ Registry identification card to any applicant who has been convicted of a drug-related 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.

(f) The Department of ~~Public Safety~~ shall adopt rules for the issuance of a ~~registry~~ Registry identification card and shall set forth standards for determining whether an applicant should be denied a ~~registry~~ Registry identification card because his or her criminal history record indicates that the person’s association with a dispensary 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~~ Registry identification card. A dispensary may deny a person the opportunity to serve as a ~~Board~~ board member or an employee based on his or her criminal history record. An applicant who is denied a ~~registry~~ Registry identification card may appeal the ~~Department of Public Safety’s~~ Department’s determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(g) A ~~registration~~ Registry identification card of a ~~principal officer, Board member~~ an owner, principal, or financier, or employee shall expire one year after its issuance or upon the expiration of the registered organization’s

registration certificate, whichever occurs first.

Sec. 8. 18 V.S.A. § 4474h is amended to read:

§ 4474h. PATIENT DESIGNATION OF DISPENSARY

(a) A registered patient or his or her caregiver 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~~ in writing on a form issued by the Department and shall submit with the form a fee of \$25.00. The 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 within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any 30-day period.

* * *

Sec. 9. 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. 10. MARIJUANA-INFUSED PRODUCT TESTING; REPORT

The General Assembly recognizes the importance of independent testing of marijuana-infused products sold by dispensaries to determine proper labeling of products in compliance with 18 V.S.A. § 4474e. Therefore, the Agency of Agriculture, Food and Markets and the Department of Public Safety, in consultation with registered dispensaries, shall report their recommendations to the Joint Legislative Justice Oversight Committee and the General Assembly no later than October 15, 2017 on the following:

(1) Who should be responsible for testing marijuana-infused products.

(2) The approved methods and frequency of testing.

(3) Estimated costs associated with such testing and how these costs should be funded.

(4) If testing will be done through an independent testing entity, the process by which the State will certify such entities and oversee such testing.

(5) How to implement a weights and measures program for medical marijuana dispensaries.

Sec. 11. AUTHORITY FOR CURRENTLY REGISTERED DISPENSARY ORGANIZED AS A NONPROFIT CORPORATION TO CONVERT TO FOR-PROFIT ENTITY.

(a) Notwithstanding the provisions of Title 11B and any other rule to the contrary, a dispensary organized as a nonprofit corporation and registered pursuant to 18 V.S.A. chapter 86 may convert to any type of domestic organization pursuant to and in accordance with 11A V.S.A. chapter 11 as if the dispensary were a domestic organization, except that the dispensary shall approve a plan of conversion pursuant to 11A V.S.A. § 11.04 by a majority vote of its board of directors and may otherwise disregard any provision of 11A V.S.A. chapter 11 that relates to shareholders.

(b) Notwithstanding 18 V.S.A. § 4474e or any rule to the contrary, the converted domestic corporation may continue to operate on a for-profit basis in accordance with the terms of its registration, 18 V.S.A. chapter 86, and any rules adopted pursuant to that chapter.

Sec. 12. MEDICAL MARIJUANA REGISTRY; WEB PAGE

The Department of Public Safety and the Agency of Digital Services shall develop an independent web page for the Medical Marijuana Registry, separate from any other registry or program administered by the Department, that is up-to-date and user-friendly on or before September 30, 2017 and shall report to the General Assembly on activation of the web page at such time.

Sec. 13. DEPARTMENT OF PUBLIC SAFETY

The Department of Public Safety shall begin to accept applications for the additional dispensary on July 1, 2017.

Sec. 14. EFFECTIVE DATES

(a) Secs. 9–13 shall take effect on passage.

(b) The remaining sections of this act shall take effect on July 1, 2017.

Rep. Ann Pugh

Rep. Sandy Haas

Rep. Francis McFaun

Committee on the part of the House

Sen. Richard Sears

Sen. Joseph Benning

Sen. Jeanette White

Committee on the part of the Senate

Ordered to Lie

H. 219

An act relating to the Vermont spaying and neutering program.

Pending Question: Shall the House concur in the Senate Proposal of Amendment??

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of May 4, 2017.

H.C.R. 158

House concurrent resolution honoring John Bisbee for his nearly three decades of extraordinary public service as a guardian ad litem

H.C.R. 159

House concurrent resolution congratulating the Westford School Periodic Pandas on their selection as semifinalists in the FIRSTLEGO League Global Innovation Award competition

H.C.R. 160

House concurrent resolution congratulating The Bank of Bennington on its 100th anniversary

H.C.R. 161

House concurrent resolution honoring Summer Stoutes of Tinmouth for her selfless generosity as a kidney donor and congratulating Brent Garrow on his successful transplant surgery recovery and resumption of his firefighting and law enforcement careers

H.C.R. 162

House concurrent resolution honoring Ron Stahley for his insightful public education leadership

H.C.R. 163

House concurrent resolution commemorating the 75th anniversary of the U.S. Navy Construction Battalions, the Seabees

H.C.R. 164

House concurrent resolution honoring former Representative Paul Harrington on his outstanding public policy career

H.C.R. 165

House concurrent resolution congratulating the Bethel Public Library on its 125th anniversary

H.C.R. 166

House concurrent resolution honoring Newport City Fire Department members 1st Assistant Chief Phil Laramie, Captain Kevin LaCoss, Lieutenant Andrew Carbine, and Firefighter Ryan Abel on their heroic rescue in Coventry

H.C.R. 167

House concurrent resolution honoring Lila M. Richardson on the completion of her distinguished career as a Vermont Legal Aid attorney

H.C.R. 168

House concurrent resolution in memory of Robert Harvey Beach Sr.

H.C.R. 169

House concurrent resolution congratulating the 2016 Burlington High School Seahorses Division I championship boys' soccer team

H.C.R. 170

House concurrent resolution honoring Sue Duprat on her outstanding varsity athletics coaching and administrative career

H.C.R. 171

House concurrent resolution congratulating Lisa A.M. Atwood and Amy L. Rex on being named corecipients of the 2017 Robert F. Pierce Secondary School Principal of the Year Award

H.C.R. 172

House concurrent resolution congratulating Duane Pierson on receiving the 2017 Henry R. Giaguque Vermont Elementary Principal of the Year Award

H.C.R. 173

House concurrent resolution honoring the extraordinary public service and sacrifice of the Morse family of Jay and congratulating Helen (Sargent) Morse on her 95th birthday

H.C.R. 174

House concurrent resolution congratulating the 2017 Harwood Union High School Highlanders State championship boys' alpine skiing team

H.C.R. 175

House concurrent resolution congratulating Vermonters Brennon Crossmon, Jacobi Lafferty, and Ethan Whalen on their outstanding athletic performances at the 2017 Elks Hoop Shoot Finals

H.C.R. 176

House concurrent resolution commemorating the centennial anniversary of the Fair Haven Grade School

H.C.R. 177

House concurrent resolution congratulating Grace Cottage Hospital on being recognized as one of the nation's top 20 critical access hospitals for patient satisfaction

H.C.R. 178

House concurrent resolution congratulating St. Johnsbury Academy on its 175th anniversary

H.C.R. 179

House concurrent resolution honoring John Miner for his three decades of outstanding leadership in support of Vermont's Vietnam Veterans

H.C.R. 180

House concurrent resolution congratulating Mary Ellen Sennett of Bennington on her 100th birthday

H.C.R. 181

House concurrent resolution congratulating the 2017 Thetford Academy Panthers Division III championship girls' basketball team

H.C.R. 182

House concurrent resolution congratulating Arlington Memorial High School on its receipt of a 2017 U.S. News & World Report Best High School in America Silver Medal

H.C.R. 183

House concurrent resolution congratulating the 2016 St. Johnsbury Babe Ruth League 13-years-of-age State championship baseball team

H.C.R. 184

House concurrent resolution congratulating Lucinda Storz of Kirby on winning her third consecutive Vermont Scripps Spelling Bee championship

H.C.R. 185

House concurrent resolution thanking David and June Keenan of Essex for their generous donation to the State House art collection of a Keith Rocco print depicting the Battle of Cedar Creek

H.C.R. 186

House concurrent resolution in memory of Vermont skiing legend Wendell Cram

H.C.R. 187

House concurrent resolution congratulating Stephen Rice on winning the 2016 Arthur Williams Award for Meritorious Service to the Arts

S.C.R. 14

Senate concurrent resolution recognizing the establishment of the Coolidge Scholars Program and congratulating the first class of Coolidge Scholars.

S.C.R. 15

Senate concurrent resolution designating October 16, 2017 as John Brown Day in Vermont.