

# Senate Calendar

WEDNESDAY, JANUARY 17, 2018

SENATE CONVENES AT: 1:00 P.M.

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**ACTION CALENDAR**

**CONSIDERATION POSTPONED UNTIL JANUARY 24, 2018**

**GOVERNOR VETO**

**S. 22.**

An act relating to eliminating penalties for possession of limited amounts of marijuana by adults 21 years of age and older.

**Pending Question (to be voted by call of the roll):** Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

(For text of veto message and Bill as passed by Senate and House see Senate Calendar for January 3, 2018, pages 1-17.)

**NEW BUSINESS**

**Third Reading**

**S. 128.**

An act relating to executive sessions under the Open Meeting Law.

**Second Reading**

**Favorable**

**S. 150.**

An act relating to automated license plate recognition systems.

**Reported favorably by Senator Ashe for the Committee on Judiciary.**

(Committee vote: 5-0-0)

**Favorable with Recommendation of Amendment**

**S. 101.**

An act relating to the conduct of forestry operations.

**Reported favorably with recommendation of amendment by Senator Branagan for the Committee on Agriculture.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 12 V.S.A. chapter 196 is added to read:

CHAPTER 196. VERMONT RIGHT TO CONDUCT FORESTRY  
OPERATIONS

§ 5755. FINDINGS

The General Assembly finds that:

(1) Private and public forestlands:

(A) constitute unique and irreplaceable resources, benefits, and values of statewide importance;

(B) contribute to the protection and conservation of wildlife, wildlife habitat, air, water, and soil resources of the State;

(C) provide a resource for the State constitutional right to hunt, fish, and trap;

(D) mitigate the effects of climate change; and

(E) result in general benefit to the health and welfare of the people of the State.

(2) The forest products industry, including maple sap collection:

(A) is a major contributor to and is valuable to the State's economy by providing jobs to its citizens;

(B) is essential to the manufacture of forest products that are used and enjoyed by the people of the State; and

(C) benefits the general welfare of the people of the State.

(3) Private and public forestlands are critical for and contribute significantly to the State's outdoor recreation and tourism economies.

(4) The economic management of public and private forestlands contributes to sustaining long-term forest health, integrity, and productivity.

(5) Forestry operations are adversely impacted by the encroachment of urban, commercial, and residential land uses throughout the State that result in forest fragmentation and conversion and erode the health and sustainability of remaining forests.

(6) As a result of encroachment on forests, conflicts have arisen between traditional forestry land uses and urban, commercial, and residential land uses that threaten to permanently convert forestland to other uses, resulting in an adverse impact to the economy and natural environment of the State.

(7) The encouragement, development, improvement, and continuation of forestry operations will result in a general benefit to the health and welfare

of the people of the State and the State's economy.

(8) The forest products industry, in order to survive, likely will need to change, adopt new technologies, and diversify into new products.

(9) Conventional forestry practices, including logging, transportation, and processing of forest products may be subject to unnecessary or adversarial lawsuits based on the theory of nuisance. Nuisance suits could encourage and result in the conversion of forestland and loss of the forest products industry.

(10) It is in the public interest of the people of the State to ensure that lawfully conducted conventional forestry practices are protected and encouraged and are not subject to public and private nuisance actions arising out of conflicts between forestry operations and urban, commercial, and residential uses.

#### § 5756. DEFINITIONS

As used in this chapter:

(1) "Commissioner" means the Commissioner of Forests, Parks and Recreation.

(2) "Conventional forestry practices" means:

(A) forestry operations;

(B) a change in ownership or size of a parcel on which a forestry operation is being conducted;

(C) cessation or interruption of a forestry operation or a change in a forestry operation, including a change in the type of a forestry operation;

(D) enrollment in governmental forestry or conservation programs;

(E) adoption of new forestry technology;

(F) construction, maintenance, and repair of log landings, logging roads, and skid trails;

(G) visual changes due to the removal, storage, or stockpiling of vegetation or forest products;

(H) noise from forestry equipment used as part of a normal forestry operation; or

(I) the transport or trucking of forest products or of equipment on, to, or from the site of a forestry operation.

(3) "Forest product" means logs; pulpwood; veneer; bolt wood; wood chips; stud wood; poles; pilings; biomass; fuel wood; maple sap; or bark.

(4) "Forestry operation" means activities related to the management of

forests, including timber harvests; removal, storage, or stockpiling of vegetation or timber; pruning; planting; lumber processing with portable sawmills; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization. "Forestry operation" includes one or both of the following:

(A) the primary processing of forest products on a parcel where a timber harvest occurs; and

(B) the primary processing of forest products at a site that is not the harvest site, provided that:

(i) the person conducting the forestry operations owns or has permission to use the site for the forestry operation;

(ii) the forestry operation complies with all applicable law; and

(iii) only portable, non-permanent equipment is used to process the forest products at the site.

(5) "Timber" means trees, saplings, seedlings, and sprouts from which trees of every size, nature, kind, and description may grow.

(6) "Timber harvest" means a forestry operation involving the harvesting of timber.

#### § 5757. FORESTRY OPERATIONS; PROTECTION FROM NUISANCE LAWSUITS

(a) 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; 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 that a nuisance resulted from:

(1) the negligent operation of the conventional forestry practice; or

(2) violation of State or federal law during the conduct of the conventional forestry practice.

(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.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

**NOTICE CALENDAR**

**Second Reading**

**Favorable with Recommendation of Amendment**

**S. 19.**

An act relating to preserving the out-of-pocket limit for prescription drugs in bronze-level Exchange plans.

**Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Health and Welfare.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

\* \* \*

(9) ~~Prior to the adoption of rules, review~~ Review and approve, with recommendations from the Commissioner of Vermont Health Access, the benefit package or packages for qualified health benefit plans and reflective silver plans pursuant to 33 V.S.A. chapter 18, subchapter 1 ~~no later than January 1, 2013.~~ The Board shall report to the House Committee on Health Care and the Senate Committee on Health and Welfare within 15 days following its approval of ~~the initial benefit package and any subsequent substantive changes to the benefit package packages.~~

Sec. 2. 33 V.S.A. § 1802 is amended to read:

§ 1802. DEFINITIONS

As used in this subchapter:

\* \* \*

(10) “Reflective silver plan” means a health benefit plan that meets the requirements set forth in section 1813 of this title.

Sec. 3. 33 V.S.A. § 1811 is amended to read:

§ 1811. HEALTH BENEFIT PLANS FOR INDIVIDUALS AND SMALL EMPLOYERS

(a) As used in this section:

(1) “Health benefit plan” means a health insurance policy, a nonprofit hospital or medical service corporation service contract, or a health maintenance organization health benefit plan offered through the Vermont Health Benefit Exchange and or a reflective silver plan offered in accordance with section 1813 of this title that is issued to an individual or to an employee of a small employer. The term does not include coverage only for accident or disability income insurance, liability insurance, coverage issued as a supplement to liability insurance, workers’ compensation or similar insurance, automobile medical payment insurance, credit-only insurance, coverage for on-site medical clinics, or other similar insurance coverage in which benefits for health services are secondary or incidental to other insurance benefits as provided under the Affordable Care Act. The term also does not include stand-alone dental or vision benefits; long-term care insurance; specific disease or other limited benefit coverage, Medicare supplemental health benefits, Medicare Advantage plans, and other similar benefits excluded under the Affordable Care Act.

\* \* \*

Sec. 4. 33 V.S.A. § 1812(b) is amended to read:

(b)(1) An individual or family with income at or below 300 percent of the federal poverty level shall be eligible for cost-sharing assistance, including a reduction in the out-of-pocket maximums established under Section 1402 of the Affordable Care Act.

\* \* \*

(3) Cost-sharing assistance shall be available for ~~the same silver-level~~ qualified health benefit plans for which federal cost-sharing assistance is available purchased through the Vermont Health Benefit Exchange and shall be administered using the same methods as set forth in Section 1402 of the Affordable Care Act to the extent practicable.

Sec. 5. 33 V.S.A. § 1813 is added to read:

§ 1813. REFLECTIVE SILVER PLANS

(a)(1) In the event that federal cost-sharing reduction payments to insurers are suspended or discontinued, registered carriers may offer to individuals and employees of small employers silver-level nonqualified health benefit plans that do not include funding to offset the loss of the federal cost-sharing reduction payments. These plans shall be similar to, but contain at least one variation from, silver-level qualified health benefit plans offered through the Vermont Health Benefit Exchange that include funding to offset the loss of the federal cost-sharing reduction payments.

(2) In its review and approval of premium rates pursuant to 8 V.S.A. § 4062, the Green Mountain Care Board shall ensure that:

(A) the rates for the silver-level qualified health benefit plans offered through the Vermont Health Benefit Exchange include funding to offset the loss of the federal cost-sharing reduction payments; and

(B) the rates for the reflective silver plans described in subdivision (1) of this subsection (a) do not include funding to offset the loss of the federal cost-sharing reduction payments.

(b) A reflective silver plan shall comply with the requirements of section 1806 of this title except that the plan shall not be offered through the Vermont Health Benefit Exchange.

#### Sec. 6. 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 allowing silver-level nonqualified health benefit plans to be offered outside the Vermont Health Benefit Exchange.

(Committee vote: 5-0-0)

**Reported favorably by Senator Cummings for the Committee on Finance.**

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare and when so amended ought to pass.

(Committee vote: 7-0-0)

#### **PUBLIC HEARINGS**

**January 18, 2018 - 9:00 A.M. - 11:00 A.M.** - Room 10 - Re: Middlebury Tunnel - Senate and House Committees on Transportation.

**January 23, 2018 - 5:30 P.M. - 8:00 P.M.** - House Chamber - Re: Access to Health Care - Senate Committee on Health and Welfare and House Committee on Health Care.

**January 25, 2018 - 6:00 P.M. - 8:00 P.M.** - Room 11 - Re: - Minimum Wage - Senate Committee on Economic Development, Housing and General Affairs.

**January 30, 2018 - 5:30 P.M. - 7:30 P.M.** - House Chamber - Re: VT Firearms Laws - Senate Committee on Judiciary.

## NOTICE OF JOINT ASSEMBLY

**Tuesday, January 23, 2018 - 1:00 P.M.** – House Chamber – Budget address by the Honorable Philip B. Scott, Governor of the State of Vermont.

### FOR INFORMATION ONLY

#### CROSS OVER DATES

The Joint Rules Committee established the following Crossover deadlines:

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

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 16, 2018**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

**Note:** The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

**Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, and Fee Bill).**