

Journal of the House

Thursday, April 20, 2017

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Deborah McKinley, East Craftsbury Presbyterian Church, East Craftsbury, VT.

Message from the Senate No. 47

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has considered bills originating in the House of the following titles:

- H. 3.** An act relating to burial depth in cemeteries.
- H. 136.** An act relating to accommodations for pregnant employees.
- H. 145.** An act relating to establishing the Mental Health Crisis Response Commission.
- H. 184.** An act relating to evaluation of suicide profiles.
- H. 462.** An act relating to social media privacy for employees.
- H. 502.** An act relating to modernizing Vermont's parentage laws.
- H. 507.** An act relating to Next Generation Medicaid ACO pilot project reporting requirements.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered a joint resolution originating in the House of the following title:

J.R.H. 7. Joint resolution authorizing the Green Mountain Boys State educational program to use the State House.

And has adopted the same in concurrence.

Pursuant to the request of the House for Committees of Conference on the disagreeing votes of the two Houses on the following House bills the President

announced the appointment as members of such Committees on the part of the Senate:

H. 42. An act relating to appointing municipal clerks and treasurers and to municipal audit penalties.

Senator Collamore
Senator Ayer
Senator Pearson.

H. 171. An act relating to expungement.

Senator Nitka
Senator Sears
Senator Benning.

H. 494. An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

Senator Mazza
Senator Westman
Senator Degree.

Bill Referred to Committee on Ways and Means

S. 122

House bill, entitled

An act relating to increased flexibility for school district mergers

Appearing on the Calendar, affecting the revenue of the state, under rule 35(a), was referred to the committee on Ways and Means.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 213

Rep. Ancel of Calais moved that the committee on Ways and Means be relieved of House bill, entitled

An act relating to establishing statewide access to drug and DUI treatment courts

And that the bill be committed to the committee on Appropriations, which was agreed to.

**Proposal of Amendment agreed to; Third Reading;
Bill Passed in Concurrence with Proposal of Amendment**

S. 12

Senate bill, entitled

An act relating to increasing the maximum prison sentence for first, second, and subsequent offenses of aggravated animal cruelty

Was taken up and pending third reading of the bill, **Rep. Wright of Burlington** moved to amend the House proposal of amendment as follows:

In Sec. 1, 13 V.S.A. § 353(a)(5), after “attempting to kill an animal belonging to another” by inserting “or subdivision 352(2) of this title by torturing, administering poison to, or cruelly beating or mutilating an animal”

Which was agreed to. Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

**Proposal of Amendment agreed to; Third Reading;
Bill Passed in Concurrence with Proposal of Amendment**

S. 75

Senate bill, entitled

An act relating to aquatic nuisance species control

Was taken up and pending third reading of the bill, **Rep. Brennan of Colchester** moved to amend the House proposal of amendment as follows:

First: In Sec. 2, 10 V.S.A. § 1454, by adding a new subsection (e) to read as follows:

(e) Presumption of compliance; Aquatic nuisance species inspection station. A person transporting a vessel to or from a water will be presumed to have not violated subsections (a), (b), and (d) of this section if, upon launching a vessel and upon leaving a water, the vessel is decontaminated at an approved aquatic nuisance inspection station. If staff of an approved aquatic nuisance inspection station observe a violation of subsection (a), (b), or (d) of this section, staff shall notify the person transporting the vessel.

And by relettering the subsequent subsections to be alphabetically correct

Second: In Sec. 4, 10 V.S.A. § 1461, in subsection (c), by striking out the last sentence in the subsection in its entirety

Which was agreed to. Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Third Reading; Bill Passed in Concurrence**S. 96**

Senate bill, entitled

An act relating to a news media privilege

Was taken up and read the third time.

Pending the question, Shall the bill pass in concurrence? **Rep. Grad of Moretown** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass in concurrence? was decided in the affirmative. Yeas, 140. Nays, 2.

Those who voted in the affirmative are:

| | | |
|------------------------------|-----------------------------|---------------------------|
| Ancel of Calais | Gonzalez of Winooski | Noyes of Wolcott |
| Bancroft of Westford | Grad of Moretown | Ode of Burlington |
| Bartholomew of Hartland | Graham of Williamstown | Olsen of Londonderry |
| Baser of Bristol | Greshin of Warren | O'Sullivan of Burlington |
| Batchelor of Derby | Haas of Rochester | Parent of St. Albans Town |
| Beck of St. Johnsbury | Harrison of Chittenden | Partridge of Windham |
| Belaski of Windsor | Head of South Burlington | Pearce of Richford |
| Beyor of Highgate | Hebert of Vernon | Poirier of Barre City |
| Bissonnette of Winooski | Helm of Fair Haven | Potter of Clarendon |
| Bock of Chester | Higley of Lowell | Pugh of South Burlington |
| Botzow of Pownal | Hill of Wolcott | Quimby of Concord |
| Brennan of Colchester | Hooper of Montpelier | Rachelson of Burlington |
| Briglin of Thetford | Hooper of Brookfield | Rosenquist of Georgia |
| Browning of Arlington | Houghton of Essex | Savage of Swanton |
| Burke of Brattleboro | Howard of Rutland City | Scheu of Middlebury |
| Canfield of Fair Haven | Hubert of Milton | Scheuermann of Stowe |
| Carr of Brandon | Jessup of Middlesex | Sharpe of Bristol |
| Chesnut-Tangerman of | Jickling of Brookfield | Shaw of Pittsford |
| Middletown Springs | Joseph of North Hero | Sheldon of Middlebury |
| Christensen of Weathersfield | Juskiewicz of Cambridge | Sibilia of Dover |
| Christie of Hartford | Keefe of Manchester | Smith of Derby |
| Cina of Burlington | Keenan of St. Albans City | Smith of New Haven |
| Colburn of Burlington | Kimbell of Woodstock | Squirrell of Underhill |
| Condon of Colchester | Kitzmiller of Montpelier | Stevens of Waterbury |
| Conlon of Cornwall | Krowinski of Burlington | Strong of Albany |
| Connor of Fairfield | LaClair of Barre Town | Stuart of Brattleboro |
| Conquest of Newbury | Lalonde of South Burlington | Sullivan of Dorset |
| Copeland-Hanzas of | Lanpher of Vergennes | Sullivan of Burlington |
| Bradford | Lawrence of Lyndon | Taylor of Colchester |
| Corcoran of Bennington | Lefebvre of Newark | Terenzini of Rutland Town |
| Cupoli of Rutland City | Lewis of Berlin | Till of Jericho |
| Dakin of Colchester | Lippert of Hinesburg | Toleno of Brattleboro |
| Deen of Westminster | Long of Newfane | Toll of Danville |
| Devereux of Mount Holly | Lucke of Hartford | Townsend of South |

| | | |
|------------------------------|-------------------------|---------------------------|
| Dickinson of St. Albans Town | Marcotte of Coventry | Burlington |
| Donovan of Burlington | Martel of Waterford | Trieber of Rockingham |
| Dunn of Essex | Masland of Thetford | Troiano of Stannard |
| Emmons of Springfield | McCormack of Burlington | Turner of Milton |
| Fagan of Rutland City | McCoy of Poultney | Van Wyck of Ferrisburgh |
| Feltus of Lyndon | McCullough of Williston | Walz of Barre City |
| Fields of Bennington | McFaun of Barre Town | Webb of Shelburne |
| Forguites of Springfield | Miller of Shaftsbury | Weed of Enosburgh |
| Gage of Rutland City | Morris of Bennington | Willhoit of St. Johnsbury |
| Gamache of Swanton | Mrowicki of Putney | Wood of Waterbury |
| Gannon of Wilmington | Murphy of Fairfax | Wright of Burlington |
| Gardner of Richmond | Myers of Essex | Yacovone of Morristown |
| Giambatista of Essex | Nolan of Morristown | Yantachka of Charlotte |
| | Norris of Shoreham | Young of Glover |

Those who voted in the negative are:

Donahue of Northfield Frenier of Chelsea

Those members absent with leave of the House and not voting are:

Ainsworth of Royalton Burditt of West Rutland Viens of Newport City
 Brumsted of Shelburne Macaig of Williston
 Buckholz of Hartford Morrissey of Bennington

Second Reading; Proposal of Amendment Agreed to; Third Reading Ordered

S. 20

Rep. Beyor of Highgate, for the committee on Natural Resources, Fish & Wildlife, to which had been referred House bill entitled,

An act relating to permanent licenses for persons 66 years of age or older

Reported in favor of its passage when amended as follows:

By striking out Sec. 2 (effective date) in its entirety and inserting in lieu thereof two new sections to be Secs. 2 and 3 to read:

Sec. 2. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATERFUND BOARD

(a) Creation. There is created a the Clean Water Fund Board which shall recommend to the Secretary of Administration expenditures from the Clean Water Fund. The Clean Water Fund Board shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Fund Board shall be composed of:

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- (1) ~~the~~ The Secretary of Administration or designee;
 - (2) ~~the~~ The Secretary of Natural Resources or designee;
 - (3) ~~the~~ The Secretary of Agriculture, Food and Markets or designee;
 - (4) ~~the~~ The Secretary of Commerce and Community Development or designee; and

(5) ~~the~~ The Secretary of Transportation or designee.

(6) Four members of the public to be appointed as follows:

(A) The Speaker of the House of Representatives shall appoint two members of the public, one of whom shall be a municipal official.

(B) The Committee on Committees shall appoint two members of the public, one of whom shall be a municipal official.

(C) Of the members appointed under this subdivision (6), it is the intent of the General Assembly that at any one time a member representing each of the following major watersheds shall be serving on the Board:

(i) the Connecticut River watershed;

(ii) the Hudson River watershed;

(iii) the Lake Champlain watershed; and

(iv) the Lake Memphremagog watershed.

(c) Officers; committees; rules; reimbursement.

(1) The Clean Water Fund Board shall annually elect a chair from its members. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(2) Members of the Board who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 paid from the budget of the Agency of Administration for attendance of meetings of the Board.

* * *

(g) Terms; appointed members. Members who are appointed to the Clean Water Fund Board shall be appointed for terms of three years, except initially, appointments shall be made such that one member appointed by the Speaker shall be appointed for a term of two years, and one member appointed by the Committee on Committees shall be appointed for a term of one year. Vacancies on the Board shall be filled for the remaining period of the term in

the same manner as initial appointments.

Sec. 3. EFFECTIVE DATES

(a) This section and Sec. 2 (Clean Water Fund Board) shall take effect on passage.

(b) Sec. 1 (permanent fishing and hunting licenses) shall take effect on January 1, 2018.

Rep. Canfield of Fair Haven, for the committee on Ways and Means, recommended the bill ought to pass when amended by the committee on Natural Resources, Fish & Wildlife.

Rep. Helm of Fair Haven, for the committee on Appropriations, recommended the bill ought to pass when amended by the committee on Natural Resources, Fish and Wildlife.

The bill, having appeared on the Calendar one day for notice, was taken up, read second time, the report of the committees on Natural Resources, Fish & Wildlife and Ways and Means and Appropriations agreed to and third reading was ordered.

Second Reading; Proposal of Amendment Agreed to; Third Reading Ordered

S. 72

Rep. Kimbell of Woodstock, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to requiring telemarketers to provide accurate caller identification information

Reported in favor of its passage in concurrence when amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Telemarketers; Accurate Caller I.D. Information * * *

Sec. 1. 9 V.S.A. chapter 63, subchapter 1 is amended to read:

Subchapter 1. General Provisions

* * *

§ 2464a. PROHIBITED TELEPHONE SOLICITATIONS

(a) Definitions. As used in this section, section 2464b, and section 2464c of this title:

(1) "Customer" means a customer, residing or located in Vermont, of a company providing telecommunications service as defined in 30 V.S.A.

§ 203(5).

(2) “Caller identification information” means information a caller identification service provides regarding the name and number of the person calling.

(3) “Caller identification service” means a service that allows a subscriber of the service to have the telephone number, and where available, the name of the calling party transmitted contemporaneously with the telephone call and displayed on a device in or connected to the subscriber’s telephone.

(4) “Federal functional regulator” means a federal functional regulator as defined in 15 U.S.C. § 6809(2).

~~(3)~~(5) “Financial institution” means a financial institution as defined in 15 U.S.C. § 6809(3).

~~(4)~~(6) “Tax-exempt organization” means an organization described in Section 501(c) of the Internal Revenue Service Code (26 U.S.C. § 501(c)).

~~(5)~~(7) “Telemarketer” means any telephone solicitor. However, “telemarketer” does not include any telephone solicitor who is otherwise registered or licensed with, or regulated or chartered by, the Secretary of State, the Public Service Board, the Department of Financial Regulation, or the Department of Taxes, or is a financial institution subject to regulations adopted pursuant to 15 U.S.C. § 6804(a) by a federal functional regulator. Telephone solicitors registered with the Department of Taxes to collect Vermont income withholding, sales and use, or meals and rooms tax, but not registered with any other agency listed in this subdivision, shall provide to the Secretary of State an address and agent for the purpose of submitting to the jurisdiction of the Vermont courts in any action brought for violations of this section.

~~(6)~~(8) “Telephone solicitation”:

(A) means the solicitation by telephone of a customer for the purpose of encouraging the customer to contribute to an organization ~~which~~ that is not a tax-exempt organization, or to purchase, lease, or otherwise agree to pay consideration for money, goods, or services; and

(B) does not include:

(i) telephone calls made in response to a request or inquiry by the called customer;

(ii) telephone calls made by or on behalf of a tax-exempt organization, an organization incorporated as a nonprofit organization with the State of Vermont, or an organization in the process of applying for tax-exempt

status or nonprofit status;

(iii) telephone calls made by a person not regularly engaged in the activities listed in subdivision (A) of this subdivision ~~(6)~~(8); or

(iv) telephone calls made to a person with whom the telephone solicitor has an established business relationship.

~~(7)~~(9) “Telephone solicitor” means any person placing telephone solicitations, or hiring others, on an hourly, commission, or independent contractor basis, to conduct telephone solicitations.

(b) Prohibition; Caller Identification Information.

(1) No telemarketer shall make a telephone solicitation to a telephone number in Vermont without having first registered in accordance with section 2464b of this title.

(2) No person shall make any telephone call to a telephone number in Vermont ~~which~~ that violates the Federal Trade Commission’s Do Not Call Rule, 16 C.F.R. subdivision 310.4(b)(1)(iii), or the Federal Communication Commission’s Do Not Call Rule, 47 C.F.R. subdivision 64.1200(c)(2) and subsection (d), as amended from time to time.

(3)(A) A person who places a telephone call to make a telephone solicitation, or to induce a charitable contribution, donation, or gift of money or other thing of value, shall transmit or cause to be transmitted to a caller identification service in use by the recipient of the call:

(i) the caller’s telephone number; and

(ii) if made available by the caller’s carrier, the caller’s name.

(B) Notwithstanding subdivision (A) of this subdivision (3), a caller may substitute for its own name and number the name and the number, which is answered during regular business hours, of the person on whose behalf the caller places the call.

(c) Violation. A violation of this section shall constitute a violation of section 2453 of this title. Each prohibited telephone call shall constitute a separate violation. In considering a civil penalty for violations of subdivision (b)(2) of this section, the court may consider, among other relevant factors, the extent to which a telephone solicitor maintained and complied with procedures designed to ensure compliance with the rules of the Federal Communications Commission and the Federal Trade Commission.

(d) Criminal Penalties. A telemarketer who makes a telephone solicitation in violation of subdivision (b)(1) of this section shall be imprisoned for not more than 18 months or fined not more than \$10,000.00, or both. It shall be

an affirmative defense, for a telemarketer with five or fewer employees, that the telemarketer did not know, and did not consciously avoid knowing, that Vermont has a requirement of registration of telemarketers. Each telephone call shall constitute a separate solicitation under this section. This section shall not be construed to limit a person's liability under any other civil or criminal law.

§ 2464b. REGISTRATION OF TELEMARETERS

(a) Every telemarketer shall register with the Secretary of State, on a form approved by the Secretary. In the case of a telemarketer who hires, whether on an hourly, commission, or independent contractor basis, one or more persons to conduct telephone solicitations, only the person who causes others to conduct telephone solicitations need register. The Secretary of State may adopt rules prescribing the manner in which registration under this section shall be conducted, including a requirement of notice to the Secretary by the telemarketer when the telemarketer ceases to do business in Vermont.

(b) The Secretary of State shall require that each telemarketer designate an agent for the purpose of submitting to the jurisdiction of the Vermont courts in any action brought for violations of section 2464a of this title.

(c) The Secretary of State shall collect the following fees when a document described in this section is delivered to the Office of the Secretary of State for filing:

(1) Registration: \$125.00.

(2) Statement of change of designated agent or designated office, or both: \$25.00, not to exceed \$1,000.00 per filer per calendar year.

§ 2464c. PRIVATECAUSE OF ACTION

Any person who receives a telephone call in violation of subsection 2464a(b) of this title may bring an action in Superior Court for damages, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney's fees. The ~~Court~~ court may issue an award for the person's actual damages or \$500.00 for a first violation, or \$1,000.00 for each subsequent violation, whichever is greater. In considering the amount of punitive damages, the ~~Court~~ court may consider, among other relevant factors, the extent to which a telephone solicitor maintained and complied with procedures designed to ensure compliance with the requirements of sections 2464a and 2464b of this title. This section shall not limit any other claims the person may have under applicable law.

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* * * Data Brokers * * *

Sec. 2. DATABROKERS; RECOMMENDATION(a) Findings. The General Assembly finds that:(1) The data broker industry brings benefits to society by:(A) providing data necessary for the operation of both the public and private sectors;(B) supporting the critical flow of information for interstate and intrastate commerce; and(C) aiding in securing and protecting consumer identities.(2) Despite these benefits, concerns have arisen about the data broker industry, including:(A) how the data broker industry or persons accessing the industry may directly or indirectly harm vulnerable populations;(B) the use of the data broker industry by those who harass, stalk, and otherwise harm others;(C) whether appropriate safeguards are in place to assure that our most sensitive information is not sold to identity thieves, scammers, and other criminals; and(D) the impact of the data broker industry on the privacy, dignity, and well-being of the people of Vermont.(b) Recommendation. On or before December 15, 2017, the Commissioner of Financial Regulation and the Attorney General, in consultation with industry and consumer stakeholders, shall submit a recommendation or draft legislation to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs reflecting:(1) an appropriate definition of the term “data broker”;(2) whether and, if so, to what extent the data broker industry should be regulated by the Commissioner of Financial Regulation or the Attorney General;(3) additional consumer protections that data broker legislation should seek to include that are not addressed within the framework of existing federal and State consumer protection laws; and(4) proposed courses of action that balance the benefits to society that the data broker industry brings with actual and potential harms the industry may pose to consumers.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Commerce and Economic Development agreed to and third reading ordered.

Second Reading; Third Reading Ordered**H. 526**

Rep. Hubert of Milton spoke for the committee on Government Operations.

House bill entitled

An act relating to regulating notaries public

Rep. Browning of Arlington, for the committee on Ways and Means, recommended the bill ought to pass

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Favorable Report; Second Reading;
Third Reading Ordered****H. 536**

Rep. Lewis of Berlin, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the Town of Colchester

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Adjournment

At two o'clock and seventeen minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.