

House Calendar

Thursday, March 22, 2018

79th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 PM

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

Third Reading

H. 897 Enhancing the effectiveness, availability, and equity of services provided to students who require additional support.....	1255
H. 899 Fees for records filed in town offices and a town fee report and request	1255
H. 922 Making numerous revenue changes.....	1255
Rep. Donahue Amendment.....	1255

Committee Bill for Second Reading

H. 924 Making appropriations for the support of government.....	1256
Rep. Toll for Appropriations	

NOTICE CALENDAR

Favorable with Amendment

S. 55 An act relating to the disposition of unlawful and abandoned firearms	1256
Rep. LaLonde for Judiciary	

Ordered to Lie

H. 167 Alternative approaches to addressing low-level illicit drug use.....	1263
H. 219 The Vermont spaying and neutering program.....	1263
S. 103 An act relating to the regulation of toxic substances and hazardous materials.....	1263
S. 267 An act relating to timing of a decree nisi in a divorce proceeding..	1263

Consent Calendar

H.C.R. 279 Honoring Andrew A. Pallito for his exemplary leadership and wisdom as a Vermont public official.....	1264
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H.C.R. 280 Designating July 2018 as Parks and Recreation Month in Vermont	1264
H.C.R. 281 Designating March 19, 2018 as Women in Public Office Day	1264
H.C.R. 282 In memory of Dr. John W. Hennessey Jr. of Shelburne.....	1264
H.C.R. 283 Designating March 2018 as Older Vermonters Nutrition Month	1264
H.C.R. 284 Congratulating the St. Johnsbury Academy Hilltoppers on winning their fourth consecutive Division I girls’ indoor track and field championship.....	1264
H.C.R. 285 Congratulating the 2018 St. Johnsbury Academy Hilltoppers Division I championship boys’ indoor track and field team.....	1264
H.C.R. 286 In memory of Elaine B. Little of Shelburne and Burlington,..	1264
H.C.R. 287 Honoring the life and legacy of Robert Romeo De Cormier Jr. of Belmont.....	1264
H.C.R. 288 Celebrating the cultural and economic centrality of agriculture in the State of Vermont.....	1264
H.C.R. 289 Designating March 22, 2018 as Vermont Nonprofit Legislative Day at the State House.....	1265
H.C.R. 290 Designating March 2018 as National Social Work Month in Vermont.....	1265
S.C.R. 22 Senate concurrent resolution designating Saturday, March 24, 2018 as Northeast Kingdom Day in Vermont.....	1265

ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 897

An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support

H. 899

An act relating to fees for records filed in town offices and a town fee report and request

H. 922

An act relating to making numerous revenue changes

Amendment to be offered by Rep. Donahue of Northfield to H. 922

In Sec. 18, 32 V.S.A. § 6061(4), by striking out Sec. 18 in its entirety and inserting in lieu thereof a new Sec. 18 to read:

Sec. 18. 32 V.S.A. § 6061 is amended to read:

§ 6061. DEFINITIONS

* * *

(3) “Household” means, for any individual and for any taxable year, the individual and such other persons as resided with the individual in the principal dwelling at any time during the taxable year. A person who is not related to any member of the household and who is residing in the household under a written homesharing agreement pursuant to a nonprofit homesharing program or a person residing in a household who is hired as a bona fide employee to provide personal care to a member of the household and who is not related to the person for whom the care is provided shall not be considered to be a member of the household. An individual’s household shall not include other persons with separate leases, notwithstanding the fact that the individual and other persons may share some spaces in common.

(4)(A) “Household income” means modified adjusted gross income, but not less than zero, received in a calendar year by:

(A)(i) all persons of a household while members of that household; and

(B)(ii) the spouse of the claimant who is not a member of that household and who is not legally separated from the claimant in the taxable

year as defined in subdivision (9) of this section, unless the spouse is at least 62 years of age and has moved to a nursing home or other care facility with no reasonable prospect of returning to the homestead.

(B) “Household income” does not mean:

(i) the modified adjusted gross income of the spouse or former spouse of the claimant, if the claimant is legally separated or divorced from the spouse in the taxable year as defined in subdivision (9) of this section;

(ii) the modified adjusted gross income of the spouse of the claimant, if the spouse is subject to a protection order as defined in 15 V.S.A. § 1101(5) that is in effect at the time the claimant reports household income to the Department of Taxes.

* * *

Committee Bill for Second Reading

H. 924

An act relating to making appropriations for the support of government.

(Rep. Toll of Danville will speak for the Committee on Appropriations.)

NOTICE CALENDAR

Favorable with Amendment

S. 55

An act relating to the disposition of unlawful and abandoned firearms

Rep. Lalonde of South Burlington, for the Committee on Judiciary, 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. 20 V.S.A. § 2301 is amended to read:

§ 2301. APPLICABILITY OF CHAPTER

Notwithstanding any other provisions of law relating to the retention and disposition of evidence or lost, unclaimed, or abandoned property, the provisions of this chapter shall govern the retention or disposition, or both, of unlawful firearms, ~~as defined in section 2302 of this title,~~ in the possession of any agency, ~~as defined in section 2302 and the disposition of abandoned firearms in the possession of the Department of Public Safety.~~

Sec. 2. 20 V.S.A. § 2302 is amended to read:

§ 2302. UNLAWFUL FIREARMS; AGENCY

~~(a) For purposes of As used in this chapter;~~

(1) ~~“unlawful~~ Unlawful firearms” means firearms the possession of which constitutes a violation of federal or state State law and firearms carried or used in violation of any federal or state State law or in the commission of any federal or state State felony.

~~(b)(2) For purposes of this chapter, “agency”~~ “Agency” means any state State or local law enforcement agency, any state State agency except the ~~Vermont fish and wildlife department~~ Department of Fish and Wildlife, and any local government entity.

(3) “Unlawful per se” means firearms the possession of which is unlawful under any circumstances under State or federal law.

(4) “Abandoned firearms” means firearms in the possession of the Department of Public Safety that are no longer needed as evidence and remain unclaimed for more than 18 months from the date the firearms come into the Department’s possession.

Sec. 3. 20 V.S.A. § 2305 is amended to read:

§ 2305. DISPOSITION OF UNLAWFUL FIREARMS

(a) Any ~~unlawful~~ firearm which the commissioner of public safety determines to be unsafe or the possession of which is unlawful per se shall either be destroyed, or if the ~~commissioner of public safety~~ Commissioner of Public Safety deems ~~such to be~~ it appropriate, retained by the ~~department of public safety~~ Department of Public Safety for purposes of forensic science reference. In no event shall the ~~commissioner of public safety~~ Commissioner of Public Safety dispose of such an ~~unlawful~~ a firearm in any other manner or to any other person.

(b)(1) Except as provided in section 2306 of this title, all ~~other~~ unlawful and abandoned firearms shall either be:

(A) ~~delivered to the state treasurer~~ Commissioner of Buildings and General Services as directed by him or her for ~~disposition by public sale pursuant to the provisions of chapter 13 of Title 27, or by such other manner of sale deemed appropriate by the state treasurer, or sale to a federally licensed firearms dealer pursuant to the Commissioner’s authority under Title 29;~~

(B) ~~at the discretion of the state treasurer~~ Commissioner of Buildings and General Services, donated to a governmental agency or to a nonprofit organization upon the recommendation of the commissioner of fish and wildlife, transferred to the Commissioner of Fish and Wildlife for disposition; or,

(C) ~~if the commissioner of public safety~~ Commissioner of Public Safety deems ~~such to be~~ it appropriate, retained by the ~~department of public~~

~~safety~~ Department of Public Safety for purposes of forensic science reference.

(2) ~~Notwithstanding the foregoing provision subdivision (1) of this subsection, an unlawful firearm used in the commission of a homicide shall not be delivered to the state treasurer for disposition by public sale~~ Commissioner of Buildings and General Services, but shall be disposed of only in accordance with:

(A) ~~the provisions of subsection (a) of this section in the same manner as unlawful per se firearms; or~~

(B) ~~section 2306 of this title.~~

(c) ~~When the firearms sold under this section have been delivered to the commissioner of public safety by a local law enforcement agency, the state treasurer~~ Commissioner of Buildings and General Services shall return two-thirds of the net proceeds from the sale to the appropriate municipality. The remaining proceeds shall be allocated pursuant to the authority of the Commissioner of Buildings and General Services under 29 V.S.A. § 1557. Proceeds allocated to a municipality under this subsection shall, to the extent needed by the municipality, be used to offset the costs of storing nonevidentiary firearms.

(d) No State agency or department or State official shall be subject to any civil, criminal, administrative, or regulatory liability for any act taken or omission made in reliance on the provisions of this chapter.

Sec. 4. 20 V.S.A. § 2306 is amended to read:

§ 2306. RIGHTS OF INNOCENT OWNER

Nothing contained in subsection 2305(b) of this title shall prejudice the rights of the bona fide owner of any unlawful firearm, the disposition of which is governed by that subsection, upon affirmative proof by him or her that he or she had no express or implied knowledge that such unlawful firearm was being or intended to be used illegally or for illegal purposes. If the bona fide owner provides reasonable and satisfactory proof of his or her ownership and of his or her lack of express or implied knowledge to the ~~commissioner of public safety~~ Commissioner of Public Safety, the unlawful firearm shall be returned to him or her. If the ~~commissioner of public safety~~ Commissioner of Public Safety determines that the proof offered is not satisfactory or reasonable, the person may, within 14 days, request a hearing before the ~~state treasurer~~ Commissioner of Buildings and General Services and the ~~commissioner of public safety~~ Commissioner of Public Safety, jointly. The ~~state treasurer~~ Commissioner of Buildings and General Services and the ~~commissioner of public safety~~ Commissioner of Public Safety shall promptly hold a hearing on any claim filed under this section, in accordance with the provisions for

contested cases in 3 V.S.A. chapter 25 of Title 3.

Sec. 5. 20 V.S.A. § 2307 is amended to read:

§ 2307. FIREARMS RELINQUISHED PURSUANT TO RELIEF FROM
ABUSE ORDER; STORAGE; FEES; RETURN

* * *

(2)(A)(i) If the owner fails to retrieve the firearm, ammunition, or weapon and pay the applicable storage fee within 90 days of the court order releasing the items, the firearm, ammunition, or weapon may be sold for fair market value. Title to the items shall pass to the law enforcement agency or firearms dealer for the purpose of transferring ownership, except that the Vermont State Police shall follow the procedure described in section 2305 of this title.

* * *

Sec. 6. 13 V.S.A. § 4019 is added to read:

§ 4019. FIREARMS TRANSFERS; BACKGROUND CHECKS

(a) As used in this section:

(1) “Firearm” shall have the same meaning as in subsection 4017(d) of this title.

(2) “Immediate family member” means a spouse, parent, stepparent, child, stepchild, sibling, stepsibling, grandparent, stepgrandparent, grandchild, stepgrandchild, greatgrandparent, stepgreatgrandparent, greatgrandchild, and stepgreatgrandchild.

(3) “Law enforcement officer” shall have the same meaning as in subdivision 4016(a)(4) of this title.

(4) “Licensed dealer” means a person issued a license as a dealer in firearms pursuant to 18 U.S.C. § 923(a).

(5) “Proposed transferee” means an unlicensed person to whom a proposed transferor intends to transfer a firearm.

(6) “Proposed transferor” means an unlicensed person who intends to transfer a firearm to another unlicensed person.

(7) “Transfer” means to transfer ownership of a firearm by means of sale, trade, or gift.

(8) “Unlicensed person” means a person who has not been issued a license as a dealer, importer, or manufacturer in firearms pursuant to 18 U.S.C. § 923(a).

(b)(1) Except as provided in subsection (e) of this section, an unlicensed person shall not transfer a firearm to another unlicensed person unless:

(A) the proposed transferor and the proposed transferee physically appear together with the firearm before a licensed dealer and request that the licensed dealer facilitate the transfer; and

(B) the licensed dealer agrees to facilitate the transfer and determines that the proposed transferee is not prohibited by State or federal law from purchasing or possessing the firearm.

(2) A person shall not, in connection with the transfer or attempted transfer of a firearm pursuant to this section, knowingly make a false statement or exhibit a false identification intended to deceive a licensed dealer with respect to any fact material to the transfer.

(c)(1) A licensed dealer who agrees to facilitate a firearm transfer pursuant to this section shall comply with all requirements of State and federal law and shall, unless otherwise expressly provided in this section, conduct the transfer in the same manner as the licensed dealer would if selling the firearm from his or her own inventory, but shall not be considered a vendor.

(2) A licensed dealer shall return the firearm to the proposed transferor and decline to continue facilitating the transfer if the licensed dealer determines that the proposed transferee is prohibited by federal or State law from purchasing or possessing the firearm.

(3) A licensed dealer may charge a reasonable fee to facilitate the transfer of a firearm between a proposed transferor and a proposed transferee pursuant to this section.

(d)(1) An unlicensed person who transfers a firearm to another unlicensed person in violation of subdivision (b)(1) of this section shall be imprisoned not more than one year or fined not more than \$500.00, or both.

(2) A person who violates subdivision (b)(2) of this section shall be imprisoned not more than one year or fined not more than \$500.00, or both.

(e) This section shall not apply to:

(1) the transfer of a firearm by or to a law enforcement agency;

(2) the transfer of a firearm by or to a law enforcement officer or member of the U.S. Armed Forces acting within the course of his or her official duties;

(3) the transfer of a firearm from one immediate family member to another immediate family member; or

(4) a person who transfers the firearm to another person in order to

prevent imminent harm to any person, provided that this subdivision shall only apply while the risk of imminent harm exists.

(f) A licensed dealer who facilitates a firearm transfer pursuant to this section shall be immune from any civil or criminal liability for any actions taken or omissions made when facilitating the transfer in reliance on the provisions of this section. This subsection shall not apply to reckless or intentional misconduct by a licensed dealer.

Sec. 7. 13 V.S.A. § 4020 is added to read

§ 4020. SALE OF FIREARMS TO MINORS PROHIBITED

(a) A person shall not sell a firearm to a person under 21 years of age. A person who violates this subsection shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both.

(b) This section shall not apply to:

(1) a law enforcement officer;

(2) an active or veteran member of the Vermont National Guard, of the National Guard of another state, or of the U.S. Armed Forces;

(3) a person who provides the seller with a certificate of satisfactory completion of a Vermont hunter safety course or an equivalent hunter safety course that is approved by the Commissioner; or

(4) a person who provides the seller with a certificate of satisfactory completion of a hunter safety course in another state or a province of Canada that is approved by the Commissioner.

(c) As used in this section:

(1) "Firearm" shall have the same meaning as in subsection 4017(d) of this title.

(2) "Law enforcement officer" shall have the same meaning as in subsection 4016(a) of this title.

Sec. 8. 13 V.S.A. § 4021 is added to read

§ 4021. LARGE CAPACITY AMMUNITION FEEDING DEVICES

(a) A person shall not manufacture, possess, transfer, offer for sale, purchase, receive, or import into this State a large capacity ammunition feeding device.

(b) A person who violates this section shall be imprisoned for not more than one year or fined not more than \$500.00, or both.

(c) The prohibition on possession of large capacity ammunition feeding

devices established by subsection (a) of this section shall not apply to a large capacity ammunition feeding device lawfully possessed on or before the effective date of this act.

(d) This section shall not apply to any large capacity ammunition feeding device:

(1) manufactured for, transferred to, or possessed by the United States or a department or agency of the United States, or any state or a department, agency, or political subdivision of a state;

(2) transferred to or possessed by a state or federal law enforcement officer for legitimate law enforcement purposes, whether the officer is on or off duty;

(3) transferred to a licensee under Title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by federal law, or possessed by an employee or contractor of such a licensee on-site for these purposes, or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

(4) possessed by an individual who is retired from service with a law enforcement agency after having been transferred to the individual by the agency upon his or her retirement, provided that the individual is not otherwise prohibited from receiving ammunition; or

(5) manufactured, transferred, or possessed by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the U.S. Attorney General.

(e) As used in this section, "large capacity ammunition feeding device" means a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition, provided that "large capacity ammunition feeding device" shall not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.

Sec. 9. 13 V.S.A. § 4023 is added to read

§ 4023. BUMP-FIRE STOCKS; POSSESSION PROHIBITED

(a) As used in this section, "bump-fire stock" means a butt stock designed to be attached to a semiautomatic firearm and intended to increase the rate of fire achievable with the firearm to that of a fully automatic firearm by using the energy from the recoil of the firearm to generate a reciprocating action that facilitates the repeated activation of the trigger.

(b) A person shall not possess a bump-fire stock. A person who violates

this subsection shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-5-0)

(For text see Senate Journal March 2, 2018)

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?

S. 103

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

Pending Question: Shall the House concur in the Senate proposal of amendment to the House proposal of amendment??

S. 267

An act relating to timing of a decree nisi in a divorce proceeding.

Pending Question: Second reading?

Consent Calendar

Concurrent Resolutions

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 the end of the session of the next legislative day. 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.

H.C.R. 279

House concurrent resolution honoring Andrew A. Pallito for his exemplary leadership and wisdom as a Vermont public official

H.C.R. 280

House concurrent resolution designating July 2018 as Parks and Recreation Month in Vermont

H.C.R. 281

House concurrent resolution designating March 19, 2018 as Women in Public Office Day

H.C.R. 282

House concurrent resolution in memory of Dr. John W. Hennessey Jr. of Shelburne

H.C.R. 283

House concurrent resolution designating March 2018 as Older Vermonters Nutrition Month

H.C.R. 284

House concurrent resolution congratulating the St. Johnsbury Academy Hilltoppers on winning their fourth consecutive Division I girls' indoor track and field championship

H.C.R. 285

House concurrent resolution congratulating the 2018 St. Johnsbury Academy Hilltoppers Division I championship boys' indoor track and field team

H.C.R. 286

House concurrent resolution in memory of Elaine B. Little of Shelburne and Burlington

H.C.R. 287

House concurrent resolution honoring the life and legacy of Robert Romeo De Cormier Jr. of Belmont

H.C.R. 288

House concurrent resolution celebrating the cultural and economic centrality of agriculture in the State of Vermont

H.C.R. 289

House concurrent resolution designating March 22, 2018 as Vermont Nonprofit Legislative Day at the State House

H.C.R. 290

House concurrent resolution designating March 2018 as National Social Work Month in Vermont

S.C.R. 22

Senate concurrent resolution designating Saturday, March 24, 2018 as Northeast Kingdom Day in Vermont

Public Hearings

House Appropriations Committee

Members' amendments to Fiscal Year 2019

Proposed Omnibus Appropriations Bill (H.924)

The House Committee on Appropriations requests all members of the House, who intend to introduce amendments to the proposed FY 2019 omnibus appropriations bill (H.924), to meet with the committee **in room 42 at 8:30 a.m. on Thursday, March 22, before 2nd reading**, OR at **8:30 a.m. on Friday, March 23, before 3rd reading**. Schedule a time with Theresa Utton-Jerman at tutton@leg.state.vt.us, 828-5767 or Room: 40 to meet with the Committee.

In addition, please notify the Chair or Vice-Chair as soon as possible if you intend to offer an amendment.