

Senate Calendar

TUESDAY, JANUARY 23, 2018

SENATE CONVENES AT: 9:30 A.M.

TABLE OF CONTENTS

Page No.

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..... 56
Pending Question: 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.).

UNFINISHED BUSINESS OF JANUARY 19, 2018

- S. 101** An act relating to the conduct of forestry operations
Pending Question: Shall the bill be amended as recommended by the Committee on Agriculture?
Agriculture Report56
Amendment - Sens. Branagan, Sirotkin and Starr 59

NEW BUSINESS

Second Reading

Favorable

- S. 291** An act relating to the annual town meeting of the unified towns and gores of Essex County and to the appraisers and supervisors of all unorganized towns and gores
Government Operations Report - Sen. Pearson 61

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

- S. 207** An act relating to eliminating fees for placing or removing a credit freeze
Econ. Dev., Housing and General Affairs Report - Sen. Soucy 61

ORDERS OF THE DAY

**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.)

UNFINISHED BUSINESS OF FRIDAY, JANUARY 19, 2018

S. 101.

An act relating to the conduct of forestry operation.

Pending Question: Shall the bill be amended as recommended by the Committee on Agriculture?

Text of Report of 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.

Amendment to S. 101 to be offered by Senators Branagan, Sirotkin and Starr

Senators Branagan, Sirotkin and Starr move to amend the recommendation of amendment of the Committee on Agriculture as follows:

First: In Sec. 1, 12 V.S.A. § 5756, subdivision (4), by striking out subparagraph (B) in its entirety and inserting in lieu thereof the following:

(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 was established prior to surrounding activities that are not forestry operations;

(iii) the site is used by the forestry operation for 12 or fewer months in any two-year period or 24 or fewer months in any five-year period;

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

(v) only portable, nonpermanent equipment is used to process the forest products at the site.

Second: In Sec. 1, by striking out 12 V.S.A. § 5757 in its entirety and inserting in lieu thereof the following:

§ 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 that a nuisance resulted from:

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

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

(c) Upon motion of a complaining party, there shall be no presumption under subsection (a) of this section that conventional forestry practice does not constitute a nuisance, if a court determines that the conventional forestry practice has a substantial adverse effect on health, safety, or welfare, or has a noxious and significant interference with the use and enjoyment of a property.

(d) 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.

NEW BUSINESS

Second Reading

Favorable

S. 291.

An act relating to the annual town meeting of the unified towns and gores of Essex County and to the appraisers and supervisors of all unorganized towns and gores.

Reported favorably by Senator Pearson for the Committee on Government Operations.

(Committee vote: 5-0-0)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 207.

An act relating to eliminating fees for placing or removing a credit freeze.

Reported favorably with recommendation of amendment by Senator Soucy for the Committee on Economic Development, Housing and General Affairs.

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. 9 V.S.A. § 2480b is amended to read:

§ 2480b. DISCLOSURES TO CONSUMERS

(a) A credit reporting agency shall, upon request and proper identification of any consumer, clearly and accurately disclose to the consumer all information available to users at the time of the request pertaining to the consumer, including:

(1) any credit score or predictor relating to the consumer, in a form and manner that complies with such comments or guidelines as may be issued by the Federal Trade Commission;

(2) the names of users requesting information pertaining to the consumer during the prior 12-month period and the date of each request; and

(3) a clear and concise explanation of the information.

(b) As frequently as new telephone directories are published, the credit reporting agency shall cause to be listed its name and number in each

telephone directory published to serve communities of this State. In accordance with rules adopted by the Attorney General, the credit reporting agency shall make provision for consumers to request by telephone the information required to be disclosed pursuant to subsection (a) of this section at no cost to the consumer.

(c) Any time a credit reporting agency is required to make a written disclosure to consumers pursuant to 15 U.S.C. § 1681g, it shall disclose, in at least 12 point type, and in bold type as indicated, the following notice:

“NOTICE TO VERMONT CONSUMERS

(1) Under Vermont law, you are allowed to receive one free copy of your credit report every 12 months from each credit reporting agency. If you would like to obtain your free credit report from [INSERT NAME OF COMPANY], you should contact us by [[writing to the following address: [INSERT ADDRESS FOR OBTAINING FREE CREDIT REPORT]] or [calling the following number: [INSERT TELEPHONE NUMBER FOR OBTAINING FREE CREDIT REPORT]],₂ or both].

(2) Under Vermont law, no one may access your credit report without your permission except under the following limited circumstances:

(A) in response to a court order;

(B) for direct mail offers of credit;

(C) if you have given ongoing permission and you have an existing relationship with the person requesting a copy of your credit report;

(D) ~~where~~ when the request for a credit report is related to an education loan made, guaranteed, or serviced by the Vermont Student Assistance Corporation;

(E) ~~where~~ when the request for a credit report is by the Office of Child Support ~~Services~~ when investigating a child support case;

(F) ~~where~~ when the request for a credit report is related to a credit transaction entered into prior to January 1, 1993; ~~and~~ or

(G) ~~where~~ when the request for a credit report is by the Vermont ~~State Tax Department~~ of Taxes and is used for the purpose of collecting or investigating delinquent taxes.

(3) If you believe a law regulating consumer credit reporting has been violated, you may file a complaint with the Vermont Attorney General's Consumer Assistance Program, 104 Morrill Hall, University of Vermont, Burlington, Vermont 05405.

Vermont Consumers Have the Right to Obtain a Security Freeze

You have a right to place a “security freeze” on your credit report pursuant to 9 V.S.A. § 2480h at no charge if you are a victim of identity theft. ~~All other Vermont consumers will pay a fee to the credit reporting agency of up to \$10.00 to place the freeze on their credit report. The security freeze will prohibit a credit reporting agency from releasing any information in your credit report without your express authorization. A security freeze must be requested in writing by certified mail.~~

The security freeze is designed to help prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gains access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding new loans, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular phone, utilities, digital signature, ~~internet~~ Internet credit card transaction, or other services, including an extension of credit at point of sale.

When you place a security freeze on your credit report, within ten business days you will be provided a personal identification number ~~or~~, password, or other equally secure method of authentication to use if you choose to remove the freeze on your credit report or authorize the release of your credit report for a specific party, parties, or period of time after the freeze is in place. To provide that authorization, you must contact the credit reporting agency and provide all of the following:

(1) The unique personal identification number ~~or~~, password, or other method of authentication provided by the credit reporting agency.

(2) Proper identification to verify your identity.

(3) The proper information regarding the third party or parties who are to receive the credit report or the period of time for which the report shall be available to users of the credit report.

A credit reporting agency ~~may~~ shall not charge a fee ~~of up to \$5.00 to a consumer who is not a victim of identity theft~~ to remove the freeze on your credit report or authorize the release of your credit report for a specific party, parties, or period of time after the freeze is in place. ~~For a victim of identity theft, there is no charge when the victim submits a copy of a police report, investigative report, or complaint filed with a law enforcement agency about unlawful use of the victim’s personal information by another person.~~

A credit reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report shall comply with the request no later than three business days after receiving the request.

A security freeze ~~will~~ shall not apply to “preauthorized approvals of credit.” If you want to stop receiving preauthorized approvals of credit, you should call [INSERT PHONE NUMBERS] [ALSO INSERT ALL OTHER CONTACT INFORMATION FOR PRESCREENED OFFER ~~OPT-OUT~~ OPT-OUT.]

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity with which you have an existing account that requests information in your credit report for the purposes of reviewing or collecting the account, provided you have previously given your consent to this use of your credit reports. Reviewing the account includes activities related to account maintenance, account monitoring, credit line increases, and account upgrades and enhancements.

You have a right to bring a civil action against someone who violates your rights under the credit reporting laws. The action can be brought against a credit reporting agency or a user of your credit report.”

(d) The information required to be disclosed by this section shall be disclosed in writing. The information required to be disclosed pursuant to subsection (c) of this section shall be disclosed on one side of a separate document, with text no smaller than that prescribed by the Federal Trade Commission for the notice required under 15 U.S.C. ~~§ 1681q~~ § 1681g. The information required to be disclosed pursuant to subsection (c) of this section may accurately reflect changes in numerical items that change over time (such as the ~~phone~~ telephone number or address of a Vermont State agencies agency); and remain in compliance.

(e) The Attorney General may revise this required notice by rule as appropriate from time to time ~~so long as~~, provided no new substantive rights are created therein.

Sec. 2. 9 V.S.A. § 2480h is amended to read:

§ 2480h. SECURITY FREEZE BY CREDIT REPORTING AGENCY; TIME IN EFFECT

(a)(1) Any Vermont consumer may place a security freeze on his or her credit report. A credit reporting agency shall not charge a fee to ~~victims of identity theft but may charge a fee of up to \$10.00 to all other~~ a Vermont consumers consumer for placing and ~~\$5.00 for~~ or removing, removing for a specific party or parties, or removing for a specific period of time after the freeze is in place a security freeze on a credit report.

(2) A consumer ~~who has been the victim of identity theft~~ may place a security freeze on his or her credit report by making a request ~~in writing by certified mail to a credit reporting agency with a valid copy of a police report, investigative report, or complaint the consumer has filed with a law~~

~~enforcement agency about unlawful use of his or her personal information by another person. All other Vermont consumers may place a security freeze on his or her credit report by making a request in writing by certified mail to a credit reporting agency in writing or through another method adopted pursuant to subsection (e) of this section.~~

(3) A security freeze shall prohibit, subject to the exceptions in subsection (l) of this section, the credit reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. ~~When a security freeze is in place, information from a consumer's credit report shall not be released to a third party without prior express authorization from the consumer.~~

(4) This subsection does not prevent a credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

(b) A credit reporting agency shall place a security freeze on a consumer's credit report ~~no~~ not later than five business days after receiving a ~~written~~ request from the consumer.

(c) The credit reporting agency shall send a written confirmation of the security freeze to the consumer within 10 business days and shall provide the consumer with a unique personal identification number or password, other than the customer's Social Security number, or another method of authentication that is equally or more secure than a PIN or password, to be used by the consumer when providing authorization for the release of his or her credit for a specific party, parties, or period of time.

(d) If the consumer wishes to allow his or her credit report to be accessed for a specific party, parties, or period of time while a freeze is in place, he or she shall contact the credit reporting agency, request that the freeze be temporarily lifted, and provide the following:

(1) ~~Proper~~ proper identification;

(2) ~~The~~ the unique personal identification number ~~or~~ password, ~~or other method of authentication~~ provided by the credit reporting agency pursuant to subsection (c) of this section; and

(3) ~~The~~ the proper information regarding the third party, parties, or time period for which the report shall be available to users of the credit report.

(e) A credit reporting agency ~~may~~ shall develop reasonable procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process in an expedited manner a request from a consumer to place, temporarily lift, or remove a freeze on a credit report pursuant to subsection (d) of this section ~~in an expedited manner~~.

(f) A credit reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report pursuant to subsection (d) of this section shall comply with the request ~~no~~ not later than three business days after receiving the request.

(g) A credit reporting agency shall remove or temporarily lift a freeze placed on a consumer's credit report only in the following cases:

(1) Upon consumer request, pursuant to subsection (d) or (j) of this section.

(2) If the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. If a credit reporting agency intends to remove a freeze upon a consumer's credit report pursuant to this subdivision, the credit reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's credit report.

(h) If a third party requests access to a credit report on which a security freeze is in effect and this request is in connection with an application for credit or any other use and the consumer does not allow his or her credit report to be accessed for that specific party or period of time, the third party may treat the application as incomplete.

(i) If a consumer requests a security freeze pursuant to this section, the credit reporting agency shall disclose to the consumer the process ~~of~~ for placing and temporarily lifting a security freeze and the process for allowing access to information from the consumer's credit report for a specific party, parties, or period of time while the security freeze is in place.

(j) A security freeze shall remain in place until the consumer requests that the security freeze be removed. A credit reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer who provides both of the following:

(1) ~~Proper~~ proper identification; and

(2) ~~The~~ the unique personal identification number ~~or~~, password, or other method of authentication provided by the credit reporting agency pursuant to subsection (c) of this section.

(k) A credit reporting agency shall require proper identification of the person making a request to place or remove a security freeze.

(l) The provisions of this section, including the security freeze, ~~do~~ shall not apply to the use of a consumer report by the following:

(1) A person, or the person's subsidiary, affiliate, agent, or assignee with which the consumer has or, prior to assignment, had an account, contract, or debtor-creditor relationship, for the purposes of reviewing the account or

collecting the financial obligation owing for the account, contract, or debt, or extending credit to a consumer with a prior or existing account, contract, or debtor-creditor relationship, subject to the requirements of section 2480e of this title. For purposes of this subdivision, “reviewing the account” includes activities related to account maintenance, account monitoring, credit line increases, and account upgrades and enhancements.

(2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subsection (d) of this section for purposes of facilitating the extension of credit or ~~other~~ for another permissible use.

(3) Any person acting pursuant to a court order, warrant, or subpoena.

(4) The Office of Child Support when investigating a child support case pursuant to Title IV-D of the Social Security Act (42 U.S.C. et seq.) and 33 V.S.A. § 4102.

(5) The Economic Services Division of the Department for Children and Families or the Department of Vermont Health Access or its agents or assignee acting to investigate welfare fraud or Medicaid fraud.

(6) The Department of Taxes, municipal taxing authorities, ~~or~~ the Department of Motor Vehicles, or any of their agents or assignees, acting to investigate or collect delinquent taxes or assessments, including interest and penalties, to investigate or collect unpaid court orders, or to fulfill any of their other statutory or charter responsibilities.

(7) A person’s use of credit information for the purposes of prescreening as provided by the federal Fair Credit Reporting Act.

(8) Any person for the sole purpose of providing a credit file monitoring subscription service to which the consumer has subscribed.

(9) A credit reporting agency for the sole purpose of providing a consumer with a copy of his or her credit report upon the consumer’s request.

(10) Any property and casualty insurance company for use in setting or adjusting a rate or underwriting for property and casualty insurance purposes.

Sec. 3. REPORT

On or before January 15, 2019, the Attorney General and the Department of Financial Regulation shall consider and report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs on whether and how the State of Vermont may authorize Vermont consumers to place or remove a credit security freeze with all nationwide credit reporting agencies by making a single request to one agency.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

PUBLIC HEARINGS

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.

February 13, 2018 - 6:00 P.M. - 7:00 P.M. - Room 11 - Re: Governor's Recommended FY 2019 State Budget - House Committee on Appropriations.

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).