

House Calendar

Friday, April 27, 2018

115th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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ACTION CALENDAR

Action Postponed Until April 27, 2018

Senate Proposal of Amendment

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 Vermont 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, 28, 2018)

NEW BUSINESS

Called Up

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?

Senate proposal of amendment

H. 167

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

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

* * * Misdemeanor Possession of Drugs Study * * *

Sec. 1. MISDEMEANOR POSSESSION OF DRUGS; PRETRIAL SERVICES

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

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

* * * Findings * * *

Sec. 2. LEGISLATIVE FINDINGS AND INTENT

The General Assembly finds the following:

(1) According to a 2014 study commissioned by the administration and conducted by the RAND Corporation, marijuana is commonly used in Vermont with an estimated 80,000 residents having used marijuana in the last month.

(2) For over 75 years, Vermont has debated the issue of marijuana

regulation and amended its marijuana laws numerous times in an effort to protect public health and safety. Criminal penalties for possession rose in the 1940s and 50s to include harsh mandatory minimums, dropped in the 1960s and 70s, rose again in the 1980s and 90s, and dropped again in the 2000s. A study published in the American Journal of Public Health found that no evidence supports the claim that criminalization reduces marijuana use.

(3) Vermont seeks to take a new comprehensive approach to marijuana use and abuse that incorporates prevention, education, regulation, treatment, and law enforcement which results in a net reduction in public harm and an overall improvement in public safety. Responsible use of marijuana by adults 21 years of age or older should be treated the same as responsible use of alcohol, the abuse of either treated as a public health matter, and irresponsible use of either that causes harm to others sanctioned with penalties.

(4) Policymakers recognize legitimate federal concerns about marijuana reform and seek through this legislation to provide better control of access and distribution of marijuana in a manner that prevents:

(A) distribution of marijuana to persons under 21 years of age;

(B) revenue from the sale of marijuana going to criminal enterprises;

(C) diversion of marijuana to states that do not permit possession of marijuana;

(D) State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or activity;

(E) violence and the use of firearms in the cultivation and distribution of marijuana;

(F) drugged driving and the exacerbation of any other adverse public health consequences of marijuana use;

(G) growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(H) possession or use of marijuana on federal property.

(5) Revenue generated by this act shall be used to provide for the implementation, administration, and enforcement of this chapter and to provide additional funding for State efforts on the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts to combat the illegal drug trade and impaired driving. As used in this subdivision, “criminal justice efforts” shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

* * * Prevention * * *

Sec. 3. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a)(1) Relying on lessons learned from tobacco and alcohol prevention efforts, the Department of Health, in collaboration with the Agency of Agriculture, Food, and Markets, the Agency of Education, and the Governor's Highway Safety Program, shall develop and administer an education and prevention program focused on use of marijuana by youth under 25 years of age. In so doing, the Department shall consider at least the following:

(A) Community- and school-based youth and family-focused prevention initiatives that strive to:

(i) expand the number of school-based grants for substance abuse services to enable each Supervisory Union to develop and implement a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(ii) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youth in schools and other settings; and

(iii) expand family education programs.

(B) An informational and counter-marketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(C) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(D) Expansion of the use of SBIRT among the State's pediatric practices and school-based health centers.

(E) Strategies specific to youth who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) On or before March 15, 2018, the Department shall adopt rules to implement the education and prevention program described in subsection (a) of this section and implement the program on or before September 15, 2018.

(b) The Department shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youth in Vermont and to understand the source of marijuana used by this population.

(c) Any data collected by the Department on the use of marijuana by youth shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

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

Sec. 4. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

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

Sec. 5. 18 V.S.A. § 4201(15) is amended to read:

~~(15)(A) “Marijuana” means any plant material of the genus *Cannabis* or any preparation, compound, or mixture thereof except:~~

~~(A) sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562 all parts of the plant *Cannabis sativa* L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:~~

~~(i) the seeds of the plant;~~

~~(ii) the resin extracted from any part of the plant; and~~

~~(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.~~

~~(B) “Marijuana” does not include:~~

~~(i) the mature stalks of the plant and fiber produced from the stalks;~~

~~(ii) oil or cake made from the seeds of the plant;~~

~~(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake; or~~

~~(iv) the sterilized seed of the plant that is incapable of germination.~~

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

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than

one ounce of marijuana or more than five grams of hashish or cultivate more than two mature marijuana plants or four immature marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

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

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

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

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

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

(5) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's

motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

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

* * *

Sec. 7. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE OR OLDER; ~~CIVIL VIOLATION~~

~~(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

- ~~(1) not more than \$200.00 for a first offense;~~
- ~~(2) not more than \$300.00 for a second offense;~~
- ~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1)~~ Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish and two mature marijuana plants or fewer or four immature marijuana plants or fewer or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law. The one-ounce limit of marijuana or five grams of hashish that may be possessed by a person 21 years of age or older shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

~~(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind~~ A person shall not consume marijuana in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 or chapter 37 of this title or 16 V.S.A. § 140.

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

- (i) not more than \$100.00 for a first offense;
- (ii) not more than \$200.00 for a second offense; and

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

~~(e)(1)(b) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.~~

~~(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.~~

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense.:~~

(1) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(2) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

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

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

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

(6) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

~~(e)(c)(1)~~ A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated subsection (b) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(f)~~(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.

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

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

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish or two mature marijuana plants or fewer or four immature marijuana plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

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

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

* * *

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

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

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

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

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

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

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

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

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

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

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

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

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

§ 4230f. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER
21 YEARS OF AGE

(a) No person shall:

(1) sell or furnish marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under 21 years of age.

(b) As used in this section, “enable the consumption of marijuana” means creating a direct and immediate opportunity for a person to consume marijuana.

(c) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(d) An employee of a marijuana establishment licensed pursuant to chapter 87 of this title, who, in the course of employment, violates subdivision (a)(1) of this section during a compliance check conducted by a law enforcement officer shall be:

(1) assessed a civil penalty of not more than \$100.00 for the first violation and a civil penalty of not less than \$100.00 nor more than \$500.00 for a second violation that occurs more than one year after the first violation; and

(2) subject to the criminal penalties provided in subsection (c) of this section for a second violation within a year of the first violation, and for a third or subsequent violation within three years of the first violation.

(e) An employee alleged to have committed a violation of subsection (d) of this section may plead as an affirmative defense that:

(1) the purchaser exhibited and the employee carefully viewed photographic identification that indicated the purchaser to be 21 years of age or older;

(2) an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(3) the sale was made in good faith, based upon the reasonable belief that the purchaser was of legal age to purchase marijuana.

(f) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle on a public highway, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(g) This section shall not apply to:

(1) A person under 21 years of age who sells or furnishes marijuana to a person under 21 years of age or who knowingly enables the consumption of marijuana by a person under 21 years of age. Possession of an ounce or less of marijuana by a person under 21 years of age shall be punished in accordance with sections 4230b–4230d of this title and dispensing or selling marijuana shall be punished in accordance with sections 4230 and 4237 of this title.

(2) A dispensary registered pursuant to chapter 86 of this title.

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

§ 4230g. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by selling or furnishing marijuana to a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who sold or furnished the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant. Responsible actions may include a marijuana establishment's instruction to employees as to laws governing the sale of marijuana to adults 21 years of age or older and

procedures for verification of age of customers.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f)(1) Except as provided in subdivision (2) of this subsection, nothing in this section shall create a statutory cause of action against a social host for furnishing marijuana to any person without compensation or profit. However, this subdivision shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(2) A social host who knowingly furnishes marijuana to a person under 21 years of age may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

(3) As used in this subsection, "social host" means a person who is not the holder of a marijuana establishment license and is not required under chapter 87 of this title to hold a marijuana establishment license.

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

§ 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE
PROHIBITED

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

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

* * * Commercial Marijuana Regulation * * *

Sec. 13. 18 V.S.A. chapter 87 is added to read:

CHAPTER 87. MARIJUANA ESTABLISHMENTS

Subchapter 1. General Provisions

§ 4501. DEFINITIONS

As used in this chapter:

(1) "Affiliate" means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control

with, another person.

(2) “Agency” means the Agency of Agriculture, Food, and Markets.

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

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

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

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

(7) “Dispensary” means a person registered under section 4474e of this title that acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient’s use for symptom relief.

(8) “Enclosed, locked facility” shall be either indoors or outdoors, not visible to the public, and may include a building, room, greenhouse, fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include marijuana cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where marijuana is being grown, processed, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(9) “Financier” means a person, other than a financial institution as defined in 8 V.S.A. § 11101, that makes an equity investment, a gift, loan, or otherwise provides financing to a person with the expectation of a financial return.

(10) “Marijuana” shall have the same meaning as provided in section 4201 of this title.

(11) “Marijuana cultivator” or “cultivator” means a person registered

with the Agency to engage in commercial cultivation of marijuana in accordance with this chapter.

(12) “Marijuana establishment” means a marijuana cultivator, retailer, or testing laboratory licensed by the Agency to engage in commercial marijuana activity in accordance with this chapter.

(13) “Marijuana retailer” or “retailer” means a person licensed by the Agency to sell marijuana to consumers for off-site consumption in accordance with this chapter.

(14) “Marijuana testing laboratory” or “testing laboratory” means a person licensed by the Agency to test marijuana for cultivators and retailers in accordance with this chapter.

(15) “Owns or controls,” “is owned or controlled by,” and “under common ownership or control” mean direct ownership or beneficial ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the power to direct, or cause the direction of, the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(16) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

(17) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

(18) “Principal” means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice-president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership.

(19) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 of this title or chapter 37 of this title.

(20) “Resident” means a person who is domiciled in Vermont, subject to the following:

(A) The process for determining the domicile of an individual shall be the same as that required by rules adopted by the Department of Taxes related to determining domicile for the purpose of the interpretation and administration of 32 V.S.A. § 5401(14).

(B) The domicile of a business entity is the State in which it is organized.

(21) “School” means a public school, independent school, or facility that provides early childhood education as those terms are defined in 16 V.S.A. § 11.

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

§ 4502. MARIJUANA POSSESSED UNLAWFULLY SUBJECT TO SEIZURE AND FORFEITURE

Marijuana possessed unlawfully in violation of this chapter may be seized by law enforcement and is subject to forfeiture.

§ 4503. NOT APPLICABLE TO HEMP OR THERAPEUTIC USE OF CANNABIS

This chapter shall not apply to activities regulated by 7 V.S.A. chapter 34 (hemp) or chapter 86 (therapeutic use of cannabis) of this title.

§ 4504. CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE PROHIBITED

This chapter shall not be construed to permit consumption of marijuana in a public place. Violations shall be punished in accordance with section 4230a of this title.

§ 4505. REGULATION BY LOCAL GOVERNMENT

(a)(1) A marijuana establishment shall obtain a permit from a town, city, or incorporated village prior to beginning operations within the municipality.

(2) A municipality that hosts a marijuana establishment may establish a board of marijuana control commissioners, who shall be the members of the municipal legislative body. The board shall administer the municipal permits under this subsection (a) for the marijuana establishments within the municipality.

(b) Nothing in this chapter shall be construed to prevent a town, city, or incorporated village from regulating marijuana establishments through local ordinances as set forth in 24 V.S.A. § 2291 or through land use bylaws as set forth in 24 V.S.A. § 4414.

(c)(1) A town, city, or incorporated village, by majority vote of those present and voting at annual or special meeting warned for the purpose, may prohibit the operation of a marijuana establishment within the municipality. The provisions of this subdivision shall not apply to a marijuana establishment that is operating within the municipality at the time of the vote.

(2) A vote to prohibit the operation of a marijuana establishment within the municipality shall remain in effect until rescinded by majority vote of those present and voting at an annual or special meeting warned for the purpose.

§ 4506. YOUTH RESTRICTIONS

(a) A marijuana establishment shall not dispense or sell marijuana to a person under 21 years of age or employ a person under 21 years of age.

(b) A marijuana establishment shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) A marijuana establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where marijuana is located. This subsection shall not apply to a registered patient visiting his or her designated dispensary even if that dispensary is located in a building that is located on the same premises of a marijuana establishment.

§ 4507. ADVERTISING

(a) Marijuana advertising shall not contain any statement or illustration that:

(1) is false or misleading;

(2) promotes overconsumption; or

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

(b) Outdoor marijuana advertising shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) In accordance with section 4512 of this chapter, the Agency shall adopt regulations on marijuana establishment advertising that reflect the policies of subsection (a) of this section and place restrictions on the time, place, and manner, but not content, of the advertising.

(d) All advertising shall contain the following warnings:

(1) For use only by adults 21 years of age or older. Keep out of the reach of children.

(2) Marijuana has intoxicating effects and may impair concentration, coordination, and judgment. Do not operate a motor vehicle or heavy machinery or enter into any contractual agreement under the influence of marijuana.

Subchapter 2. Administration

§ 4511. AUTHORITY

(a) For the purpose of regulating the cultivation, processing, packaging, transportation, testing, purchase, and sale of marijuana in accordance with this chapter, the Agency shall have the following authority and duties:

(1) rulemaking in accordance with this chapter and 3 V.S.A. chapter 25;

(2) administration of a program for the licensure of marijuana establishments, which shall include compliance and enforcement; and

(3) submission of an annual budget to the Governor.

(b)(1) There is established the Marijuana Advisory Board within the Agency for the purpose of advising the Agency and other administrative agencies and departments regarding policy for the implementation and operation of this chapter. The Board shall be composed of the following members:

(A) the Secretary of Agriculture, Food and Markets or designee;

(B) the Commissioner of Public Safety or designee;

(C) the Commissioner of Health or designee;

(D) the Commissioner of Taxes or designee; and

(E) a member of local law enforcement appointed by the Governor.

(2) The Secretary of Administration shall convene the first meeting of the Board on or before June 1, 2017 and shall attend Board meetings.

§ 4512. RULEMAKING

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

(1) Rules concerning any marijuana establishment shall include:

(A) the form and content of license and renewal applications;

(B) qualifications for licensure that are directly and demonstrably

related to the operation of a marijuana establishment, including submission of an operating plan and the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to subsection 4522(d) of this title;

(C) oversight requirements;

(D) inspection requirements;

(E) records to be kept by licensees and the required availability of the records;

(F) employment and training requirements, including requiring that each marijuana establishment create an identification badge for each employee;

(G) security requirements, including lighting, physical security, video, and alarm requirements;

(H) restrictions on advertising, marketing, and signage;

(I) health and safety requirements;

(J) regulation of additives to marijuana, including those that are toxic or designed to make the product more addictive, more appealing to children, or to mislead consumers;

(K) procedures for seed to sale traceability of marijuana, including any requirements for tracking software;

(L) regulation of the storage and transportation of marijuana;

(M) sanitary requirements;

(N) pricing guidelines with a goal of ensuring marijuana is sufficiently affordable to undercut the illegal market;

(O) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the marijuana establishment's license;

(P) procedures for suspension and revocation of a license; and

(Q) requirements for banking and financial transactions.

(2) Rules concerning cultivators shall include:

(A) labeling requirements for products sold to retailers; and

(B) regulation of visits to the establishments, including the number of visitors allowed at any one time and recordkeeping concerning visitors.

(3) Rules concerning retailers shall include:

(A) labeling requirements, including appropriate warnings concerning the carcinogenic effects and other potential negative health consequences of consuming marijuana, for products sold to customers;

(B) requirements for proper verification of age and residency of customers;

(C) restrictions that marijuana shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the marijuana; and

(D) regulation of visits to the establishments, including the number of customers allowed at any one time and recordkeeping concerning visitors.

(4) Rules concerning testing laboratories shall include:

(A) procedures for destruction of all samples; and

(B) requirements for chain of custody recordkeeping.

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

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

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

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

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

§ 4513. IMPLEMENTATION

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

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

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

(2) On or before September 15, 2018, the Agency shall begin issuing retailer licenses to qualified applicants. A license shall not permit a licensee to open the store to the public or sell marijuana to the public prior to January 2, 2019.

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

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

(B) a maximum of 20 cultivator licenses that permit a cultivation space of more than 500 square feet but not more than 1,000 square feet;

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

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

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

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

(G) a maximum of 42 retailer licenses.

(2) On or after July 1, 2019, the limitations in subdivision (1) of this subsection shall not apply and the Agency shall use its discretion to issue licenses in a number and size for the purpose of competing with and undercutting the illegal market based on available data and recommendations of the Marijuana Program Review Commission. A cultivator licensed prior to July 1, 2019 may apply to the Agency to modify its license to expand its cultivation space.

§ 4514. CIVIL CITATIONS; SUSPENSION AND REVOCATION OF LICENSES

(a) The Agency shall have the authority to adopt rules for the issuance of civil citations for violations of this chapter and the rules adopted pursuant to section 4512 of this title. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

(b) The Agency shall have the authority to suspend or revoke a license for violations of this chapter in accordance with rules adopted pursuant to section 4512 of this title.

Subchapter 3. Licenses

§ 4521. GENERAL PROVISIONS

(a) Except as otherwise permitted by this chapter, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of marijuana without obtaining a license from the Agency.

(b) All licenses shall expire at midnight, April 30, of each year beginning

no earlier than 10 months after the original license was issued to the marijuana establishment.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Agency and shall be accompanied by the fees provided for in section 4528 of this section.

(d)(1) Except as provided in subdivision (2) of this subsection (d), an applicant and its affiliates may obtain only one license, either a cultivator license, a retailer license, or a testing laboratory license under this chapter.

(2) A dispensary or a subsidiary of a dispensary may obtain one of each type of license under this chapter, provided that a dispensary or its subsidiary obtains no more than one cultivator license, one retailer license, and one testing laboratory license total.

(e) Each license shall permit only one location of the establishment.

(f) A dispensary that obtains a retailer license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Agency. If the dispensary and retail establishment are located on the same premises, the dispensary and retail establishment shall provide separate entrances and common areas designed to serve patients and caregivers and customers.

(g) Each licensee shall obtain and maintain commercial general liability insurance in accordance with rules adopted by the Agency. Failure to provide proof of insurance to the Agency, as required, may result in revocation of the license.

(h) All records relating to security, transportation, public safety, and trade secrets in an application for a license under this chapter shall be exempt from public inspection and copying under the Public Records Act.

(i) This subchapter shall not apply to possession regulated by chapters 84 or 86 of this title.

§ 4522. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

(a) To be eligible for a marijuana establishment license:

(1) An applicant shall be a resident of Vermont.

(2) A principal of an applicant, and a person who owns or controls an applicant, shall have been a resident of Vermont for two or more years immediately preceding the date of application.

(3) An applicant, principal of an applicant, or person who owns or controls an applicant, who is a natural person:

(A) shall be 21 years of age or older; and

(B) shall consent to the release of his or her criminal and administrative history records.

(b) A financier of an applicant shall have been a resident of Vermont for two or more years immediately preceding the date of application.

(c) As part of the application process, each applicant shall submit, in a format proscribed by the Agency, an operating plan. The plan shall include a floor plan or site plan drawn to scale that illustrates the entire operation being proposed. The plan shall also include the following:

(1) For a cultivator license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) transportation of product;

(E) destruction of waste product;

(F) description of growing operation, including growing media, size of grow space allocated for plant production, space allowed for any other business activity, description of all equipment to be used in the cultivation process, and a list of soil amendments, fertilizers, or other crop production aids, or pesticides, utilized in the production process;

(G) how the applicant will meet its operation's need for energy services at the lowest present value life-cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy efficiency and energy supply;

(H) testing procedures and protocols;

(I) description of packaging and labeling of products transported to retailers; and

(J) any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(2) For a retailer license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product;

(E) description of packaging and labeling of products sold to customers;

(F) the products to be sold and how they will be displayed to customers; and

(G) any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(3) For a testing laboratory license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product; and

(E) the types of testing to be offered.

(d) The Department shall obtain a Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of a business in this State or any other jurisdiction for each of the following who is a natural person:

(1) an applicant or financier;

(2) a principal of an applicant or financier; and

(3) a person who owns or controls an applicant or financier.

(e) When considering applications for a marijuana establishment license, the Agency shall:

(1) give priority to a qualified applicant that is a dispensary or subsidiary of a dispensary;

(2) strive for geographic distribution of marijuana establishments based on population.

§ 4523. EDUCATION

(a) An applicant for a marijuana establishment license shall meet with a Agency designee for the purpose of reviewing Vermont laws and rules pertaining to the possession, purchase, storage, and sale of marijuana prior to receiving a license.

(b) A licensee shall complete an enforcement seminar every three years conducted by the Agency. A license shall not be renewed unless the records of the Agency show that the licensee has complied with the terms of this subsection.

(c) A licensee shall ensure that each employee involved in the sale of marijuana completes a training program approved by the Agency prior to selling marijuana and at least once every 24 months thereafter. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Agency. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of no less than one day of the license issued under this chapter.

§ 4524. IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

(a) The Agency shall issue each employee an identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the marijuana establishment and shall not be passed on to an employee. A person shall not work as an employee until that person has received an identification card issued under this section. Each card shall contain the following:

- (1) the name, address, and date of birth of the person;
- (2) the legal name of the marijuana establishment with which the person is affiliated;
- (3) a random identification number that is unique to the person;
- (4) the date of issuance and the expiration date of the identification card; and
- (5) a photograph of the person.

(b) Prior to acting on an application for an identification card, the Agency shall obtain from the Department the person's Vermont criminal history record, out-of-state criminal history record, and criminal history record from the Federal Bureau of Investigation. Each person shall consent to the release of criminal history records to the Agency and the Department on forms developed by the Vermont Crime Information Center.

(c) When the Department obtains a criminal history record, the Department shall promptly provide a copy of the record to the person and the marijuana establishment. The Department shall inform the person of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Agency.

(d) The Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information

pursuant to this chapter.

(e) The Agency, in consultation with the Department, shall adopt rules for the issuance of an identification card and shall set forth standards for determining whether a person should be denied a registry identification card because his or her criminal history record indicates that the person's association with a marijuana establishment would pose a demonstrable threat to public safety. Previous nonviolent drug-related convictions shall not automatically disqualify an applicant. A marijuana establishment may deny a person the opportunity to serve as an employee based on his or her criminal history record. A person who is denied an identification card may appeal the Agency's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(f) An identification card shall expire one year after its issuance or upon the expiration of the marijuana establishment's license, whichever occurs first.

§ 4525. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, package, label, transport, test, and sell marijuana to a licensed retailer.

(b) Cultivation of marijuana shall occur only in an enclosed, locked facility which is either indoors, or if outdoors, not visible to the public, and which can only be accessed by principal officers and employees of the licensee who have valid identification cards.

(c) An applicant shall designate on his or her operating plan the size of the premises and the amount of actual square footage that will be dedicated to plant canopy.

(d) Representative samples of each lot or batch of marijuana intended for human consumption shall be tested for safety and potency in accordance with rules adopted by the Agency.

(e) Each cultivator shall create packaging for its marijuana.

(1) Packaging shall include:

(A) The name and registration number of the cultivator.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A "produced on" date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Department in accordance with this chapter. Rules shall take into consideration that different labeling requirements may be appropriate depending on whether the marijuana is sold to a wholesaler, product manufacturer, or retailer.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(f)(1) Only unadulterated marijuana shall be offered for sale. If, upon inspection, the Agency finds any violative pesticide residue or other contaminants of concern, the Agency shall order the marijuana, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Agency’s instructions.

(2) Marijuana ordered destroyed or placed on stop-sale shall be clearly separable from salable marijuana. Any order shall be confirmed in writing within seven days. The order shall include the reason for action, a description of the marijuana affected, and any recommended treatment.

(3) A person may appeal an order issued pursuant to this section within 15 days of receiving the order. The appeal shall be made in writing to the Secretary and shall clearly identify the marijuana affected and the basis for the appeal.

§ 4526. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) transport, possess, and sell marijuana to the public for consumption off the registered premises;

(2) purchase marijuana from a licensed cultivator; and

(3) provide marijuana to a licensed testing laboratory.

(b)(1) In a single transaction, a retailer may provide:

(A) one-half ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled in Vermont; or

(B) one-quarter of an ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled outside Vermont.

(2) A retailer shall not knowingly and willfully sell an amount of marijuana to a person that causes the person to exceed the possession limit.

(c) A retailer shall only sell “useable marijuana” which means the dried flowers of marijuana, and does not include the seeds, stalks, leaves, and roots of the plant, and shall not package marijuana with other items, such as paraphernalia, for sale to customers.

(d)(1) Packaging shall include:

(A) The name and registration number of the retailer.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(e) A retailer shall display a safety information flyer developed or approved by the Agency and supplied to the retailer free of charge. The flyer shall contain information concerning the methods for administering marijuana, the potential dangers of marijuana use, the symptoms of problematic usage, and how to receive help for marijuana abuse.

(f) Internet sales and delivery of marijuana to customers are prohibited.

§ 4527. MARIJUANA TESTING LABORATORY

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport marijuana samples obtained from a licensed marijuana establishment.

(b) Testing may address the following:

- (1) residual solvents;
- (2) poisons or toxins;
- (3) harmful chemicals;
- (4) dangerous molds, mildew, or filth;
- (5) harmful microbials, such as E.coli or salmonella;
- (6) pesticides; and
- (7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing laboratory shall establish a protocol for recording the chain of custody of all marijuana samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.

§ 4528. FEES

(a) The Agency shall charge and collect initial license application fees and annual license renewal fees for each type of marijuana license under this chapter. Fees shall be due and payable at the time of license application or renewal.

(b)(1) The nonrefundable fee accompanying an application for a cultivator license pursuant to section 4525 of this chapter shall be:

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

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

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

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

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

(2) The nonrefundable fee accompanying an application for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The nonrefundable fee accompanying an application for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$500.00.

(4) If a person submits a qualifying application for a marijuana establishment license during an open application, pays the nonrefundable application fee, but is not selected to receive a license due to the limited number of licenses available, the person may reapply, based on availability, for such a license within two years by resubmitting the application with any necessary updated information, and shall be charged a fee that is fifty percent of the application fees set forth in subdivision (1)–(3) of this subsection if the original application was submitted prior to July 1, 2019.

(c)(1) The initial annual license fee and subsequent annual renewal fee for a cultivator license pursuant to section 4525 of this chapter shall be:

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

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

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

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

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

(2) The initial annual license fee and subsequent annual renewal fee for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The initial annual license fee and subsequent annual renewal fee for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$2,500.00.

(d) The following administrative fees shall apply:

(1) Change of corporate structure fee (per person) shall be \$1,000.00.

(2) Change of name fee shall be \$1,000.00.

(3) Change of location fee shall be \$1,000.00.

(4) Modification of license premises fee shall be \$250.00.

(5) Addition of financier fee shall be \$250.00.

(6) Duplicate license fee shall be \$100.00.

§ 4529. MARIJUANA REGULATION AND RESOURCE FUND

(a) The Marijuana Regulation and Resource Fund is hereby created. The Fund shall be maintained by the Agency of Administration.

(b) The Fund shall be composed of:

(1) all application fees, license fees, renewal fees, and civil penalties collected pursuant to this chapter; and

(2) all taxes collected by the Commissioner of Taxes pursuant to this chapter.

(c)(1) Funds shall be appropriated as follows:

(A) For the purpose of implementation, administration, and enforcement of this chapter.

(B) Proportionately for the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts by State and local law enforcement to combat the illegal drug trade and impaired driving. As used in this subdivision, "criminal justice efforts" shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

(2) Appropriations made pursuant to subdivision (1) of this subsection shall be in addition to current funding of the identified priorities and shall not be used in place of existing State funding.

(d) All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the Fund shall be deposited into the Fund.

(e) This Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5. The Commissioner of Finance and Management shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

(f) The Secretary of Administration shall report annually to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting.

Subchapter 4. Marijuana Program Review Commission

§ 4546. PURPOSE; MEMBERS

(a) Creation. There is created a temporary Marijuana Program Review Commission for the purpose of facilitating efficient and lawful implementation of this act and examination of issues important to the future of marijuana regulation in Vermont.

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

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

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

Speaker of the House;

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

(4) the Attorney General or designee.

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

§ 4547. POWERS; DUTIES

(a) The Commission shall:

(1) collect information about the implementation, operation, and effect of this act from members of the public, State agencies, and private and public sector businesses and organizations;

(2) communicate with other states that have legalized marijuana and monitor those states regarding their implementation of regulation, policies, and strategies that have been successful and problems that have arisen;

(3) examine the issue of marijuana concentrates and edible marijuana products and whether Vermont safely can allow and regulate their manufacture and sale and, if so, how;

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

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

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

(7) review the statutes and rules for the therapeutic marijuana program and dispensaries and determine whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries;

(8) monitor supply and demand of marijuana cultivated and sold pursuant to this act for the purpose of assisting the Agency of Agriculture, Food, and Markets and policymakers with determining appropriate numbers of licenses and limitations on the amount of marijuana cultivated and offered for retail sale in Vermont so that the adult market is served without unnecessary surplus marijuana;

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

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

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

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

(13) recommend the appropriate maximum amount of marijuana sold by a retailer in a single transaction and whether there should be differing amounts for Vermonters and nonresidents; and

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

(b) On or before January 15, 2020, the Commission shall issue a final report to the General Assembly and the Governor regarding its findings and any recommendations for legislative or administrative action.

§ 4548. ADMINISTRATION

(a) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Administration.

(b) Meetings.

(1) The Administration shall call the first meeting of the Commission to occur on or before August 1, 2017.

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

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

(4) The Commission shall cease meeting regularly after the issuance of its final report, but members shall be available to meet with Administration officials and the General Assembly until July 1, 2019 at which time the Commission shall cease to exist.

(c) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for as many meetings as the Chair deems necessary.

(2) Other members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 14. 32 V.S.A. chapter 207 is added to read:

CHAPTER 207. MARIJUANA TAXES

§ 7901. TAX IMPOSED

(a) There is imposed a marijuana excise tax equal to 25 percent of the sales price, as that term is defined in subdivision 9701(4) of this title, on each retail sale of marijuana in this State. The tax imposed by this section shall be paid by the buyer to the retailer. Each retailer shall collect from the buyer the full amount of the tax payable on each taxable sale.

(b) The tax imposed by this section is separate from the general sales and use tax imposed by chapter 233 of this title. The tax imposed under this section shall be separately itemized from any State and local retail sales tax on the sales receipt provided to the buyer.

(c) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary, provided the marijuana will be provided only to registered qualifying patients directly or through their registered caregivers.

§ 7902. LIABILITY FOR TAX AND PENALTIES

(a) Any tax collected under this chapter shall be deemed to be held by the retailer in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as to clearly indicate the amount of tax collected, and that the tax receipts are the property of the State of Vermont.

(b) Every retailer required to collect the tax imposed by this chapter shall be personally and individually liable for the amount of tax together with such interest and penalty as has accrued under this title. If the retailer is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect the tax and transmit it to the Commissioner of Taxes as required in this chapter.

(c) A retailer shall have the same rights in collecting the tax from his or her purchaser or regarding nonpayment of the tax by the purchaser as if the tax were a part of the purchase price of the marijuana and payable at the same time; provided, however, if the retailer required to collect the tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer to collect the tax and shall have the right to intervene in such action or

proceeding.

(d) A retailer required to collect the tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer for the tax collected unless the purchaser has provided written notice to a retailer, and the retailer has had 60 days to respond.

(e) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use taxes in chapter 233 of this title shall apply to the tax imposed by this chapter.

§ 7903. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes marijuana is subject to the tax imposed by this chapter on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the nontaxable products are subject to the tax imposed by this chapter unless the retailer can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products includes marijuana subject to the tax under this chapter; or

(2) marijuana provided free of charge with the required purchase of another product.

§ 7904. RETURNS

(a) Any retailer required to collect the tax imposed by this chapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer, a statement containing its name and place of business, the amount of marijuana sales subject to the excise tax imposed by this subchapter sold in the preceding month, and any other information required by the Department of Taxes, along with the tax due.

(b) Every retailer shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. These records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7905. LICENSES

(a) Every retailer required to collect the tax imposed by this chapter shall apply for a marijuana excise tax license in the manner prescribed by the Commissioner of Taxes. The Commissioner shall issue, without charge, to each registrant a license empowering him or her to collect the marijuana excise tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the registrant. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant's ceasing to do business at the place named. A license to collect marijuana excise tax shall be in addition to the licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title and any license required by the Agency of Agriculture, Food, and Markets.

(b) The Agency of Agriculture, Food, and Markets may require the Commissioner of Taxes to suspend or revoke the tax license of any person for failure to comply with any provision of this chapter.

Sec. 15. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

* * *

(18) "Vermont net income" means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for State and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; and

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from State and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont State or local obligations;

(III) the amount of any deduction for a federal net operating loss; and

(ii) decreased by:

(I) the “gross-up of dividends” required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the foreign tax credit; ~~and~~

(II) the amount of income which results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

* * *

(21) “Taxable income” means federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations;

(iii) the amount of State and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(iv) the amount of total itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, or charitable contributions, deducted from federal adjusted gross income for the taxable year, that is in excess of two and one-half times the standard deduction allowable to the taxpayer; and

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by

the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business;

and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; ~~and~~

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

* * *

Sec. 16. 32 V.S.A. § 9741(51) is added to read:

(51) Marijuana sold by a dispensary as authorized under 18 V.S.A. chapter 86 or by a retailer as authorized under 18 V.S.A. chapter 87.

* * * Impaired Driving * * *

Sec. 17. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR
POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.

(c) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk,

the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~\$25.00~~ \$50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 18. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR
POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages or marijuana in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be fined not more than \$25.00.

Sec. 19. 23 V.S.A. § 1219 is amended to read:

§ 1219. COMMERCIAL MOTOR VEHICLE; DETECTABLE AMOUNT;
OUT-OF-SERVICE

A person who is operating, attempting to operate, or in actual physical control of a commercial motor vehicle with any measurable or detectable amount of alcohol or marijuana in his or her system shall immediately be placed out-of-service for 24 hours by an enforcement officer. A law enforcement officer who has reasonable grounds to believe that a person has a

measurable or detectable amount of alcohol or marijuana in his or her system on the basis of the person's general appearance, conduct, or other substantiating evidence, may request the person to submit to a test, which may be administered with a preliminary screening device. The law enforcement officer shall inform the person at the time the test is requested that refusal to submit will result in disqualification. If the person refuses to submit to the test, the person shall immediately be placed out-of-service for 24 hours and shall be disqualified from driving a commercial motor vehicle as provided in section 4116 of this title.

Sec. 20. 23 V.S.A. § 4116 is amended to read:

§ 4116. DISQUALIFICATION

(a) A person shall be disqualified from driving a commercial motor vehicle for a period of one year if convicted of a first violation of:

* * *

(4) refusal to submit to a test to determine the operator's alcohol or marijuana concentration, as provided in section 1205, 1218, or 1219 of this title;

* * *

Sec. 21. VERMONT GOVERNOR'S HIGHWAY SAFETY PROGRAM

(a) Impaired driving, operating a motor vehicle while under the influence of alcohol or drugs, is a significant concern for the General Assembly. While Vermont has made a meaningful effort to educate the public about the dangers of drinking alcohol and driving, the public seems to be less aware of the inherent risks of driving while under the influence of drugs, whether it is marijuana, a validly prescribed medication, or other drugs. It is the intent of the General Assembly that the State reframe the issue of drunk driving as impaired driving in an effort to comprehensively address the risks of such behavior through prevention, education, and enforcement.

(b)(1) The Agency of Transportation, through its Vermont Governor's Highway Safety Program, shall expand its public education and prevention campaign on drunk driving to impaired driving, which shall include drugged driving.

(2) The Agency shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15, 2018 regarding implementation of this section.

Sec. 22. REPORTING IMPAIRED DRIVING DATA

The Commissioner of Public Safety and the Secretary of Transportation, in

collaboration, shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15 each year regarding the following issues concerning impaired driving:

- (1) the previous year's data in Vermont,
- (2) the latest information regarding best practices on prevention and enforcement, and
- (3) their recommendations for legislative action.

Sec. 23. TRAINING FOR LAW ENFORCEMENT; IMPAIRED DRIVING

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

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

* * * Appropriations and Positions * * *

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

In fiscal year 2018 the following amounts are appropriated from the Marijuana Regulation and Resource Fund:

(1) Department of Health: \$350,000.00 for initial prevention, education, and counter marketing programs.

(2) Department of Taxes: \$660,000.00 for the acquisition of an excise tax module and staffing expenses to administer the excise tax established in this act.

(3) Agency of Agriculture, Food and Markets:

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

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

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

Sec. 25. EXECUTIVE BRANCH POSITION AUTHORIZATIONS

The establishment of the following new permanent classified positions is authorized in fiscal year 2018 as follows:

(1) In the Department of Health—one (1) Substance Abuse Program Manager.

(2) In the Department of Taxes—one (1) Business Analyst AC: Tax and one (1) Tax Policy Analyst.

(3) In the Agency of Agriculture, Food and Markets—one (1) Agriculture Chemist and two (2) Program Administrator.

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

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

Annually, through 2019, the Secretary of Administration shall report to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting on the following:

(1) an update of the administration's efforts concerning implementation, administration, and enforcement of this act;

(2) any changes or updates to revenue expectations from fees and taxes based on changes in competitive pricing or other information;

(3) projected budget adjustment needs for current year appropriations from the Marijuana Regulation and Resource Fund; and

(4) a comprehensive spending plan with recommended appropriations from the Fund for the next the fiscal year, by department, including an explanation and justification for the expenditures and how each recommendation meets the intent of this act.

* * * Miscellaneous * * *

Sec. 27. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and

convenience, a town, city, or incorporated village shall have the following powers:

* * *

(29) To prohibit or regulate, by means of a civil ordinance adopted pursuant to chapter 59 of this title, the number, time, place, manner, or operation of a marijuana establishment, or any class of marijuana establishments, located in the municipality; provided, however, that amendments to such an ordinance shall not apply to restrict further a marijuana establishment in operation within the municipality at the time of the amendment. As used in this subdivision, "marijuana establishment" is as defined in 18 V.S.A. chapter 87.

Sec. 28. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

* * *

(16) Marijuana establishments. A municipality may adopt bylaws for the purpose of regulating marijuana establishments as defined in 18 V.S.A. chapter 87.

Sec. 29. WORKFORCE STUDY COMMITTEE

(a) Creation. There is created the Workforce Study Committee to examine the potential impacts of alcohol and drug use on the workplace.

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

(1) the Secretary of Commerce and Community Development or designee;

(2) the Commissioner of Labor or designee;

(3) the Commissioner of Health or designee;

(4) one person representing the interests of employees appointed by the Governor; and

(5) one person representing the interests of employers appointed by the Governor.

(c) Powers and duties. The Committee shall study:

(1) whether Vermont's workers' compensation and unemployment

insurance systems are adversely impacted by alcohol and drug use and identify regulatory or legislative measures to mitigate any adverse impacts;

(2) the issue of alcohol and drugs in the workplace and determine whether Vermont's workplace drug testing laws should be amended to provide employers with broader authority to conduct drug testing, including by permitting drug testing based on a reasonable suspicion of drug use, or by authorizing employers to conduct post-accident, employer-wide, or post-rehabilitation follow-up testing of employees; and

(3) the impact of alcohol and drug use on workplace safety and identify regulatory or legislative measures to address adverse impacts and enhance workplace safety.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Commerce and Community Development, the Department of Labor, and the Department of Health.

(e) Report. On or before December 1, 2017, the Committee shall submit a written report with findings and recommendations to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Commerce or designee shall call the first meeting of the Committee to occur on or before September 15, 2017.

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

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

(4) The Committee shall cease to exist on December 31, 2017.

Sec. 30. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) A Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(24) Violations of 18 V.S.A. §§ 4230a and 4230b, relating to possession public consumption of marijuana and 18 V.S.A. § 4230e relating to cultivation of marijuana.

* * * Effective Dates * * *

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Sec. 31. EFFECTIVE DATES

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

(b) Secs. 12 (chemical extraction via butane or hexane prohibited), 17 (consumption or possession of marijuana by the operator of a motor vehicle), 18 (consumption or possession of marijuana by a passenger of a motor vehicle), 21 (Vermont Governor's Highway Safety Program), 22 (reporting impaired driving data), 23 (training for law enforcement; impaired driving), 24 (appropriations), 25 (positions), 26 (Marijuana Regulation and Resource Fund budget and report), 27 (local authority to regulate marijuana establishments), and 28 (zoning) shall take effect on July 1, 2017.

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

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

Amendment to be offered by Rep. Turner of Milton to H. 167

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

Sec. 1. STUDY COMMITTEE; REPORT

(a) Creation. There is created the Marijuana Impact Study Committee to study the impact of marijuana upon children under 16 years of age.

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

(1) three current members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House;

(2) three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees;

(3) the Commission of Health or designee;

(4) a person with expertise on child psychological development appointed by the Speaker of the House; and

(5) a person with expertise in child social development appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall study the impact of marijuana use and consumption upon children under 16 years of age, including the following:

(1) the physiological effects of marijuana use by children, including effects on physical and psychological development;

(2) the consequences to children of being exposed to secondhand marijuana smoke and being present while family members and other persons consume marijuana; and

(3) other impacts of marijuana use and exposure.

(d) Assistance. The Committee shall have the administrative and legal assistance of the Office of Legislative Council.

(e) Report. On or before January 15, 2018, the Committee shall report to the General Assembly with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The first person appointed by the Speaker of the House shall call the first meeting of the Committee to occur on or before July 15, 2017.

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

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

(4) The Committee shall cease to exist on January 15, 2018.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(2) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation pursuant to 32 V.S.A. § 1010.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Amendment to be offered by Rep. Turner of Milton to H. 167

Moves to substitute for the amendment offered by Representative Turner of Milton by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4233a(d) is added to read:

§ 4233a. FENTANYL

* * *

(d) Possession. A person knowingly and unlawfully possessing fentanyl shall be imprisoned not more than two years or fined not more than \$10,000.00, or both.

Sec. 2. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

(a) Possession.

(1) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be imprisoned not more than one year or fined not more than \$2,000.00, or both.

(2) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(3) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 10,000 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

Sec. 3. EFFECTIVE DATES

This act shall take effect on July 1, 2017.

Amendment to be offered by Rep. Willhoit of St. Johnsbury to H. 167

Representative Willhoit of St. Johnsbury moves that the House concur in the Senate Proposal of Amendment with further amendment by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

The intent of this act is to establish a comprehensive regulatory and revenue system for an adult-use marijuana market that, when compared to the current illegal marijuana market, increases public safety and reduces harm to public health.

Sec. 2. LEGISLATIVE FINDINGS

The General Assembly finds the following:

(1) According to a 2014 study commissioned by the administration and conducted by the RAND Corporation, marijuana is commonly used in Vermont with an estimated 80,000 residents having used marijuana in the last month.

(2) For over 75 years, Vermont has debated the issue of marijuana regulation and amended its marijuana laws numerous times in an effort to protect public health and safety. Criminal penalties for possession rose in the 1940s and '50s to include harsh mandatory minimums, dropped in the 1960s and '70s, rose again in the 1980s and '90s, and dropped again in the 2000s. A study published in the American Journal of Public Health found that no evidence supports the claim that criminalization reduces marijuana use.

(3) Vermont seeks to take a new comprehensive approach to marijuana use and abuse that incorporates prevention, education, regulation, treatment, and law enforcement which results in a net reduction in public harm and an overall improvement in public safety. Responsible use of marijuana by adults 21 years of age or older should be treated the same as responsible use of alcohol, the abuse of either treated as a public health matter, and irresponsible use of either that causes harm to others sanctioned with penalties.

(4) Policymakers recognize legitimate federal concerns about marijuana reform and seek through this legislation to provide better control of access and distribution of marijuana in a manner that prevents:

(A) distribution of marijuana to persons under 21 years of age;

(B) revenue from the sale of marijuana going to criminal enterprises;

(C) diversion of marijuana to states that do not permit possession of marijuana;

(D) State-authorized marijuana activity from being used as a cover or

pretext for the trafficking of other illegal drugs or activity;

(E) violence and the use of firearms in the cultivation and distribution of marijuana;

(F) drugged driving and the exacerbation of any other adverse public health consequences of marijuana use;

(G) growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(H) possession or use of marijuana on federal property.

Sec. 3. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a)(1) Relying on lessons learned from tobacco and alcohol prevention efforts, the Department of Health, in collaboration with the Department of Public Safety, the Agency of Education, and the Governor's Highway Safety Program, shall develop and administer an education and prevention program focused on use of marijuana by youths under 25 years of age. In so doing, the Department of Health shall consider at least the following:

(A) Community- and school-based youth- and family-focused prevention initiatives that strive to:

(i) expand the number of school-based grants for substance abuse services to enable each supervisory union to develop and implement a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(ii) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youths in schools and other settings; and

(iii) expand family education programs.

(B) An informational and counter-marketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(C) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(D) Expansion of the use of SBIRT among the State's pediatric practices and school-based health centers.

(E) Strategies specific to youths who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) On or before March 15, 2018, the Department of Health shall adopt

rules to implement the education and prevention program described in this subsection and implement the program on or before September 15, 2018.

(b) The Department of Health shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youths in Vermont and to understand the source of marijuana used by this population.

(c) Any data collected by the Department of Health on the use of marijuana by youths shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

Sec. 4. 18 V.S.A. § 4230e is added to read:

§ 4230e. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE

(a) No person shall:

(1) sell or furnish marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under 21 years of age.

(b) As used in this section, “enable the consumption of marijuana” means creating a direct and immediate opportunity for a person to consume marijuana.

(c) Except as provided in subsection (d) of this section, a person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(d) An employee of a marijuana establishment licensed pursuant to chapter 87 of this title, who, in the course of employment, violates subdivision (a)(1) of this section during a compliance check conducted by a law enforcement officer shall be:

(1) assessed a civil penalty of not more than \$100.00 for the first violation and a civil penalty of not less than \$100.00 nor more than \$500.00 for a second violation that occurs more than one year after the first violation; and

(2) subject to the criminal penalties provided in subsection (c) of this section for a second violation within a year of the first violation, and for a third or subsequent violation within three years of the first violation.

(e) An employee alleged to have committed a violation of subsection (d) of this section may plead as an affirmative defense that:

(1) the purchaser exhibited and the employee carefully viewed photographic identification that indicated the purchaser to be 21 years of age

or older;

(2) an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(3) the sale was made in good faith, based upon the reasonable belief that the purchaser was of legal age to purchase marijuana.

(f) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle on a public highway, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(g) This section shall not apply to:

(1) A person under 21 years of age who sells or furnishes marijuana to a person under 21 years of age or who knowingly enables the consumption of marijuana by a person under 21 years of age. Possession of an ounce or less of marijuana by a person under 21 years of age shall be punished in accordance with sections 4230b–4230d of this title and dispensing or selling marijuana shall be punished in accordance with sections 4230 and 4237 of this title.

(2) A dispensary registered pursuant to chapter 86 of this title.

Sec. 5. 18 V.S.A. § 4230g is added to read:

§ 4230g. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by selling or furnishing marijuana to a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who sold or furnished the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant. Responsible actions

may include a marijuana establishment's instruction to employees as to laws governing the sale of marijuana to adults 21 years of age or older and procedures for verification of age of customers.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f)(1) Except as provided in subdivision (2) of this subsection, nothing in this section shall create a statutory cause of action against a social host for furnishing marijuana to any person without compensation or profit. However, this subdivision shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(2) A social host who knowingly furnishes marijuana to a person under 21 years of age may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

(3) As used in this subsection, "social host" means a person who is not the holder of a marijuana establishment license and is not required under chapter 87 of this title to hold a marijuana establishment license.

Sec. 6. 18 V.S.A. § 4230i is added to read:

§ 4230i. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE
PROHIBITED

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

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

Sec. 7. ASSIGNATION OF CULTIVATION RIGHTS

(a) An individual who is 21 years of age or older may assign all or some of his or her rights to cultivate up to two mature and seven immature marijuana plants to another individual to cultivate the marijuana on his or her behalf for a period of time, with or without compensation. The assignee shall not cultivate for more than ten individuals. The assignee shall distribute any marijuana harvested from the plants to the assignor or other assignors for whom the assignee cultivates in accordance with an agreement by the parties.

(b) The number of plants the assignor cultivates in accordance with this section shall not affect his or her rights to cultivate up to two mature and seven immature marijuana plants for his or her personal use in compliance with this chapter.

(c) An individual in possession of a number of plants in excess of the limitations provided in this section or elsewhere in this chapter shall be subject to the civil and criminal penalties provided in this chapter.

(d) Prior to cultivating marijuana plants pursuant to this section, an individual shall register with the Agency of Agriculture, Food and Markets and comply with basic recordkeeping and inspection obligations as required by the Agency.

(e) The Agency of Agriculture, Food and Markets may adopt rules in accordance with this section.

Sec. 8. 18 V.S.A. chapter 87 is added to read:

CHAPTER 87. MARIJUANA ESTABLISHMENTS

Subchapter 1. General Provisions

§ 4501. DEFINITIONS

As used in this chapter:

(1) “Affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

(2) “Agency” means the Agency of Agriculture, Food and Markets.

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

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

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

(6) “Controls,” “is controlled by,” and “under common control” mean the power to direct, or cause the direction or management and policies of a person, whether through the direct or beneficial ownership of voting securities, by contract, or otherwise. A person who directly or beneficially owns ten percent or more equity interest, or the equivalent thereof, of another person, shall be deemed to control the person.

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

(8) “Dispensary” means a person registered under section 4474e of this title that acquires, possesses, cultivates, manufactures, transfers, transports,

supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient's use for symptom relief.

(9) "Enclosed, locked facility" shall be either indoors or outdoors, not visible to the public, and may include a building, room, greenhouse, fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include marijuana cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where marijuana is being grown, processed, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(10) "Financier" means a person, other than a financial institution as defined in 8 V.S.A. § 11101, that makes an equity investment, a gift, loan, or otherwise provides financing to a person with the expectation of a financial return.

(11) "Holding company" means a corporation or other legal entity whose principal business is the ownership, supervision, or management of one or more operating subsidiaries or affiliates.

(12) "Marijuana" shall have the same meaning as provided in section 4201 of this title.

(13) "Marijuana cultivator" or "cultivator" means a person registered with the Agency to engage in commercial cultivation of marijuana in accordance with this chapter.

(14) "Marijuana establishment" means a marijuana cultivator, wholesaler, product manufacturer, retailer, or testing laboratory licensed by the Agency to engage in commercial marijuana activity in accordance with this chapter.

(15) "Marijuana-infused products" means products that are composed of marijuana and other ingredients and are intended for use or consumption, including tinctures, oils, solvents, and edible or potable goods. Only the

portion of a marijuana-infused product that is attributable to marijuana shall count toward the possession limits.

(16) “Marijuana product manufacturer” or “product manufacturer” means an entity registered pursuant to this chapter to manufacture, prepare, and package marijuana-infused products and hashish, and to sell marijuana-infused products and hashish to a licensed retailer, wholesaler, or another product manufacturer.

(17) “Marijuana retailer” or “retailer” means a person licensed by the Agency to sell marijuana to consumers for off-site consumption in accordance with this chapter.

(18) “Marijuana testing laboratory” or “testing laboratory” means a person licensed by the Agency to test marijuana for cultivators, product manufacturers, wholesalers, and retailers in accordance with this chapter.

(19) “Marijuana wholesaler” or “wholesaler” means a person licensed by the Agency to buy marijuana from cultivators and marijuana-infused products from product manufacturers and transport, possess, and sell marijuana and marijuana-infused products to licensed product manufacturers and retailers.

(20) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency, or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

(21) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

(22) “Principal” means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership.

(23) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 of this title or chapter 37 of this title.

(24) “Resident” means a person who is domiciled in Vermont, subject to the following:

(A) The process for determining the domicile of an individual shall be the same as that required by rules adopted by the Department of Taxes related to determining domicile for the purpose of the interpretation and administration of 32 V.S.A. § 5401(14).

(B) The domicile of a business entity is the State in which it is organized.

(25) “School” means a public school, independent school, or facility that provides early childhood education as those terms are defined in 16 V.S.A. § 11.

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

§ 4502. MARIJUANA POSSESSED UNLAWFULLY SUBJECT TO SEIZURE AND FORFEITURE

Marijuana possessed unlawfully in violation of this title may be seized by law enforcement and is subject to forfeiture.

§ 4503. NOT APPLICABLE TO HEMP OR THERAPEUTIC USE OF CANNABIS

This chapter shall not apply to activities regulated by 6 V.S.A. chapter 34 (hemp) or chapter 86 (therapeutic use of cannabis) of this title.

§ 4504. CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE PROHIBITED

This chapter shall not be construed to permit consumption of marijuana in a public place. Violations shall be punished in accordance with section 4230a of this title.

§ 4505. REGULATION BY LOCAL GOVERNMENT

(a)(1) A marijuana establishment shall obtain any required permit from a town, city, or incorporated village prior to beginning operations within the municipality.

(2) A municipality that hosts a marijuana establishment may establish a board of marijuana control commissioners, who shall be the members of the municipal legislative body. The board shall administer the municipal permits under this subsection for the marijuana establishments within the municipality.

(b) Nothing in this chapter shall be construed to prevent a town, city, or incorporated village from regulating marijuana establishments through local ordinances as set forth in 24 V.S.A. § 2291 or through land use bylaws as set forth in 24 V.S.A. § 4414.

(c)(1) A town, city, or incorporated village, by majority vote of those

present and voting at an annual or special meeting warned for the purpose, may prohibit the operation of a marijuana establishment within the municipality. The provisions of this subdivision shall not apply to a marijuana establishment that is operating within the municipality at the time of the vote.

(2) A vote to prohibit the operation of a marijuana establishment within the municipality shall remain in effect until rescinded by majority vote of those present and voting at an annual or special meeting warned for the purpose.

§ 4506. YOUTH RESTRICTIONS

(a) A marijuana establishment shall not dispense or sell marijuana to a person under 21 years of age or employ a person under 21 years of age.

(b) A marijuana establishment shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) A marijuana establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where marijuana is located. This subsection shall not apply to a registered patient visiting his or her designated dispensary even if that dispensary is located in a building that is located on the same premises as a marijuana establishment.

§ 4507. ADVERTISING

(a) Marijuana advertising shall not contain any statement or illustration that:

(1) is false or misleading;

(2) promotes overconsumption;

(3) represents that the use of marijuana has curative or therapeutic effects;

(4) depicts a person under 21 years of age consuming marijuana; or

(5) is designed to be or has the effect of being particularly appealing to children or persons under 21 years of age.

(b) Outdoor marijuana advertising shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) In accordance with section 4512 of this chapter, the Agency shall adopt regulations on marijuana establishment advertising that reflect the policies of subsection (a) of this section and place restrictions on the time, place, and manner, but not content, of the advertising.

(d) All advertising shall contain the following warnings:

(1) For use only by adults 21 years of age or older. Keep out of the reach of children.

(2) Marijuana has intoxicating effects and may impair concentration, coordination, and judgment. Do not operate a motor vehicle or heavy machinery or enter into any contractual agreement under the influence of marijuana.

Subchapter 2. Administration

§ 4511. AUTHORITY

(a) For the purpose of regulating the cultivation, processing, packaging, transportation, testing, purchase, and sale of marijuana in accordance with this chapter, the Agency shall have the following authority and duties:

(1) rulemaking in accordance with this chapter and 3 V.S.A. chapter 25;

(2) administration of a program for the licensure of marijuana establishments, which shall include compliance and enforcement; and

(3) submission of an annual budget to the Governor.

(b)(1) There is established the Marijuana Advisory Board within the Agency for the purpose of advising the Agency and other administrative agencies and departments regarding policy for the implementation and operation of this chapter. The Board shall be composed of the following members:

(A) the Secretary of Agriculture, Food and Markets or designee;

(B) the Commissioner of Public Safety or designee;

(C) the Commissioner of Health or designee;

(D) the Commissioner of Taxes or designee; and

(E) a member of local law enforcement appointed by the Governor.

(2) The Secretary of Administration shall convene the first meeting of the Board on or before June 1, 2017 and shall attend Board meetings.

§ 4512. RULEMAKING

(a) The Agency shall adopt rules to implement this chapter on or before March 15, 2018, in accordance with subdivisions (1)–(6) of this subsection.

(1) Rules concerning any marijuana establishment shall include:

(A) the form and content of license and renewal applications;

(B) qualifications for licensure that are directly and demonstrably

related to the operation of a marijuana establishment, including submission of an operating plan and the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to subsection 4522(d) of this title;

(C) oversight requirements;

(D) inspection requirements;

(E) records to be kept by licensees and the required availability of the records;

(F) employment and training requirements, including requiring that each marijuana establishment create an identification badge for each employee;

(G) security requirements, including lighting, physical security, video, and alarm requirements;

(H) restrictions on advertising, marketing, and signage;

(I) health and safety requirements;

(J) regulation of additives to marijuana, including those that are toxic or designed to make the product more addictive, more appealing to children, or to mislead consumers;

(K) procedures for seed-to-sale traceability of marijuana, including any requirements for tracking software;

(L) regulation of the storage and transportation of marijuana;

(M) sanitary requirements;

(N) pricing guidelines with a goal of ensuring marijuana is sufficiently affordable to undercut the illegal market;

(O) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the marijuana establishment's license;

(P) procedures for suspension and revocation of a license; and

(Q) requirements for banking and financial transactions.

(2)(A) Rules concerning cultivators shall include:

(i) restrictions on the use by cultivators of pesticides that are injurious to human health;

(ii) standards for both the indoor and outdoor cultivation of marijuana, including environmental protection requirements;

(iii) procedures and standards for testing marijuana for contaminants and potency and for quality assurance and control;

(iv) labeling requirements for products sold to retailers;

(v) regulation of visits to the establishments, including the number of visitors allowed at any one time and recordkeeping concerning visitors; and

(vi) facility inspection requirements and procedures.

(B) The Agency shall consider the different needs and risks of small cultivators of not more the 500 square feet when adopting rules and shall make an exception to such rules or an accommodation to such rules for cultivators of this size where appropriate.

(3) Rules concerning product manufacturers shall include:

(A) identification of the amount of delta-9 tetrahydrocannabinol that constitutes a single serving;

(B) limitations for each individual package of edible marijuana-infused products to a single serving with the exception of infused oils, powders, and liquids;

(C) establishment of standards for the safe manufacture of hashish;

(D) requirements for opaque, child-resistant packaging;

(E) requirements for the dissemination of educational materials to consumers who purchase marijuana-infused products;

(F) requirements for labeling of marijuana-infused products that include the length of time it typically takes for products to take effect;

(G) requirements that an edible retail marijuana-infused product is clearly identifiable with a standard symbol indicating that it contains marijuana;

(H) a prohibition on candy or other products that are especially appealing to children; and

(I) a prohibition on the inclusion of caffeine, nicotine, or alcoholic beverages in a marijuana-infused product.

(4) Rules concerning retailers shall include:

(A) labeling requirements, including appropriate warnings concerning the carcinogenic effects and other potential negative health consequences of consuming marijuana, for products sold to customers;

(B) requirements for proper verification of age and residency of

customers;

(C) restrictions that marijuana shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the marijuana; and

(D) regulation of visits to the establishments, including the number of customers allowed at any one time and recordkeeping concerning visitors; and

(E) facility inspection requirements and procedures.

(5) Rules concerning testing laboratories shall include:

(A) procedures and standards for testing marijuana for contaminants and potency and for quality assurance and control;

(B) reporting requirements, including requirements for chain of custody recordkeeping;

(C) procedures for destruction of all samples; and

(D) facility inspection requirements and procedures.

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

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

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

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

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

§ 4513. IMPLEMENTATION

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

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

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

(2) On or before September 15, 2018, the Agency shall begin issuing product manufacturer, wholesaler, and retailer licenses to qualified applicants.

A license shall not permit a licensee to open to the public or sell marijuana to the public prior to January 2, 2019.

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

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

(B) a maximum of 20 cultivator licenses that permit a cultivation space of not more than 1,000 square feet;

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

(D) a maximum of 20 cultivator licenses that permit a cultivation space of more than 2,500 square feet up to 5,000 square feet;

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

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

(G) a maximum of 42 retailer licenses.

(2) On or after July 1, 2019, the limitations in subdivision (1) of this subsection shall not apply and the Agency shall use its discretion to issue licenses in a number and size for the purpose of competing with and undercutting the illegal market based on available data and recommendations of the Marijuana Program Review Commission. A cultivator licensed prior to July 1, 2019 may apply to the Agency to modify its license to expand its cultivation space.

§ 4514. CIVIL CITATIONS; SUSPENSION AND REVOCATION OF LICENSES

(a) The Agency shall have the authority to adopt rules for the issuance of civil citations for violations of this chapter and the rules adopted pursuant to section 4512 of this title. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

(b) The Agency shall have the authority to suspend or revoke a license for violations of this chapter in accordance with rules adopted pursuant to section 4512 of this title.

Subchapter 3. Licenses

§ 4521. GENERAL PROVISIONS

(a) Except as otherwise permitted by this chapter, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing,

or sale of marijuana or marijuana-infused products without obtaining a license from the Agency.

(b) All licenses shall expire at midnight on April 30 of each year, beginning no earlier than 10 months after the original license was issued to the marijuana establishment.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Agency and shall be accompanied by the fees provided for in section 4528 of this section.

(d) An applicant and its affiliates may obtain a maximum of one type of each license under this chapter.

(e) Each license shall permit only one location of the establishment.

(f) A dispensary that obtains a retailer license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Agency. If the dispensary and retail establishment are located on the same premises, the dispensary and retail establishment shall provide separate entrances and common areas designed to serve patients and caregivers and customers.

(g) Each licensee shall obtain and maintain commercial general liability insurance in accordance with rules adopted by the Agency. Failure to provide proof of insurance to the Agency, as required, may result in revocation of the license.

(h) All records relating to security, transportation, public safety, and trade secrets in an application for a license under this chapter shall be exempt from public inspection and copying under the Public Records Act.

§ 4522. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

(a) To be eligible for a marijuana establishment license:

(1) An applicant, principal of an applicant, and person who owns or controls an applicant, who is a natural person:

(A) shall be 21 years of age or older; and

(B) shall consent to the release of his or her criminal and administrative history records.

(2) Each principal of an applicant who serves as the applicant's chief executive, chief financial officer, or equivalent position shall have been a resident of Vermont for at least six months immediately preceding the date of application.

(3) If the applicant is not a natural person:

(A) the majority of the applicant's board of directors or equivalent governing body shall each have been residents of Vermont for at least six months immediately preceding the date of application.

(B) not less than 51 percent of the total equity interests in such applicant shall be beneficially held by individuals who have been residents of Vermont for at least six months immediately preceding the date of application.

(4) If the applicant is a subsidiary of a holding company, the requirements of subdivisions (1)–(3) of this subsection shall apply to the holding company and the principals, controlling persons, and ten percent owners as if the holding company were the applicant.

(b) As part of the application process, each applicant shall submit, in a format prescribed by the Agency, an operating plan. The plan shall include a floor plan or site plan drawn to scale that illustrates the entire operation being proposed. The plan shall also include the following:

(1) For a cultivator license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) transportation of product;

(E) destruction of waste product;

(F) description of growing operation, including growing media, size of grow space allocated for plant production, space allowed for any other business activity, description of all equipment to be used in the cultivation process, and a list of soil amendments, fertilizers, or other crop production aids, or pesticides, utilized in the production process;

(G) how the applicant will meet its operation's need for energy services at the lowest present value life-cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy efficiency and energy supply;

(H) testing procedures and protocols;

(I) description of packaging and labeling of products transported to wholesalers, product manufacturers, retailers, and dispensaries; and

(J) any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(2) For a retailer license, information concerning:

(A) security;

- (B) traceability;
- (C) employee qualifications and training;
- (D) destruction of waste product;
- (E) description of packaging and labeling of products sold to customers;
- (F) the products to be sold and how they will be displayed to customers; and
- (G) any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(3) For a testing laboratory license, information concerning:

- (A) security;
- (B) traceability;
- (C) employee qualifications and training;
- (D) destruction of waste product; and
- (E) the types of testing to be offered.

(d) The Department shall obtain a Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of a business in this State or any other jurisdiction for each of the following who is a natural person:

- (1) an applicant;
- (2) each principal of an applicant or the applicant's holding company, if the applicant is an affiliate of a holding company; and
- (3) each person who controls an applicant, an applicant's holding company, or a direct or beneficial owner of ten percent or more of an applicant or applicant's holding company's equity interest or equivalent.

(e) When considering applications for a marijuana establishment license, the Agency shall:

- (1) give priority to a qualified applicants for co-ops, craft cultivators, and cultivators that plan to grow outdoors;
- (2) strive for geographic distribution of marijuana establishments based on population.

§ 4523. EDUCATION

- (a) An applicant for a marijuana establishment license shall meet with an

Agency designee for the purpose of reviewing Vermont laws and rules pertaining to the possession, purchase, storage, and sale of marijuana prior to receiving a license.

(b) A licensee shall complete an enforcement seminar every three years conducted by the Agency. A license shall not be renewed unless the records of the Agency show that the licensee has complied with the terms of this subsection.

(c) A licensee shall ensure that each employee involved in the sale of marijuana completes a training program approved by the Agency prior to selling marijuana and at least once every 24 months thereafter. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Agency. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of no less than one day of the license issued under this chapter.

§ 4524. IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

(a) The Agency shall issue each employee an identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the marijuana establishment and shall not be passed on to an employee. A person shall not work as an employee until that person has received an identification card issued under this section. Each card shall contain the following:

- (1) the name, address, and date of birth of the person;
- (2) the legal name of the marijuana establishment with which the person is affiliated;
- (3) a random identification number that is unique to the person;
- (4) the date of issuance and the expiration date of the identification card; and
- (5) a photograph of the person.

(b) Prior to acting on an application for an identification card, the Agency shall obtain from the Department the person's Vermont criminal history record, out-of-state criminal history record, and criminal history record from the Federal Bureau of Investigation. Each person shall consent to the release of criminal history records to the Agency and the Department on forms developed by the Vermont Crime Information Center.

(c) When the Department obtains a criminal history record, the Department shall promptly provide a copy of the record to the person and the marijuana

establishment. The Department shall inform the person of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Agency.

(d) The Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter.

(e) The Agency, in consultation with the Department, shall adopt rules for the issuance of an identification card and shall set forth standards for determining whether a person should be denied a registry identification card because his or her criminal history record indicates that the person's association with a marijuana establishment would pose a demonstrable threat to public safety. Previous nonviolent drug-related convictions shall not automatically disqualify an applicant. A marijuana establishment may deny a person the opportunity to serve as an employee based on his or her criminal history record. A person who is denied an identification card may appeal the Department's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(f) An identification card shall expire one year after its issuance or upon the expiration of the marijuana establishment's license, whichever occurs first.

§ 4525. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, package, label, transport, test, and sell marijuana to a licensed wholesaler, product manufacturer, or retailer.

(b) Cultivation of marijuana shall occur only in an enclosed, locked facility which is either indoors, or if outdoors, not visible to the public, and which can only be accessed by principal officers and employees of the dispensary who have valid identification cards.

(c) An applicant shall designate on his or her operating plan the size of the premises and the amount of actual square footage that will be dedicated to plant canopy.

(d) Representative samples of each lot or batch of marijuana intended for human consumption shall be tested for safety and potency in accordance with rules adopted by the Agency.

(e) Each cultivator shall create packaging for its marijuana.

(1) Packaging shall include:

(A) The name and registration number of the cultivator.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Department in accordance with this chapter. Rules shall take into consideration that different labeling requirements may be appropriate depending on whether the marijuana is sold to a wholesaler, product manufacturer, or retailer.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(f)(1) Only unadulterated marijuana shall be offered for sale. If, upon inspection, the Agency finds any violative pesticide residue or other contaminants of concern, the Agency shall order the marijuana, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Agency’s instructions.

(2) Marijuana ordered destroyed or placed on stop-sale shall be clearly separable from salable marijuana. Any order shall be confirmed in writing within seven days. The order shall include the reason for action, a description of the marijuana affected, and any recommended treatment.

(3) A person may appeal an order issued pursuant to this section within 15 days of receiving the order. The appeal shall be made in writing to the Secretary and shall clearly identify the marijuana affected and the basis for the appeal.

§ 4526. WHOLESALER LICENSE

A wholesaler licensed under this chapter may:

(1) purchase marijuana from licensed cultivators and marijuana-infused

products from licensed product manufacturers;

(2) transport, possess, and sell marijuana and marijuana-infused products to licensed product manufacturers and retailers.

§ 4527. PRODUCT MANUFACTURER LICENSE

A product manufacturer licensed under this chapter may:

(1) purchase marijuana from licensed cultivators and wholesalers and marijuana-infused products from licensed wholesalers and product manufacturers;

(2) use marijuana and marijuana-infused products to produce marijuana-infused products; and

(3) transport, possess, and sell marijuana-infused products to licensed wholesalers, product manufacturers, and retailers.

§ 4528. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) purchase marijuana from a licensed cultivator or wholesaler and marijuana-infused products from a licensed wholesaler or product manufacturer; and

(2) transport, possess, and sell marijuana and marijuana-infused products to the public for consumption off the registered premises.

(b)(1) In a single transaction, a retailer may provide:

(A) one ounce of marijuana or the equivalent of marijuana-infused products or a combination thereof to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled in Vermont; or

(B) one-half of an ounce of marijuana or the equivalent of marijuana-infused products or a combination thereof to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled outside Vermont.

(2) A retailer shall not knowingly and willfully sell an amount of marijuana to a person that causes the person to exceed the possession limit.

(c)(1) Packaging shall include:

(A) The name and registration number of the retailer.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(d) A retailer shall display a safety information flyer developed or approved by the Board and supplied to the retailer free of charge. The flyer shall contain information concerning the methods for administering marijuana, the potential dangers of marijuana use, the symptoms of problematic usage, and how to receive help for marijuana abuse.

(e) Internet sales and delivery of marijuana to customers are prohibited.

§ 4529. MARIJUANA TESTING LABORATORY

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport marijuana samples obtained from a licensed marijuana establishment.

(b) Testing may address the following:

- (1) residual solvents;
- (2) poisons or toxins;
- (3) harmful chemicals;
- (4) dangerous molds, mildew, or filth;
- (5) harmful microbials, such as E.coli or salmonella;
- (6) pesticides; and
- (7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing

laboratory shall establish a protocol for recording the chain of custody of all marijuana samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.

(f) A marijuana establishment that is subject to testing requirements under this chapter or rules adopted pursuant to this chapter shall have its marijuana or marijuana-infused products tested by an independent licensed testing laboratory and not a licensed testing laboratory owned or controlled by the license holder of the marijuana establishment.

§ 4530. FEES

(a) The Agency shall charge and collect initial license application fees and annual license renewal fees for each type of marijuana license under this chapter. Fees shall be due and payable at the time of license application or renewal.

(b)(1) The nonrefundable fee accompanying an application for a marijuana establishment license shall be 25 percent of the annual license fee for such a license as provided in subsection (c) of this section.

(2) If a person submits a qualifying application for a marijuana establishment license during an open application, pays the nonrefundable application fee, but is not selected to receive a license due to the limited number of licenses available, the person may reapply, based on availability, for such a license within two years by resubmitting the application with any necessary updated information, and shall be charged a fee that is:

(A) fifty percent of the application fees set forth in subdivisions (1)–(3) of this subsection (b) if the original application was submitted prior to July 1, 2018; or

(B) twenty-five percent of the application fees set forth in subdivisions (1)–(3) of this subsection (b) if the original application was submitted on or after July 1, 2018 and before July 1, 2019.

(c)(1) The initial annual license fee and subsequent annual renewal fee for a cultivator license pursuant to section 4525 of this chapter shall be determined as follows:

(A) For a cultivator license that permits a cultivation space of not more than 500 square feet, the initial annual license and subsequent renewal fee shall be \$500.00 if the cultivation space is exclusively outdoors; otherwise the fee shall be \$1,500.00.

(B) For a cultivator license that permits a cultivation space of more

than 500 square feet but not more than 10,000 square feet, the initial annual license and subsequent renewal fee shall be \$1.00 per square foot for outdoor cultivation and \$3.00 per square foot for indoor cultivation.

(2) The initial annual license fee and subsequent annual renewal fee for a wholesaler license pursuant to section 4526 of this chapter shall be \$10,000.00.

(3) The initial annual license fee and subsequent annual renewal fee for a product manufacturer license pursuant to section 4527 of this chapter shall be \$2,500.00.

(4) The initial annual license fee and subsequent annual renewal fee for a retailer license pursuant to section 4528 of this chapter shall be \$10,000.00.

(5) The initial annual license fee and subsequent annual renewal fee for a marijuana testing laboratory license pursuant to section 4529 of this chapter shall be \$500.00.

§ 4531. MARIJUANA REGULATION AND RESOURCE FUND

(a) The Marijuana Regulation and Resource Fund is hereby created. The Fund shall be maintained by the Agency of Administration.

(b) The Fund shall be composed of:

(1) all application fees, license fees, renewal fees, and civil penalties collected pursuant to this chapter; and

(2) all taxes collected by the Commissioner of Taxes pursuant to this chapter.

(c) Funds shall be appropriated for the purpose of implementation, administration, and enforcement of this chapter. Remaining funds shall be directed to the General Fund.

(d) This Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5. The Commissioner of Finance and Management shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

(e) The Secretary of Administration shall report annually to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting.

Subchapter 4. Marijuana Program Review Commission

§ 4546. PURPOSE; MEMBERS

(a) Creation. There is created the temporary Marijuana Program Review Commission for the purpose of facilitating efficient and lawful implementation of this act and examination of issues important to the future of marijuana

regulation in Vermont.

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

(1) two members of the public appointed by the Governor, one of whom shall have experience in public health;

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

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

(4) the Attorney General or designee.

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

§ 4547. POWERS; DUTIES

(a) The Commission shall:

(1) collect information about the implementation, operation, and effect of this act from members of the public, State agencies, and private and public sector businesses and organizations;

(2) communicate with other states that have legalized marijuana and monitor those states regarding their implementation of regulation, policies, and strategies that have been successful and problems that have arisen;

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

(4) review the statutes and rules for the therapeutic marijuana program and dispensaries and determine whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries;

(5) monitor supply and demand of marijuana cultivated and sold pursuant to this act for the purpose of assisting the Agency and policymakers with determining appropriate numbers of licenses and limitations on the amount of marijuana cultivated and offered for retail sale in Vermont so that the adult market is served without unnecessary surplus marijuana;

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

(7) identify strategies for preventing youths from using marijuana;

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

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

(10) recommend the appropriate maximum amount of marijuana sold by a retailer in a single transaction and whether there should be differing amounts for Vermonters and nonresidents; and

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

(b) On or before January 15, 2020, the Commission shall issue a final report to the General Assembly and the Governor regarding its findings and any recommendations for legislative or administrative action.

§ 4548. ADMINISTRATION

(a) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Administration.

(b) Meetings.

(1) The Administration shall call the first meeting of the Commission to occur on or before August 1, 2017.

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

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

(4) The Commission shall cease meeting regularly after the issuance of its final report, but members shall be available to meet with Administration officials and the General Assembly until July 1, 2020 at which time the Commission shall cease to exist.

(c) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for as many meetings as the Chair deems necessary.

(2) Other members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 9. 32 V.S.A. chapter 207 is added to read:

CHAPTER 207. MARIJUANA TAXES

Subchapter 1. Wholesale Tax

§ 7901. TAX IMPOSED

(a) There is imposed a marijuana wholesale tax equal to 15 percent of the sales price on each sale of marijuana by a wholesaler, product manufacturer, or cultivator to a retailer located in this State. The tax imposed by this subchapter shall be paid by the wholesaler, product manufacturer, or cultivator.

(b) Every year, on or before January 15, the Department of Public Safety, in consultation with the Department of Taxes, shall report to the General Assembly with recommendations for any adjustment to the rate of tax under this section which would help combat unlicensed sales of marijuana in this State.

(c) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made to any dispensary, provided the marijuana will be provided only to registered qualifying patients directly or through their registered caregivers.

§ 7902. RETURNS

(a) Any wholesaler, product manufacturer, or cultivator required to pay the tax imposed by this subchapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the seller, a statement containing its name and place of business, the amount of marijuana or marijuana-infused product subject to the wholesale tax imposed by this subchapter sold in the preceding month, and any other information required by the Department of Taxes, along with the tax due.

(b) Every wholesaler, product manufacturer, or cultivator shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this subchapter. These records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7903. LICENSES

(a) Every wholesaler, product manufacturer, or cultivator required to pay the tax imposed by this chapter shall apply for a marijuana wholesale tax license in the manner prescribed by the Commissioner of Taxes. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant's ceasing to do business at the place named.

(b) The Department of Public Safety may require the Commissioner of

Taxes to suspend or revoke the tax license of any person for failure to comply with any provision of this subchapter.

Subchapter 2. Retail Tax

§ 7921. TAX IMPOSED

(a) There is imposed a marijuana retail tax equal to 10 percent of the sales price, as that term is defined in subdivision 9701(4) of this title, on each retail sale of marijuana or marijuana-infused products in this State. However, in no case shall the tax be less than \$12.00 per ounce of marijuana, or \$4.00 per quarter ounce of marijuana, when sold in those quantities, or \$2.00 per unit of marijuana-infused products, when sold in that form. The tax imposed by this section shall be paid by the buyer to the retailer. Each retailer shall collect from the buyer the full amount of the tax payable on each taxable sale.

(b) The tax imposed by this section is separate from the general sales and use tax imposed by chapter 233 of this title. The tax imposed under this section shall be separately itemized from any State and local retail sales tax on the sales receipt provided to the buyer.

(c) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary, provided the marijuana will be provided only to registered qualifying patients directly or through their registered caregivers.

§ 7922. LIABILITY FOR TAX AND PENALTIES

(a) Any tax collected under this chapter shall be deemed to be held by the retailer in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as to indicate clearly the amount of tax collected, and that the tax receipts are the property of the State of Vermont.

(b) Every retailer required to collect the tax imposed by this chapter shall be personally and individually liable for the amount of tax together with such interest and penalty as has accrued under this title. If the retailer is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect the tax and transmit it to the Commissioner of Taxes as required in this chapter.

(c) A retailer shall have the same rights in collecting the tax from his or her purchaser or regarding nonpayment of the tax by the purchaser as if the tax were a part of the purchase price of the marijuana and payable at the same

time; provided, however, if the retailer required to collect the tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer to collect the tax and shall have the right to intervene in such action or proceeding.

(d) A retailer required to collect the tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer for the tax collected unless the purchaser has provided written notice to a retailer, and the retailer has had 60 days to respond.

(e) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use taxes in chapter 233 of this title shall apply to the tax imposed by this chapter.

§ 7923. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes marijuana or a marijuana-infused product is subject to the tax imposed by this chapter on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the nontaxable products are subject to the tax imposed by this chapter unless the retailer can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products includes marijuana or a marijuana-infused product subject to the tax under this chapter; or

(2) marijuana or marijuana-infused products provided free of charge with the required purchase of another product.

§ 7924. RETURNS

(a) Any retailer required to collect the tax imposed by this chapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer, a statement containing its name and place of business, the amount of marijuana or marijuana-infused product sales subject to the retail tax imposed by this subchapter sold in the preceding month, and any other information required by

the Department of Taxes, along with the tax due.

(b) Every retailer shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. These records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7925. LICENSES

(a) Every retailer required to collect the tax imposed by this chapter shall apply for a marijuana retail tax license in the manner prescribed by the Commissioner of Taxes. The Commissioner shall issue, without charge, to each registrant a license empowering him or her to collect the marijuana retail tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the registrant. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant's ceasing to do business at the place named. A license to collect marijuana retail tax shall be in addition to the licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title and any license required by the Department of Public Safety.

(b) The Department of Public Safety may require the Commissioner of Taxes to suspend or revoke the tax license of any person for failure to comply with any provision of this chapter.

Subchapter 3. Local Tax

§ 7941. TAX IMPOSED

(a) There is imposed a marijuana local tax equal to 2.5 percent of the sales price, as that term is defined in subdivision 9701(4) of this title, on each retail sale of marijuana or marijuana-infused products in this State. The tax imposed by this section shall be paid by the buyer to the retailer. Each retailer shall collect from the buyer the full amount of the tax payable on each taxable sale.

(b) The tax imposed by this section is separate from the general sales and use tax imposed by chapter 233 of this title. The tax imposed under this section shall be separately itemized from any State and local retail sales tax on the sales receipt provided to the buyer.

(c) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary, provided the marijuana will be provided only to registered qualifying patients directly or through their

registered caregivers.

§ 7942. LIABILITY FOR TAX AND PENALTIES

(a) Any tax collected under this chapter shall be deemed to be held by the retailer in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as to indicate clearly the amount of tax collected, and that the tax receipts are the property of the State of Vermont.

(b) Every retailer required to collect the tax imposed by this chapter shall be personally and individually liable for the amount of tax together with such interest and penalty as has accrued under this title. If the retailer is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect the tax and transmit it to the Commissioner of Taxes as required in this chapter.

(c) A retailer shall have the same rights in collecting the tax from his or her purchaser or regarding nonpayment of the tax by the purchaser as if the tax were a part of the purchase price of the marijuana and payable at the same time; provided, however, if the retailer required to collect the tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer to collect the tax and shall have the right to intervene in such action or proceeding.

(d) A retailer required to collect the tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer for the tax collected unless the purchaser has provided written notice to a retailer, and the retailer has had 60 days to respond.

(e) The tax imposed under this subchapter shall be collected and administered by the Department of Taxes, and the taxes collected under this subchapter shall be paid by the Department of Taxes to the municipality where the tax was collected; provided, however, that a per return fee of \$5.96 shall be assessed to compensate the Department for the cost of collecting and administering the tax. To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use taxes in chapter 233 of this title shall apply to the tax imposed by this chapter.

§ 7943. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes marijuana or a marijuana-infused product is subject to the tax imposed by this chapter on the entire selling price of the

bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the nontaxable products are subject to the tax imposed by this chapter unless the retailer can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products includes marijuana or a marijuana-infused product subject to the tax under this chapter; or

(2) marijuana or marijuana-infused products provided free of charge with the required purchase of another product.

§ 7944. RETURNS

(a) Any retailer required to collect the tax imposed by this subchapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer, a statement containing its name and place of business, the amount of marijuana or marijuana-infused product sales subject to the local tax imposed by this subchapter sold in the preceding month, and any other information required by the Department of Taxes, along with the tax due.

(b) Every retailer shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this subchapter. These records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7945. LICENSES

(a) Every retailer required to collect the tax imposed by this subchapter shall apply for a marijuana local tax license in the manner prescribed by the Commissioner of Taxes. The Commissioner shall issue, without charge, to each registrant a license empowering him or her to collect the marijuana local tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the registrant. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant’s ceasing to do business at the place named. A license to collect marijuana local tax shall be in addition to the licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title and any license required by the Department of Public Safety.

(b) The Department of Public Safety may require the Commissioner of Taxes to suspend or revoke the tax license of any person for failure to comply with any provision of this chapter.

Sec. 10. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

* * *

(18) “Vermont net income” means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for State and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business, and capital stock taxes; and

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from State and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont State or local obligations;

(III) the amount of any deduction for a federal net operating loss; and

(ii) decreased by:

(I) the “gross-up of dividends” required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the foreign tax credit; ~~and~~

(II) the amount of income which results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, except for marketing expenses, as authorized under 18 V.S.A. chapter 86 or 87, but for

26 U.S.C. § 280E.

* * *

(21) “Taxable income” means federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations;

(iii) the amount of State and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(iv) the amount of total itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, or charitable contributions, deducted from federal adjusted gross income for the taxable year, that is in excess of two and one-half times the standard deduction allowable to the taxpayer; and

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from ~~United States~~ U.S. government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business;

and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; and

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

* * *

Sec. 11. 32 V.S.A. § 9741(51) is added to read:

(51) Marijuana sold by a dispensary as authorized under 18 V.S.A. chapter 86 or by a retailer as authorized under 18 V.S.A. chapter 87.

Sec. 12. EFFECTIVE DATES

(a) This section and Secs. 1, 2, 3, 8, and 9 shall take effect on passage.

(b) Secs. 4 through 7 shall take effect on July 1, 2019.

(c) Sec. 10 shall take effect on January 1, 2019 and shall apply to taxable year 2018 and after.

(d) Sec. 11 shall take effect on January 2, 2019.

and that after passage the title of the bill be amended to read: “An act relating to the regulation of commercial cultivation and sale of marijuana”

Amendment to be offered by Reps. Gonzalez of Winooski and Willhoit of St. Johnsbury to H. 167

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

* * * Marijuana Youth Education and Prevention * * *

Sec. 1. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a)(1) Relying on lessons learned from tobacco and alcohol prevention efforts, the Department of Health, in collaboration with the Department of Public Safety, the Agency of Education, and the Governor’s Highway Safety Program, shall develop and administer an education and prevention program focused on use of marijuana by people under 25 years of age. In so doing, the Department of Health shall consider at least the following:

(A) Community- and school-based youths and family-focused prevention initiatives that strive to:

(i) expand the number of school-based grants for substance abuse services to enable each supervisory union to develop and implement a plan for comprehensive substance abuse prevention education in a flexible manner that

ensures the needs of individual communities are addressed;

(ii) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youths in schools and other settings; and

(iii) expand family education programs.

(B) An informational and counter-marketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(C) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(D) Expansion of the use of SBIRT among the State's pediatric practices and school-based health centers.

(E) Strategies specific to youths who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) On or before March 15, 2019, the Department of Health shall adopt rules to implement the education and prevention program described in this subsection and implement the program on or before September 15, 2019.

(b) The Department of Health shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youths in Vermont and to understand the source of marijuana used by this population.

(c) Any data collected by the Department of Health on the use of marijuana by youths shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

* * * Marijuana Cultivation Cooperative * * *

Sec. 2. 18 V.S.A. § 4230e is amended to read:

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

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home,

residence, or sleeping place by one or more persons who maintain a household.

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

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

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

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

(B) in an enclosure that is screened from public view and is secure so that access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator.

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

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

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

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

(c)(1) A person may assign all or some of his or her rights to cultivate up to two mature and four immature marijuana plants to another person 21 years of age or older for a period of time, with or without compensation, as part of a marijuana cultivation cooperative. The assignee shall distribute any marijuana harvested from the plants to the assignor or other assignors for whom the assignee cultivates in accordance with an agreement by the parties, and the assignee may sell some portion of the marijuana harvested to a retailer in accordance with an agreement by the parties. The assignee shall not cultivate for more than 20 persons.

(2) Prior to cultivating marijuana plants on behalf of another person pursuant to this subsection, a person shall register with the Agency of Agriculture, Food and Markets and comply with basic recordkeeping and inspection obligations as required by the Agency. The Agency of Agriculture, Food and Markets may adopt rules in accordance with this subsection.

(3) The number of plants the assignor cultivates in accordance with this section shall not affect his or her rights to cultivate up to two mature and four immature marijuana plants for his or her personal use in compliance with this chapter.

(4) A person in possession of a number of plants in excess of the limitations provided in this subsection shall be subject to the civil and criminal penalties provided in this chapter.

(5) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4230a of this title, provided it is stored either by the assignee in a secure indoor facility on the property where the marijuana was cultivated or by the assignor in a secure indoor facility on the assignor's property.

* * * Chemical Extraction of Marijuana * * *

Sec. 3. 18 V.S.A. § 4230h is amended to read:

§ 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE
PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title or a marijuana product manufacturer licensed by the Agency of Agriculture, Food and Markets pursuant to chapter 87 of this title.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

* * * Marijuana Regulation and Taxation * * *

Sec. 4. 18 V.S.A. chapter 87 is added to read:

CHAPTER 87. MARIJUANA ESTABLISHMENTS
Subchapter 1. General Provisions

§ 4501. DEFINITIONS

As used in this chapter:

(1) “Affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

(2) “Agency” means the Agency of Agriculture, Food and Markets.

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

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

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

(6) “Controls,” “is controlled by,” and “under common control” mean the power to direct, or cause the direction or management and policies of a person, whether through the direct or beneficial ownership of voting securities, by contract, or otherwise. A person who directly or beneficially owns ten percent or more equity interest, or the equivalent thereof, of another person shall be deemed to control the person.

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

(8) “Dispensary” means a person registered under section 4474e of this title that acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient’s use for symptom relief.

(9) “Enclosed, locked facility” shall be either indoors or outdoors, and may include a building, room, greenhouse, fully enclosed fenced-in area, or other location enclosed on all sides so that marijuana is not visible to the public, and equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include marijuana cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where marijuana is being grown, processed, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(10) “Financier” means a person, other than a financial institution as defined in 8 V.S.A. § 11101, that makes an equity investment, a gift, loan, or otherwise provides financing to a person with the expectation of a financial return.

(11) “Holding company” means a corporation or other legal entity whose principal business is the ownership, supervision, or management of one

or more operating subsidiaries or affiliates.

(12) “Marijuana” shall have the same meaning as provided in section 4201 of this title.

(13) “Marijuana cultivator” or “cultivator” means a person registered with the Agency to engage in commercial cultivation of marijuana in accordance with this chapter.

(14) “Marijuana establishment” means a marijuana cultivator, wholesaler, product manufacturer, retailer, or testing laboratory licensed by the Agency to engage in commercial marijuana activity in accordance with this chapter.

(15) “Marijuana-infused products” means products that are composed of marijuana and other ingredients and are intended for use or consumption, including tinctures, oils, solvents, and edible or potable goods. Only the portion of a marijuana-infused product that is attributable to marijuana shall count toward the possession limits.

(16) “Marijuana product manufacturer” or “product manufacturer” means an entity registered pursuant to this chapter to manufacture, prepare, and package marijuana-infused products and hashish, and to sell marijuana-infused products and hashish to a licensed retailer, wholesaler, or another product manufacturer.

(17) “Marijuana retailer” or “retailer” means a person licensed by the Agency to sell marijuana to consumers for off-site consumption in accordance with this chapter.

(18) “Marijuana testing laboratory” or “testing laboratory” means a person licensed by the Agency to test marijuana for cultivators, product manufacturers, wholesalers, and retailers in accordance with this chapter.

(19) “Marijuana wholesaler” or “wholesaler” means a person licensed by the Agency to buy marijuana from cultivators and marijuana-infused products from product manufacturers and transport, possess, and sell marijuana and marijuana-infused products to licensed product manufacturers and retailers.

(20) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency, or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

(21) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

(22) “Principal” means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership.

(23) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute as defined in 7 V.S.A. § 1001 is prohibited by law.

(24) “Resident” means a person who is domiciled in Vermont, subject to the following:

(A) The process for determining the domicile of an individual shall be the same as that required by rules adopted by the Department of Taxes related to determining domicile for the purpose of the interpretation and administration of 32 V.S.A. § 5401(14).

(B) The domicile of a business entity is the State in which it is organized.

(25) “School” means a public school, independent school, or facility that provides early childhood education as those terms are defined in 16 V.S.A. § 11.

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

§ 4502. MARIJUANA POSSESSED UNLAWFULLY SUBJECT TO SEIZURE AND FORFEITURE

Marijuana possessed unlawfully in violation of this chapter may be seized by law enforcement and is subject to forfeiture.

§ 4503. NOT APPLICABLE TO HEMP OR THERAPEUTIC USE OF CANNABIS

This chapter shall not apply to activities regulated by 7 V.S.A. chapter 34 (hemp) or chapter 86 (therapeutic use of cannabis) of this title.

§ 4504. CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE PROHIBITED

This chapter shall not be construed to permit consumption of marijuana in a public place. Violations shall be punished in accordance with section 4230a of this title.

§ 4505. REGULATION BY LOCAL GOVERNMENT

(a)(1) A marijuana establishment shall obtain any required permit from a town, city, or incorporated village prior to beginning operations within the municipality.

(2) A municipality that hosts a marijuana establishment may establish a board of marijuana control commissioners, who shall be the members of the municipal legislative body. The board shall administer the municipal permits under this subsection for the marijuana establishments within the municipality.

(b) Nothing in this chapter shall be construed to prevent a town, city, or incorporated village from regulating marijuana establishments through local ordinances as set forth in 24 V.S.A. § 2291 or through land use bylaws as set forth in 24 V.S.A. § 4414.

(c)(1) A town, city, or incorporated village, by majority vote of those present and voting at an annual or special meeting warned for the purpose, may prohibit the operation of a marijuana establishment within the municipality. The provisions of this subdivision shall not apply to a marijuana establishment that is operating within the municipality at the time of the vote.

(2) A vote to prohibit the operation of a marijuana establishment within the municipality shall remain in effect until rescinded by majority vote of those present and voting at an annual or special meeting warned for the purpose.

§ 4506. YOUTH RESTRICTIONS

(a) A marijuana establishment shall not dispense or sell marijuana to a person under 21 years of age or employ a person under 21 years of age.

(b) A marijuana establishment shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) A marijuana establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where marijuana is located except:

(1) Government employees performing their official duties.

(2) Contractors performing labor that does not include marijuana cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where marijuana is being grown, processed, or stored.

(3) A registered patient visiting his or her designated dispensary even if that dispensary is located in a building that is located on the same premises as a marijuana establishment.

§ 4507. ADVERTISING

(a) Marijuana advertising shall not contain any statement or illustration that:

- (1) is false or misleading;
- (2) promotes overconsumption;
- (3) represents that the use of marijuana has curative or therapeutic effects;
- (4) depicts a person under 21 years of age consuming marijuana; or
- (5) is designed to be or has the effect of being particularly appealing to children or persons under 21 years of age.

(b) Outdoor marijuana advertising shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) In accordance with section 4512 of this chapter, the Agency shall adopt regulations on marijuana establishment advertising that reflect the policies of subsection (a) of this section and place restrictions on the time, place, and manner, but not content, of the advertising.

(d) All advertising shall contain the following warnings:

(1) For use only by adults 21 years of age or older. Keep out of the reach of children.

(2) Marijuana has intoxicating effects and may impair concentration, coordination, and judgment. Do not operate a motor vehicle or heavy machinery or enter into any contractual agreement under the influence of marijuana.

Subchapter 2. Administration

§ 4511. AUTHORITY

(a) For the purpose of regulating the cultivation, processing, packaging, transportation, testing, purchase, and sale of marijuana in accordance with this chapter, the Agency shall have the following authority and duties:

- (1) rulemaking in accordance with this chapter and 3 V.S.A. chapter 25;
- (2) administration of a program for the licensure of marijuana establishments, which shall include compliance and enforcement; and
- (3) submission of an annual budget to the Governor.

(b)(1) There is established the Marijuana Advisory Board within the

Agency for the purpose of advising the Agency and other administrative agencies and departments regarding policy for the implementation and operation of this chapter. The Board shall be composed of the following members:

- (A) the Secretary of Agriculture, Food and Markets or designee;
- (B) the Commissioner of Public Safety or designee;
- (C) the Commissioner of Health or designee;
- (D) the Commissioner of Taxes or designee; and
- (E) a member of local law enforcement appointed by the Governor.

(2) The Secretary of Administration shall convene the first meeting of the Board on or before August 1, 2018 and shall attend Board meetings.

§ 4512. RULEMAKING

(a) The Agency shall adopt rules to implement this chapter on or before March 15, 2019, in accordance with subdivisions (1)–(5) of this subsection.

(1) Rules concerning any marijuana establishment shall include:

- (A) the form and content of license and renewal applications;
- (B) qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment, including submission of an operating plan and the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to subsection 4522(d) of this title;
- (C) oversight requirements;
- (D) inspection requirements;
- (E) records to be kept by licensees and the required availability of the records;
- (F) employment and training requirements, including requiring that each marijuana establishment create an identification badge for each employee;
- (G) security requirements, including lighting, physical security, video, and alarm requirements;
- (H) restrictions on advertising, marketing, and signage;
- (I) health and safety requirements;
- (J) regulation of additives to marijuana, including those that are toxic or designed to make the product more addictive, more appealing to children, or

to mislead consumers;

(K) procedures for seed-to-sale traceability of marijuana, including any requirements for tracking software;

(L) regulation of the storage and transportation of marijuana;

(M) sanitary requirements;

(N) pricing guidelines with a goal of ensuring marijuana is sufficiently affordable to undercut the illegal market;

(O) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the marijuana establishment's license;

(P) procedures for suspension and revocation of a license; and

(Q) requirements for banking and financial transactions.

(2)(A) Rules concerning cultivators shall include:

(i) restrictions on the use by cultivators of pesticides that are injurious to human health;

(ii) standards for both the indoor and outdoor cultivation of marijuana, including environmental protection requirements;

(iii) procedures and standards for testing marijuana for contaminants and potency and for quality assurance and control;

(iv) labeling requirements for products sold to retailers;

(v) regulation of visits to the establishments, including the number of visitors allowed at any one time and recordkeeping concerning visitors; and

(vi) facility inspection requirements and procedures.

(B) The Agency shall consider the different needs and risks of small cultivators of not more than 500 square feet when adopting rules and shall make an exception to such rules or an accommodation to such rules for cultivators of this size where appropriate.

(3) Rules concerning product manufacturers shall include:

(A) identification of the amount of delta-9 tetrahydrocannabinol that constitutes a single serving;

(B) limitations for each individual package of edible marijuana-infused products to a single serving with the exception of infused oils, powders, and liquids;

- (C) establishment of standards for the safe manufacture of hashish;
- (D) requirements for opaque, child-resistant packaging;
- (E) requirements for the dissemination of educational materials to consumers who purchase marijuana-infused products;
- (F) requirements for labeling of marijuana-infused products that include the length of time it typically takes for products to take effect;
- (G) requirements that an edible retail marijuana-infused product is clearly identifiable with a standard symbol indicating that it contains marijuana;
- (H) a prohibition on candy or other products that are especially appealing to children; and
- (I) a prohibition on the inclusion of caffeine, nicotine, or alcoholic beverages in a marijuana-infused product.
- (4) Rules concerning retailers shall include:
 - (A) labeling requirements, including appropriate warnings concerning the carcinogenic effects and other potential negative health consequences of consuming marijuana, for products sold to customers;
 - (B) requirements for proper verification of age and residency of customers;
 - (C) restrictions that marijuana shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the marijuana;
 - (D) regulation of visits to the establishments, including the number of customers allowed at any one time and recordkeeping concerning visitors; and
 - (E) facility inspection requirements and procedures.
- (5) Rules concerning testing laboratories shall include:
 - (A) procedures and standards for testing marijuana for contaminants and potency and for quality assurance and control;
 - (B) reporting requirements, including requirements for chain of custody recordkeeping;
 - (C) procedures for destruction of all samples; and
 - (D) facility inspection requirements and procedures.
- (b) The Agency shall consult with the Department in the development and adoption of the following rules identified in subsection (a) of this section:

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

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

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

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

§ 4513. IMPLEMENTATION

(a)(1) On or before April 15, 2019, the Agency shall begin accepting applications for cultivator licenses and testing laboratory licenses. The initial application period shall remain open for 30 days. The Agency may reopen the application process for any period of time at its discretion.

(2) On or before June 15, 2019, the Agency shall begin issuing cultivator licenses and testing laboratory licenses to qualified applicants.

(b)(1) On or before May 15, 2019, the Agency shall begin accepting applications for product manufacturer, wholesaler, and retail licenses. The initial application period shall remain open for 30 days. The Agency may reopen the application process for any period of time at its discretion.

(2) On or before September 15, 2019, the Agency shall begin issuing product manufacturer, wholesaler, and retailer licenses to qualified applicants. A license shall not permit a licensee to open to the public or sell marijuana to the public prior to January 2, 2020.

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

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

(B) a maximum of 20 cultivator licenses that permit a plant canopy of not more than 1,000 square feet;

(C) a maximum of eight cultivator licenses that permit a plant canopy of more than 1,000 square feet up to 2,500 square feet;

(D) a maximum of 20 cultivator licenses that permit a plant canopy of more than 2,500 square feet up to 5,000 square feet;

(E) a maximum of six cultivator licenses that permit a plant canopy of more than 5,000 square feet up to 10,000 square feet;

(F) an unlimited number of testing laboratory licenses; and

(G) a maximum of 42 retailer licenses.

(2) On or after July 1, 2020, the limitations in subdivision (1) of this

subsection shall not apply and the Agency shall use its discretion to issue licenses in a number and size for the purpose of competing with and undercutting the illegal market based on available data and recommendations of the Marijuana Program Review Commission. A cultivator licensed prior to July 1, 2020 may apply to the Agency to modify its license to expand its plant canopy.

§ 4514. CIVIL CITATIONS; SUSPENSION AND REVOCATION OF LICENSES

(a) The Agency shall have the authority to adopt rules for the issuance of civil citations for violations of this chapter and the rules adopted pursuant to section 4512 of this title. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

(b) The Agency shall have the authority to suspend or revoke a license for violations of this chapter in accordance with rules adopted pursuant to section 4512 of this title.

Subchapter 3. Licenses

§ 4521. GENERAL PROVISIONS

(a) Except as otherwise permitted by this chapter, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of marijuana or marijuana-infused products without obtaining a license from the Agency.

(b) All licenses shall expire at midnight on April 30 of each year, beginning not earlier than 10 months after the original license was issued to the marijuana establishment.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Agency and shall be accompanied by the fees provided for in section 4528 of this section.

(d) An applicant and its affiliates may obtain a maximum of one of each type of license under this chapter.

(e) Each license shall permit only one location of the establishment.

(f) A dispensary that obtains a retailer license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Agency. If the dispensary and retail establishment are located on the same premises, the dispensary and retail establishment shall provide separate entrances and common areas designed to serve patients and caregivers and customers.

(g) Each licensee shall obtain and maintain commercial general liability

insurance in accordance with rules adopted by the Agency. Failure to provide proof of insurance to the Agency, as required, may result in revocation of the license.

(h) All records relating to security, transportation, public safety, and trade secrets in an application for a license under this chapter shall be exempt from public inspection and copying under the Public Records Act.

§ 4522. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

(a) To be eligible for a marijuana establishment license:

(1) An applicant, principal of an applicant, and person who owns or controls an applicant, who is a natural person:

(A) shall be 21 years of age or older; and

(B) shall consent to the release of his or her criminal and administrative history records.

(2) Each principal of an applicant who serves as the applicant's chief executive, chief financial officer, or equivalent position shall have been a resident of Vermont for at least six months immediately preceding the date of application.

(3) If the applicant is not a natural person:

(A) the majority of the applicant's board of directors or equivalent governing body shall each have been residents of Vermont for at least six months immediately preceding the date of application.

(B) not less than 51 percent of the total equity interests in such applicant shall be beneficially held by individuals who have been residents of Vermont for at least six months immediately preceding the date of application.

(4) If the applicant is a subsidiary of a holding company, the requirements of subdivisions (1)–(3) of this subsection shall apply to the holding company and the principals, controlling persons, and ten percent owners as if the holding company were the applicant.

(b) As part of the application process, each applicant shall submit, in a format prescribed by the Agency, an operating plan. The plan shall include a floor plan or site plan drawn to scale that illustrates the entire operation being proposed. The plan shall also include the following:

(1) For a cultivator license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) transportation of product;

(E) destruction of waste product;

(F) description of growing operation, including growing media, size of grow space allocated for plant production, space allowed for any other business activity, description of all equipment to be used in the cultivation process, and a list of soil amendments, fertilizers, or other crop production aids, or pesticides, utilized in the production process;

(G) how the applicant will meet its operation's need for energy services at the lowest present value life-cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy efficiency and energy supply;

(H) testing procedures and protocols;

(I) description of packaging and labeling of products transported to wholesalers, product manufacturers, retailers, and dispensaries; and

(J) any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(2) For a retailer license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product;

(E) description of packaging and labeling of products sold to customers;

(F) the products to be sold and how they will be displayed to customers; and

(G) any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(3) For a testing laboratory license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product; and

(E) the types of testing to be offered.

(c) The Department shall obtain a Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of a business in this State or any other jurisdiction for each of the following who is a natural person:

(1) an applicant;

(2) each principal of an applicant or the applicant's holding company, if the applicant is an affiliate of a holding company; and

(3) each person who controls an applicant, an applicant's holding company, or a direct or beneficial owner of ten percent or more of an applicant or applicant's holding company's equity interest or equivalent.

(d) When considering applications for a marijuana establishment license, the Agency shall:

(1) give priority to a qualified applicant that is a dispensary, subsidiary of a dispensary, or a cooperative;

(2) give priority to a qualified applicant for a cultivator license if the applicant plans to grow substantially outdoors;

(3) strive for geographic distribution of marijuana establishments based on population.

§ 4523. EDUCATION

(a) An applicant for a marijuana establishment license shall meet with an Agency designee for the purpose of reviewing Vermont laws and rules pertaining to the possession, purchase, storage, and sale of marijuana prior to receiving a license.

(b) A licensee shall complete an enforcement seminar every three years conducted by the Agency. A license shall not be renewed unless the records of the Agency show that the licensee has complied with the terms of this subsection.

(c) A licensee shall ensure that each employee involved in the sale of marijuana completes a training program approved by the Agency prior to selling marijuana and at least once every 24 months thereafter. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Agency. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of not less than one day of the license issued under this chapter.

§ 4524. IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

(a) The Agency shall issue each employee an identification card or renewal card within 30 days following the receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the marijuana establishment and shall not be passed on to an employee. A person shall not work as an employee until that person has received an identification card issued under this section. Each card shall contain the following:

(1) the name, address, and date of birth of the person;

(2) the legal name of the marijuana establishment with which the person is affiliated;

(3) a random identification number that is unique to the person;

(4) the date of issuance and the expiration date of the identification card; and

(5) a photograph of the person.

(b) Prior to acting on an application for an identification card, the Agency shall obtain from the Department the person's Vermont criminal history record, out-of-state criminal history record, and criminal history record from the Federal Bureau of Investigation. Each person shall consent to the release of criminal history records to the Agency and the Department on forms developed by the Vermont Crime Information Center.

(c) When the Department obtains a criminal history record, the Department shall promptly provide a copy of the record to the person and the marijuana establishment. The Department shall inform the person of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Agency.

(d) The Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter.

(e) The Agency, in consultation with the Department, shall adopt rules for the issuance of an identification card and shall set forth standards for determining whether a person should be denied a registry identification card because his or her criminal history record indicates that the person's association with a marijuana establishment would pose a demonstrable threat to public safety. Previous nonviolent drug-related convictions shall not automatically disqualify an applicant. A marijuana establishment may deny a person the opportunity to serve as an employee based on his or her criminal

history record. A person who is denied an identification card may appeal the Department's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(f) An identification card shall expire one year after its issuance or upon the expiration of the marijuana establishment's license, whichever occurs first.

§ 4525. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, package, label, transport, test, and sell marijuana to a licensed wholesaler, product manufacturer, retailer, or dispensary.

(b) Cultivation of marijuana shall occur only in an enclosed, locked facility which is either indoors, or if outdoors, not visible to the public, and which can only be accessed by principal officers and employees of the dispensary who have valid identification cards.

(c) An applicant shall designate on his or her operating plan the size of the premises and the amount of actual square footage that will be dedicated to plant canopy.

(d) Representative samples of each lot or batch of marijuana intended for human consumption shall be tested for safety and potency in accordance with rules adopted by the Agency.

(e) Each cultivator shall create packaging for its marijuana.

(1) Packaging shall include:

(A) The name and registration number of the cultivator.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A "produced on" date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, "Consumption of marijuana impairs your ability to drive a car and operate machinery," "Keep away from children," and "Possession of marijuana is illegal under federal law."

(F) Any additional requirements contained in rules adopted by the Department in accordance with this chapter. Rules shall take into consideration that different labeling requirements may be appropriate

depending on whether the marijuana is sold to a wholesaler, product manufacturer, or retailer.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(f)(1) Only unadulterated marijuana shall be offered for sale. If, upon inspection, the Agency finds any violative pesticide residue or other contaminants of concern, the Agency shall order the marijuana, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Agency's instructions.

(2) Marijuana ordered destroyed or placed on stop-sale shall be clearly separable from salable marijuana. Any order shall be confirmed in writing within seven days. The order shall include the reason for action, a description of the marijuana affected, and any recommended treatment.

(3) A person may appeal an order issued pursuant to this section within 15 days after receiving the order. The appeal shall be made in writing to the Secretary and shall clearly identify the marijuana affected and the basis for the appeal.

§ 4526. WHOLESALER LICENSE

A wholesaler licensed under this chapter may:

(1) purchase marijuana from licensed cultivators and marijuana-infused products from licensed product manufacturers;

(2) transport, possess, and sell marijuana and marijuana-infused products to licensed product manufacturers, wholesalers, retailers, and dispensaries.

§ 4527. PRODUCT MANUFACTURER LICENSE

A product manufacturer licensed under this chapter may:

(1) purchase marijuana from licensed cultivators and wholesalers and marijuana-infused products from licensed wholesalers and product manufacturers;

(2) use marijuana and marijuana-infused products to produce marijuana-infused products; and

(3) transport, possess, and sell marijuana-infused products to licensed wholesalers, product manufacturers, retailers, and dispensaries.

§ 4528. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) purchase marijuana from a licensed cultivator or wholesaler and marijuana-infused products from a licensed wholesaler or product manufacturer; and

(2) transport, possess, and sell marijuana and marijuana-infused products to the public for consumption off the registered premises.

(b)(1) In a single transaction, a retailer may provide:

(A) one ounce of marijuana or the equivalent of marijuana-infused products or a combination thereof to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled in Vermont; or

(B) one-half of an ounce of marijuana or the equivalent of marijuana-infused products or a combination thereof to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled outside Vermont.

(2) A retailer shall not knowingly and willfully sell an amount of marijuana to a person that causes the person to exceed the possession limit.

(c)(1) Packaging shall include:

(A) The name and registration number of the retailer.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(d) A retailer shall display a safety information flyer developed or

approved by the Board and supplied to the retailer free of charge. The flyer shall contain information concerning the methods for administering marijuana, the potential dangers of marijuana use, the symptoms of problematic usage, and how to receive help for marijuana abuse.

(e) Internet sales and delivery of marijuana to customers are prohibited.

§ 4529. MARIJUANA TESTING LABORATORY

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport marijuana and marijuana-infused product samples obtained from a licensed marijuana establishment.

(b) Testing may address the following:

- (1) residual solvents;
- (2) poisons or toxins;
- (3) harmful chemicals;
- (4) dangerous molds, mildew, or filth;
- (5) harmful microbials, such as E.coli or salmonella;
- (6) pesticides; and
- (7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing laboratory shall establish a protocol for recording the chain of custody of all marijuana samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.

(f) A marijuana establishment that is subject to testing requirements under this chapter or rules adopted pursuant to this chapter shall have its marijuana or marijuana-infused products tested by an independent licensed testing laboratory and not a licensed testing laboratory owned or controlled by the license holder of the marijuana establishment.

§ 4530. FEES

(a) The Agency shall charge and collect initial license application fees and annual license renewal fees for each type of marijuana license under this

chapter. Fees shall be due and payable at the time of license application or renewal.

(b)(1) The nonrefundable fee accompanying an application for a marijuana establishment license shall be 25 percent of the annual license fee for such a license as provided in subsection (c) of this section.

(2) If a person submits a qualifying application for a marijuana establishment license during an open application, pays the nonrefundable application fee, but is not selected to receive a license due to the limited number of licenses available, the person may reapply, based on availability, for such a license within two years by resubmitting the application with any necessary updated information, and shall be charged a fee that is 50 percent of the application fees set forth in subdivisions (1)–(3) of this subsection (b) if the original application was submitted prior to July 1, 2019.

(c)(1) The initial annual license fee and subsequent annual renewal fee for a cultivator license pursuant to section 4525 of this chapter shall be determined as follows:

(A) For a cultivator license that permits a plant canopy of not more than 500 square feet, the initial annual license and subsequent renewal fee shall be \$500.00 if the plant canopy is exclusively outdoors; otherwise the fee shall be \$1,500.00.

(B) For a cultivator license that permits a plant canopy of more than 500 square feet but not more than 10,000 square feet, the initial annual license and subsequent renewal fee shall be \$1.00 per square foot for outdoor cultivation and \$3.00 per square foot for indoor cultivation.

(2) The initial annual license fee and subsequent annual renewal fee for a wholesaler license pursuant to section 4526 of this chapter shall be \$10,000.00.

(3) The initial annual license fee and subsequent annual renewal fee for a product manufacturer license pursuant to section 4527 of this chapter shall be \$2,500.00.

(4) The initial annual license fee and subsequent annual renewal fee for a retailer license pursuant to section 4528 of this chapter shall be \$10,000.00.

(5) The initial annual license fee and subsequent annual renewal fee for a marijuana testing laboratory license pursuant to section 4529 of this chapter shall be \$2,500.00.

§ 4531. MARIJUANA REGULATION AND RESOURCE FUND

(a) The Marijuana Regulation and Resource Fund is hereby created. The Fund shall be maintained by the Agency of Administration.

(b) The Fund shall be composed of:

(1) all application fees, license fees, renewal fees, and civil penalties collected pursuant to this chapter; and

(2) all taxes collected by the Commissioner of Taxes pursuant to 32 V.S.A. chapter 207.

(c)(1) Funds shall be appropriated as follows:

(A) For the purpose of implementation, administration, and enforcement of this chapter.

(B) Proportionately for the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts by State and local law enforcement to combat impaired driving and the illegal drug trade. As used in this subdivision, "criminal justice efforts" shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

(2) Appropriations made pursuant to subdivision (1) of this subsection shall be in addition to current funding of the identified priorities and shall not be used in place of existing State funding.

(d) All balances in the Fund at the end of any fiscal year shall be transferred as follows:

(1) 25 percent to the Higher Education Endowment Trust Fund created under 16 V.S.A. § 2885;

(2) 25 percent to the Connectivity Fund created under 30 V.S.A. § 7516; provided that any sums transferred under this subdivision shall be dedicated to fund the Connectivity Initiative established under 30 V.S.A. § 7515b and shall be in addition to any allocation required to fund the Connectivity Initiative under 30 V.S.A. § 7516;

(3) 25 percent to the General Fund, but only if an equal amount is appropriated from the General Fund to support military tuition programs under 16 V.S.A. § 2856;

(4) 25 percent to the General Fund, but only if corresponding reductions in the State taxation of Social Security benefits are made.

(e) This Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5. The Commissioner of Finance and Management shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

(f) The Secretary of Administration shall report annually to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting.

Subchapter 4. Marijuana Program Review Commission

§ 4546. PURPOSE; MEMBERS

(a) Creation. There is created the temporary Marijuana Program Review Commission for the purpose of facilitating efficient and lawful implementation of this chapter and examination of issues important to the future of marijuana regulation in Vermont.

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

(1) two members of the public appointed by the Governor, one of whom shall have experience in public health;

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

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

(4) the Attorney General or designee.

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

§ 4547. POWERS; DUTIES

(a) The Commission shall:

(1) collect information about the implementation, operation, and effect of this chapter from members of the public, State agencies, and private and public sector businesses and organizations;

(2) communicate with other states that have legalized marijuana and monitor those states regarding their implementation of regulation, policies, and strategies that have been successful and problems that have arisen;

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

(4) review the statutes and rules for the therapeutic marijuana program and dispensaries and determine whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries;

(5) monitor supply and demand of marijuana cultivated and sold pursuant to this chapter for the purpose of assisting the Agency and policymakers with determining appropriate numbers of licenses and limitations on the amount of marijuana cultivated and offered for retail sale in Vermont so that the adult market is served without unnecessary surplus marijuana;

(6) monitor the extent to which marijuana is accessed through both the

legal and illegal markets by persons under 21 years of age;

(7) identify strategies for preventing youths from using marijuana;

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

(9) recommend the appropriate maximum amount of marijuana sold by a retailer in a single transaction and whether there should be differing amounts for Vermonters and nonresidents; and

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

(b) On or before December 1, 2020, the Commission shall issue a final report to the General Assembly and the Governor regarding its findings and any recommendations for legislative or administrative action.

§ 4548. ADMINISTRATION

(a) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Administration.

(b) Meetings.

(1) The Administration shall call the first meeting of the Commission to occur on or before August 1, 2018.

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

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

(4) The Commission shall cease meeting regularly after the issuance of its final report, but members shall be available to meet with Administration officials and the General Assembly until July 1, 2021 at which time the Commission shall cease to exist.

(c) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for as many meetings as the Chair deems necessary.

(2) Other members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 5. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(29) To prohibit or regulate, by means of a civil ordinance adopted pursuant to chapter 59 of this title, the number, time, place, manner, or operation of a marijuana establishment, or any class of marijuana establishments, located in the municipality; provided, however, that amendments to such an ordinance shall not apply to restrict further a marijuana establishment in operation within the municipality at the time of the amendment. As used in this subdivision, "marijuana establishment" shall have the same meaning as set forth in 18 V.S.A. chapter 87.

Sec. 6. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

* * *

(16) Marijuana establishments. A municipality may adopt bylaws for the purpose of regulating marijuana establishments as defined in 18 V.S.A. chapter 87.

Sec. 7. 32 V.S.A. chapter 207 is added to read:

CHAPTER 207. MARIJUANA TAXES

Subchapter 1. General Provisions

§ 7901. DEFINITIONS

(a) Unless otherwise indicated, the terms used in this chapter shall have the same meaning as the terms defined in 18 V.S.A. § 4501.

(b) As used in this chapter, "co-op transaction" shall mean a sale of marijuana or marijuana-based products from a marijuana cultivation cooperative created under 18 V.S.A. § 4230e(c) to a retailer. For the purpose of the taxes imposed by this chapter, any the marijuana cultivation cooperative shall be treated as a wholesaler, and any marijuana or marijuana-based products sold from a marijuana cultivation cooperative to a retailer shall be subject to the taxes in this chapter.

§ 7902. COLLECTION OF TAXES

All taxes collected under this chapter shall be deposited in the Marijuana Regulation and Resource Fund.

Subchapter 2. Wholesale Tax

§ 7911. TAX IMPOSED

(a) There is imposed a marijuana wholesale tax equal to 10 percent of the sales price on each sale of marijuana and marijuana-infused product by a wholesaler, product manufacturer, or cultivator to a retailer located in this State. Where the seller and buyer are affiliated, then the tax shall be 10 percent of the average market price of marijuana or marijuana-infused product determined under subsection (d) of this section. The tax imposed by this subchapter shall be paid by the wholesaler, product manufacturer, or cultivator.

(b) Every year, on or before January 15, the Agency of Agriculture, Food and Markets, in consultation with the Departments of Public Safety and of Taxes, shall report to the General Assembly with recommendations for any adjustment to the rate of tax under this section and section 7921 of this title which would help achieve market and price stability, including by combating unlicensed sales of marijuana in this State.

(c) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made to any dispensary, provided the marijuana will be provided only to registered qualifying patients directly or through their registered caregivers.

(d) Twice each year, on or before January 15 and July 15, the Agency of Agriculture, Food and Markets, in consultation with the Department of Taxes, will calculate and publish a report setting forth the average market prices for sales of marijuana and marijuana-infused products sold in this State by wholesalers, product manufacturers, or cultivators to retailers and dispensaries, solely in transactions where the seller and buyer are not affiliated. These average market prices shall be used to calculate the minimum tax pursuant to subsection (a) of this section until such time as the next report is published pursuant to this subsection.

§ 7912. RETURNS

(a) Any wholesaler, product manufacturer, or cultivator required to pay the tax imposed by this subchapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the seller, a statement containing its name and place of

business, the amount of marijuana or marijuana-infused product subject to the wholesale tax imposed by this subchapter sold in the preceding month, and any other information required by the Department of Taxes, along with the tax due.

(b) Every wholesaler, product manufacturer, or cultivator shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this subchapter. These records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7913. LICENSES

(a) Every wholesaler, product manufacturer, or cultivator required to pay the tax imposed by this chapter shall apply for a marijuana wholesale tax license in the manner prescribed by the Commissioner of Taxes. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant's ceasing to do business at the place named.

(b) The Department of Public Safety may require the Commissioner of Taxes to suspend or revoke the tax license of any person for failure to comply with any provision of this subchapter.

Subchapter 3. Retail Tax

§ 7921. TAX IMPOSED

(a) There is imposed a marijuana retail tax equal to 12.5 percent of the sales price, as that term is defined in subdivision 9701(4) of this title, on each retail sale of marijuana or marijuana-infused products in this State. However, in no case shall the tax be less than \$4.00 for sales of marijuana in quantities less than or equal to one-quarter ounce, \$12.00 for sales of marijuana greater than one-quarter ounce but less than or equal to one ounce, or \$2.00 per unit of marijuana-infused products, when sold in that form. The tax imposed by this section shall be paid by the buyer to the retailer. Each retailer shall collect from the buyer the full amount of the tax payable on each taxable sale.

(b) The tax imposed by this section is separate from the general sales and use tax imposed by chapter 233 of this title. The tax imposed under this section shall be separately itemized from any State and local retail sales tax on the sales receipt provided to the buyer.

(c) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary, provided the marijuana will be

provided only to registered qualifying patients directly or through their registered caregivers.

§ 7922. LIABILITY FOR TAX AND PENALTIES

(a) Any tax collected under this chapter shall be deemed to be held by the retailer in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as to indicate clearly the amount of tax collected, and that the tax receipts are the property of the State of Vermont.

(b) Every retailer required to collect the tax imposed by this chapter shall be personally and individually liable for the amount of tax together with such interest and penalty as has accrued under this title. If the retailer is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect the tax and transmit it to the Commissioner of Taxes as required in this chapter.

(c) A retailer shall have the same rights in collecting the tax from his or her purchaser or regarding nonpayment of the tax by the purchaser as if the tax were a part of the purchase price of the marijuana and payable at the same time; provided, however, if the retailer required to collect the tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer to collect the tax and shall have the right to intervene in such action or proceeding.

(d) A retailer required to collect the tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer for the tax collected unless the purchaser has provided written notice to a retailer, and the retailer has had 60 days to respond.

(e) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use taxes in chapter 233 of this title shall apply to the tax imposed by this chapter.

§ 7923. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes marijuana or a marijuana-infused product is subject to the tax imposed by this chapter on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the nontaxable products are subject to the tax imposed by this chapter unless the retailer can identify by reasonable and verifiable standards

the portion that is not subject to tax from its books and records that are kept in the regular course of business.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products includes marijuana or a marijuana-infused product subject to the tax under this chapter; or

(2) marijuana or marijuana-infused products provided free of charge with the required purchase of another product.

§ 7924. RETURNS

(a) Any retailer required to collect the tax imposed by this chapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer, a statement containing its name and place of business, the amount of marijuana or marijuana-infused product sales subject to the retail tax imposed by this subchapter sold in the preceding month, and any other information required by the Department of Taxes, along with the tax due.

(b) Every retailer shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. These records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7925. LICENSES

(a) Every retailer required to collect the tax imposed by this chapter shall apply for a marijuana retail tax license in the manner prescribed by the Commissioner of Taxes. The Commissioner shall issue, without charge, to each registrant a license empowering him or her to collect the marijuana retail tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the registrant. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant’s ceasing to do business at the place named. A license to collect marijuana retail tax shall be in addition to the licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title and any license required by the Department of Public Safety.

(b) The Department of Public Safety may require the Commissioner of Taxes to suspend or revoke the tax license of any person for failure to comply with any provision of this chapter.

Subchapter 4. Local Taxes

§ 7941. TAX IMPOSED

(a) There is imposed a marijuana local tax equal to 2.5 percent of the sales price, as that term is defined in subdivision 9701(4) of this title, on each retail sale of marijuana or marijuana-infused products in this State. The tax imposed by this section shall be paid by the buyer to the retailer. Each retailer shall collect from the buyer the full amount of the tax payable on each taxable sale.

(b) The tax imposed by this section is separate from the general sales and use tax imposed by chapter 233 of this title. The tax imposed under this section shall be separately itemized from any State and local retail sales tax on the sales receipt provided to the buyer.

(c) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary, provided the marijuana will be provided only to registered qualifying patients directly or through their registered caregivers.

§ 7942. LIABILITY FOR TAX AND PENALTIES

(a) Any tax collected under this chapter shall be deemed to be held by the retailer in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as to indicate clearly the amount of tax collected, and that the tax receipts are the property of the State of Vermont.

(b) Every retailer required to collect the tax imposed by this chapter shall be personally and individually liable for the amount of tax together with such interest and penalty as has accrued under this title. If the retailer is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect the tax and transmit it to the Commissioner of Taxes as required in this chapter.

(c) A retailer shall have the same rights in collecting the tax from his or her purchaser or regarding nonpayment of the tax by the purchaser as if the tax were a part of the purchase price of the marijuana and payable at the same time; provided, however, if the retailer required to collect the tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer to collect the tax and shall have the right to intervene in such action or proceeding.

(d) A retailer required to collect the tax may also refund or credit to the

purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer for the tax collected unless the purchaser has provided written notice to a retailer, and the retailer has had 60 days to respond.

(e) The tax imposed under this subchapter shall be collected and administered by the Department of Taxes, and the taxes collected under this subchapter shall be paid by the Department of Taxes to the municipality where the tax was collected; provided, however, that a per return fee of \$5.96 shall be assessed to compensate the Department for the cost of collecting and administering the tax. To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use taxes in chapter 233 of this title shall apply to the tax imposed by this chapter.

§ 7943. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes marijuana or a marijuana-infused product is subject to the tax imposed by this chapter on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the nontaxable products is subject to the tax imposed by this chapter unless the retailer can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products includes marijuana or a marijuana-infused product subject to the tax under this chapter; or

(2) marijuana or marijuana-infused products provided free of charge with the required purchase of another product.

§ 7944. RETURNS

(a) Any retailer required to collect the tax imposed by this subchapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer, a statement containing its name and place of business, the amount of marijuana or marijuana-infused product sales subject to the local tax imposed by this subchapter sold in the preceding month, and any other information required by the Department of Taxes, along with the tax due.

(b) Every retailer shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this subchapter. These records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7945. LICENSES

(a) Every retailer required to collect the tax imposed by this subchapter shall apply for a marijuana local tax license in the manner prescribed by the Commissioner of Taxes. The Commissioner shall issue, without charge, to each registrant a license empowering him or her to collect the marijuana local tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the registrant. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant's ceasing to do business at the place named. A license to collect marijuana local tax shall be in addition to the licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title and any license required by the Department of Public Safety.

(b) The Department of Public Safety may require the Commissioner of Taxes to suspend or revoke the tax license of any person for failure to comply with any provision of this chapter.

Sec. 8. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

* * *

(18) "Vermont net income" means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

* * *

(ii) decreased by:

(I) the "gross-up of dividends" required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer's election of the foreign tax credit; ~~and~~

(II) the amount of income which results from the required

reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, except for marketing expenses, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

* * *

(21) “Taxable income” means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

* * *

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from U.S. government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; and

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, except for marketing expenses, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E; and

* * *

Sec. 9. 32 V.S.A. § 9741(52) is added to read:

(52) Marijuana sold by a dispensary as authorized under 18 V.S.A.

chapter 86 or by a retailer as authorized under 18 V.S.A. chapter 87.

Sec. 10. APPROPRIATIONS FROM THE MARIJUANA REGULATION
AND RESOURCE FUND

In fiscal year 2019, the following amounts are appropriated from the Marijuana Regulation and Resource Fund:

(1) Department of Health: \$375,000.00 for initial prevention, education, and counter-marketing programs.

(2) Tax Department: \$607,000.00 for the acquisition of an excise tax module and staffing expenses to administer the excise tax established in this act.

(3) Agency of Agriculture, Food and Markets:

(A) \$90,400.00 for the Vermont Agriculture and Environmental Lab.

(B) \$133,000.00 for laboratory equipment, supplies, training, testing, and contractual expenses required by this act.

(C) \$142,500.00 for staffing expenses related to rulemaking, program administration, and processing of applications and licenses.

(4) Agency of Administration: \$40,000.00 for expenses and staffing of the Marijuana Program Review Commission established in this act.

Sec. 11. EXECUTIVE BRANCH POSITION AUTHORIZATIONS

The establishment of the following new permanent classified positions is authorized as follows:

(1) In the Department of Health—one (1) Substance Abuse Program Manager.

(2) In the Department of Taxes—one (1) Business Analyst AC: Tax and one (1) Tax Policy Analyst.

(3) In the Agency of Agriculture, Food and Markets—one (1) Agriculture Chemist and two (2) Program Administrator.

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

Sec. 12. MARIJUANA REGULATION AND RESOURCE FUND

BUDGET AND REPORT

Annually, through 2021, the Secretary of Administration shall report to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting on the following:

(1) an update of the administration's efforts concerning implementation, administration, and enforcement of this act;

(2) any changes or updates to revenue expectations from fees and taxes based on changes in competitive pricing or other information;

(3) projected budget adjustment needs for current year appropriations from the Marijuana Regulation and Resource Fund; and

(4) a comprehensive spending plan with recommended appropriations from the Fund for the next fiscal year, by department, including an explanation and justification for the expenditures and how each recommendation meets the intent of this act.

* * * Effective Dates * * *

Sec. 13. EFFECTIVE DATES

(a) This section and Secs. 1 (marijuana youth education and prevention), 4 (marijuana establishments), 7 (marijuana taxes), 10 (appropriations from the Marijuana Regulation and Resource Fund), and 11 (Executive Branch position authorizations) shall take effect on passage.

(b) Secs. 5 (local authority to regulate marijuana establishments), 6 (zoning), and 12 (Marijuana Regulation and Resource Fund budget and report), shall take effect on July 1, 2018.

(c) Sec. 3 (marijuana extraction by licensed marijuana product manufacturer) shall take effect on May 15, 2019.

(d) Secs. 2 (marijuana cultivation cooperatives) and 9 (sales tax) shall take effect on July 1, 2019.

(e) Sec. 8 (taxes; definitions) shall take effect on July 1, 2019 and shall apply to taxable year 2019 and after.

Third Reading

S. 166

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

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)

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)

Action Postponed Until May 1, 2018

S. 267

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

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"

NOTICE CALENDAR
Favorable with Amendment
J.R.H. 17

Joint resolution opposing the U.S. Environmental Protection Agency's proposed rollback of federal motor vehicle emission standards.

Rep. McCormack of Burlington, for the Committee on Energy and Technology, recommends that the resolution be amended by striking out all after the sponsors and by inserting in lieu thereof the following:

Whereas, the federal Greenhouse Gas Emission Standards, the Corporate Average Fuel Economy (CAFE) Standards, and the waiver allowing California vehicle emissions standards to be more stringent than those of the federal government have saved tens of thousands of American lives, reduced U.S. carbon emissions by millions of tons of CO₂, and saved American motorists billions of dollars in fuel costs, and

Whereas, these programs and the waiver authority are under the jurisdiction of the federal Clean Air Act, and have contributed to a modern automobile that lasts longer, requires far fewer tune-ups, pollutes the air considerably less, and requires less fuel to operate, and

Whereas, in the 1970s, U.S. Representative James Jeffords fought for the strongest possible auto emissions standards and unsuccessfully advocated for a minimum mileage standard instead of the adopted average standard, and

Whereas, Vermont has joined with other states and the District of Columbia, including Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, and Washington in adopting the more stringent California vehicle emissions standards, and

Whereas, if fuel efficiency had not improved from 2005 through 2015, including as a result of the current standards adopted in 2012, households would have spent 25 percent more on fuel, and

Whereas, even with the slightly higher purchase price attributable to incorporating the technology required to comply with the 2012 standards, the average new vehicle buyer starts saving during the first month of ownership, and

Whereas, the International Council on Clean Transportation recently found that, due to technological improvements and innovation, compliance costs for model years 2022–2025 will be 34 percent to 40 percent lower than originally projected, and

Whereas, auto manufacturers are already complying with the 2012

standards, and more than half of the new vehicles introduced in 2017 already meet the 2020 level of the standards, and 32 percent comply with the 2025 level, and

Whereas, Synapse Energy Economics has reported that the 2022 and 2025 standards will create more than 100,000 U.S. jobs in the auto industry by 2025 and more than 250,000 by 2035, and

Whereas, the American Lung Association recently released a poll showing that voters overwhelmingly support the U.S. Environmental Protection Agency's (EPA) current fuel efficiency standards for cars, SUVs, and light trucks in model years 2022 to 2025, and the poll also found that nearly seven in 10 voters want the EPA to leave current fuel efficiency standards in place, and

Whereas, the best-selling passenger car in America — while more fuel efficient than its earlier models— earned the National Highway Traffic Safety Administration's highest-possible, 5-star rating in every safety category and earned a 2017 Top Safety Pick Plus designation from the Insurance Institute for Highway Safety, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly commends the Agency of Natural Resources and the Vermont Attorney General for their expressed opposition to the EPA's proposal to roll back any of the Greenhouse Gas Emissions or CAFE Standards or to revoke the emissions waiver granted to California under the Clean Air Act, and be it further

Resolved: That the General Assembly urges the Vermont Attorney General to join in any legal action against the EPA's authority to adopt these regulatory changes, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the EPA Administrator, the Secretary of Natural Resources, the Vermont Attorney General, and the Vermont Congressional Delegation.

(Committee Vote: 7-1-0)

(For Text of Resolution see House Journal April 19, 2018)

S. 175

An act relating to the wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums

Rep. Lippert of Hinesburg, 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. 18 V.S.A. chapter 91, subchapter 4 is added to read:

Subchapter 4. Wholesale Prescription Drug Importation Program

§ 4651. WHOLESALE IMPORTATION PROGRAM FOR PRESCRIPTION
DRUGS; DESIGN

(a) The Agency of Human Services, in consultation with interested stakeholders and appropriate federal officials, shall design a wholesale prescription drug importation program that complies with the applicable requirements of 21 U.S.C. § 384, including the requirements regarding safety and cost savings. The program design shall:

(1) designate a State agency that shall either become a licensed drug wholesaler or contract with a licensed drug wholesaler in order to seek federal certification and approval to import safe prescription drugs and provide significant prescription drug cost savings to Vermont consumers;

(2) use Canadian prescription drug suppliers regulated under the laws of Canada or of one or more Canadian provinces, or both;

(3) ensure that only prescription drugs meeting the U.S. Food and Drug Administration's safety, effectiveness, and other standards shall be imported by or on behalf of the State;

(4) import only those prescription drugs expected to generate substantial savings for Vermont consumers;

(5) ensure that the program complies with the tracking and tracing requirements of 21 U.S.C. §§ 360eee and 360eee-1 to the extent feasible and practical prior to imported drugs coming into the possession of the State wholesaler and that it complies fully after imported drugs are in the possession of the State wholesaler;

(6) prohibit the distribution, dispensing, or sale of imported products outside Vermont's borders;

(7) establish a fee on each prescription or establish another financing mechanism to ensure that the program is funded adequately in a manner that does not jeopardize significant consumer savings; and

(8) include a robust audit function.

(b) On or before January 1, 2019, the Secretary of Human Services shall submit the proposed design for a wholesale prescription drug importation program to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

§ 4652. MONITORING FOR ANTICOMPETITIVE BEHAVIOR

The Agency of Human Services shall consult with the Office of the Attorney General to identify the potential, and to monitor, for anticompetitive behavior in industries that would be affected by a wholesale prescription drug importation program.

§ 4653. FEDERAL COMPLIANCE

(a) On or before July 1, 2019, the Agency of Human Services shall submit a formal request to the Secretary of the U.S. Department of Health and Human Services for certification of the State's wholesale prescription drug importation program.

(b) The Agency of Human Services shall seek the appropriate federal approvals, waivers, exemptions, or agreements, or a combination thereof, as needed to enable all covered entities enrolled in or eligible for the federal 340B Drug Pricing Program to participate in the State's wholesale prescription drug importation program to the fullest extent possible without jeopardizing their eligibility for the 340B Program.

§ 4654. IMPLEMENTATION PROVISIONS

Upon certification and approval by the Secretary of the U.S. Department of Health and Human Services, the Agency of Human Services shall begin implementation of the wholesale prescription drug importation program and shall begin operating the program within six months following the date of the Secretary's approval. As part of the implementation process, the Agency of Human Services shall, in accordance with State procurement and contract laws, rules, and procedures as appropriate:

(1) become licensed as a wholesaler or enter into a contract with a Vermont-licensed wholesaler;

(2) contract with one or more Vermont-licensed distributors;

(3) contract with one or more licensed and regulated Canadian suppliers;

(4) engage with health insurance plans, employers, pharmacies, health care providers, and consumers;

(5) develop a registration process for health insurance plans, pharmacies, and prescription drug-administering health care providers who are willing to participate in the program;

(6) create a publicly available source for listing the prices of imported prescription drug products that shall be made available to all participating entities and consumers;

(7) create an outreach and marketing plan to generate program awareness;

(8) starting in the weeks before the program becomes operational, create and staff a hotline to answer questions and address the needs of consumers, employers, health insurance plans, pharmacies, health care providers, and other affected sectors;

(9) establish the audit function and a two-year audit work-plan cycle; and

(10) conduct any other activities that the Agency determines to be important for successful implementation of the program.

§ 4655. ANNUAL REPORTING

(a) Annually on or before January 15, the Agency of Human Services shall report to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance regarding the operation of the wholesale prescription drug importation program during the previous calendar year, including:

(1) which prescription drugs were included in the wholesale importation program;

(2) the number of participating pharmacies, health care providers, and health insurance plans;

(3) the number of prescriptions dispensed through the program;

(4) the estimated savings to consumers, health plans, employers, and the State during the previous calendar year and to date;

(5) information regarding implementation of the audit plan and audit findings; and

(6) any other information the Secretary of Human Services deems relevant.

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

Sec. 2. WHOLESALE IMPORTATION PROGRAM; CONDITION FOR IMPLEMENTATION

The Agency of Human Services shall be required to design and commence implementation of the wholesale prescription drug importation program described in Sec. 1 of this act only to the extent that funds are appropriated for this purpose in the budget bill enacted by the General Assembly for fiscal year 2019 or are otherwise made available.

and that after passage the title of the bill be amended to read: “An act relating to the wholesale importation of prescription drugs into Vermont”

(Committee vote: 11-0-0)

(For text see Senate Journal February 28, 2018)

Rep. Till of Jericho, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Health Care and when further amended as follows:

First: In Sec. 1, 18 V.S.A. chapter 91, subchapter 4, in 18 V.S.A. § 4651(a), by striking out subdivision (7) in its entirety and inserting in lieu thereof a new subdivision (7) to read as follows:

(7) recommend a charge per prescription or another method of support to ensure that the program is funded adequately in a manner that does not jeopardize significant consumer savings; and

Second: In Sec. 1, 18 V.S.A. chapter 91, subchapter 4, in 18 V.S.A. § 4651, in subsection (b), by striking out “House Committee on Health Care” and inserting in lieu thereof “House Committees on Health Care and on Ways and Means”

Third: In Sec. 1, 18 V.S.A. chapter 91, subchapter 4, by inserting a new 18 V.S.A. § 4654 to read as follows:

§ 4654. PROGRAM FINANCING

The Agency of Human Services shall not implement the wholesale prescription drug importation program until the General Assembly enacts legislation establishing a charge per prescription or another method of financial support for the program.

and by redesignating the remaining sections of the subchapter to be numerically correct

Fourth: In Sec. 1, 18 V.S.A. chapter 91, subchapter 4, in the redesignated 18 V.S.A. § 4655 (implementation provisions), by striking out the first sentence and inserting in lieu thereof the following:

Upon the last to occur of the General Assembly enacting a method of financial support pursuant to section 4654 of this chapter and receipt of certification and approval by the Secretary of the U.S. Department of Health and Human Services, the Agency of Human Services shall begin implementation of the wholesale prescription drug importation program and shall begin operating the program within six months.

Fifth: In Sec. 1, 18 V.S.A. chapter 91, subchapter 4, in the redesignated

18 V.S.A. § 4656 (annual reporting), in subsection (a), by striking out “House Committee on Health Care” and inserting in lieu thereof “House Committees on Health Care and on Ways and Means”

Sixth: In Sec. 2, wholesale importation program; condition for implementation, by striking out “CONDITION FOR IMPLEMENTATION” following the semicolon in the section heading and inserting in lieu thereof “DESIGN CONTINGENT ON FUNDING” and, following “design”, by striking out “and commence implementation of”

(Committee Vote: 8-0-3)

Rep. Yacovone of Morristown, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committees on Health Care and Ways and Means.

(Committee Vote: 11-0-0)

S. 192

An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation

Rep. LaClair of Barre Town, for the Committee on Government Operations, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 2405 is amended to read:

§ 2405. COUNCIL HEARING AND SANCTION PROCEDURE

(a) Generally. Except as otherwise provided in this subchapter, ~~the Council~~ all proceedings under this subchapter shall ~~conduct its proceedings be~~ conducted in accordance with the Vermont Administrative Procedure Act. This includes the ability to summarily suspend the certification of a law enforcement officer in accordance with 3 V.S.A. § 814(c).

(b) Prosecutor.

(1) An Assistant Attorney General assigned by the Office of the Attorney General shall be responsible for prosecuting unprofessional conduct cases under this subchapter.

(2) The burden of proof shall be on the State to show by a preponderance of the evidence that a law enforcement officer has engaged in unprofessional conduct.

(c) Hearing officer.

(1) The Council shall appoint a hearing officer, who shall be an attorney admitted to practice law in this State, to conduct any unprofessional conduct hearing under this subchapter. The Council shall choose the hearing officer from a list of hearing officers provided by the Office of Professional Regulation.

(2) The hearing officer may administer oaths and exercise powers properly incidental to the conduct of the hearing.

(3) Any hearing officer sitting in an unprofessional conduct case shall do so impartially and without any ex parte knowledge of the case in controversy.

(4)(A) The hearing officer shall issue findings of fact and conclusions of law regarding the prosecutor's charges of unprofessional conduct.

(B) For the purposes of subdivision 2406(b)(1)(B) of this subchapter, the hearing officer shall determine at the hearing and shall include in his or her findings of fact whether there is a pending labor proceeding related to any unprofessional conduct that the hearing officer concludes a law enforcement officer committed.

(5)(A) The hearing officer shall report the findings of fact and conclusions of law to the Council within 30 days after the conclusion of the hearing, unless the Council grants an extension. The provisions of 3 V.S.A. § 811 regarding proposals for decision shall not apply to the hearing officer's report.

(B) The hearing officer's findings and conclusions shall be binding on the Council; provided, however, that the Council may request that the hearing officer make clarifications or additional findings.

(d) Council.

(1) The Council shall hold a sanction hearing based on the hearing officer's findings of fact and conclusions of law. Unless the Council grants an extension, the Council shall hold its sanction hearing within 30 days after the date the hearing officer reports his or her findings of fact and conclusions of law to the Council or within 30 days after the date the hearing officer makes clarifications or additional findings under subdivision (c)(5)(B) of this section, whichever occurs later.

(2) Unless the Council grants an extension, the Council shall issue its sanction order within 10 days after its sanction hearing.

Sec. 2. 20 V.S.A. § 2406 is amended to read:

§ 2406. PERMITTED COUNCIL SANCTIONS

(a) Generally. The Council may impose any of the following sanctions on a law enforcement officer's certification upon its finding a hearing officer's conclusion that a law enforcement officer committed unprofessional conduct:

(1) written warning;

(2) suspension, but to run concurrently with the length and time of any suspension imposed by a law enforcement agency with an effective internal affairs program, which shall amount to suspension for time already served if an officer has already served a suspension imposed by his or her agency with such a program;

(3) revocation, with the option of recertification at the discretion of the Council; or

(4) permanent revocation.

(b) Intended revocation; temporary voluntary surrender.

(1)(A) If, after ~~an evidentiary~~ a sanction hearing, the Council intends to revoke a law enforcement officer's certification due to its finding a hearing officer's conclusion that the officer committed unprofessional conduct, the Council shall issue ~~a decision~~ an order to that effect.

(B) Within 10 business days ~~from~~ after the date of that ~~decision~~ order, such an officer may voluntarily surrender his or her certification if the hearing officer determined under subdivision 2405(c)(4)(B) of this subchapter that there is a pending labor proceeding related to the Council's unprofessional conduct findings the hearing officer concluded the law enforcement officer committed.

(C) A voluntary surrender of an officer's certification shall remain in effect until the labor proceeding and all appeals are finally adjudicated or until the officer requests a final sanction hearing, whichever occurs first, and thereafter until the Council's final sanction hearing on the matter. At that hearing, the Council may modify its ~~findings and decision~~ sanction order on the basis of additional evidence set forth in the labor proceeding decision, but shall not be bound by any outcome of the labor proceeding.

(2) If an officer fails to voluntarily surrender his or her certification in accordance with subdivision (1) of this subsection, the Council's original ~~findings and decision~~ sanction order shall take effect.

Sec. 3. 20 V.S.A. § 2410 is amended to read:

§ 2410. COUNCIL ADVISORY COMMITTEE

(a) Creation. There is created the Council Advisory Committee to provide advice to the Council regarding its duties under this subchapter.

(1) The Committee shall specifically:

(A) advise and assist the Council in developing procedures to ensure that allegations of unprofessional conduct by law enforcement officers are investigated fully and fairly, and to ensure that appropriate action is taken in regard to those allegations; and

(B) recommend to the Council any appropriate sanctions to impose on a law enforcement officer's certification upon a hearing officer's concluding that the law enforcement officer committed unprofessional conduct.

(2) The Committee shall be advisory only and shall not have any decision-making authority.

(b) Membership. The Committee shall be composed of five individuals appointed by the Governor. The Governor may solicit recommendations for appointments from the Chair of the Council.

(1) Four of these members shall be public members who during incumbency shall not serve and shall have never served as a law enforcement officer or corrections officer and shall not have an immediate family member who is serving or has ever served as either of those officers.

(2) One of these members shall be a retired law enforcement officer.

(c) Assistance. The Executive Director of the Council or designee shall attend Committee meetings as a resource for the Committee.

(d) Reimbursement. ~~Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance~~ shall be entitled to per diem compensation and reimbursement of expenses ~~pursuant to~~ as permitted under 32 V.S.A. § 1010 ~~for not more than five meetings per year.~~ Such payments shall be derived from the budget of the Council.

Sec. 4. 2017 Acts and Resolves No. 56, Sec. 2 is amended to read:

Sec. 2. TRANSITIONAL PROVISIONS TO IMPLEMENT THIS ACT

(a) Effective internal affairs programs.

(1) Law enforcement agencies. On or before ~~July 1, 2018~~ January 1, 2019, each law enforcement agency shall adopt an effective internal affairs program in accordance with 20 V.S.A. § 2402(a) in Sec. 1 of this act.

(2) Vermont Criminal Justice Training Council. On or before ~~April 1, 2018~~ July 1, 2018, the Vermont Criminal Justice Training Council shall adopt an effective internal affairs program model policy in accordance with 20 V.S.A. § 2402(b) in Sec. 1 of this act.

(b) Alleged law enforcement officer unprofessional conduct. The provisions of 20 V.S.A. chapter 151, subchapter 2 (unprofessional conduct) in Sec. 1 of this act shall apply to law enforcement officer conduct alleged to have been committed on and after the effective date of that subchapter.

(c) Duty to disclose. The requirement for a former law enforcement agency to disclose the reason that a law enforcement officer is no longer employed by the agency as set forth in 20 V.S.A. § 2362a in Sec. 1 of this act shall not apply if there is a binding nondisclosure agreement prohibiting that disclosure that was executed prior to the effective date of that section.

(d) Council rules. The Vermont Criminal Justice Training Council may adopt rules in accordance with 20 V.S.A. § 2411 (Council rules) in Sec. 1 of this act, prior to the effective date of that section.

(e) Council Advisory Committee. The Governor shall make appointments to the Council Advisory Committee set forth in 20 V.S.A. § 2410 in Sec. 1 of this act prior to the effective date of that section.

(f) Annual report of Executive Director. Annually, on or before January 15, beginning in the year ~~2019~~ 2020 and ending in the year ~~2022~~ 2023, the Executive Director of the Vermont Criminal Justice Training Council shall report to the ~~General Assembly~~ House and Senate Committees on Government Operations regarding the Executive Director's analysis of the implementation of this act and any recommendations he or she may have for further legislative action.

(g) Council, OPR; joint report. On or before October 1, 2017, the Executive Director of the Vermont Criminal Justice Training Council and the Director of the Office of Professional Regulation (Office) shall consult with law enforcement stakeholders and report to the Senate and House Committees on Government Operations on a proposal for the Office to perform duties related to the professional regulation of law enforcement officers.

Sec. 5. 2017 Acts and Resolves No. 56, Sec. 6 is amended to read:

Sec. 6. EFFECTIVE DATES

This act shall take effect on ~~July 1, 2018~~ January 1, 2019, except:

(1) this section and Sec. 2 (transitional provisions to implement this act) shall take effect on passage; and

(2) the following shall take effect on July 1, 2017:

(A) in Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council):

(i) § 2351 (creation and purpose of Council);

- (ii) § 2351a (definitions);
 - (iii) § 2352 (Council membership);
 - (iv) § 2354 (Council meetings);
 - (v) § 2355 (Council powers and duties), except that subsection (a) shall take effect on ~~July 1, 2018~~ January 1, 2019;
 - (vi) § 2358 (minimum training standards; definitions); and
 - (vii) § 2362a (potential hiring agency; duty to contact former agency);
- (B) Sec. 3, 20 V.S.A. § 1812 (definitions); and
- (C) Sec. 4, 20 V.S.A. § 1922 (creation of State Police Advisory Commission; members; duties).

Sec. 6. 13 V.S.A. § 3251 is amended to read:

§ 3251. DEFINITIONS

As used in this chapter:

* * *

(9) "Law enforcement officer" means a person certified as a law enforcement officer under the provisions of 20 V.S.A. chapter 151.

Sec. 7. 13 V.S.A. § 3259 is added to read:

§ 3259. SEXUAL EXPLOITATION OF A PERSON IN THE CUSTODY OF A LAW ENFORCEMENT OFFICER

(a) No law enforcement officer shall engage in a sexual act with a person whom the officer is detaining, arresting, or otherwise holding in custody or who the officer knows is being detained, arrested, or otherwise held in custody by another officer.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both.

Sec. 8. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1, 20 V.S.A. § 2405 (Council hearing and sanction procedure); 2, 20 V.S.A. § 2406 (permitted Council sanctions); and 3, 20 V.S.A. § 2410 (Council Advisory Committee) shall take effect on January 1, 2019.

and that after passage the title of the bill be amended to read: “An act relating to the Vermont Criminal Justice Training Council’s professional regulation of law enforcement officers”

(Committee vote: 10-0-1)

(For text see Senate Journal March 20, 2018)

Rep. Juskiewicz of Cambridge, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations and when further amended as follows:

In Sec. 3, 20 V.S.A. § 2410 (Council Advisory Committee), by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read:

(d) Reimbursement. Members of the Committee ~~who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance~~ shall be entitled to per diem compensation and reimbursement of expenses ~~pursuant to~~ as permitted under 32 V.S.A. § 1010 for not more than five eight meetings per year. Such payments shall be derived from the budget of the Council.

(Committee Vote: 9-0-2)

S. 204

An act relating to the registration of short-term rentals

Rep. Read of Fayston, for the Committee on General; Housing; and Military Affairs, 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. 18 V.S.A. § 4301 is amended to read:

§ 4301. DEFINITIONS

(a) As used in this ~~subchapter~~ chapter:

* * *

(14) “Short-term rental” means a furnished ~~home~~ house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year.

* * *

Sec. 2. 32 V.S.A. chapter 225 is amended to read:

CHAPTER 225. MEALS AND ROOMS TAX

* * *

§ 9202. DEFINITIONS

The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

* * *

(3) “Hotel” means an establishment ~~which~~ that holds itself out to the public by offering sleeping accommodations for a consideration, whether or not the major portion of its operating receipts is derived therefrom and whether or not the sleeping accommodations are offered to the public by the owner or proprietor or lessee, sublessee, mortgagee, licensee, or any other person or the agent of any of the foregoing. The term includes inns, motels, tourist homes and cabins, ski dormitories, ski lodges, lodging homes, rooming houses, furnished-room houses, boarding houses, and private clubs, as well as any building or structure or part thereof to the extent to which any such building or structure or part thereof in fact is held out to the public by offering sleeping accommodations for a consideration. As used in this chapter, the term includes “short-term rental” as defined in 18 V.S.A. § 4301. The term shall not include the following:

(A) a hospital, licensed under 18 V.S.A. chapter 43 or a nursing home, residential care home, assisted living residence, home for the terminally ill, therapeutic community residence as defined pursuant to 33 V.S.A. chapter 71, or independent living facility;

(B) any establishment operated by any state or U.S. agency or institution, except the Department of Forests, Parks and Recreation of the State of Vermont;

(C) an establishment operated by a nonprofit corporation or association organized and operated exclusively for religious, charitable, or educational purposes, one or more, which, in furtherance of any of the purposes for which it was organized, operates a hotel as defined herein; ~~and~~

(D) a continuing care retirement community certified under 8 V.S.A. chapter 151.

* * *

§ 9271. LICENSES REQUIRED

(a) Each operator prior to commencing business shall register with the Commissioner each place of business within the State where he or she operates

a hotel or sells taxable meals or alcoholic beverages; provided, however, that an operator who sells taxable meals through a vending machine shall not be required to hold a license for each individual machine. Upon receipt of an application in such form and containing such information as the Commissioner may require for the proper administration of this chapter, the Commissioner shall issue without charge a license for each ~~such~~ the place in such form as he or she may determine, attesting that ~~such~~ the registration has been made. No person shall engage in serving taxable meals or alcoholic beverages or renting hotel rooms without the license provided in this section. The license shall be nonassignable and nontransferable and shall be surrendered to the Commissioner if the business is sold or transferred or if the registrant ceases to do business at the place named.

(b)(1) Each application shall indicate whether a license is sought for a hotel or to sell taxable meals or alcoholic beverages. If the application is sought for a hotel, it shall further specify if the license is for a short-term rental.

(2) A short-term rental operator shall post the corresponding meals and rooms tax account number on any advertisement for the short-term rental.

(c) An operator submitting an application for a short-term rental shall certify on the application forms published by the Department that the short-term rental is in compliance with the following provisions:

(1) The unit does not have any known violations of relevant State and local fire, life safety, and zoning laws and rules, and has all smoke and carbon monoxide detectors as required by 20 V.S.A. chapter 173.

(2) The unit is free of any evidence of insects, rodents, and other pests.

(3) If the unit uses water from a nonpublic water supply system, it does not have any known violations of Vermont's water supply rules.

(4) If applicable, all sewage is disposed of through an approved facility, including either:

(A) a public sewage treatment plant; or

(B) an individual sewage disposal system that does not have any known violations of the Department of Environmental Conservation's rules and other applicable sanitation requirements.

(5) Any advertisement for the short-term rental contains the operator's meals and rooms tax account number provided by the Department.

(6) There is posted within the unit a telephone number for the person responsible for the unit and the contact information for the Attorney General's Consumer Assistance Program and the Department of Public Safety's Division of Fire Safety.

(d) The Department of Taxes shall use existing information technology systems to maintain information about each short-term rental in the State for which an operator has obtained a meals and rooms tax account number, including the operator's name and contact information and documentation received pursuant to subsection (c) of this section.

(e) The following data maintained by the Department in accordance with subsection (d) of this section shall be available to the Department of Health and to the Department of Public Safety's Division of Fire Safety pursuant to subdivision 3102(d)(4) of this title for the purpose of ensuring the health and safety of the transient, traveling, or vacationing public:

- (1) name of the operator;
- (2) address of the operator's primary residence or mailing address;
- (3) operator's primary telephone number and e-mail address;
- (4) short-term rental address; and
- (5) meals and rooms tax account number associated with short-term rental.

Sec. 3. EDUCATIONAL MATERIALS; SHORT-TERM RENTALS

(a) The Commissioners of Health and of Taxes and the Executive Director of the Department of Public Safety's Division of Fire Safety shall jointly prepare and publish on the websites of the Departments of Health, of Taxes, and of Public Safety educational materials for short-term rental operators, including:

- (1) an explanation of the requirements in 32 V.S.A. chapter 225;
- (2) a description of health and safety precautions that short-term rental operators are advised to take; and
- (3) information regarding the importance of and coverage options for liability insurance.

(b) The Department of Taxes shall annually disseminate materials prepared and published pursuant to subsection (a) of this section to operators of short-term rentals licensed pursuant to 32 V.S.A. chapter 225. The Department may disseminate the materials electronically.

(c) As used in this section, "short-term rental" shall have the same meaning as in 18 V.S.A. § 4301.

Sec. 4. DATA COLLECTION; REPORTS

(a) The Attorney General's Consumer Assistance Program and the Department of Public Safety's Division of Fire Safety shall maintain records

on all complaints received between July 1, 2018 and January 1, 2020 pertaining to a short-term rental located in Vermont or the licensure process established pursuant to 32 V.S.A. chapter 225. This information shall be available to the Departments of Taxes and of Health for the purpose of completing the reports required pursuant to subsection (b) of this section.

(b) The Commissioner of Taxes, in collaboration with the Commissioner of Health and the Executive Director of the Department of Public Safety's Division of Fire Safety, shall submit the following written reports to the House Committees on General, Housing, and Military Affairs and on Human Services and to the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare:

(1) on or before January 1, 2019, a report detailing the progress in preparing for implementation of 32 V.S.A. chapter 225; and

(2) on or before January 1, 2020, a report addressing:

(A) any gaps or weaknesses related to the regulation of short-term rentals pursuant to 32 V.S.A. chapter 225;

(B) data related to the number of licensed short-term rental units and the collection of taxes;

(C) the types of educational materials distributed to short-term rental operators and manner of distribution;

(D) the number of new short-term rental accounts opened pursuant to 32 V.S.A. chapter 225 since the passage of this act;

(E) the manner and extent to which the Departments of Health and of Taxes and the Department of Public Safety's Division of Fire Safety have been in communication with municipalities and the transient, traveling, or vacationing public as a result of this act; and

(F) whether any complaints have been received about short-term rentals or the licensure process established pursuant to 32 V.S.A. chapter 225, and if so, the nature of the complaints, the name of the entity receiving the complaints, and the process by which the complaints are addressed.

Sec. 5. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except Sec. 2 shall take effect on January 1, 2019.

(Committee vote: 10-1-0)

(For text see Senate Journal March 16, 2018)

S. 257

An act relating to miscellaneous changes to education law

Rep. Sharpe of Bristol, for the Committee on Education, 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:

* * * Out-of-State Independent Schools * * *

Sec. 1. 16 V.S.A. § 822 is amended to read:

§ 822. SCHOOL DISTRICT TO MAINTAIN PUBLIC HIGH SCHOOLS OR
PAY TUITION

(a) Each school district shall maintain one or more approved high schools in which high school education is provided for its resident students unless:

(1) the electorate authorizes the school board to close an existing high school and to provide for the high school education of its students by paying tuition to a public high school, an approved independent high school, or an independent school meeting education quality standards, to be selected by the parents or guardians of the student, ~~within or outside the State~~; or

* * *

Sec. 2. 16 V.S.A. § 828 is amended to read:

§ 828. TUITION TO APPROVED SCHOOLS; AGE; APPEAL

(a) A school district shall not pay the tuition of a student except to:

(1) a public school;

(2) an approved independent school, in Vermont;

(3) an independent school in Vermont meeting education quality standards;

(4) a tutorial program approved by the State Board;

(5) an approved education program, ~~or~~;

(6) an independent school in another state ~~or country~~ that is approved under the laws of that state or country, nor shall payment; provided, however, that the state is contiguous to Vermont;

(7) a public or independent school in the Province of Quebec approved under the laws of Canada; or

(8) a school to which a student on an individualized education plan has been referred or placed by the student's individualized education plan team or local education agency.

(b) Payment of tuition on behalf of a person shall not be denied on account of age.

(c) Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she may attend, may appeal to the State Board and its decision shall be final.

Sec. 3. TRANSITION

Notwithstanding any provision to the contrary in Sec. 2 of this act, a school district may pay tuition on behalf of a student to a school located in another country or to an approved independent school that is located in a state that is not contiguous to Vermont if, during the 2017–2018 school year, the student attended that school; provided, however, that tuition shall be paid for not more than four years after enactment of this act.

* * * Elections * * *

Sec. 4. ELECTIONS; UNIFIED UNION SCHOOL DISTRICT

(a) Notwithstanding any provision of law to the contrary, the election of a director on the board of a unified union school district who is to serve on the board after expiration of the term for an initial director shall be held at the unified union school district's annual meeting unless otherwise provided in the district's articles of agreement.

(b) Notwithstanding any provision of law to the contrary, if a vacancy occurs on the board of a unified union school district and the vacancy is in a seat that is allocated to a specific town, the clerk of the unified union district shall immediately notify the selectboard of the town. Within 30 days after the receipt of that notice, the unified union school district board, in consultation with the selectboard, shall appoint a person who is otherwise eligible to serve as a member of the unified union school district board to fill the vacancy until an election is held at an annual or special meeting, unless otherwise provided in accordance with the unified union school district's articles of agreement.

(c) Notwithstanding any provision of law to the contrary, the clerk, treasurer, and moderator of a unified union school district elected at an annual meeting shall enter upon their duties on July 1 following their election and shall serve a term of up to three years or until their successors are elected and qualified, except that if the voters at an annual meeting so vote, moderators elected at an annual meeting shall assume office upon election and shall serve for a term of up to three years or until their successors are elected and qualified.

(d) This section is repealed on July 1, 2020.

Sec. 5. 16 V.S.A. § 706k is amended to read:

§ 706k. ELECTION OF DISTRICT OFFICERS

(a)(1) A school director representing a member district who is to serve on the union school district board after the expiration of the terms provided for school directors in the final report shall be elected by that member district at an annual or special meeting. ~~Such~~ The election shall be by Australian ballot in those member districts that so elect their town school district directors. School directors elected at an annual meeting shall assume office upon election and shall serve a term of three years or until their successors are elected and qualified.

(2) Union district officers, ~~except the clerk, treasurer, and moderator,~~ elected at an annual meeting shall enter upon their duties on July 1 following their election and shall serve a term of one year or until their successors are elected and qualified. The clerk, treasurer, and moderator elected at an annual meeting shall enter upon their duties on July 1 following their election and shall serve a term of up to three years or until their successors are elected and qualified, except that if the voters at an annual meeting so vote, moderators elected at an annual meeting shall assume office upon election and shall serve for a term of ~~one year~~ up to three years or until their successors are elected and qualified. ~~School directors elected at an annual meeting shall assume office upon election and shall serve a term of three years or until their successors are elected and qualified.~~

(3) The clerk of the union district shall, within ten days after the election or appointment of any officer or director, give notice of the results to the Secretary of State.

* * *

* * * School Radon Mitigation * * *

Sec. 6. SCHOOL RADON MITIGATION; FUNDING OPPORTUNITIES

The Secretaries of Education and of Administration and the Commissioner of Health shall explore funding opportunities for testing and mitigating elevated radon concentrations in schools and contingency plans for the loss of related federal funding. On or before December 1, 2018, the Secretaries and the Commissioner shall jointly submit a written report to the House Committees on Corrections and Institutions and on Education and to the Senate Committees on Education and on Institutions with viable options for testing all schools for radon and for funding the mitigation of elevated radon concentrations in schools.

Sec. 7. PILOT; RADON TESTING IN SCHOOLS

The Commissioner of Health shall establish a pilot program to test schools in five supervisory unions for elevated concentrations of radon during the 2018–2019 school year with the goal of testing 30 schools. Schools that have been tested for radon within the previous five years need not be retested. The Agency of Education, in collaboration with the Department of Health, shall seek supervisory unions to volunteer for the pilot program.

* * * Technical Correction * * *

Sec. 8. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

* * *

(2) “Enrollment” means the number of students who are enrolled in a school operated by the district on October 1. A student shall be counted as one whether the student is enrolled as a full-time or part-time student. Students enrolled in prekindergarten programs shall not be counted.

* * *

* * * Prekindergarten Education * * *

Sec. 9. 16 V.S.A. § 829 is amended to read:

§ 829. PREKINDERGARTEN EDUCATION

(a) Definitions. As used in this section:

(1) “Prekindergarten child” means a child who, as of the date established by the district of residence for kindergarten eligibility, is:

(A) three or four years of age or is five years of age but is not yet eligible to be enrolled in kindergarten; or

(B) five years of age but is not yet enrolled in kindergarten if the child is on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973 and the child’s individualized education program team or evaluation and planning team recommends that the child receive prekindergarten education services.

(2) “Prekindergarten education” means services designed to provide to prekindergarten children developmentally appropriate early development and learning experiences based on Vermont’s early learning standards.

(3) “Prequalified private provider” means a private provider of prekindergarten education that is qualified pursuant to subsection (c) of this section.

(4)(A) “Prequalified public provider” means a provider of prekindergarten education that is a school district that is qualified pursuant to subsection (c) of this section.

(B) “Prequalified public provider” does not mean a school district that contracts with a prequalified private provider for the provision of prekindergarten education services.

(b) Access to publicly funded prekindergarten education.

(1) ~~No~~ Not fewer than ten hours per week of publicly funded prekindergarten education shall be available for 35 weeks annually to each prekindergarten child whom a parent or guardian wishes to enroll in an available, prequalified program operated by a public school or a private provider.

(2) If a parent or guardian chooses to enroll a prekindergarten child in an available, prequalified program, then, pursuant to the parent or guardian’s choice, the school district of residence shall:

(A) pay tuition pursuant to subsections (d) and (h) of this section upon the request of the parent or guardian to:

(i) a prequalified private provider; or

(ii) a prequalified public school provider that operates a prekindergarten program that has been prequalified pursuant to subsection (c) of this section located outside the district; or

(B) if the school district of residence is a prequalified public provider, enroll the child in the prekindergarten education program that it operates.

(3) If requested by the parent or guardian of a prekindergarten child, the school district of residence shall pay tuition to a prequalified ~~program operated by a private provider or a public school in another district~~ private provider or a prequalified public provider that operates a prekindergarten program located outside the district even if the district of residence ~~is a prequalified public provider that operates a prekindergarten education program.~~

(4) ~~If the supply of prequalified private and public providers is insufficient to meet the demand for publicly funded prekindergarten education in any region of the State, nothing~~ Nothing in this section shall be construed to require the State or a district to begin or expand a prekindergarten education program to satisfy that a demand; but rather, in collaboration with the Agencies of Education and of Human Services, the local Building Bright Futures Council shall meet with school districts and private providers in the region to develop a regional plan to expand capacity for prekindergarten

education.

(c) Prequalification. Pursuant to rules ~~jointly~~ developed and overseen by the ~~Secretaries~~ Secretary of Education ~~and of Human Services~~ and adopted by the State Board pursuant to 3 V.S.A. chapter 25, the ~~Agencies jointly~~ Agency of Education may determine that a private or public provider of prekindergarten education is qualified for purposes of this section and include the provider in a publicly accessible database of prequalified providers. At a minimum, the rules shall define the process by which a provider applies for and maintains prequalification status, and shall identify the minimum quality standards for prequalification, ~~and shall include the following requirement.~~ In order to be eligible for tuition payments:

(1) ~~A program of prekindergarten education, whether provided by a school district or a private provider, shall have received~~ private provider shall meet minimum program quality by:

(A) Having:

(i) National Association for the Education of Young Children (NAEYC) accreditation; ~~or~~

~~(B)(ii)~~ (ii) at least four stars in the Department for Children and Families' STARS system ~~with a plan to get to at least two points in each of the five arenas;~~ or

~~(C)(iii)~~ (iii) three stars in the STARS system if the provider has developed a plan, approved by the Commissioner for Children and Families ~~and the Secretary of Education,~~ to achieve four or more stars with at least two points in each of the five arenas in no more than three years, and the provider has met intermediate milestones.

(B) For a:

(i) private provider that is regulated as a center-based child care program, employing or contracting for the services of at least one licensed professional educator with an endorsement in early childhood education or in early childhood special education under chapter 51 of this title who is present at the private provider's program site during the hours that are publicly funded; or

(ii) private provider that is regulated as a family child care home that is not licensed and endorsed in early childhood education or early childhood special education, employing or contracting for the services of at least one licensed professional educator with an endorsement in early childhood education or in early childhood special education under chapter 51 of this title for at least three hours per week during each of the 35 weeks per year in which prekindergarten education is paid for with publicly funded

tuition to provide regular, active supervision and training of the private provider's staff.

(2) A licensed public provider shall employ or contract meet minimum program quality by:

(A) employing or contracting for the services of at least one teacher who is licensed and endorsed licensed professional educator with an endorsement in early childhood education or in early childhood special education under chapter 51 of this title to provide direct instruction during the hours that are publicly funded; and

(B)(i) until the date upon which the State Board of Education implements safety and quality rules under subdivision (e)(12) of this section, meeting safety and quality rules adopted by the Department for Children and Families; and

(ii) on and after the date upon which the State Board of Education implements safety and quality rules under subdivision (e)(12) of this section, meeting safety and quality rules adopted by the State Board of Education.

~~(3) A registered home provider that is not licensed and endorsed in early childhood education or early childhood special education shall receive regular, active supervision and training from a teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.~~

(d) Tuition, budgets, and average daily membership.

(1) On behalf of a resident prekindergarten child, a district shall pay tuition for prekindergarten education for ten hours per week for 35 weeks annually to a prequalified private provider or to a public school prequalified public provider that is outside the district that is prequalified pursuant to subsection (c) of this section; provided, however, that the district shall pay tuition for weeks that are within the district's academic year. Tuition paid under this section shall be at a statewide rate, which may be adjusted regionally, that is established annually through a process jointly developed and implemented by the Ageneies Agency of Education and of Human Services. A district shall pay tuition upon:

(A) receiving notice from the child's parent or guardian that the child is or will be admitted to the prekindergarten education program operated by the prequalified private provider or the other district; and

(B) concurrent enrollment of the prekindergarten child in the district of residence for purposes of budgeting and determining average daily membership.

(2) In addition to any direct costs of operating a prekindergarten education program, a district of residence shall include anticipated tuition payments and any administrative, quality assurance, quality improvement, transition planning, or other prekindergarten-related costs in its annual budget presented to the voters.

(3) Pursuant to subdivision 4001(1)(C) of this title, the district of residence may include within its average daily membership any prekindergarten child for whom it has provided prekindergarten education or on whose behalf it has paid tuition pursuant to this section.

(4) A prequalified private provider may receive additional payment directly from the parent or guardian only for prekindergarten education in excess of the hours paid for by the district pursuant to this section or for child care services, or both. The prequalified private provider is not bound by the statewide rate established in this subsection when determining the rates it will charge the parent or guardian for these excess hours. A prequalified private provider shall not impose additional fees for the publicly funded hours.

(e) Rules. ~~The Secretary of Education and the Commissioner for Children and Families shall jointly develop and agree to rules and present them to the State Board for adoption under 3 V.S.A. chapter 25 as follows:~~

(1) To permit private providers that are not prequalified pursuant to subsection (c) of this section to create new or continue existing partnerships with school districts through which the school district provides supports that enable the provider to fulfill the requirements of subdivision (c)(2) or (3) (1)(B), and through which the district may or may not make in-kind payments as a component of the statewide tuition established under this section.

(2) ~~To authorize a district to begin or expand a school-based prekindergarten education program only upon prior approval obtained through a process jointly overseen by the Secretaries of Education and of Human Services, which shall be based upon analysis of the number of prekindergarten children residing in the district and the availability of enrollment opportunities with prequalified private providers in the region. Where the data are not clear or there are other complex considerations, the Secretaries may choose to conduct a community needs assessment. [Repealed.]~~

(3) To require that the school district provides opportunities for effective parental participation in the prekindergarten education program.

(4) To establish a process by which:

(A) a parent or guardian notifies the district that the prekindergarten child is or will be admitted to a prekindergarten education program not operated by the district and concurrently enrolls the child in the district

pursuant to subdivision (d)(1) of this section;

(B) a district:

(i) pays tuition pursuant to a schedule that does not inhibit the ability of a parent or guardian to enroll a prekindergarten child in a prekindergarten education program or the ability of a prequalified private provider to maintain financial stability; and

(ii) enters into an agreement with any provider to which it will pay tuition regarding quality assurance, transition, and any other matters; agreements entered into on or after August 1, 2018 shall be in a form prescribed by the Secretary of Education; and

(C) a provider that has received tuition payments under this section on behalf of a prekindergarten child notifies a district that the child is no longer enrolled.

(5) To establish a process to calculate an annual statewide tuition rate that is based upon the actual cost of delivering ten hours per week of prekindergarten education that meets all ~~established~~ required quality standards and to allow for regional adjustments to the rate.

(6) [Repealed.]

(7) To require a district to include identifiable costs for prekindergarten programs and essential early education services in its annual budgets and reports to the community.

(8) To require a district to report to the Agency of Education annual expenditures made in support of prekindergarten education, with distinct figures provided for expenditures made from the General Fund, from the Education Fund, and from all other sources, which shall be specified.

(9) To provide an administrative process for:

(A) a parent, guardian, or provider to challenge an action of a school district or the State when the complainant believes that the district or State is in violation of State statute or rules regarding prekindergarten education; and

(B) a school district to challenge an action of a provider or the State when the district believes that the provider or the State is in violation of State statute or rules regarding prekindergarten education.

(10) To establish a system by which the Agency of Education ~~and Department for Children and Families~~ shall ~~jointly~~ monitor and evaluate prekindergarten education programs to promote optimal results for children that support the relevant population-level outcomes set forth in 3 V.S.A. § 2311 and to collect data that will inform future decisions. The Agency ~~and~~

Department shall be required to report annually to the General Assembly in January. At a minimum, the system shall monitor and evaluate:

(A) programmatic details, including the number of children served, the number of private and public programs operated, and the public financial investment made to ensure access to quality prekindergarten education;

(B) the quality of public and private prekindergarten education programs and efforts to ensure continuous quality improvements through mentoring, training, technical assistance, and otherwise; and

(C) the results for children, including school readiness and proficiency in numeracy and literacy.

(11) To establish a process for documenting the progress of children enrolled in prekindergarten education programs and to require public and private providers to use the process to:

(A) help individualize instruction and improve program practice; and

(B) collect and report child progress data to the Secretary of Education on an annual basis.

(12) To establish safety and quality requirements for prequalified public providers.

(f) Other provisions of law. Section 836 of this title shall not apply to this section.

(g) Limitations. Nothing in this section shall be construed to permit or require payment of public funds to a private provider of prekindergarten education in violation of Chapter I, Article 3 of the Vermont Constitution or in violation of the Establishment Clause of the U.S. Constitution.

(h) Geographic limitations.

(1) Notwithstanding the requirement that a district pay tuition to any prequalified public or private provider in the State, a school board may choose to limit the geographic boundaries within which the district shall pay tuition by paying tuition solely to those prequalified providers in which parents and guardians choose to enroll resident prekindergarten children that are located within the district's "prekindergarten region" as determined in subdivision (2) of this subsection.

(2) For purposes of this subsection, upon application from the school board, a district's prekindergarten region shall be determined ~~jointly~~ by the ~~Agencies~~ Agency of Education ~~and of Human Services~~ in consultation with the school board, private providers of prekindergarten education, parents and guardians of prekindergarten children, and other interested parties pursuant to

a process adopted by rule under subsection (e) of this section. A prekindergarten region:

(A) shall not be smaller than the geographic boundaries of the school district;

(B) shall be based in part upon the estimated number of prekindergarten children residing in the district and in surrounding districts, the availability of prequalified private and public providers of prekindergarten education, commuting patterns, and other region-specific criteria; and

(C) shall be designed to support existing partnerships between the school district and private providers of prekindergarten education.

(3) If a school board chooses to pay tuition to providers solely within its prekindergarten region, and if a resident prekindergarten child is unable to access publicly funded prekindergarten education within that region, then the child's parent or guardian may request and in its discretion the district may pay tuition at the statewide rate for a prekindergarten education program operated by a prequalified provider located outside the prekindergarten region.

(4) Except for the narrow exception permitting a school board to limit geographic boundaries under subdivision (1) of this subsection, all other provisions of this section and related rules shall continue to apply.

Sec. 10. 16 V.S.A. § 4010 is amended to read:

§ 4010. DETERMINATION OF WEIGHTED MEMBERSHIP

(a) On or before the first day of December during each school year, the Secretary shall determine the average daily membership of each school district for the current school year. The determination shall list separately:

(1) resident prekindergarten children;

(2) resident students being provided elementary ~~or kindergarten~~ education, excluding prekindergarten children; and

(3) resident students being provided secondary education.

* * *

(c) The Secretary shall determine the weighted long-term membership for each school district using the long-term membership from subsection (b) of this section and the following weights for each class:

(1) ~~Prekindergarten except as otherwise provided in this subsection, prekindergarten—0.46;~~

(2) for a resident prekindergarten child who is enrolled in a prekindergarten program with a duration of 20 hours or more per week for 35

weeks annually—0.70;

(3) Elementary or elementary, excluding prekindergarten—1.0; and

(4) Secondary secondary—1.13

* * *

Sec. 11. 33 V.S.A. § 3502 is amended to read:

§ 3502. CHILD CARE FACILITIES; SCHOOL AGE CARE IN PUBLIC
SCHOOLS; 21ST CENTURY FUND

(a) Unless exempted under subsection (b) of this section, a person shall not operate a child care facility without a license, or operate a family child care home without registration from the Department.

(b) The following persons are exempted from the provisions of subsection (a) of this section:

* * *

(5) an after-school program that serves students in one or more grades from kindergarten through secondary school, that receives funding through the 21st Century Community Learning Centers program, and that is overseen by the Agency of Education, unless the after-school program asks to participate in the child care subsidy program; and

(6) a public provider of prekindergarten education, as defined under 16 V.S.A. § 829(a)(4), unless the public provider participates in the child care subsidy program.

* * *

Sec. 12. 16 V.S.A. § 11 is amended to read:

§ 11. CLASSIFICATIONS AND DEFINITIONS

(a) As used in this title, unless the context otherwise clearly requires:

* * *

(31) “Early childhood education,” “early education,” or “prekindergarten education” means services designed to provide developmentally appropriate early development and learning experiences based on Vermont’s early learning standards to ~~children a child who are three to four years of age and to five-year-old children who are not eligible for or enrolled in kindergarten is:~~

(A) three or four years of age or is five years of age but is not yet eligible to be enrolled in kindergarten; or

(B) five years of age but is not yet enrolled in kindergarten if the child is on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973 and the child's individualized education program team or evaluation and planning team recommends that the child receive prekindergarten education services.

* * *

Sec. 13. PREKINDERGARTEN ADVISORY COMMITTEE; REPORT

(a) Creation. There is created the Prekindergarten Advisory Committee to make recommendations on how to improve the funding and delivery models for prekindergarten education in Vermont.

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

(1) two current members of the House of Representatives, not from the same political party, who shall be appointed by the Speaker of the House;

(2) two current members of the Senate, not from the same political party, who shall be appointed by the Committee on Committees; and

(3) one member appointed by the Governor, which member shall serve as the Committee's Chair.

(c) Powers and duties. The Committee shall study the funding and delivery of prekindergarten education in Vermont, including the following issues:

(1) whether the current delivery and funding models are working effectively to provide prekindergarten educational services, and if not, the issues with the current models and proposals to enhance the quality and effectiveness of these models;

(2) whether the statutory changes in Secs. 9–12 of this act adequately address concerns with the current delivery and funding models for prekindergarten educational services;

(3) whether to extend the publicly funded entitlement to prekindergarten education beyond the 10 hours per week for 35 weeks a year that is currently required by requiring public elementary schools to offer prekindergarten education either directly or by contract;

(4) whether to extend kindergarten education to include children who are four years of age;

(5) how to simplify regulatory oversight and administration of prekindergarten education;

(6) how to ensure that funding for prekindergarten education is

equitable and does not create undesirable outcomes for prekindergarten students, their parents or guardians, or providers of prekindergarten educational services or child care services; and

(7) whether prekindergarten regions established under 16 V.S.A. § 829 serve the purpose for which they were designed and allow reasonable and equitable access to prekindergarten education, and whether the authority to create prekindergarten regions should continue.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Report. On or before December 15, 2018, the Committee shall submit a written report to the House and Senate Committees on Education, the House Committee on Human Services, and the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Chair shall call the first meeting of the Committee to occur on or before July 15, 2018.

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

(3) The Committee shall cease to exist on December 16, 2018.

(g) Compensation, reimbursement, and appropriations.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings. The sum of \$5,256.00 is appropriated to the General Assembly from the General Fund in fiscal year 2019 for the per diem compensation and expense reimbursements authorized by this section to be paid to the members of the Committee who are members of the General Assembly.

(2) If the other member of the Committee is not an employee of the State of Vermont and is not otherwise compensated or reimbursed for his or her attendance, he or she shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than six meetings. The sum of \$732.00 is appropriated to the Governor's office from the General Fund in fiscal year 2019 for per diem compensation and reimbursement of expenses for the member of the Committee appointed by the Governor.

* * * Educator Licensing Requirements * * *

Sec. 14. EDUCATOR LICENSING REQUIREMENTS

The Vermont Standards Board for Professional Educators shall consider whether the educator licensing requirements are appropriate or should be updated. As part of its review, the Board shall consider whether educator licensing should be required for schools that have adopted a school-based teacher quality and performance measurement program approved by the New England Association of Schools and Colleges and whether other examination options, other than the Praxis examination, should be available for educator licensure, such as examinations offered by the Smarter Balanced Assessment Consortium. On or before December 1, 2018, the Board shall report its findings and recommendations to the House and Senate Committees on Education.

* * * Ethnic and Social Equity Standards Advisory

Working Group * * *

Sec. 15. ETHNIC AND SOCIAL EQUITY STANDARDS ADVISORY

WORKING GROUP

(a) Findings.

(1) In 1999, the Vermont Advisory Committee to the U.S. Commission on Civil Rights published a report titled Racial Harassment in Vermont Public Schools and described the state of racism in public schools. The Committee held various hearings and received reports from stakeholders and concluded that “racial harassment” appeared “pervasive in and around the State’s public schools,” and observed that “the elimination of this harassment” was “not a priority among school administrators, school boards, elected officials, and State agencies charged with civil rights enforcement.”

(2) In 2003, the Commission released a follow-up report concluding that, although some positive efforts had been made since the original report was published, the problem persisted. One of the many problems highlighted was the “curriculum issues in the State’s public schools. In some instances, teachers employ curriculum materials and lesson plans that promote racial stereotypes.” One of the conclusions was that there was a need for a bias-free curriculum.

(3) On December 2017, the Act 54 report on Racial Disparities in State Systems, issued by the Attorney General and Human Rights Commission Task Force, was released. According to the report, education is one of the five State systems in which racial disparities persist and need to be addressed. The Attorney General and Human Rights Commission held three stakeholder meetings and found “a surprising amount of coalescence around the most important issues” and “the primary over-arching theme was that we will be

able to reduce racial disparities by changing the underlying culture of our state with regard to race.” One of the main suggestions for accomplishing this was to “teach children from an integrated curriculum that fairly represents both the contributions of People of Color (as well as indigenous people, women, people with disabilities, etc.), while fairly and accurately representing our history of oppression of these groups.” The other suggestions were to educate State employees about implicit bias, white privilege, white fragility, and white supremacy, and increase the representation of people of color in the State and school labor forces by focusing on recruitment, hiring, and retention, as well as promotion of people of color into positions of authority and responsibility on boards and commissions.

(4) The harassment of lesbian, gay, bisexual, transgender, queer, questioning, intersex, asexual, and nonbinary communities; other students of color; and students with disabilities and the lack of understanding of people in power about the magnitude of the systemic impacts of harassment and bias damage the whole community.

(b) Definitions. As used in this act:

(1) “Ethnic groups” means nondominant racial and ethnic groups in the United States, including people who are indigenous and people of African, Asian, Pacific Island, Chicanx, Latinx, or Middle Eastern descent.

(2) “Ethnic studies” means the instruction of students in prekindergarten through grade 12 in the historical contributions and perspectives of ethnic groups and social groups.

(3) “Social groups” means females, people with disabilities, immigrants, refugees, and individuals who are lesbian, gay, bisexual, transgender, queer, questioning, intersex, asexual, or nonbinary.

(c) Creation and composition. The Ethnic and Social Equity Standards Advisory Working Group is established. The Working Group shall comprise the following 17 members:

(1) eight members who are members of, and represent the interests of, ethnic groups and social groups;

(2) a Vermont-based, college-level faculty expert in ethnic studies;

(3) the Secretary of Education or designee;

(4) the Executive Director of the Vermont-National Education Association or designee;

(5) an Assistant Attorney General in the Office of the Vermont Attorney General with experience working with the Agency of Education on racial and social justice issues in schools;

(6) the Executive Director of the Vermont School Boards Association or designee;

(7) a representative for the Vermont Principals' Association with expertise in the development of school curriculum;

(8) a representative for the Vermont Curriculum Leaders Association;

(9) the Executive Director of the Vermont Superintendents Association or designee; and

(10) the Executive Director of the Vermont Independent Schools' Association or designee.

(d) Appointment and operation.

(1) The Vermont Coalition for Ethnic and Social Equity in Schools (Coalition) shall appoint the eight members who represent ethnic groups and social groups and the member identified under subdivision (c)(2) of this section. Appointments of members to fill vacancies to these positions shall be made by the Coalition.

(2) As a group, the Working Group shall represent the breadth of geographic areas within the State and shall have experience in the areas of ethnic standards or studies, social justice, inclusivity, and advocacy for the groups they represent.

(3)(A) The Secretary of Education or designee shall call the first meeting of the Working Group to occur on or before September 1, 2018.

(B) The Working Group shall select a chair from among its members at the first meeting.

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

(D) The Working Group shall cease to exist on July 1, 2021.

(e) Compensation and reimbursement. Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than ten meetings per year. These payments shall be made from monies appropriated to the Agency of Education.

(f) Appropriation. The sum of \$13,420.00 is appropriated to the Agency of Education from the General Fund for fiscal year 2019 for the per diem compensation and expense reimbursements authorized by this section to be paid to the members of the Ethnic and Social Equity Standards Advisory Working Group. The Agency shall include in its budget request to the General Assembly for fiscal years 2020 and 2021 the amount of \$13,420.00 for the per

diem compensation and expense reimbursements authorized by this section to be paid to members of the Working Group.

(g) Duties of the Working Group.

(1) The Working Group shall review statewide curriculum standards adopted by the State Board of Education and, on or before June 30, 2020, recommend to the State Board updates and additional standards to recognize fully the history, contribution, and perspectives of ethnic groups and social groups. These recommended additional standards shall be designed to:

(A) increase cultural competency of students in prekindergarten through grade 12;

(B) increase attention to the history, contribution, and perspectives of ethnic groups and social groups;

(C) promote critical thinking regarding the history, contribution, and perspectives of ethnic groups and social groups;

(D) commit the school to eradicating any racial bias in its curriculum;

(E) provide, across its curriculum, content and methods that enable students to explore safely questions of identity, race equality, and racism; and

(F) ensure the basic curriculum and extracurricular programs are welcoming to all students and take into account parental concerns about religion or culture.

(2) The Working Group may review all existing State statutes regarding school policies and recommend to the General Assembly proposed statutory changes with the following goals:

(A) Ensuring that the school curriculum:

(i) promotes critical thinking regarding the history, contribution, and perspectives of ethnic groups and social groups;

(ii) includes content and related instructional materials and methods that enable students to explore safely questions of identity and membership in ethnic groups and social groups, race equality, and racism; and

(iii) facilitates a welcoming environment for all students while taking into account parental concerns about bias or exclusion of ethnic groups or social groups.

(B) Ensuring engagement opportunities that provide families a welcoming means of raising any concern about their child's experience as it bears on race or ethnic or social group identity at school.

(3) The Working Group shall include in its report to the General Assembly under subdivisions (h)(2) and (3) of this section any statute, State Board rule, or school district policy that it has identified as needing review or amendment in order to:

(A) promote an overarching focus on preparing all students to participate effectively in an increasingly racially, culturally, and socially diverse Vermont and in global communities;

(B) ensure every student is in a safe, secure, and welcoming learning and social environment in which bias, whether implicit or explicit, toward others based on their membership in ethnic or social groups is acknowledged and addressed appropriately;

(C) challenge racist, sexist, gender, or ability-based bias or bias based on socioeconomic status when it occurs, using principles aligned with restorative practice;

(D) specify prohibited conduct as it relates to racism, sexism, ableism, and other social biases and refers to the process through which alleged misconduct will be addressed, including disciplinary action as appropriate;

(E) establish disciplinary responses to racial or ethnic and social group incidents that include the utilization of restorative practices where appropriate; and

(F) ensure that the school provides all its personnel training in how best to address bias incidents.

(h) Reports.

(1) The Working Group shall, on or before March 1, 2019, submit a report to the General Assembly that includes:

(A) the membership of the Working Group and its meeting schedule;

(B) its plan to accomplish the work described in subdivision (g)(1) of this section, including the timeline for reviewing all statewide curriculum standards and for its recommendation to the State Board of additional standards to recognize fully the history, contribution, and perspectives of ethnic groups and social groups; and

(C) its plan to accomplish the work described in subdivisions (g)(2) and (3) of this section, including the timeline for reviewing all existing State statutes regarding school policies and drafting proposed legislation.

(2) The Working Group shall, on or before December 15, 2019, submit a report to the General Assembly, including:

- (A) the membership of the Working Group and its meeting schedule;
- (B) recommended statutory changes under subdivisions (g)(2) and (3) of this section; and
- (C) recommendations for training and appropriations to support implementation of the recommended statutory changes.

(3) The Working Group shall, on or before July 1, 2021, submit a report to the General Assembly, including:

- (A) any further recommended statutory changes under subdivision (g)(2) of this section; and
- (B) recommendations for training and appropriations to support implementation of the recommended changes.

(i) Duties of the State Board of Education. The Board of Education shall, on or before June 30, 2021, consider adopting ethnic and social equity studies standards into existing statewide curriculum standards for students in prekindergarten through grade 12. The State Board shall consider the report submitted by the Working Group under subdivision (g)(1) of this section when determining the standards to adopt.

Sec. 16. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

The State Board shall evaluate education policy proposals, including timely evaluation of policies presented by the Governor and Secretary; engage local school board members and the broader education community; and establish and advance education policy for the State of Vermont. In addition to other specified duties, the Board shall:

* * *

(17) Report annually on the condition of education statewide and on a ~~school-by-school~~ supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of harassment, hazing, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on student performance and hazing, harassment, or bullying incidents shall be disaggregated by student groups, including ethnic and racial groups, poverty status, disability status, English language learner

status, and gender. The Secretary shall use the information in the report to determine whether students in each school, school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title.

* * *

* * * Expanded Learning Opportunities * * *

Sec. 17. 16 V.S.A. chapter 100 is added to read:

CHAPTER 100. EXPANDED LEARNING OPPORTUNITIES

§ 2911. DEFINITIONS

As used in this title:

(1) “Expanded Learning Opportunity (ELO)” means a structured program designed to serve prekindergarten through secondary school-aged children and youths outside the school day and year on a regular basis, including before and after school and during the summer, by providing opportunities for personal, emotional, and academic growth for children and youths.

(2) “ELO Committee” means the Expanded Learning Opportunities Committee created by section 2912 of this chapter.

(3) “ELO Special Fund” means the Vermont Expanded Learning Opportunities Special Fund, under section 2913 of this chapter.

§ 2912. EXPANDED LEARNING OPPORTUNITIES COMMITTEE;

REPORT

(a) Creation; membership. There is created the Expanded Learning Opportunities Committee, to be composed of the following 12 members:

(1) the Secretary of Education or designee;

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

(3) the Commissioner of Labor or designee;

(4) the Director of Vermont Afterschool, Inc. or designee;

(5) one current member of the House of Representatives, who shall be appointed by the Speaker of the House;

(6) one current member of the Senate, who shall be appointed by the Committee on Committees;

(7) one member representing private foundations or Vermont’s

philanthropic community, one member representing the business community, and one member representing the education community, appointed by the Prekindergarten-16 Council; and

(8) three members representing ELO programs that have been in operation since at least July 1, 2017, with one member to be appointed each by the Governor, the Speaker of the House, and the Committee on Committees.

(b) Duties. The Committee shall:

(1) recommend to the Agency of Education grants to be awarded from the ELO Special Fund; and

(2) work with the philanthropic and business communities in Vermont to pursue and accept grants or other funding from any public or private source for the ELO Special Fund.

(c) Terms. ELO Committee members shall serve, commencing on January 1, three-year terms or until the member's earlier resignation or removal, except for legislative members, who shall be appointed to two-year terms that mirror their legislative terms. A nonlegislative ELO Committee member may be appointed prior to January 1, 2019, in which case the initial term of that member shall extend to January 1, 2022. A legislative ELO Committee member may be appointed after the beginning of the legislator's legislative term and prior to January 1, 2019, in which case the initial term of that member shall extend to the end of the legislator's next two-year legislative term. The respective appointing authority shall fill a vacancy for the remainder of any unexpired term. An appointed member shall not serve more than three full consecutive terms. A legislator's service on the ELO Committee shall terminate on the date that the legislator no longer serves as a member of the General Assembly.

(d) Officers; subcommittees; rules. The ELO Committee shall elect a chair from among its members. It may elect other officers, establish subcommittees, and adopt procedural rules as it determines necessary and appropriate to perform its work.

(e) Quorum; voting; meetings.

(1) A majority of all members shall constitute a quorum.

(2) Action is taken by the ELO Committee if authorized by a majority of the members present and voting at any regular or special meeting at which a quorum is present.

(3) The ELO Committee may permit any or all members to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of electronic communication by which all members participating

may simultaneously or sequentially communicate with each other during the meeting. A member participating in a meeting by this means is deemed to be present in person at the meeting.

(4) On or before September 1, 2018, two legislative members shall convene the first meeting of the ELO Committee.

(f) Administrative support. The Office of Legislative Council shall provide administrative support to the ELO Committee.

(g) Compensation, reimbursement, and appropriations.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the ELO Committee shall be entitled to compensation and reimbursement for expenses pursuant to 2 V.S.A. § 406 for not more than 12 meetings per year. The sum of \$2,628.00 is appropriated to the General Assembly from the General Fund in fiscal year 2019 for the per diem compensation and expense reimbursements authorized by this section to be paid to the members of the Committee who are members of the General Assembly.

(2) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than 12 meetings per year. The sum of \$8,784.00 is appropriated to the Agency of Education from the General Fund in fiscal year 2019 for the per diem compensation and expense reimbursements authorized by this section to be paid to these members of the Committee. The Agency shall include in its budget request to the General Assembly for each subsequent fiscal year the amount of \$8,784.00 for the per diem compensation and expense reimbursements authorized by this section to be paid to these members of the Committee.

(h) Report. Notwithstanding 2 V.S.A. § 20(d), the ELO Committee shall report to the House and Senate Committees on Education and on Appropriations on or before January 15 annually regarding the ELO Committee's activities, including:

(1) its recommendations to improve access to expanded learning opportunities for children and youths from families with low income where expanded learning opportunities are not readily available;

(2) its recommendations to build workforce readiness skills in the fields of science, technology, engineering, and mathematics; and

(3) the extent to which transportation is a barrier to expanded learning opportunities.

(i) Sunset. This section is repealed on July 1, 2023.

§ 2913. VERMONT EXPANDED LEARNING OPPORTUNITIES SPECIAL FUND

(a) There is established the Vermont Expanded Learning Opportunities Special Fund comprising grants, donations, and contributions from any private or public source. Monies in the ELO Special Fund shall be available to the Agency of Education for the purpose of increasing access to ELOs throughout Vermont. The Commissioner of Finance and Management may draw warrants for disbursements from the Fund in anticipation of receipts. The Fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5, except that interest earned and any remaining balance at the end of the fiscal year shall be retained and carried forward in the Fund.

(b) The Agency of Education shall report annually in its budget presentation to the House and Senate Committees on Education and on Appropriations on the number and amount of ELO grants disbursed and the geographic locations of the recipients.

Sec. 18. 16 V.S.A. § 2906 is amended to read:

~~§ 2906. VERMONT EXPANDED LEARNING OPPORTUNITIES SPECIAL FUND ESTABLISHED~~

~~(a) As used in this section, “Expanded Learning Opportunity” means a structured program designed to serve prekindergarten through secondary school-age children and youth outside the school day and year on a regular basis, including before and after school and during the summer, by providing opportunities for personal, emotional, and academic growth for children and youth.~~

~~(b) There is established a Vermont Expanded Learning Opportunities Special Fund comprising grants, donations, and contributions from any private or public source. Monies in the Fund shall be available to the Agency for the purpose of increasing access to expanded learning opportunities throughout Vermont. The Commissioner of Finance and Management may draw warrants for disbursements from this Fund in anticipation of receipts. The Fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5, except that interest earned and any remaining balance at the end of the fiscal year shall be retained and carried forward in the Fund. [Repealed.]~~

* * * Postsecondary Educational Institutions; Closing * * *

Sec. 19. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

(a) When an institution of higher education, whether or not chartered in

this State, proposes to discontinue the regular course of instruction, either permanently or for a temporary period other than a customary vacation period, the institution shall:

- (1) promptly inform the State Board;
- (2) prepare the academic record of each current and former student in a form satisfactory to the State Board and including interpretive information required by the Board; and
- (3) deliver the records to a person designated by the State Board to act as permanent repository for the institution's records, together with the reasonable cost of entering and maintaining the records.

* * *

(d) When an institution of higher education is unable or unwilling to comply substantially with the record preparation and delivery requirements of subsection (a) of this section, the State Board shall bring an action in Superior Court to compel compliance with this section, and may in a proper case obtain temporary custody of the records.

(e) When an institution of higher education is unable or unwilling to comply with the requirements of subsection (a) of this section, the State Board may expend State funds necessary to ensure the proper storage and availability of the institution's records. The Attorney General shall then seek recovery under this subsection, in the name of the State, of all of the State's incurred costs and expenses, including attorney's fees, arising from the failure to comply. Claims under this subsection shall be a lien on all the property of a defaulting institution, until all claims under this subsection are satisfied. The lien shall take effect from the date of filing notice thereof in the records of the town or towns where property of the defaulting institution is located.

* * *

~~(g)(1) The Association of Vermont Independent Colleges (AVIC) shall maintain a memorandum of understanding with each of its member colleges under which each member college agrees to:~~

~~(1) upon the request of AVIC, properly administer the student records of a member college that fails to comply with the requirements of subsection (a) of this section; and~~

~~(2) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another AVIC member or other entity selected by AVIC maintaining the records of a member college that fails to comply with the requirements of subsection (a) of this section. If an institution of higher education is placed on probation for financial reasons by its~~

accrediting agency, the institution shall, not later than two days after learning that it has been placed on probation, inform the State Board of Education of its status, and not later than 90 days after being placed on probation, shall submit a student record plan to the State Board for approval.

(2) The student record plan shall include an agreement with an institution of higher education or other entity to act as a repository for the institution's records with funds set aside, if necessary, for the permanent maintenance of the student records.

(3) If the State Board does not approve the plan, the State may take action under subsections (d) and (e) of this section.

* * * Statewide Negotiation of Health Care Benefits
for School Employees * * *

Sec. 20. STUDY COMMITTEE ON STATEWIDE NEGOTIATION OF
HEALTH CARE BENEFITS FOR SCHOOL EMPLOYEES

(a) The Study Committee on Statewide Negotiation of Health Care Benefits for School Employee (Committee) is created to determine how to transition to a single, statewide health benefit plan for all school employees of supervisory unions and school districts.

(b)(1) The Committee shall comprise the following six members:

(A) three current members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House of Representatives; and

(B) three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees.

(2) If a member of the Committee ceases to serve as a member of the General Assembly, a replacement appointee who is a member of the General Assembly shall be appointed in the same manner as the initial appointment.

(c) The Committee shall propose draft legislation that addresses the following matters concerning the transition to a single, statewide health benefit plan for all school employees of supervisory unions and school districts:

(1) the structure and composition of parties to a statewide negotiation;

(2) a timeline for negotiations and impasse procedures;

(3) a process for statewide ratification of the agreement resulting from the statewide negotiation; and

(4) how income sensitization will be decided as part of the negotiations.

(d) The Committee's draft legislation shall include a requirement that any fact-finding required for impasse resolution shall give weight to:

(1) the financial capacity of the school district;

(2) the interest and welfare of the public and the financial ability of the school board to pay for increased costs of public services, including the cost of labor;

(3) comparisons of the wages, hours, and conditions of employment of the employees involved in the dispute with the wages, hours, and conditions of employment of State and municipal employees who are not employed by supervisory unions or school districts;

(4) the overall compensation currently received by the employees, including direct wages, fringe benefits, and continuity conditions and stability of employment, and all other benefits received; and

(5) the rate of growth of the economy of the State of Vermont for the year of negotiation as well as during the prior three-year period.

(e)(1) The Committee shall consult with the Secretary of Education and the Vermont Education Health Initiative as necessary.

(2) The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council.

(f) On or before December 15, 2018, the Committee shall provide its proposed legislation to the House Committees on Education, on General, Housing, and Military Affairs, and on Ways and Means and the Senate Committees on Education, on Economic Development, Housing and General Affairs, and on Finance.

(g) The Speaker of the House shall call the first meeting of the Committee to occur on or before July 1, 2018. The Committee shall select a chair from among its members at the first meeting. A majority of the membership shall constitute a quorum. The Committee shall cease to exist on December 16, 2018.

(h) For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than ten meetings. The sum of \$13,140.00 is appropriated to the General Assembly from the General Fund in fiscal year 2019 for the per diem compensation and expense reimbursements authorized by this section to be paid to the members of the Committee who are members of the General Assembly.

(i) As used in this section, "supervisory union" and "school district" shall

have the same meanings as set forth in 16 V.S.A. § 11.

* * * Mitigating Trauma and Toxic Stress During Childhood * * *

Sec. 21. 16 V.S.A. § 2902 is amended to read:

§ 2902. TIERED SYSTEM OF SUPPORTS AND EDUCATIONAL
SUPPORT TEAM

* * *

(b) The tiered system of supports shall:

- (1) be aligned as appropriate with the general education curriculum;
- (2) be designed to enhance the ability of the general education system to meet the needs of all students;
- (3) be designed to provide necessary supports promptly, regardless of an individual student's eligibility for categorical programs;
- (4) seek to identify and respond to students in need of support for at-risk behaviors and to students in need of specialized, individualized behavior supports; ~~and~~
- (5) provide all students with a continuum of evidence-based and research-based behavior practices, including trauma-sensitive programming, that teach and encourage prosocial skills and behaviors schoolwide;
- (6) promote collaboration with families, community supports, and the system of health and human services; and
- (7) provide professional development as needed to support all staff in implementing the system.

(c) The educational support team for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

- (1) Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the Secretary, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay particular attention to students during times of academic or personal transition and to those students who have been exposed to trauma.

* * *

Sec. 22. 16 V.S.A. § 2904 is amended to read:

§ 2904. REPORTS

Annually, each superintendent shall report to the Secretary in a form prescribed by the Secretary, on the status of the ~~educational support systems~~ multi-tiered system of supports in each school ~~in the supervisory union~~. The report shall describe the services and supports that are a part of the ~~education support system~~ multi-tiered system of supports, how they are funded, and how building the capacity of the ~~educational support system~~ multi-tiered system of supports has been addressed in the ~~school action plans~~, school's continuous improvement plan and professional development and shall be in addition to the report required of the ~~educational support~~ multi-tiered system of supports team in subdivision 2902(c)(6) of this chapter. The superintendent's report shall include a description and justification of how funds received due to Medicaid reimbursement under section 2959a of this title were used.

Sec. 23. ALIGNMENT OF DESIGNATED AND SPECIALIZED
SERVICE AGENCIES WITH SUPERVISORY UNIONS

The Agencies of Education and of Human Services shall discuss areas of geographical overlap to better coordinate the provision of their respective services. The Agencies shall jointly present the results of their efforts to the House and Senate Committees on Education on or before January 15, 2019.

Sec. 24. SCHOOL NURSES; HEALTH-RELATED BARRIERS TO
LEARNING

On or before September 1, 2018, the Agency of Human Services' Director of Prevention and Health Improvement shall coordinate with the Vermont State School Nurse Consultant and with the Agency of Education systematically to support local education agencies, school administrators, and school nurses in ensuring that all students' health appraisal forms are completed on an annual basis to enable school nurses to identify students' health-related barriers to learning.

* * * Effective Dates * * *

Sec. 25. EFFECTIVE DATES

(a) Sec. 8 shall take effect on July 1, 2019.

(b) This section and the remaining sections shall take effect on passage, and Secs. 4(c) and 5 shall apply to the subsequent election of district officers of a unified union school district or a union school district.

(Committee vote: 10-0-1)

(For text see Senate Journal March 23, 2018)

S. 269

An act relating to blockchain, cryptocurrency, and financial technology

Rep. O'Sullivan of Burlington, for the Committee on Commerce and Economic Development, 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:

* * * Definition of Blockchain Technology * * *

Sec. 1. 12 V.S.A. § 1913 is amended to read:

§ 1913. BLOCKCHAIN ENABLING

(a) As used in this section, ~~“blockchain technology”~~ :

(1) “Blockchain” means a mathematically cryptographically secured, chronological, and decentralized consensus ledger or consensus database, whether maintained via Internet interaction, peer-to-peer network, or otherwise other interaction.

(2) “Blockchain technology” means computer software or hardware or collections of computer software or hardware, or both, that utilize or enable a blockchain.

* * *

* * * Personal Information Protection Companies * * *

Sec. 2. 8 V.S.A. chapter 78 is added to read:

CHAPTER 78. PERSONAL INFORMATION PROTECTION

COMPANIES

§ 2451. DEFINITIONS

As used in this section:

(1) “Personal information” means data capable of being associated with a particular natural person, including gender identification, birth information, marital status, citizenship and nationality, biometric records, government identification designations, and personal, educational, and financial histories.

(2) “Personal information protection company” means a business that is organized for the primary purpose of providing personal information protection services to individual consumers.

(3) “Personal information protection services” means:

(A) receiving, holding, and managing the disclosure or use of personal information concerning an individual consumer;

(B) pursuant to a written agreement that specifies the types of personal information to be held, and the scope of services to be provided, on behalf of the consumer; and

(C) in the best interest, and for the protection and benefit, of the consumer.

§ 2452. PERSONAL INFORMATION AS THE SUBJECT OF A
FIDUCIARY RELATIONSHIP

A personal information protection company that accepts personal information pursuant to a written agreement to provide personal information protection services has a fiduciary responsibility to the consumer when providing personal protection services.

§ 2453. QUALIFIED PERSONAL INFORMATION PROTECTION
COMPANY

(a) A personal information protection company shall qualify to conduct its business under the terms of this chapter and applicable rules adopted by the Department of Financial Regulation.

(b) A person shall not engage in business as a personal information protection company in this State without first obtaining a certificate of authority from the Department.

(c) A personal information protection company shall:

(1) be organized or authorized to do business under the laws of this State;

(2) maintain a place of business in this State;

(3) appoint a registered agent to accept service of process and to otherwise act on its behalf in this State, provided that whenever the registered agent cannot with reasonable diligence be found at the Vermont registered office of the company, the Secretary of State shall be an agent of the company upon whom any process, notice, or demand may be served;

(4) annually hold at least one meeting of its governing body in this State, at which meeting one or more members of the body are physically present; and

(5) develop, implement, and maintain a comprehensive information security program that contains administrative, technical, and physical safeguards sufficient to protect personal information, and which may include the use of blockchain technology, as defined in 12 V.S.A. § 1913, in some or all of its business activities.

§ 2454. NAME; OFFICE

A personal information protection company shall file with the Department of Financial Regulation the name it proposes to use in connection with its business, which the Department shall not approve if it determines that the name may be misleading, likely to confuse the public, or deceptively similar to any other business name in use in this State.

§ 2455. CONDUCT OF BUSINESS

(a) A personal information protection company may:

(1) operate through remote interaction with the individuals entrusting personal information to the company, and there shall be no requirement of Vermont residency or other contact for any such individual to establish such a relationship with the company; and

(2) subject to applicable fiduciary duties, the terms of any agreement with the individual involved, and any applicable statutory or regulatory provision:

(A) provide elements of personal information to third parties with which the individual seeks to have a transaction, a service relationship, or other particular purpose interaction;

(B) provide certification or validation concerning personal information;

(C) receive compensation for acting in these capacities.

(b) An authorization to provide personal information may be either particular or general, provided it meets the terms of any agreement with the individual involved and any rules adopted by the Department of Financial Regulation.

§ 2456. FEES; AUTHORITY OF DEPARTMENT

(a)(1) The Department of Financial Regulation shall assess the following fees for a personal information protection company:

(A) an initial registration fee of \$1,000.00, which includes a licensing fee of \$500.00 and an investigation fee of \$500.00;

(B) an annual renewal fee of \$500.00;

(C) a change in address fee of \$100.00.

(2) The Department shall have the authority to bill a personal information protection company for examination time at its standard rate.

(b) In addition to other powers conferred by this chapter, the Department shall have the authority to review records, conduct examinations, and require

annual audits of a personal information protection company.

§ 2457. REPORTS; RULES

(a) The Department of Financial Regulation may prescribe by rule the timing and manner of reports by a personal information protection company to the Department.

(b) The Department may adopt rules to govern other aspects of the business of a personal information protection company, including its protection and safeguarding of personal information and its interaction with third parties with respect to personal information it holds.

Sec. 3. INSURANCE; BANKING; DFR STUDY; REPORT

(a) The Department of Financial Regulation shall review the potential application of blockchain technology to the provision of insurance and banking and consider areas for potential adoption and any necessary regulatory changes in Vermont.

(b) On or before January 15, 2019, the Department shall submit a report of its findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 4. BLOCKCHAIN AND FINANCIAL TECHNOLOGY PROMOTION

The Agency of Commerce and Community Development shall incorporate into one or more of its economic development marketing and business support programs, events, and activities the following topics:

(1) opportunities to promote blockchain technology and financial technology-related economic development in the private sector, including in the areas of banking, insurance, retail and service businesses, and cryptocurrency;

(2) legal and regulatory mechanisms that enable and promote the adoption of blockchain technology and financial technology in this State; and

(3) educational and workforce training opportunities in blockchain technology, financial technology, and related areas.

* * * Enabling Provisions for FinTech and Blockchain Approaches * * *

Sec. 5. 11 V.S.A. chapter 25, subchapter 12 is added to read:

Subchapter 12. Blockchain-Based Limited Liability Companies

§ 4171. DEFINITIONS

As used in this section:

(1) “Blockchain technology” has the same meaning as in 12 V.S.A. § 1913.

(2) “Participant” means:

(A) each person that has a partial or complete copy of the decentralized consensus ledger or database utilized by the blockchain technology, or otherwise participates in the validation processes of such ledger or database;

(B) each person in control of any digital asset native to the blockchain technology; and

(C) each person that makes a material contribution to the protocols.

(3) “Protocols” means the designated regulatory model of the software that governs the rules, operations, and communication between nodes on the network utilized by the participants.

(4) “Virtual currency” means a digital representation of value that:

(A) is used as a medium of exchange, unit of account, or store of value; and

(B) is not legal tender, whether or not denominated in legal tender.

§ 4172. ELECTION

A limited liability company organized pursuant to this title for the purpose of operating a business that utilizes blockchain technology for a material portion of its business activities may elect to be a blockchain-based limited liability company (BLLC) by:

(1) specifying in its articles of organization that it elects to be a BLLC; and

(2) meeting the requirements in subdivision 4173(2) and subsection 4174(a) of this title.

§ 4173. AUTHORITY; REQUIREMENTS

Notwithstanding any provision of this chapter to the contrary:

(1) A BLLC may provide for its governance, in whole or in part, through blockchain technology.

(2) The operating agreement for a BLLC shall:

(A) provide a summary description of the mission or purpose of the BLLC;

(B) specify whether the decentralized consensus ledger or database utilized or enabled by the BLLC will be fully decentralized or partially

decentralized and whether such ledger or database will be fully or partially public or private, including the extent of participants' access to information and read and write permissions with respect to protocols;

(C) adopt voting procedures, which may include smart contracts carried out on the blockchain technology, to address:

(i) proposals from managers, members, or other groups of participants in the BBLLC for upgrades or modifications to software systems or protocols, or both;

(ii) other proposed changes to the BBLLC operating agreement; or

(iii) any other matter of governance or activities within the purpose of the BBLLC;

(D) adopt protocols to respond to system security breaches or other unauthorized actions that affect the integrity of the blockchain technology utilized by the BBLLC;

(E) provide how a person becomes a member of the BBLLC with an interest, which may be denominated in the form of units, shares of capital stock, or other forms of ownership or profit interests; and

(F) specify the rights and obligations of each group of participants within the BBLLC, including which participants shall be entitled to the rights and obligations of members and managers.

§ 4174. PRESENCE; DIGITAL BUSINESS ENTITY TAX EXEMPTION

(a) A BBLLC shall conduct some or all of its activities within this State.

(b) A BBLLC that qualifies as and elects to be taxed as a digital business entity for the taxable year shall not be subject to the tax imposed by 32 V.S.A. § 5832.

§ 4175. MULTIPLE ROLES OF MEMBERS AND MANAGERS

(a) A member or manager of a BBLLC may interact with the BBLLC in multiple roles, including as a member, manager, developer, node, miner, or other participant in the BBLLC, or as a trader and holder of the currency in its own account and for the account of others, provided such member or manager complies with any applicable fiduciary duties.

(b) The activities of a member or manager who interacts with the BBLLC through multiple roles are not deemed to take place in this State solely because the BBLLC is organized in this State.

§ 4176. CONSENSUS FORMATION ALGORITHMS AND GOVERNANCE PROCESSES

In its governance, a BBLLC may:

(1) adopt any reasonable algorithmic means for accomplishing the consensus process for validating records, as well as requirements, processes, and procedures for conducting operations, or making organizational decisions on the blockchain technology used by the BBLLC; and

(2) in accordance with any procedure specified pursuant to section 4173 of this title, modify the consensus process, requirements, processes, and procedures, or substitute a new consensus process, requirements, processes, or procedures that comply with the requirements of law and the governance provisions of the BBLLC.

§ 4177. SCOPE OF SUBCHAPTER; OTHER LAW

Except as expressly provided otherwise, this subchapter does not exempt a BBLLC from any other judicial, statutory, or regulatory provision of Vermont law or federal law, including State and federal securities laws. Except to the extent inconsistent with the provisions of this subchapter, the provisions of the Vermont Limited Liability Company Act govern.

* * * Blockchain Technology in Public Records * * *

Sec. 6. PUBLIC RECORDS

On or before January 15, 2019, the Vermont State Archives and Records Administration, in collaboration with the Vermont League of Cities and Towns, the Vermont Municipal Clerks' and Treasurers' Association, and the Agency of Digital Services, shall:

(1) evaluate blockchain technology for the systematic and efficient management of public records in accordance with 1 V.S.A. § 317a and 3 V.S.A. § 117;

(2) recommend legislation, including uniform laws, necessary to support the possible use of blockchain technology for the recording of land records pursuant to 24 V.S.A. § 1154 and for other public records; and

(3) submit its findings and recommendations to the House Committee on Commerce and Economic Development; the Senate Committee on Economic Development, Housing and General Affairs; and the House and Senate Committees on Government Operations.

* * * Effective Date * * *

Sec. 7. 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 blockchain business development”

(Committee vote: 9-0-2)

(For text see Senate Journal March 20, 2018)

Rep. Young of Glover, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Commerce and Economic Development and when further amended as follows:

First: In Sec. 5, in 11 V.S.A. chapter 25, subchapter 12, by striking out section 4174 in its entirety and renumbering the remaining sections in the subchapter to be numerically correct.

Second: By renumbering Secs. 6–7 to be Secs. 8–9 and inserting new Secs. 6–7 to read:

Sec. 6. REPEAL

32 V.S.A. § 5811(26) (digital business entity) is repealed.

Sec. 7. 32 V.S.A. chapter 151, subchapter 3 is amended to read:

Subchapter 3. Taxation of Corporations

* * *

§ 5832. TAX ON INCOME OF CORPORATIONS

* * *

(2)(A) \$75.00 for small farm corporations. “Small farm corporation” means any corporation organized for the purpose of farming, which during the taxable year is owned solely by active participants in that farm business and receives less than \$100,000.00 gross receipts from that farm operation, exclusive of any income from forest crops; or

(B) ~~An amount determined in accordance with section 5832a of this title for a corporation which qualifies as and has elected to be taxed as a digital business entity for the taxable year; or~~ [Repealed.]

(C) For C corporations with gross receipts from \$0-\$2,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$300.00; or

(D) For C corporations with gross receipts from \$2,000,001.00-\$5,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$500.00; or

(E) For C corporations with gross receipts greater than \$5,000,000.00, the greater of the amount determined under subdivision (1) of

this section or \$750.00.

~~§ 5832a. DIGITAL BUSINESS ENTITY FRANCHISE TAX~~

~~(a) There is imposed upon every business entity which qualifies as and has elected to be taxed as a digital business entity an annual franchise tax equal to:~~

~~(1) the greater of 0.02 percent of the current value of the tangible and intangible assets of the company or \$250.00, but in no case more than \$500,000.00; or~~

~~(2) where the authorized capital stock does not exceed 5,000 shares, \$250.00; where the authorized capital stock exceeds 5,000 shares but is not more than 10,000 shares, \$500.00; and the further sum of \$250.00 on each 10,000 shares or part thereof.~~

~~(b) In no case shall the tax on any corporation for a full taxable year, whether computed under subdivision (a)(1) or (2) of this section, be more than \$500,000.00 or less than \$250.00.~~

~~(c) In the case of a corporation that has not been in existence during the whole year, the amount of tax due, at the foregoing rates and as provided, shall be prorated for the portion of the year during which the corporation was in existence.~~

~~(d) In the case of a corporation changing during the taxable year the amount of its authorized capital stock, the total annual franchise tax payable at the foregoing rates shall be arrived at by adding together the franchise taxes calculated pursuant to subdivision (a)(2) of this section as prorated for the several periods of the year during which each distinct authorized amount of capital stock was in effect.~~

~~(e) For the purpose of computing the taxes imposed by this section, the authorized capital stock of a corporation shall be considered to be the total number of shares that the corporation is authorized to issue without regard to whether the number of shares that may be outstanding at any one time is limited to a lesser number.~~

~~(f) The franchise tax under this section shall be reported and paid in the same manner as the tax under subdivision 5832(2)(B) of this title; provided, however, that an electing corporation shall also provide the Commissioner with a copy of its federal tax return. [Repealed.]~~

~~* * *~~

~~§ 5838. DIGITAL BUSINESS ENTITY ELECTION~~

~~A corporation shall not be subject to the tax imposed by section 5832 of this title if the corporation qualifies as and elects to be taxed as a digital business~~

entity for the taxable year. [Repealed.]

(Committee Vote: 9-0-2)

S. 273

An act relating to miscellaneous law enforcement amendments

Rep. Harrison of Chittenden, for the Committee on Government Operations, 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:

* * * Training * * *

Sec. 1. 20 V.S.A. § 2351 is amended to read:

§ 2351. CREATION AND PURPOSE OF COUNCIL

* * *

(b) The Council is created to encourage and assist municipalities, counties, and governmental agencies of this State in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of ~~recruitment~~ recruit and in-service training for law enforcement officers.

* * *

Sec. 2. 20 V.S.A. § 2351a is amended to read:

§ 2351a. DEFINITIONS

As used in this chapter:

(1) “Executive officer” means the highest-ranking law enforcement officer of a law enforcement agency.

(2) “Law enforcement agency” means the employer of a law enforcement officer.

(3) “Law enforcement officer” means an employee of the Vermont Police Academy as permitted under section 2356 of this chapter; a member of the Department of Public Safety who exercises law enforcement powers; a member of the State Police; a Capitol Police officer; a municipal police officer; a constable who exercises law enforcement powers; a motor vehicle inspector; an employee of the Department of Liquor Control who exercises law enforcement powers; an investigator employed by the Secretary of State; a Board of Medical Practice investigator employed by the Department of Health; an investigator employed by the Attorney General or a State’s Attorney; a fish and game warden; a sheriff; a deputy sheriff who exercises law enforcement powers; a railroad police officer commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8; or a police officer appointed to the University of Vermont’s

Department of Police Services.

* * *

Sec. 3. 20 V.S.A. § 2356 is added to read:

§ 2356. VERMONT POLICE ACADEMY; LAW ENFORCEMENT
OFFICERS

(a) A person employed by the Vermont Police Academy who is certified as a law enforcement officer under this chapter and who maintains that certification shall be a law enforcement officer with statewide law enforcement authority.

(b) The ability of a person to be a certified law enforcement officer solely through his or her employment at the Vermont Police Academy pursuant to subsection (a) of this section shall not qualify that person for Group C membership in the Vermont State Retirement System.

Sec. 4. 20 V.S.A. § 2352 is amended to read:

§ 2352. COUNCIL MEMBERSHIP

(a)(1) The Vermont Criminal Justice Training Council shall consist of:

(A) the Commissioners of Public Safety, of Corrections, of Motor Vehicles, ~~and of Fish and Wildlife, and of Mental Health;~~

(B) the Attorney General;

(C) a member of the Vermont Troopers' Association or its successor entity, elected by its membership;

(D) a member of the Vermont Police Association, elected by its membership; ~~and~~

~~(E) five additional members appointed by the Governor.~~

~~(i) The Governor's appointees shall provide broad representation of all aspects of law enforcement and the public in Vermont on the Council.~~

~~(ii) The Governor shall solicit recommendations for appointment from the Vermont State's Attorneys Association, the Vermont State's Sheriffs Association, the Vermont Police Chiefs Association, and the Vermont Constables Association~~ a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;

(F) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;

(G) a law enforcement officer appointed by the President of the Vermont State Employees Association;

(H) an employee of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;

(I) an employee of the Vermont Center for Crime Victim Services, appointed by the Executive Director of the Center; and

(J) three public members who shall not be law enforcement officers or current legislators or otherwise be employed in the criminal justice system, one of whom shall be appointed by the Speaker of the House, one of whom shall be appointed by the Senate Committee on Committees, and one of whom shall be appointed by the Governor.

* * *

Sec. 5. 20 V.S.A. § 2355 is amended to read:

§ 2355. COUNCIL POWERS AND DUTIES

(a) The Council shall adopt rules with respect to:

(1) the approval, or revocation thereof, of law enforcement officer training schools and off-site training programs, which shall include rules to identify and implement alternate routes to certification aside from the training provided at the Vermont Police Academy;

* * *

(b)(1) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council shall offer courses of instruction for law enforcement officers in multiple regions of the State and shall strive to replace overnight courses with these regional trainings whenever possible.

(2) The Council may also offer the basic officer's course for ~~pre-service~~ preservice students and educational outreach courses for the public, including firearms safety and use of force.

* * *

Sec. 6. COUNCIL; REPORT ON TRAINING ALTERNATIVES

On or before January 15, 2019, the Executive Director of the Vermont Criminal Justice Training Council shall report to the Senate and House Committees on Government Operations regarding the Council's identification and implementation of alternate routes to certification and its plan to replace some of its overnight law enforcement training requirements at the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont (Police Academy) with training in multiple regions of the State, in accordance with 20 V.S.A. § 2355 in Sec. 5 of this act. The report shall specifically address any budgetary implications of the provisions of Sec. 5. The report

may be in verbal form.

Sec. 7. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(b) The Council shall offer or approve basic training and annual in-service training for each of the following three levels of law enforcement officer certification in accordance with the scope of practice for each level, and shall determine by rule the scope of practice for each level in accordance with the provisions of this section:

(1) Level I certification.

* * *

(2) Level II certification.

* * *

(3) Level III certification.

* * *

(c)(1) All programs required by this section shall be approved by the Council.

(2) The Council shall structure its programs so that an officer certified as a Level II law enforcement officer may complete additional training in block steps in order to transition to Level III certification, without such an officer needing to restart the certification process.

(3) Completion of a program shall be established by a certificate to that effect signed by the Executive Director of the Council.

* * *

Sec. 8. 20 V.S.A. § 2361 is amended to read:

§ 2361. ADDITIONAL TRAINING

(a) Nothing in this chapter prohibits any State law enforcement agency, department, or office or any municipality or county of the State from providing additional training beyond basic training to its personnel where no certification is requested of or required by the Council or its Executive Director.

(b) ~~The head of a State agency, department, or office, a municipality's chief of police, or a sheriff~~ executive officer of a law enforcement agency may seek certification from the Council for any in-service training he or she, or his or her designee may provide to ~~his or her employees~~ law enforcement officers

of his or her agency or of another agency, or both.

* * * Vermont State Retirement System; Group C Membership * * *

Sec. 9. LAW ENFORCEMENT STATE RETIREMENT BENEFITS
STUDY COMMITTEE; REPORT

(a) Creation. There is created the Law Enforcement State Retirement Benefits Study Committee to evaluate the requirements for membership in Group C of the Vermont State Retirement System (System) and to make recommendations to the General Assembly on any proposed changes to those requirements.

(b) Membership.

(1) The Committee shall be composed of the following 10 members:

(A) a current member of the House Committee on Appropriations, appointed by the Speaker;

(B) a current member of the Senate Committee on Appropriations, appointed by the Committee on Committees;

(C) a current member of the House Committee on Government Operations, appointed by the Speaker;

(D) a current member of the Senate Committee on Government Operations, appointed by the Committee on Committees;

(E) the State Treasurer or designee;

(F) the Secretary of Administration or designee;

(G) the Commissioner of Human Resources or designee;

(H) the Commissioner of Public Safety or designee;

(I) the President of the Vermont State Employees' Association or designee; and

(J) the Executive Director of the Vermont Troopers' Association or designee.

(2) Any vacancy in membership shall be filled by the appointing authority for the remainder of the term.

(c) Powers and duties.

(1) Group C analysis. The Committee shall review the requirements for membership in Group C of the System as set forth in 3 V.S.A. § 455(a)(9)(B) and (11)(C) and shall review all current employee positions classified as Group C in order to perform the following analyses:

(A) whether the requirements for membership in Group C are appropriately tailored to provide the appropriate retirement benefit to the appropriate group of employees; and

(B) whether applicable federal requirements, including the provisions of the Age Discrimination in Employment Act, merit changes to the requirements of Group C.

(2) Retirement benefit recommendations. In accordance with its findings made pursuant to subdivision (1) of this subsection, the Committee shall make the following recommendations:

(A) whether any State employee positions currently in Group C should be reclassified to another group within the System, given the nature of the job duties performed by members in those positions;

(B) whether any State employee positions not currently in Group C should be reclassified into Group C, given the nature of the job duties performed by members in those positions; and

(C) whether the General Assembly should consider any revisions or enhancements to the retirement benefits for certain State employee positions that do not qualify for the current or recommended Group C requirements, if the Committee finds that the nature of the position and job duties performed merit such revisions.

(3) Actuarial analysis; appropriation.

(A)(i) The State Treasurer shall consult with an actuary in order to determine any financial impact on the System as a result of changes recommended under subdivision (2) of this subsection.

(ii) The amount of \$75,000.00 is appropriated to the Office of State Treasurer for any actuarial analysis performed under this subdivision (3).

(B) The Committee shall review the actuarial analysis performed by the State Treasurer and make any adjustments to its recommendations as it deems appropriate in light of the financial impact on the System.

(d) Assistance.

(1) The Committee shall have the administrative, technical, legal, and fiscal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(2) The Offices of the State Treasurer and of the Attorney General, the Agency of Administration, the Department of Finance and Management, the Department of Human Resources, and the Agency of Digital Services shall provide support to the Committee as applicable.

(e) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Committee to occur on or before September 15, 2018.

(2) The Committee shall select co-chairs from among its membership, one of whom shall be a member of the House and one of whom shall be a member of the Senate, serving in their capacity as a legislator.

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

(4) The Committee shall cease to exist on the date it submits its final report.

(f) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010. These payments shall be made from monies appropriated to the Agency of Administration.

(g) Reports.

(1) On or before January 15, 2019, the Committee shall provide a progress report to the House and Senate Committees on Government Operations and on Appropriations.

(2) The Committee shall submit its final report during the 2019-2020 biennium.

* * * Law Enforcement Advisory Board * * *

Sec. 10. LEAB; REPEAL FOR RECODIFICATION

24 V.S.A. § 1939 (Law Enforcement Advisory Board) is repealed.

Sec. 11. 20 V.S.A. § 1818 is added to read:

§ 1818. LAW ENFORCEMENT ADVISORY BOARD

(a) The Law Enforcement Advisory Board is created within the Department of Public Safety to advise the Commissioner of Public Safety, the Governor, and the General Assembly on issues involving the cooperation and coordination of all agencies that exercise law enforcement responsibilities. The Board shall review any matter that affects more than one law enforcement agency. The Board shall comprise the following members:

- (1) the Commissioner of Public Safety or designee;
 - (2) a member of the Chiefs of Police Association of Vermont appointed by the President of the Association;
 - (3) a member of the Vermont Sheriffs' Association appointed by the President of the Association;
 - (4) a representative of the Vermont League of Cities and Towns appointed by the Executive Director of the League;
 - (5) a member of the Vermont Police Association appointed by the President of the Association;
 - (6) the Attorney General or designee;
 - (7) a State's Attorney appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;
 - (8) the U.S. Attorney or designee;
 - (9) the Executive Director of the Vermont Criminal Justice Training Council;
 - (10) the Executive Director of the Vermont Troopers' Association or designee;
 - (11) a member of the Vermont Constables Association appointed by the President of the Association; and
 - (12) the President of the Vermont State Employees Association or designee.
- (b) The Board shall elect a chair and a vice chair, which positions shall rotate among the various member representatives. Each member shall serve a term of two years. The Board shall meet at the call of the Chair or a majority of the members. A quorum shall consist of seven members, and decisions of the Board shall require the approval of a majority of those members present and voting.
- (c) The Board shall undertake an ongoing formal process of reviewing law enforcement policies and practices with a goal of developing a comprehensive approach to providing the best services to Vermonters, given the monies available. The Board shall also provide educational resources to Vermonters about public safety challenges in the State.
- (d)(1) The Board shall meet at its discretion to develop policies and recommendations for law enforcement priority needs, including retirement benefits, recruitment of officers, training, homeland security issues, dispatching, and comprehensive drug enforcement.

(2) The Board shall present its findings and recommendations in brief summary form to the House and Senate Committees on Judiciary and on Government Operations annually on or before January 15.

Sec. 12. LEAB; RECODIFICATION DIRECTIVE

(a) 24 V.S.A. § 1939 is recodified as 20 V.S.A. § 1818. During statutory revision, the Office of Legislative Council shall revise accordingly any references to 24 V.S.A. § 1939 in the Vermont Statutes Annotated.

(b) Any references in session law and adopted rules to 24 V.S.A. § 1939 as previously codified shall be deemed to refer to 20 V.S.A. § 1818.

Sec. 13. LEAB; 2019 REPORT ON MUNICIPAL ACCESS TO LAW

ENFORCEMENT SERVICES AND ON AGENCY DATA
STANDARDS FOR RECORD SYSTEMS

As part of its annual report in the year 2019, the Law Enforcement Advisory Board shall:

(1) specifically recommend ways that towns can increase access to law enforcement services; and

(2) consult with the Vermont Crime Information Center, the Crime Research Group, and other interested stakeholders regarding the manner in which law enforcement agencies enter data into their systems of records of the commission of crimes and related information in order to recommend in the report how agencies can improve that data entry so that crime data is entered uniformly and in a manner that meets the Center's requirement to have a uniform system of crime records as set forth in 20 V.S.A. § 2053.

* * * State Dispatch Costs * * *

Sec. 14. DEPARTMENT OF PUBLIC SAFETY; REPORT ON EXISTING
STATE COSTS OF PROVIDING DISPATCH SERVICES

On or before October 1, 2018, the Commissioner of Public Safety shall provide to the House and Senate Committees on Government Operations the existing cost to the State of the Department of Public Safety providing dispatch services.

* * * Effective Dates and Implementation * * *

Sec. 15. EFFECTIVE DATES; IMPLEMENTATION

This act shall take effect on July 1, 2018, except:

(1) Sec. 5, amending 20 V.S.A. § 2355 (Council powers and duties) shall take effect on July 1, 2019, except that the requirement to adopt rules set forth in subdivision (a)(1) of that section shall take effect on July 1, 2018 so

that those rules are adopted on or before July 1, 2019; and

(2) Sec. 7, amending 20 V.S.A. § 2358 (minimum training standards; definitions) shall take effect on July 1, 2020.

(Committee vote: 10-0-1)

(For text see Senate Journal march 20, 21, 2018)

S. 276

An act relating to rural economic development

Rep. Partridge of Windham, for the Committee on Agriculture and Forestry, 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:

* * * Rural Economic Development Initiative * * *

Sec. 1. 10 V.S.A. § 325m is amended to read:

§ 325m. RURAL ECONOMIC DEVELOPMENT INITIATIVE

(a) Definitions. As used in this subchapter:

(1) ~~“Industrial park” means an area of land permitted as an industrial park under chapter 151 of this title or under 24 V.S.A. chapter 117, or under both.~~

(2) “Rural area” means a county of the State designated as “rural” or “mostly rural” by the U.S. Census Bureau in its most recent decennial census.

~~(3)~~(2) “Small town” means a town in the State with a population of less than 5,000 at the date of the most recent U.S. Census Bureau decennial census.

(b) Establishment. There is created ~~within the Vermont Housing and Conservation Board a~~ the Rural Economic Development Initiative ~~to promote and facilitate to be administered by the Vermont Housing and Conservation Board for the purpose of promoting and facilitating~~ community economic development in the small towns and rural areas of the State. The Rural Economic Development Initiative shall collaborate with municipalities, businesses, ~~industrial parks~~, regional development corporations, regional planning commissions, and other appropriate entities to access funding and other assistance available to small towns and businesses in rural areas of the State when existing State resources or staffing assistance is not available.

(c) Services; access to funding.

~~(4)~~ The Rural Economic Development Initiative shall provide the following services to small towns and businesses in rural areas:

~~(A)(1)~~ identification of grant or other funding opportunities available to small towns, businesses in rural areas, and industrial parks in small towns and rural areas that facilitate business development, siting of businesses, workforce development, broadband deployment, infrastructure development, or other economic development opportunities;

~~(B)(2)~~ technical assistance to small towns, businesses in rural areas, and industrial parks in small towns and rural areas in writing grants, accessing and completing the application process for identified grants or other funding opportunities, including writing applications for grants or other funding, coordination with providers of grants or other funding, strategic planning for the implementation or timing of activities funded by grants or other funding, and compliance with the requirements of grant awards or awards of other funding.

~~(2)(d)~~ Priority. In providing services under this subsection section, the Rural Economic Development Initiative shall give first priority to projects that have received necessary State or municipal approval and that are ready for construction or implementation.

~~(d)(c)~~ Services; business development Priority projects. The Rural Economic Development Initiative shall ~~provide small towns and rural areas with services to facilitate business development in these areas. These services shall include:~~

~~(1)~~ Identifying businesses or business types suitable for a small town, rural areas, industrial parks in a small town or rural area, or coworker spaces or generator spaces in rural areas. In identifying businesses or business types, the Rural Economic Development Initiative shall seek to assist the following priority types of projects:

~~(A)~~ identify businesses or business types in the following priority areas:

~~(i)(1)~~ milk plants, milk handlers, or dairy products, as those terms are defined in 6 V.S.A. § 2672;

~~(ii)(2)~~ the outdoor recreation and equipment ~~or recreation industry enterprises;~~

~~(iii)(3)~~ the value-added food and forest products industry enterprises;

~~(iv)(4)~~ the value-added food industry farm operations, including phosphorus removal technology for farm operations;

~~(v)(5)~~ phosphorus removal technology coworking or business generator and accelerator spaces; and

~~(vi)(6) commercial composting facilities; and~~

~~(7) restoration and rehabilitation of historic buildings in community centers.~~

~~(B) explore with a small town or rural area whether underused or closed school buildings are appropriate sites for coworker or generator spaces.~~

~~(2) Recommending available grants, tax credits, or other incentives that a small town or rural area can use to attract businesses.~~

~~(3)(f) Coordination. In providing services under this subsection section, the Rural Economic Development Initiative shall coordinate with the Secretary of Commerce and Community Development in order to avoid duplication by the Rural Economic Development Initiative of business recruitment and workforce development services provided by the Agency of Commerce and Community Development, regional development corporations, and regional planning commissions.~~

~~(e)(g) Report. Beginning on January 15, 2018 31, 2019, and annually thereafter, the Rural Economic Development Initiative shall submit to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and the House Committees on Agriculture and Forestry and on Commerce and Economic Development a report regarding the activities and progress of the Initiative as part of the report of the Vermont Farm and Forest Viability Program. The report shall include:~~

~~(1) a summary of the Initiative's activities in the preceding calendar year;~~

~~(2) an evaluation of the effectiveness of the services provided by the Initiative to small towns, rural areas, and industrial parks;~~

~~(3) a summary of the Initiative's progress in attracting priority businesses to small towns and rural areas;~~

~~(4) an accounting of the grants or other funding that the Initiative facilitated or provided assistance with;~~

~~(5) an accounting of the funds acquired by the Rural Economic Development Initiative for administration of grants or other funding mechanisms and whether these funds are sufficient to offset the cost of the Rural Economic Development Initiative; and~~

~~(6) recommended changes to the program, including proposed legislative amendments to further economic development in small towns and rural areas in the State summarize the Initiative's activities in the preceding year; evaluate the effectiveness of the services provided by the Initiative; provide an accounting of the grants or other funding that the Initiative~~

facilitated or helped secure; and recommend any changes to the program to further economic development in small towns and rural areas of the State.

* * * Outdoor Recreation-Friendly Community Program * * *

Sec. 2. OUTDOOR RECREATION-FRIENDLY COMMUNITY PROGRAM

(a) Establishment. Upon receipt of funding, the Outdoor Recreation-Friendly Community Program (Program) is created to provide incentives for communities to leverage outdoor recreation assets to foster economic growth within a town, village, city, or region of the State.

(b) Administration. The Program shall be administered by the Department of Forests, Parks and Recreation in association with the Agency of Commerce and Community Development.

(c) Selection. The Commissioner of Forests, Parks and Recreation in consultation with the Agency of Commerce and Community Development and the Vermont Outdoor Recreation Economic Collaborative steering committee shall select communities for the Program using, at minimum, the following factors:

(1) community economic need;

(2) identification of outdoor recreation as a priority in a town plan or other pertinent planning document;

(3) community commitment to an outdoor recreation vision; demonstrated support from community officials, the public, local business, and local and statewide outdoor recreation nonprofit organizations; and commitment to adhere to accepted standards and recreation ethos;

(4) a community with a good foundation of outdoor recreation assets already in place with strong potential for growth on both private and public lands;

(5) a community with good opportunities for connecting assets within the community with assets of other nearby communities;

(6) a community with an existing solid network of local supporting businesses; and

(7) community commitment to track and measure outcomes to demonstrate economic and social success.

(d) Incentives. Communities accepted into the Program shall be offered, at minimum, the following incentives:

(1) preferential consideration to become part of the Vermont Trail System;

(2) preferential consideration when applying for grant assistance through the Recreational Trails Program and the Land and Water Conservation Fund Program;

(3) access to other economic development assistance if available and appropriate; and

(4) recognition as part of a network of Outdoor Recreation-Friendly Communities connected through a common branding and adherence to high standards of quality and service.

(e) Pilot project and appropriation. Upon receipt of funding to create the Outdoor Recreation Friendly Community Program, the Agency of Commerce and Community Development, in association with the Department of Forests, Parks and Recreation, shall approve pilot communities to serve as prototypes for the Program. The funding may be used for the following purposes:

(1) communitywide outdoor recreation planning, including assessment, mapping, and identifying possibilities and priorities;

(2) services of consultants and other technical assistance providers;

(3) public facing mapping and other informational materials;

(4) securing access;

(5) implementation of public access improvements;

(6) stewardship;

(7) marketing; and

(8) program administration.

(f) Reports. On or before January 15, 2019, the Commissioner of Forests, Parks and Recreation shall submit a report to the General Assembly detailing the progress made with the pilot project authorized under subsection (e) of this section. On or before January 15, 2020, the Commissioner of Forests, Parks and Recreation shall submit a report to the General Assembly detailing any measurable results of economic activity growth.

* * * Vermont Trails System; Act 250 * * *

Sec. 3. PURPOSE

The purpose of this section and Sec. 4 of this act is to provide for consistency in the application of 10 V.S.A. chapter 151 (Act 250) to the construction and improvement of trails that are part of the Vermont Trails System under 10 V.S.A. chapter 20.

Sec. 4. 10 V.S.A. § 6001(3) is amended to read:

(3)(A) “Development” means each of the following:

* * *

(v) The construction of improvements on a tract of land involving more than 10 acres that is to be used for municipal, county, or State purposes. In computing the amount of land involved, land shall be included that is incident to the use such as lawns, parking areas, roadways, leaching fields, and accessory buildings. Trails recognized as part of the Vermont Trails System under section 443 of this title shall be deemed to be for a State purpose.

* * *

(C) For the purposes of determining jurisdiction under subdivision (3)(A) of this section subdivision (3), the following shall apply:

* * *

(vi) Vermont Trail System projects. In the case of a construction project for a trail recognized as part of the Vermont Trail System pursuant to section 443 of this title, the computation of land involved shall not include any portion of the trail or of the Vermont Trail System in existence as of July 1, 2018, unless that portion will be physically altered as part of the project and is on the same tract or tracts of land.

* * *

(F) When jurisdiction over a trail has been established pursuant to subdivision (A) of this subdivision (3), jurisdiction shall extend only to the trail corridor and to any area directly or indirectly affected by the construction, operation, or maintenance of the trail corridor. The width of the corridor shall be 10 feet unless the District Commission determines that circumstances warrant a wider or narrower width.

Sec. 4a. PROSPECTIVE REPEAL

10 V.S.A. § 6001(3)(C)(vi) shall be repealed on July 1, 2019.

Sec. 4b. ACT 250 JURISDICTION; RECREATIONAL TRAILS;

EVALUATION

(a) In addition to the currently assigned tasks under 2017 Acts and Resolves No. 47 (Act 47), the Commission on Act 250: the Next 50 Years (the Commission) established under that act shall evaluate the strengths and challenges associated with regulation of recreational trails under 10 V.S.A. chapter 151 (Act 250) and alternative structures for the planning, review, and construction of future trail networks and the extension of existing trail networks. The Commission shall include recommendations on this issue in its report to the General Assembly due on or before December 15, 2018 under

Act 47.

(b) To provide information and recommendations to the Commission on the issue identified in subsection (a) of this section, the Commissioner of Forest, Parks and Recreation or designee and the Chair of the Natural Resources Board or designee shall form a recreational trails working group that shall include officers and employees of the Agency of Natural Resources designated by the Secretary of Natural Resources, the Vermont Trails and Greenways Council established under 10 V.S.A. chapter 20, representatives of environmental organizations, and other affected persons. The working group shall submit a report to the Commission on Act 250 on or before October 1, 2018.

(1) With respect to recreational trails, the working group's report shall examine multiple potential planning and regulatory structures, including possible revisions to Act 250; the creation of a trail oversight program within the Agency of Natural Resources that includes best development practices and an agency permitting process, including consideration of a general permit; and other options that the working group may identify.

(2) In considering alternative structures, the working group shall evaluate how best to foster the development of an interconnected recreational trail network in Vermont while safeguarding the State's natural resources, including water quality, wildlife habitat and populations, and sensitive natural communities and areas, and potential impacts on neighboring properties and host municipalities.

(3) The Commission shall consider the report of the working group during its deliberation and report preparation phase set forth in Act 47, Sec. 2(d)(3), and shall attach a copy of the working group's report to its own report to the General Assembly.

* * * Farm and Forest Viability * * *

Sec. 5. 6 V.S.A. § 4710 is amended to read:

§ 4710. VERMONT FARM AND FOREST VIABILITY ENHANCEMENT
PROGRAM

(a) The Vermont Farm and Forest Viability ~~Enhancement~~ Program is a voluntary program established in the Agency of Agriculture, Food and Markets to provide assistance to Vermont ~~farmers~~ farm, food, and forest-sector businesses to enhance the financial success and long-term viability of Vermont ~~agriculture~~ agricultural and forest sectors. In administering the Program, the Secretary shall:

(1) Collaborate with the Vermont Housing and Conservation Board, to

administer the program with other State and federal agencies, private entities, and service groups to develop, coordinate, and provide technical and financial assistance to Vermont farmers farm, food, and forest-sector businesses.

~~(2) Include teams of~~ Secure and coordinate experts to assist ~~farmers farm, food, and forest-sector business owners~~ in areas such as ~~assessing farm resources and potential~~ business and financial planning, succession planning, diversifying, adopting new technologies, improving product quality, developing value-added products, and lowering costs of production for Vermont's agricultural sector. ~~The teams.~~ Providers may include farm business management specialists, University of Vermont Extension professionals, ~~veterinarians,~~ and other experts to deliver the ~~informational and technological educational and consulting services.~~

(3) Encourage agricultural or forest-sector economic development through investing in improvements to essential infrastructure and the promotion of ~~farm businesses in Vermont~~ these sectors.

(4) Enter into agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State and employ technical experts to carry out the purposes of this section.

(b) ~~The farm viability enhancement program~~ Farm and Forest Viability Program shall be assisted by an advisory board consisting of ~~ten~~ 12 members who shall include:

(1) The Secretary of Agriculture, Food and Markets. The Secretary shall serve as Chair of the Board.

(2) The Commissioner of Forests, Parks and Recreation or designee.

(3) The Commissioner of Economic Development or designee.

~~(3)~~(4) The Manager of the Vermont Economic Development Authority or designee.

~~(4)~~(5) The Director of University of Vermont Extension or designee.

~~(5)~~(6) The Executive Director of the Vermont Housing and Conservation Board or designee.

~~(6)~~(7) Four Vermont ~~farmers~~ agricultural or forest-sector business owners appointed by the Secretary of Agriculture, Food and Markets in consultation with the Vermont Housing and Conservation Board and the Commissioner of Forests, Parks and Recreation. ~~The four farmers shall serve two-year terms, except for the first year, two farmers chosen by the Chair shall serve one-year terms~~ At least two of the four business owners shall be agricultural-sector business owners.

~~(7)(8)~~ Two people who have expertise in agricultural or forest-sector economics, financing, or business planning development appointed by the Secretary of Agriculture, Food and Markets in consultation with the Vermont Housing and Conservation Board and the Commissioner of Forests, Parks and Recreation.

(c) Members of the Advisory Board established in subsection (b) of this section other than ex officio members shall serve up to three two-year terms and shall be entitled to per diem expenses pursuant to 32 V.S.A. § 1010 for each day spent in the performance of their duties, and each such member shall be reimbursed ~~from the fund created by this section~~ for his or her reasonable expenses incurred in carrying out his or her duties under this section.

(d) In consultation with the Advisory Board, the Secretary of Agriculture, Food and Markets and the Vermont Housing and Conservation Board shall establish ~~grant criteria,~~ performance goals, performance measures that demonstrate Program results, and other criteria to implement the Program. The ~~grant~~ criteria shall include at least the following requirements:

(1) ~~the application is developed in consultation with the producers who use or would use the Program and will address their needs;~~

(2) ~~the use of the funds available to the Program is likely to succeed in improving the economic viability of the farm and the farm's producers business;~~

~~(3)(2)~~ the producers are committed enrollees demonstrate commitment to participating in the Program; and

~~(4)(3)~~ an evaluation shall be completed by enrolled farmers in conjunction with the teams the enrollees.

~~(e)(1) The Farm Viability Enhancement Program Special Fund is established in the State Treasury and shall be administered by the Secretary of Agriculture, Food and Markets in accordance with the provisions of 32 V.S.A. chapter 7, subchapter 5, except that interest earned on the fund shall be retained in the Fund. The Fund shall be used only for the purpose of implementing and effectuating the Farm Viability Enhancement Program established by this section. There shall be deposited in such Fund any monies appropriated by the General Assembly to, or received by, the Secretary of Agriculture, Food and Markets from any other source, public or private. The Fund shall be used only for the purposes of:~~

~~(A) providing funds for the Farm Viability Enhancement Program as established in this section;~~

~~(B) providing funds to enrolled farmers;~~

~~(C) providing funds to service providers for administrative expenses of the program; and~~

~~(D) leveraging other competitive public and private funds, grants, and contributions for the Farm Viability Enhancement Program.~~

~~(2) The Secretary of Agriculture, Food and Markets, the Commissioner of Forests, Parks and Recreation, and the Vermont Housing and Conservation Board, separately or cooperatively, may solicit federal funds, grants, and private contributions for the Farm and Forest Viability Enhancement Program, but any Vermont Housing and Conservation Board funds used for the Farm and Forest Viability Enhancement Program shall be administered in accordance with 10 V.S.A. § 312.~~

~~(f)(1) In collaboration with the Vermont Housing and Conservation Board, the Secretary of Agriculture, Food and Markets and the Commissioner of Forests, Parks and Recreation, the Vermont Housing and Conservation Board shall report in writing to the Senate Committee Committees on Agriculture and on Economic Development, Housing and General Affairs and the House Committee Committees on Agriculture and Forestry and on Commerce and Economic Development on or before January 31 of each year with a report on the activities and performance of the Farm and Forest Viability Enhancement Program. At a minimum, the report shall include an evaluation of the Program utilizing the performance goals and performance measures established in consultation with the Advisory Board under subsection (d) of this section. The report should assess potential demand for the Program over the succeeding three years.~~

~~(2) The Agency of Agriculture, Food and Markets and the Vermont Housing and Conservation Board shall describe in their annual budget submissions plans to develop adequate State, federal, and private funds to carry out this initiative.~~

~~(g)(1) The Agricultural Economic Development Special Account is established as a dedicated sub-account of the Vermont Farm Viability Enhancement Program Special Fund. There shall be deposited in such account any monies:~~

~~(A) appropriated by the General Assembly to the account; and~~

~~(B) received by the State or the Secretary of Agriculture, Food and Markets from any source, public or private, for use for any of the purposes for which the account was established.~~

~~(2) The Fund shall only be used for the purposes of:~~

~~(A) encouraging private investment in the economic initiative; and~~

~~(B) providing incentives for technology businesses, determined by the Agency of Agriculture, Food and Markets to provide critical technological solutions for the growth of Vermont's agricultural economy.~~

~~(3) Assistance from the Agricultural Economic Development Special Account shall be available in order to produce agricultural energy, harvest biomass, convert biomass into energy, or enable installation and usage of wind, solar, or other technology that relies on a resource that is being consumed at a harvest rate at or below its natural regeneration rate pursuant to 30 V.S.A. § 8002(2), including:~~

~~(A) business and technical assistance for research and planning to aid a farmer or a group of farmers in developing business enterprises;~~

~~(B) cost-effective implementation assistance to leverage other sources of capital to assist a farmer or group of farmers in purchasing equipment, technology, or other assistance; and~~

~~(C) business, technical, and implementation assistance to persons that are not farmers for the development and implementation of technology or development of facilities designed to produce agricultural energy, harvest biomass, or convert biomass into energy, provided that the person is working in consultation with a Vermont farm, is creating an enterprise that utilizes Vermont resources, and provides Vermont a significant return on investment and meets any financial and technical criteria established by the Secretary by procedure. [Repealed.]~~

* * * Nutrient Management Plans; Technical Service Providers * * *

Sec. 5a. 6 V.S.A. § 4989 is added to read:

§ 4989. CERTIFICATION OF NUTRIENT MANAGEMENT PLAN

TECHNICAL SERVICE PROVIDERS

(a) On or before July 1, 2019, the Secretary of Agriculture, Food and Markets shall adopt by rule a process by which a nutrient management technical service provider shall be certified to operate within the State. The certification process shall require a nutrient management technical service provider to complete eight hours of training over each five-year period regarding:

- (1) calculating manure and agricultural waste generation;
- (2) taking soil and manure samples;
- (3) identifying and creating maps of all natural resource features;
- (4) use of erosion calculation tools;

- (5) reconciling plans using records;
- (6) use of nutrient index tools; and
- (7) requirements within the Required Agricultural Practices, Medium Farm Operation rules and general permit, and Large Farm Operation rules.

(b) Beginning on July 1, 2019, a nutrient management technical service provider shall not create a nutrient management plan for a farm unless certified by the Secretary of Agriculture, Food and Markets.

* * * Forest Products Industry; Act 250 * * *

Sec. 6. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF
REVIEW

* * *

(g) When an application concerns the construction of improvements for one of the following, the application shall be processed as a minor application in accordance with subsections (b) through (e) of this section:

(1) a sawmill that produces three and one-half million board feet or less annually; or

(2) an operation that involves the primary processing of forest products of commercial value and that annually produces:

(A) 3,500 cords or less of firewood or cordwood; or

(B) 10,000 tons or less of bole wood, whole tree chips, or wood pellets.

Sec. 7. COMMISSION ON ACT 250; REVIEW OF FOREST PRODUCTS
PROCESSING

The Commission on Act 250: the Next 50 Years (Commission) established under 2017 Acts and Resolves No. 47 (Act 47) shall review whether permit conditions in permits issued under 10 V.S.A. chapter 151 (Act 250) to forest processing operations negatively impact the ability of a forest processing operation to operate in an economically sustainable manner, including whether Act 250 permit conditions limit the ability of a forest processing operation to alter production or processing in order to respond to market conditions. If the Commission determines that Act 250 permit conditions have a significant negative economic impact on forestry processing operations, the Commission shall recommend alternatives for mitigating those negative economic impacts. The Commission shall include its findings and recommendation on this issue, if any, in the report due to the General Assembly on December 15, 2018 under

Act 47.

* * * Environmental Permitting Fees * * *

Sec. 8. 3 V.S.A. § 2822(j) is amended to read:

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the Agency of Natural Resources.

* * *

(26) For individual conditional use determinations, for individual wetland permits, for general conditional use determinations issued under 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit, an administrative processing fee assessed under subdivision (2) of this subsection ~~(j)~~ and an application fee of:

(A) \$0.75 per square foot of proposed impact to Class I or II wetlands.

(B) \$0.25 per square foot of proposed impact to Class I or II wetland buffers.

(C) Maximum fee, for the conversion of Class II wetlands or wetland buffers to cropland use or for installation of a pipeline in a wetland for the transport of manure for the purpose of farming, as that term is defined in 10 V.S.A. § 6001(22), when the pipeline will serve or implement a water quality or conservation practice, \$200.00 per application. As used in this subdivision, “cropland” means land that is used for the production of agricultural crops, including row crops, fibrous plants, pasture, fruit-bearing bushes, trees, or vines, and the production of Christmas trees.

* * *

* * * Electric Utility Demand Charges; Rural Towns * * *

Sec. 9. DEMAND CHARGES; REPORT

(a) On or before January 31, 2019, the Commissioner of Public Service (Commissioner), in consultation with the Secretary of Commerce and Community Development, shall submit a written report on electric utility demand charges in Vermont and their effect on the ability of industrial enterprises to locate in rural towns of the State.

(b) The Commissioner shall submit the report to the House Committees on Agriculture and Forestry, on Commerce and Community Development, and on Energy and Technology and the Senate Committees on Agriculture, on Economic Development, Housing and General Affairs, and on Finance.

(c) The report under this section shall include:

(1) a narrative summary of the terms, conditions, and rates for each demand charge tariff of each Vermont electric utility;

(2) a table that shows the rates and applicability of each such tariff, with such other information as the Commissioner may consider relevant, organized by electric utility;

(3) an analysis of the alternatives to these tariffs that will improve the ability of industrial enterprises to locate in rural towns of the State, including the use of energy efficiency, self-generation, and other measures to reduce the demand of such enterprises on the interconnecting electric utility;

(4) the Commissioner's recommendations on changes to demand charge tariffs and other methods to reduce demand that would encourage locating industrial enterprises in rural towns of the State or that would reduce or remove disincentives posed by demand charge tariffs to such locations.

(d) In this section, "rural town" shall have the same meaning as in 24 V.S.A. § 4303.

* * * Purchase and Use Tax; Forestry Equipment * * *

Sec. 10. 32 V.S.A. § 8911 is amended to read:

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

(1) Motor vehicles owned or registered, or motor vehicles rented, by any state or province or any political subdivision thereof.

* * *

(23) The following motor vehicles used for timber cutting, timber removal, and processing of timber or other solid wood forest products intended to be sold ultimately at retail: skidders with grapple and cable, feller bunchers, cut-to-length processors, forwarders, delimiters, loader slashers, log loaders, whole-tree chippers, stationary screening systems, and firewood processors, elevators, and screens.

* * * Forest Products Industry; Wood Energy; Supply * * *

Sec. 11. PUBLIC BUILDINGS; WOOD ENERGY; VERMONT

SUPPLIERS; REPORT

(a) On or before December 15, 2018, the Commissioner of Buildings and General Services (Commissioner), in consultation with the Commissioner of Public Service, shall submit a written report and recommendation on the feasibility and impacts of requiring certain public buildings that use wood to

produce heat or electricity, or both, to give preference to Vermont suppliers when making fuel supply purchases.

(b) As used in this section, “public building” has the same meaning as in 20 V.S.A. § 2730.

(c) The submission shall include the Commissioner’s specific recommendations as to each of the following categories of public buildings:

(1) schools owned, occupied, or administered by municipalities;

(2) other public buildings owned or occupied by the State of Vermont, counties, municipalities, or other public entities; and

(3) public buildings or biomass energy facilities in Vermont that receive incentives or financing, or both, from the State of Vermont and are not within the category described in subdivision (1) or (2) of this subsection.

(d) The Commissioner shall submit the report and recommendation to the Senate Committees on Agriculture and on Natural Resources and Energy and the House Committees on Agriculture and Forestry and on Energy and Technology.

* * * Hemp * * *

Sec. 12. PURPOSE

The purpose of this section and Secs. 13–14 of this act is to amend the laws of Vermont regarding the cultivation of industrial hemp to conform with federal requirements for industrial hemp research set forth in section 7606 of the federal Agricultural Act of 2014, Pub. L. No. 113-79, codified at 7 U.S.C. § 5940.

Sec. 13. 6 V.S.A. chapter 34 is amended to read:

CHAPTER 34. HEMP

§ 561. FINDINGS; INTENT

(a) Findings.

(1) Hemp has been continuously cultivated for millennia, is accepted and available in the global marketplace, and has numerous beneficial, practical, and economic uses, including: high-strength fiber, textiles, clothing, ~~bio-fuel~~ biofuel, paper products, protein-rich food containing essential fatty acids and amino acids, biodegradable plastics, resins, nontoxic medicinal and cosmetic products, construction materials, rope, and value-added crafts.

(2) The many agricultural and environmental beneficial uses of hemp include: livestock feed and bedding, stream buffering, erosion control, water and soil purification, and weed control.

(3) The hemp plant, an annual herbaceous plant with a long slender stem ranging in height from four to 15 feet and a stem diameter of one-quarter to three-quarters of an inch is morphologically distinctive and readily identifiable as an agricultural crop grown for the cultivation and harvesting of its fiber and seed.

(4) Hemp cultivation will enable the State of Vermont to accelerate economic growth and job creation, promote environmental stewardship, and expand export market opportunities.

(5) The federal Agricultural Act of 2014, Pub. L. No. 113-79 authorized the growing, cultivation, and marketing of industrial hemp, notwithstanding restrictions under the federal Controlled Substances Act, if certain criteria are satisfied.

(b) Purpose. The intent of this chapter is to establish policy and procedures for growing hemp in Vermont that comply with federal law so that farmers and other businesses in the Vermont agricultural industry can take advantage of this market opportunity.

§ 562. DEFINITIONS

As used in this chapter:

(1) [Repealed.]

(2) “Hemp products” or “hemp-infused products” means all products made from hemp, including cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics, seed, seed meal, seed oil, and certified seed for cultivation.

(3) “Hemp” or “industrial hemp” means the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

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

§ 563. HEMP; AN AGRICULTURAL PRODUCT

~~Hemp~~ Industrial hemp is an agricultural product ~~which~~ that may be grown as a crop, produced, possessed, marketed, and commercially traded in Vermont pursuant to the provisions of this chapter. The cultivation of industrial hemp shall be subject to and comply with ~~the requirements of~~ the required agricultural practices adopted under section 4810 of this title.

§ 564. REGISTRATION; ADMINISTRATION; PILOT PROJECT

(a) The Secretary shall establish a pilot program to research the growth, cultivation, and marketing of industrial hemp. Under the pilot program, the

Secretary shall register persons who will participate in the pilot program through growing or cultivating industrial hemp. The Secretary shall certify the site where industrial hemp will be cultivated by each person registered under this chapter. A person who intends to participate in the pilot program and grow industrial hemp shall register with the Secretary and submit on a form provided by the Secretary the following:

(1) the name and address of the person;

(2) a statement that the seeds obtained for planting are of a type and variety that do not exceed the maximum concentration of tetrahydrocannabinol set forth in subdivision 562(3) of this title; and

(3) the location and acreage of all parcels sown and other field reference information as may be required by the Secretary.

(b) The form provided by the Secretary pursuant to subsection (a) of this section shall include a notice statement that, ~~until current federal law is amended to provide otherwise:~~

(1) cultivation and possession of industrial hemp in Vermont is a violation of the federal Controlled Substances Act unless the industrial hemp is grown, cultivated, or marketed under a pilot program authorized by section 7606 of the federal Agricultural Act of 2014, Pub. L. No. 113-79; and

(2) federal prosecution for growing hemp in violation of federal law may include criminal penalties, forfeiture of property, and loss of access to federal agricultural benefits, including agricultural loans, conservation programs, and insurance programs; and

(3) registrants may purchase or import hemp genetics from any state that complies with federal requirements for the cultivation of industrial hemp.

(c) A person registered with the Secretary pursuant to this section shall allow industrial hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected and tested by and at the discretion of the Secretary or ~~his or her~~ designee. The Secretary shall retain tests and inspection information collected under this section for the purposes of research of the growth and cultivation of industrial hemp.

(d) The Secretary may assess an annual registration fee of \$25.00 for the performance of his or her duties under this chapter.

§ 566. RULEMAKING AUTHORITY

(a) The Secretary may adopt rules to provide for the implementation of this chapter and the pilot project authorized under this chapter, which may include rules to require hemp to be tested during growth for tetrahydrocannabinol levels and to require inspection and supervision of hemp during sowing,

growing season, harvest, storage, and processing. The Secretary shall not adopt under this or any other section a rule that would prohibit a person to grow hemp based on the legal status of hemp under federal law.

(b) The Secretary shall adopt rules establishing how the Agency of Agriculture, Food and Markets will conduct research within the pilot program for industrial hemp.

(c) The Secretary shall adopt rules establishing requirements for the registration of processors of hemp and hemp-infused products.

Sec. 14. TRANSITION; IMPLEMENTATION

All persons registered prior to July 1, 2018 with the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 34 to grow or cultivate hemp shall be deemed to be registered with the Secretary of Agriculture, Food and Markets as participants in the industrial hemp pilot project established by this act under 6 V.S.A. § 564, and those previously registered persons shall not be required to reregister with the Secretary of Agriculture, Food and Markets.

Sec. 15. 6 V.S.A. §§ 567 and 568 are added to read:

§ 567. AGENCY OF AGRICULTURE, FOOD AND MARKETS; TESTING

The Agency of Agriculture, Food and Markets shall establish a cannabis quality control program for the following purposes:

(1) to develop potency and contaminant testing protocols for hemp and hemp-infused products;

(2) to verify cannabinoid label guarantees of hemp and hemp-infused products;

(3) to test for pesticides, solvents, heavy metals, mycotoxins, and bacterial and fungal contaminants in hemp and hemp-infused products; and

(4) to certify testing laboratories that can offer the services in subdivisions (2) and (3) of this section.

§ 568. TEST RESULTS; ENFORCEMENT

(a) If the Secretary or a dispensary registered under 18 V.S.A. chapter 86 tests a hemp crop and the hemp has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis, the person registered with the Secretary as growing the hemp crop shall:

(1) enter into an agreement with a dispensary registered under 18 V.S.A. chapter 86 for the separation of the delta-9 tetrahydrocannabinol from the hemp crop, return of the hemp crop to the person registered with the Secretary, and retention of the separated delta-9 tetrahydrocannabinol by the dispensary.

(2) sell the hemp crop to a dispensary registered under 18 V.S.A. chapter 86; or

(3) arrange for the Secretary to destroy or order the destruction of the hemp crop.

(b) A person registered with the Secretary as growing the hemp crop shall not be subject to civil, criminal, or administrative liability or penalty under 18 V.S.A. chapter 84 if the tested industrial hemp has a delta-9 tetrahydrocannabinol concentration of one percent or less on a dry weight basis.

(c) A crop or product confirmed by the Secretary to meet the definition of hemp under State or federal law may be sold or transferred in interstate commerce to the extent authorized by federal law.

Sec. 16. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, process, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief.

* * *

(5) Acquire, possess, manufacture, process, transfer, transport, market, and test hemp provided by persons registered with the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 34 to grow or cultivate hemp.

* * *

* * * Produce Inspection * * *

Sec. 17. 6 V.S.A. § 21(b) is amended to read:

(b) The Secretary shall have the authority to:

(1) respond to and remediate incidences of mass animal death, agricultural structure fires, or other emergencies on a farm in order to prevent a public health hazard;

(2) condemn, confiscate, or establish restrictions on the use, sale, or distribution of adulterated raw agricultural commodities or animal feed; and

(3) cooperate with the Department of Health and other State and federal agencies regarding:

(A) the prevention or remediation of the adulteration of raw agricultural commodities, food, or animal feed on farms; and

(B) application of the FDA Food Safety Modernization Act, ~~21 U.S.C. §§ 2201-2252~~ Pub. L. No. 111-353, to farms, farm products, or value-added products produced in the State.

Sec. 18. 6 V.S.A. § 852 is amended to read:

§ 852. ~~AUTHORITY; ENFORCEMENT~~

(a) The Secretary may enforce in the State the requirements of:

(1) the rules adopted under the ~~federal~~ U.S. Food and Drug Administration Food Safety Modernization Act, Public Law No. 111-353, ~~for standards for growing, harvesting, packing, and holding of produce for human consumption~~ Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112; and

(2) the rules adopted under this chapter.

(b) The Agency may collaborate with the ~~Vermont~~ Department of Health regarding application of the ~~federal Food Safety Modernization Act and the rules adopted thereunder~~ U.S. Food and Drug Administration Food Safety Modernization Act, Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112, and application of the rules adopted under this chapter.

(c) The Secretary shall carry out the provisions of this chapter using:

(1) monies appropriated to the Agency by the federal government for the purpose of administering the federal Food Safety Modernization Act and the rules adopted thereunder;

(2) monies appropriated to the Agency by the State for the purpose of administering this chapter; and

(3) other gifts, bequests, and donations by private entities for the purposes of administering this chapter.

Sec. 19. 6 V.S.A. § 853 is amended to read:

§ 853. FARM INSPECTIONS

(a)(1) The Secretary may inspect a produce farm during reasonable hours for the purposes of ensuring compliance with:

(A) the federal standards for growing, harvesting, packing, and holding of produce for human consumption, as adopted under 21 C.F.R. part 112; or

(B) the rules adopted under this chapter.

(2) This section shall not limit the Secretary's authority to respond to an emergency in order to prevent a public health hazard under section 21 of this title.

~~(b) After inspection, the Secretary may issue an inspection certificate that shall include the date and place of inspection along with any other pertinent facts that the Secretary may require.~~

(e) The Secretary may coordinate with other State agencies and organizations to carry out inspections at or near the same time on a given produce farm.

Sec. 20. 6 V.S.A. §§ 856 and 857 are added to read:

§ 856. ENFORCEMENT; CORRECTIVE ACTIONS

When the Secretary of Agriculture, Food and Markets determines that a person is violating the rules listed in section 852 of this title, the Secretary may issue a written warning that shall be served in person or by certified mail, return receipt requested. A warning issued under this section shall include:

- (1) a description of the alleged violation;
- (2) identification of this section;
- (3) identification of the applicable rule violated; and
- (4) the required corrective action that the person shall take to correct the violation.

§ 857. ENFORCEMENT; ADMINISTRATIVE ORDERS

(a) Notwithstanding the requirements of section 856 of this title, the Secretary at any time may pursue one or more of the following:

(1) issue a cease and desist order in accordance to a person the Secretary believes to be in violation of the rules listed in section 852 of this title;

(2) issue a verbal order or written administrative order to protect public health, including orders for the stop sale, recall, embargo, destruction, quarantine, and release of produce, when:

(A) the U.S. Food and Drug Administration requires immediate State action; or

(B) an alleged violation, activity, or farm practice presents an immediate threat to the public health or welfare;

- (3) order mandatory corrective actions;
- (4) take any action authorized under chapter 1 of this title;
- (5) seek administrative or civil penalties in accordance with the

requirements of section 15, 16, or 17 of this title.

(b) When the Secretary of Agriculture, Food and Markets issues a cease and desist order, written administrative order, or required corrective action under subsection (a) of this section, the Secretary shall provide the person subject to the order or corrective action with a statement that the order or corrective action is effective upon receipt and the person has 15 days from the date the order or corrective action was issued to request a hearing.

(c) If the Secretary of Agriculture, Food and Markets issues a verbal order under this section, the Secretary shall issue written notice to the person subject to the order within five days of the issuance of the verbal order. The written notice shall include a statement that the person has 15 days from the date the written notice was received to request a hearing.

(d) If a person who receives a cease and desist order, a verbal order, an administrative order, or a mandatory corrective action under this section does not request in writing a hearing within 15 days of receipt of the order or within 15 days of written notice for a verbal order, the person's right to a hearing is waived. Upon receipt of a written request for a hearing, the Secretary promptly shall set a date and time for a hearing. A request for a hearing on a cease and desist order, verbal order, or administrative order issued under this section shall not stay the order.

(e) A person aggrieved by a final action or decision of the Secretary under this section may appeal de novo to the Civil Division of the Superior Court within 30 days of the final decision of the Secretary.

* * * Livestock and Poultry Transport for Slaughter * * *

Sec. 21. 6 V.S.A. § 1461a(c) is amended to read:

(c) Livestock and poultry that are transported to a commercial slaughter facility within the State shall not be removed from the facility without the facility's ~~owner~~ owner's first obtaining written permission from the State Veterinarian. For purposes of this section, arrival of the conveyance onto facility property and the offloading of livestock or poultry constitutes transport to a slaughter facility, regardless of whether the animals have been offloaded ~~or~~ presented for antemortem inspection. The State Veterinarian may require inspection and testing prior to issuing consent for removal.

* * * Nutrient Management Planning * * *

Sec. 22. 6 V.S.A. § 4817 is added to read:

§ 4817. NUTRIENT MANAGEMENT PLAN; REPORTING

(a) Submission of plans. Annually, an owner or operator of a farm that, under this chapter, requires a large farm permit or a medium farm permit or is

subject to the requirement for small farm certification shall submit to the Secretary a digital or electronic copy of the nutrient management plan required under this chapter. A nutrient management plan submitted by an owner or operator of a farm under this subsection shall identify the location of the outfall of subsurface tile drainage installed on the farm after January 1, 2018.

(b) Limitation on disclosure; authorized disclosure. A nutrient management plan submitted to the Secretary under this section and information contained within a nutrient management plan shall be exempt from inspection or copying under the Public Records Act except that the Secretary may authorize disclosure of a nutrient management plan or information within a nutrient management plan for one or more of the following:

(1) to allow an Agency contractor or governmental entity cooperating with the Agency to provide technical or financial assistance to the farm;

(2) to respond to a disease or pest threat to a farm, if the Secretary determines that a threat to agricultural operations exists and the disclosure of information within the nutrient management plan to a person or governmental entity cooperating with the Agency is necessary to assist the Secretary in responding to the disease or pest threat;

(3) to provide information related to State or federal assistance to the owner or operator of a farm for development of the nutrient management plan or for practices required under the nutrient management plan;

(4) to provide or publish statistical or aggregated information provided that the Secretary shall not disclose the identity of the individual persons, households, or businesses from whom or where the information was obtained;

(5) when the owner or operator of the farm consents; or

(6) to disclose any information related to an enforcement action taken against the owner or operator of the farm that submitted the nutrient management plan.

(c) Waiver of privilege or protection. The disclosure of information by the Secretary under subsection (b) of this section shall not constitute a waiver by the owner or operator of the farm of any applicable privilege or protection under State or federal law, including trade secret protection.

Sec. 23. SCHEDULE; SUBMISSION OF NUTRIENT MANAGEMENT PLAN

An owner or operator of a farm subject to the nutrient management plan reporting requirements of 6 V.S.A. § 4817 shall initiate submission of the nutrient management plan according to the following schedule:

(1) the owner or operator of a large farm, beginning on February 15, 2019 and annually thereafter;

(2) the owner or operator of a medium farm, beginning on April 30, 2019 and annually thereafter; and

(3) the owner or operator of a small farm subject to certification, beginning on January 31, 2021 and annually thereafter.

* * * Industrial Park Designation * * *

Sec. 24. AGENCY OF COMMERCE AND COMMUNITY

DEVELOPMENT; INDUSTRIAL PARK DESIGNATION

(a) On or before December 15, 2018, the Secretary of Commerce and Community Development, after consultation with the Secretary of Natural Resources, the Chair of the Natural Resources Board, Regional Development Corporations, Regional Planning Commissions, the Vermont Natural Resources Council, and the Commission on Act 250, shall submit to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and to the House Committees on Commerce and Economic Development, on Agriculture and Forestry, and on Natural Resources, Fish, and Wildlife recommendations for establishing an economic development program under which defined parcels in rural areas of the State are designated as industrial parks for the purposes of providing regulatory and permitting incentives to businesses sited within the industrial park. The report shall include:

(1) recommended criteria for establishing an industrial park in a rural area;

(2) eligibility criteria, if any, for a business to site within a designated industrial park in a rural area;

(3) recommended incentives for businesses sited within a designated industrial park in a rural area, including permitting incentives, permit fee reductions, reduced electric rates, net metering incentives, and other regulatory incentives;

(4) recommended technical or financial assistance that a business would be eligible to receive for locating within a designated industrial park in a rural area; and

(5) draft legislation necessary to implement any recommendation.

(b) The recommendations in the report shall be designed in a manner so that any recommended process or criteria maintains consistency with the land use goals of Vermont in 24 V.S.A. § 4302 and the relevant regional plan

adopted under 24 V.S.A. § 4348.

(c) As used in this section, “rural area” means a county of the State designated as “rural” or “mostly rural” by the U.S. Census Bureau in its most recent decennial census.

* * * Fire Prevention and Building Code Fees * * *

Sec. 25. 20 V.S.A. § 2731(c) is amended to read:

(c) The following fire prevention and building code fees are established:

(1) The permit application fee for a construction plan approval shall be based on \$8.00 per each \$1,000.00 of the total valuation of the construction work proposed to be done for all buildings, but in no event shall the permit application fee exceed ~~\$185,000.00~~ \$130,000.00 nor be less than \$50.00.

(2) When an inspection is required due to the change in use or ownership of a public building, the fee shall be \$125.00.

(3) The proof of inspection fee for fire suppression, alarm, detection, and any other fire protection systems shall be \$30.00.

(4) Three-year initial certificate of fitness and renewal fees for individuals performing activities related to fire or life safety established under subsection (a) of this section shall be:

* * *

* * * Use Value Appraisal * * *

Sec. 26. 32 V.S.A. § 3755 is amended to read:

§ 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

* * *

(b) Managed forestland shall be eligible for use value appraisal under this subchapter only if:

(1) The land is subject to a forest management plan, or subject to a conservation management plan in the case of lands certified under 10 V.S.A. § 6306(b), ~~which~~ that is filed in the manner and form required by the Department of Forests, Parks and Recreation and that:

(A) ~~is~~ Is signed by the owner of the parcel; ~~and~~

(B) ~~complies~~ Complies with subdivision 3752(9) of this title; ~~and~~

(C) ~~is filed with and~~ Is approved by the Department of Forests, Parks and Recreation; ~~and~~

(D) ~~provides~~ Provides for continued conservation management or

forest crop production on the parcel for 10 years. An initial forest management plan or conservation management plan must be filed with the Department of Forests, Parks and Recreation ~~no later than~~ on or before October 1 and shall be effective for a 10-year period beginning the following April 1. Prior to expiration of a 10-year plan and ~~no later than~~ on or before April 1 of the year in which the plan expires, the owner shall file a new conservation or forest management plan for the next succeeding 10 years to remain in the program.

(E) The Department may approve a forest management plan that provides for the maintenance and enhancement of the tract's wildlife habitat where clearly consistent with timber production and with minimum acceptable standards for forest management as established by the Commissioner of Forests, Parks and Recreation.

(F) The Department, upon giving due consideration to resource inventories submitted by applicants, may approve a conservation management plan, consistent with conservation management standards, so as to include appropriate provisions designed to preserve: areas with special ecological values; fragile areas; rare or endangered species; significant habitat for wildlife; significant wetlands; outstanding resource waters; rare and irreplaceable natural areas; areas with significant historical value; public water supply protection areas; areas that provide public access to public waters; and open or natural areas located near population centers or historically frequented by the public. In approving a plan, the Department shall give due consideration to: the need for restricted public access where required to protect the fragile nature of the resource; public accessibility where restricted access is not required; facilitation of appropriate, traditional public usage; and opportunities for traditional or expanded use for educational purposes and for research.

(2) A management report of whatever activity has occurred, signed by the owner, has been filed with the Department of Forests, Parks and Recreation ~~by Taxes, Director of Property Valuation and Review~~ on or before February 1 of the year following the year when the management activity occurred.

(3) There has not been filed with the Director an adverse inspection report by the Department stating that the management of the tract is contrary to the forest or conservation management plan, or contrary to the minimum acceptable standards for forest or conservation management. The management activity report shall be on a form prescribed by the Commissioner of Forests, Parks and Recreation in consultation with the Commissioner of Taxes and shall include a detachable section be signed by all the owners that and shall contain the federal tax identification numbers of all the owners. ~~The section containing federal tax identification numbers shall not be made available to the~~

~~general public, but shall be forwarded to the Commissioner of Taxes within 30 days after receipt and used for tax administration purposes.~~ All information contained within the management activity report shall be forwarded to the Department of Forests, Parks and Recreation, except for any tax identification number included in the report. If any owner ~~shall satisfy~~ satisfies the Department that he or she was prevented by accident, mistake, or misfortune from filing an initial or revised management plan ~~which~~ that is required to be filed on or before October 1, or a management plan update ~~which~~ that is required to be filed on or before April 1 of the year in which the plan expires, or a management activity report ~~which~~ that is required to be filed on or before February 1 of the year following the year when the management activity occurred, the ~~Department~~ owner may ~~receive~~ submit that management plan or management activity report at a later date; provided, however, no initial or revised management plan shall be received later than December 31, and no management plan update shall be received later than one year after April 1 of the year the plan expires, and no management activity report shall be received later than March 1.

(c) The Department of Forests, Parks and Recreation shall periodically review the management plans and each year review the management activity reports that have been filed.

(1) At intervals not to exceed 10 years, that Department shall inspect each parcel of managed forestland qualified for use value appraisal to verify that the terms of the management plan have been carried out in a timely fashion.

(2) The Department shall have the ability to enter parcels of managed forestland for the purpose of inspections. The Department may bring any other staff from the Agency of Natural Resources that have the expertise to evaluate compliance with this chapter or staff that may be required to ensure the safety of the Department while conducting the inspections.

(3) If that Department finds that the management of the tract is contrary to the conservation or forest management plan, or contrary to the minimum acceptable standards for conservation or forest management, it shall file with the owner, the assessing officials, and the Director an adverse inspection report within 30 days ~~of~~ after the conclusion of the inspection process.

(d) After managed forestland has been removed from use value appraisal due to an adverse inspection report under ~~subdivision 3756(i)(1)~~ subsection 3756(k) of this title, a new application for use value appraisal shall not be considered for a period of five years, and then the forest management plan shall be approved by the Department of Forests, Parks and Recreation only if a compliance report has been filed with the new ~~application~~ forest management

plan, certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

* * *

* * * Sales and Use Tax; Advanced Wood Boilers * * *

Sec. 27. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

Unless the context in which they occur requires otherwise, the following terms when used in this chapter mean:

* * *

(54) “Noncollecting vendor” means a vendor that sells tangible personal property or services to purchasers who are not exempt from the sales tax under this chapter, but that does not collect the Vermont sales tax.

(55) “Advanced wood boiler” means a boiler or furnace:

(A) installed as a primary central heating system;

(B) rated as high-efficiency, meaning a higher heating value or gross calorific value of 85 percent or more;

(C) containing at least one week fuel-storage, automated startup and shutdown, and fuel feed; and

(D) meeting other efficiency and air emissions standards established by the Department of Environmental Conservation.

Sec. 28. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

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

* * *

(52) Advanced wood boilers, as defined in section 9701 of this title.

Sec. 29. 32 V.S.A. § 9706(11) is added to read:

(11) The statutory purpose of the exemption for advanced wood boilers in subdivision 9741(52) of this title is to promote the forest products industry in Vermont by encouraging the purchase of modern wood heating systems.

* * * Energy Efficiency * * *

Sec. 30. . 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

* * *

(j) Self-managed energy efficiency programs.

(1) There shall be a class of self-managed energy efficiency programs for transmission and industrial electric ratepayers only.

(2) The Commission, by order, shall enact this class of programs.

(3) Entities approved to participate in the self-managed energy efficiency program class shall be exempt from all statewide charges under subdivision (d)(3) of this section that support energy efficiency programs performed by or on behalf of Vermont electric utilities. If an electric ratepayer approved to participate in this program class also is a customer of a natural gas utility, the ratepayer shall be exempt from all charges under subdivision (d)(3) of this section or contained within the rates charged by the natural gas utility to the ratepayer that support energy efficiency programs performed by or on behalf of that utility, provided that the ratepayer complies with this subsection.

(4) All of the following shall apply to a class of programs under this subsection:

(A) A member of the transmission or industrial electric rate classes shall be eligible to apply to participate in the self-managed energy efficiency program class if the charges to the applicant, or to its predecessor in interest at the served property, under subdivision (d)(3) of this section were a minimum of:

(i) \$1.5 million during calendar year 2008; or

(ii) \$1.5 million during calendar year 2017.

(B) A cost-based fee to be determined by the Commission shall be charged to the applicant to cover the administrative costs, including savings verification, incurred by the Commission and Department. The Commission shall determine procedures for savings verification. Such procedures shall be consistent with savings verification procedures established for entities appointed under subdivision (d)(2) of this section.

(C) An applicant shall demonstrate to the Commission that it has a comprehensive energy management program with annual objectives. Achievement of certification of ISO standard 14001 shall be eligible to satisfy the requirements of having a comprehensive program.

(D) An applicant eligible pursuant to subdivision (A)(i) of this subdivision (j)(4) shall commit to an annual average ~~energy efficiency~~

investment in energy efficiency and productivity programs and measures during each three-year period that the applicant participates in the program of not less than \$1 million. An applicant eligible pursuant to subdivision (A)(ii) of this subdivision (j)(4) shall commit to an annual average investment in energy efficiency and productivity programs and measures during each three-year period that the applicant participates in the program of not less than \$500,000.00. To achieve the exemption from energy efficiency charges related to natural gas under subdivision (3) of this subsection (j), the an applicant shall make an additional annual energy efficiency investment in an amount not less than \$55,000.00. As used in this subsection (j), “productivity programs and measures” means investments that reduce the amount of energy required to produce a unit of product.

(E) Participation in the self-managed program includes efficiency and productivity programs and measures applicable to electric and other forms of energy. A participant may balance efficiency investments in such programs and measures across all types of energy or fuels without limitations.

(F) A participant shall provide to the Commission and Department annually an accounting of ~~energy~~ investments in energy efficiency and productivity programs and measures and the resultant energy savings in the form prescribed by the Commission, which may conduct reasonable audits to ensure the accuracy of the data provided.

(G) The Commission shall report to the General Assembly annually ~~by on or before~~ April 30 concerning the prior calendar year’s class of self-managed energy efficiency programs. The report shall include identification of participants, their annual investments, and resulting savings, and any actions taken to exclude entities from the program.

(H) Upon approval of an application by the Commission, the applicant shall be able to participate in the class of self-managed energy efficiency programs.

(I) On a determination that, for a given three-year period, a participant in the self-managed efficiency program class did not meet or has not met the commitment required by subdivision (4)(D) of this ~~subsection~~ subdivision (j)(4), the Commission shall terminate the participant’s eligibility for the self-managed program class.

(i) On such termination, the former participant will be subject fully to the then existing charges applicable to its rate class without exemption under subdivision (3) of this subsection (j), and within 90 days ~~of~~ after such termination shall pay:

(I) the difference between the investment it made pursuant to

the self-managed energy efficiency program during the three-year period of noncompliance and the full amount of the charges and rates related to energy efficiency it would have incurred during that period absent exemption under subdivision (3) of this subsection (j); and

(II) the difference between the investment it made pursuant to the program within the current three-year period, if different from the period of noncompliance, and the full amount of the charges and rates related to energy efficiency it would have incurred during the current period absent exemption under subdivision (3) of this subsection (j).

(ii) Payments under subdivision ~~(4)(I)(i)~~ of this ~~subsection (j)~~ subdivision (4)(I) shall be made to the entities to which the full amount of charges and rates would have been paid absent exemption under subdivision (3) of this subsection (j).

(iii) A former participant may not reapply for membership in the self-managed program after termination under this subdivision ~~(4)(I)~~.

(J) A participant in the self-managed program class may request confidentiality of data it reports to the Commission if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If such confidentiality is requested, the Commission shall disclose the data only in accordance with a protective agreement approved by the Commission and signed by the recipient of the data, unless a court orders otherwise.

(K) Any data not subject to a confidentiality request under subdivision ~~(4)(J)~~ of this ~~subsection~~ subdivision (4) will be a public record.

(L) A participant in the self-managed program class may submit projects to the independent system operator of New England, including through recognized aggregators, for payments under that operator's forward capacity market program, and shall invest such payments in electric or fuel efficiency.

(M) A participant in the self-managed program class may receive funding from an energy program administered by a government or other entity ~~which that~~ is not the participant ~~but and~~ may ~~not~~ count such funds received as part of the annual commitment to its self-managed energy efficiency program.

* * *

Sec. 31. ENERGY SAVINGS ACCOUNT PARTNERSHIP PILOT

(a) Definitions. As used in this section:

(1) "ACCD" means the Agency of Commerce and Community Development under 3 V.S.A. chapter 47.

(2) “Commission” means the Public Utility Commission under 30 V.S.A. § 3.

(3) “Customer” means a commercial or industrial electric customer that is located in a service territory in which Efficiency Vermont delivers energy efficiency programs and measures and that does not qualify for SMEEP. The term shall also include at least one electric customer located in such a service territory whose operation is primarily devoted to farming as defined in 10 V.S.A. § 6001, regardless of the customer’s rate class.

(4) “Customer EEC Funds” means a customer’s EEC payments during the period of the ESA partnership project.

(5) “Department” means the Department of Public Service under 3 V.S.A. § 212 and 30 V.S.A. § 1.

(6) “EEC” means an energy efficiency charge on a customer’s retail electric bill under 30 V.S.A. § 209(d).

(7) “Efficiency Vermont” or “EVT” means the EEU whose appointment under 30 V.S.A. § 209(d)(2) includes the delivery of programs and measures to customers of multiple electric distribution utilities.

(8) “Energy efficiency utility” or “EEU” means an entity appointed to deliver energy efficiency and conservation programs and measures under 30 V.S.A. § 209(d)(2).

(9) “ESA” means an energy savings account under 30 V.S.A. § 209(d)(3)(B).

(10) “ESA Partnership Pilot” means the three-year pilot program established by this section.

(11) “Productivity measures” means investments that reduce the amount of energy required to produce a unit of product.

(12) “SMEEP” means the self-managed energy efficiency program established under 30 V.S.A. § 209(j).

(13) “Standing committees of jurisdiction” means the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

(14) “Unregulated fuel” shall have the same meaning as in 30 V.S.A. § 209(e).

(b) ESA Partnership Pilot; establishment. On or before July 1, 2019, the Commission by rule or order shall establish a three-year pilot program for customers to self-direct the use of their Customer EEC Funds, working with EVT. The total amount of Customer EEC Funds available in the pilot program

each year shall not exceed \$2 million. The pilot program established under this section shall be an expansion of the ESA option under which:

(1) Notwithstanding any contrary provision of 30 V.S.A. § 209(d)(3)(B), the customer shall be able to receive an amount equal to 100 percent of its Customer EEC Funds to pay for the full cost of projects that are eligible under subdivision (3) of this subsection; for technical assistance and other services from EVT; and for evaluation, measurement, and verification activity conducted by the Department or EVT.

(2) The customer may receive payments in advance of project completion from EVT based on the energy management plan submitted under subsection (d) of this section, estimated project costs, and projected energy savings. However, a customer shall not receive advance payments from EVT that exceed the amount of Customer EEC Funds the customer has already paid.

(3) Notwithstanding any contrary provision of 30 V.S.A. § 209, the Customer EEC Funds may be used for one or more of the following: electric energy efficiency, thermal energy and process-fuel efficiency for unregulated fuels, productivity measures, demand management, and energy storage that provides benefits to the customer and its interconnecting utility.

(c) Methodology for evaluation, measurement, and verification. In its rule or order under subsection (b) of this section, the Commission shall establish a methodology for evaluation, measurement, and verification of projects implemented under the pilot that is consistent with the requirements of 30 V.S.A. § 218c and that includes cost-effectiveness screening that values energy savings across the customer's energy portfolio and nonenergy benefits such as economic development. As used in this subsection, "economic development" includes job creation, job retention, and capital investment.

(1) This methodology may be considered for future establishment of EEU performance criteria under 30 V.S.A. § 209(d).

(2) EVT and the Department shall evaluate and verify the electricity savings of each project funded under the ESA Partnership Pilot with no less rigor than is required by the Independent System Operator of New England (ISO-NE) for the ISO-NE's forward capacity market.

(d) Competitive solicitation. A customer shall apply to participate in the ESA Partnership Pilot through a competitive solicitation process conducted jointly by EVT, the Department, and ACCD.

(1) Promptly after the Commission's rule or order under subsection (b) of this section becomes effective, EVT, the Department, and ACCD shall establish criteria for customer selection that are consistent with that rule or order and that take into account energy efficiency and economic development.

(2) On establishment of the selection criteria, EVT, the Department, and ACCD jointly shall issue a request for proposals (RFP) from customers seeking to participate in the ESA Partnership Pilot.

(3) EVT, the Department, and ACCD jointly shall select customers to participate in the ESA Partnership Pilot from among the customers that timely submit proposals in response to the RFP and shall notify the Commission of the selected customers.

(4) If EVT, the Department, and ACCD are unable to resolve an issue arising under this subsection, they shall bring the issue to the Commission for resolution.

(5) Customer selection under this subsection shall be completed before July 1, 2019.

(e) Energy management plans. Working with EVT, each customer selected for the ESA Partnership Pilot shall develop an energy management plan for the three-year period of the pilot with projects to be implemented, energy savings targets, and a timeline for projects and investments. A copy of each plan shall be submitted to the Commission, the Department, and ACCD.

(f) Other EEU services. A customer that participates in the ESA Partnership Pilot shall not be eligible for other EEU services, except for an EEU appointed to deliver natural gas efficiency programs and measures.

(g) Other funding. A customer that participates in the ESA Partnership Pilot may receive funding from an energy program administered by a government or other person that is not the participant, including an EEU appointed to deliver natural gas efficiency services, but shall not count such funds as part of the investment commitment of the ESA Partnership Pilot.

(h) Unused funds. At the end of the ESA Partnership Pilot, any Customer EEC Funds that have not been expended or committed under the pilot shall revert to use for systemwide energy efficiency programs and measures.

(i) Annual reports. On or before each November 1 from 2020 through 2022, the EVT and the selected customers jointly shall submit written progress reports to the Commission, the Department, and the standing committees of jurisdiction that include projects under the ESA Partnership Pilot and their associated energy and cost savings. A customer's projects under the pilot and the associated data and results shall be made public through this report. However, a customer may request that the Commission order customer-specific data to be used in preparing a report under this subsection be kept confidential if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If the Commission issues such an order, the data subject to the order shall be disclosed only in accordance with a protective agreement

approved by the Commission and signed by the recipient of the data, unless a court directs otherwise.

(j) Evaluation; recommendation. On completion of the ESA Partnership Pilot, the Commission shall conduct or shall have a third party conduct an independent evaluation of the ESA Partnership Pilot and, after considering the results of that evaluation, shall submit a written recommendation to the standing committees of jurisdiction on whether to continue the program conducted under this section and, if so, under what recommended conditions and revisions, if any. The Commission shall submit this recommendation on or before January 15, 2023.

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

(a) This section and Secs. 3–4b (Act 250; trails), 5a (technical service providers), 6 (Act 250 primary processing of forest products), 7 (Act 250; review of forest products processing), 8 (wetland permit fee), 17–20 (produce inspection), and 21 (livestock transport) shall take effect on passage.

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

(Committee vote: 10-0-1)

(For text see Senate Journal March 21, 22, 2018)

S. 281

An act relating to the mitigation of systemic racism

Rep. Gannon of Wilmington, for the Committee on Government Operations, 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 to promote racial justice reform throughout the State by mitigating systemic racism in all systems of State government and creating a culture of inclusiveness.

Sec. 2. 3 V.S.A. § 2102 is amended to read:

§ 2102. POWERS AND DUTIES

(a) The Governor’s Cabinet shall adopt and implement a program of continuing coordination and improvement of the activities carried on at all levels of State and local government.

(b) The Cabinet shall work collaboratively with the Executive Director of Racial Equity and may provide the Director with access to all relevant records

and information as permitted by law.

Sec. 3. 3 V.S.A. chapter 68 is added to read:

CHAPTER 68. EXECUTIVE DIRECTOR OF RACIAL EQUITY

§ 5001. POSITION

(a) There is created within the Executive Branch the position of Executive Director of Racial Equity to identify and work to eradicate systemic racism within State government.

(b) The Executive Director of Racial Equity shall have the powers and duties enumerated within section 2102 of this title and shall work collaboratively with and act as a liaison between the Governor's Workforce Equity and Diversity Council, the Vermont Human Rights Commission, and the Governor's Cabinet.

§ 5002. RACIAL EQUITY ADVISORY PANEL

(a) The Racial Equity Advisory Panel is established. The Panel shall be organized and have the duties and responsibilities as provided in this section. The Panel shall have administrative, legal, and technical support of the Agency of Administration.

(b)(1) The Panel shall consist of five members, as follows:

(A) one member appointed by the Senate Committee on Committees who shall not be a current legislator;

(B) one member appointed by the Speaker of the House who shall not be a current legislator;

(C) one member appointed by the Chief Justice of the Supreme Court who shall not be a current legislator;

(D) one member appointed by the Governor who shall not be a current legislator; and

(E) one member appointed by the Human Rights Commission who shall not be a current legislator.

(2) Members shall be drawn from diverse backgrounds to represent the interests of communities of color throughout the State, have experience working to implement racial justice reform and, to the extent possible, represent geographically diverse areas of the State.

(3) The term of each member shall be three years, except that of the members first appointed, one each shall serve a term of one year, to be appointed by the Human Rights Commission; two years, to be appointed by the Governor; three years, to be appointed by the Speaker of the House; four

years, to be appointed by the Senate Committee on Committees; and five years, to be appointed by the Chief Justice of the Supreme Court, so that the term of one regular member expires in each ensuing year. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of this subsection. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term. Members shall serve until their successors are elected or appointed. Members shall serve not more than three consecutive terms in any capacity.

(4) Members of the Panel shall elect by majority vote the Chair of the Panel, who shall serve for a term of three years after the implementation period. Members of the Panel shall be appointed on or before September 1, 2018 in order to prepare as they deem necessary for the establishment of the Panel, including the election of the Chair of the Panel. Terms of members shall officially begin on January 1, 2019.

(c) The Panel shall have the following duties and responsibilities:

(1) work with the Executive Director of Racial Equity to implement the reforms identified as necessary in the comprehensive organizational review as required by subsection 5003(a) of this title; and

(2) advise the Director to ensure ongoing compliance with the purpose of this chapter, and advise the Governor on strategies for remediating systemic racial disparities in statewide systems of government.

(d) Each member of the Panel shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

§ 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

(a) The Executive Director of Racial Equity shall work with the agencies and departments to implement a program of continuing coordination and improvement of activities in State government in order to combat systemic racial disparities and measure progress toward fair and impartial governance, including:

(1) oversee a comprehensive organizational review to identify systemic racism in each of the three branches of State government and inventory systems in place that engender racial disparities;

(2) create a strategy for implementing a centralized platform for race-based data collection and manage the aggregation, correlation, and public dissemination of the data; and

(3) develop a model fairness and diversity policy and review and make recommendations regarding the fairness and diversity policies held by all State

government systems.

(b) Pursuant to section 2102 of this title, work collaboratively with State agencies and departments to gather relevant existing data and records necessary to carry out the purpose of this chapter and to develop best practices for remediating systemic racial disparities throughout State government.

(c) The Director shall work with the agencies and departments and with the Chief Performance Officer to develop performance targets and performance measures for the General Assembly, the Judiciary, and the agencies and departments to evaluate respective results in improving systems. These performance measures shall be included in the agency's or department's quarterly reports to the Director, and the Director shall include each agency's or department's performance targets and performance measures in his or her annual reports to the General Assembly.

(d) The Director shall, in consultation with the Department of Human Resources and the agencies and departments, develop and conduct trainings for agencies and departments regarding the nature and scope of systemic racism and the institutionalized nature of race-based bias. Nothing in this subsection shall be construed to discharge the existing duty of the Department of Human Resources to conduct trainings.

(e) On or before January 15, 2020, and annually thereafter, report to the House and Senate Committees on Government Operations demonstrating the State's progress in identifying and remediating systemic racial bias within State government.

§ 5004. INFORMATION; DISCLOSURE AND CONFIDENTIALITY

(a) Confidentiality of records. Except as provided in subsection (b) of this section, the records of the Racial Equity Director and the Racial Equity Advisory Panel shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(b) Exceptions.

(1) The Director and Panel members may make records available to each other, the Governor, and the Governor's Cabinet as necessary to fulfill their duties as set forth in this chapter. They may also make records pertaining to any alleged violations of antidiscrimination statutes available to any State or federal law enforcement agency authorized to enforce such statutes. The Director or Panel may refuse to disclose records or information the release of which may be prohibited under State or federal law absent court order.

(2) Any records or information described in subdivision (1) of this subsection made available to a party or entity pursuant to a confidentiality agreement or court order requiring confidentiality shall be kept confidential in

accordance with the agreement or order, unless disclosure is otherwise authorized by law or court order.

§ 5005. NOMINATION AND APPOINTMENT PROCESS

(a) The Racial Equity Advisory Panel shall select for consideration by the Panel, by majority vote, provided that a quorum is present, from the applications for the position of Executive Director of Racial Equity as many candidates as it deems qualified for the position.

(b) The Panel shall submit to the Governor the names of the three candidates it deems most qualified to be appointed to fill the position.

(c) The Governor shall make the appointment to the Executive Director position from the list of qualified candidates submitted pursuant to subsection (b) of this section. The names of candidates submitted and not selected shall remain confidential.

Sec. 4. AUTHORIZATION FOR EXECUTIVE DIRECTOR OF RACIAL EQUITY POSITION

One new permanent, exempt position of Executive Director of Racial Equity is created within the Agency of Administration.

Sec. 5. FISCAL YEAR 2019 APPROPRIATION

There is appropriated to the Agency of Administration from the General Fund for fiscal year 2019 the amount of \$75,000.00 for the Racial Equity Advisory Panel and the position of Executive Director of Racial Equity.

Sec. 6. SECRETARY OF ADMINISTRATION; RACIAL EQUITY ADVISORY PANEL; EXECUTIVE DIRECTOR OF RACIAL EQUITY; REPORT

(a) On or before September 1, 2018, the Racial Equity Advisory Panel shall be appointed.

(b) On or before November 1, 2018, the Racial Equity Advisory Panel shall, in consultation with the Secretary of Administration and the Department of Human Resources, have developed and posted a job description for the Executive Director of Racial Equity.

(c) On or before January 1, 2019, the Racial Equity Advisory Panel shall submit to the Governor the names of the three candidates for the Executive Director of Racial Equity position.

(d) On or before February 1, 2019, the Governor shall appoint the Executive Director of Racial Equity.

(e) On or before May 1, 2019, the Executive Director of Racial Equity

shall update the House and Senate Committees on Government Operations regarding how best to complete a comprehensive organizational review to identify systemic racism pursuant to 3 V.S.A. § 5003, and potential private and public sources of funding to achieve the review.

Sec. 7. REPEAL

On June 30, 2023:

(1) Sec. 3 of this act (creating the Executive Director of Racial Equity and Racial Equity Advisory Panel in 3 V.S.A. chapter 68) is repealed and the Officer position and Panel shall cease to exist; and

(2) Sec. 4 of this act (authorization for the Executive Director of Racial Equity position) is repealed.

Sec. 8. 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 racial equity in State government”

(Committee vote: 10-0-1)

(For text see Senate Journal March 21, 2018)

Rep. Trieber of Rockingham, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

(Committee Vote: 9-0-2)

Senate Proposal of Amendment

H. 378

An act relating to the creation of the Artificial Intelligence Task Force

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. ARTIFICIAL INTELLIGENCE TASK FORCE; REPORT

(a) Creation. There is created the Artificial Intelligence Task Force to:

(1) investigate the field of artificial intelligence; and

(2) make recommendations on the responsible growth of Vermont’s emerging technology markets, the use of artificial intelligence in State government, and State regulation of the artificial intelligence field.

(b) Definition. As used in this section, “artificial intelligence” means models and systems performing functions generally associated with human

intelligence, such as reasoning and learning.

(c) Membership. The Task Force shall be composed of the following 14 members:

(1) the Secretary of Commerce and Community Development or designee;

(2) the Secretary of Digital Services or designee;

(3) the Commissioner of Public Safety or designee;

(4) the Secretary of Transportation or designee;

(5) one member to represent the interests of workers appointed by the President of the Vermont State Labor Council, AFL-CIO;

(6) the Executive Director of the American Civil Liberties Union of Vermont or designee;

(7) one member appointed by the Chief Justice of the Supreme Court;

(8) two members who are academics at a postsecondary institute, with one appointed by the Speaker and one appointed by the Committee on Committees;

(9) one member with experience in the field of ethics and human rights, appointed by the Vermont chapter of the National Association of Social Workers;

(10) one member appointed by the Vermont Society of Engineers;

(11) one member appointed by the Vermont Academy of Science and Engineering;

(12) one member who is a secondary or postsecondary student in Vermont, appointed by the Governor; and

(13) one member appointed by the Vermont Medical Society.

(d) Powers and duties. The Task Force shall study the field of artificial intelligence, including the following:

(1) an assessment of the development and use of artificial intelligence technology, including benefits and risks;

(2) whether and how to use artificial intelligence in State government, including an analysis of the fiscal impact, if any, on the State; and

(3) whether State regulation of the artificial intelligence field is needed.

(e) Meetings.

(1) The Secretary of Commerce and Community Development or

designee shall call the first meeting of the Task Force to occur on or before October 1, 2018.

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

(3) The Task Force shall meet not more than 10 times and shall cease to exist on June 30, 2019.

(f) Quorum. A majority of membership shall constitute a quorum of the Task Force.

(g) Staff services. The Task Force shall be entitled to staff services of the Agency of Commerce and Community Development.

(h) Reports. On or before February 15, 2019, the Task Force shall submit an update to the Senate Committee on Government Operations and the House Committee on Energy and Technology. On or before June 30, 2019, the Task Force shall submit a final report to the Senate Committee on Government Operations and the House Committee on Energy and Technology that shall include:

(1) a summary of the development and current use of artificial intelligence in Vermont;

(2) a proposal for a definition of artificial intelligence, if needed;

(3) a proposal for State regulation of artificial intelligence, if needed;

(4) a proposal for the responsible and ethical development of artificial intelligence in the State, including an identification of the potential risks and benefits of such development; and

(5) a recommendation on whether the General Assembly should establish a permanent commission to study the artificial intelligence field.

(i) The update and report described in subsection (h) of this section shall be submitted electronically to the Senate Committee on Government Operations and the House Committee on Energy and Technology, unless otherwise requested.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(For text see House Journal March 2, 2018)

H. 404

An act relating to Medicaid reimbursement for long-acting reversible contraceptives

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

By striking out Sec. 2, effective date, in its entirety and inserting in lieu thereof the following:

Sec. 2. COVERAGE FOR CERTAIN OVER-THE-COUNTER CONTRACEPTIVES; REPORT

(a) Each health insurer offering qualified health benefit plans through the Vermont Health Benefit Exchange shall, in consultation with its pharmacy benefit manager, if any, determine how to provide coverage for over-the-counter oral contraceptives and over-the-counter emergency contraceptives in its Exchange and non-Exchange plans without requiring a prescription and without imposing cost-sharing requirements.

(b) On or before January 15, 2019, each health insurer shall report to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance on how it could provide coverage for over-the-counter oral and emergency contraceptives in its health insurance plans without a prescription or cost-sharing, including any estimated impact on health insurance premiums, and whether the insurer intends to add this benefit to any or all of its health insurance plans.

Sec. 3. EFFECTIVE DATES

(a) Sec. 1 (Medicaid reimbursement) shall take effect on July 1, 2018.

(b) Sec. 2 (over-the-counter contraceptives) and this section shall take effect on passage.

(For text see House Journal March 20, 2018)

H. 624

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

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. § 2154 is amended to read:

§ 2154. STATEWIDE VOTER CHECKLIST

(a) The Secretary of State shall ~~establish~~ maintain a uniform and nondiscriminatory, statewide voter ~~registration~~ checklist. This checklist shall serve as the official voter registration list for all elections in the State. In ~~establishing~~ maintaining the statewide voter checklist, the Secretary shall:

(1) limit ~~the~~ a town clerk to adding, modifying, or deleting applicant and voter information on the portion of the checklist for that clerk's municipality;

(2) limit access to the statewide voter checklist for a local elections official to verifying if whether the applicant is registered in another municipality in the State by a search for the individual voter;

(3) notify a local elections official when a voter registered in that official's district registers in another voting district so that the voter may be removed from that ~~district's~~ official's district checklist;

(4) provide adequate security to prevent unauthorized access to the checklist; and

(5) ensure the compatibility and comparability of information on the checklist with information contained in the Department of Motor Vehicles' computer systems.

(b)(1) A registered voter's month and day of birth, driver's license or nondriver identification number, telephone number, e-mail address, and the last four digits of his or her Social Security number shall be kept confidential and are exempt from public ~~copying and inspection~~ and copying under the Public Records Act.

(2) A public agency as defined in 1 V.S.A. § 317 and any officer, employee, agent, or independent contractor of a public agency shall not knowingly disclose a copy of all of the statewide voter checklist or a municipality's portion of the statewide voter checklist to any foreign government or to a federal agency or commission or to a person acting on behalf of a foreign government or of such a federal entity for the purpose of:

(A) registration of a voter based on his or her information maintained in the checklist;

(B) publicly disclosing a voter's information maintained in the checklist; or

(C) comparing a voter's information maintained in the checklist to personally identifying information contained in other federal or state databases.

(c)(1) Any person wishing to obtain a copy of all of the statewide voter checklist must swear or affirm, under penalty of perjury pursuant to 13 V.S.A. chapter 65, that the person will not:

(A) use the checklist for commercial purposes; or

(B) knowingly disclose the checklist to any foreign government or to

a federal agency or commission or to a person acting on behalf of a foreign government or of such a federal entity in circumvention of the prohibited purposes for using the checklist set forth in subdivision (b)(2) of this section.

(2) The affirmation shall be filed with the Secretary of State.

(d) An elections official shall not access the portion of the statewide voter checklist that is exempt from public inspection pursuant to 1 V.S.A. § 317(c)(31), except for elections purposes.

Sec. 2. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(31) Records of a registered voter's month and day of birth, driver's license or nondriver identification number, telephone number, e-mail address, and the last four digits of his or her Social Security number contained in ~~an a voter registration application to the statewide voter checklist~~ or the statewide voter checklist established under 17 V.S.A. § 2154 or the failure to register to vote under 17 V.S.A. § 2145a.

* * *

Sec. 3. 17 V.S.A. § 2491 is amended to read:

§ 2491. POLITICAL SUBDIVISION; VOTE TABULATORS

(a) Except as provided in subsection (b) of this section, a board of civil authority may, at a meeting held not less than 60 days prior to an election and warned pursuant to 24 V.S.A. § 801, vote to require the political subdivision for which it is elected to use vote tabulators for the registering and counting of votes in subsequent local, primary, or general elections, or any combination of those.

(b) A town with 1,000 or more registered voters as of December 31 in an even-numbered year shall use vote tabulators for the registering and counting of votes in subsequent general elections.

(c)(1) The Office of the Secretary of State shall pay the following costs associated with this section by using federal Help America Vote Act funds, as available:

(A) full purchase and warranty cost of vote tabulators, ballot boxes,

and two memory cards for each tabulator;

(B) annual maintenance costs of vote tabulators for each town; and

(C) the first \$500.00 of the first pair of a vote tabulator's memory cards' configuration costs for each primary and general election.

(2) A town shall pay the remainder of any cost not covered by subdivision (1) of this subsection.

(d)(1) Notwithstanding a town's use of vote tabulators under this section or any other provision of law, the Secretary of State may suspend the use of vote tabulators and require the hand count of votes in an election if the Secretary determines there are reasonable grounds to believe that the vote tabulators to be used in that election may have been rendered inoperable.

(2) Upon such a determination, the Secretary shall alert the clerks of the affected municipalities of his or her decision as soon as practicable.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to the protection of information in the statewide voter checklist and to the use of vote tabulators.

(For text see House Journal February 15, 2018)

H. 710

An act relating to beer franchises

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. REDESIGNATION; ADDITION OF SUBCHAPTER

7 V.S.A. chapter 23, subchapter 1, which shall include 7 V.S.A. §§ 701-709, is added to read:

Subchapter 1. General Provisions

Sec. 2. 7 V.S.A. § 701 is amended to read:

§ 701. DEFINITIONS

As Except as otherwise provided pursuant to section 752 of this chapter, as used in this chapter:

* * *

(2) “Franchise” or “agreement” shall mean one or more of the following:

* * *

(E) a relationship that has been in existence for at least one year in which the wholesale dealer’s business is substantially reliant on the certificate of approval holder or manufacturer for the continued supply of malt beverages or vinous beverages; ~~and~~ or

(F) a written or oral arrangement for a definite or indefinite period that has been in existence for at least one year in which a certificate of approval holder or manufacturer grants to a wholesale dealer a license to use a trade name, ~~trade mark~~ trademark, service mark, or related characteristic, and in which there is a community of interest in the marketing of goods or services at wholesale, retail, by lease, or otherwise.

* * *

(7) “Wholesale dealer” means a packager licensed pursuant to section 272 of this title or a wholesale dealer licensed pursuant to section 273 of this title.

Sec. 3. 7 V.S.A. § 702 is amended to read:

§ 702. PROHIBITED ACTS BY MANUFACTURER OR CERTIFICATE OF APPROVAL HOLDER

A manufacturer or certificate of approval holder shall not do any of the following:

(1) ~~induce~~ Induce or coerce, or attempt to induce or coerce, any wholesale dealer to accept delivery of any alcoholic beverage, any form of advertisement, or any other commodity, that was not ordered by the wholesale dealer;

(2) ~~induce~~ Induce or coerce, or attempt to induce or coerce, any wholesale dealer to do any illegal act or thing by threatening to cancel or terminate the wholesale dealer’s malt beverages or vinous beverages franchise agreement; ~~or~~

(3) ~~fail~~ Fail or refuse to deliver promptly to a wholesale dealer after the receipt of its order any malt beverages or vinous beverages when the product is ~~publicly advertised~~ available for immediate sale. If a manufacturer or certificate of approval holder believes in good faith that it does not have a sufficient amount of a product available for immediate sale to satisfy the demand of a wholesale dealer and its other customers, it shall allocate the available product between the wholesale dealer and its other customers in a fair and equitable manner.

(4) Require a wholesale dealer to agree to any condition, stipulation, or provision limiting the wholesale dealer's rights to sell the product of another manufacturer or certificate of approval holder.

Sec. 4. 7 V.S.A. § 707 is amended to read:

§ 707. SALE OR TRANSFER; PURCHASE BY MANUFACTURER

* * *

(e) The provisions of subsections (b) through (d) of this section shall not apply to the sale or transfer of a franchise to the spouse, child, grandchild, sibling, parent, foster child, child-in-law, sibling-in-law, niece, or nephew of the owner of the wholesale dealer.

Sec. 5. 7 V.S.A. chapter 23, subchapter 2 is added to read:

Subchapter 2. Small Manufacturers and Certificate of Approval Holders

§ 751. APPLICATION

(a) The provisions of this subchapter shall apply to any franchise between a wholesale dealer and either:

(1) a certificate of approval holder that produces or distributes a total annual volume of not more than 50,000 barrels of malt beverages and whose products comprise three percent or less of the wholesale dealer's total annual sales of malt beverages by volume; or

(2) a manufacturer that produces a total annual volume of not more than 50,000 barrels of malt beverages and whose products comprise three percent or less of the wholesale dealer's total annual sales of malt beverages by volume.

(b) The provisions of sections 702, 705, and 706 of this title shall apply to any franchise that is subject to the provisions of this subchapter.

§ 752. DEFINITIONS

As used in this subchapter:

(1) "Barrel" means 31 gallons of malt beverages.

(2) "Certificate of approval holder" means a holder of a certificate of approval issued by the Liquor Control Board pursuant to section 274 of this title that produces or distributes a total annual volume of not more than 50,000 barrels of malt beverages and whose products comprise three percent or less of a wholesale dealer's total annual sales of malt beverages by volume.

(3) "Compensation" means the cost of a wholesale dealer's laid-in inventory related to a franchise that has been or is about to be terminated plus five times the average annual gross profits earned by the wholesale dealer on the sale of products pursuant to the franchise during the last three calendar

years or, if the franchise has not been in existence for three years, the period of time during which the franchise has been in existence. “Gross profits” shall equal the revenue earned by the wholesale dealer on the sale of products pursuant to the franchise minus the cost of those products, including shipping and taxes.

(4) “Franchise” means an agreement governing a relationship between a wholesale dealer and a certificate of approval holder or manufacturer that was entered into on or after January 1, 2019 and has existed for at least one year and has one or more of the following characteristics:

(A) the wholesale dealer is granted the right to offer and sell the brands of malt beverages offered by the certificate of approval holder or manufacturer;

(B) the wholesale dealer, as an independent business, constitutes a component of a certificate of approval holder’s or manufacturer’s distribution system;

(C) the wholesale dealer’s business is substantially associated with the certificate of approval holder’s or manufacturer’s brand, advertising, or other commercial symbol designating the manufacturer;

(D) the wholesale dealer’s business is substantially reliant on the certificate of approval holder or manufacturer for the continued supply of malt beverages; or

(E) the certificate of approval holder or manufacturer has granted the wholesale dealer a license to use a trade name, trademark, service mark, or related characteristic, and there is a community of interest in the marketing of goods or services at wholesale, retail, by lease, or otherwise.

(5) “Manufacturer” means a manufacturer licensed pursuant to section 271 of this title that produces a total annual volume of not more than 50,000 barrels of malt beverages and whose products comprise three percent or less of a wholesale dealer’s total annual sales of malt beverages by volume.

(6) “Total annual sales” means the total volume of all malt beverages sold by a wholesale dealer in the last four completed calendar quarters. A wholesale dealer’s total annual sales of malt beverages shall include the worldwide, aggregate amount of all brands of malt beverages that were sold, directly or indirectly, during the last four completed calendar quarters by the wholesale dealer and any entity that controlled, was controlled by, or was under common control with the wholesale dealer.

(7) “Total annual volume” means:

(A) the amount of malt beverages manufactured worldwide during

the last four completed calendar quarters, directly or indirectly, by or on behalf of:

(i) the certificate of approval holder or manufacturer;

(ii) any employee, director, or officer of a certificate of approval holder or manufacturer; or

(iii) an affiliate of the certificate of approval holder or manufacturer, regardless of whether the affiliation is corporate, or is by management, direction, or control; or

(B) the amount of malt beverages distributed worldwide during the last four completed calendar quarters directly or indirectly, by or on behalf of:

(i) the certificate of approval holder;

(ii) any employee, director, or officer of a certificate of approval holder; or

(iii) an affiliate of the certificate of approval holder, regardless of whether the affiliation is corporate, or is by management, direction, or control.

§ 753. CANCELLATION OF FRANCHISE

(a) The terms of a written franchise between the certificate of approval holder or manufacturer and the wholesale dealer shall govern the right to cancel, terminate, refuse to continue, or to cause a wholesale dealer to relinquish a franchise.

(b) In the absence of a provision in a written franchise agreement to the contrary, or if the franchise between the parties is not in writing, the certificate of approval holder or manufacturer may cancel, terminate, refuse to continue, or cause the wholesale dealer to relinquish the franchise for good cause as provided pursuant to section 754 of this subchapter.

(c) In the absence of a provision in a written franchise agreement to the contrary, or if the franchise between the parties is not in writing, the certificate of approval holder or manufacturer may cancel, terminate, refuse to continue, or cause the wholesale dealer to relinquish the franchise for no cause as provided pursuant to section 755 of this subchapter.

§ 754. CANCELLATION FOR GOOD CAUSE; NOTICE; RECTIFICATION

(a)(1) Except as otherwise provided pursuant to section 753 of this subchapter and subsection (d) of this section, a certificate of approval holder or manufacturer that wishes to terminate or cancel a franchise for good cause shall provide the franchisee with at least 120 days' written notice of the intent to terminate or cancel the franchise.

(2) The notice shall state the causes and reasons for the intended termination or cancellation.

(b) A franchisee shall have 120 days in which to rectify any claimed deficiency.

(c) The Superior Court, upon petition and after providing both parties with notice and opportunity for a hearing, shall determine whether good cause exists to allow termination or cancellation of the franchise.

(d) The notice provisions of subsection (a) of this section may be waived if the reason for termination or cancellation is insolvency, the occurrence of an assignment for the benefit of creditors, bankruptcy, or if the certificate of approval holder or manufacturer is able to prove to the court that providing the required notice would do irreparable harm to the marketing of its product.

§ 755. CANCELLATION FOR NO CAUSE; NOTICE; COMPENSATION

Except as otherwise provided pursuant to section 753 of this subchapter, a certificate of approval holder or manufacturer that wishes to terminate or cancel a franchise for no cause shall:

(1) Provide the franchisee with written notice of the intent to cancel or terminate the franchise at least 30 days before the date on which the franchise shall terminate.

(2) On or before the date the franchise shall be canceled or terminated, pay, or have paid on its behalf by a designated wholesale dealer, compensation, as defined pursuant to section 752 of this subchapter, for the franchisee's interest in the franchise. The compensation shall be the wholesale dealer's sole and exclusive remedy for any termination or cancellation pursuant to this section.

§ 756. SALE OR TRANSFER BY WHOLESALE DEALER

(a)(1) In the absence of a provision of the franchise to the contrary, or if the franchise between the parties is not in writing, a wholesale dealer wishing to sell or otherwise transfer its interests in a franchise shall give at least 90 days' written notice of the proposed sale or transfer to the certificate of approval holder or manufacturer.

(2) The notice of intended sale or transfer shall give the full name and address of the proposed transferee, along with full details outlining the qualifications of the proposed transferee which, in the opinion of the wholesale dealer, make the proposed transferee competent to operate the franchise.

(b) If the certificate of approval holder or manufacturer opposes the proposed sale or transfer to the proposed transferee, the certificate of approval holder or manufacturer may either:

(1) prevent the proposed sale or transfer from occurring by paying compensation for the wholesale dealer's interest in the franchise in the same manner as if the franchise were being terminated for no cause pursuant to section 755 of this subchapter; or

(2) not less than 60 days before the date of the proposed sale or transfer, file a petition with the Superior Court that clearly states the certificate of approval holder's or manufacturer's reasons for resisting the proposed sale or transfer.

(c)(1) Upon receipt of a petition pursuant to subdivision (b)(2) of this section, the Superior Court shall hold a hearing on the proposed transfer or sale. The court shall make a full inquiry into the qualifications of the proposed transferee and shall determine whether or not the proposed transferee is in a position to continue substantially the operations of the franchise, to assume the obligations of the franchise holder, and to conduct the business in a manner that will protect the legitimate interests of the certificate of approval holder or manufacturer.

(2) If the Superior Court finds the proposed transferee is qualified to operate the franchise, it shall approve the transfer of the franchise to the proposed transferee.

(d) The provisions of subsections (b) and (c) of this section shall not apply to the sale or transfer of a franchise to the spouse, child, grandchild, sibling, parent, foster child, child-in-law, sibling-in-law, niece, or nephew of the owner of the wholesale dealer.

§ 757. MERGER OF FRANCHISOR

In the absence of a provision of the franchise to the contrary, or if the franchise between the parties is not in writing, the merger of a certificate of approval holder or manufacturer with a third party shall not void the franchise unless good cause is shown pursuant to section 754 of this subchapter, or the franchise is terminated pursuant to section 755 of this subchapter.

§ 758. HEIRS, SUCCESSORS, AND ASSIGNS

In the absence of a provision of the franchise to the contrary, or if the franchise between the parties is not in writing, the provisions of this subchapter shall apply to the heirs, successors, and assigns of any party to a franchise that is subject to this subchapter.

Sec. 6. 7 V.S.A. § 759 is added to read:

§ 759. WRITTEN AGREEMENT

All franchises entered into pursuant to this subchapter shall be in writing.

Sec. 7. 7 V.S.A. § 752 is amended to read:

§ 752. DEFINITIONS

As used in this subchapter:

* * *

(4) “Franchise” means ~~an~~ a written agreement governing a relationship between a wholesale dealer and a certificate of approval holder or manufacturer that ~~was entered into after January 1, 2019~~ and has existed for at least one year and has one or more of the following characteristics:

* * *

Sec. 8. 7 V.S.A. § 753 is amended to read:

§ 753. CANCELLATION OF FRANCHISE

(a) The terms of a ~~written~~ franchise between the certificate of approval holder or manufacturer and the wholesale dealer shall govern the right to cancel, terminate, refuse to continue, or to cause a wholesale dealer to relinquish a franchise.

(b) In the absence of a provision in a written franchise agreement to the contrary, ~~or if the franchise between the parties is not in writing,~~ the certificate of approval holder or manufacturer may cancel, terminate, refuse to continue, or cause the wholesale dealer to relinquish the franchise for good cause as provided pursuant to section 754 of this subchapter.

(c) In the absence of a provision in a written franchise agreement to the contrary, ~~or if the franchise between the parties is not in writing,~~ the certificate of approval holder or manufacturer may cancel, terminate, refuse to continue, or cause the wholesale dealer to relinquish the franchise for no cause as provided pursuant to section 755 of this subchapter.

Sec. 9. 7 V.S.A. § 756 is amended to read:

§ 756. SALE OR TRANSFER BY WHOLESALE DEALER

(a)(1) In the absence of a provision of the franchise to the contrary, ~~or if the franchise between the parties is not in writing,~~ a wholesale dealer wishing to sell or otherwise transfer its interests in a franchise shall give at least 90 days’ written notice of the proposed sale or transfer to the certificate of approval holder or manufacturer.

* * *

Sec. 10. 7 V.S.A. § 757 is amended to read:

§ 757. MERGER OF FRANCHISOR

In the absence of a provision of the franchise to the contrary, ~~or if the franchise between the parties is not in writing,~~ the merger of a certificate of approval holder or manufacturer with a third party shall not void the franchise unless good cause is shown pursuant to section 754 of this subchapter, or the franchise is terminated pursuant to section 755 of this subchapter.

Sec. 11. 7 V.S.A. § 758 is amended to read:

§ 758. HEIRS, SUCCESSORS, AND ASSIGNS

In the absence of a provision of the franchise to the contrary, ~~or if the franchise between the parties is not in writing,~~ the provisions of this subchapter shall apply to the heirs, successors, and assigns of any party to a franchise that is subject to this subchapter.

Sec. 12. TRANSITION TO WRITTEN CONTRACTS

(a) Franchise agreements that were entered into before January 1, 2019 and are not in writing shall transition to a written franchise agreement as provided pursuant to this subsection:

(1) A certificate of approval holder or manufacturer and a wholesale dealer who are parties to a franchise agreement that was entered into before January 1, 2019 and is not in writing shall negotiate a written franchise agreement to take effect on or before July 1, 2022.

(2) If the certificate of approval holder or manufacturer and the wholesale dealer are unable to reach agreement on the terms of a written franchise agreement on or before July 1, 2022 or if the parties mutually agree that the franchise shall not continue beyond that date, the franchise shall be deemed to terminate on July 1, 2022 and the certificate of approval holder or manufacturer shall pay the wholesale dealer compensation for its interest in the franchise in the same manner as if the franchise were terminated for no cause pursuant to 7 V.S.A. § 755.

(b) As used in this section:

(1) "Certificate of approval holder" has the same meaning as in 7 V.S.A. § 752.

(2) "Manufacturer" has the same meaning as in 7 V.S.A. § 752.

(3) "Wholesale dealer" has the same meaning as in 7 V.S.A. § 701.

Sec. 13. APPLICATION OF ACT TO EXISTING AND PROSPECTIVE FRANCHISE AGREEMENTS

(a) Definitions. As used in this section:

(1) "Certificate of approval holder" has the same meaning as in 7 V.S.A.

§ 752.

(2) “Manufacturer” has the same meaning as in 7 V.S.A. § 752.

(3) “Wholesale dealer” has the same meaning as in 7 V.S.A. § 701.

(b) Existing Franchise Agreements.

(1) Until July 1, 2022, the provisions of 7 V.S.A. chapter 23, subchapter 1 (existing franchise law) shall apply to all franchise agreements that were entered into before January 1, 2019.

(2) Between January 1, 2019 and July 1, 2022, certificate of approval holders, manufacturers, and wholesale dealers who are parties to a franchise agreement that was entered into before January 1, 2019 and is not in writing shall negotiate a written franchise agreement to take effect on or before July 1, 2022 as provided pursuant to Sec. 12 of this act.

(3) Beginning on July 1, 2022, the provisions of 7 V.S.A. chapter 23, subchapter 2 shall apply to franchise agreements between a certificate of approval holder or manufacturer and a wholesale dealer.

(c) Prospective franchise agreements. The provisions of 7 V.S.A. chapter 23, subchapter 2 shall apply to franchise agreements between a certificate of approval holder or manufacturer and a wholesale dealer that are entered into on or after January 1, 2019.

Sec. 14. EFFECTIVE DATES

(a) This section and Secs. 1, 2, 3, 4, 5, 12, and 13 shall take effect on January 1, 2019.

(b) The remaining sections shall take effect on July 1, 2022.

(For text see House Journal March 15, 16, 2018)

H. 718

An act relating to creation of the Restorative Justice Study Committee

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. FINDINGS

The General Assembly finds that:

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

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

options to improve victims' outcomes.

Sec. 2. RESTORATIVE JUSTICE STUDY COMMITTEE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) the Court Diversion and Pretrial Services Director;

(15) three members, appointed by the Vermont Network Against Domestic and Sexual Violence;

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

(17) the Commissioner for Children and Families or designee.

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

(1) the development of specialized processes to ensure the safety, confidentiality, and privacy of victims;

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Meetings.

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

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

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

(4) The Committee shall meet not more than ten times and shall cease to exist on July 1, 2019.

(g) Compensation and reimbursement. Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than ten meetings from funds appropriated to the Agency of Administration or as follows:

(1) Compensation and reimbursement for the two victims of domestic and sexual violence or stalking appointed by the Vermont Network Against Domestic and Sexual Violence shall be paid by the Vermont Network Against Domestic and Sexual Violence.

(2) Compensation and reimbursement for the representative of the Vermont Abenaki community appointed by the Governor as provided in subdivision (b)(9) of this section and the three members appointed by the

Vermont Network Against Domestic and Sexual Violence as provided in subdivision (b)(15) of this section shall be paid by the Secretary of Administration from General Funds appropriated to Agency of Administration.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal February 27, 2018)

H. 719

An act relating to insurance companies and trust companies

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

First: By striking out Sec. 5 in its entirety and following the existing reader assistance heading by inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. 8 V.S.A. § 3665(d) is amended to read:

(d)(1) If an insurer fails to pay timely a an uncontested claim, it shall pay interest on the amount of the claim beginning 30 days after a beneficiary files a properly executed proof of loss. The interest rate shall be the rate paid on proceeds left on deposit, or six percent, whichever is greater.

(2) In the event more than 60 days elapse from the date payment on an uncontested claim is due to a beneficiary, or in the event judgment is entered for a beneficiary or the Department or a settlement agreement between the insurer and the beneficiary or the Department is executed, interest shall accrue from 30 days after the beneficiary filed a proof of loss. ~~The interest rate imposed on the insurer shall be at~~ the judgment rate allowed by law.

Second: By adding two new sections to be Secs. 9 and 10 and one accompanying reader assistance heading, as follows:

* * * Captive Insurance; Affiliated Reinsurance Companies * * *

Sec. 9. 8 V.S.A. § 6001(5) is amended to read:

(5) “Captive insurance company” means any pure captive insurance company, association captive insurance company, sponsored captive insurance company, industrial insured captive insurance company, agency captive insurance company, risk retention group, affiliated reinsurance company, or special purpose financial insurance company formed or licensed under the provisions of this chapter. For purposes of this chapter, a branch captive insurance company shall be a pure captive insurance company with respect to operations in this State, unless otherwise permitted by the Commissioner.

Sec. 10. 8 V.S.A. chapter 141, subchapter 5 is added to read:

Subchapter 5. Affiliated Reinsurance Companies

§ 6049a. APPLICABLE LAW

(a) An affiliated reinsurance company shall be subject to the provisions of this subchapter and to the provisions of subchapter 1 of this chapter. In the event of any conflict between the provisions of this subchapter and the provisions of subchapter 1 of this chapter, the provisions of this subchapter shall control.

(b) An affiliated reinsurance company shall be subject to all applicable rules adopted pursuant to section 6015 of this chapter that are in effect as of the effective date of this subchapter and those that are adopted after the effective date of this subchapter.

§ 6049b. DEFINITIONS

As used in this subchapter:

(1) “Affiliated reinsurance company” means a company licensed by the Commissioner pursuant to this subchapter to reinsure risks ceded by a ceding insurer that is its parent or affiliate.

(2) “Ceding insurer” means an insurance company approved by the Commissioner and licensed or otherwise authorized to transact the business of insurance or reinsurance in its state or country of domicile, which cedes risk to an affiliated reinsurance company pursuant to a reinsurance contract.

(3) “Organizational documents” means the affiliated reinsurance company’s articles of incorporation and bylaws and such other documents as shall be approved by the Commissioner.

(4) “Reinsurance contract” means a contract between an affiliated reinsurance company and a ceding insurer pursuant to which the affiliated reinsurance company agrees to provide reinsurance to the ceding insurer.

§ 6049c. LICENSING; AUTHORITY

(a) An affiliated reinsurance company shall only reinsure the risks of a ceding insurer. An affiliated reinsurance company may cede the risks assumed under a reinsurance contract to another reinsurer, subject to the prior approval of the Commissioner.

(b) In conjunction with the issuance of a license to an affiliated reinsurance company, the Commissioner may issue an order that includes any provisions, terms, and conditions regarding the organization, licensing, and operation of the affiliated reinsurance company that are deemed appropriate by the Commissioner and that are not inconsistent with the provisions of this chapter.

(c) To qualify for a license, an affiliated reinsurance company shall be subject, in addition to the requirements of subsection 6002(c) of this chapter,

to the following:

(1) The information submitted to the Commissioner pursuant to subsection 6002(c)(1)(B) of this chapter shall include:

(A) the source and form of the affiliated reinsurance company's capital and surplus;

(B) the investment policy of the affiliated reinsurance company, which shall provide for a diversified investment portfolio both as to type and issue and shall include a requirement for liquidity and for the reasonable preservation, administration, and management of such assets with respect to the risks associated with any reinsurance transactions.

(2) The application shall include copies of all agreements and documentation, including reinsurance agreements, described in subdivision (1) of this subsection (c) unless otherwise approved by the Commissioner and any other statements or documents required by the Commissioner to evaluate the affiliated reinsurance company's application for licensure.

(d) Subdivision 6002(c)(3) of this chapter shall apply to all information submitted pursuant to subsection (c) of this section and to any order issued to the affiliated reinsurance company pursuant to subsection (b) of this section.

§ 6049d. FORMATION

(a) An affiliated reinsurance company may be incorporated as a stock insurer with its capital divided into shares, or in such other organizational form as may be approved by the Commissioner.

(b) An affiliated reinsurance company's organizational documents shall limit the affiliated reinsurance company's authority to the transaction of the business of insurance or reinsurance and to those activities that the affiliated reinsurance company conducts to accomplish its purposes as expressed in this subchapter.

§ 6049e. MINIMUM CAPITAL AND SURPLUS

An affiliated reinsurance company shall not be issued a license unless it possesses and thereafter maintains unimpaired paid-in capital and surplus of not less than \$5,000,000.00. The Commissioner may prescribe additional capital and surplus based upon the type, volume, and nature of reinsurance business transacted. Except as otherwise provided in this section, the provisions of chapter 159 of this title, Risk Based Capital for Insurers, shall apply in full to an affiliated reinsurance company.

§ 6049f. PERMITTED REINSURANCE

(a) An affiliated reinsurance company shall only reinsure the risks of a

ceding insurer, pursuant to a reinsurance contract. An affiliated reinsurance company shall not issue a contract of insurance or a contract for assumption of risk or indemnification of loss other than such reinsurance contract.

(b) The reinsurance contract shall contain all provisions reasonably required or approved by the Commissioner, which requirements shall take into account the laws applicable to the ceding insurer regarding the ceding insurer's taking credit for the reinsurance provided under such reinsurance contract.

(c) An affiliated reinsurance company may cede risks assumed through a reinsurance contract to one or more reinsurers through the purchase of reinsurance, subject to the prior approval of the Commissioner. Except as otherwise provided in this section, the provisions of subchapter 10 of chapter 101 of this title, reinsurance of risks, shall apply in full to an affiliated reinsurance company.

(d) Unless otherwise approved in advance by the Commissioner, a reinsurance contract shall not contain any provision for payment by the affiliated reinsurance company in discharge of its obligations under the reinsurance contract to any person other than the ceding insurer or any receiver of the ceding insurer.

(e) An affiliated reinsurance company shall notify the Commissioner immediately of any action by a ceding insurer or any other person to foreclose on or otherwise take possession of collateral provided by the affiliated reinsurance company to secure any obligation of the affiliated reinsurance company.

§ 6049g. DISPOSITION OF ASSETS; INVESTMENTS

(a) The assets of an affiliated reinsurance company shall be preserved and administered by or on behalf of the affiliated reinsurance company to satisfy the liabilities and obligations of the affiliated reinsurance company incident to the reinsurance contract and other related agreements.

(b) The Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the affiliated reinsurance company unless the investment is otherwise approved in its plan of operation or in an order issued to the affiliated reinsurance company pursuant to subsection 6049c of this chapter.

§ 6049h. ANNUAL REPORT; BOOKS AND RECORDS

(a) For the purposes of subsection 6007(b) of this chapter:

(1) Each affiliated reinsurance company shall file its report in the form required by subsection 3561(a) of this title, and each affiliated reinsurance company shall comply with the requirements set forth in section 3569 of this

title; and

(2) An affiliated reinsurance company shall report using statutory accounting principles, unless the Commissioner requires, approves, or accepts the use of generally accepted accounting principles or another comprehensive basis of accounting, in each case with any appropriate or necessary modifications or adaptations required or approved or accepted by the Commissioner and as supplemented by additional information required by the Commissioner.

(b) Unless otherwise approved in advance by the Commissioner, an affiliated reinsurance company shall maintain its books, records, documents, accounts, vouchers, and agreements in this State. An affiliated reinsurance company shall make its books, records, documents, accounts, vouchers, and agreements available for inspection by the Commissioner at any time. An affiliated reinsurance company shall keep its books and records in such manner that its financial condition, affairs, and operations can be readily ascertained and so that the Commissioner may readily verify its financial statements and determine its compliance with this chapter.

(c) Unless otherwise approved in advance by the Commissioner, all original books, records, documents, accounts, vouchers, and agreements shall be preserved and kept available in this State for the purpose of examination and inspection and until such time as the Commissioner approves the destruction or other disposition of such books, records, documents, accounts, vouchers, and agreements. If the Commissioner approves the keeping outside this State of the items listed in this subsection, the affiliated reinsurance company shall maintain in this State a complete and true copy of each such original. Books, records, documents, accounts, vouchers, and agreements may be photographed, reproduced on film, or stored and reproduced electronically

(d) The provisions of sections 3578a (annual financial reporting) and 3579 (qualified accountants) of this title shall apply in full to an affiliated reinsurance company.

§ 6049i. INSURANCE HOLDING COMPANY SYSTEMS

Except as otherwise provided in this section, the provisions of subchapter 13 of chapter 101 of this title shall apply in full to an affiliated reinsurance company.

§ 6049j. CORPORATE GOVERNANCE; DISCLOSURE

Except as otherwise provided in this section, the provisions of section 3316 of this title shall apply in full to an affiliated reinsurance company.

§ 6049k. OWN RISK AND SOLVENCY ASSESSMENT

Except as otherwise provided in this section, the provisions of chapter 101, subchapter 7A (own risk and solvency assessment) of this title shall apply in full to an affiliated reinsurance company.

§ 6049l. REQUIREMENTS FOR ACTUARIAL OPINIONS

Except as otherwise provided in this section, the provisions of chapter 101, section 3577 (requirements for actuarial opinions) of this title shall apply in full to an affiliated reinsurance company.

§ 6049m. CONFIDENTIALITY

(a) All documents, materials, and other information, including confidential and privileged documents, examination reports, preliminary examination reports or results, working papers, recorded information, and copies of any of these produced by, obtained by, or disclosed to the Commissioner or any other person in the course of an examination made under this subchapter are confidential and shall not be:

- (1) subject to subpoena;
- (2) subject to public inspection and copying under the Public Records Act; or
- (3) discoverable or admissible in evidence in any private civil action.

(b) In furtherance of his or her regulatory duties, the Commissioner may:

(1) share documents, materials, and other information, including those that are confidential and privileged, with other state, federal, or international regulatory agencies and law enforcement authorities, the National Association of Insurance Commissioners, the North American Securities Administrators Association, self-regulatory organizations organized under 15 U.S.C. §§ 78f, 78o-3, and 78q-1, and other self-regulatory organizations and their affiliates or subsidiaries, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials, and other information;

(2) receive documents, materials, and information, including those that are confidential and privileged, from other state, federal, and international regulatory agencies and law enforcement authorities, the National Association of Insurance Commissioners, the North American Securities Administrators Association, self-regulatory organizations organized under 15 U.S.C. §§ 78f, 78o-3, and 78q-1, and other self-regulatory organizations and their affiliates or subsidiaries and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information;

(3) enter into written agreements with other state, federal, and international regulatory agencies and law enforcement authorities, the National Association of Insurance Commissioners, the North American Securities Administrators Association, self-regulatory organizations organized under 15 U.S.C. §§ 78f, 78o-3 and 78q-1, and other self-regulatory organizations and their affiliates or subsidiaries governing the sharing and use of information consistent with this section, including agreements providing for cooperation between the Commissioner and other agencies in relation to the activities of a supervisory college; and

(4) participate in a supervisory college for any affiliated reinsurance company that is part of an affiliated group with international operations in order to assess the insurer's compliance with Vermont laws and regulations, as well as to assess its business strategy, financial condition, risk exposure, risk management, governance processes, and legal and regulatory position.

(c) Prior to sharing information under subsection (b) of this section, the Commissioner shall determine that sharing the information will substantially further the performance of the regulatory or law enforcement duties of the recipient and that the information shall not be made public by the Commissioner or an employee or agent of the Commissioner without the written consent of the company, except to the extent provided in subsection (b) of this section.

And by renumbering the remaining section to be numerically correct.

(For text see House Journal February 6, 2018)

Senate Proposal of Amendment to House Proposal of Amendment

S. 101

An act relating to the conduct of forestry operations

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

In Sec. 1, by striking out 12 V.S.A. § 5757 in its entirety and inserting in lieu thereof a new 12 V.S.A. § 5757 to read as follows:

§ 5757. FORESTRY OPERATIONS; PROTECTION FROM NUISANCE LAWSUITS

(a) Except as provided for under subsections (b) and (c) of this section, a person conducting a conventional forestry practice shall be entitled to a rebuttable presumption that the conventional forestry practice does not constitute a public or private nuisance if the person conducts the conventional forestry practice in compliance with the following:

(1) the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as adopted by the Commissioner under 10 V.S.A. § 2622; and

(2) other applicable law.

(b) The presumption under subsection (a) of this section that a person conducting a conventional forestry practice does not constitute a nuisance may be rebutted by showing:

(1) a nuisance resulted from the negligent operation of the conventional forestry practice;

(2) a nuisance resulted from a violation of State, federal, or other applicable law during the conduct of the conventional forestry practice; or

(3) clear and convincing evidence that the conventional forestry practice has a substantial adverse effect on the health, safety, or welfare of the complaining party.

(c) Nothing in this section shall be construed to limit the authority of State or local boards of health to abate nuisances affecting the public health.

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

Ordered to Lie

H. 219

An act relating to the Vermont spaying and neutering program.

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

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of April 26, 2018.

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