

Senate Calendar

THURSDAY, MARCH 15, 2018

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ACTION CALENDAR

CONSIDERATION POSTPONED UNTIL FRIDAY, MARCH 16, 2018

Second Reading

Favorable with Recommendation of Amendment

S. 197.

An act relating to liability for toxic substance exposures or releases.

Pending Question:

Shall the bill be amended as recommended by the Committee on Judiciary?

(For text of report of the Committee on Judiciary, see Senate Journal of March 14, 2018, page 424)

UNFINISHED BUSINESS OF FRIDAY, MARCH 2, 2018

Second Reading

Favorable with Recommendation of Amendment

S. 285.

An act relating to universal recycling requirements.

Pending Question:

Shall the recommendation of the Committee on Natural Resources and Energy be amended as moved by Senator Pollina?

Text of amendment:

Senator Pollina has moved that the recommendation of amendment of the Committee on Natural Resources and Energy be amended by striking out Sec. 4 (effective date) and its reader assistance and inserting in lieu thereof six new sections to be Secs. 4–9 and their reader assistances to read as follows:

* * * Beverage Container Redemption * * *

Sec. 4. 10 V.S.A. § 1521 is amended to read:

§ 1521. DEFINITIONS

~~For the purpose of~~ As used in this chapter:

(1) “Beverage” means beer or other malt beverages ~~and~~₂ mineral waters, mixed wine ~~drink,~~ drinks, wine, soda water₂ ~~and~~ carbonated and noncarbonated soft drinks, noncarbonated water, and all nonalcoholic

carbonated and noncarbonated drinks in liquid form and intended for human consumption, except for rice milk, soymilk, almond milk, hempseed milk, milk, and dairy products. As of January 1, 1990, “beverage” also shall mean liquor.

* * *

(3) “Container” means the individual, separate, bottle, can, jar, or carton composed of glass, metal, paper, plastic, or any combination of those materials containing a consumer product. This definition shall not include containers made of biodegradable material.

(4) “Distributor” means every person who engages in the sale of consumer products in containers to a dealer in this state State, including any manufacturer who engages in such sales. Any dealer or retailer who sells, at the retail level, beverages in containers without having purchased them from a person otherwise classified as a distributor, shall be a distributor.

(5) “Manufacturer” means every person bottling, canning, packing, or otherwise filling containers for sale to distributors or dealers.

* * *

(8) “Secretary” means the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources.

(9) “Mixed wine drink” means a beverage containing wine and more than 15 percent added plain, carbonated, or sparkling water; and ~~which that~~ contains added natural or artificial blended material, such as fruit juices, flavors, flavoring, adjuncts, coloring, or preservatives; ~~which that~~ contains not more than 16 percent alcohol by volume; or other similar product marketed as a wine cooler.

(10) “Liquor” means spirits as defined in 7 V.S.A. § 2.

(11) “Deposit initiator” means the first distributor or manufacturer to collect the deposit on a beverage container sold to any person within the State.

Sec. 5. 10 V.S.A. § 1522 is amended to read:

§ 1522. BEVERAGE CONTAINERS; DEPOSIT

(a) Except with respect to beverage containers ~~which that~~ contain liquor, a deposit of ~~not less than five cents~~ \$0.05 shall be paid by the consumer on each beverage container sold at the retail level and shall be refunded to the consumer upon return of the empty beverage container. With respect to beverage containers of volume greater than 50 ml. ~~which that~~ contain liquor or wine, a deposit of ~~15 cents~~ \$0.15 shall be paid by the consumer on each beverage container sold at the retail level and shall be refunded to the

consumer upon return of the empty beverage container. The difference between liquor bottle deposits collected and refunds made is hereby retained by the Liquor Control Enterprise Fund for administration of this subsection.

(b) A retailer or a person operating a redemption center who redeems beverage containers shall be reimbursed by the manufacturer or distributor of such beverage containers in an amount ~~which is three and one-half cents~~ of \$0.035 per container for containers of beverage brands that are part of a commingling program and ~~four cents~~ \$0.04 per container for containers of beverage brands that are not part of a commingling program.

(c) ~~[Deleted.] [Repealed.]~~

(d) Containers shall be redeemed during no fewer than 40 hours per week during the regular operating hours of the establishment.

Sec. 6. 10 V.S.A. § 1524 is amended to read:

§ 1524. LABELING

(a) Every beverage container sold or offered for sale at retail in this ~~state~~ State shall clearly indicate by embossing or imprinting on the normal product label, or in the case of a metal beverage container on the top of the container, the word “Vermont” or the letters “VT” and the refund value of the container in not less than one-eighth inch type size or such other alternate indications as may be approved by the ~~secretary~~ Secretary. This subsection does not prohibit including names or abbreviations of other states with deposit legislation comparable to this chapter.

(b) ~~The commissioner of the department of liquor control~~ Commissioner of Liquor Control may allow, in the case of liquor bottles, a conspicuous, adhesive sticker to be attached to indicate the deposit information required in subsection (a) of this section, provided that the size, placement, and adhesive qualities of the sticker are as approved by the ~~commissioner~~ Commissioner. The stickers shall be affixed to the bottles by the manufacturer, except that liquor ~~which that~~ is sold in the ~~state~~ State in quantities less than 100 cases per year may have stickers affixed by personnel employed by the ~~department~~ Department.

(c) This section shall not apply to permanently labeled beverage containers.

(d) The Secretary may allow, in the case of wine bottles, a conspicuous, adhesive sticker to be attached to indicate the deposit information required in subsection (a) of this section, provided that the size, placement, and adhesive qualities of the sticker are as approved by the Secretary. The stickers shall be affixed by the manufacturer.

Sec. 7. 10 V.S.A. § 1530 is added to read:

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

(a) A deposit initiator shall open a separate interest-bearing account in a Vermont branch of a financial institution to be known as the deposit transaction account. The deposit initiator shall keep the deposit transaction account separate from all other revenues and accounts.

(b) Beginning on July 1, 2019, each deposit initiator shall deposit in its deposit transaction account the refund value established by section 1522 of this title for all beverage containers sold by the deposit initiator. The deposit initiator shall deposit the refund value for each beverage container in the account not more than three business days after the date on which the beverage container is sold. All interest, dividends, and returns earned on the deposit transaction account shall be paid directly to the account. The deposit initiator shall pay all refunds on returned beverage containers from the deposit transaction account.

(c) Beginning on August 10, 2019, and by the tenth day of each month thereafter, every deposit initiator shall report to the Secretary of Natural Resources and the Commissioner of Taxes concerning transactions affecting the deposit initiator's deposit transaction account in the preceding month. The deposit initiator shall submit the report on a form provided by the Commissioner of Taxes. The report shall include:

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

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

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

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

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

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

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

(d) On or before August 10, 2019, and on the tenth day of each month thereafter, each deposit initiator shall remit from its deposit transaction account to the Commissioner of Taxes any abandoned beverage container deposits from the preceding month. The amount of abandoned beverage container

deposits for a month is the amount equal to the amount of deposits that should be in the fund less the sum of:

(1) income earned on amounts on the account during that month; and

(2) the total amount of refund value received by the deposit initiator for nonrefillable containers during that month.

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

(f) The Commissioner of Taxes shall deposit in the Solid Waste Management Assistance Account of the Waste Management Assistance Fund established under section 6618 of this title all abandoned beverage container deposits remitted under subsection (d) of this section.

Sec. 8. 10 V.S.A. § 6618 is amended to read:

§ 6618. WASTE MANAGEMENT ASSISTANCE FUND

(a) There is hereby created in the State Treasury a fund to be known as the Waste Management Assistance Fund, to be expended by the Secretary of Natural Resources. The Fund shall have three accounts: one for Solid Waste Management Assistance, one for Hazardous Waste Management Assistance, and one for Electronic Waste Collection and Recycling Assistance. The Hazardous Waste Management Assistance Account shall consist of a percentage of the tax on hazardous waste under the provisions of 32 V.S.A. chapter 237, as established by the Secretary, the toxics use reduction fees under subsection 6628(j) of this title, and appropriations of the General Assembly. In no event shall the amount of the hazardous waste tax ~~which~~ that is deposited to the Hazardous Waste Management Assistance Account exceed 40 percent of the annual tax receipts. The Solid Waste Management Assistance Account shall consist of the franchise tax on waste facilities assessed under the provisions of 32 V.S.A. chapter 151, subchapter 13, abandoned beverage container deposits remitted to the State under section 1530 of this title, and appropriations of the General Assembly. The Electronic Waste Collection and Recycling Account shall consist of the program and implementation fees required under section 7553 of this title. All balances in the Fund accounts at the end of any fiscal year shall be carried forward and remain a part of the Fund accounts, except as provided in subsection (e) of this section. Interest earned by the Fund shall be deposited into the appropriate Fund account. Disbursements from the Fund accounts shall be made by the State Treasurer on warrants drawn by the Commissioner of Finance and Management.

(b) The Secretary may authorize disbursements from the Solid Waste Management Assistance Account for the purpose of enhancing solid waste management in the State in accordance with the adopted waste management plan. This includes:

* * *

(9) The Secretary shall annually allocate 17 percent of the receipts of this account, based on the projected revenue for that year, for implementation of the Plan adopted pursuant to section 6604 of this title and Solid Waste Implementation Plans adopted pursuant to 24 V.S.A. § 2202a.

* * *

(11) Costs of solid waste management entities and commercial haulers in complying with universal recycling requirements.

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

UNFINISHED BUSINESS OF TUESDAY, MARCH 13, 2018

Third Reading

S. 272.

An act relating to miscellaneous changes to laws related to motor vehicles and motorboats.

NEW BUSINESS

Third Reading

S. 168.

An act relating to employment protection for volunteer emergency responders.

S. 180.

An act relating to the Vermont Fair Repair Act.

S. 222.

An act relating to technical amendments to civil and criminal procedure statutes.

S. 225.

An act relating to access to Vermont Prescription Monitoring System data by academic researchers and coverage by commercial health insurers for costs associated with medication-assisted treatment.

Second Reading

Favorable with Recommendation of Amendment

S. 111.

An act relating to privatization contracts.

Reported favorably with recommendation of amendment by Senator Pearson for the Committee on Government Operations.

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. IMPROVEMENTS TO PRIVATIZATION CONTRACTING

The Secretary of Administration, the Commissioner of Buildings and General Services, the Attorney General, the Auditor of Accounts, and the President of the Vermont State Employees' Association or designee shall study and recommend to the House and Senate Committees on Government Operations, on or before January 15, 2019, improvements to the method by which privatization contracts are awarded, including recommendations to ensure that any State service that is privatized may include provisions regarding livable wages and benefits, and follow-up annual audits to ensure that the projected cost savings are realized through the contracted activity.

(Committee vote: 5-0-0)

Reported favorably by Senator Ashe for the Committee on Appropriations.

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

(Committee vote: 6-0-1)

S. 287.

An act relating to universal recycling requirements.

Reported favorably with recommendation of amendment by Senator Rodgers for the Committee on Natural Resources and Energy.

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. USE OF BOTTOM BARRIERS WITHOUT PERMIT

(a) The Secretary of Natural Resources shall not require an aquatic nuisance control permit under 10 V.S.A. § 1455 for the use of up to 15 bottom barriers on an inland lake to control nonnative aquatic nuisance species, provided that:

(1) the bottom barriers are managed and controlled by a lake association;

(2) each bottom barrier shall be of no greater size than 14 feet by 14 feet;

(3) the bottom barriers are not installed in an area where they:

(A) create a hazard to public health; or

(B) unreasonably impede boating or navigation;

(4) the lake association notifies the Secretary of the use of the barriers:

(A) three days prior to placement of the barriers in the water if the Secretary has identified the water as containing threatened or endangered species; or

(B) on the day the barriers are placed in the water if the Secretary has not identified the water as containing threatened or endangered species; and

(5) the Secretary may require the removal of the bottom barriers upon a determination that the barriers pose a threat to a threatened or endangered species.

(b) The Secretary of Natural Resources shall designate an e-mail address, telephone number, or other publicly available method by which a lake association may provide the notice required by this section seven days a week.

Sec. 2. ANR REPORT TO GENERAL ASSEMBLY; AQUATIC NUISANCE CONTROL PERMIT; RULE

(a) On or before January 15, 2019 and prior to issuing the general permit required by 2017 Acts and Resolves No. 67 Sec. 9 or any new aquatic nuisance general permit under 10 V.S.A. chapter 50, the Secretary of Natural Resources shall submit a proposed final draft of the general permit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife while the General Assembly is in session so that the General Assembly may review the general permit and recommend changes.

(b) Prior to filing under 3 V.S.A. § 841, final proposed rule for aquatic nuisance control under 10 V.S.A. chapter 50, the Secretary of Natural

Resources shall submit the proposed rule to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife while the General Assembly is in session so that the General Assembly may review the rule and recommend changes.

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 aquatic nuisance control.

(Committee vote: 5-0-0)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 85.

An act relating to simplifying government for small businesses.

Reported favorably with recommendation of amendment by Senator Clarkson 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. SIMPLIFYING GOVERNMENT FOR SMALL BUSINESSES

(a) The Secretary of State, in collaboration with the Department of Labor, the Agency of Commerce and Community Development, the Department of Taxes, the Agency of Digital Services, and other stakeholders, shall review and consider the necessary procedural and substantive steps and shall submit to the General Assembly on or before December 15, 2018, a design proposal, including a timeline, for an easily navigable portal for businesses, entrepreneurs, and citizens to access information about starting and operating a business in Vermont, with an emphasis on small business, and to enable registration with all required State entities with a single login without duplicating data entry.

(b) The Secretary shall consider and integrate to the extent feasible features that:

(1) enhance the State's website to simplify registration and offer a clear compilation of State permitting rules;

(2) simplify the mechanism for making payments to the State, by

allowing a person to pay amounts he or she owes to the State for taxes, fees, or other charges, to a single recipient within government;

(3) simplify annual filing requirements by allowing a person to make a single filing to a single recipient within government and simply to check a box if nothing substantive has changed from the prior year; and

(4) provide mentoring, assistance with navigating the process, and more direct support to small businesses, whether by designating an existing position or creating a new position within either the Office of the Secretary of State or another government entity, and to offer technical guidance, information, and other support to persons who are forming or operating a small business;

(5) after registration, guide the user through secondary requirements and send follow-up e-mail with links to additional services, frequently asked questions, and a point of contact to discuss questions or explore any assistance needed;

(6) provide guidance and links to State, partner organization, and federal programs and initiatives;

(7) provide links to other Vermont-based businesses of interest; and

(8) create a tool set for ongoing communication and updates, including digital channels such as e-mail, social media, and other communications.

Sec. 2. 11 V.S.A. § 1625a is added to read:

§ 1625a. ONE-STOP WEB PORTAL SURCHARGE

(a) In addition to the fee imposed on a business organization at the time of filing its annual report pursuant to the applicable section of this title or Titles 11A-11C of the Vermont Statutes Annotated, the Secretary of State shall collect a surcharge in the amount of \$2.00, which the Secretary shall maintain in a segregated account and use for the purpose of developing and implementing a one-stop navigable portal for businesses, entrepreneurs, and citizens to access information about starting a business in Vermont and to provide ongoing support to businesses interfacing with State government.

(b) The Secretary shall focus the services available pursuant to this section primarily on businesses with fewer than 20 employees.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

Reported favorably by Senator Sirotkin for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs and when so amended ought to pass.

(Committee vote: 7-0-0)

S. 94.

An act relating to promoting remote work and flexible work arrangements.

Reported favorably with recommendation of amendment by Senator Balint 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. 32 V.S.A. chapter 151, subchapter 11P is added to read:

Subchapter 11P. New Remote Worker Tax Credit

§ 5930pp. NEW REMOTE WORKER TAX CREDIT

(a) As used in this section:

(1) “New remote worker” means an individual who:

(A) is a full-time employee of a business with its domicile or primary place of business outside Vermont;

(B) becomes a full-time resident of this State on or after January 1, 2019; and

(C) performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.

(2) “Qualifying remote worker expenses” means a new remote worker’s actual costs incurred for one or more of the following that are necessary to perform his or her employment duties:

(A) relocation to this State;

(B) computer software and hardware;

(C) broadband access or upgrade;

(D) membership in a co-working or similar space;

(E) child care; and

(F) student loan repayment.

(b)(1) A new remote worker shall be eligible for a nonrefundable credit

against the income tax liability imposed under this chapter for qualifying remote worker expenses in the amount of not more than \$2,000.00 per year for up to five years, not to exceed \$10,000.00 per new remote worker.

(2)(A) The Agency of Commerce and Community Development shall develop a process to certify new remote workers for eligibility for a credit under this section.

(B) Upon certifying that a new remote worker meets the eligibility requirements of this section and his or her qualifying expenses for a tax year, the Agency shall issue to the new remote worker a credit certificate for the amount of his or her qualifying expenses, which the new remote worker shall file with his or her tax return.

(3) The Agency shall annually award credit certificates on a first-come, first-served basis, up to \$1,000,000.00 in total credits per year.

(c) A new remote worker may:

(1) first claim a credit under this section in the tax year following the year in which he or she becomes a resident of this State;

(2) claim an additional credit in each of the subsequent four tax years, provided he or she remains a resident of this State and a full-time remote worker; and

(3) carry forward the amount of any unused credit for five tax years.

(d) The Agency of Commerce and Community Development shall:

(1) promote awareness of the new remote worker tax credit authorized in this section; and

(2) adopt measurable goals, performance measures that demonstrate results, and an audit strategy to assess the utilization and performance of the credit authorized in this section.

Sec. 2. IMPROVING INFRASTRUCTURE AND SUPPORT FOR REMOTE WORK IN VERMONT; STUDY; REPORT

(a) The Secretary of Commerce and Community Development, in consultation with the Commissioners of Labor, of Public Service, and of Buildings and General Services, and other interested stakeholders, shall identify and examine the infrastructure improvements and other support needed to enhance the ability of businesses to establish a remote presence in Vermont and to allow Vermonters and businesses developing from maker spaces, co-working spaces, remote work hubs, and innovation spaces to work and provide services remotely.

(b) Based on his or her findings, and in consultation with the

Commissioners of Labor, of Public Service, and of Buildings and General Services, and other interested stakeholders, the Secretary shall develop a program to address the needs identified pursuant to subsection (a) of this section.

(c) Specifically, the program shall:

(1) address the infrastructure needs of remote workers and businesses developing from generator spaces;

(2) promote and facilitate the use of remote worksites and maker spaces, co-working spaces, remote work hubs, and innovation spaces;

(3) encourage out-of-state companies to use remote workers in Vermont;

(4) reduce the administrative and regulatory burden on businesses employing remote workers in Vermont;

(5) increase the ease of start-up companies finding remote work or maker spaces, co-working spaces, remote work hubs, and innovation spaces in the State; and

(6) support the interconnection of current and future maker spaces, co-working spaces, remote work hubs, and innovation spaces in this State.

(d) On or before January 15, 2019, the Secretary shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a written report detailing:

(1) his or her findings, plan, and any recommendations for legislative action to implement the plan; and

(2) policy changes to improve the climate for remote workers, including zoning measures, insurance and liability issues, workforce training needs, broadband access, access to co-working spaces, and an assessment of environmental implications of working remotely.

Sec. 3. INTEGRATED PUBLIC-PRIVATE STATE WORKSITES

(a) The Secretary of Administration, in consultation with the Secretary of Commerce and Community Development and the Commissioner of Buildings and General Services, shall examine the potential for the State to establish remote worksites that are available for use by both State employees and remote workers in the private sector.

(b) The Secretary shall examine the feasibility of and potential funding models for the worksites, including the opportunity to provide at low or no cost co-work space within State buildings that is currently vacant or underutilized.

(c) On or before January 15, 2019, the Secretary shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs detailing his or her findings and any recommendations for legislative action.

Sec. 4. BROADBAND AVAILABILITY FOR REMOTE WORKERS

On or before January 15, 2019, the Director of Telecommunications and Connectivity, in consultation with the Agency of Commerce and Community Development, shall submit with the annual report required by 30 V.S.A. § 202e findings and recommendations concerning:

(1) the current availability of broadband service in municipal downtown centers that do, or could at reasonable cost, support one or more co-working spaces or similar venues for remote workers and small businesses; and

(2) strategies for expanding and enhancing broadband availability for such spaces.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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

An act relating to remote work.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

In Sec. 1, in 32 V.S.A. § 5930pp(b)(3) by striking out “\$1,000,000.00” and inserting in lieu thereof \$250,000.00

(Committee vote: 7-0-0)

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.

Reported favorably with recommendation of amendment by Senator Pearson for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all

after the enacting clause and inserting in lieu thereof the following:

* * * Transfer to OPR * * *

Sec. 1. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

The Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(48) Law Enforcement Officers

Sec. 2. 26 V.S.A. chapter 103 is added to read:

CHAPTER 103. LAW ENFORCEMENT OFFICERS

Subchapter 1. General Provisions

§ 5301. PURPOSE AND EFFECT

In order to safeguard the life and health of the people of this State, a person shall not practice, or offer to practice, as a law enforcement officer unless currently licensed under this chapter.

§ 5302. DEFINITIONS

As used in this chapter:

(1) "Category A conduct" means:

(A) A felony.

(B) A misdemeanor that is committed while on duty and did not involve the legitimate performance of duty.

(C) Any of the following misdemeanors, if committed off duty:

(i) simple assault, second offense;

(ii) domestic assault;

(iii) false reports and statements;

(iv) driving under the influence, second offense;

(v) violation of a relief from abuse order or of a condition of release;

(vi) stalking;

(vii) false pretenses;

- (viii) voyeurism;
- (ix) prostitution or soliciting prostitution;
- (x) distribution of a regulated substance;
- (xi) simple assault on a law enforcement officer; or
- (xii) possession of a regulated substance, second offense.

(2) “Category B conduct” means gross professional misconduct amounting to actions on duty or under color of authority, or both, that involve willful failure to comply with a State-required policy or substantial deviation from professional conduct as defined by the law enforcement agency’s policy or if not defined by the agency’s policy, then as defined by rules adopted by the Office, such as:

- (A) sexual harassment involving physical contact or misuse of position;
- (B) misuse of official position for personal or economic gain;
- (C) excessive use of force under color of authority, second offense;
- (D) biased enforcement; or
- (E) use of an electronic criminal records database for personal, political, or economic gain.

(3) “Category C conduct” means any allegation of misconduct pertaining to Office or Council processes or operations, including:

- (A) intentionally exceeding the scope of practice for an officer’s certification level;
- (B) knowingly making material false statements or reports to the Office or Council;
- (C) falsification of Office or Council documents;
- (D) intentional interference with Office or Council investigations, including intimidation of witnesses or misrepresentations of material facts;
- (E) material false statements about certification or licensure status to a law enforcement agency;
- (F) knowing employment of an individual in a position or for duties for which the individual lacks proper certification;
- (G) intentional failure to conduct a valid investigation or file a report as required by this chapter; or
- (H) failure to complete annual in-service training required by the Council.

(4) “Certification” means the document issued by the Council that verifies that a law enforcement officer has successfully completed the Council’s initial basic training or annual in-service training requirements, or such a document issued by another entity with training requirements substantially similar to those of the Council as determined by the Director.

(5) “Council” means the Vermont Criminal Justice Training Council.

(6) “Director” means the Director of the Office of Professional Regulation.

(7) “Effective internal affairs program” means that a law enforcement agency does all of the following:

(A) Complaints. Accepts complaints against its law enforcement officers from any source.

(B) Investigators. Assigns an investigator to determine whether an officer violated an agency rule or policy or State or federal law.

(C) Policies. Has language in its policies or applicable collective bargaining agreement that outlines for its officers expectations of employment or prohibited activity, or both, and provides due process rights for its officers in its policies. These policies shall establish a code of conduct and a corresponding range of discipline.

(D) Fairness in discipline. Treats its accused officers fairly and decides officer discipline based on just cause, a set range of discipline for offenses, consideration of mitigating and aggravating circumstances, and its policies’ due process rights.

(E) Civilian review. Provides for review of officer discipline by civilians, which shall be a selectboard or other elected or appointed body or person, at least for the conduct required to be reported to the Office under this chapter. The assistant judges of a county shall appoint a committee of at least three and up to five civilians, who shall be selected from among elected officials who reside in the county, to review the discipline imposed on officers by the sheriff.

(8) “Executive officer” means the highest-ranking law enforcement officer of a law enforcement agency.

(9) “Law enforcement agency” means the employer of a law enforcement officer.

(10) “Law enforcement officer” means 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.

(11) "License" means a current authorization granted by the Director, permitting the practice as a law enforcement officer.

(12) "Office" means the Office of Professional Regulation.

(13) "Unprofessional conduct" means Category A, B, or C conduct.

(14)(A) "Valid investigation" means an investigation conducted pursuant to a law enforcement agency's established or accepted procedures.

(B) An investigation shall not be valid if:

(i) the agency has not adopted an effective internal affairs program;

(ii) the agency refuses, without any legitimate basis, to conduct an investigation;

(iii) the agency intentionally did not report allegations to the Office as required;

(iv) the agency attempts to cover up the misconduct or takes an action intended to discourage or intimidate a complainant; or

(v) the agency's executive officer is the officer accused of misconduct.

§ 5303. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

(1) sell or fraudulently obtain or furnish any law enforcement degree, diploma, certification, license, or any other related document or record or to aid or abet therein;

(2) practice law enforcement under cover of any degree, diploma, registration, certification, license, or related document or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(3) practice as a law enforcement officer unless licensed or otherwise authorized to do so under the provisions of this chapter;

(4) represent himself or herself as being licensed or otherwise authorized by this State to practice as a law enforcement officer or use in connection with a name any words, letters, signs, or figures that imply that a person is a law enforcement officer when not licensed or otherwise authorized under this chapter;

(5) practice as a law enforcement officer during the time a license or authorization issued under this chapter is suspended or revoked; or

(6) employ an unlicensed or unauthorized person to practice as a law enforcement officer.

(b) Any person violating this section shall be subject to the penalties provided in 3 V.S.A. § 127.

§ 5304. EXEMPTIONS

The following shall not require a license under this chapter:

(1) The furnishing of assistance in the case of an emergency or disaster.

(2) The practice of a law enforcement officer who is employed by the U.S. government or any bureau, division, or agency of it while in the discharge of his or her official duties.

(3) The practice of any other occupation or profession by a person duly licensed or otherwise authorized under the laws of this State.

Subchapter 2. Administration

§ 5311. DUTIES OF THE DIRECTOR

(a) The Director shall:

(1) provide general information to applicants for license as law enforcement officers;

(2) receive applications for licensure and provide licenses to applicants qualified under this chapter;

(3) administer fees as established by law;

(4) refer all disciplinary matters to an administrative law officer;

(5) renew, revoke, and reinstate licenses as ordered by an administrative law officer; and

(6) explain appeal procedures to licensed law enforcement officers and to applicants and complaint procedures to the public.

(b) The Director may adopt rules appropriate to perform his or her duties under this chapter and to administer the provisions of this chapter.

§ 5312. ADVISOR APPOINTEES

(a)(1) The Secretary of State shall appoint three persons for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to law enforcement. One of the initial appointments shall be for less than a five-year term. The Secretary shall consider representation among small, medium, and large agencies as factors in making the appointments.

(2) An advisor appointee shall have not less than three years' experience as a law enforcement officer immediately preceding appointment; shall be licensed as a law enforcement officer in Vermont; and shall be actively engaged in the practice of law enforcement in this State during incumbency.

(b) The Director shall seek the advice of the law enforcement advisor appointees in carrying out the provisions of this chapter.

Subchapter 3. Licenses

§ 5321. ELIGIBILITY FOR LICENSURE

An applicant for licensure shall demonstrate that he or she has a current, valid certification.

§ 5322. LICENSURE RENEWAL

(a) In order to renew his or her license, a law enforcement officer shall demonstrate that he or she has a current, valid certification. A license shall be renewed biennially upon application and payment of the required fee. Failure to comply with the provisions of this section shall result in suspension of all privileges granted to the licensee, beginning on the expiration date of the license.

(b) A license that has lapsed shall be renewed upon payment of the renewal fee and any applicable late renewal penalty pursuant to 3 V.S.A. § 127(d).

§ 5323. APPLICATIONS

Applications for licensure and license renewal shall be on forms provided by the Director. Each application shall contain a statement under oath showing the applicant's certification and other pertinent information required by law and shall be accompanied by the required fee.

§ 5324. LICENSURE GENERALLY

(a) The Director shall issue a license or renew a license, upon payment of the fees required under this chapter, to an applicant or licensee who has satisfactorily met all the requirements of this chapter.

(b)(1) The actions and legal authority of a law enforcement officer employed by a law enforcement agency or elected to a law enforcement office

whose license has expired and who acts with the apparent authority of a license issued under this chapter shall be valid at law, notwithstanding the failure to renew the license.

(2) The provisions of this subsection shall only apply during the 30-day reinstatement period described in subdivision (c)(2) of this section.

(c)(1) The Director shall provide written notice that the officer's license has expired to the officer, the officer's executive officer, if any, and the Council.

(2) The effective date of a license that was renewed during the 30 days following license expiration shall relate back to the date the license expired, up to the date the license was reinstated, and the license shall be deemed legally valid during that timeframe.

§ 5325. FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

§ 5326. CONFIDENTIALITY OF PERSONAL INFORMATION

A law enforcement officer's home address and personal telephone number and email address produced or acquired under this chapter shall be kept confidential and are exempt from public inspection and copying under the Public Records Act.

Subchapter 4. Investigations, Reports, and Unprofessional Conduct Sanctions

§ 5331. INVESTIGATIONS

(a) Agency investigations of Category A and B conduct.

(1)(A) Each law enforcement agency shall conduct a valid investigation of any complaint alleging that a law enforcement officer employed by the agency committed Category A or Category B conduct. An agency shall conclude its investigation even if the officer resigns from the agency during the course of the investigation.

(B) Notwithstanding the provisions of subdivision (A) of this subdivision (1), a law enforcement agency shall refer to the Office any unprofessional conduct complaints made against a law enforcement officer who is the executive officer of that agency.

(2)(A) The Office shall accept from any source complaints alleging a law enforcement officer committed unprofessional conduct and, if the Director deems such a complaint credible, he or she shall refer any complaints

regarding Category A or Category B conduct to the executive officer of the agency who employs that officer, and that agency shall conduct a valid investigation.

(B) Notwithstanding the provisions of subdivision (A) of this subdivision (2), the Office shall cause to be conducted an alternate course of investigation if the allegation is in regard to a law enforcement officer who is the executive officer of the agency.

(b) Exception to an agency's valid investigation. Notwithstanding a law enforcement agency's valid investigation of a complaint, the Office may investigate that complaint or cause the complaint to be investigated if the officer resigned before a valid investigation had begun or was completed.

(c) Office and Council investigations of Category C conduct.

(1) The Office shall investigate allegations of Category C conduct pertaining to Office processes.

(2) The Council shall investigate allegations of Category C conduct pertaining to Council processes.

§ 5332. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

(a)(1) The executive officer of a law enforcement agency or the chair of the agency's civilian review board shall report to the Office within 10 business days if any of the following occur in regard to a law enforcement officer of the agency:

(A) Category A.

(i) There is a finding of probable cause by the criminal division of a court that the officer committed Category A conduct.

(ii) There is any decision or findings of fact or verdict regarding allegations that the officer committed Category A conduct, including a judicial decision and any appeal therefrom.

(B) Category B.

(i) The agency receives a complaint against the officer that, if deemed credible by the executive officer of the agency as a result of a valid investigation, alleges that the officer committed Category B conduct.

(ii) The agency receives or issues any of the following:

(I) a report or findings of a valid investigation finding that the officer committed Category B conduct; or

(II) any decision or findings, including findings of fact or verdict, regarding allegations that the officer committed Category B conduct,

including a hearing officer decision, arbitration, administrative decision, or judicial decision, and any appeal therefrom.

(C) Termination. The agency terminates the officer for Category A or Category B conduct.

(D) Resignation. The officer resigns from the agency while under investigation for unprofessional conduct.

(2) As part of his or her report, the executive officer of the agency or the chair of the civilian review board shall provide to the Office a copy of any relevant documents associated with the report, including any findings, decision, and the agency's investigative report. The information provided shall be treated as a complaint under the provisions of 3 V.S.A. § 131.

(b) The Director shall report to the Attorney General and the State's Attorney of jurisdiction any allegations that an officer committed Category A conduct.

§ 5333. PERMITTED OFFICE SANCTIONS

(a) Generally. The Office may impose any of the following sanctions on a law enforcement officer's license upon its finding 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 relicensure at the discretion of the Office; or

(4) permanent revocation.

(b) Intended revocation; temporary voluntary surrender.

(1)(A) If, after an evidentiary hearing, the Office intends to revoke a law enforcement officer's license due to its finding that the officer committed unprofessional conduct, the Office shall issue a decision to that effect.

(B) Within 10 business days from the date of that decision, such an officer may voluntarily surrender his or her license if there is a pending labor proceeding related to the Office's unprofessional conduct findings.

(C) A voluntary surrender of an officer's license 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 Office's final sanction hearing on the matter. At that hearing, the Office may modify its findings and decision on the basis of additional evidence, but shall not be bound by any outcome of the labor proceeding.

(2) If an officer fails to voluntarily surrender his or her license in accordance with subdivision (1) of this subsection, the Office's original findings and decision shall take effect. However, if the final adjudication of the labor proceeding is inconsistent with the Office's findings and decision, at the officer's request, the Director may, in his or her discretion, order that the Office's findings and decision be reconsidered.

§ 5334. LIMITATION ON OFFICE SANCTIONS; FIRST OFFENSE OF CATEGORY B CONDUCT

(a) Category B conduct; first offense. If a law enforcement agency conducts a valid investigation of a complaint alleging that a law enforcement officer committed a first offense of Category B conduct, the Office shall take no action.

(b) "Offense" defined. As used in this section, an "offense" means any offense committed by a law enforcement officer during the course of his or her licensure, and includes any offenses committed during employment at a previous law enforcement agency.

§ 5335. INVALID INVESTIGATIONS

Nothing in this subchapter shall prohibit the Office from causing a complaint to be investigated or taking disciplinary action on an officer's license if the Office determines that a law enforcement agency's investigation of the officer's conduct did not constitute a valid investigation.

Sec. 3. CREATION OF TWO NEW POSITIONS WITHIN THE OFFICE OF PROFESSIONAL REGULATION

(a) To support the administration of law enforcement officer professional regulation set forth in Sec. 2 of this act, there is created the following positions within the Secretary of State's Office of Professional Regulation:

- (1) one classified investigator; and
- (2) one exempt attorney.

(b) Any funding necessary to support the positions created under subsection (a) of this section shall be derived from the Office's Professional Regulatory Fee Fund, with no General Fund dollars.

* * * Council Revisions * * *

Sec. 4. 20 V.S.A. § 2357 is amended to read:

§ 2357. POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR

(a) The Executive Director of the Council, on behalf of the Council, shall have the following powers and duties, subject to the supervision of the Council and to be exercised only in accordance with rules adopted under this chapter:

* * *

(b) The Executive Director shall collaborate with the Office of Professional Regulation to alert the Office of:

(1) persons who have successfully obtained or renewed their certification; and

(2) the reports made under section 2362 of this chapter.

Sec. 5. 20 V.S.A. § 2360 is added to read:

§ 2360. LAW ENFORCEMENT AGENCIES; DUTY TO ADOPT AN EFFECTIVE INTERNAL AFFAIRS PROGRAM

(a) Each law enforcement agency shall adopt an effective internal affairs program in order to manage complaints regarding the agency's law enforcement officers.

(b) The Council shall create and maintain an effective internal affairs program model policy that may be used by law enforcement agencies to meet the requirements of this section.

(c) As used in this section, an "effective internal affairs program" means that a law enforcement agency does all of the following:

(1) Complaints. Accepts complaints against its law enforcement officers from any source.

(2) Investigators. Assigns an investigator to determine whether an officer violated an agency rule or policy or State or federal law.

(3) Policies. Has language in its policies or applicable collective bargaining agreement that outlines for its officers expectations of employment or prohibited activity, or both, and provides due process rights for its officers in its policies. These policies shall establish a code of conduct and a corresponding range of discipline.

(4) Fairness in discipline. Treats its accused officers fairly, and decides officer discipline based on just cause, a set range of discipline for offenses, consideration of mitigating and aggravating circumstances, and its policies' due process rights.

(5) Civilian review. Provides for review of officer discipline by

civilians, which shall be a selectboard or other elected or appointed body or person, at least for the conduct required to be reported to the Office of Professional Regulation under 26 V.S.A. chapter 103. The assistant judges of a county shall appoint a committee of at least three and up to five civilians, who shall be selected from among elected officials who reside in the county, to review the discipline imposed on officers by the sheriff.

Sec. 6. 20 V.S.A. § 2362 is amended to read:

§ 2362. REPORTS

(a) Within ten business days:

(1) Elected constables. A town, village, or city clerk shall notify the Council, on a form provided by the Council, of the election, appointment to fill a vacancy under 24 V.S.A. § 963, expiration of term, or reelection of any constable.

(2) Appointed constables and police chiefs. The legislative body of a municipality or its designee shall notify the Council of the appointment or removal of a constable or police chief.

(3) Municipal police officers. A police chief appointed under 24 V.S.A. § 1931 shall notify the Council of the appointment or removal of a police officer under the police chief's direction and control.

(4) State law enforcement officers. The appointing authority of a State agency employing a law enforcement officer shall notify the Council of the appointment or removal of a law enforcement officer employed by that agency.

(5) Sheriffs' officers. A sheriff shall notify the Council of the appointment or removal of a deputy or other law enforcement officer employed by that sheriff's department.

(b) Notification required by this section shall include the name of the constable, police chief, police officer, deputy, or other law enforcement officer; the date of appointment or removal; and the term of office or length of appointment, if any.

~~(c) A report required by this section may be combined with any report required under subchapter 2 of this chapter.~~

Sec. 7. REPEALS

The following are repealed in Title 20:

(1) In chapter 151 (Vermont Criminal Justice Training Council), the subchapter 1 (General Provisions) designation.

(2) In chapter 151, subchapter 2 (Unprofessional Conduct).

Sec. 8. 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, 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~~ § 2360(a).

(2) Vermont Criminal Justice Training Council. On or before April 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~~ § 2360(b).

~~(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. [Repealed.]~~

(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. [Repealed.]~~

~~(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. [Repealed.]~~

~~(f) Annual report of Executive Director. Annually, on or before January 15, beginning in the year 2019 and ending in the year 2022, the Executive Director of the Vermont Criminal Justice Training Council shall report to the General Assembly regarding the Executive Director's analysis of the implementation of this act and any recommendations he or she may have for further legislative action. [Repealed.]~~

(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.

* * * Vermont State Police * * *

Sec. 9. 20 V.S.A. § 1923 is amended to read:

§ 1923. INTERNAL INVESTIGATION

(a)(1) The State Police Advisory Commission shall advise and assist the Commissioner in developing and making known routine procedures to ensure that allegations of misconduct by State Police officers are investigated fully and fairly, and to ensure that appropriate action is taken with respect to such allegations.

(2) The Commissioner shall ensure that the procedures described in subdivision (1) of this subsection constitute an effective internal affairs program in order to comply with section ~~2402~~ 2360 of this title.

* * *

(d) Records of the Office of Internal Investigation shall be confidential, except:

(1) the State Police Advisory Commission shall, at any time, have full and free access to such records;

(2) the Commissioner shall deliver such materials from the records of the Office as may be necessary to appropriate prosecutorial authorities having jurisdiction;

(3) the Director of the State Police or the Chair of the State Police Advisory Commission shall report to the ~~Vermont Criminal Justice Training Council as required by section 2403 of this title~~ Office of Professional Regulation as required by 26 V.S.A. § 5332; and

(4) the State Police Advisory Commission shall, in its discretion, be entitled to report to such authorities as it may deem appropriate or to the public, or both, to ensure that proper action is taken in each case.

* * * Transitional Provisions, Conforming Revisions, and Effective Date * * *

Sec. 10. TRANSITIONAL PROVISIONS

(a) Transfer of regulation. On the effective date of this act, a person certified as a law enforcement officer by the Vermont Criminal Justice Training Council under the provisions of 20 V.S.A. chapter 151 shall be deemed licensed as a law enforcement officer by the Office of Professional Regulation under the provisions of 26 V.S.A. chapter 103 upon payment of the initial license fee set forth in 26 V.S.A. § 5325 in Sec. 2 of this act.

(b) Alleged law enforcement officer unprofessional conduct. The

unprofessional conduct provisions applicable to law enforcement officers set forth in Sec. 2 of this act shall apply to law enforcement officer conduct alleged to have been committed on and after the effective date of this act.

Sec. 11. CONFORMING REVISIONS

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall replace references to law enforcement officers certified by the Vermont Criminal Justice Training Council under 20 V.S.A. chapter 151 with references to law enforcement officers licensed by the Office of Professional Regulation under 26 V.S.A. chapter 103 and make substantially similar revisions as needed for consistency with Secs. 1-3 of this act, provided the revisions have no other effect on the meaning of the affected statutes.

Sec. 12. IMPLEMENTATION

(a) The advisor appointees created in Sec. 2, in 26 V.S.A. § 5312, shall be appointed within 60 days of the effective date of this section.

(b) The Director of the Office of Professional Regulation may adopt rules in accordance with the provisions of Sec. 2 of this act prior to the effective date of that section.

Sec. 13. EFFECTIVE DATES

(a) The following sections shall take effect on January 1, 2019:

- (1) Sec. 1 (amending 3 V.S.A. § 122);
- (2) Sec. 2 (adding 26 V.S.A. chapter 103);
- (3) Sec. 9 (amending 20 V.S.A. § 1923);
- (4) Sec. 10 (transitional provisions); and
- (5) Sec. 11 (conforming revisions);

(b) The following sections shall take effect on July 1, 2018:

- (1) Sec. 6 (amending 20 V.S.A. § 2362); and
- (2) Sec. 7 (repeals), except that in 20 V.S.A. § 2355 (Council powers and duties), subdivision (a)(11) (decertification of persons who have been convicted of a felony subsequent to their certification as law enforcement officers) shall be repealed on January 1, 2019.

(c) This section and the following sections shall take effect on passage:

- (1) Sec. 3 (creating positions in the Office of Professional Regulation);
- (2) Sec. 4 (amending 20 V.S.A. § 2357);
- (3) Sec. 5 (adding 20 V.S.A. § 2360);

(4) Sec. 8 (amending 2017 Acts and Resolves No. 56, Sec. 2); and

(5) Sec. 12 (implementation).

(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 Government Operations and when so amended ought to pass.

(Committee vote: 7-0-0)

S. 204.

An act relating to the registration of short-term rentals.

Reported favorably with recommendation of amendment by Senator Sirotkin 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. 18 V.S.A. chapter 85 is amended to read:

CHAPTER 85. FOOD AND LODGING ESTABLISHMENTS

* * *

Subchapter 7. Short-Term Rentals

§ 4466. REGISTRATION OF SHORT-TERM RENTALS

(a) After January 1, 2019, a person shall not operate or maintain a short-term rental unless he or she registers with the Department and obtains and holds a valid certificate of compliance.

(b) Prior to offering for rent a short-term rental, a person shall register with the Commissioner by completing forms published by the Department and paying a registration fee as provided in section 4470 of this title.

(c) A person registering shall certify on the registration 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 9 V.S.A. chapter 77.

(2) Each guest room is free of any evidence of insects, rodents, and other pests.

(3) If the unit utilizes water from a nonpublic water supply system, it does not have any known violations of Vermont's water supply rules.

(4) 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) The registrant of the short-term rental is aware of his or her responsibility for the rooms tax described pursuant to 32 V.S.A. chapter 225 and other applicable local taxes and that failure to pay these taxes may result in suspension or revocation of the registrant's certificate of compliance.

(d)(1) The prospective registrant shall submit a registration application to the Department not fewer than 14 calendar days prior to offering a short-term rental for occupancy, except for those reservations established prior to January 1, 2019.

(2) The Department shall award an initial certificate of compliance upon receipt of the applicant's completed registration application and registration fee. The certificate of compliance shall state that the registrant has self-certified compliance with health and safety laws and regulations pursuant to subdivision (c) of this section and that the Department has not licensed or inspected the property.

(e) All certificates of compliance shall be displayed in a manner so as to be easily viewed by those occupying the short-term rental unit.

(f) Any prospective registrant aggrieved by a decision of the Department may appeal to the Board of Health pursuant to subsection 4351(e) of this title.

§ 4467. TERM; CERTIFICATE OF COMPLIANCE

A certificate of compliance shall expire one year after its date of issuance and may be renewed, if the certificate holder is in good standing with the Department, upon the payment of a new registration fee and the filing of a new self-certification registration form pursuant to subdivision 4466(c) of this title.

§ 4468. ADVERTISEMENT ON INTERNET-BASED PLATFORMS

A short-term rental registrant shall not advertise on an Internet-based platform without posting publicly on the platform the registrant's certificate of compliance number issued by the Department.

§ 4469. INSPECTION

(a) The Commissioner may inspect through his or her duly authorized officers, inspectors, agents, or assistants, at all reasonable times, a short-term rental and the registrant's records related to the short-term rental.

(b) Whenever an inspection demonstrates that the short-term rental is not operated in accordance with the provisions of this chapter, the officer, inspector, agent, or assistant shall notify the registrant of the conditions found and shall direct necessary changes.

(c) Nothing in this section shall be construed to supersede the authority and responsibilities of the Division of Fire Safety. The Division's Executive Director shall inform the Commissioner in a timely manner of any enforcement actions that the Division has taken against the registrant of a short-term rental.

§ 4470. FEES; REGISTRATION

At the time of registration or registration renewal, a short-term rental unit registrant shall pay to the Department the same fee as required pursuant to subdivision 4353(a)(2)(I).

§ 4471. ENFORCEMENT

(a) If a person is found to be in violation of this subchapter, the Commissioner shall issue a written notice and an order requiring both abatement of the violation and compliance with this subchapter within a reasonable period of time.

(b) A person upon whom the notice and order are served shall have an opportunity for a hearing at which he or she may show cause for vacating or amending the order. If it appears that the provisions of this chapter have not been violated, the Commissioner shall immediately vacate the order without prejudice. Conversely, if it appears that the provisions of this chapter have been violated and the person fails to comply with the order issued by the Commissioner, the Commissioner shall revoke, modify, or suspend the person's certificate of compliance or enforce a civil penalty pursuant to section 4309 of this title, or both.

§ 4472. MUNICIPAL AUTHORIZATION

A town, city, or incorporated village may use its ordinance authority to provide for more stringent health and safety regulations than those provided in this subchapter.

Sec. 2. EDUCATIONAL MATERIALS; SHORT-TERM RENTALS

(a) The Commissioner of Health shall prepare and publish on the Department's website educational materials for short-term rental registrants, including an explanation of all the requirements in 18 V.S.A. chapter 85,

subchapter 7 and information regarding the importance of and coverage options for liability insurance.

(b) As used in this section, “short-term rental” shall have the same meaning as in 18 V.S.A. § 4301.

Sec. 3. REPORTS

(a) The Commissioner of Health shall submit the following written reports to the House Committees on Commerce and Economic Development 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 September 1, 2018 and on or before January 1, 2019, a report detailing the Department’s progress in preparing for implementation of 18 V.S.A. chapter 85, subchapter 7; and

(2) on or before January 1, 2020, a report identifying any gaps or weaknesses related to the regulation of short-term rentals pursuant to 18 V.S.A. chapter 85, subchapter 7, data related to the number of registered short-term rental units and the collection of taxes, and any recommendations for legislative action.

(b) In preparing the reports required pursuant to subsection (a) of this section, the Commissioner shall consult with and accept written comments from the following:

(1) the Commissioner of Tourism and Marketing or designee;

(2) the Commissioner of Taxes or designee;

(3) the Executive Director of the Department of Public Safety’s Division of Fire Safety;

(4) the Vermont Lodging Association;

(5) the Vermont Inn and Bed and Breakfast Association;

(6) one or more owners of short-term rentals in Vermont;

(7) one or more representatives of an online short-term rental property platform operating in Vermont; and

(8) one or more Vermonters with significant experience using an online short-term rental property platform to rent short-term rentals.

(c) As used in this section, “short-term rental” shall have the same meaning as in 18 V.S.A. § 4301.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Sirotkin for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

First: In Sec. 1, in 18 V.S.A. § 4466, by striking out subsection (e) in its entirety and redesignating the current subsection (f) to be the new subsection (e)

Second: In Sec. 1, in 18 V.S.A. § 4470, by striking out the words “the same fee as” and inserting in lieu thereof the words fifty percent of the fee

Third: In Sec. 3, in subdivision (b)(4), by striking out the words “Lodging Association” and inserting in lieu thereof the words Chamber of Commerce

(Committee vote: 5-2-0)

S. 253.

An act relating to Vermont’s adoption of the Interstate Medical Licensure Compact.

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

The Committee recommends that the bill be amended by striking out Sec. 2, effective date, in its entirety and inserting in lieu thereof the following:

Sec. 2. 3 V.S.A. § 123(j)(1) is amended to read:

(j)(1) The Office may inquire into the criminal background histories of applicants for licensure and for biennial license renewal for the following professions:

(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter ~~59~~ 28;

(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59; ~~and~~

(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; and

(D) osteopathic physicians licensed under 26 V.S.A. chapter 33.

Sec. 3. 26 V.S.A. § 1404 is added to read:

§ 1404. APPLICANT FOR EXPEDITED LICENSURE; FINGERPRINT DATA

(a) An applicant for expedited licensure pursuant to section 1420e of this chapter shall submit a full set of fingerprints to the Board for the purpose of obtaining State and federal criminal background checks pursuant to subdivision 1420e(b)(2) of this chapter. The Department of Public Safety may exchange fingerprint data with the Federal Bureau of Investigation.

(b) Communications between the Board and the Interstate Medical Licensure Compact Commission regarding verification of physician eligibility for licensure under the Interstate Medical Licensure Compact shall not include any information received from the Federal Bureau of Investigation related to State and federal criminal background checks performed for the purposes of subdivision 1420e(b)(2) of this chapter.

Sec. 4. EFFECTIVE DATE

This act shall take effect on January 1, 2020.

(Committee vote: 5-0-0)

Reported favorably by Senator Lyons 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)

S. 269.

An act relating to blockchain, cryptocurrency, and financial technology.

Reported favorably with recommendation of amendment by Senator Clarkson 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. 8 V.S.A. chapter 78 is added to read:

CHAPTER 78. PERSONAL INFORMATION TRUST 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, government identification designations, and personal, educational, and financial histories.

(2) “Personal information trust business” means a person that offers to the public by advertising, solicitation, or other means that the person is available to hold personal information in trust as a fiduciary.

§ 2452. PERSONAL INFORMATION AS THE SUBJECT OF A FIDUCIARY RELATIONSHIP

(a) Personal information may be held under a trust relationship in accordance with the terms of this chapter.

(b) A person who holds personal information under a trust relationship has a fiduciary responsibility to the individual whose identity is in question over the maintenance and release of personal information.

(c) Personal information held pursuant to this section creates a personal identity trust.

§ 2453. QUALIFIED PERSONAL INFORMATION TRUST COMPANY

(a) The trustee of a personal information trust shall qualify to conduct its business under the terms of this chapter and applicable rules adopted by the Department.

(b) A person shall not engage in business as a personal information trust company in this State without first obtaining a certificate of authority from the Department.

(c) A personal information trust company shall:

(1) be organized under the laws of this State as a business corporation, a benefit corporation, a limited liability company, a low-profit limited liability company, a partnership, a limited partnership, a nonprofit corporation, or a cooperative;

(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; and

(4) hold at least one meeting of its governing body in this State each year.

§ 2454. NAME; OFFICE

A personal information trust business 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 trust 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; and

(D) transact business through the use of a mathematically secured, chronological, and decentralized consensus ledger or database, whether maintained via Internet interaction, peer-to-peer network, or otherwise.

(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. REPORTS; FEES; AUTHORITY OF DEPARTMENT

(a) The Department of Financial Regulation shall prescribe by rule the timing and manner of reports by a personal identity trust company to the Department that shall reflect the approach mandated under section 2405 of this title.

(b)(1) The Department shall assess the following fees for a personal information trust 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 trust company for examination time at its standard rate.

(c) In addition to other powers conferred by this chapter, the Department may exercise, with respect to a personal information trust company, all of the powers granted to the Commissioner under section 2410 of this title with respect to oversight of an independent trust company.

§ 2457. RULES

The Department of Financial Regulation shall adopt rules to govern other aspects of the business of a personal information trust company, including its protection and safeguarding of personal information and its interaction with third parties with respect to personal information it holds.

Sec. 2. INSURANCE; E-BANKING; DFR STUDY; REPORT

(a) The Department of Financial Regulation shall review the potential application of blockchain technology to the provision of insurance and e-banking and consider areas for potential adoption of a comparable program or regulatory changes within 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. 3. FINTECH SUMMIT

(a) The Agency of Commerce and Community Development, in collaboration with the Department of Financial Regulation, the University of Vermont, the Vermont State Colleges, Norwich University, Vermont Law School, the Agency of Education, regional CTE centers, and in consultation with private sector practitioners, shall organize and hold a FinTech Summit to:

(1) explore legal and regulatory mechanisms to promote the adoption of financial technology in State government;

(2) explore opportunities to promote financial technology and economic development in the private sector, including in the areas of banking, insurance, retail and service businesses, and cryptocurrency providers and proponents; and

(3) explore opportunities to integrate financial technology into secondary and postsecondary education in Vermont.

(b) In fiscal year 2019, the amount of \$25,000.00 is appropriated from the General Fund to the Agency of Commerce and Community Development to implement this section.

* * * Effective Date * * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

Reported favorably by Senator Sirotkin for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs and when so amended ought to pass.

(Committee vote: 7-0-0)

CONCURRENT RESOLUTIONS FOR NOTICE

Concurrent Resolutions For Notice Under Joint Rule 16

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration should be communicated to the Secretary's Office.

S.C.R. 21 (For text of Resolution, see Addendum to Senate Calendar for March 15, 2018)

H.C.R. 272 - 278 (For text of Resolutions, see Addendum to House Calendar for March 15, 2018)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Adam Greshin of Warren - Commissioner of the Department of Finance and Management (term 7/10/17 - 2/28/19) - By Senator Clarkson for the Committee on Government Operations. (2/28/19)

Richard J. Wobby of Northfield - Member of the Liquor Control Board - By Senator Ayer for the Committee on Economic Development, Housing and General Affairs. (2/21/18)

NOTICE OF JOINT ASSEMBLY

March 15, 2018 - 10:30 A.M. - Retention of one Superior Court Judge, John R. Treadwell and one Magistrate, Barry E. Peterson.

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).