

House Calendar

Tuesday, February 20, 2018

49th DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

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(7) ~~Liquor Control Board~~ [Repealed.]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

Amendment to be offered by Rep. LaClair of Barre Town to H. 571

Representative LaClair of Barre Town moves that the bill be amended as follows:

First: In Sec. 90, 31 V.S.A. § 654a, multijurisdictional lottery games, by striking out the section in its entirety and inserting in lieu thereof a new Sec. 90 to read:

Sec. 90. 31 V.S.A. § 654a is redesignated and amended to read:

§ ~~654a~~ 652. MULTIJURISDICTIONAL LOTTERY ~~GAME~~ GAMES

(a)(1) In addition to the Tri-State Lotto Compact provided for in subchapter 2 of this chapter, and the other authority to operate lotteries contained in this chapter, the ~~Commission~~ Board of Liquor and Lottery is authorized to negotiate and contract with ~~up to~~ not more than four multijurisdictional lotteries to offer and provide multijurisdictional lottery games. The ~~Commission~~ Board may join any multijurisdictional lottery that provides indemnification for its standing committee members, officers, directors, employees, and agents.

(2)(A) The Commission Board shall adopt rules under 3 V.S.A. chapter 25 procedures pursuant to 3 V.S.A. § 835 to govern the establishment and operation of any multijurisdictional lottery game authorized by this section. For each procedure proposed to be adopted or amended pursuant to this section, the Board shall publish the proposal on the Department of Liquor and Lottery’s website, provide notice of the proposal to all persons licensed to sell lottery tickets, provide not less than 30 days for public comment on the proposal, and hold not less than two public hearings at which members of the public may seek additional information or submit oral or written comments on the proposal.

(B) The Board of Liquor and Lottery shall not be required to initiate rulemaking pursuant to 3 V.S.A. § 831(c) in relation to a procedure adopted pursuant to this section.

(C) A procedure adopted pursuant to this section shall be binding on all persons who play or sell the multijurisdictional lottery game.

* * *

(c) The provisions of subdivisions 674L.1.1A through 674L.1.1I of this title shall apply to the payment of prizes to a person other than a winner for prizes awarded under any multijurisdictional lottery authorized by this section, except that the ~~Vermont Lottery Commission~~ Board of Liquor and Lottery shall be responsible for implementing such the provisions under this section, rather than the Tri-State Lotto Commission.

Second: After Sec. 90, 31 V.S.A. § 654a, by inserting a Sec. 90a to read:

Sec. 90a. ADOPTION OF PROCEDURES; REPEAL OF RULES

On or before September 15, 2018, the Board of Liquor and Lottery shall adopt procedures governing the operation of all multijurisdictional lottery games offered pursuant to 31 V.S.A. § 654a. Upon the adoption of procedures governing the operation of a multijurisdictional lottery game, any rules adopted pursuant to 3 V.S.A. chapter 25 in relation to that game shall be deemed to be repealed.

ACTION CALENDAR

Third Reading

H. 581

An act relating to Connectivity Initiative grant eligibility

H. 582

An act relating to increased funding for the Connectivity Initiative

H. 843

An act relating to technical corrections

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 or redevelopment of less than one acre of impervious surface 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.

* * * Effective Dates * * *

Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 1–2 (three-acre stormwater permit) and 6 (permit fees) shall take effect on passage.

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

(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)

NOTICE CALENDAR

Favorable with Amendment

H. 636

An act relating to miscellaneous fish and wildlife subjects

Rep. Squirrel of Underhill, 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:

* * * Information Collection * * *

Sec. 1. 10 V.S.A. § 4132 is amended to read:

§ 4132. GENERAL DUTIES OF COMMISSIONER

(a) The Commissioner shall have charge of the enforcement of the provisions of this part.

* * *

(f) The Commissioner may collect data, conduct scientific research, and contract with qualified consultants for the purposes of managing fish and wildlife in the State and achieving the requirements and policies of this part. The Commissioner may designate as confidential any records produced or acquired by Department staff or contractors in the conduct of a study of or research related to fish, wildlife, wild plants, or the habitat or fish, wildlife, or wild plants, if release of the records would present a threat of harm to a species or the habitat of a species. Records designated as confidential under this subsection shall be exempt from inspection and copying under the Public Records Act. Records of Department staff or contractors that are not designated as confidential under this subsection shall be available for inspection and copying under the Public Records Act.

* * * Acquisition of Property; Grants * * *

Sec. 2. 10 V.S.A. § 4144(a) is amended to read:

(a) ~~The secretary~~ Secretary with approval of the Governor may acquire for the use of the State Department of Fish and Wildlife by gift, purchase, or lease ~~in the name of the State,~~ any and all rights and interests in lands, ponds, or streams, and hunting and fishing rights and privileges in any lands or waters in the State, ~~with~~ and the necessary rights of ingress or egress to and from such lands and waters. The Secretary's authority to acquire property interests under this section shall include all of the interests that may be acquired under subsection 6303(a) of this title.

Sec. 3. 10 V.S.A. § 4147 is amended to read:

§ 4147. FISH AND WILDLIFE LANDS

(a) Notwithstanding the provisions of 29 V.S.A. § 166, the Secretary with the approval of the Governor, ~~may convey,~~ exchange, sell, or lease lands under the Secretary's jurisdiction of the Department of Fish and Wildlife for one or more of the following purposes:

(1) resolving trespass issues and implementing boundary line adjustments and right-of-way and deed corrections, provided that the transfers are advantageous to the State;

(2) implementing the acquisition of new lands for conservation and public recreation when, in his or her judgment, it is advantageous to the State to do so in the highest orderly development of such lands and management of game thereon.

~~(b) Provided, however, such~~ The lease, sale, or exchange of lands under this section shall not include oil and gas leases and shall not be contrary to the terms of any contract which that has been entered into by the State.

* * *

* * * Licensing; Lottery Applications * * *

Sec. 4. 10 V.S.A. § 4254(e) is amended to read:

(e) The Commissioner shall establish:

(1) license agencies, for the sale and distribution of licenses or lottery applications for licenses, including any town clerk who desires to sell licenses or process lottery applications for licenses;

(2) the number, type, and location of license agencies, other than town clerk agencies;

(3) the qualifications of all agencies and agents except town clerks;

(4) controls for the inventory, safeguarding, issue, and recall of all licensing materials;

(5) the times and methods for reporting the sale and issuance of all licenses;

(6) procedures for accounting for and return of all monies and negotiable documents due the Department from agencies in accordance with the provisions of this title and Title 32 of the Vermont Statutes Annotated;

(7) procedures for the audit of all license programs and license agency transactions and the proper retention and inspection of all accounting and inventory records related to the sale or issuance of licenses;

(8) procedures for the suspension of any license agent or agency, including a town clerk agent, for noncompliance with the provisions of this title, any written agreement between the agent and the Department, or any licensing rule established by the Department;

(9) that for each license or lottery application, \$1.50 of the fee is a filing fee that may be retained by the agent, except for the super sport license for which \$5.00 of the fee is a filing fee that may be retained by the agent; and

(10) that for licenses, lottery applications, and tags issued where the Department does not receive any part of the fee, \$1.50 may be charged as a filing fee and retained by the agent.

* * * Migratory Waterfowl Stamp Program * * *

Sec. 5. 10 V.S.A. § 4277 is amended to read:

§ 4277. MIGRATORY WATERFOWL STAMP PROGRAM

(a) Definitions. As used in this section:

(1) “Migratory waterfowl” means all waterfowl species in the family anatidae, including wild ducks, geese, brant, and swans.

(2) “Stamp” means the State migratory waterfowl hunting stamp furnished by the Department of Fish and Wildlife as provided for in this section and the federal migratory waterfowl stamp furnished by the U.S. Department of the Interior.

(b) Waterfowl stamp required. No person 16 years of age or older shall attempt to take or take any migratory waterfowl in this State without first obtaining a State and federal migratory waterfowl stamp for the current year in addition to a regular hunting license as provided by section 4251 of this title. A stamp shall not be transferable. The State stamp year shall run from January 1 to December 31.

(c) Waterfowl stamp design, production, and distribution. The Commissioner of Fish and Wildlife shall be responsible for the design, production, procurement, distribution, and sale of ~~all stamps~~ the State stamp and all marketable stamp ~~by-products~~ by-products such as posters, artwork, calendars, and other items.

(d) Fee. ~~Stamps~~ State stamps shall be sold at the direction of the Commissioner for a fee of \$7.50. The issuing agent may retain a fee of \$1.00 for each stamp and shall remit \$6.50 of each fee to the Department of Fish and Wildlife. The Commissioner shall establish a uniform sale price for all categories of ~~by-products~~ by-products.

(e) Disposition of waterfowl receipts. All State waterfowl stamp receipts and all receipts from the sale of State stamp ~~by-products~~ by-products shall be deposited in the Fish and Wildlife Fund. All State stamp and ~~by-products~~ by-products receipts shall be expended through the appropriation process for waterfowl acquisition and improvement projects.

(f) Advisory ~~committee~~ Committee. There is hereby created a the Migratory Waterfowl Advisory Committee which shall consist of five persons and up to three alternates appointed by and serving at the pleasure of the Commissioner of Fish and Wildlife. The Commissioner shall designate a the Chair. The Committee shall be consulted with and may make recommendations to the Commissioner in regard to all projects and activities supported with the funds derived from the implementation of this section. The Commissioner shall make an annual financial and progress report to the Committee with regard to all activities authorized by this section.

* * * Forfeiture * * *

Sec. 6. 10 V.S.A. § 4505 is amended to read:

§ 4505. HEARING; FORFEITURE

The game warden or other officer shall retain possession of firearms, jacks, lights, motor vehicles, and devices taken until final disposition of the charge against the owner, possessor, or person using the same in violation of the provisions of section 4745, 4781, 4783, 4784, 4705(a), 4280, 4747, or 4606 of this title, in accordance with the provisions of section 4503 of this title. When the owner, possessor, or person using firearms, jacks, lights, motor vehicles, and devices in violation of the section is convicted of the offense, the court where the conviction is had shall cause the owner, if known, and possessor, and all persons having the custody of or exercising any control over the firearms, jacks, lights, motor vehicles, and devices seized, either as principal, clerk, servant, or agent and the respondent to appear and show cause, if any they have, why a forfeiture or condemnation order should not issue. The

hearings may be held as a collateral proceeding to the trial of the respondent in the discretion of the court.

* * * Enforcement; Violations * * *

Sec. 7. 10 V.S.A. § 4551 is amended to read:

§ 4551. FISH AND WILDLIFE VIOLATION DEFINED

A violation of any provision of this part, other than a violation for which a term of imprisonment may be imposed, or a minor violation as defined in section 4572 of this title, ~~or a violation of a rule adopted under this part~~ shall be ~~known~~ as a fish and wildlife violation.

Sec. 8. 10 V.S.A. § 4705 is amended to read:

§ 4705. SHOOTING FROM MOTOR VEHICLES OR AIRCRAFT;
SHOOTING FROM OR ACROSS HIGHWAY; PERMIT

(a) A person shall not take, ~~or attempt to take,~~ a wild animal by shooting from a motor vehicle, motorboat, airplane, snowmobile, or other ~~motor propelled~~ motor-propelled craft or any vehicle drawn by a ~~motor-propelled~~ motor-propelled vehicle except as permitted under subsection (e) of this section.

(b) A person shall not carry or possess while in or on a vehicle propelled by mechanical power or drawn by a vehicle propelled by mechanical power within the ~~right-of-way~~ right-of-way of a public highway a rifle or shotgun containing a loaded cartridge or shell in the chamber, mechanism, or in a magazine, or clip within a rifle or shotgun, or a muzzle-loading rifle or muzzle-loading shotgun that has been charged with powder and projectile and the ignition system of which has been enabled by having an affixed or attached percussion cap, primer, battery, or priming powder, except as permitted under subsections (d) and (e) of this section. A person who possesses a rifle, crossbow, or shotgun, including a muzzle-loading rifle or muzzle-loading shotgun, in or on a vehicle propelled by mechanical power, or drawn by a vehicle propelled by mechanical power within a ~~right-of-way~~ right-of-way of a public highway shall upon demand of an enforcement officer exhibit the firearm for examination to determine compliance with this section.

(c) A person while on or within 25 feet of the traveled portion of a public highway, except a public highway designated Class 4 on a town highway map, shall not take or attempt to take any wild animal by shooting a firearm, a muzzle loader, a bow and arrow, or a crossbow. A person while on or within the traveled portion of a public highway designated Class 4 on a town highway map shall not take or attempt to take any wild animal by shooting a firearm, a muzzle loader, a bow and arrow, or a crossbow. A person shall not shoot a

firearm, a muzzle loader, a bow and arrow, or a crossbow over or across the traveled portion of a public highway, except for a person shooting over or across the traveled portion of a public highway from a sport shooting range, as that term is defined in section 5227 of this title, provided that:

(1) the sport shooting range was established before January 1, 2014; and

(2) the operators of the sport shooting range post signage warning users of the public highway of the potential danger from the sport shooting range.

(d) This section shall not restrict the possession or use of a loaded firearm by an enforcement officer in performance of his or her duty.

* * *

Sec. 9. 10 V.S.A. § 4709 is amended to read:

§ 4709. TRANSPORT, IMPORTATION, POSSESSION, AND STOCKING OF WILD ANIMALS; POSSESSION OF WILD BOAR

(a) A person shall not bring into the State, transport into, transport within, transport through, or possess in the State any live wild bird or animal of any kind, unless, upon application in writing therefor, the person obtains without authorization from the Commissioner a permit to do so or his or her designee. The importation permit may be granted under such regulations therefor as the ~~Board~~ Commissioner shall prescribe and only after the Commissioner has made such investigation and inspection of the birds or animals as she or he may deem necessary. The Department may dispose of unlawfully possessed or imported wildlife as it may judge best, and the State may collect treble damages from the violator of this subsection for all expenses incurred.

(b) No person shall bring into the State from another country, state, or province wildlife illegally taken, transported, or possessed contrary to the laws governing the country, state, or province from which the wildlife originated.

(c) No person shall place a Vermont-issued tag on wildlife taken outside the State. No person shall report big game in Vermont when the wildlife is taken outside the State.

(d) Nothing in this section shall prohibit the Commissioner or duly authorized agents of the Department of Fish and Wildlife from bringing into the State for the purpose of planting, introducing, or stocking, or from planting, introducing, or stocking in the State, any wild bird or animal.

~~(e)~~(e) Applicants shall pay a permit fee of \$100.00.

~~(d)~~(f)(1) The Commissioner shall not issue a permit under this section for the importation or possession of the following live species, a hybrid or genetic variant of the following species, offspring of the following species, or

offspring or a hybrid of a genetically engineered variant of the following species: wild boar, wild hog, wild swine, feral pig, feral hog, feral swine, old world swine, razorback, Eurasian wild boar, or Russian wild boar (*Sus scrofa* Linnaeus).

(2) This subsection shall not apply to the domestic pig (*Sus domesticus*) involved in domestic hog production and shall not restrict or limit the authority of the Secretary of Agriculture, Food and Markets to regulate the importation or possession of the domestic pig as livestock or as a domestic animal under Title 6 of the Vermont Statutes Annotated.

* * * Trapping * * *

Sec. 10. 10 V.S.A. § 4254c is amended to read:

§ 4254c. NOTICE OF TRAPPING; DOMESTIC PET

A person who incidentally traps a domestic pet found to be injured or killed shall notify a fish and wildlife warden if the contact identification for the owner of the domestic pet is readily available.

Sec. 11. 10 V.S.A. § 4828 is amended to read:

§ 4828. TAKING OF RABBIT OR FUR-BEARING ANIMALS BY

LANDOWNER; SELECTBOARD; CERTIFICATE; PENALTY

(a)(1) The provisions of law or ~~regulations~~ rules of the Board relating to the taking of rabbits or fur-bearing animals shall not apply to:

(A) an owner, the owner's employee, tenant, or caretaker of property protecting the property from damage by rabbits or fur-bearing animals; or

(B) to a member of the selectboard of a town protecting public highways or bridges from such damage or submersion with the permission of the owner of lands affected.

(2) A person who for compensation sets a trap for rabbits or furbearing animals on the property of another in defense of that property shall possess a valid trapping license.

(3)(A) ~~However, if~~ If required by rule of the ~~board~~ Board, an owner; the owner's employee, tenant, or caretaker; ~~or the members;~~ a member of the selectboard; or a person who sets a trap for compensation who ~~desire~~ desires to possess during the closed season the skins of any fur-bearing animals taken in defense of property, highways, or bridges shall notify the Commissioner or the Commissioner's representative within 84 hours after taking ~~such~~ the animal, and shall hold ~~such~~ the pelts for inspection by such authorized representatives.

(b) Before disposing of ~~such~~ pelts taken under this section, if required by rule of the Board, the property owner; the owner's employee, tenant, or caretaker, ~~or~~; a member of the selectboard; or a person who sets a trap for compensation shall secure from the Commissioner or a designee a certificate describing the pelts, and showing that the pelts were legally taken during a closed season and in defense of property, highways, or bridges. In the event of storage, sale, or transfer, ~~such~~ the certificates shall accompany the pelts described therein.

Sec. 12. 10 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

Words and phrases used in this part, unless otherwise provided, shall be construed to mean as follows:

* * *

(9) Game: game birds or game quadrupeds, or both.

(10) Game birds: quail, partridge, woodcock, pheasant, plover of any kind, Wilson snipe, other shore birds, rail, coot, gallinule, wild ducks, wild geese, and wild turkey.

* * *

(13) Rabbit: to include wild hare.

(14) Fur-bearing animals: beaver, otter, marten, mink, raccoon, fisher, fox, skunk, coyote, bobcat, weasel, opossum, lynx, wolf, and muskrat.

(15) Wild animals or wildlife: all animals, including birds, fish, amphibians, and reptiles, other than domestic animals, domestic fowl, or domestic pets.

* * *

(23) Take and taking: pursuing, shooting, hunting, killing, capturing, trapping, snaring, and netting fish, birds, and quadrupeds and all lesser acts, such as disturbing, harrying ~~or~~, worrying, or wounding or placing, setting, drawing, or using any net or other device commonly used to take fish or wild animals, whether they result in the taking or not; and shall include every attempt to take and every act of assistance to every other person in taking or attempting to take fish or wild animals, provided that when taking is allowed by law, reference is had to taking by lawful means and in a lawful manner.

* * *

(27) Commissioner: Commissioner of Fish and Wildlife.

* * *

(31) Big game: deer, bear, moose, wild turkey, caribou, elk, and anadromous Atlantic salmon taken in the Connecticut River Basin.

* * *

(40) Domestic pet: domesticated dogs, domesticated cats, domesticated ferrets, psittacine birds, or any domesticated animal that is kept for pleasure rather than utility.

Sec. 13. FISH AND WILDLIFE BOARD RULES; TRAPPING

On or before January 1, 2019, the Fish and Wildlife Board shall adopt by rule those requirements of Fish and Wildlife Board Rule 44 regarding the trapping of fur-bearing animals that shall apply to persons trapping for compensation under 10 V.S.A. § 4828.

* * * Antlerless Deer; Posting with Permission * * *

Sec. 14. 10 V.S.A. § 4081(g) is amended to read:

(g) If the Board finds that an antlerless season is necessary to maintain the health and size of the herd, the Department shall administer an antlerless deer program. Annually, the Board shall determine how many antlerless permits to issue in each wildlife management unit. For a nonrefundable fee of \$10.00 for residents and \$25.00 for nonresidents, a person may apply for a permit. Each person may submit only one application for a permit. The Department shall allocate the permits in the following manner:

(1) A Vermont landowner, as defined in section 4253 of this title, who owns 25 or more contiguous acres and who applies shall receive a permit for antlerless hunting in the management unit on which the land is located before any are given to people eligible under subdivision (2) of this subsection. If the land is owned by more than one individual, corporation, or other entity, only one permit shall be issued. Landowners applying for antlerless permits under this subdivision shall not, at the time of application or thereafter during the regular hunting season, post their lands except with permission-only signs under section 5201 of this title or as a safety zone under the provisions of section 4710 of this title. As used in this section, “post” means any signage, other than permission-only signs authorized under section 5201 of this title, that would lead a reasonable person to believe that hunting is restricted on the land. If the number of landowners who apply exceeds the number of permits for that district, the Department shall award all permits in that district to landowners by lottery.

(2) Permits remaining after allocation pursuant to subdivision (1) of this subsection shall be issued by lottery.

(3) Any permits remaining after permits have been allocated pursuant to

subdivisions (1) and (2) of this subsection shall be issued by the Department for a \$10.00 fee for residents. Ten percent of the remaining permits may be issued to nonresident applicants for a \$25.00 fee.

* * * Coyote Hunting * * *

Sec. 15. 10 V.S.A. § 4716 is added to read:

§ 4716. COYOTE-HUNTING COMPETITIONS; PROHIBITION

(a) As used in this section, “coyote-hunting competition” means a contest in which people compete in the capturing or taking of coyotes for a prize or recognition.

(b) A person shall not hold or conduct a coyote-hunting competition in the State.

(c) A person shall not participate in a coyote-hunting competition in the State.

Sec. 16. 10 V.S.A. § 4502(b) is amended to read:

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in this title of the Vermont Statutes Annotated):

* * *

(2) Ten points shall be assessed for:

* * *

(TT) § 4716. Participating in a coyote-hunting competition.

(3) Twenty points shall be assessed for:

* * *

(CC) § 4716. Holding or conducting a coyote-hunting competition.

Sec. 17. 10 V.S.A. § 4518 is amended to read:

§ 4518. BIG GAME VIOLATIONS; THREATENED AND ENDANGERED SPECIES; COYOTE-HUNTING COMPETITION VIOLATIONS; SUSPENSION; VIOLATIONS

Whoever violates a provision of this part or orders or rules of the Board relating to taking, possessing, transporting, buying, or selling of big game; relating to holding or participating in a coyote-hunting competition; or relating to threatened or endangered species shall be fined not more than \$1,000.00 nor less than \$400.00 or imprisoned for not more than 60 days, or both. Upon a second and all subsequent convictions or any conviction while under license

suspension related to the requirements of part 4 of this title, the violator shall be fined not more than \$4,000.00 nor less than \$2,000.00 or imprisoned for not more than 60 days, or both.

* * * Fish and Wildlife Violations; Criminal or Civil * * *

Sec. 18. DEPARTMENT OF FISH AND WILDLIFE; REVIEW OF
CRIMINAL OR CIVIL NATURE OF VIOLATIONS

The Department of Fish and Wildlife shall conduct a review of the potential criminal and civil charges for all fish and wildlife violations. On or before January 15, 2019, the Department shall submit to the House Committees on Natural Resources, Fish, and Wildlife and on Judiciary and the Senate Committees on Natural Resources and Energy and on Judiciary a report recommending changes to the criminal and civil charges for fish and wildlife violations. The report shall summarize the process the Department used to review the charges for fish and wildlife violations and shall explain the basis for the Department's recommendations. Prior to preparing the report required by this section, the Department shall consult with interested stakeholders, the Judiciary, State's Attorneys, criminal defense lawyers, and fish and game groups.

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES

(a) This section and Secs. 10 (incidental trapping), 12 (definitions), 13 (trapping rules amendment), and 15-17 (coyote-hunting competitions) shall take effect on January 1, 2019.

(b) Sec. 11 (trapping for compensation) shall take effect on January 1, 2020.

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

(Committee Vote: 6-2-1)

Rep. Lucke of Hartford, 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.

(Committee Vote: 8-1-2)

Amendment to be offered by Rep. Willhoit of St. Johnsbury to the recommendation of amendment of the Committee on Natural Resources; Fish and Wildlife to H. 636

In Sec. 15, 10 V.S.A. § 4716, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

(a) As used in this section, “coyote-hunting competition” means an advertised contest that is open to the public in which people compete in the capturing or taking of coyotes for a prize or recognition. “Recognition” as used in this subsection shall not mean verbal recognition a person receives for capturing or taking a coyote.

H. 718

An act relating to creation of the Restorative Justice Study Committee

Rep. Macaig of Williston, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Restorative justice has proven to be very helpful in reducing offender recidivism, and, in many cases, has resulted in positive outcomes for victims.

(2) Victims thrive when they have options. Because the criminal justice system does not always meet victims’ needs, restorative justice may provide options to improve victims’ outcomes.

(3) Restorative justice as an alternative to incarceration of domestic and sexual assault offenders should be assessed to determine whether the necessary tools exist to ensure the safety of victims.

(4) Cultural shifts occur when communities are engaged in changing violent behaviors and when victims and perpetrators have access to options that support change and offer healing to families and communities. Allowing for restorative justice intervention when deemed safe and appropriate may achieve these goals.

Sec. 2. RESTORATIVE JUSTICE STUDY COMMITTEE

(a) Creation. There is created the Restorative Justice Study Committee for the purpose of conducting a comprehensive examination of whether there is a role for restorative justice principles and processes in domestic and sexual violence and stalking cases.

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

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

(2) an executive director of a dual domestic and sexual violence

Network Member Program or designee, appointed by the Executive Director of the Vermont Network Against Domestic and Sexual Violence;

(3) an executive director of a sexual violence Network Member Program or designee, appointed by the Executive Director of the Vermont Network Against Domestic and Sexual Violence;

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

(5) a representative of the Vermont Association of Court Diversion Programs;

(6) a representative of a Vermont community justice program;

(7) a prosecutor who handles, in whole or in part, domestic violence, sexual violence, and stalking cases, appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;

(8) the Executive Director of Vermonters for Criminal Justice Reform or designee;

(9) three representatives of organizations serving marginalized Vermonters, appointed by the Vermont Network Against Domestic and Sexual Violence;

(10) a representative of the Vermont Abenaki community, appointed by the Governor;

(11) the Executive Director of the Discussing Intimate Partner Violence and Accessing Support (DIVAS) Program for incarcerated women;

(12) the Coordinator of the Vermont Domestic Violence Council;

(13) the Commissioner of Corrections or a designee familiar with community and restorative justice programs;

(14) a representative of the Office of the Defender General;

(15) the Court Diversion and Pretrial Services Director; and

(16) two victims of domestic and sexual violence or stalking appointed by the Vermont Network Against Domestic and Sexual Violence.

(c) Powers and duties. The Committee shall study whether restorative justice can be an effective process for holding perpetrators of domestic and sexual violence and stalking accountable, while preventing future crime and keeping victims and the greater community safe. In deciding whether restorative justice can be suitable for each subset of cases, the Committee shall study the following:

(1) the development of specialized processes to ensure the safety,

confidentiality, and privacy of victims;

(2) the nature of different offenses such as domestic violence, sexual violence, and stalking, including the level of harm caused by or violence involved in the offenses;

(3) the appropriateness of restorative justice in relation to the offense;

(4) a review of the potential power imbalances between the people who are to take part in restorative justice for these offenses;

(5) ways to protect the physical and psychological safety of anyone who is to take part in restorative justice for these offenses;

(6) training opportunities related to intake-level staff in domestic and sexual violence and stalking;

(7) community collaboration opportunities in the implementation of statewide protocols among restorative justice programs and local domestic and sexual violence organizations, prosecutors, corrections, and organizations that represent marginalized Vermonters;

(8) the importance of victims' input in the development of any restorative justice process related to domestic and sexual violence and stalking cases;

(9) opportunities for a victim to participate in a restorative justice process, which may include alternatives to face-to-face meetings with an offender;

(10) risk-assessment tools that can assess perpetrators for risk prior to acceptance of referral;

(11) any necessary data collection to provide the opportunity for ongoing improvement of victim-centered response; and

(12) resources required to provide adequate trainings, ensure needed data gathering, support collaborative information sharing, and sustain relevant expertise at restorative justice programs.

(d) Assistance. The Vermont Network Against Domestic and Sexual Violence shall convene the first meeting of the Committee and provide support services.

(e) Reports. On or before December 1, 2018, the Vermont Network Against Domestic and Sexual Violence, on behalf of the Committee, shall submit an interim written report to the House Committee on Corrections and Institutions and to the House and Senate Committees on Judiciary. On or before July 1, 2019, the Vermont Network Against Domestic and Sexual Violence, on behalf of the Committee, shall submit a final report to the House

Committee on Corrections and Institutions and to the House and Senate Committees on Judiciary.

(f) Meetings.

(1) The Vermont Network Against Domestic and Sexual Violence shall convene the meetings of the Committee, the first one to occur on or before August 1, 2018.

(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 July 1, 2019.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

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?

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.

February 21, 2018, House Committee on Ways and Means Public hearing on potential changes to the Education Funding System. Room 11, 4:00-6:00 PM,

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.