

House Calendar

Thursday, April 26, 2018

114th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Action Postponed Until April 26, 2018

Called Up

S. 267

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

Pending Action: Second Reading

Rep. LaLonde of South Burlington, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended

Sec. 1. 13 V.S.A. chapter 85 is amended to read:

CHAPTER 85. WEAPONS

Subchapter 1. Generally

* * *

Subchapter 2. Extreme Risk Protection Orders

§ 4051. DEFINITIONS

As used in this subchapter:

(1) “Court” means the Family Division of the Superior Court.

(2) “Dangerous weapon” means an explosive or a firearm.

(3) “Explosive” means dynamite, or any explosive compound of which nitroglycerin forms a part, or fulminate in bulk or dry condition, or blasting caps, or detonating fuses, or blasting powder or any other similar explosive. The term does not include a firearm or ammunition therefor or any components of ammunition for a firearm, including primers, smokeless powder, or black gunpowder.

(4) “Federally licensed firearms dealer” means a licensed importer, licensed manufacturer, or licensed dealer required to conduct national instant criminal background checks under 18 U.S.C. § 922(t).

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

(6) “Law enforcement agency” means the Vermont State Police, a municipal police department, or a sheriff’s department.

§ 4052. JURISDICTION AND VENUE

(a) The Family Division of the Superior Court shall have jurisdiction over proceedings under this subchapter.

(b) Emergency orders under section 4054 of this title may be issued by a judge of the Criminal, Civil, or Family Division of the Superior Court.

(c) Proceedings under this chapter shall be commenced in the county where the law enforcement agency is located, the county where the respondent resides, or the county where the events giving rise to the petition occur.

§ 4053. PETITION FOR EXTREME RISK PROTECTION ORDER

(a) A State's Attorney or the Office of the Attorney General may file a petition requesting that the court issue an extreme risk protection order prohibiting a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person's custody or control. The petitioner shall submit an affidavit in support of the petition.

(b) Except as provided in section 4054 of this title, the court shall grant relief only after notice to the respondent and a hearing. The petitioner shall have the burden of proof by a preponderance of the evidence.

(c)(1) A petition filed pursuant to this section shall allege that the respondent poses an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control.

(2)(A) An extreme risk of harm to others may be shown by establishing that:

(i) the respondent has inflicted or attempted to inflict bodily harm on another; or

(ii) by his or her threats or actions the respondent has placed others in reasonable fear of physical harm to themselves; or

(iii) by his or her actions or inactions the respondent has presented a danger to persons in his or her care.

(B) An extreme risk of harm to himself or herself may be shown by establishing that the respondent has threatened or attempted suicide or serious bodily harm.

(3) The affidavit in support of the petition shall state:

(A) the specific facts supporting the allegations in the petition;

(B) any dangerous weapons the petitioner believes to be in the respondent's possession, custody, or control; and

(C) whether the petitioner knows of an existing order with respect to

the respondent under 15 V.S.A. chapter 21 (abuse prevention orders) or 12 V.S.A. chapter 178 (orders against stalking or sexual assault).

(d) The court shall hold a hearing within 14 days after a petition is filed under this section. Notice of the hearing shall be served pursuant to section 4056 of this title concurrently with the petition and any ex parte order issued under section 4054 of this title.

(e)(1) The court shall grant the petition and issue an extreme risk protection order if it finds by a preponderance of the evidence that the respondent poses an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control.

(2) An order issued under this subsection shall prohibit a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person's custody or control for a period of up to one year. The order shall be signed by the judge and include the following provisions:

(A) A statement of the grounds for issuance of the order.

(B) The name and address of the court where any filings should be made, the names of the parties, the date of the petition, the date and time of the order, and the date and time the order expires.

(C) A description of how to appeal the order.

(D) A description of the requirements for relinquishment of dangerous weapons under section 4059 of this title.

(E) A description of how to request termination of the order under section 4055 of this title. The court shall include with the order a form for a motion to terminate the order.

(F) A statement directing the law enforcement agency, approved federally licensed firearms dealer, or other person in possession of the firearm to release it to the owner upon expiration of the order.

(G) A statement in substantially the following form:

"To the subject of this protection order: This order shall be in effect until the date and time stated above. If you have not done so already, you are required to surrender all dangerous weapons in your custody, control, or possession to [insert name of law enforcement agency], a federally licensed firearms dealer, or a person approved by the court. While this order is in effect, you are not allowed to purchase, possess, or receive a dangerous weapon; attempt to purchase, possess, or receive a dangerous weapon; or have a dangerous weapon in your custody or control. You have the right to request

one hearing to terminate this order during the period that this order is in effect, starting from the date of this order. You may seek the advice of an attorney regarding any matter connected with this order.”

(f) If the court denies a petition filed under this section, the court shall state the particular reasons for the denial in its decision.

(g) No filing fee shall be required for a petition filed under this section.

(h) Form petitions and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

(j) Every final order issued under this section shall bear the following language: “VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.”

(k) Affidavit forms required pursuant to this section shall bear the following language: “MAKING A FALSE STATEMENT IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058.”

§ 4054. EMERGENCY RELIEF; TEMPORARY EX PARTE ORDER

(a)(1) A State’s Attorney or the Office of the Attorney General may file a motion requesting that the court issue an extreme risk protection order ex parte, without notice to the respondent. A law enforcement officer may notify the court that an ex parte extreme risk protection order is being requested pursuant to this section, but the court shall not issue the order until after the motion is submitted.

(2) The petitioner shall submit an affidavit in support of the motion alleging that the respondent poses an imminent and extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent’s custody or control. The affidavit shall state:

(A) the specific facts supporting the allegations in the motion, including the imminent danger posed by the respondent; and

(B) any dangerous weapons the petitioner believes to be in the respondent’s possession, custody, or control.

(b)(1) The court shall grant the motion and issue a temporary ex parte extreme risk protection order if it finds by a preponderance of the evidence

that at the time the order is requested the respondent poses an imminent and extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control. The petitioner shall cause a copy of the order to be served on the respondent pursuant to section 4056 of this title, and the court shall deliver a copy to the holding station.

(2)(A) An extreme risk of harm to others may be shown by establishing that:

(i) the respondent has inflicted or attempted to inflict bodily harm on another; or

(ii) by his or her threats or actions the respondent has placed others in reasonable fear of physical harm to themselves; or

(iii) by his or her actions or inactions the respondent has presented a danger to persons in his or her care.

(B) An extreme risk of harm to himself or herself may be shown by establishing that the respondent has threatened or attempted suicide or serious bodily harm.

(c)(1) Unless the petition is voluntarily dismissed pursuant to subdivision (2) of this subsection, the court shall hold a hearing within 14 days after the issuance of a temporary ex parte extreme risk protection order to determine if a final extreme risk protection order should be issued. If not voluntarily dismissed, the temporary ex parte extreme risk protection order shall expire when the court grants or denies a motion for an extreme risk protection order under section 4053 of this title.

(2) The prosecutor may voluntarily dismiss a motion filed under this section at any time prior to the hearing if the prosecutor determines that the respondent no longer poses an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control. If the prosecutor voluntarily dismisses the motion pursuant to this subdivision, the court shall vacate the temporary ex parte extreme risk protection order and direct the person in possession of the dangerous weapon to return it to the respondent consistent with section 4059 of this title.

(d)(1) An order issued under this section shall prohibit a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person's custody or control for a period of up to 14 days. The order shall be in writing and signed by the judge and shall include the following provisions:

(A) A statement of the grounds for issuance of the order.

(B) The name and address of the court where any filings should be made, the names of the parties, the date of the petition, the date and time of the order, and the date and time the order expires.

(C) The date and time of the hearing when the respondent may appear to contest the order before the court. This opportunity to contest shall be scheduled as soon as reasonably possible, which in no event shall be more than 14 days after the date of issuance of the order.

(D) A description of the requirements for relinquishment of dangerous weapons under section 4059 of this title.

(E) A statement in substantially the following form:

“To the subject of this protection order: This order shall be in effect until the date and time stated above. If you have not done so already, you are required to surrender all dangerous weapons in your custody, control, or possession to [insert name of law enforcement agency], a federally licensed firearms dealer, or a person approved by the court. While this order is in effect, you are not allowed to purchase, possess, or receive a dangerous weapon; attempt to purchase, possess, or receive a dangerous weapon; or have a dangerous weapon in your custody or control. A hearing will be held on the date and time noted above to determine if a final extreme risk prevention order should be issued. Failure to appear at that hearing may result in a court making an order against you that is valid for up to 60 days. You may seek the advice of an attorney regarding any matter connected with this order.”

(2)(A) The court may issue an ex parte extreme risk protection order by telephone or by reliable electronic means pursuant to this subdivision if requested by the petitioner.

(B) Upon receipt of a request for electronic issuance of an ex parte extreme risk protection order, the judicial officer shall inform the petitioner that a signed or unsigned motion and affidavit may be submitted electronically. The affidavit shall be sworn to or affirmed by administration of the oath over the telephone to the petitioner by the judicial officer. The administration of the oath need not be made part of the affidavit or recorded, but the judicial officer shall note on the affidavit that the oath was administered.

(C) The judicial officer shall decide whether to grant or deny the motion and issue the order solely on the basis of the contents of the motion and the affidavit or affidavits provided. If the motion is granted, the judicial officer shall immediately sign the original order, enter on its face the exact date and time it is issued, and transmit a copy to the petitioner by reliable electronic means. The petitioner shall cause a copy of the order to be served

on the respondent pursuant to section 4056 of this title.

(D) On or before the next business day after the order is issued:

(i) the petitioner shall file the original motion and affidavit with the court; and

(ii) the judicial officer shall file the signed order, the motion, and the affidavit with the clerk. The clerk shall enter the documents on the docket immediately after filing.

(e) Form motions and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(f) Every order issued under this section shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH."

(g) Affidavit forms required pursuant to this section shall bear the following language: "MAKING A FALSE STATEMENT IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058."

(h) If the court denies a petition filed under this section, the court shall state the particular reasons for the denial in its decision.

§ 4055. TERMINATION AND RENEWAL MOTIONS

(a)(1) The respondent may file a motion to terminate an extreme risk protection order issued under section 4053 of this title or an order renewed under subsection (b) of this section. A motion to terminate shall not be filed more than once during the effective period of the order. The State shall have the burden of proof by a preponderance of the evidence.

(2) The court shall grant the motion and terminate the extreme risk protection order unless it finds by a preponderance of the evidence that the respondent continues to pose an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control.

(b)(1) A State's Attorney or the Office of the Attorney General may file a motion requesting that the court renew an extreme risk protection order issued under this section or section 4053 of this title for an additional period of up to one year. The motion shall be accompanied by an affidavit and shall be filed not more than 30 days and not less than 14 days before the expiration date of the order. The motion and affidavit shall comply with the requirements of

subsection 4053(c) of this title, and the moving party shall have the burden of proof by a preponderance of the evidence.

(2) The court shall grant the motion and renew the extreme risk protection order for an additional period of up to one year if it finds by a preponderance of the evidence that the respondent continues to pose an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control. The order shall comply with the requirements of subdivision 4053(f)(2) and subsections 4053(j) and (k) of this title.

(c) The court shall hold a hearing within 14 days after a motion to terminate or a motion to renew is filed under this section. Notice of the hearing shall be served pursuant to section 4056 of this title concurrently with the motion.

(d) If the court denies a motion filed under this section, the court shall state the particular reasons for the denial in its decision.

(e) Form termination and form renewal motions shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(f) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

§ 4056. SERVICE

(a) A petition, ex parte temporary order, or final order issued under this subchapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service, and shall deliver a copy to the holding station.

(b) A respondent who attends a hearing held under section 4053, 4054, or 4055 of this title at which a temporary or final order under this subchapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A respondent notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the respondent of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) Extreme risk protection orders shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders. Orders shall be served in a manner calculated to ensure the safety of the parties. Methods of service that include advance

notification to the respondent shall not be used. The person making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the respondent.

(d) If service of a notice of hearing issued under section 4053 or 4055 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the petitioner for such additional time as it deems necessary to achieve service on the respondent.

§ 4057. PROCEDURE

(a) Except as otherwise specified, proceedings commenced under this subchapter shall be in accordance with the Vermont Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.

(b) The Court Administrator shall establish procedures to ensure access to relief after regular court hours or on weekends and holidays. The Court Administrator is authorized to contract with public or private agencies to assist petitioners to seek relief and to gain access to Superior Courts. Law enforcement agencies shall assist in carrying out the intent of this section.

(c) The Court Administrator shall ensure that the Superior Court has procedures in place so that the contents of orders and pendency of other proceedings can be known to all courts for cases in which an extreme risk protection order proceeding is related to a criminal proceeding.

§ 4058. ENFORCEMENT; CRIMINAL PENALTIES

(a) Law enforcement officers are authorized to enforce orders issued under this chapter. Enforcement may include collecting and disposing of dangerous weapons pursuant to section 4059 of this title and making an arrest in accordance with the provisions of Rule 3 of the Vermont Rules of Criminal Procedure.

(b)(1) A person who intentionally commits an act prohibited by a court or fails to perform an act ordered by a court, in violation of an extreme risk protection order issued pursuant to section 4053, 4054, or 4055 of this title, after the person has been served with notice of the contents of the order as provided for in this subchapter, shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(2) A person who files a petition for an extreme risk protection order under this subchapter knowing that information in the petition is false or with the intent to harass the respondent shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(c) In addition to the provisions of subsections (a) and (b) of this section, violation of an order issued under this subchapter may be prosecuted as criminal contempt under Rule 42 of Vermont Rules of Criminal Procedure. The prosecution for criminal contempt may be initiated by the State's Attorney in the county in which the violation occurred. The maximum penalty that may be imposed under this subsection shall be a fine of \$1,000.00 or imprisonment for six months, or both. A sentence of imprisonment upon conviction for criminal contempt may be stayed, in the discretion of the court, pending the expiration of the time allowed for filing notice of appeal or pending appeal if any appeal is taken.

§ 4059. RELINQUISHMENT, STORAGE, AND RETURN OF
DANGEROUS WEAPONS

(a) A person who is required to relinquish a dangerous weapon other than a firearm in the person's possession, custody, or control by an extreme risk protection order issued under section 4053, 4054, or 4055 of this title shall upon service of the order immediately relinquish the dangerous weapon to a cooperating law enforcement agency. The law enforcement agency shall transfer the weapon to the Bureau of Alcohol, Tobacco, Firearms and Explosives for proper disposition.

(b)(1) A person who is required to relinquish a firearm in the person's possession, custody, or control by an extreme risk protection order issued under section 4053, 4054, or 4055 of this title shall, unless the court orders an alternative relinquishment pursuant to subdivision (2) of this subsection, upon service of the order immediately relinquish the firearm to a cooperating law enforcement agency or an approved federally licensed firearms dealer.

(2)(A) The court may order that the person relinquish a firearm to a person other than a cooperating law enforcement agency or an approved federally licensed firearms dealer unless the court finds that relinquishment to the other person will not adequately protect the safety of any person.

(B) A person to whom a firearm is relinquished pursuant to subdivision (A) of this subdivision (2) shall execute an affidavit on a form approved by the Court Administrator stating that the person:

(i) acknowledges receipt of the firearm;

(ii) assumes responsibility for storage of the firearm until further order of the court and specifies the manner in which he or she will provide secure storage;

(iii) is not prohibited from owning or possessing firearms under State or federal law; and

(iv) understands the obligations and requirements of the court order, including the potential for the person to be subject to civil contempt proceedings pursuant to subdivision (C) of this subdivision (2) if the person permits the firearm to be possessed, accessed, or used by the person who relinquished the item or by any other person not authorized by law to do so.

(C) A person to whom a firearm is relinquished pursuant to subdivision (A) of this subdivision (2) shall be subject to civil contempt proceedings under 12 V.S.A. chapter 5 if the person permits the firearm to be possessed, accessed, or used by the person who relinquished the item or by any other person not authorized by law to do so. In the event that the person required to relinquish the firearm or any other person not authorized by law to possess the relinquished item obtains access to, possession of, or use of a relinquished item, all relinquished items shall be immediately transferred to the possession of a law enforcement agency or approved federally licensed firearms dealer pursuant to subdivision (b)(1) of this section.

(b) A law enforcement agency or an approved federally licensed firearms dealer that takes possession of a firearm pursuant to subdivision (b)(1) of this section shall photograph, catalogue, and store the item in accordance with standards and guidelines established by the Department of Public Safety pursuant to 20 V.S.A. § 2307(i)(3).

(c) Nothing in this section shall be construed to prohibit the lawful sale of firearms or other items.

(d) An extreme risk protection order issued pursuant to section 4053 of this title or renewed pursuant to section 4055 of this title shall direct the law enforcement agency, approved federally licensed firearms dealer, or other person in possession of a firearm under subsection (b) of this section to release it to the owner upon expiration of the order.

(e)(1) A law enforcement agency, an approved federally licensed firearms dealer, or any other person who takes possession of a firearm for storage purposes pursuant to this section shall not release it to the owner without a court order unless the firearm is to be sold pursuant to subdivision (2)(A) of this subsection. If a court orders the release of a firearm stored under this section, the law enforcement agency or firearms dealer in possession of the firearm shall make it available to the owner within three business days after receipt of the order and in a manner consistent with federal law.

(2)(A)(i) If the owner fails to retrieve the firearm within 90 days after the court order releasing it, the firearm may be sold for fair market value. Title to the firearm shall pass to the law enforcement agency or firearms dealer for the purpose of transferring ownership.

(ii) The law enforcement agency or firearms dealer shall make a reasonable effort to notify the owner of the sale before it occurs. In no event shall the sale occur until after the court issues a final extreme risk protection order pursuant to section 4053 of this title.

(iii) As used in this subdivision (2)(A), “reasonable effort” shall mean notice shall be served as provided for by Rule 4 of the Vermont Rules of Civil Procedure.

(B) Proceeds from the sale of a firearm pursuant to subdivision (A) of this subdivision (2) shall be apportioned as follows:

(i) associated costs, including the costs of sale and of locating and serving the owner, shall be paid to the law enforcement agency or firearms dealer that incurred the cost; and

(ii) any proceeds remaining after payment is made to the law enforcement agency or firearms dealer pursuant to subdivision (i) of this subdivision (2)(B) shall be paid to the original owner.

(f) A law enforcement agency shall be immune from civil or criminal liability for any damage or deterioration of a firearm stored or transported pursuant to this section. This subsection shall not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law enforcement agency.

(g) This section shall be implemented consistent with the standards and guidelines established by the Department of Public Safety under 20 V.S.A. § 2307(i).

(h) Notwithstanding any other provision of this chapter:

(1) A dangerous weapon shall not be returned to the respondent if the respondent’s possession of the weapon would be prohibited by state or federal law.

(2) A dangerous weapon shall not be taken into possession pursuant to this section if it is being or may be used as evidence in a pending criminal matter.

§ 4060. APPEALS

An extreme risk protection order issued by the court under section 4053 or 4055 of this title shall be treated as a final order for the purposes of appeal. Appeal may be taken by either party to the Supreme Court under the Vermont Rules of Appellate Procedure, and the appeal shall be determined forthwith.

§ 4061. EFFECT ON OTHER LAWS

This chapter shall not be construed to prevent a court from prohibiting a

person from possessing firearms under any other provision of law.

Sec. 2. FINDINGS

The General Assembly finds:

(1) The State of Vermont has a compelling interest in preventing domestic abuse.

(2) Domestic violence is often volatile, escalates rapidly, and is possibly fatal. The victim has a substantial interest in obtaining immediate relief because any delay may result in further injury or death. The State's compelling interest in protecting domestic violence victims from actual or threatened harm and safeguarding children from the effects of exposure to domestic violence justifies providing law enforcement officers with the authority to undertake immediate measures to stop the violence. For these reasons the State has a special need to remove firearms from a home where law enforcement has probable cause to believe domestic violence has occurred.

(3) The General Assembly recognizes that it is current practice for law enforcement to remove firearms from a domestic violence scene if the firearms are contraband or evidence of the offense. However, given the potential harm of delay during a domestic violence incident, this legislation authorizes law enforcement officers to temporarily remove other dangerous firearms from persons arrested or cited for domestic violence, while protecting rights guaranteed by the Vermont and U.S. Constitutions, and insuring that those firearms are returned to the owner as soon as doing so would be safe and lawful.

Sec. 3. 13 V.S.A. § 1048 is added to read:

§ 1048. REMOVAL OF FIREARMS

(a)(1) When a law enforcement officer arrests, cites, or obtains an arrest warrant for a person for domestic assault in violation of this subchapter, the officer may remove any firearm obtained pursuant to a search warrant or a judicially recognized exception to the warrant requirement if the removal is necessary for the protection of the officer or any other person.

(2) As used in this section, "judicially recognized exception to the warrant requirement" includes a search incident to a lawful arrest, a search with consent, a search under exigent circumstances, a search of objects in plain view, and a search pursuant to a regulatory statute.

(b) A person cited for domestic assault shall be arraigned on the next business day after the citation is issued except for good cause shown.

(c)(1) At arraignment, the court shall issue a written order releasing any firearms removed pursuant to subsection (a) of this section unless:

(A) the firearm is being or may be used as evidence in a pending criminal or civil proceeding;

(B) a court orders relinquishment of the firearm pursuant to 15 V.S.A. chapter 21 (abuse prevention) or any other provision of law consistent with 18 U.S.C. § 922(g)(8), in which case the weapon shall be stored pursuant to 20 V.S.A. § 2307;

(C) the person requesting the return is prohibited by law from possessing a firearm; or

(D) the court imposes a condition requiring the defendant not to possess a firearm.

(2) If the court under subdivision (1) of this subsection orders the release of a firearm removed under subsection (a) of this section, the law enforcement agency in possession of the firearm shall make it available to the owner within three business days after receipt of the written order and in a manner consistent with federal law.

(d)(1) A law enforcement officer shall not be subject to civil or criminal liability for acts or omissions made in reliance on the provisions of this section. This section shall not be construed to create a legal duty to a victim or to any other person, and no action may be filed based upon a claim that a law enforcement officer removed or did not remove a firearm as authorized by this section.

(2) A law enforcement agency shall be immune from civil or criminal liability for any damage or deterioration of firearms removed, stored, or transported pursuant to this section. This subdivision shall not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law enforcement agency.

(3) This section shall not be construed to limit the authority of a law enforcement agency to take any necessary and appropriate action, including disciplinary action, regarding an officer's performance in connection with this section.

Sec. 4. 15 V.S.A. § 554 is amended to read:

§ 554. DECREES NISI

(a) A decree of divorce from the bonds of matrimony in the first instance, shall be a decree nisi and shall become absolute at the expiration of ~~three months~~ 90 days from the entry thereof but, in its discretion, the court ~~which~~ that grants the divorce may fix an earlier date upon which the decree shall become absolute. If one of the parties dies prior to the expiration of the nisi period, the decree shall be deemed absolute immediately prior to death.

(b) Either party may file any post-trial motions under the Vermont Rules of Civil Procedure. The time within which any such motion shall be filed shall run from the date of entry of the decree of divorce and not from the date the nisi period expires. The court shall retain jurisdiction to hear and decide the motion after expiration of the nisi period. A decree of divorce shall constitute a civil judgment under the Vermont Rules of Civil Procedure.

(c) If the stated term at which the decree nisi was entered has adjourned when a motion is filed, the presiding judge of the stated term shall have power to hear and determine the matter and make new decree therein as fully as the court might have done in term time; but, in the judge's discretion, the judge may strike off the decree and continue the cause to the next stated term.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage, except that Sec. 4 shall take effect on July 1, 2018.

(Committee vote: 7-0-4)

Amendment to be offered by Reps. Lalonde of South Burlington, Colburn of Burlington, Jessup of Middlesex, Morris of Bennington, Conquest of Newbury and Grad of Moretown to S. 267

Move to substitute for the report of the Committee on Judiciary by striking all after the enacting clause and inserting in lieu thereof the following::

Sec. 1. 13 V.S.A. § 9 is amended to read:

§ 9. ATTEMPTS

(a) ~~A Attempts; generally. Except as provided in subsection (d) of this section, a person who attempts to commit an offense and does an act toward the commission thereof, but by reason of being interrupted or prevented fails in the execution of the same, shall be punished as herein provided unless other express provision is made by law for the punishment of the attempt. If the offense attempted to be committed is murder, aggravated murder, kidnapping, arson causing death, human trafficking, aggravated human trafficking, aggravated sexual assault, or sexual assault, a person shall be punished as the offense attempted to be committed is by law punishable.~~

(b) Felonies. If the offense attempted to be committed is a felony other than those set forth in subsection (a)(d) of this section, a person shall be punished by the less severe of the following punishments:

(1) imprisonment for not more than 10 years or fined not more than \$10,000.00, or both; or

(2) as the offense attempted to be committed is by law punishable.

(c) Misdemeanors. If the offense attempted to be committed is a misdemeanor, a person shall be imprisoned or fined, or both, in an amount not to exceed one-half the maximum penalty for which the offense so attempted to be committed is by law punishable.

(d) Serious violent felonies.

(1) If the offense attempted to be committed is murder, aggravated murder, kidnapping, arson causing death, human trafficking, aggravated human trafficking, aggravated sexual assault, or sexual assault, the penalty shall not exceed the maximum penalty for the offense attempted to be committed, but any presumptive or mandatory minimum penalty applicable to the offense attempted to be committed shall not apply to an attempt to commit that offense.

(2) Notwithstanding subsection (a) of this section, a person is guilty of an attempt to commit an offense under this subsection if, with the purpose of committing the offense, he or she performs any act that is a substantial step toward the commission of the offense. A “substantial step” is conduct strongly corroborative of the actor’s intent to complete the commission of the offense and that advances beyond mere preparation.

(3) Conduct shall not be held to constitute a substantial step under subdivision (2) of this subsection unless it is strongly corroborative of the actor’s criminal purpose. Without negating the sufficiency of other conduct, the following, if strongly corroborative of the actor’s criminal purpose, shall not be held insufficient as a matter of law:

(A) lying in wait, searching for, or following the contemplated victim of the crime;

(B) enticing or seeking to entice the contemplated victim of the crime to go to the place contemplated for the commission of the crime;

(C) reconnoitering the place contemplated for the commission of the crime;

(D) unlawfully entering a structure, vehicle, or enclosure contemplated for the commission of the crime;

(E) possessing materials to be employed in the commission of the crime that are:

(i) specially designed for such unlawful use; or

(ii) that can serve no lawful purpose under the circumstances;

(F) possessing, collecting, or fabricating of materials to be employed in the commission of the crime, at or near the place contemplated for its

commission, if such possession, collection, or fabrication serves no lawful purpose of the actor under the circumstances; or

(G) soliciting an innocent agent to engage in conduct constituting an element of the crime.

(4) Defenses.

(A) It is no defense to a prosecution under this subsection (d) that the offense attempted was, under the actual attendant circumstances, factually or legally impossible of commission, if such offense could have been committed had the attendant circumstances been as the actor believed them to be.

(B) It shall be an affirmative defense to a charge under this subsection (d) that the actor abandoned his or her effort to commit the crime or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose. The establishment of such a defense does not affect the liability of an accomplice who did not join in such abandonment or prevention. Renunciation of criminal purpose is not voluntary if it is motivated, in whole or in part, by circumstances, not present or apparent at the inception of the actor's course of conduct, that increase the probability of detection or apprehension or that make more difficult the accomplishment of the criminal purpose. Renunciation is not complete if it is motivated by a decision to postpone the criminal conduct until a more advantageous time or to transfer the criminal effort to another but similar objective or victim.

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 attempts"

Senate Proposal of Amendment

H. 874

An act relating to inmate access to prescription drugs

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

Sec. 1. 28 V.S.A. § 801 is amended to read:

§ 801. MEDICAL CARE OF INMATES

* * *

(e)(1) Except as otherwise provided in this subsection, an offender who is admitted to a correctional facility while under the medical care of a licensed

physician, a licensed physician assistant, or a licensed advanced practice registered nurse, ~~or a licensed nurse practitioner~~ and who is taking medication at the time of admission pursuant to a valid prescription as verified by the inmate's pharmacy of record, primary care provider, other licensed care provider, or as verified by the Vermont Prescription Monitoring System or other prescription monitoring or information system shall be entitled to continue that medication and to be provided that medication by the Department pending an evaluation by a licensed physician, a licensed physician assistant, ~~a licensed nurse practitioner,~~ or a licensed advanced practice registered nurse.

(2) ~~However,~~ Notwithstanding subdivision (1) of this subsection, the Department may defer provision of a validly prescribed medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician assistant, ~~a nurse practitioner,~~ or an advanced practice registered nurse, it is not ~~in the inmate's best interest~~ medically necessary to continue the medication at that time.

(3) The licensed practitioner who makes the clinical judgment to discontinue a medication shall enter cause the reason for the discontinuance to be entered into the inmate's permanent medical record, specifically stating the reason for the discontinuance. The inmate shall be provided, both orally and in writing, with a specific explanation of the decision to discontinue the medication and with notice of the right to have his or her community-based prescriber notified of the decision. If the inmate provides signed authorization, the Department shall notify the community-based prescriber in writing of the decision to discontinue the medication.

(4) It is not the intent of the General Assembly that this subsection shall create a new or additional private right of action.

* * *

Sec. 2. DATA COLLECTION

(a) The Department of Corrections shall collect information on: how often a medication for which an inmate has a valid prescription is continued or discontinued upon incarceration at each correctional facility, the name of the medication, and the reason for discontinuance.

(b) The Department shall collect this information for a period of at least six months and provide a written report of its findings based on the data collected, including a breakdown by correctional facility of record, to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on or before January 31, 2019. Prior to finalizing the report, the Department shall consult with the Prisoners' Rights Office and Disability

Rights Vermont.

(c) Nothing in this section shall require the Department to reveal individually identifiable health information in violation of State or federal law.

Sec. 3. EFFECTIVE DATES

(a) This section and Sec. 2 shall take effect on passage.

(b) Sec. 1 shall take effect on July 1, 2018.

(For text see House Journal March 13, 2018)

Amendment to be offered by Rep. Taylor of Colchester to H. 874

That the House concur in the Senate proposal of Amendment with further proposal of amendment thereto as follows:

First: In Sec. 1, 28 V.S.A. § 801, after the title “MEDICAL CARE OF INMATES” by inserting the following:

* * *

(b)(1) Upon admission to a correctional facility for a minimum of 14 consecutive days, each inmate shall be given a physical assessment unless extenuating circumstances exist.

(2) Within 24 hours after admission to a correctional facility, each inmate shall be screened for substance use disorders as part of the initial and ongoing substance use screening and assessment process. This process includes screening and assessment for opioid use disorders.

Second: In Sec. 1, 28 V.S.A. § 801(e)(1), after the words “Except as otherwise provided in this subsection, an” by striking “offender” and inserting in lieu thereof “~~offender~~ inmate”

Third: In Sec. 1, 28 V.S.A. § 801(e)(1), after the words “prescription monitoring or information system” by inserting “, including buprenorphine, methadone, or other medication prescribed in the course of medication-assisted treatment.”

Fourth: In Sec. 1, 28 V.S.A. § 801(e), after subdivision (4), by inserting a subdivision (5) to read as follows:

(5) As used in this subchapter:

(A) “Medically necessary” describes health care services that are appropriate in terms of type, amount, frequency, level, setting, and duration to the individual’s diagnosis or condition, are informed by generally accepted medical or scientific evidence, and are consistent with generally accepted practice parameters. Such services shall be informed by the unique needs of each individual and each presenting situation, and shall include a

determination that a service is needed to achieve proper growth and development or to prevent the onset or worsening of a health condition.

(B) "Medication-assisted treatment" shall have the same meaning as in 18 V.S.A. § 4750.

NEW BUSINESS

Favorable with Amendment

S. 166

An act relating to the provision of medication-assisted treatment for inmates

Rep. Shaw of Pittsford, for the Committee on Corrections and Institutions, 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. LEGISLATIVE INTENT

It is the intent of the General Assembly that medication-assisted treatment offered at or facilitated by a correctional facility is a medically necessary component of treatment for inmates diagnosed with opioid use disorder.

Sec. 2. 18 V.S.A. § 4750 is added to read:

§ 4750. DEFINITION

As used in this chapter, "medication-assisted treatment" means the use of U.S. Federal Drug Administration-approved medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.

Sec. 3. 28 V.S.A. § 801 is amended to read:

§ 801. MEDICAL CARE OF INMATES

* * *

(b)(1) Upon admission to a correctional facility for a minimum of 14 consecutive days, each inmate shall be given a physical assessment unless extenuating circumstances exist.

(2) Within 24 hours after admission to a correctional facility, each inmate shall be screened for substance use disorders as part of the initial and ongoing substance use screening and assessment process. This process includes screening and assessment for opioid use disorders.

* * *

(e)(1) Except as otherwise provided in this subsection, an offender inmate who is admitted to a correctional facility while under the medical care of a licensed physician, a licensed physician assistant, or a licensed advanced

practice registered nurse, ~~or a licensed nurse practitioner~~ and who is taking medication at the time of admission pursuant to a valid prescription as verified by the inmate's pharmacy of record, primary care provider, other licensed care provider, or as verified by the Vermont Prescription Monitoring System or other prescription monitoring or information system, including buprenorphine, methadone, or other medication prescribed in the course of medication-assisted treatment, shall be entitled to continue that medication and to be provided that medication by the Department pending an evaluation by a licensed physician, a licensed physician assistant, ~~a licensed nurse practitioner~~, or a licensed advanced practice registered nurse.

(2) ~~However~~ Notwithstanding subdivision (1) of this subsection, the Department may defer provision of a validly prescribed medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician assistant, ~~a nurse practitioner~~, or an advanced practice registered nurse, it is not ~~in the inmate's best interest~~ medically necessary to continue the medication at that time.

(3) The licensed practitioner who makes the clinical judgment to discontinue a medication shall ~~enter~~ cause the reason for the discontinuance to be entered into the inmate's permanent medical record, specifically stating the reason for the discontinuance. The inmate shall be provided, both orally and in writing, with a specific explanation of the decision to discontinue the medication and with notice of the right to have his or her community-based prescriber notified of the decision. If the inmate provides signed authorization, the Department shall notify the community-based prescriber in writing of the decision to discontinue the medication.

(4) It is not the intent of the General Assembly that this subsection shall create a new or additional private right of action.

(5) As used in this subchapter:

(A) "Medically necessary" describes health care services that are appropriate in terms of type, amount, frequency, level, setting, and duration to the individual's diagnosis or condition, are informed by generally accepted medical or scientific evidence, and are consistent with generally accepted practice parameters. Such services shall be informed by the unique needs of each individual and each presenting situation, and shall include a determination that a service is needed to achieve proper growth and development or to prevent the onset or worsening of a health condition.

(B) "Medication-assisted treatment" shall have the same meaning as in 18 V.S.A. § 4750.

* * *

Sec. 4. 28 V.S.A. § 801b is added to read:

§ 801b. MEDICATION-ASSISTED TREATMENT IN CORRECTIONAL FACILITIES

(a) If an inmate receiving medication-assisted treatment prior to entering the correctional facility continues to receive medication prescribed in the course of medication-assisted treatment pursuant to section 801 of this title, the inmate shall be authorized to receive that medication for as long as medically necessary.

(b)(1) If at any time an inmate screens positive as having an opioid use disorder, the inmate may elect to commence buprenorphine-specific medication-assisted treatment if it is deemed medically necessary by a provider authorized to prescribe buprenorphine. The inmate shall be authorized to receive the medication as soon as possible and for as long as medically necessary.

(2) Nothing in this subsection shall prevent an inmate who commences medication-assisted treatment while in a correctional facility from transferring from buprenorphine to methadone if:

(A) methadone is deemed medically necessary by a provider authorized to prescribe methadone; and

(B) the inmate elects to commence methadone as recommended by a provider authorized to prescribe methadone.

(c) The licensed practitioner who makes the clinical judgment to discontinue a medication shall cause the reason for the discontinuance to be entered into the inmate's medical record, specifically stating the reason for the discontinuance. The inmate shall be provided, both orally and in writing, with a specific explanation of the decision to discontinue the medication and with notice of the right to have his or her community-based prescriber notified of the decision. If the inmate provides signed authorization, the Department shall notify the community-based prescriber in writing of the decision to discontinue the medication.

(d) As part of reentry planning for an inmate who screens positive for an opioid use disorder and for whom medication assisted treatment is medically necessary, the Department shall commence medication-assisted treatment prior to release. If medication-assisted treatment is indicated and despite best efforts induction is not possible prior to release, the Department shall ensure comprehensive care coordination with a community-based provider.

(e) Any counseling or behavioral therapies provided in conjunction with the use of medication-assisted treatment shall be medically necessary.

* * *

Sec. 5. MEMORANDUM OF UNDERSTANDING; MEDICATION-
ASSISTED TREATMENT IN STATE CORRECTIONAL
FACILITIES

(a) On or before December 31, 2018, the Departments of Corrections and of Health may enter into a memorandum of understanding with opioid treatment programs throughout the State, certified and accredited pursuant to 42 C.F.R. part 8, that serve regions in which a State correctional facility is located to provide medication-assisted treatment to those inmates for whom a licensed practitioner has determined medication-assisted treatment is medically necessary. Treatment received pursuant to this section shall be coordinated pursuant to 18 V.S.A. § 4753.

(b) As used in this section, “medication-assisted treatment” shall have the same meaning as in 18 V.S.A. § 4750.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 10-0-1)

(For text see Senate Journal March 13, 2018)

Rep. Hooper of Montpelier, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Corrections and Institutions and when further amended as follows:

By inserting after Sec. 5 a new section to be Sec. 5a to read as follows:

Sec. 5a. EVALUATION; MEDICATION-ASSISTED TREATMENT
FACILITATED BY CORRECTIONAL FACILITIES

On or before January 15, 2022, the Department of Corrections shall present an evaluation on the effectiveness of the medication-assisted treatment program facilitated by correctional facilities to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

(Committee Vote: 10-1-0)

S. 285

An act relating to universal recycling requirements

Rep. Sullivan of Burlington, for the Committee on Natural Resources; Fish; and Wildlife, 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:

* * * Solid Waste Management Facility Requirements * * *

Sec. 1. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

(a)(1) No person shall construct, substantially alter, or operate any solid waste management facility without first obtaining certification from the Secretary for such facility, site, or activity, except for sludge or septage treatment or storage facilities located within the fenced area of a domestic wastewater treatment plant permitted under chapter 47 of this title. This exemption for sludge or septage treatment or storage facilities shall exist only if:

(A) the treatment facility does not ~~utilize~~ use a process to ~~further~~ reduce pathogens further in order to qualify for marketing and distribution; and

(B) the facility is not a drying bed, lagoon, or nonconcrete bunker; and

(C) the owner of the facility has submitted a sludge and septage management plan to the Secretary and the Secretary has approved the plan. Noncompliance with an approved sludge and septage management plan shall constitute a violation of the terms of this chapter, as well as a violation under chapters 201 and 211 of this title.

(2) Certification shall be valid for a period not to exceed 10 years.

(b) Certification for a solid waste management facility, where appropriate, shall:

* * *

(3)~~(A)~~ Specify the projected amount and types of waste material to be disposed of at the facility, which, in case of landfills and incinerators, shall include the following:

~~(A)~~(i) if the waste is being delivered from a municipality that has an approved implementation plan, hazardous materials and recyclables shall be removed from the waste according to the terms of that implementation plan;

~~(B)~~(ii) except as provided in subdivision (B) of this subdivision (3), if the waste is being delivered from a municipality that does not have an approved implementation plan, leaf and yard residuals shall be removed from the waste stream, and 100 percent of each of the following shall be removed from the waste stream: mandated recyclables, hazardous waste from households, and hazardous waste from small quantity generators.

(B) If waste delivered to the facility is process residuals from a material recovery facility, the facility receiving the waste shall not be required to remove 100 percent of mandated recyclables from the process residuals if the facility receiving the waste has a plan approved by the Secretary to remove mandated recyclables from the process residuals to the maximum extent practicable.

* * *

(j) A facility certified under this section that offers the collection of municipal solid waste shall:

(1) Beginning on July 1, 2014, collect mandated recyclables separate from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables. A facility shall not be required to accept mandated recyclables from a commercial hauler.

(2) Beginning on July 1, 2015, collect leaf and yard residuals between April 1 and December 15 separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

(3) Beginning on July 1, 2017, collect food residuals separate from other solid waste and deliver food residuals to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title.

* * *

~~(l) A facility certified under this section that offers the collection of municipal solid waste shall not charge a separate fee for the collection of mandated recyclables. A facility certified under this section may incorporate the cost of the collection of mandated recyclables into the cost of the collection of municipal solid waste and may adjust the charge for the collection of municipal solid waste. A facility certified under this section may charge a separate fee for the collection of mandated recyclables, leaf and yard residuals, or food residuals. If a facility collects ~~mandated recyclables from a commercial hauler~~, the facility may charge a fee for the collection of those ~~mandated recyclables~~.~~

* * *

* * * Commercial Hauler Requirements * * *

Sec. 2. 10 V.S.A. § 6607a is amended to read:

§ 6607a. WASTE TRANSPORTATION

(a) A commercial hauler desiring to transport waste within the State shall apply to the Secretary for a permit to do so, by submitting an application on a form prepared for this purpose by the Secretary and by submitting the disclosure statement described in section 6605f of this title. These permits shall have a duration of five years and shall be renewed annually. The application shall indicate the nature of the waste to be hauled. The Secretary may specify conditions that the Secretary deems necessary to assure compliance with State law.

(b) As used in this section:

(1) "Commercial hauler" means:

(A) any person that transports regulated quantities of hazardous waste; and

(B) any person that transports solid waste for compensation in a vehicle.

(2) The commercial hauler required to obtain a permit under this section is the legal or commercial entity that is transporting the waste, rather than the individual employees and subcontractors of the legal or commercial entity. In the case of a sole proprietorship, the sole proprietor is the commercial entity.

(3) The Secretary shall not require a commercial hauler to obtain a permit under this section, comply with the disclosure requirements of this section, comply with the reporting and registration requirements of section 6608 of this title, or pay the fee specified in 3 V.S.A. § 2822, if:

(A) the commercial hauler does not transport more than four cubic yards of solid waste at any time; and

(B) the solid waste transportation services performed are incidental to other nonwaste transportation-related services performed by the commercial hauler.

* * *

(g)(1) Except as set forth in subdivisions (2), (3), and (4) of this subsection, a commercial hauler that offers the collection of municipal solid waste ~~shall~~:

(A) Beginning on July 1, 2015, shall offer to collect mandated recyclables ~~separated~~ separate from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) ~~Beginning on July 1, 2016, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location~~

that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

(C) Beginning on July 1, 2018, 2020, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title.

(2) In a municipality that has adopted a solid waste management ordinance addressing the collection of mandated recyclables, ~~leaf and yard residuals~~, or food residuals, a commercial hauler in that municipality is not required to comply with the requirements of subdivision (1) of this subsection and subsection (h) of this section for the material addressed by the ordinance if the ordinance:

(A) is applicable to all residents of the municipality;

(B) prohibits a resident from opting out of municipally provided solid waste services; and

(C) does not apply a variable rate for the collection for the material addressed by the ordinance.

(3) A commercial hauler is not required to comply with the requirements of subdivision (1)(A), ~~(B)~~, ~~or (C)~~ or (B) of this subsection in a specified area within a municipality if:

(A) the Secretary has approved a solid waste implementation plan for the municipality;

(B) for purposes of waiver of the requirements of subdivision (1)(A) of this subsection (g), the Secretary determines that under the approved plan:

(i) the municipality is achieving the per capita disposal rate in the State Solid Waste Plan; and

(ii) the municipality demonstrates that its progress toward meeting the diversion goal in the State Solid Waste Plan is substantially equivalent to that of municipalities complying with the requirements of subdivision (1)(A) of this subsection (g);

(C) the approved plan delineates an area where solid waste management services required by subdivision (1)(A), ~~(B)~~, ~~or (C)~~ or (B) of this subsection (g) are not required; and

(D) in the delineated area, alternatives to the services, including on-site management, required under subdivision (1)(A), ~~(B)~~, ~~or (C)~~ or (B) of this subsection (g) are offered, the alternative services have capacity to serve the needs of all residents in the delineated area, and the alternative services are

convenient to residents of the delineated area.

(4) A commercial hauler is not required to comply with the requirements of subdivision (1)(A), ~~(B), or (C)~~ or (B) of this subsection for mandated recyclables, ~~leaf and yard residuals~~, or food residuals collected as part of a litter collection.

(h) A commercial hauler certified under this section that offers the collection of municipal solid waste may not charge a separate line item fee on a bill to a residential customer for the collection of mandated recyclables, provided that a commercial hauler may charge a fee for all service calls, stops, or collections at a residential property and a commercial hauler may charge a tiered or variable fee based on the size of the collection container provided to a residential customer or the amount of waste collected from a residential customer. A commercial hauler certified under this section may incorporate the cost of the collection of mandated recyclables into the cost of the collection of solid waste and may adjust the charge for the collection of solid waste. A commercial hauler certified under this section that offers the collection of solid waste may charge a separate fee for the collection of ~~leaf and yard residuals~~ or food residuals from a residential customer.

(i) A commercial hauler that operates a bag-drop or fast-trash site at a fixed location to collect municipal solid waste shall offer at the site all collection services required under 10 V.S.A. § 6605(j).

Sec. 3. UNIVERSAL RECYCLING STAKEHOLDER GROUP;

COMMERCIAL HAULER SERVICES; FOOD RESIDUAL COLLECTION SERVICES

(a) The Agency of Natural Resources has convened a Universal Recycling Stakeholder Group to provide valuable input, advice, and assistance to the Agency and the State in the implementation of 2012 Acts and Resolves No. 148 (Act 148). The work of the Stakeholder Group has been integral to the successful implementation of Act 148 and the work of the Stakeholder Group is commended by the General Assembly.

(b) As part of the ongoing Agency of Natural Resource's Universal Recycling Stakeholder Group, the Secretary of Natural Resources shall seek the input of the Stakeholder Group regarding the requirement under 10 V.S.A. § 6607a(g) that commercial solid waste haulers offer the service of collection of food residuals separate from other solid waste beginning July 1, 2020. The Secretary shall request that the Stakeholder Group review whether:

(1) the requirements under subsection 6607a(g) should be amended so that commercial haulers are only required to offer collection of food residuals:

(A) in municipalities, solid waste management districts, or other areas based on population, housing, or route density; or

(B) based on other appropriate criteria specified by the Working Group.

(2) sufficient regional capacity to process food residuals is available to allow for the collection of food residuals by all commercial solid waste haulers beginning on July 1, 2020.

(b) The Secretary of Natural Resources, after consultation with the Universal Recycling Stakeholder Group, shall include in the report the Agency shall submit under 6604(b) of this title recommendations addressing subdivisions (a)(1) and (2) of this section.

* * * Food Residual Management * * *

Sec. 4. 10 V.S.A. § 6605k(b) is amended to read:

(b) A person who produces more than an amount identified under subsection (c) of this section in food residuals ~~and is located within 20 miles of a certified organics management facility that has available capacity and that is willing to accept the food residuals shall:~~

(1) ~~Separate~~ separate food residuals from other solid waste, provided that a de minimis amount of food residuals may be disposed of in solid waste when a person has established a program to separate food residuals and the program includes a component for the education of program users regarding the need to separate food residuals; and

(2) ~~Arrange~~ arrange for the transfer of food residuals to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions (a)(2)-(5) of this section or shall manage food residuals on site.

* * * Plastic Film Recycling; Unclaimed Beverage

Container Deposits * * *

Sec. 5. AGENCY OF NATURAL RESOURCES REVIEW OF PRIVATE
PILOT PROJECT FOR THE RECYCLING OF PLASTIC FILM

(a) The Secretary of Natural Resources or designee shall provide written or oral testimony to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy in January 2019 and in January 2020 regarding the success of a pilot project funded by private beverage manufacturers and distributors and other private entities in the State for the collection and recycling of plastic film.

(b) The Secretary shall request from the pilot project information necessary for evaluation of the project, including:

- (1) whether the pilot project was effectively implemented;
- (2) the collection opportunities for plastic film, including convenience;
- (3) the education or outreach provided regarding opportunities or methods for reducing the use or disposal of plastic film;
- (4) costs to operate the pilot project; and
- (5) any measurable reduction achieved in the amount of plastic film disposed of as solid waste.

(c) In the testimony required under subsection (a) of this section, the Secretary shall:

- (1) summarize the effectiveness of the pilot project based on information collected under subsection (a);
- (2) recommend whether the State should encourage the pilot project to continue; and
- (3) recommend to what extent or at what percentage the unclaimed beverage container deposits should be allowed to be retained by beverage manufacturers or distributors to assist in paying for the costs of collection and recycling of plastic film or mandated recyclables.

(d) As used in this section:

(1) “Mandated recyclables” shall have the same meaning as in 10 V.S.A. § 6601.

(2) “Plastic film” means single-use bags or coverings of consumer products made from plastic resins or derived from nonrenewable, petroleum-based feedstocks, including laundry or dry cleaning coverings, coverings or bags for clothes sold at retail, plastic film grocery sacks, plastic film shopping bags, fresh produce bags, and newspaper sleeves.

Sec. 6. 10 V.S.A. § 1530 is added to read:

§ 1530. ABANDONED BEVERAGE CONTAINER DEPOSITS; DEPOSIT TRANSACTION ACCOUNT; BEVERAGE REDEMPTION FUND

(a) As used in this section, “deposit initiator” means the first distributor or manufacturer to collect the deposit on a beverage container sold to any person within the State.

(b) A deposit initiator shall open a separate interest-bearing account in a Vermont branch of a financial institution to be known as the deposit

transaction account. The deposit initiator shall keep the deposit transaction account separate from all other revenues and accounts.

(c) Beginning on July 1, 2020, each deposit initiator shall deposit in its deposit transaction account the refund value established by section 1522 of this title for all beverage containers sold by the deposit initiator. The deposit initiator shall deposit the refund value for each beverage container in the account not more than three business days after the date on which the beverage container is sold. All interest, dividends, and returns earned on the deposit transaction account shall be paid directly to the account. The deposit initiator shall pay all refunds on returned beverage containers from the deposit transaction account.

(d) Beginning on October 10, 2020, and quarterly thereafter, every deposit initiator shall report to the Secretary of Natural Resources and the Commissioner of Taxes concerning transactions affecting the deposit initiator's deposit transaction account in the preceding quarter. The deposit initiator shall submit the report on a form provided by the Commissioner of Taxes. The report shall include:

(1) the balance of the account at the beginning of the preceding quarter;

(2) the number of beverage containers sold in the preceding quarter and the number of beverage containers returned in the preceding quarter;

(3) the amount of beverage container deposits received by the deposit initiator and deposited into the deposit transaction account;

(4) the amount of refund payments made from the deposit transaction account in the preceding quarter;

(5) any income earned on the deposit transaction account in the preceding quarter;

(6) any other transactions, withdrawals, or service charges on the deposit transaction account from the preceding quarter; and

(7) any additional information required by the Commissioner of Taxes.

(e)(1) On or before October 10, 2020, and quarterly thereafter, each deposit initiator shall remit from its deposit transaction account to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that should be in the deposit transaction account less the sum of:

(A) income earned on amounts on the account during that quarter; and

(B) the total amount of refund value paid out by the deposit initiator for beverage containers during that quarter.

(2) In any calendar quarter, the deposit initiator may submit to the Commissioner of Taxes a request for reimbursement of refunds paid under this chapter that exceed the funds that are or should be in the deposit initiator's deposit transaction account. The Commissioner of Taxes shall pay a request for reimbursement under this subdivision from the funds remitted to the Commissioner under subdivision (1) of this subsection, provided that:

(A) the Commissioner determines that the funds in the deposit initiator's deposit transaction action are insufficient to pay the refunds on returned beverage containers; and

(B) a reimbursement paid by the Commissioner to the deposit initiator shall not exceed the amount paid by the deposit initiator under subdivision (1) of this subsection (e) in the preceding 12 months less amounts paid to the initiator pursuant to this subdivision (2) during that same 12-month period.

(f) The Secretary of Natural Resources may prohibit the sale of a beverage that is sold or distributed in the State by a deposit initiator who fails to comply with the requirements of this chapter. The Secretary may allow the sale of a beverage upon the deposit initiator's coming into compliance with the requirements of this chapter.

* * * Effective Dates * * *

Sec. 7. EFFECTIVE DATES

(a) This act shall take effect on passage, except that Sec. 4 (food residuals) shall take effect on July 1, 2020.

(Committee vote: 8-0-1)

(For text see Senate Journal March 2, 20, 28, 2018)

Senate Proposal of Amendment

H. 143

An act relating to automobile insurance requirements and transportation network companies

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

Sec. 1. 23 V.S.A. chapter 10 is added to read:

CHAPTER 10. TRANSPORTATION NETWORK COMPANIES

§ 750. DEFINITIONS; INSURANCE REQUIREMENTS

(a) Definitions. As used in this chapter:

(1) “Digital network” or “network” means any online-enabled application, software, website, or system offered or used by a transportation network company that enables the prearrangement of rides with transportation network drivers.

(2) “Personal vehicle” means a vehicle that is:

(A) used by a driver to provide a prearranged ride;

(B) owned, leased, or otherwise authorized for use by the driver; and

(C) not a taxicab, limousine, or other for-hire vehicle.

(3) “Prearranged ride” or “ride” means the transportation provided by a driver to a transportation network rider, beginning when a driver accepts the rider’s request for a ride through a digital network controlled by a company; continuing while the driver transports the rider; and ending when the last requesting rider departs from the vehicle. The term does not include:

(A) shared-expense carpool or vanpool arrangements;

(B) use of a taxicab, limousine, or other for-hire vehicle;

(C) use of a public or private regional transportation company that operates along a fixed route; or

(D) a ride furnished through a broker using a publicly funded network to connect riders to drivers through the Elders and Persons with Disabilities Program, Medicaid Non-Emergency Medical Transportation Program, or other similar governmental transportation program.

(4) “Transportation network company” or “company” means a person that uses a digital network to connect riders to drivers who provide prearranged rides.

(5) “Transportation network company driver” or “driver” means an individual who:

(A) receives connections to potential riders and related services from a transportation network company in exchange for payment of a fee to the company; and

(B) uses a personal vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in exchange for compensation or payment of a fee.

(6) “Transportation network company rider” or “rider” means an individual who uses a company’s digital network to connect with a driver who provides rides in his or her personal vehicle between points chosen by the

rider.

(b) Company's financial responsibility.

(1) Beginning on July 1, 2017, a driver, or company on the driver's behalf, shall maintain primary automobile insurance that recognizes that the driver is a company driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver while the driver is logged on to the company's digital network or while the driver is engaged in a prearranged ride.

(2)(A) The following automobile insurance requirements shall apply while a participating driver is logged on to the transportation network company's digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

(i) primary automobile liability insurance in the amount of at least \$50,000.00 for death and bodily injury per person, \$100,000.00 for death and bodily injury per incident, and \$25,000.00 for property damage; and

(ii) any other State-mandated coverage under section 941 of this title.

(B) The coverage requirements of this subdivision (2) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (2)(B).

(3)(A) The following automobile insurance requirements shall apply while a driver is engaged in a prearranged ride:

(i) primary automobile liability insurance that provides at least \$1,000,000.00 for death, bodily injury, and property damage;

(ii) uninsured and underinsured motorist coverage that provides at least \$1,000,000.00 for death, bodily injury, and property damage; and

(iii) \$10,000.00 in medical payments coverage (Med Pay).

(B) The coverage requirements of this subdivision (3) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (3)(B).

(4) If insurance maintained by a driver under subdivision (2) or (3) of this subsection has lapsed or does not provide the required coverage, insurance maintained by a company shall provide such coverage beginning with the first dollar of a claim and shall have the duty to defend such claim.

(5) Coverage under an automobile insurance policy maintained by the company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(6) Insurance required by this subsection may be placed with an insurer licensed under chapter 101 (insurance companies generally) or 138 (surplus lines insurance) of this title.

(7) Insurance satisfying the requirements of this subsection shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under section 800 of this title.

(8) A driver shall carry proof of coverage satisfying this section at all times during use of a vehicle in connection with a company's digital network. In the event of an accident, a driver shall provide this insurance coverage information to the directly interested parties, automobile insurers, and law enforcement, upon request. Upon such request, a driver shall also disclose whether he or she was logged on to the network or was on a prearranged ride at the time of an accident.

(9) A person who fails to maintain primary automobile insurance as required in subdivisions (2) and (3) of this subsection (b) shall be assessed a civil penalty of not more than \$500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title. A person who fails to carry proof of insurance as required under subdivision (8) of this subsection (b) shall be subject to a fine of not more than \$100.00. Notwithstanding any provision of law to the contrary, a person who operates a vehicle without financial responsibility as required by this subsection (b) is subject to administrative action as set forth in chapter 11 of this title.

(c) Disclosures. A transportation network company shall disclose in writing to its drivers the following before they are allowed to accept a request for a prearranged ride on the company's digital network:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the company provides while the driver uses a personal vehicle in connection with the company's network; and

(2) that the driver's own automobile insurance policy, depending on its terms, might not provide any coverage while the driver is logged on to the company's network and available to receive transportation requests or engaged

in a prearranged ride.

(d)(1) Automobile insurers. Notwithstanding any other provision of law to the contrary, insurers that write automobile insurance in Vermont may exclude any and all coverage afforded under a policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage in an automobile insurance policy, including:

- (A) liability coverage for bodily injury and property damage;
- (B) personal injury protection coverage;
- (C) uninsured and underinsured motorist coverage;
- (D) medical payments coverage;
- (E) comprehensive physical damage coverage; and
- (F) collision physical damage coverage.

(2) Nothing in this subsection implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to a company's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a vehicle to transport passengers for compensation.

(3) Nothing in this section shall be construed to require an insurer to use any particular policy language or reference to this section in order to exclude any and all coverage for any loss or injury that occurs while a driver is logged on to a company's digital network or while a driver provides a prearranged ride.

(4) Nothing in this subsection is deemed to preclude an insurer from providing primary or excess coverage for the driver's vehicle, if it chooses to do so by contract or endorsement.

(5) Insurers that exclude the coverage described under subsection (b) of this section shall have no duty to defend or indemnify any claim expressly excluded thereunder.

(6) Nothing in this section is deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in Vermont prior to the enactment of this section, that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

(7) An insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy shall have a right of contribution

against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of subsection (b) of this section at the time of loss.

(8) In a claims coverage investigation, transportation network companies shall immediately provide, upon request by directly involved parties or any insurer of the transportation network company driver, if applicable, the precise times that a transportation network company driver logged on and off the transportation network company's digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident. Insurers providing coverage under subsection (b) of this section shall disclose, upon request by any other insurer involved in the particular claim, the applicable charges, exclusions, and limits provided under any automobile insurance maintained in order to satisfy the requirements of subsection (b) of this section.

§ 752. DRIVER REQUIREMENTS; BACKGROUND CHECKS

(a) A company shall not allow an individual to act as a driver on the company's network without requiring the individual to submit to the company an application that includes:

(1) the individual's name, address, and date of birth;

(2) a copy of the individual's driver's license;

(3) a copy of the registration for the personal vehicle that the individual will use to provide prearranged rides; and

(4) proof of financial responsibility for the personal vehicle described in subdivision (3) of this subsection of a type and in the amounts required by the company.

(b)(1) A company shall not allow an individual to act as a driver on the company's network unless, with respect to the driver, the company:

(A) obtains a Vermont criminal record from the Vermont Crime Information Center; and

(B) contracts with an entity accredited by the National Association of Professional Background Screeners to conduct a national criminal record check, a motor vehicle check, and a search of the Vermont Sex Offender Registry and the National Sex Offender Public Registry.

(2) The background checks required by this subsection shall be conducted annually by the company.

(c) A company shall not allow an individual to act as a driver on the company's network if the company knows or should know that the individual:

(1) has been convicted within the last seven years of:

(A) a listed crime as defined in 13 V.S.A. § 5301(7);

(B) an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64;

(C) a violation of 18 V.S.A. § 4231(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking cocaine); 4232(b)(2) or (b)(3)(selling or dispensing LSD); 4233(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking heroin); 4234(b)(2) or (b)(3)(selling or dispensing depressants, stimulants, and narcotics); 4234a(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking methamphetamine); 4235(c)(2) or (c)(3)(selling or dispensing hallucinogenic drugs); or 4235a(b)(2) or (b)(3)(selling or dispensing Ecstasy);

(D) a violation of section 1201 (operating a vehicle while under the influence of alcohol or drugs) of this title;

(E) a felony violation of 13 V.S.A. chapter 47 (frauds) or chapter 57 (larceny and embezzlement); or

(F) a comparable offense in another jurisdiction;

(2) has been convicted within the last three years of:

(A) more than three moving violations as defined in subdivision 4(44) of this title;

(B) grossly negligent operation of a motor vehicle in violation of section 1071 of this title or operating with a suspended or revoked license in violation of section 674 of this title; or

(C) a comparable offense in another jurisdiction; or

(3) is or has been required to register as a sex offender in any jurisdiction.

(c) A company shall establish and enforce a zero tolerance policy for drug and alcohol use by drivers during any period when a driver is engaged in, or is logged into the company's network but is not engaged in, a prearranged ride. The policy shall include provisions for investigations of alleged policy violations and the suspension of drivers under investigation.

(d) A company shall require that a personal vehicle used to provide prearranged rides complies with all applicable laws and regulations concerning vehicle equipment.

§ 753. RECORDS; INSPECTION

The Commissioner of Motor Vehicles or designee, at all reasonable times, has the right to inspect driver and company records demonstrating compliance

with the requirements of this chapter, including the results of background checks, proof that vehicles meet the standards of this chapter, and proof of adequate insurance.

§ 754. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) The Commissioner of Motor Vehicles may impose an administrative penalty if a company violates a provision of this chapter.

(b) A violation may be subject to an administrative penalty of not more than \$500.00. Each violation is a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed a separate and distinct offense.

(c) The company shall be given notice and opportunity for a hearing for alleged violations under this section. Service of the notice shall be sufficient if sent by first class mail to the applicable address on file with the Secretary of State. The notice shall include the following:

(1) a factual description of the alleged violation;

(2) a reference to the particular statute allegedly violated;

(3) the amount of the proposed administrative penalty; and

(4) a warning that the company will be deemed to have waived its right to a hearing and that the penalty will be imposed if no hearing is requested within 15 days from the date of the notice.

(d) A company that receives notice under subsection (c) of this section shall be deemed to have waived the right to a hearing unless, within 15 days from the date of the notice, the company requests a hearing in writing. If the company waives the right to a hearing, the Commissioner shall issue a final order finding the company in default and imposing the penalty.

(e) The provisions of sections 105, 106, and 107 of this title shall apply to hearings conducted under this section.

(f) The Commissioner may collect an unpaid administrative penalty by filing a civil action in Superior Court or through any other means available to State agencies.

(g) The remedies authorized by this section shall be in addition to any other civil or criminal remedies provided by law for violation of this chapter.

§ 755. PREEMPTION; SAVINGS CLAUSE

(a) A municipality shall not adopt an ordinance, resolution, or bylaw regulating transportation network companies that is inconsistent with the requirements of this chapter.

(b) Subsection (a) of this section shall not apply to a municipal ordinance, resolution, or bylaw regulating transportation network companies adopted by a municipality with a population of more than 35,000 residents based on the 2010 census and in effect on July 1, 2017. This subsection shall be repealed on July 1, 2022.

Sec. 2. AUTOMOBILE FINANCIAL RESPONSIBILITY; STUDY

The Commissioner of Financial Regulation shall review the minimum automobile insurance requirements in each of the states located in the northeastern region of the United States and shall report his or her findings and recommendations with respect to Vermont's minimum automobile insurance requirements to the General Assembly on or before November 1, 2017.

Sec. 3. STUDY; STATEWIDE REGULATION OF VEHICLES FOR HIRE

(a) The Commissioner of Motor Vehicles, in consultation with the Director of the Office of Professional Regulation, shall conduct a study of whether and to what extent vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be regulated by the State. Among other things, the Commissioner shall consider:

(1) issues related to public safety, necessity, and convenience;

(2) regulatory models adopted in other states, as well as in Vermont municipalities, applicable to transportation network companies and other vehicle for hire companies;

(3) matters related to passenger safety, including driver background checks, periodic vehicle safety inspections, and signage;

(4) matters related to insurance coverage, including minimum liability coverage, disclosure requirements, and claims procedures;

(5) matters related to fares, including the provision of fare estimates to riders, restrictions on "surge pricing," and payment methods;

(6) matters such as the licensing or permitting of companies and drivers; nondiscrimination street hails; the protection of driver and rider information; taxes or fees; the employment status of drivers; increased access for people with disabilities;

(7) the extent to which all vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be treated similarly with respect to statewide regulation; and

(8) any other matter deemed relevant by the Commissioner and the Director.

(b) For purposes of this section, a "vehicle for hire" is a passenger vehicle

transporting passengers for compensation of any kind. Vehicles for hire include taxicabs, transportation network company vehicles, limousines, jitneys, car services, contract vehicles, shuttle vans, and other such vehicles transporting passengers for compensation of any kind except:

(1) Those which an employer uses to transport employees.

(2) Those which are used primarily to transport elderly, special needs and handicapped persons for whom special transportation programs are designed and funded by State, federal, or local authority otherwise exempted pursuant to 23 V.S.A. § 4(15).

(3) Buses, trolleys, trains, or similar mass transit vehicles.

(4) Courtesy vehicles for which the passenger pays no direct charge, such as hotel or car dealer shuttle vans.

(c) On or before December 15, 2017, the Commissioner shall report his or her findings and recommendations to the Senate Committees on Transportation, on Judiciary, and on Finance and the House Committees on Transportation, on Judiciary, and on Commerce and Economic Development.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

And that after passage the title of the bill be amended to read:

An act relating to transportation network companies.

(For text see House Journal February 9, 2017)

Amendment to be offered by Reps. Kimbell of Woodstock, O'Sullivan of Burlington, McCoy of Poultney, Stuart of Brattleboro, Marcotte of Coventry, Botzow of Pownal, Myers of Essex, Hill of Wolcott and Sheldon of Middlebury to H. 143

That the House concur in the Senate proposal of amendment with further amendment thereto by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that this act is a step toward uniform regulation of all vehicle for hire companies and vehicle for hire drivers in Vermont.

Sec. 2. 23 V.S.A. chapter 10 is added to read:

CHAPTER 10. TRANSPORTATION NETWORK COMPANIES

§ 750. DEFINITIONS; INSURANCE REQUIREMENTS

(a) Definitions. As used in this chapter:

(1) “Digital network” or “network” means any online-enabled application, software, website, or system offered or used by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

(2) “Personal vehicle” means a vehicle that is:

(A) used by a driver to provide a prearranged ride;

(B) owned, leased, or otherwise authorized for use by the driver; and

(C) not a taxicab, limousine, or other for-hire vehicle.

(3) “Prearranged ride” or “ride” means the transportation provided by a driver to a transportation network company rider, beginning when a driver accepts the rider’s request for a ride through a digital network controlled by a company; continuing while the driver transports the rider; and ending when the last rider departs from the vehicle. The term does not include:

(A) shared-expense carpool or vanpool arrangements;

(B) use of a taxicab, limousine, or other for-hire vehicle;

(C) use of a public or private regional transportation company that operates along a fixed route; or

(D) a ride furnished through a broker using a publicly funded network to connect riders to drivers through the Elders and Persons with Disabilities Program, Medicaid Non-Emergency Medical Transportation Program, or other similar governmental transportation program.

(4) “Transportation network company” or “company” means a person that uses a digital network to connect riders to drivers who provide prearranged rides.

(5) “Transportation network company driver” or “driver” means an individual who:

(A) receives connections to potential riders and related services from a transportation network company in exchange for payment of a fee to the company; and

(B) uses a personal vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in exchange for compensation or payment of a fee.

(6) “Transportation network company rider” or “rider” means an individual who uses a company’s digital network to connect with a driver who provides rides in his or her personal vehicle between points chosen by the

rider.

(b) Company's financial responsibility.

(1) Beginning on July 1, 2018, a driver, or company on the driver's behalf, shall maintain primary automobile insurance that recognizes that the driver is a company driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver while the driver is logged on to the company's digital network or while the driver is engaged in a prearranged ride.

(2)(A) The following automobile insurance requirements shall apply while a participating driver is logged on to the transportation network company's digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

(i) primary automobile liability insurance in the amount of at least \$50,000.00 for death and bodily injury per person, \$100,000.00 for death and bodily injury per incident, and \$25,000.00 for property damage; and

(ii) any other State-mandated coverage under section 941 of this title.

(B) The coverage requirements of this subdivision (2) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (2)(B).

(3)(A) The following automobile insurance requirements shall apply while a driver is engaged in a prearranged ride:

(i) primary automobile liability insurance that provides at least \$1,000,000.00 for death, bodily injury, and property damage; and

(ii) uninsured and underinsured motorist coverage that provides at least \$1,000,000.00 for death, bodily injury, and property damage.

(B) The coverage requirements of this subdivision (3) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (3)(B).

(4) If insurance maintained by a driver under subdivision (2) or (3) of

this subsection has lapsed or does not provide the required coverage, insurance maintained by the company shall provide such coverage beginning with the first dollar of a claim and shall have the duty to defend such claim.

(5) Coverage under an automobile insurance policy maintained by the company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(6) Insurance required by this subsection may be placed with an insurer licensed under chapter 101 (insurance companies generally) or 138 (surplus lines insurance) of this title.

(7) Insurance satisfying the requirements of this subsection shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under section 800 of this title.

(8) A driver shall carry proof of coverage satisfying this section at all times during use of a vehicle in connection with a company's digital network. In the event of an accident or traffic violation, a driver shall provide this insurance coverage information to the directly interested parties, automobile insurers, and law enforcement, upon request. Upon such request, a driver shall also disclose whether he or she was logged on to the network or was on a prearranged ride at the time of an accident or traffic violation.

(9) A person who fails to maintain primary automobile insurance as required in subdivisions (2) and (3) of this subsection (b) shall be assessed a civil penalty consistent with subsection 800(b) of this title, and such violation shall be a traffic violation within the meaning of chapter 24 of this title. A person who fails to carry proof of insurance as required under subdivision (8) of this subsection (b) shall be subject to a civil penalty consistent with subsection 800(d) of this title. Notwithstanding any provision of law to the contrary, a person who operates a vehicle without financial responsibility as required by this subsection (b) is subject to administrative action as set forth in chapter 11 of this title.

(c) Disclosures. A transportation network company shall disclose in writing to its drivers the following before they are allowed to accept a request for a prearranged ride on the company's digital network:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the company provides while the driver uses a personal vehicle in connection with the company's network; and

(2) that the driver's own automobile insurance policy, depending on its terms, might not provide any coverage while the driver is logged on to the company's network and available to receive transportation requests or engaged

in a prearranged ride.

(d)(1) Automobile insurers. Notwithstanding any other provision of law to the contrary, insurers that write automobile insurance in Vermont may exclude any and all coverage afforded under a policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage in an automobile insurance policy, including:

- (A) liability coverage for bodily injury and property damage;
- (B) personal injury protection coverage;
- (C) uninsured and underinsured motorist coverage;
- (D) medical payments coverage;
- (E) comprehensive physical damage coverage; and
- (F) collision physical damage coverage.

(2) Nothing in this subsection implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to a company's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a vehicle to transport passengers for compensation.

(3) Nothing in this section shall be construed to require an insurer to use any particular policy language or reference to this section in order to exclude any and all coverage for any loss or injury that occurs while a driver is logged on to a company's digital network or while a driver provides a prearranged ride.

(4) Nothing in this subsection is deemed to preclude an insurer from providing primary or excess coverage for the driver's vehicle, if it chooses to do so by contract or endorsement.

(5) Insurers that exclude the coverage described under subsection (b) of this section shall have no duty to defend or indemnify any claim expressly excluded thereunder.

(6) Nothing in this section is deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in Vermont prior to the enactment of this section, that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

(7) An insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy shall have a right of contribution

against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of subsection (b) of this section at the time of loss.

(8) In a claims coverage investigation, transportation network companies shall immediately provide, upon request by directly involved parties or any insurer of the transportation network company driver, if applicable, the precise times that a transportation network company driver logged on and off the transportation network company's digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident. Insurers providing coverage under subsection (b) of this section shall disclose, upon request by any other insurer involved in the particular claim, the applicable charges, exclusions, and limits provided under any automobile insurance maintained in order to satisfy the requirements of subsection (b) of this section.

§ 751. DRIVER REQUIREMENTS; BACKGROUND CHECKS

(a) A company shall not allow an individual to act as a driver on the company's network without requiring the individual to submit to the company an application that includes:

(1) the individual's name, address, and date of birth;

(2) a copy of the individual's driver's license;

(3) a copy of the registration for the personal vehicle that the individual will use to provide prearranged rides; and

(4) proof of financial responsibility for the personal vehicle described in subdivision (3) of this subsection of a type and in the amounts required by the company.

(b)(1) A company shall not allow an individual to act as a driver on the company's network unless, with respect to the driver, the company:

(A) contracts with an accredited entity to conduct a local, State, and national background check of the individual, including the multistate-multijurisdiction criminal records locator or other similar national database, the U.S. Department of Justice national sex offender public website, and the Vermont sex offender public website;

(B) confirms that the individual is at least 18 years of age and, if the individual is 18 years of age, he or she has at least one year of driving experience or has been issued a commercial driver license; and

(C) confirms that the individual possesses proof of registration, automobile liability insurance, and proof of inspection if required by the state of vehicle registration for the vehicle to be used to provide prearranged rides.

(2) The background checks required by this subsection shall be conducted annually by the company.

(3) With respect to a person who is a driver as of the effective date of this act, the requirements of subdivision (1)(A) of this subsection (b) shall be deemed satisfied if the background check is completed within 30 days of the effective date of this act or if a background check that satisfies the requirements of subdivision (1)(A) of this subsection (b) was conducted by the company on or after July 1, 2017. This subdivision shall not be construed to exempt drivers from undergoing an annual background check as required under subdivision (2) of this subsection (b).

(c) A company shall not allow an individual to act as a driver on the company's network if the company knows or should know that the individual:

(1) has been convicted within the last seven years of:

(A) a listed crime as defined in 13 V.S.A. § 5301(7);

(B) a felony level violation of 18 V.S.A. chapter 84 for selling, dispensing, or trafficking a regulated drug;

(C) a violation of section 1201 (operating a vehicle while under the influence of alcohol or drugs) of this title;

(D) a felony violation of 13 V.S.A. chapter 47 (frauds) or 57 (larceny and embezzlement); or

(E) a comparable offense in another jurisdiction;

(2) has been convicted within the last three years of:

(A) more than three moving violations as defined in subdivision 4(44) of this title;

(B) grossly negligent operation of a motor vehicle in violation of section 1091 of this title or operating with a suspended or revoked license in violation of section 674 of this title; or

(C) a comparable offense in another jurisdiction;

(3) has been subject to a civil suspension within the last seven years under section 1205 (operating a vehicle while under the influence of alcohol or drugs) of this title; or

(4) is listed on the U.S. Department of Justice national sex offender public website or the Vermont sex offender public website or has been convicted of homicide, manslaughter, kidnapping, or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(d) A company shall establish and enforce a zero tolerance policy for drug

and alcohol use by drivers during any period when a driver is engaged in, or is logged into the company's network but is not engaged in, a prearranged ride. The policy shall include provisions for investigations of alleged policy violations and the suspension of drivers under investigation.

(e) A company shall require that a personal vehicle used to provide prearranged rides complies with all applicable laws and regulations concerning vehicle equipment.

§ 752. RECORDS; INSPECTION

(a) The Commissioner of Motor Vehicles or designee, not more frequently than once per year, shall visually inspect a random sample of up to 25 drivers' records per company demonstrating compliance with the requirements of this chapter. The records inspected pursuant to this section shall pertain to drivers operating in Vermont. A company shall have an ongoing duty to make such records available for inspection under this section during reasonable business hours and in a manner approved by the Commissioner.

(b) The Commissioner or designee may visually inspect additional random samples of drivers' records if there is a reasonable basis to suspect that a company is not in compliance with this chapter. The records inspected pursuant to this section shall pertain to drivers operating in Vermont.

(c) If the Commissioner receives notice of a complaint against a company or a driver, the company shall cooperate in investigating the complaint, including producing any necessary records.

(d) Any records, data, or information disclosed to the Commissioner by a company, including the names, addresses, and any other personally identifiable information regarding drivers, are exempt from inspection and copying under the Public Records Act and shall not be released.

§ 753. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) The Commissioner of Motor Vehicles may impose an administrative penalty pursuant to this section if a company violates a provision of this chapter.

(b) A violation may be subject to an administrative penalty of not more than \$500.00. Each violation is a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed a separate and distinct offense.

(c) The company shall be given notice and opportunity for a hearing for alleged violations under this section. Service of the notice shall be sufficient if sent by first class mail to the applicable address on file with the Secretary of State. The notice shall include the following:

- (1) a factual description of the alleged violation;
- (2) a reference to the particular statute allegedly violated;
- (3) the amount of the proposed administrative penalty; and

(4) a warning that the company will be deemed to have waived its right to a hearing and that the penalty will be imposed if no hearing is requested within 15 days from the date of the notice.

(d) A company that receives notice under subsection (c) of this section shall be deemed to have waived the right to a hearing unless, within 15 days from the date of the notice, the company requests a hearing in writing. If the company waives the right to a hearing, the Commissioner shall issue a final order finding the company in default and imposing the penalty.

(e) The provisions of sections 105, 106, and 107 of this title shall apply to hearings conducted under this section.

(f) The Commissioner may collect an unpaid administrative penalty by filing a civil action in Superior Court or through any other means available to State agencies.

(g) The remedies authorized by this section shall be in addition to any other civil or criminal remedies provided by law for violation of this chapter.

§ 754. PREEMPTION; SAVINGS CLAUSE

(a) Municipal ordinances, resolutions, or bylaws regulating transportation network companies are preempted to the extent they are inconsistent with the provisions of this chapter.

(b) Subsection (a) of this section shall not apply to a municipal ordinance, resolution, or bylaw regulating transportation network companies adopted by a municipality with a population of more than 35,000 residents based on the 2010 census and in effect on July 1, 2017. This subsection shall be repealed on July 1, 2020.

Sec. 3. STUDY; STATEWIDE REGULATION OF VEHICLES FOR HIRE

(a) The Commissioner of Financial Regulation, in consultation with the Commissioner of Motor Vehicles, the Director of the Office of Professional Regulation, and representatives from other State agencies and departments, as the Commissioner deems necessary, and with input from the Vermont League of Cities and Towns and industry and consumer stakeholders, including representatives of transportation network companies (TNCs) and non-TNC companies and career drivers, shall conduct a study of whether and to what extent vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be regulated by the State, and how State regulations would affect

relevant municipal regulations. Among other things, the Commissioner shall consider:

(1) issues related to public safety, necessity, and convenience;

(2) regulatory models adopted in other state and local jurisdictions, including in both urban and rural municipalities in Vermont, applicable to transportation network companies and other vehicle for hire companies;

(3) matters related to passenger safety, including driver background checks, periodic vehicle safety inspections, and signage;

(4) matters related to insurance coverage, including minimum liability coverage, disclosure requirements, and claims procedures, generally, and with consideration of other, similarly situated jurisdictions, other commercial automobile policy requirements, enhanced personal liability coverage for drivers, and the costs and benefits of requiring Med Pay coverage;

(5) matters related to fares, including the provision of fare estimates to riders, restrictions on “surge pricing,” and payment methods;

(6) matters such as the licensing or permitting of companies and drivers; nondiscrimination street hails; the protection of driver and rider information; taxes or fees and, if applicable, recommended amounts; the employment status of drivers; and increased access for people with disabilities;

(7) the extent to which all vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be treated similarly with respect to statewide regulation; and

(8) any other matter deemed relevant by the Commissioner and the Director.

(b) For purposes of this section, a “vehicle for hire” is a passenger vehicle transporting passengers for compensation of any kind. Vehicles for hire include taxicabs, transportation network company vehicles, limousines, jitneys, car services, contract vehicles, shuttle vans, and other such vehicles transporting passengers for compensation of any kind except:

(1) those which an employer uses to transport employees;

(2) those which are used primarily to transport elderly, special needs and handicapped persons for whom special transportation programs are designed and funded by State, federal, or local authority otherwise exempted pursuant to 23 V.S.A. § 4(15);

(3) buses, trolleys, trains, or similar mass transit vehicles;

(4) courtesy vehicles for which the passenger pays no direct charge, such as hotel or car dealer shuttle vans.

(c) On or before December 15, 2018, the Commissioner shall submit a progress report outlining his or her findings and recommendations to the Chairs of the Senate Committees on Transportation, on Judiciary, and on Finance and the House Committees on Transportation, on Judiciary, and on Commerce and Economic Development.

(d) On or before January 15, 2019, the Commissioner shall submit a final report of his or her findings and recommendations to the Senate Committees on Transportation, on Judiciary, and on Finance and the House Committees on Transportation, on Judiciary, and on Commerce and Economic Development.

Sec. 4. TNC INSURANCE REQUIREMENTS; STUDY

(a) The Commissioner of Financial Regulation shall conduct a study regarding the statutory minimum levels of financial responsibility applicable to transportation network companies (TNC) in Vermont, in particular, the minimums required under 23 V.S.A. § 750(b)(2)(A)(i) (the so-called “gap period”). The purpose of the study is to ensure these requirements correlate with potential liability exposure so that persons are made whole in the event of an automobile accident involving a transportation network company driver.

(b) Consistent with the purpose of this section, and in a form and manner prescribed by the Commissioner, each TNC company doing business in Vermont shall submit claims data elements necessary to inform the Commissioner’s determination with respect to the appropriateness of the statutory minimum levels of financial responsibility. Any data disclosed to the Commissioner by a company pursuant to this section are exempt from inspection and copying under the Public Records Act and shall not be released.

(c) On or before January 15, 2019, the Commissioner shall report his or her aggregated findings and recommendations to the House Committees on Commerce and Economic Development and on Judiciary and the Senate Committees on Judiciary and on Finance.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

And that after passage the title of the bill be amended to read:

An act relating to transportation network companies.

H. 608

An act relating to creating an Older Vermonters Act working group

The Senate proposes to the House to amend the bill as follows:

By striking out Sec. 3, Older Vermonters Act working group; report, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. OLDER VERMONTERS ACT WORKING GROUP; REPORT

(a) Creation. There is created an Older Vermonters Act working group for the purpose of developing recommendations for an Older Vermonters Act that aligns with the federal Older Americans Act, the Vermont State Plan on Aging, and the Choices for Care program.

(b) Membership. The working group shall be composed of the following 18 members:

(1) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(2) the Director of Health Promotion and Disease Prevention at the Department of Health or designee;

(3) the Commissioner of Labor or designee;

(4) the Attorney General or designee;

(5) the Executive Director of the Vermont Association of Area Agencies on Aging or designee;

(6) the State Long-Term Care Ombudsman;

(7) the Director of Vermont Associates for Training and Development or designee;

(8) a representative of the Vermont Association of Adult Day Services, appointed by the Association;

(9) a representative of home health agencies, appointed jointly by the VNAs of Vermont and Bayada Home Health Care;

(10) a representative of long-term care facilities, appointed by the Vermont Health Care Association;

(11) the Director of the Center on Aging at the University of Vermont or designee;

(12) a representative of the Vermont Association of Senior Centers and Meal Providers, appointed by the Association;

(13) the Executive Director of the Alzheimer's Association, Vermont Chapter, or designee;

(14) the Director of Support and Services at Home or designee;

(15) two older Vermonters from different regions of the State, appointed by the Advisory Board established by 33 V.S.A. § 505; and

(16) two family caregivers of older Vermonters, one of whom is a family member of an older Vermonter and one of whom is an informal

provider of in-home and community care, appointed by the Advisory Board established by 33 V.S.A. § 505.

(c) Powers and duties. The working group, in consultation with elder care mental health clinicians, the Vermont Chamber of Commerce, the Community of Vermont Elders, AARP Vermont, the Elder Law Project at Vermont Legal Aid, the Vermont Public Transportation Association, and other interested stakeholders, shall develop recommendations on the following:

(1) the authority and responsibilities of the Vermont Department of Disabilities, Aging, and Independent Living as a State Unit on Aging;

(2) the authority and responsibilities of the Vermont Department of Disabilities, Aging, and Independent Living with respect to the management, approval, and oversight of services provided to eligible older Vermonters through the Choices for Care program;

(3) the roles and responsibilities of the Area Agencies on Aging as the designated regional planning organizations serving older Vermonters and family caregivers;

(4) the roles and responsibilities of the network of providers of services to older Vermonters and family caregivers;

(5) a description of a comprehensive and coordinated system of services and supports for older Vermonters and family caregivers as envisioned by the Older Americans Act and the Choices for Care program, including supportive services, nutrition services, health promotion and disease prevention services, family caregiver services, employment services, and protective services;

(6) a description of how such a system would be coordinated across State agencies, provider networks, and geographic regions;

(7) how to ensure that such a system would target those in greatest economic and social need;

(8) ways to encourage and educate older Vermonters to continue in the workforce and to become or remain involved in their communities through participation in volunteer activities and opportunities for civic engagement; and

(9) ways to educate employers about the value of the older Vermonters talent cohort and the benefits of maintaining a multigenerational workforce, as well as identification of models that may be replicated across sectors and industries.

(d) Assistance. The working group shall have the administrative, technical, and legal assistance of the Department of Disabilities, Aging, and Independent Living.

(e) Report. On or before December 1, 2019, the working group shall submit its recommendations to the House Committee on Human Services and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Commissioner of Disabilities, Aging, and Independent Living or designee shall chair the working group and shall call the first meeting of the working group, which shall occur on or before September 15, 2018.

(2) The working group shall meet as often as reasonably necessary to develop its recommendations, but not less frequently than once every two months.

(3) The working group shall cease to exist upon submitting its report to the General Assembly on or before December 1, 2019.

(g) Compensation and reimbursement. Members of the working group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance at meetings of the working group shall be entitled to reimbursement of expenses pursuant to 32 V.S.A. § 1010. Reimbursement payments to these members shall be made from monies appropriated to the Department of Disabilities, Aging, and Independent Living.

(For text see House Journal February 27, 2018)

H. 921

An act relating to nursing home oversight

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, nursing home oversight working group; report, in subsection (c), at the end of subdivision (4), by striking out the word “and” following the semicolon

Second: In Sec. 1, nursing home oversight working group; report, in subsection (c), at the end of subdivision (5)(C), by striking out the period and inserting in lieu thereof the following: ; and

Third: In Sec. 1, nursing home oversight working group; report, in subsection (c), by adding a subdivision (6) to read as follows:

(6) review the Division of Rate Setting’s rules regarding Medicaid reimbursements to nursing homes, including whether current reimbursement amounts support ongoing financial stability and whether a 90 percent occupancy level requirement continues to be necessary and appropriate.

Fourth: By striking out Secs. 3, transfer of ownership; expedited certificate

of need process, and 4, effective dates, in their entirety and inserting in lieu thereof the following:

Sec. 3. TRANSFER OF NURSING HOME OWNERSHIP; INTERIM REVIEW PROCESS

(a) The Secretary of Human Services shall develop a process by which the Agency of Human Services shall accept and review applications for transfers of ownership of nursing homes in lieu of the certificate of need process, including:

(1) examining the potential buyer's financial and administrative capacity to purchase and operate the nursing home in a manner that will provide high-quality services and a safe and stable environment for nursing home residents;

(2) allowing the Agency of Human Services 30 calendar days from the date the application is complete to review the application and to request and obtain any additional information the Agency deems necessary in order to approve or deny the application for transfer of nursing home ownership; provided that the time during which the applicant is responding to the Agency's request for additional information shall not be included within the Agency's 30-day review period; and

(3) requiring the Agency of Human Services to issue a written decision approving or denying the application for transfer of nursing home ownership within 45 calendar days following the 30-day review period.

(b) Applicants who filed a letter of intent or application for a certificate of need with the Green Mountain Care Board for transfer of nursing home ownership on or before July 1, 2018 may elect to have the proposed transfer reviewed under the process established in subsection (a) of this section in lieu of continuing with the certificate of need process. Any such applicant shall file an application with the Agency of Human Services in accordance with the process established by the Secretary.

Sec. 4. EFFECTIVE DATES

(a) Sec. 1 (Nursing Home Oversight Working Group) and this section shall take effect on passage.

(b) Sec. 2 (18 V.S.A. § 9434) shall take effect on July 1, 2018 and shall apply to all transfers of ownership initiated on or after that date.

(c) Sec. 3 (transfer of nursing home ownership; interim review process) shall take effect on July 1, 2018.

(For text see House Journal March 20, 2018)

Senate Proposal of Amendment to House Proposal of Amendment

S. 29

An act relating to decedents' estates

The Senate concurs in the House proposal of amendment with the following proposals of amendment thereto:

First: In Sec. 5, 14 V.S.A. chapter 61, by striking out § 931 in its entirety and inserting in lieu thereof a new § 931 to read as follows:

§ 931. LIMITATION ON CLAIMS OF CREDITORS

~~When a petition to open a decedent's estate is not filed in probate division of the superior court within 30 days of death, all~~ All claims against the decedent's estate which arose before the death of the decedent, including claims of the ~~state~~ State and any subdivision thereof, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, are barred against the estate, the legal representative of the estate, and the heirs and devisees of the decedent, unless presented within three years after the decedent's death. Nothing in this section affects or prevents any proceeding to enforce any mortgage, pledge, or other lien upon the property of the estate.

Second: By striking out Sec. 6a in its entirety.

Third: In Sec. 9, 14 V.S.A. chapter 75, in § 1651, by striking out subdivision (12) in its entirety.

(For House Proposal of Amendment see House Journal April 12, 2018 Page)

NOTICE CALENDAR

Favorable with Amendment

H.R. 20

House resolution opposing the proposed NewVistas development project in the rural areas of the towns of Royalton, Sharon, Strafford, and Tunbridge.

Rep. Lefebvre of Newark, for the Committee on Natural Resources; Fish; and Wildlife, recommends that the resolution be amended by striking out all after the sponsors and inserting in lieu thereof the following:

Whereas, the NewVistas Foundation, a Utah nonprofit corporation, and its founder, David R. Hall, have proposed a long-term plan to construct a 2.88-square-mile, up to 20,000 resident, mixed-used industrial, commercial, and residential development in rural areas of the towns of Royalton, Sharon, Strafford, and Tunbridge, and

Whereas, David Hall is the sole member of the Vermont registered limited liability company, WINDSORANGE L.L.C., and

Whereas, the NewVistas Foundation and the WINDSORANGE L.L.C. have purchased over 1,500 acres of land in the four Vermont towns, and

Whereas, the towns of Sharon, Strafford, and Tunbridge were founded in 1761 and the town of Royalton in 1769, and each of these towns includes many historic homes, barns, and other structures characteristic of classic Vermont villages, and

Whereas, these towns have compact village centers surrounded by rural areas that include productive agricultural land and forestland that typify Vermont's primary land use goal, which is "To plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside," as this goal is codified at 24 V.S.A. § 4302(c)(1), and

Whereas, many landowners in these communities manage their land on a long-term basis for productive agricultural and silvicultural uses, participate in the Current Use program, and work with the Upper Valley Land Trust, the Vermont Land Trust, and other similar organizations to preserve agricultural land, forestland, and scenic views, and

Whereas, various organizations, including the Alliance for Vermont Communities and Building A Local Economy, are working with citizens in the four towns to develop and implement a local vision of an economically vibrant and environmentally resilient future, and

Whereas, the proposed Vermont NewVistas development is inconsistent with the adopted town plan in each of the four involved municipalities, and

Whereas, at their town meetings in March 2017, the voters of these four towns overwhelmingly supported resolutions expressing opposition to the Vermont NewVistas development as proposed, and

Whereas, if the Vermont NewVistas development is implemented as proposed, it would damage the traditional and compact settlement pattern in the four towns, convert large amounts of productive agricultural land and forestland into development outside the traditional town centers, undermine the historic character of these towns, degrade the area's natural resources, and reduce game and wildlife populations, now therefore be it

Resolved by the House of Representatives:

That this legislative body expresses its opposition to the Vermont NewVistas development as it is proposed, and be it further

Resolved: That this legislative body urges David Hall and the NewVistas

Foundation to discontinue plans for the Vermont NewVistas development as proposed and to manage the lands for which they are responsible in accordance with Vermont's land use goals, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to David R. Hall, to the NewVistas Foundation, to Governor Philip Scott, to Attorney General T.J. Donovan, to Utah Governor Gary Hebert, and to Utah Attorney General Sean Reyes.

and that after adoption, the title to be amended to "House resolution expressing opposition to the proposed Vermont NewVistas development project in the rural areas of the towns of Royalton, Sharon, Strafford, and Tunbridge".

(Committee Vote: 8-0-1)

(For Text of Resolution see House Journal March 21, 2018 Page)

S. 53

An act relating to recommendations for achieving universal coverage for primary care in Vermont

Rep. Briglin of Thetford, for the Committee on Health Care, 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. UNIVERSAL PRIMARY CARE; INTENT

(a) It is the intent of the General Assembly to create and implement a program of universal, publicly financed primary care for all Vermont residents. The program should ensure that Vermonters have access to primary health care without facing financial barriers that might otherwise discourage them from seeking necessary care.

(b) The General Assembly continues to support the principles for health care reform enacted in 2011 Acts and Resolves No. 48, Sec. 1a, and plans to use universal primary care as a platform for a tiered approach to achieving universal health care coverage.

(c) In order to improve Vermonters' access to essential health care services, it is the intent of the General Assembly that universal access to primary care services should be available without cost-sharing.

Sec. 2. UNIVERSAL PRIMARY CARE; FINDINGS

The General Assembly finds that:

(1) Universal access to primary care will advance the health of Vermonters by addressing Vermonters' health care problems before they

become more serious and more costly. A large volume of research from throughout the United States concludes that increased access to primary care enhances the overall quality of care and improves patient outcomes.

(2) Universal access to primary care will reduce systemwide health care spending. A study completed in accordance with 2016 Acts and Resolves No. 172, Sec. E.100.10 and submitted on November 23, 2016 found significant cost savings in a review of data from nonuniversal public and private primary care programs in the United States and around the world. One reason for these savings is that better access to primary care reduces the need for emergency room visits and hospital admissions.

(3) The best primary care program is one that provides primary care for all residents without point-of-service patient cost-sharing or insurance deductibles for primary care services. The study completed in accordance with 2016 Acts and Resolves No. 172, Sec. E.100.10 found that primary care cost-sharing in many locales decreased health care utilization and affected individuals with low income disproportionately.

(4) A universal primary care program will build on and support existing health care reform efforts, such as the Blueprint for Health, the all-payer model, and accountable care organizations.

(5) A universal primary care program can be structured in such a way as to create model working conditions for primary care physicians, who are currently overburdened with paperwork and administrative duties, and who are reimbursed at rates disproportionately lower than those of other specialties.

(6) The costs of a universal primary care program for Vermont were estimated in a study ordered by the General Assembly in 2015 Acts and Resolves No. 54, Secs. 16–19 and submitted on December 16, 2015.

Sec. 3. UNIVERSAL PRIMARY CARE; DRAFT OPERATIONAL MODEL;
REPORT

(a)(1) The Green Mountain Care Board shall convene, facilitate, and supervise the participation of certified accountable care organizations, Bi-State Primary Care, and other interested stakeholders with applicable subject matter expertise to develop a draft operational model for a universal primary care program.

(2)(A) Using as its basis the primary care service categories and primary care specialty types described in 33 V.S.A. § 1852, the draft operational model shall address at least the following components:

(i) who would be eligible to receive publicly financed universal primary care services under the program;

(ii) who would deliver care under the program and in what settings;

(iii) how funding for the primary care services would move through the health care system; and

(iv) how to ensure maintenance of records demonstrating quality of care without increasing the administrative burden on primary care providers.

(B) In addition to the components described in subdivision (A) of this subdivision (2), the draft operational model may also include recommendations regarding the specific services that should be included in the universal primary care program and a methodology or benchmark for determining reimbursement rates to primary care providers.

(3) To the extent permitted under the All-Payer ACO Agreement with the Centers for Medicare and Medicaid Services and Vermont's Medicaid Section 1115 waiver, up to \$300,000.00 in expenses incurred by certified accountable care organizations to develop the draft operational model described in this subsection may be funded through delivery system reform payments.

(4) The Senate Committee on Health and Welfare and the House Committee on Health Care may meet up to five times following the adjournment of the General Assembly in 2018 to provide guidance and receive updates from the Green Mountain Care Board and participating stakeholders developing the draft operational model for universal primary care pursuant to this subsection.

(5) All relevant State agencies shall provide timely responses to requests for information from the Green Mountain Care Board and participating stakeholders developing the draft operational model for universal primary care pursuant to this subsection.

(6) The Green Mountain Care Board and participating stakeholders shall submit the draft operational model for universal primary care on or before January 1, 2019 to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, the Department of Human Resources, and the Department of Vermont Health Access.

(b) On or before July 1, 2019, the Departments of Human Resources and of Vermont Health Access, as the administrative departments with expertise and experience in the administration and oversight of health benefit programs in this State, shall provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance their assessments of the draft operational model plan for universal primary care and their

recommendations with respect to implementation of the universal primary care program.

(c) On or before July 1, 2019, the Department of Financial Regulation shall provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance its recommendations for appropriate mechanisms for the State to employ to obtain reinsurance and to guarantee the solvency of the universal primary care program.

Sec. 4. UNIVERSAL PRIMARY CARE; LEGAL ANALYSIS; REPORT

The Office of the Attorney General, in consultation with the Green Mountain Care Board and the Department of Financial Regulation, shall conduct a legal analysis of any potential legal issues regarding implementation of a universal primary care program in Vermont, including whether there are likely any legal impediments due to federal preemption under the Employee Retirement Income Security Act (ERISA) and whether the program could be designed in a manner that would permit Vermont residents to continue to be eligible under federal law to use a health savings account established in conjunction with a high-deductible health plan. The Office shall submit its legal analysis on or before January 1, 2019 to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Sec. 5. UNIVERSAL PRIMARY CARE; SCOPE OF SERVICES AND PROVIDERS; REPORT

(a) The Green Mountain Care Board shall convene a working group of interested stakeholders with applicable subject matter expertise to develop:

(1) recommendations for the specific services and providers that should be included in the universal primary care program, including the scope of the mental health and substance use disorder services, and suggested modifications to 18 V.S.A. § 1852(a)(1) and (2);

(2) methods to resolve coordination of benefits issues in the universal primary care program; and

(3) recommendations for strategies to address other issues associated with the development and implementation of the universal primary care program.

(b) On or before October 1, 2018, the Green Mountain Care Board shall provide the working group's recommendations to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Sec. 6. IMPLEMENTATION TIMELINE; CONDITIONS

(a) In addition to the plans, assessments, and analyses required by Secs. 3, 4, and 5 of this act, the General Assembly adopts the following implementation timeline for the universal primary care program:

(1) submission by the Agency of Human Services of a final implementation plan for universal primary care on or before January 1, 2020;

(2) enactment by the General Assembly of the funding mechanism or mechanisms during the 2020 legislative session;

(3) application by the Agency of Human Services to the U.S. Department of Health and Human Services for all necessary waivers and approvals for universal primary care on or before January 1, 2021; and

(4) coverage of publicly financed primary care services for Vermont residents under the universal primary care program beginning on or before January 1, 2022.

(b) Implementation of the universal primary care program shall occur only if the following conditions are met:

(1) the program will not increase the administrative burden on primary care providers;

(2) the program will provide reimbursement amounts for primary care services that are sufficient to attract an adequate number of primary care providers to participate;

(3) the program has appropriate financing in place to support the covered services while ensuring the continued solvency of the program;

(4) the program will include coverage for basic mental health care;

(5) the program will not include coverage for dental care services;

(6) the program will provide clear information to health care providers and consumers regarding which services are covered and which services are not covered under the universal primary care program; and

(7) the program adheres to the principles of 2011 Acts and Resolves No. 48, Sec. 1a.

Sec. 7. 33 V.S.A. chapter 18, subchapter 3 is added to read:

Subchapter 3. Universal Primary Care

§ 1851. DEFINITIONS

As used in this section:

(1) “Health care facility” shall have the same meaning as in 18 V.S.A. § 9402.

(2) “Health care provider” means a person, partnership, or corporation, including a health care facility, that is licensed, certified, or otherwise authorized by law to provide professional health care services in this State to an individual during that individual’s medical care, treatment, or confinement.

(3) “Health service” means any treatment or procedure delivered by a health care professional to maintain an individual’s physical or mental health or to diagnose or treat an individual’s physical or mental condition or intellectual disability, including services ordered by a health care professional, chronic care management, preventive care, wellness services, and medically necessary services to assist in activities of daily living.

(4) “Primary care” means health services provided by health care professionals who are specifically trained for and skilled in first-contact and continuing care for individuals with signs, symptoms, or health concerns, not limited by problem origin, organ system, or diagnosis. Primary care does not include dental services.

(5) “Vermont resident” means an individual domiciled in Vermont as evidenced by an intent to maintain a principal dwelling place in Vermont indefinitely and to return to Vermont if temporarily absent, coupled with an act or acts consistent with that intent. The Secretary of Human Services shall establish specific criteria for demonstrating residency.

§ 1852. UNIVERSAL PRIMARY CARE

(a) It is the intent of the General Assembly that all Vermont residents should receive publicly financed primary care services.

(1) The following service categories should be included in a universal primary care program when provided by a health care provider in one of the primary care specialty types described in subdivision (2) of this subsection:

- (A) new or established patient office or other outpatient visit;
- (B) initial new or established patient preventive medicine evaluation;
- (C) other preventive services;
- (D) patient office consultation;
- (E) administration of vaccine;
- (F) prolonged patient service or office or other outpatient service;
- (G) prolonged physician service;
- (H) initial or subsequent nursing facility visit;
- (I) other nursing facility service;
- (J) new or established patient home visit;

(K) new or established patient assisted living visit;

(L) other home or assisted living facility service;

(M) alcohol, smoking, or substance use disorder screening or counseling;

(N) all-inclusive clinic visit at a federally qualified health center or rural health clinic; and

(O) mental health.

(2) Services provided by a licensed health care provider in one of the following primary care specialty types should be included in universal primary care when providing services in one of the primary care service categories described in subdivision (1) of this subsection:

(A) family medicine physician;

(B) registered nurse;

(C) internal medicine physician;

(D) pediatrician;

(E) physician assistant or advanced practice registered nurse;

(F) psychiatrist;

(G) obstetrician/gynecologist;

(H) naturopathic physician;

(I) geriatrician;

(J) registered nurse certified in psychiatric or mental health nursing;

(K) social worker;

(L) psychologist;

(M) clinical mental health counselor; and

(N) alcohol and drug abuse counselor.

(b) For Vermont residents covered under Medicare, Medicare should continue to be the primary payer for primary care services, but the State of Vermont should cover any co-payment or deductible amounts required from a Medicare beneficiary for primary care services.

§ 1853. UNIVERSAL PRIMARY CARE FUND

(a) The Universal Primary Care Fund is established in the State Treasury as a special fund to be the single source to finance primary care for Vermont residents.

(b) Into the Fund shall be deposited:

(1) transfers or appropriations from the General Fund, authorized by the General Assembly;

(2) revenue from any taxes established for the purpose of funding universal primary care in Vermont;

(3) if authorized by waivers from federal law, federal funds from Medicaid and from subsidies associated with the Vermont Health Benefit Exchange established in subchapter 1 of this chapter; and

(4) the proceeds from grants, donations, contributions, taxes, and any other sources of revenue as may be provided by statute or by rule.

(c) The Fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5, except that interest earned on the Fund and any remaining balance shall be retained in the Fund. The Agency of Human Services shall maintain records indicating the amount of money in the Fund at any time.

(d) All monies received by or generated to the Fund shall be used only for payments to health care providers for primary care health services delivered to Vermont residents and to cover any co-payment or deductible amounts required from Medicare beneficiaries for primary care services.

Sec. 9. 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 a universal, publicly financed primary care system”

(Committee vote: 6-5-0)

(For text see Senate Journal March 21, 2018)

Senate Proposal of Amendment

H. 25

An act relating to sexual assault survivors’ rights

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

Sec. 1. 13 V.S.A. § 4003 is amended to read:

§ 4003. CARRYING DANGEROUS WEAPONS

A person who carries ~~or possesses~~ a dangerous or deadly weapon, ~~openly or concealed, or with the intent or avowed purpose of injuring a fellow man, who carries a dangerous or deadly weapon within any state institution or upon the grounds or lands owned or leased for the use of such institution, without the~~

approval of the warden or superintendent of the institution, to injure another shall be imprisoned not more than two years or fined not more than \$200.00 \$2,000.00, or both. It shall be a felony punishable by not more than 10 years or a fine of \$25,000.00, or both, if the person intends to injure multiple persons.

Sec. 2. 13 V.S.A. § 1703 is added to read:

§ 1703. DOMESTIC TERRORISM

(a) As used in this section:

(1) “Domestic terrorism” shall mean engaging in, or taking substantial steps to commit a violation of the criminal laws of this State with the intent to:

(A) cause death or serious bodily injury to multiple people; or

(B) threaten any civilian population with mass destruction, mass killings, or kidnapping.

(2) “Substantial step” shall mean conduct that is strongly corroborative of the actor’s intent to complete the commission of the offense.

(b) A person who knowingly and willfully engages in an act of domestic terrorism shall be imprisoned for not more than 20 years or fined not more than \$50,000.00, or both.

Sec. 3. 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 domestic terrorism.

(For text see House Journal February 16, 17, 2018)

H. 828

An act relating to disclosures in campaign finance law

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

Sec. 1. 17 V.S.A. chapter 61 is amended to read:

CHAPTER 61. CAMPAIGN FINANCE

Subchapter 1. General Provisions

§ 2901. DEFINITIONS

As used in this chapter:

* * *

(6) “Electioneering communication” means any communication that refers to a clearly identified candidate for office and that promotes or supports a candidate for that office or attacks or opposes a candidate for that office, regardless of whether the communication expressly advocates a vote for or against a candidate, including communications published in any newspaper or periodical or broadcast on radio or television or over the Internet or any public address system; placed on any billboards, outdoor facilities, buttons, or printed material attached to motor vehicles, window displays, posters, cards, pamphlets, leaflets, flyers, or other circulars; or contained in any direct mailing, robotic phone calls, or mass ~~e-mails~~ electronic or digital communications.

* * *

(11) “Mass media activity” means a television commercial, radio commercial, Internet advertisement, mass mailing, mass electronic or digital communication, literature drop, newspaper or periodical advertisement, robotic phone call, or telephone bank, that includes the name or likeness of a clearly identified candidate for office.

* * *

Subchapter 4. Reporting Requirements; Disclosures

* * *

§ 2968. CAMPAIGN REPORTS; LOCAL CANDIDATES

(a) Each candidate for local office who has rolled over any amount of surplus into his or her new campaign or who has made expenditures or accepted contributions of \$500.00 or more since the last local election for that office shall file with the Secretary of State campaign finance reports 30 days before, 10 days before, four days before, and two weeks after the local election.

* * *

§ 2972. IDENTIFICATION IN ELECTIONEERING COMMUNICATIONS

(a) An electioneering communication shall contain the name and mailing address of the person, candidate, political committee, or political party that paid for the communication. The name and address shall appear prominently and in a manner such that a reasonable person would clearly understand by whom the expenditure has been made, except that:

(1) An audio electioneering communication ~~transmitted through radio~~ and paid for by a candidate does not need to contain the candidate’s address.

(2) An electioneering communication paid for by a person acting as an

agent or consultant on behalf of another person, candidate, political committee, or political party shall clearly designate the name and mailing address of the person, candidate, political committee, or political party on whose behalf the communication is published or broadcast.

(b) If an electioneering communication is a related campaign expenditure made on a candidate's behalf as provided in section 2944 of this chapter, then in addition to other requirements of this section, the communication shall also clearly designate the candidate on whose behalf it was made by including language such as "on behalf of" such candidate.

(c)(1) In addition to the identification requirements in subsections (a) and (b) of this section, an electioneering communication paid for by or on behalf of a political committee or political party shall contain the name of any contributor who contributed more than 25 percent of all contributions and more than \$2,000.00 to that committee or party since the beginning of the two-year general election cycle in which the electioneering communication was made to the date on which the expenditure for the electioneering communication was made.

(2) For the purposes of this subsection, a political committee or political party shall be treated as having made an expenditure if the committee or party or person acting on behalf of the committee or party has executed a contract to make the expenditure.

(d) If it is not practicable to meet the identification requirements of this section within an electioneering communication that is broadcast over the Internet, such an electioneering communication shall contain a link that shall be clear and conspicuous and that, if clicked, takes the reader to a web page or social media page that provides all of the identification information as required by this section.

(e) The identification requirements of this section shall not apply to lapel stickers or buttons, nor shall they apply to electioneering communications made by a single individual acting alone who spends, in a single two-year general election cycle, a cumulative amount of ~~no~~ not more than \$150.00 on those electioneering communications, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter.

§ 2973. SPECIFIC IDENTIFICATION REQUIREMENTS FOR RADIO, TELEVISION, OR INTERNET COMMUNICATIONS

(a) In addition to the identification requirements set forth in section 2972 of this subchapter, a person, candidate, political committee, or political party that makes an expenditure for an electioneering communication shall include in any communication that is transmitted through radio, television, or online

video, in a clearly spoken manner, an audio statement of the name and title of the person who paid for the communication and that the person paid for the communication.

(b) If the person who paid for the communication is not ~~a natural person~~ an individual, the audio statement required by this section shall include the name of that ~~non-natural~~ person and the name and title of the treasurer, in the case of a ~~candidate's committee~~, political committee, or political party, or the principal officer, in the case of any other ~~non-natural~~ person that is not an individual.

* * *

Sec. 2. EFFECTIVE DATES

This act shall take effect on passage, except that in Sec. 1, 17 V.S.A. § 2968 (campaign reports; local candidates) shall take effect on December 14, 2018.

(For text see House Journal February 22, 2018)

H. 909

An act relating to technical and clarifying changes in transportation-related laws

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, in subsection (a), by striking out “International Association of Sheet Metal, Air, Rail and Transportation Workers or its successor” and inserting in lieu thereof the following: union representing the affected employee, if any

Second: By striking out Secs. 2–3 in their entirety and inserting in lieu thereof the following:

Sec. 2. 5 V.S.A. § 202 is amended to read:

§ 202. DEFINITIONS

As used in this part of this title, unless the context otherwise requires, the following definitions shall apply:

* * *

(8)(A) “Airman” means an individual:

(i) in command, or as pilot, mechanic, or member of the crew, who engages in air navigation of navigates aircraft when underway and excepting an individual employed outside the United States or by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection with aircraft, aircraft engines, propellers, or appliances, and an individual performing inspection or mechanical duties in connection with aircraft owned or operated by him or her,

~~an individual;~~

(ii) who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances; ~~and or~~

(iii) ~~an individual~~ who serves in the capacity of aircraft dispatcher or air-traffic control-tower operator.

(B) “Airman” does not include an individual:

(i) employed outside the United States;

(ii) employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection with aircraft, aircraft engines, propellers, or appliances; or

(iii) performing inspection or mechanical duties in connection with aircraft owned or operated by him or her.

* * *

Sec. 3. [Deleted.]

Third: In Sec. 8, in subsection (a), by striking out “~~the~~ its registration certificate ~~thereof is~~” and inserting in lieu thereof: ~~the~~ all required registration certificate ~~thereof is~~ certificates are

Fourth: In Sec. 8, in subsection (b), after the following: “or destruction of ~~such~~” by striking out the word “the” and inserting in lieu thereof the word a
(For text see House Journal March 13, 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?

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. 346

House concurrent resolution congratulating 2018 Winter Olympics gold medal winners Jessie Diggins, Amanda Pelkey, and Mikaela Shiffrin

H.C.R. 347

House concurrent resolution congratulating the 2018 Champlain Valley Union High School Redhawks State championship gymnastics team

H.C.R. 348

House concurrent resolution designating April 19, 2018 as Vermont Golf Day

H.C.R. 349

House concurrent resolution congratulating the 2018 Mill River Union High School Minutemen Division II championship cheerleading team

H.C.R. 350

House concurrent resolution honoring Peter Gilbert for his outstanding leadership of the Vermont Humanities Council

H.C.R. 351

House concurrent resolution congratulating George Thomson on being named the 2018 Vermont Elementary School Principal of the Year

H.C.R. 352

House concurrent resolution honoring Angelo Odatto of Braintree for his outstanding volunteer leadership in the governance of schools in Orange County

H.C.R. 353

House concurrent resolution congratulating the Vermont team on winning the 2018 New England Nordic Skiing Association U-16 championship

H.C.R. 354

House concurrent resolution congratulating the 2018 winners of the Vermont Forest Products Association and the Northeast Loggers Association awards

H.C.R. 355

House concurrent resolution congratulating Elliott Rice on winning the Vermont State competition of the 2018 American Legion Oratorical Contest

H.C.R. 356

House concurrent resolution congratulating the 2018 Woodstock Union High School Wasps Division II championship boys' ice hockey team

H.C.R. 357

House concurrent resolution congratulating Sister Janice Ryan on her receipt of the 2018 New England Board of Higher Education's Vermont State Award

H.C.R. 358

House concurrent resolution congratulating the George J. Brooks Memorial Library on its 50th Anniversary

H.C.R. 359

House concurrent resolution congratulating Camille Hanna on her indoor track accomplishments as a Milton High School Yellowjacket

H.C.R. 360

House concurrent resolution congratulating Douglas Heavisides on being named the 2018 Vermont Career Center Director of the Year