

House Calendar

Friday, February 16, 2018

45th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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ORDERS OF THE DAY

Action Postponed Until February 20, 2018

Favorable with Amendment

H. 571

An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery

Rep. Stevens of Waterbury, for the Committee on General; Housing and Military Affairs, recommends the bill be amended as follows:

First: In Sec. 9, 7 V.S.A. § 101, by striking out subdivision (b)(4) in its entirety and inserting a new subdivision (b)(4) to read:

(4) The Governor shall ~~biennially~~ designate a member of the Board to be its Chair. The Chair shall have general charge of the offices and employees of the Board.

Second: In Sec. 105, 32 V.S.A. § 1010, by striking out the section in its entirety and inserting a new Sec. 105 to read:

Sec. 105. 32 V.S.A. § 1010 is amended to read:

§ 1010. MEMBERS OF CERTAIN BOARDS

(a) Except for those members serving ex officio or otherwise regularly employed by the State, the compensation of the members of the following Boards shall be \$50.00 per diem:

* * *

(7) ~~Liquor Control Board~~ [Repealed.]

* * *

(g) For each day of official duties, a member of the Board of Liquor and Lottery shall receive the same per diem compensation as a member of the General Assembly receives pursuant to 2 V.S.A. § 406(a)(1) together with his or her actual and necessary expenses pursuant to subsection (c) of this section.

Third: In Sec. 111, Transition, in subdivision (a)(1), after the words “The Commissioner of Liquor” by striking out the words “and Lottery” and inserting in lieu thereof the word “Control”

(Committee Vote: 11-0-0)

Rep. Trieber of Rockingham, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on General; Housing and Military Affairs and when further

amended as follows:

First: In Sec. 9, 7 V.S.A. § 101, by striking out subdivision (b)(1) in its entirety and inserting in lieu thereof a new subdivision (b)(1) to read:

(b)(1) The ~~Liquor Control~~ Board of Liquor and Lottery shall consist of five persons, ~~not more than three members of which.~~ Not all members of the Board shall belong to the same political party.

Second: In Sec. 105, 32 V.S.A. § 1010, by striking out the section in its entirety and inserting in lieu thereof a new Sec. 105 to read:

Sec. 105. [Deleted.]

Third: By inserting a Sec. 105a to read as follows:

Sec. 105a. 32 V.S.A. § 1010 is amended to read:

§ 1010. MEMBERS OF CERTAIN BOARDS

(a) Except for those members serving ex officio or otherwise regularly employed by the State, the compensation of the members of the following Boards shall be \$50.00 per diem:

* * *

(7) ~~Liquor Control~~ Board of Liquor and Lottery

* * *

(Committee Vote: 11-0-0)

ACTION CALENDAR

Third Reading

H. 294

An act relating to inquiries about an applicant's salary history

H. 624

An act relating to the protection of information in the statewide voter checklist

H. 673

An act relating to miscellaneous amendments to the Reach Up program

H. 764

An act relating to data brokers and consumer protection

Favorable with Amendment

H. 582

An act relating to increased funding for the Connectivity Initiative

Rep. Sibia of Dover, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 7523 is amended to read:

§ 7523. RATE OF CHARGE

(a) Beginning on July 1, 2014, the rate of charge shall be two percent of retail telecommunications service.

(b) Beginning on July 1, 2018 and ending on June 30, 2022, the rate of charge established under subsection (a) of this section shall be increased by one-half of one percent of retail telecommunications service, and the monies collected from this increase shall be transferred to the Connectivity Fund established under section 7516 of this title.

(c) Universal Service Charges imposed and collected by the fiscal agent under this subchapter shall not be transferred to any other fund or used to support the cost of any activity other than in the manner authorized by this section and section 7511 of this title.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 6-2-0)

Rep. Young of Glover, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Energy and Technology.

(Committee Vote: 9-2-0)

H. 843

An act relating to technical corrections

Rep. Harrison of Chittenden, for the Committee on Government Operations, recommends the bill be amended as follows:

First: In Secs. 17 and 18 (deleted sections), by striking the sections in their entirety and inserting in lieu thereof new Secs. 17 and 18 to read as follows:

Sec. 17. 6 V.S.A. § 363 is amended to read:

§ 363. DEFINITIONS

When As used in this chapter:

* * *

(7) “Guaranteed analysis” means:

* * *

(B) in reference to agricultural lime or agricultural liming material, the minimum percentages of calcium oxide and magnesium oxide ~~and/or~~ or calcium carbonate and the calcium carbonate equivalent, or both, as claimed by the manufacturer or producer of the product.

* * *

Sec. 18. 6 V.S.A. § 365 is amended to read:

§ 365. LABELS

* * *

(c)(1) If the Secretary finds that a requirement for expressing calcium and magnesium in elemental form would not impose an economic hardship on distributors and users of agricultural liming materials by reason of conflicting label requirements among states, he or she may require by rule that the minimum percent of calcium oxide and magnesium oxide ~~and/or~~ or calcium carbonate and magnesium carbonate, or both, shall be expressed in the following terms:

Total Calcium (Ca)	percent
Total Magnesium (Mg)	percent

* * *

Second: In Sec. 115, 20 V.S.A. § 363, in the fourth sentence, by inserting the words “or above” following the words “first sergeant” prior to the punctuation both times those words appear.

(Committee Vote: 10-0-1)

Favorable

H. 581

An act relating to Connectivity Initiative grant eligibility

Rep. Sibilia of Dover, for the Committee on Energy and Technology, recommends the bill ought to pass.

(Committee Vote: 8-0-0)

NOTICE CALENDAR
Committee Bill for Second Reading

H. 892

An act relating to regulation of short-term, limited-duration health insurance coverage and association health plans.

(Rep. Briglin of Thetford will speak for the Committee on Health Care.)

Favorable with Amendment

H. 576

An act relating to stormwater management

Rep. Sullivan of Burlington, for the Committee on Natural Resources; Fish and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Three-Acre Stormwater Permit * * *

Sec. 1. FINDINGS

For the purposes of Secs. 1–3 of this act, the General Assembly finds that:

(1) As part of the total maximum daily load (TMDL) plan for Lake Champlain and the implementation plan for the TMDL, the Agency of Natural Resources (ANR) and the U.S. Environmental Protection Agency (EPA) agreed to obtain most of the required pollutant reduction for Lake Champlain from developed lands and nonpoint sources of phosphorus.

(2) In 2015, the General Assembly enacted 2015 Acts and Resolves No. 64 (Act 64) to provide ANR with the statutory authority needed to implement the point source and nonpoint source controls of phosphorus agreed to by ANR and EPA.

(3) After enactment of Act 64, EPA finalized the TMDL for Lake Champlain and listed within the accountability framework for the plan all of the point source and nonpoint source control measures that would be implemented in order to provide reasonable assurances, as required by EPA guidance, that the plan will achieve the load reductions necessary to clean up Lake Champlain.

(4) One provision of Act 64 included in the accountability framework for the Lake Champlain TMDL is the requirement that ANR issue by January 1, 2018 a general permit for discharges of stormwater from impervious surface of three or more acres in size when the discharge previously was not permitted or was permitted under standards in place prior to 2002.

(5) ANR did not issue the three-acre permit by January 1, 2018.

(6) As a result, private property owners who would be subject to the three-acre permit lack certainty as to when their property will be required to be permitted and what the permit will require.

(7) ANR's failure to adopt the three-acre permit and its failure to comply with statutory requirements are not accepted by the General Assembly and the citizens of Vermont.

Sec. 2. 10 V.S.A. § 1264 is amended to read:

§ 1264. STORMWATER MANAGEMENT

* * *

(b) Definitions. As used in this section:

* * *

(8) “Offset” means a State-permitted or ~~approved~~ State-approved action or project ~~within a stormwater-impaired water, Lake Champlain, or a water that contributes to the impairment of Lake Champlain that a discharger or a third person may complete to mitigate~~ that mitigates the impacts that a discharge of regulated stormwater runoff has on the ~~stormwater-impaired water, or the impacts of phosphorus on Lake Champlain, or a water that contributes to the impairment of Lake Champlain~~ receiving waters.

* * *

(11) “Stormwater impact fee” means the monetary charge assessed to a permit applicant for the discharge of regulated stormwater runoff ~~to a stormwater-impaired water or for the discharge of phosphorus to Lake Champlain, or a water that contributes to the impairment of Lake Champlain~~ in order to mitigate ~~a sediment load level, hydrologic impact, or other impact~~ impacts that the discharger is unable to control through on-site treatment or completion of an offset on a site owned or controlled by the permit applicant.

* * *

(f) Rulemaking. On or before ~~December 31, 2017~~ April 1, 2018, the Secretary shall ~~adopt~~ prefile rules to manage stormwater runoff with the Interagency Committee on Administrative Rules under 3 V.S.A. § 8378. At a minimum, the rules shall:

* * *

(g) General permits.

(1) The Secretary may issue general permits for classes of stormwater runoff that shall be adopted and administered in accordance with the

provisions of subsection 1263(b) of this title.

* * *

(3) ~~On or before January 1, 2018,~~ Within 120 days after the adoption by the Secretary of the rules required under subsection (f) of this section, the Secretary shall issue a general permit under this section for discharges of stormwater from impervious surface of three or more acres in size, when the stormwater discharge previously was not permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual. Under the general permit, the Secretary shall:

(A) Establish a schedule for implementation of the general permit by geographic area of the State. The schedule shall establish the date by which an owner of impervious surface shall apply for coverage under this subdivision (3) ~~of this section~~. The schedule established by the Secretary shall require an owner of impervious surface subject to permitting under this subdivision to obtain coverage by the following dates:

(i) for impervious surface located within the Lake Champlain watershed, the Lake Memphremagog watershed, ~~no later than~~ or the watershed of a stormwater impaired water on or before October 1, 2023; ~~and~~

(ii) for impervious surface located within all other watersheds of the State, no later than October 1, ~~2028~~ 2033.

(B) Establish criteria and technical standards, such as best management practices, for implementation of stormwater improvements for the retrofitting of impervious surface subject to permitting under this subdivision (3).

(C) Require that a discharge of stormwater from impervious surface subject to the requirements of this section comply with the standards of subsection (h) of this section for redevelopment of or renewal of a permit for existing impervious surface.

(D) Allow the use of stormwater impact fees, offsets, and phosphorus credit trading within the watershed of the water to which the stormwater discharges or runs off.

* * *

(h) Permit requirements. An individual or general stormwater permit shall:

(1) Be valid for a period of time not to exceed five years.

(2) For discharges of regulated stormwater to a ~~stormwater impaired~~

stormwater-impaired water, for discharges of phosphorus to Lake Champlain or Lake Memphremagog, or for discharges of phosphorus to a water that contributes to the impairment of Lake Champlain or Lake Memphremagog:

(A) In which no TMDL, watershed improvement permit, or water quality remediation plan has been approved, require that the discharge shall comply with the following discharge standards:

(i) A new discharge or the expanded portion of an existing discharge shall satisfy the requirements of the Stormwater Management Manual and shall not increase the pollutant load in the receiving water for stormwater.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the discharge shall satisfy on-site the water quality, recharge, and channel protection criteria set forth in the Stormwater Management Manual that are determined to be technically feasible by an engineering feasibility analysis conducted by the Agency, and the discharge shall not increase the pollutant load in the receiving water for stormwater.

(B) In which a TMDL or water quality remediation plan has been adopted, require that the discharge shall comply with the following discharge standards:

(i) For a new discharge or the expanded portion of an existing discharge, the discharge shall satisfy the requirements of the Stormwater Management Manual, and the Secretary shall determine that there are sufficient pollutant load allocations for the discharge.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the Secretary shall determine that there are sufficient pollutant load allocations for the discharge, and the Secretary shall include any requirements that the Secretary deems necessary to implement the TMDL or water quality remediation plan.

(3) Contain requirements necessary to comply with the minimum requirements of the rules adopted under this section, the Vermont water quality standards, and any applicable provision of the Clean Water Act.

* * * Half-Acre Permitting Threshold for Stormwater Discharges * * *

Sec. 3. 10 V.S.A. § 1264(c) is amended to read:

(c) Prohibitions.

(1) A person shall not commence the construction or redevelopment of ~~one~~ one-half of an acre or more of impervious surface without first obtaining a permit from the Secretary.

(2) A person shall not discharge from a facility that has a standard industrial classification identified in 40 C.F.R. § 122.26 without first obtaining a permit from the Secretary.

(3) A person that has been designated by the Secretary as requiring coverage for its municipal separate storm sewer system ~~may~~ shall not discharge without first obtaining a permit from the Secretary.

(4) A person shall not commence a project that will result in an earth disturbance of one acre or greater, or of less than one acre if part of a common plan of development, without first obtaining a permit from the Secretary.

(5) A person shall not expand existing impervious surface by more than 5,000 square feet, such that the total resulting impervious area is greater than one acre, without first obtaining a permit from the Secretary.

(6)(A) In accordance with the schedule established under subdivision (g)(2) of this section, a municipality shall not discharge stormwater from a municipal road without first obtaining:

(i) an individual permit;

(ii) coverage under a municipal road general permit; or

(iii) coverage under a municipal separate storm sewer system permit that implements the technical standards and criteria established by the Secretary for stormwater improvements of municipal roads.

(B) As used in this subdivision (6), “municipality” means a city, town, or village.

(7) In accordance with the schedule established under subdivision (g)(3) of this section, a person shall not discharge stormwater from impervious surface of three or more acres in size without first obtaining an individual permit or coverage under a general permit issued under this section if the discharge was never previously permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual.

Sec. 4. APPLICABILITY OF AGENCY RULES

All Agency of Natural Resources rules applicable to the construction of one acre or more of impervious surface shall be applicable to the construction or redevelopment of one-half of an acre or more of impervious surface.

Sec. 5. TRANSITION

The construction or redevelopment of less than one acre of impervious surface shall not require a permit under 10 V.S.A. § 1264(c)(1)(A)

provided that:

(1) except for applications for permits issued pursuant to 10 V.S.A. § 1264(c)(4), complete applications for all local, State, and federal permits related to the regulation of land use or a discharge to waters of the State have been submitted as of July 1, 2022, the applicant does not subsequently file an application for a permit amendment that would have an adverse impact on water quality, and substantial construction of the project commences within two years from July 1, 2022;

(2) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), all local, State, and federal permits related to the regulation of land use or a discharge to waters of the State have been obtained as of July 1, 2022, and substantial construction of the project commences within two years from July 1, 2022;

(3) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), no local, State, or federal permits related to the regulation of land use or a discharge to waters of the State are required, and substantial construction of the project commences within two years from July 1, 2022; or

(4) the construction, redevelopment, or expansion is a public transportation project, and as of July 1, 2022, the Agency of Transportation or the municipality principally responsible for the project has initiated right-of-way valuation activities or determined that right-of-way acquisition is not necessary, and substantial construction of the project commences within five years from July 1, 2022.

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1–2 (three-acre stormwater permit) shall take effect on passage.

(b) Secs. 3–5 (half-acre operational threshold) act shall take effect on July 1, 2022.

(Committee Vote: 6-2-1)

Rep. Baser of Bristol, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Natural Resources; Fish and Wildlife and when further amended as follows:

First: In Sec. 2, 10 V.S.A. § 1264, in subsection (f), after “under 3 V.S.A. § 8373.” and before “At a minimum” by inserting the following sentence to read:

On or before April 1, 2019, the Secretary of Natural Resources shall adopt the rules to manage stormwater runoff.

Second: By striking Sec. 6 and its reader assistance in its entirety and inserting in lieu thereof the following:

* * * Stormwater Permit Fees * * *

Sec. 6. 3 V.S.A. 2822(j)(2)(B)(iv)(X) is added to read:

(X) Individual or general operating permits authorizing discharges of stormwater runoff from new development of impervious surface or redevelopment of less than one acre permitted after July 1, 2022 pursuant to 10 V.S.A. 1264(c)(1) shall be exempt from the fees imposed by subdivisions (I) and (II) of this subdivision.

(Committee Vote: 7-2-2)

H. 693

An act relating to designating the Honor and Remember Flag as the State Veterans Flag

Rep. Strong of Albany, for the Committee on General; Housing and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 1 V.S.A § 496a is added to read:

§ 496a. HONOR AND REMEMBER FLAG

The Honor and Remember Flag is designated as the State Flag to recognize those Vermonters who died during or as the result of serving on active duty in the U.S. Armed Forces. This designation will recognize their bravery and educate Vermonters about the sacrifices their fellow citizens have made to protect our nation. The Honor and Remember Flag may be flown on State-owned and municipally owned flagpoles, including those at military facilities, war memorials, and veterans cemeteries, on legal holidays and other designated days. The Department of Buildings and General Services may establish a protocol for the flying of the Honor and Remember Flag and may accept donations of the flag to be flown on State-owned flagpoles.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to the Honor and Remember Flag”

(Committee Vote: 10-0-1)

Favorable

H. 779

An act relating to the legislative directory prepared by the Secretary of State

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

(Committee Vote: 9-0-2)

Senate Proposal of Amendment to House Proposal of Amendment

S. 103

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

The Senate concurs in the House proposal of amendment thereto as follows::

First: By striking out “Intergovernmental” wherever it appears in the bill and inserting in lieu thereof Interagency

Second: In Sec. 1, 10 V.S.A. § 6633, in subsection (b), after the word “following” by striking out “nine” and inserting in lieu thereof eight

and by striking out subdivisions (b)(1) and (2) in their entirety and renumbering the remaining subdivisions in subsection (b) to be numerically correct

and by striking out the period after the renumbered (b)(7) and inserting in lieu thereof a new semicolon

and by adding a new subdivision (b)(8) to read:

(8) the Secretary of Transportation or designee.

Third: In Sec. 1, 10 V.S.A. § 6633, in subdivision (f)(2), after “July 1,” by striking out “2017” and inserting in lieu thereof 2018

Fourth: In Sec. 2 (Intergovernmental Committee on Chemical Management report), in the first sentence, after “February 15,” by striking out “2018” and inserting in lieu thereof 2019

Fifth: In Sec. 4 (ANR groundwater source testing rule), in the first sentence, by striking out “2017” where it appears and inserting in lieu thereof 2018

and in the second sentence, by striking out “2018” where it appears and inserting in lieu thereof 2019

Sixth: In Sec. 9 (Effective Dates), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Sec. 3 (groundwater source testing) shall take effect on July 1, 2019, except that 10 V.S.A. § 1982(e) shall take effect on passage.

(c) All other sections shall take effect on July 1, 2018.

(For House Proposal of Amendment see House Journal May 5, 2017)

Ordered to Lie

H. 167

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

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

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 February 15, 2018.

H.C.R. 239

House concurrent resolution congratulating the 2017 Class of Boy Scout Eagle rank recipients in Vermont

H.C.R. 240

House concurrent resolution in memory of former Representative Gordon N. Stafford of Brighton

H.C.R. 241

House concurrent resolution honoring former Bethel Town Clerk and Treasurer Jean Burnham for her nearly half century of illustrious municipal public service

H.C.R. 242

House concurrent resolution congratulating the U-32 High School Raiders on winning a fifth consecutive boys' outdoor track and field championship

H.C.R. 243

House concurrent resolution in memory of John T. Ewing of Burlington

H.C.R. 244

House concurrent resolution designating February 13, 2018 as Suicide Prevention Awareness Day at the State House

H.C.R. 245

House concurrent resolution congratulating the Vermont Youth Conservation Corps on winning both a U.S. Forest Service Culture of Inclusion Award and The Corps Network's recognition for the Health Care Share program

H.C.R. 246

House concurrent resolution honoring Vermont State Police Lieutenant Matthew Nally Sr. of Cabot for his exemplary public service as a law enforcement officer

H.C.R. 247

House concurrent resolution honoring Patrick Scheidel for his exemplary 27-year career as Essex Town Manager

H.C.R. 248

House concurrent resolution in memory of Vermont National Guard Sergeant Major Michael Evan Cram of Milton

For Informational Purposes

The Joint Fiscal Committee has received the following two grants from the Administration for review and approval:

JFO #2909 – \$320,634 from the U.S. Dept. of Health and Human Services to the VT Department of Health. The funding will be used to support oral health providers that serve underserved locations, to expand medical-dental integration in three participating federally qualified health centers (FQHCs), and to implement a continuous evaluation plan. The three participating FQHCs would provide approximately \$154k of in-kind support over the two year grant period for a total project budget of approximately \$475k.

JFO #2910 – \$15,200 from the U.S. Food and Drug Administration to the VT Agency of Agriculture, Food and Markets. The grant funds will be used to

reimburse the Agency for several FDA-mandated trainings for the milk safety program. The trainings will take place in March, May and June of 2018. The reimbursement would offset the expenditure of state funds that were previously budgeted for the trainings.

Public Hearings

Public Hearing on Judicial Retention. Thursday, February 22, 2018, 7:00 PM in Room 11.

Information Notice

CROSS OVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **House** bills must be reported out of the last committee of reference including the Committees on Appropriations and Ways and Means, except as provided below in (2) on or before **Friday, March 2, 2018**, and filed with the Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **House** bills referred pursuant to House Rule 35(a) to the Committees on Appropriations and Ways and Means must be reported out by the last of those committees on or before **Friday, March 16, 2018**, and filed with the Clerk so they may be placed on the Calendar for Notice the next legislative day.