

Journal of the House

Friday, March 16, 2018

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. Johanna Donovan of Burlington and Rep. Kevin "Coach" Christie of Hartford.

Committee Bill Introduced

H. 922

By the committee on Ways and Means,
An act relating to making numerous revenue changes;
Pursuant to House rule 48, bill placed on the Calendar for notice.

Senate Bill Referred

S. 166

Senate bill, entitled
An act relating to the provision of medication-assisted treatment for inmates
Was read and referred to the committee on Corrections and Institutions.

Senate Bill Referred

S. 173

Senate bill, entitled
An act relating to sealing criminal history records when there is no conviction
Was read and referred to the committee on Judiciary.

Senate Bill Referred

S. 206

Senate bill, entitled
An act relating to business consumer protection for point-of-sale equipment leases
Was read and referred to the committee on Commerce and Economic Development.

Senate Bill Referred**S. 224**

Senate bill, entitled

An act relating to co-payment limits for visits to chiropractors

Was read and referred to the committee on Health Care.

Senate Bill Referred**S. 229**

Senate bill, entitled

An act relating to State Board of Education approval of independent schools

Was read and referred to the committee on Education.

Senate Bill Referred**S. 261**

Senate bill, entitled

An act relating to mitigating trauma and toxic stress during childhood by strengthening child and family resilience

Was read and referred to the committee on Human Services.

Committee Excused

Pursuant to House Rule 27, **Rep. Grad of Moretown** asked that the committee on Judiciary be granted leave of the House to meet while the House is in session.

Pending the question, Shall the House grant leave for the Committee on Judiciary to meet while the House is in session? **Rep. Savage of Swanton** 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 House grant leave for the Committee on Judiciary to meet while the House is in session? was decided in the affirmative. Yeas, 82. Nays, 52.

Those who voted in the affirmative are:

Ancel of Calais	Gannon of Wilmington	O'Sullivan of Burlington
Bartholomew of Hartland	Gardner of Richmond	Partridge of Windham
Belaski of Windsor	Giambatista of Essex	Potter of Clarendon
Bissonnette of Winooski	Grad of Moretown	Pugh of South Burlington
Bock of Chester	Haas of Rochester	Rachelson of Burlington
Botzow of Pownal	Head of South Burlington	Scheu of Middlebury
Briglin of Thetford	Hill of Wolcott	Sharpe of Bristol

Brumsted of Shelburne	Hooper of Montpelier	Sheldon of Middlebury
Buckholz of Hartford	Houghton of Essex	Squirrell of Underhill
Burke of Brattleboro	Howard of Rutland City	Stevens of Waterbury
Carr of Brandon	Jessup of Middlesex	Stuart of Brattleboro
Chesnut-Tangerman of Middletown Springs	Joseph of North Hero	Sullivan of Dorset
Christensen of Weathersfield	Kimbell of Woodstock	Sullivan of Burlington
Christie of Hartford	Kitzmiller of Montpelier	Taylor of Colchester
Colburn of Burlington	Krowinski of Burlington	Toleno of Brattleboro
Conlon of Cornwall	Lalonde of South Burlington	Toll of Danville
Connor of Fairfield	Lanpher of Vergennes	Townsend of South Burlington
Conquest of Newbury	Lippert of Hinesburg	Trieber of Rockingham
Copeland-Hanzas of Bradford	Long of Newfane	Troiano of Stannard
Corcoran of Bennington	Lucke of Hartford	Walz of Barre City
Dakin of Colchester	Macaig of Williston	Webb of Shelburne *
Deen of Westminster	Masland of Thetford	Weed of Enosburgh
Donovan of Burlington	McCormack of Burlington	Wood of Waterbury
Dunn of Essex	McCullough of Williston	Yacovone of Morristown
Emmons of Springfield	Miller of Shaftsbury	Yantachka of Charlotte
Fields of Bennington	Morris of Bennington	Young of Glover
Forguites of Springfield	Mrowicki of Putney	
	Noyes of Wolcott	
	Ode of Burlington	

Those who voted in the negative are:

Bancroft of Westford	Hebert of Vernon	Pearce of Richford
Baser of Bristol	Jickling of Randolph	Quimby of Concord
Batchelor of Derby	Juskiewicz of Cambridge	Read of Fayston
Beck of St. Johnsbury	Keefe of Manchester	Rosenquist of Georgia
Beyor of Highgate	LaClair of Barre Town	Savage of Swanton
Brennan of Colchester	Lawrence of Lyndon	Scheuermann of Stowe
Burditt of West Rutland	Lefebvre of Newark	Shaw of Pittsford
Canfield of Fair Haven	Marcotte of Coventry	Sibilia of Dover
Cupoli of Rutland City	Martel of Waterford	Smith of Derby
Devereux of Mount Holly	Mattos of Milton	Smith of New Haven
Donahue of Northfield *	McCoy of Poultney	Strong of Albany
Fagan of Rutland City	McFaun of Barre Town	Terenzini of Rutland Town
Feltus of Lyndon	Morrissey of Bennington	Turner of Milton
Frenier of Chelsea	Murphy of Fairfax	Van Wyck of Ferrisburgh
Gage of Rutland City	Myers of Essex	Viens of Newport City
Gamache of Swanton	Nolan of Morristown	Wright of Burlington
Graham of Williamstown	Norris of Shoreham	
Harrison of Chittenden	Parent of St. Albans Town	

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

Ainsworth of Royalton	Gonzalez of Winooski	Pajala of Londonderry
Browning of Arlington	Helm of Fair Haven	Poirier of Barre City
Cina of Burlington	Higley of Lowell	Till of Jericho
Condon of Colchester	Hooper of Randolph	Willhoit of St. Johnsbury
Dickinson of St. Albans	Keenan of St. Albans City	

Rep. Donahue of Northfield explained her vote as follows:

“Madam Speaker:

Our processes are intended to protect the voice of the minority. That voice has been trampled on today, through an unconscionable and unprecedented vote by this body. The significance cannot be understated.”

Rep. Webb of Shelburne explained her vote as follows:

“Madam Speaker:

It has been said the committees do the work of the people; the floor is the show. Enough said.”

Bill Amended; Read Third Time; Bill Passed

H. 710

House bill, entitled

An act relating to beer and wine franchises

Was taken up and pending third reading of the bill, **Rep. Scheuermann of Stowe** moved to amend the bill as follows:

First: In Sec. 4, 7 V.S.A. § 751(a)(1), after “50,000 barrels of malt beverages” by inserting the words “per year”

Second: In Sec. 4, 7 V.S.A. § 751(a)(2), after “50,000 barrels of malt beverages” by inserting the words “per year”

Third: In Sec. 4, 7 V.S.A. § 751(c)(2), after the words “both inside and outside Vermont” by inserting the words “during the year”

Fourth: In Sec. 4, 7 V.S.A. § 752(2), after “50,000 barrels of malt beverages” and before the words “per year” by striking out the word “or”

Which was agreed to. Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass? **Rep. Head of South Burlington** 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? was decided in the affirmative. Yeas, 123. Nays, 11.

Those who voted in the affirmative are:

Ancel of Calais	Gardner of Richmond	Norris of Shoreham
Bancroft of Westford	Giambatista of Essex	Noyes of Wolcott
Bartholomew of Hartland	Grad of Moretown	Ode of Burlington
Baser of Bristol	Graham of Williamstown	O'Sullivan of Burlington

Batchelor of Derby	Haas of Rochester	Pajala of Londonderry
Beck of St. Johnsbury	Harrison of Chittenden	Parent of St. Albans Town
Belaski of Windsor	Head of South Burlington	Partridge of Windham
Beyor of Highgate	Hebert of Vernon	Pearce of Richford
Bissonnette of Winooski	Helm of Fair Haven	Pugh of South Burlington
Bock of Chester	Hill of Wolcott	Quimby of Concord
Botzow of Pownal	Hooper of Randolph	Rachelson of Burlington
Briglin of Thetford	Houghton of Essex	Read of Fayston
Browning of Arlington	Howard of Rutland City	Rosenquist of Georgia
Brumsted of Shelburne	Jessup of Middlesex	Savage of Swanton
Buckholz of Hartford	Jickling of Randolph	Scheu of Middlebury
Burditt of West Rutland	Joseph of North Hero	Scheuermann of Stowe
Burke of Brattleboro	Juskiewicz of Cambridge	Sharpe of Bristol
Carr of Brandon	Keefe of Manchester	Shaw of Pittsford
Chesnut-Tangerman of Middletown Springs	Kimbell of Woodstock	Sheldon of Middlebury
Christensen of Weathersfield	Kitzmiller of Montpelier	Sibilia of Dover
Christie of Hartford	LaClair of Barre Town	Smith of New Haven
Colburn of Burlington	Lalonde of South Burlington	Squirrell of Underhill
Conlon of Cornwall	Lanpher of Vergennes	Stevens of Waterbury
Connor of Fairfield	Lawrence of Lyndon	Stuart of Brattleboro
Conquest of Newbury	Lefebvre of Newark	Sullivan of Dorset
Copeland-Hanzas of Bradford	Lippert of Hinesburg	Sullivan of Burlington
Corcoran of Bennington	Long of Newfane	Taylor of Colchester
Dakin of Colchester	Lucke of Hartford	Toleno of Brattleboro
Deen of Westminster	Macaig of Williston	Townsend of South Burlington
Devereux of Mount Holly	Marcotte of Coventry	Trieber of Rockingham
Donahue of Northfield	Martel of Waterford	Troiano of Stannard
Donovan of Burlington	Masland of Thetford	Van Wyck of Ferrisburgh
Dunn of Essex	Mattos of Milton	Viens of Newport City
Emmons of Springfield	McCormack of Burlington	Walz of Barre City
Feltus of Lyndon	McCullough of Williston	Webb of Shelburne
Fields of Bennington	McFaun of Barre Town	Weed of Enosburgh
Forguites of Springfield	Miller of Shaftsbury	Wood of Waterbury
Gage of Rutland City	Morris of Bennington	Yacovone of Morristown
Gamache of Swanton	Morrissey of Bennington	Yantachka of Charlotte
Gannon of Wilmington	Mrowicki of Putney	Young of Glover
	Murphy of Fairfax	
	Myers of Essex	
	Nolan of Morristown	

Those who voted in the negative are:

Brennan of Colchester	Frenier of Chelsea	Terenzini of Rutland Town
Canfield of Fair Haven	McCoy of Poultney	Turner of Milton
Cupoli of Rutland City	Potter of Clarendon	Wright of Burlington
Fagan of Rutland City	Strong of Albany	

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Ainsworth of Royalton	Higley of Lowell	Poirier of Barre City
Cina of Burlington	Hooper of Montpelier	Smith of Derby

Condon of Colchester
 Dickinson of St. Albans
 Town
 Gonzalez of Winooski

Johnson of South Hero
 Keenan of St. Albans City
 Lewis of Berlin

Till of Jericho
 Toll of Danville
 Willhoit of St. Johnsbury

Third Reading; Bill Passed

H. 767

House bill, entitled

An act relating to adopting the ThinkVermont Innovation Initiative
 Was taken up, read the third time and passed.

Third Reading; Bill Passed

H. 831

House bill, entitled

An act relating to funding for an accelerated weatherization program
 Was taken up, read the third time and passed.

Third Reading; Bill Passed

H. 916

House bill, entitled

An act relating to increasing the moral obligation authority of the Vermont
 Economic Development Authority

Was taken up, read the third time and passed.

Second Reading; Bill Amended; Third Reading Ordered

H. 676

Rep. Yantachka of Charlotte, for the committee on Energy and
 Technology, to which had been referred House bill entitled,

An act relating to miscellaneous energy subjects

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

Sec. 1. 30 V.S.A. § 248(s) is amended to read:

(s) This subsection sets minimum setback requirements that shall apply to
 in-state ground-mounted solar electric generation facilities approved under this
 section, unless the facility is installed on a canopy constructed on an area
 primarily used for parking vehicles that is in existence or permitted on the date
 the application for the facility is filed.

* * *

Sec. 2. 30 V.S.A. § 248b is amended to read:

§ 248b. FEES; AGENCY OF NATURAL RESOURCES; PARTICIPATION
IN SITING PROCEEDINGS

(a) Establishment. This section establishes fees for the purpose of supporting the role of the Agency of Natural Resources (the Agency) in reviewing applications for in-state facilities under sections 248 and 248a of this title.

* * *

(d) Electric and natural gas facilities. This subsection sets fees for applications under section 248 of this title.

(1) There shall be no fee for an electric generation facility less than or equal to ~~139~~ 50 kW in plant capacity, for roof-mounted photovoltaic systems of any capacity up to and including 500 kW, or for an application filed under subsection 248(k), (l), or (n) of this title.

(2) The fee for electric generation facilities greater than ~~139~~ 50 kW through five MW in plant capacity shall be calculated as follows, except that in no event shall the fee exceed \$15,000.00:

(A) An electric generation facility from 51 kW through 139 kW in plant capacity, \$2.00 per kW.

(B) An electric generation facility from 140 kW through 450 kW in plant capacity, \$3.00 per kW.

~~(B)(C)~~ An electric generation facility from 451 kW through 2.2 MW in plant capacity, \$4.00 per kW.

~~(C)(D)~~ An electric generation facility from 2.201 MW through five MW in plant capacity, \$5.00 per kW.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Rep. Masland of Thetford, for the committee on Ways and Means, recommended the bill ought to pass when amended by the committee on Energy and Technology.

The bill, having appeared on the Calendar one day for notice, was taken up, read second time, the report of the committees on Energy and Technology and Ways and Means agreed to and third reading was ordered.

Second Reading; Bill Amended; Third Reading Ordered**H. 736**

Rep. Rosenquist of Georgia, for the committee on Human Services, to which had been referred House bill, entitled

An act relating to lead poisoning prevention

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

Sec. 1. 18 V.S.A. chapter 38 is amended as follows:

CHAPTER 38. LEAD POISONING PREVENTION

§ 1751. DEFINITIONS

(a) Words and phrases used in this chapter shall have the same ~~definitions~~ meaning as provided in the ~~Federal~~ federal Residential Lead-Based Paint Hazard Reduction Act of 1992 unless there is an inconsistency, in which case any definition provided in this section that narrows, limits, or restricts shall control.

(b) As used in this chapter:

(1) “Abatement” means any set of measures designed to ~~permanently~~ eliminate ~~lead-based paint~~ lead hazards permanently in accordance with standards established by appropriate State and federal agencies. The term includes:

(A) removal of lead-based paint and lead-contaminated dust, permanent containment or encapsulation of lead-based paint, replacement of lead-painted surfaces or ~~fixtures~~ components, and removal or covering of lead-contaminated soil; and

(B) all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

(2) “Accredited training program” means a training program that has been approved by the Commissioner of Health to provide training for individuals engaged in lead-based paint activities or RRPM activities. Training program accreditation is issued to a specific training provider who shall receive accreditation for each training discipline that the accredited training program offers as a course.

(3) “Certified” means completion of an accredited training program by an individual.

(4) “Child” or “children” means an individual or individuals under ~~the~~ age of 18 years of age, except where specified as a child or children six years

of age or younger.

(3)(5) “Child care facility” means a child care facility or family child care home as defined in 33 V.S.A. § 3511 that was constructed prior to 1978.

(6) “Child-occupied facility” means a building or portion of a building constructed prior to 1978, visited regularly by the same child, six years of age or under, on at least two different days within any week, provided that each day’s visit lasts at least three hours and the combined weekly visits last at least six hours and the combined annual visits last at least 60 hours. Child-occupied facilities include child care facilities, preschools, and kindergarten classrooms.

(7) “Commercial facility” means any building constructed for the purposes of commercial or industrial activity and not primarily intended for use by the general public, including office complexes, industrial buildings, warehouses, factories, and storage facilities.

(8) “Component” or “building component” means specific design or structural elements or fixtures of a facility or residential dwelling that are distinguished from each other by form, function, and location. These include interior components such as ceilings; crown moldings; walls; chair rails; doors; door trim; floors; fireplaces; radiators and other heating units; shelves; shelf supports; stair treads; stair risers; stair stringers; newel posts; railing caps; balustrades; windows and trim, including sashes, window heads, jambs, sills, or stools and troughs; built-in cabinets; columns; beams; bathroom vanities; countertops; air conditioners; and exterior components such as painting; roofing; chimneys; flashing; gutters and downspouts; ceilings; soffits; fascias; rake boards; cornerboards; bulkheads; doors and door trim; fences; floors; joists; lattice work; railings and railing caps; siding; handrails; stair risers and treads; stair stringers; columns; balustrades; windowsills or stools and troughs; casings; sashes and wells; and air conditioners.

(9) “Contractor” means any firm, partnership, association, corporation, sole proprietorship, or other business concern as well as any governmental, religious, or social organization or union that agrees to perform services.

(4)(10) “Deteriorated paint” means any interior or exterior lead-based paint or other coating that is peeling, chipping, chalking, or cracking or any paint or other coating located on an interior or exterior surface or fixture component that is otherwise damaged or separated from the substrate.

(5)(11) “Due date” means the date by which an owner of rental target housing or a child care facility shall file with the Department the ~~EMP~~ RRPM compliance statement required by section 1759 of this title. The due date shall be one of the following:

(A) not later than ~~366~~ 365 days after the most recent ~~EMP~~ RRPM

compliance statement ~~or EMP affidavit~~ was received by the Department;

(B) within 60 days after the closing of the purchase of the property if no ~~EMP RRPM~~ compliance statement was filed with the Department within the past 12 months;

(C) any other date agreed to by the owner and the Department; or

(D) any other date set by the Department.

~~(6)~~(12) “Dwelling” means any residential unit, including attached structures such as porches and stoops, used as the home or residence of one or more persons.

~~(7)~~(13) “Elevated blood lead level” means having a blood lead level of at least five micrograms per deciliter of human blood, or a lower threshold as determined by the Commissioner.

~~(8)~~ “EMP” means ~~essential maintenance practices required by section 1759 of this title.~~

(14) “Facility” means any institutional, commercial, public, private, or industrial structure, installation, or building or private residence and its grounds.

(15) “Firm” means a company, partnership, corporation, sole proprietorship, or individual doing business; an association or business entity; a State or local government agency; or a nonprofit organization.

~~(9)~~(16) “Independent dust clearance” means a visual examination and collection of dust samples, by a ~~lead~~ lead-based paint inspector or ~~lead risk assessor~~ lead-based paint inspector-risk assessor who has no financial interest in either the work being performed or the property to be inspected, and is independent of both the persons performing the work and the owner of the property. The ~~lead~~ lead-based paint inspector or ~~lead risk assessor~~ lead-based paint inspector-risk assessor shall use methods specified by the Department and analysis by an accredited laboratory to determine that lead exposures do not exceed limits set by the Department ~~utilizing current information from the U.S. Environmental Protection Agency or the U.S. Department of Housing and Urban Development.~~

~~(10)~~(17) “Inspection” means a surface-by-surface investigation to determine the presence of lead-based paint and other lead hazards and the provision of a report explaining the results of the investigation.

~~(11)~~(18) “Interim controls” means a set of measures designed ~~to~~ temporarily to reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting,

temporary containment, ongoing monitoring of ~~lead-based paint~~ lead hazards or potential hazards, and the establishment of management and resident education programs.

~~(12)~~(19) “Lead-based paint” means paint or other surface coatings that contain lead in ~~excess of limits established under section 302(c) of the Federal Lead-Based Paint Poisoning Prevention Act~~ an amount:

(A) equal to 1.0 mg/cm² or 0.5 percent by weight or greater;

(B) lower than that described in subdivision (A) of this subdivision (19) as may be established by the Secretary of the U.S. Department of Housing and Urban Development pursuant to Section 302(c) of the Lead-Based Paint Poisoning Prevention Act; or

(C) lower than that described in subdivision (A) of this subdivision (19) as may be established by the Administrator of the U.S. Environmental Protection Agency.

~~(13)~~ “Lead contractor” means ~~any person employing one or more individuals licensed by the Department under this chapter.~~

(20) “Lead-based paint abatement supervisor” means any individual who has satisfactorily completed an accredited training program approved by the Commissioner and has a current license issued by the Department to perform abatement work supervision.

~~(14)~~(21) “~~Lead~~ Lead-based paint abatement worker” means any individual who has satisfactorily completed an accredited training program approved by the ~~Department~~ Commissioner and has a current license issued by the Department to perform ~~abatement~~ abatement work.

(22) “Lead-based paint activities” means:

(A) with regard to target housing or a child care facility: risk assessment, inspection, visual inspection for risk assessment, project design, abatement, visual inspection for clearance, dust clearance after an abatement project, and lab analysis of paint chip or dust wipe samples collected for the purpose of an inspection or risk assessment; and

(B) with regard to a public facility constructed before 1978, a commercial building, bridge, or other structure: inspection, risk assessment, project design, abatement, de-leading, removal of lead from bridges and other superstructures, visual inspection for clearance, dust clearance after an abatement project, and lab analysis of paint chip or dust wipe samples collected for the purposes of an inspection or risk assessment. As used in this subdivision (B), “de-leading” means activities conducted by a person who offers to eliminate or plan for the elimination of lead-based paint or lead-based

paint hazards.

~~(15) “Lead designer” means any individual who has satisfactorily completed an accredited training program approved by the Department and has a current license issued by the Department to prepare lead abatement project designs, occupant protection plans, and abatement reports.~~

~~(16) “Lead hazard” means any condition that causes exposure to lead inside and in the immediate vicinity of target housing from water, dust, soil, paint, or building materials that would result in adverse human health effects as defined by the Department using current information from the U.S. Environmental Protection Agency or the U.S. Department of Housing and Urban Development.~~

~~(17) “Lead inspector” means any individual who has satisfactorily completed an accredited training program approved by the Department and has a current license issued by the Department to conduct inspections.~~

(23) “Lead-based paint contractor” means an entity that employs one or more individuals licensed by the Department under this chapter and has a current license issued by the Department to conduct lead-based paint activities or RRPM activities.

(24) “Lead hazard” means a condition that causes exposure to lead from contaminated dust, lead-contaminated soil, lead-containing coatings, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.

(25) “Lead-based paint inspector” means an individual who has satisfactorily completed an accredited training program approved by the Commissioner and has a current license issued by the Department to conduct lead-based paint inspections.

~~(18)(26) “Lead risk Lead-based paint inspector-risk assessor” means any an individual who has satisfactorily completed an accredited training program approved by the Department Commissioner and has a current license issued by the Department to conduct lead-based paint inspections and risk assessments.~~

~~(19) “Lead-safe renovator” means any person who has completed a lead-safe training program approved by the Department and has a current registration issued by the Department to perform renovations in target housing or child care facilities in which interior or exterior lead-based paint will be disturbed.~~

~~(20) “Lead supervisor” means any individual who has satisfactorily completed an accredited training program approved by the Department and has~~

~~a current license issued by the Department to supervise and conduct abatement projects and prepare occupant protection plans and abatement reports.~~

(27) “Lead-based paint project designer” means an individual who has satisfactorily completed an accredited training program approved by the Commissioner and has a current license issued by the Department to prepare lead abatement project designs, occupant protection plans, and abatement reports.

(28) “Lead-safe RRPM supervisor” means an individual who has completed an accredited RRPM training program approved by the Commissioner and, if performing services for compensation, has a current license issued by the Department. This individual is authorized to perform or supervise RRPM activities in target housing or a child-occupied facility in which interior or exterior lead-based paint will be disturbed.

(29) “License” means the document issued to an individual, entity, or firm indicating that the standards for licensure for each discipline, category of entity, or firm established in this chapter have been met.

(30) “Licensee” means a person who engages in lead-based paint activities or RRPM activities and has obtained a license to perform such activities for compensation.

(31) “Maintenance” means work intended to maintain and preserve target housing, a child-occupied facility, a pre-1978 facility, a commercial facility, bridge, or other superstructure. It does not include minor RRPM activities.

(32) “Minor RRPM activities” means maintenance and repair activities that disturb less than one square foot of painted surface for interior activities or 20 square feet or less of painted surface for exterior activities if the work does not involve window replacement or demolition of painted surface areas. With regard to removing painted components or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Work, other than emergency renovations, performed in the same room within the same 30-day period shall be considered the same work for the purposes of determining whether the work is a minor RRPM activity.

~~(21)~~(33) “Occupant” means any person who resides in, or regularly uses, a dwelling, mobile dwelling, or structure.

~~(22)~~(34) “Owner” means any person who, alone or jointly or severally with others:

(A) Has legal title to any dwelling or child care facility with or without actual possession of the property.

~~(B) Has charge, care, or control of any dwelling or child care facility as agent of the guardian of the estate of the owner.~~

~~(C) Has charge, care, or control of any dwelling or child care facility as property manager for the owner if the property management contract includes responsibility for any maintenance services, unless the property management contract explicitly states that the property manager will not be responsible for compliance with section 1759 of this title.~~

~~(D) Is the Chief Executive Officer of the municipal or State agency that owns, leases, or controls the use of publicly owned target housing or a child care facility.~~

~~(E)~~(C) Is a person who has taken full legal title of a dwelling or child care facility through foreclosure, deed in lieu of foreclosure, or otherwise. "Owner" does not include a person who holds indicia of ownership given by the person in lawful possession for the primary purpose of assuring repayment of a financial obligation. Indicia of ownership includes interests in real or personal property held as security or collateral for repayment of a financial obligation such as a mortgage, lien, security interest, assignment, pledge, surety bond, or guarantee and includes participation rights of a financial institution used for legitimate commercial purposes in making or servicing the loan.

(35) "Owner's representative" means a person who has charge, care, or control of a dwelling or child care facility as property manager, agent, or guardian of the estate.

(36) "Public facility" means a house of worship; courthouse; jail; municipal room; State or county institution; railroad station; school building; social hall; hotel, restaurant, or building used or rented to boarders or roomers; place of amusement; factory; mill; workshop or building in which persons are employed; building used as a nursery, convalescent home, or home for the aged; tent or outdoor structure used for public assembly; and barn, shed, office building, store, shop, shop other than a workshop, or space where goods are offered for sale, wholesale, or retail. It does not include a family residence registered as a child care facility.

(37) "Renovation" means the modification of any existing structure or portion of an existing structure that results in the disturbance of a painted surface unless the activity is performed as part of a lead-based paint abatement activity or is a minor RRPM activity. Renovation includes the following when it results in the disturbance of a painted surface: the removal, modification, re-coating, or repair of a painted surface or painted component of a surface; the removal of building components; a weatherization project; and interim

controls that disturb painted surfaces. "Renovation" includes the performance of activities for the purpose of converting a building or part of a building into target housing or a child-occupied facility when it results in the disturbance of a painted surface.

(38) "RRPM" means the Renovation, Repair, Painting, and Maintenance Program that pertains to projects that disturb lead-based paint on target housing and child-occupied facilities.

(39) "RRPM activities" means lead-safe renovation, repair, painting, and maintenance practices as required by section 1759 of this chapter and as adopted by rule by the Commissioner by rule. It does not include minor RRPM activities.

(40) "RRPM firm" means a company, partnership, corporation, sole proprietorship, or individual doing business; association; or other business entity that regularly engages in RRPM activities for compensation and that employs or contracts with persons to perform RRPM activities as determined by the Department.

~~(23)~~(41) "Rental target housing" means target housing offered for lease or rental under a rental agreement as defined in 9 V.S.A. § 4451. "Rental target housing" does not include a rented single room located within a dwelling in which the owner of the dwelling resides unless a child six years of age or younger resides in or is expected to reside in that dwelling.

(42) "Repair" means the restoration of paint or other coatings that have been damaged, including the repair of permanent containment around lead-based paint materials in a facility. Repair of previously encapsulated lead-based paint may involve filling damaged areas with non-lead paint substitutes and reencapsulating. It shall not include minor RRPM activities.

~~(24)~~(43) "Risk assessment" means an on-site investigation by a lead-risk assessor or lead-based paint inspector-risk assessor to determine and report the existence, nature, severity, and location of lead hazards, including information gathering about the age and history of the property and occupancy by children six years of age or younger, visual inspection, limited wipe sampling, or other environmental sampling techniques, other appropriate risk assessment activities, and a report on the results of the investigation.

~~(25)~~(44) "Screen," "screened," or "screening" relating to blood lead levels, means the initial blood test to determine the presence of lead in a human.

(45) "Superstructure" means a large steel or other industrial structure, such as a bridge or water tower, that may contain lead-based paint.

~~(26)(46)~~ “Target housing” means any dwelling constructed prior to 1978, except any 0-bedroom dwelling or any dwelling located in multiple-unit buildings or projects reserved for the exclusive use of elders or persons with disabilities, unless a child six years of age or younger resides in or is expected to reside in that dwelling. “Target housing” does not include units in a hotel, motel, or other lodging, including condominiums that are rented for transient occupancy for 30 days or less.

§ 1752. ACCREDITATION OF TRAINING PROGRAMS;

~~CERTIFICATION AND LICENSURE OF ENVIRONMENTAL
LEAD INSPECTORS AND LEAD CONTRACTORS,
SUPERVISORS, AND WORKERS~~ INDIVIDUALS, ENTITIES, OR
FIRMS INVOLVED IN LEAD-BASED PAINT OR RRPM
ACTIVITIES

(a) ~~Not later than six months after promulgation of final federal regulations under section 402 of the Federal Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the~~ The Department shall develop a program to administer and enforce the lead-based paint activities and RRPM activities with regard to training and certification licensing standards, regulations rules, or other requirements established by the Administrator of the federal Environmental Protection Agency Commissioner, which are at least as protective of human health and the environment as the applicable federal programs, for persons engaged in lead-based paint activities and RRPM activities performed on target housing, child-occupied facilities, pre-1978 facilities, commercial facilities, and bridges or other superstructures.

(b) ~~The Secretary shall adopt emergency rules, and not later than January 1, 1994, the Secretary shall adopt permanent rules, Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 establishing standards and specifications for the accreditation of training programs both within and outside Vermont for lead-based paint activities and RRPM activities, including the mandatory topics of instruction, the knowledge and performance standards that must be demonstrated by graduates in order to be certified or licensed, and required accreditation qualifications for training programs and instructors. Such~~ The standards shall be designed to protect children, their families, and workers from improperly conducted lead-based paint activities and RRPM activities, and shall be at least as protective of human health and the environment as the federal ~~program~~ programs. Hands-on instruction and instruction for identification and proper handling of historic fabric and materials shall be components of the required training.

(c) ~~The Commissioner shall certify risk assessors, designers, laboratories, inspectors, lead-safe renovation contractors, lead contractors, supervisors, abatement workers, and other persons engaged in lead-based paint activities when such persons have~~ license consulting contractors, analytical contractors, lead-based paint abatement supervisors, lead-based paint abatement workers, project designers, inspector-risk assessors, RRPM firms, and RRPM supervisors, who have successfully completed an accredited training program and met such other requirements as the ~~Secretary~~ Commissioner may, by rule, impose.

(d) The Commissioner shall certify individuals engaged in RRPM activities for no compensation and who have successfully completed an accredited training program and met all other requirements as the Commissioner may impose by rule.

(e) After the adoption of rules pursuant to ~~subsection (b)~~ of this section, ~~no~~ a person shall not perform lead-based paint activities or RRPM activities for compensation without first obtaining a license from the Commissioner. The Commissioner may grant a license to a person who holds a valid license from another state.

~~(e)(f)~~ Nothing in this chapter shall be construed to limit the authority of the Secretary, or the Commissioner of Health, the Commissioner of Labor, or the Commissioner of Environmental Conservation under the provisions of any other law.

§ 1753. ~~ACCREDITATION, REGISTRATION, CERTIFICATION, AND LICENSE, PERMIT, NOTIFICATION, REGISTRATION, AND ADMINISTRATIVE FEES~~

(a) The Commissioner shall assess fees for accrediting training programs ~~and for certifications, registrations, licenses, and license renewals, and permits~~ issued in accordance with this chapter. Fees shall not be imposed on any ~~state~~ State or local government, agent of the State, or nonprofit training program and may be waived for the purpose of training State employees.

(b) Each accredited training program, ~~registrant,~~ and licensee shall be subject to the following annual fees, except where otherwise noted:

Training <u>Lead-based paint training courses</u>	\$480.00 per year
Lead contractors <u>Lead-based paint contractor entity license</u>	\$600.00 per year
Lead workers <u>Lead-based paint abatement</u>	

Lead supervisors <u>worker license</u>	\$60.00 per year
Lead supervisors <u>supervisor license</u>	\$120.00 per year
Lead inspectors <u>Lead-based paint abatement inspector license</u>	\$180.00 per year
Lead risk assessors <u>Lead-based paint inspector-risk assessor license</u>	\$180.00 per year
Lead designers <u>Lead-based paint project designer license</u>	\$180.00 per year
Laboratories	\$600.00 per year
<u>Lead-safe RRPM training course accreditation</u>	\$560.00 initial, \$340.00 renewal every four years
<u>Lead-safe RRPM firm license</u>	\$300.00 every five years
Lead-safe renovators <u>RRPM supervisor license</u>	\$50.00 per year

(c) Each ~~lead~~ licensee seeking to complete a lead-based paint abatement project or RRPM activities project involving prohibited or unsafe work practices shall be subject to the following permit fees:

- (1) ~~Lead abatement project~~ Project permit fee \$50.00-
- (2) ~~Lead abatement project~~ Project permit
revision fee \$25.00-

(d) Fees imposed by this section and monies collected under section 1766 of this chapter shall be deposited into the ~~Lead~~ Lead-Based Paint Abatement Accreditation and Licensing Special Fund. Monies in the Fund may be used by the Commissioner only to support ~~departmental~~ Departmental accreditation, registration, certification, and licensing, education, and training activities related to this chapter. The Fund shall be subject to the provisions of 32 V.S.A. chapter 7, subchapter 5.

§ 1754. PUBLIC EDUCATION

(a) ~~Beginning January 1, 1994, the~~ The Commissioner of Health shall prepare and distribute clear and simple ~~printed~~ materials describing the dangers of lead poisoning, the need for parents to have their child screened,

how to have a child tested, and recommended nutrition and housekeeping practices. The Commissioner shall work with persons and organizations involved in occupations that may involve ~~lead-based paint~~ lead hazards or childhood lead poisoning to distribute the materials to their tenants, clients, patients, students, or customers, such as realtors, subcontractors, apartment owners, public housing authorities, pediatricians, family practitioners, nurse clinics, child clinics, other health care providers, child care and preschool operators, and kindergarten teachers. The Commissioner shall also identify those points in time or specific occasions when members of the public are in contact with public agencies and lead might be an issue, such as building permits, home renovations, the WIC program, and programs established under 33 V.S.A. chapters 10, 11, and 12, and make the materials available on these occasions.

(b) The Commissioner shall prepare an appropriate media campaign to educate the public on lead poisoning prevention. ~~The Commissioner shall encourage professional property managers, rehab and weatherization contractors, minimum housing inspectors, social workers, and visiting nurses to attend education and awareness workshops.~~

(c) ~~The Commissioner shall develop a program or approve a program, or both, to train owners and managers of rental target housing and child care facilities and their employees to perform essential maintenance practices. The names and addresses of all persons who attend the approved training program shall be maintained as a public record that the Commissioner shall provide to the Department of Housing and Community Development.~~

§ 1755. UNIVERSAL SCREENING TESTING

(a) ~~The Commissioner shall publish guidelines that establish the methods by which and the intervals at which children should be screened and given a confirmation test for elevated blood lead levels, according to the age of the children and their probability of exposure to lead. The guidelines shall take into account the recommendations of the U.S. Centers for Disease Control and Prevention and the American Academy of Pediatrics and shall be updated as those recommendations are changed. The Commissioner shall recommend screening for lead in other high risk groups. The Commissioner shall ensure that all health care providers who provide primary medical care to children six years of age or younger are informed of the guidelines. Once the Department has implemented lead screening reports within the immunization registry, the Department shall use the information in the registry to inform health care providers of their screening rates and to take, within available resources, other measures necessary to optimize screening rates, such as mailings to parents and guardians of children ages one and two, outreach to day care facilities and~~

~~other community locations, screening at district offices, and educating parents and guardians of children being served.~~

~~(b) Annually, the Commissioner shall determine the percentage of children six years of age or younger who are being screened in accordance with the guidelines. If fewer than 85 percent of one-year-olds and fewer than 75 percent of two-year-olds as specified in the guidelines are receiving screening, the Secretary shall adopt rules to require that all health care providers who provide primary medical care to young children shall ensure that their patients are screened and tested according to the guidelines, beginning January 1, 2011. All health care providers who provide primary health care to children shall test children one and two years of age for elevated blood lead levels in accordance with rules adopted by the Commissioner.~~

* * *

§ 1757. CHILDREN WITH ELEVATED BLOOD LEAD LEVELS

~~(a) Upon receiving a report that a child has a screening test result of 10 or more micrograms of lead per deciliter of blood, or a lower level as determined by the Commissioner, the Commissioner shall take prompt action to ensure that the child obtains a confirmation test. The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 regarding:~~

~~(1) the method and frequency with which children shall be tested for elevated blood lead levels;~~

~~(2) the reporting requirements for the lead test result; and~~

~~(3) the action required for children found to have elevated blood lead levels.~~

(b) If the child has an elevated blood lead level, the Commissioner shall provide information on lead hazards to the parents or guardians of the child.

(c) If a child six years of age or younger has a confirmed blood lead level at or above 10 micrograms of lead per deciliter of blood the level determined by the Commissioner, and if resources permit, the Commissioner:

(1) Shall, with the consent of the parent or guardian, provide an inspection of the dwelling occupied by the child or the ~~child-care~~ child-occupied facility the child attends by a state State or private lead-risk-assessor lead-based paint inspector-risk assessor, and develop a plan in consultation with the parents, owner, physician, and others involved with the child to minimize the exposure of the child to lead. The plan developed under this subdivision shall require that any lead hazards identified through the inspection be addressed. The owner of rental target housing or a child care facility shall address those lead hazards within the owner's control, and shall

not be required to abate lead hazards if interim controls are effective.

(2) May inspect and evaluate other dwelling units in the building in which the child is living if it is reasonable to believe that a child six years of age or younger occupies, receives care in, or otherwise regularly frequents the other dwellings in that building.

(d) Nothing in this section shall be construed to limit the Commissioner's authority under any other provision of Vermont law.

§ 1758. ~~HOUSING REGISTRY~~

~~(a) The Department shall issue certificates to all persons who satisfactorily complete a training program on performing essential maintenance practices for lead-based hazard control and shall compile a list of those persons' names.~~

~~(b) If additional funds are appropriated to the Department in fiscal year 1998, on or before October 1, 1997, the Department of Housing and Community Development shall establish and maintain a list of housing units that (1) are lead free, or (2) have undergone lead hazard control measures and passed independent dust clearance tests. The registry shall be maintained as a public record.~~

~~(c) The Department for Children and Families shall identify all child care facilities in which the owners have completed essential maintenance practices or lead hazard control measures and provide the findings to the Department annually. [Repealed.]~~

§ 1759. ESSENTIAL MAINTENANCE PRACTICES RRPM

ACTIVITIES

(a)(1) RRPM activities include activities that disturb lead-based paint on target housing and child-occupied facilities, unless the property has been certified as lead-free pursuant to subsection (e) of this section. RRPM practices for target rental housing and child care facilities shall minimally include regular inspection of painted surfaces for deterioration, prompt and safe repairs to deteriorated paint, and specialized cleaning after any work that disturbs painted surfaces and at tenant turnover.

(2) Essential maintenance practices (EMP) RRPM activities, including worksite preparation and cleanup of work areas, in rental target housing and child care child-occupied facilities shall be performed only by a person who has successfully completed an EMP accredited RRPM training program approved by the Commissioner or a person who works under the direct, on-site supervision of a person who has successfully completed such the training, unless the property is exempt pursuant to subsection (b) or (e) of this section. That person shall comply with section 1760 of this title and shall take all

~~reasonable precautions to avoid creating lead hazards during any renovations, remodeling, maintenance, or repair project that disturbs more than one square foot of lead-based paint, pursuant to guidelines issued by the Department. The following essential maintenance practices shall be performed in all rental target housing and child care facilities, unless a lead inspector or a lead risk assessor has certified that the property is lead-free:~~

~~(1)(2) Install window well inserts in all windows or protect window wells by another method approved by the Department. A person engaging in RRPM activities shall comply with section 1760 of this chapter and related rules adopted by the Commissioner.~~

~~(2)(3) At least once a year, with the consent of the tenant, and at each change of tenant, perform visual on-site inspection of all interior and exterior painted surfaces and components at the property to identify deteriorated paint. A person engaging in RRPM activities shall take all reasonable precautions to avoid creating lead hazards during any RRPM project that is not a minor RRPM activity.~~

~~(3)(4) Promptly and safely remove or stabilize lead-based paint if more than one square foot of deteriorated lead-based paint is found on any interior or exterior surface located within any area of the dwelling to which access by tenants is not restricted. An owner shall assure that all surfaces are free of deteriorated lead-based paint within 30 days after deteriorated lead-based paint has been visually identified or within 30 days after receipt of a written or oral report of deteriorated lead-based paint from any person including the Department, a tenant, or an owner of a child care facility. Because exterior paint repairs cannot be completed in cold weather, any exterior repair work identified after November 1 shall be completed no later than the following May 31, provided that access to surfaces and components with lead hazards and areas directly below the deteriorated surfaces is clearly restricted. RRPM activities performed for compensation shall be conducted only by a licensed RRPM supervisor or under the direct, on-site supervision of a licensed RRPM supervisor.~~

~~(4) If more than one square foot of deteriorated paint is found on any exterior wall surface or fixture not covered by subdivision (3) of this subsection, the owner shall:~~

~~(A) promptly and safely repair and stabilize the paint and restore the surface; or~~

~~(B) prohibit access to the area, surface, or fixture to assure that children will not come into contact with the deteriorated lead-based paint.~~

~~(5) For any outdoor area, annually remove all visible paint chips from~~

~~the ground on the property.~~

~~(6) At least once a year, using methods recommended by the Department, thoroughly clean all interior horizontal surfaces, except ceilings, in common areas accessible to tenants.~~

~~(7) At each change of tenant, thoroughly clean all interior horizontal surfaces of the dwelling, except ceilings, using methods recommended by the Department.~~

~~(8) Post, in a prominent place in buildings containing rental target housing units or a child care facility, a notice to occupants emphasizing the importance of promptly reporting deteriorated paint to the owner or to the owner's agent. The notice shall include the name, address, and telephone number of the owner or the owner's agent.~~

~~(b) The owner of rental target housing shall perform all the following:~~

~~(1) File with the Department by the due date an EMP compliance statement certifying that the essential maintenance practices have been performed, including all the following:~~

~~(A) The addresses of the dwellings in which EMP were performed.~~

~~(B) The dates of completion.~~

~~(C) The name of the person who performed the EMP.~~

~~(D) A certification of compliance with subdivision (4) of this subsection.~~

~~(E) A certification that subdivisions (2) and (3) of this subsection have been or will be complied with within 10 days.~~

~~(2) File the statement required in subdivision (1) of this subsection with the owners' liability insurance carrier and the Department.~~

~~(3) Provide a copy of the statement to all tenants with written materials regarding lead hazards approved by the Department.~~

~~(4) Prior to entering into a lease agreement, provide approved tenants with written materials regarding lead hazards approved by the Department, along with a copy of the owner's most recent EMP compliance statement. The written materials approved by the Department pursuant to this subdivision shall include information indicating that lead is highly toxic to humans, particularly young children, and may even cause permanent neurological damage A homeowner residing in and intending to perform RRPM activities in his or her own private residence:~~

~~(1) is exempt from this section;~~

~~(2) shall comply with section 1760 of this chapter; and~~

~~(3) shall dispose of all lead-based paint in accordance with the rules adopted by the Department of Environmental Conservation.~~

~~(c) The owner of the premises of a child care facility shall perform all of the following:~~

~~(1) File with the Department by the due date an EMP compliance statement certifying that the essential maintenance practices have been performed, including all the following:~~

~~(A) The address of the child care facility.~~

~~(B) The date of completion of the EMP.~~

~~(C) The name of the person who performed the EMP.~~

~~(D) A certification that subdivision (2) of this subsection has been or will be complied with within 10 days.~~

~~(2) File the statement required in subdivision (1) of this subsection with the owner's liability insurance carrier; the Department for Children and Families; and with the tenant of the facility, if any. An owner of rental target housing or a child care facility or the owner's representative shall:~~

~~(1) file with the Department an RRPM compliance statement pursuant to rules adopted by the Commissioner, unless the property is exempt pursuant to subsection (e) of this section; and~~

~~(2) abide by any rules pertaining to the maintenance of lead-based paint and provision of notice to tenants as may be prescribed by the Commissioner.~~

~~(d)(1) An owner who desires an extension of time for filing the EMP compliance statement shall file a written request for an extension from the Department no later than 10 days before the due date. The Department may grant or deny an extension. Prior to entering into a lease agreement, an owner or owner's representative shall provide approved tenants with written materials approved by the Department regarding lead hazards and a copy of the owner's most recent RRPM compliance statement. The written materials approved by the Department pursuant to this subsection shall include information indicating that lead is highly toxic to humans, particularly young children, and may cause permanent neurological damage, even at low exposure levels.~~

~~(2) An owner of a facility, or owner's representative, shall fully inform a tenant who intends to operate a child care facility on the premises of the requirements of this section.~~

~~(e)(1) A property is exempt from this section if a written inspection report~~

from a licensed lead-based paint inspector-risk assessor states that all accessible surfaces are free of lead-based paint and the owner and person performing RRPM activities have been provided with a copy of the report.

(2) An owner of rental target housing or a child care facility or owner's representative shall provide a copy of the written inspection report to the Department for review and determination of exempt status.

(3) A new written inspection report shall be required to maintain exempt status if lead hazards are created as a result of RRPM activities performed or if previously inaccessible components are exposed after the date of the original written inspection report.

(4) If a property has been remodeled, it is not exempt from this section unless the full requirements of this section have been met.

(f) The Commissioner may adopt rules pursuant to 3 V.S.A. chapter 25 as necessary for the implantation, administration, and enforcement of this section.

§ 1760. PRESUMPTION OF LEAD-BASED PAINT; PROHIBITED AND UNSAFE WORK PRACTICES

(a) All paint in target housing and child care, child-occupied facilities, and pre-1978 public facilities, commercial facilities, and bridges or other superstructures is presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based the component affected by the RRPM activity is exempt pursuant to subsection (c) of this section. Unsafe work practices are prohibited and include the following, unless specifically authorized by permit by the Department:

(1) Removing lead-based paint by:

(A) open flame burning or torching;

(B) use of heat guns operated above 1,100 degrees Fahrenheit;

(C) dry scraping or dry sanding;

(D) machine sanding or grinding powered tools;

(E) uncontained hydro-blasting hydro-blasting or high-pressure washing;

(F) abrasive blasting or sandblasting without containment and high-efficiency particulate exhaust controls; and

(G) chemical stripping using methylene chloride products.

(2) Failing to employ one or more of the following lead-safe work practices: practice standards that the Commissioner shall adopt by rule.

- ~~(A) limiting access to interior and exterior work areas;~~
- ~~(B) enclosing interior work areas with plastic sheathing or other effective lead dust barrier;~~
- ~~(C) using protective clothing;~~
- ~~(D) misting painted surfaces before disturbing paint;~~
- ~~(E) wetting paint debris before sweeping to limit dust creation;~~
- ~~(F) any other measure required by the department.~~

~~(b) No A person shall not disturb more than one square foot or more of interior or exterior lead-based paint using unsafe work practices in target housing or in child care, child-occupied facilities, pre-1978 public facilities, commercial facilities, and bridges or other superstructures.~~

~~(c) A component is exempt from this section if a written inspection report by a licensed lead-based paint inspector or lead-based paint inspector-risk assessor states that the component affected by an RRPM activity is free of lead-based paint, and the owner or firm, or both, conducting the activity has been provided with a copy of the report. Removal of all paint from a component does not exempt the component from the requirements of this section.~~

§ 1760a. ENFORCEMENT; ADMINISTRATIVE ORDER; PENALTIES

~~(a) A person who violates section 1759 of this title commits a civil violation and shall be subject to a civil penalty as set forth in this subsection which shall be enforceable by the Commissioner in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29.~~

~~(1) An owner of rental target housing who fails to comply with subdivisions 1759(b)(1), (2), and (3) of this title by the due date or an owner of a child care facility who fails to comply with subsection 1759(c) of this title by the due date shall pay a civil penalty of not more than \$50.00 if the owner comes into compliance within 30 days after the due date; otherwise the owner shall pay a civil penalty of not more than \$150.00.~~

~~(2) An owner who cannot demonstrate by a preponderance of the evidence that essential maintenance practices were performed by the due date shall pay an additional penalty of not more than \$250.00.~~

~~(b) Nothing in this section shall limit the Commissioner's authority under any other provisions of law. [Repealed.]~~

§ 1761. DUTY OF REASONABLE CARE; NEGLIGENCE; LIABILITY

~~(a) Owners An owner of rental target housing and owners of or a child care~~

~~facilities~~ facility or an owner's representative shall take reasonable care to prevent exposure to, and the creation of, lead hazards. In an action brought under this section, evidence of actions taken or not taken to satisfy the requirements of this chapter, including performing ~~EMP~~ RRPM activities, may be admissible evidence of reasonable care or negligence.

(b) Any person who suffers an injury proximately caused by an owner's breach of this duty of reasonable care shall have a cause of action to recover damages and for all other appropriate relief.

(c) The owner of rental target housing or a child care facility or the owner's representative shall not be liable to a tenant of the housing or facility in an individual action for habitability under common law or pursuant to 9 V.S.A. chapter 63 or chapter 137, 10 V.S.A. chapter 153, or 12 V.S.A. chapter 169 for injury or other relief claimed to be caused by exposure to lead if, during the relevant time period, the owner is in compliance with section 1759 of this ~~title~~ chapter and any of the following, should they exist:

~~(1) the conditions of a lead risk assessor's certification, pursuant to Vermont regulations for lead control, that all identified lead hazards have been controlled and the housing or facility has passed an independent dust clearance test~~ specific recommendations of a lead-based paint risk assessment report provided by a lead-based paint inspector-risk assessor;

(2) any plan issued pursuant to section 1757 of this ~~title~~ chapter; or

(3) any assurance of discontinuance, order of the Commissioner, or court order regarding lead hazards.

(d) The immunity under subsection (c) of this section shall not be available if:

(1) ~~there was fraud in the certification process~~ RRPM compliance statement under section 1759 of this chapter; or

(2) ~~the owner violated conditions of the certification or owner's representative did not follow the recommendations of a lead-based paint risk assessment report provided by a licensed lead-based paint inspector-risk assessor~~; or

(3) ~~the owner or owner's representative created or allowed for the creation of lead hazards during renovation, remodeling, maintenance, or repair after the certification~~; or

(4) ~~the owner or the owner's representative failed to respond in a timely fashion to notification that lead hazards may have recurred on the premises.~~

(e) A defendant in an action brought under this section or at common law

has a right to seek contribution from any other person who may be responsible, in whole or in part, for the child's blood lead level.

(f) Nothing in this section shall be construed to limit the right of the Commissioner or any agency or instrumentality of the State of Vermont to seek remedies available under any other provision of Vermont statutory law.

§ 1762. SECURED LENDERS AND FIDUCIARIES; LIABILITY

(a) A person who holds indicia of ownership in rental target housing or a child care facility furnished by the owner or person in lawful possession, for the primary purpose of assuring repayment of a financial obligation, and who takes full legal title through foreclosure or deed in lieu of foreclosure or otherwise shall not be liable as an owner of the property for injury or loss claimed to be caused by exposure to lead of a child on the premises, provided that, on or before the 120th day after the date of possession, the person:

(1) performs ~~essential maintenance practices~~ RRPM activities as required by section 1759 of this ~~title~~ chapter; and

(2) fully discloses to all potential purchasers, operators, or tenants of the property any information in the possession of such person or the person's agents, regarding the presence of ~~lead-based paint~~ lead hazards or a lead-poisoned child on the property and, upon request, provides copies of all written reports on ~~lead-based paint~~ lead hazards to potential purchasers, operators, or tenants.

(b) The immunity provided in subsection (a) of this section shall expire 365 days after the secured lender or fiduciary takes full legal title.

(c) A person who holds legal title to rental target housing or a child care facility as an executor, administrator, trustee, or the guardian of the estate of the owner and demonstrates that in that fiduciary capacity the person does not have either the legal authority or the financial resources to fund capital or major property rehabilitation necessary to conduct ~~essential maintenance practices~~ RRPM activities shall not be personally liable as an owner for injury or loss caused by exposure ~~to lead by~~ of a child on the premises to lead. However, nothing in this section shall limit the liability of the trust estate for such claims and those claims may be asserted against the trustee as a fiduciary of the trust estate.

§ 1763. PUBLIC FINANCIAL ASSISTANCE; RENTAL TARGET HOUSING AND CHILD CARE FACILITIES

Every State agency or instrumentality that makes a commitment to provide public financial assistance for the purchase or rehabilitation of rental target housing or child care facilities shall give priority to projects in which the

property is ~~lead free, exempt pursuant to subsection 1759(e) of this chapter~~ or lead-based paint hazards have been or will be identified and controlled and have passed or will pass an independent dust clearance test that determines that the property contains no lead-contaminated dust prior to occupancy or use. Priority rental target housing projects may include units occupied by severely lead-poisoned children and units in a building that are likely to contain ~~lead-based paint~~ lead hazards. ~~For purposes of As used in~~ this section, “public financial assistance” means any grant, loan, or allocation of tax credits funded by the State or the federal government, or any of their agencies or instrumentalities.

§ 1764. LEAD INSPECTORS; FINANCIAL RESPONSIBILITY

The Commissioner ~~may~~ shall require that a licensee or an applicant for a license under subsection 1752(d) of this ~~title~~ chapter provide evidence of ability to ~~properly~~ indemnify properly a person who suffers damage from lead-based paint activities or RRPM activities such as proof of effective liability insurance coverage or a surety bond in an amount to be determined by the Commissioner, which shall not be less than \$300,000.00. This section shall not restrict or enlarge the liability of any person under any applicable law.

§ 1765. LIABILITY INSURANCE

(a) If the Commissioner of Financial Regulation determines that lead-based paint hazards have substantially diminished the availability of liability insurance for owners of rental target property or child care facilities and that a voluntary market assistance plan will not adequately restore availability, the Commissioner shall order liability insurers to provide or continue to provide liability coverage or to participate in any other appropriate remedial program as determined by the Commissioner, provided the prospective insured is otherwise in compliance with the provisions of this chapter.

* * *

§ 1766. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) A person who violates this chapter may be subject to an administrative penalty not to exceed \$5,000.00 for each determination of a separate violation. If the Commissioner determines that a violation is continuing, each day's continuance may be deemed a separate offense beginning from the date the violator is served with notice of the violation.

(b) The Commissioner may use the enforcement powers as set forth in chapter 3 of this title to enforce any violations of this chapter or of any related rules, permits, or orders issued.

§ 1767. TRANSFER OF OWNERSHIP OF TARGET HOUSING; RISK

ASSESSMENT; EMP RRPM COMPLIANCE

(a) Prior to the time a purchase and sale agreement for target housing is executed, the seller shall provide the buyer with materials approved by the Commissioner, including a lead paint hazard brochure and materials on other lead hazards in housing. The seller shall also provide a disclosure form that shall include any lead-based paint inspection or risk assessment report or letter of exemption, assurance of discontinuance, administrative order, or court order the terms of which are not completed and, if the property is rental target housing, verification that the ~~EMP have been completed~~, RRPM was utilized pursuant to this chapter and that a current EMP RRPM compliance statement has been filed with the Department.

(b) At the time of sale purchase of target housing, sellers and other transferors shall provide the buyer or transferee with any materials delineated in subsection (a) of this section not previously disclosed and a lead-safe renovation practices packet approved by the Commissioner and shall disclose any lead-based paint inspection or risk assessment report or letter of exemption, assurance of discontinuance, administrative order, or court order not disclosed pursuant to subsection (a) of this section the terms of which are not completed.

* * *

(d) Prior to the time of sale purchase of rental target housing, the real estate agents, sellers, and other transferors of title shall provide the buyer or transferee with information approved by the Commissioner explaining EMP RRPM obligations.

(e) A buyer or other transferee of title of rental target housing shall at the time of sale or transfer of ownership, or both, disclose this transfer to the Department.

(f) A buyer or other transferee of title to rental target housing who has purchased or received a building or unit that is not in full compliance with section 1759 of this ~~title~~ chapter shall bring the rental target housing into compliance with section 1759 of this ~~title~~ chapter within 60 days after the closing. Within the 60-day period, the buyer or transferee may submit a written request for an extension of time for compliance, which the Commissioner may grant in writing for a stated period of time for good cause only. Failure to comply with this subsection shall result in ~~a mandatory civil~~ an administrative penalty in accordance with section 1766 of this chapter.

~~(f) This section shall not apply to target housing that has been certified lead-free.~~

(g) Noncompliance with this section shall not affect marketability of title.

Sec. 2. EFFECTIVE DATE

This act shall take effect upon the Commissioner of Health's written confirmation to the Speaker of the House and the Senate President Pro Tempore, which shall be posted on the General Assembly's website, that the U.S. Environmental Protection Agency has issued a state certification to Vermont.

Rep. Browning of Arlington, for the committee on Ways and Means reported in favor of its passage when amended by the committee on Human Services

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

Pending the question, Shall the bill be amended as recommended by the committee on Human Services? **Rep. Donahue of Northfield** moved to amend the report of the committee on Human Services as follows:

First: In Sec. 1, in 18 V.S.A. § 1754, in subsection (b), by inserting a second sentence to read as follows:

The campaign shall include education targeting owner-occupied residences regarding the importance of following safe maintenance and work practices when there is a potential for exposure to lead-based paint.

Second: In Sec. 1, in 18 V.S.A. § 1759, in subsection (a), by renumbering subdivision (2) in the second instance in which it appears to be subdivision (3) and by renumbering the remaining subdivisions to be numerically correct

Third: In Sec. 2 (Effective Date), by striking out the words "issued a state certification to Vermont" and inserting in lieu thereof the words "authorized the program as administered by Vermont"

Which was agreed to. Thereupon the report of the committee on Human Services, as amended, was agreed to and third reading ordered.

**Committee Bill; Second Reading;
Bill Amended; Third Reading Ordered**

H. 919

Rep. Botzow of Pownal spoke for the committee on Commerce and Economic Development.

House bill entitled

An act relating to workforce development

Rep. Dakin of Colchester for the committee on Appropriations recommended that the bill ought to pass when amended as follows:

First: In Sec. 3 by striking out subsection (k) in its entirety and redesignating subsections (l)–(m) to be subsections (k)–(l)

Second: In Sec. 9 by striking out subsection (b) in its entirety and redesignating subsection (c) to be subsection (b)

Having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Appropriations agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Sharpe of Bristol** moved to amend the bill as follows:

In Sec. 3, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read:

(e) Based on the results of the pilot projects approved under subsection (d) of this section, the Agency of Education shall recommend flexible and student-centered policies that support equitable access and opportunity to participate in CTE pre-tech foundation and exploratory programs for students in grades 9 and 10, including building such activities into students' personalized learning plans when appropriate, so that students are exposed to a wide variety of career choices in their areas of interest.

Which was agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Botzow of Pownal** 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 be read a third time? was decided in the affirmative. Yeas, 137. Nays, 0.

Those who voted in the affirmative are:

Ancel of Calais	Gardner of Richmond	Norris of Shoreham
Bancroft of Westford	Giambatista of Essex	Noyes of Wolcott
Bartholomew of Hartland	Grad of Moretown	Ode of Burlington
Baser of Bristol	Graham of Williamstown	O'Sullivan of Burlington
Batchelor of Derby	Haas of Rochester	Pajala of Londonderry
Beck of St. Johnsbury	Harrison of Chittenden	Parent of St. Albans Town
Belaski of Windsor	Head of South Burlington	Partridge of Windham
Beyor of Highgate	Hebert of Vernon	Pearce of Richford
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 Randolph	Read of Fayston
Browning of Arlington	Houghton of Essex	Rosenquist of Georgia
Brumsted of Shelburne	Howard of Rutland City	Savage of Swanton
Buckholz of Hartford	Jessup of Middlesex	Scheu of Middlebury
Burditt of West Rutland	Jickling of Randolph	Scheuermann of Stowe

Burke of Brattleboro	Joseph of North Hero	Sharpe of Bristol
Canfield of Fair Haven	Juskiewicz of Cambridge	Shaw of Pittsford
Carr of Brandon	Keefe of Manchester	Sheldon of Middlebury
Chesnut-Tangerman of Middletown Springs	Kimbell of Woodstock	Sibilia of Dover
Christensen of Weathersfield	Kitzmiller of Montpelier	Smith of New Haven
Christie of Hartford	Krowinski of Burlington	Squirrell of Underhill
Colburn of Burlington	LaClair of Barre Town	Stevens of Waterbury
Conlon of Cornwall	Lalonde of South Burlington	Strong of Albany
Connor of Fairfield	Lanpher of Vergennes	Stuart of Brattleboro
Conquest of Newbury	Lawrence of Lyndon	Sullivan of Dorset
Copeland-Hanzas of Bradford	Lefebvre of Newark	Sullivan of Burlington
Corcoran of Bennington	Lippert of Hinesburg	Taylor of Colchester
Cupoli of Rutland City	Long of Newfane	Terenzini of Rutland Town
Dakin of Colchester	Lucke of Hartford	Toleno of Brattleboro *
Deen of Westminster	Macaig of Williston	Toll of Danville
Devereux of Mount Holly	Marcotte of Coventry	Townsend of South Burlington
Donahue of Northfield	Martel of Waterford	Trieber of Rockingham
Donovan of Burlington	Masland of Thetford	Troiano of Stannard
Dunn of Essex	Mattos of Milton	Van Wyck of Ferrisburgh *
Emmons of Springfield	McCormack of Burlington	Viens of Newport City
Fagan of Rutland City	McCoy of Poultney	Walz of Barre City
Feltus of Lyndon	McCullough of Williston	Webb of Shelburne
Fields of Bennington	McFaun of Barre Town	Weed of Enosburgh
Forguites of Springfield	Miller of Shaftsbury	Wood of Waterbury
Frenier of Chelsea	Morris of Bennington	Wright of Burlington
Gage of Rutland City	Morrissey of Bennington	Yacovone of Morristown
Gamache of Swanton	Mrowicki of Putney	Yantachka of Charlotte
Gannon of Wilmington	Murphy of Fairfax	Young of Glover
	Myers of Essex *	
	Nolan of Morristown	

Those who voted in the negative are: none

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

Ainsworth of Royalton	Gonzalez of Winooski	Till of Jericho
Cina of Burlington	Keenan of St. Albans City	Turner of Milton
Condon of Colchester	Lewis of Berlin	Willhoit of St. Johnsbury
Dickinson of St. Albans Town	Poirier of Barre City	
	Smith of Derby	

Rep Myers of Essex explained her vote as follows:

“Madam Speaker:

I have served in the Legislature for many years, and with deference to the Committee on Corrections and Institutions, I consider H.919 one of the most important bills I had the pleasure to help craft and introduce.”

Rep. Toleno of Brattleboro explained his vote as follows:

“Madam Speaker:

Central to our commitment to having an economy that works for all is the opportunity all Vermonters deserve, to have training and support they need to access good jobs. Vermont employers also need a system which helps them grow and thrive by connecting them to talent. Now, more than any time in decades, we have found a coalition of stakeholders ready to shift the way we organize our workforce and training system, which is the central achievement of this worthy bill.”

Rep. Van Wyck of Ferrisburgh explained his vote as follows:

“Madam Speaker:

I voted Yes — for the show.”

Remarks Journalized

On motion of **Rep. Howard of Rutland City**, the following remarks by **Rep. Donovan of Burlington** were ordered printed in the Journal:

“Madam Speaker:

I may have shared with you before the three requests that were granted by St. Patrick to the Irish generations ago.

First, on this special day the weather should be fair so the all can attend Mass,
Second, that no Outlander shall rule for long over Ireland
And third that every Tuesday and Saturday twelve Irish souls will be freed from the fires of hell.

Google weather forecasts mild temperatures in Dublin tomorrow with a chance of a few showers, Just a bit of Irish mist. CNN reports that again this year the Irish will celebrate this Holy day in freedom and liberty throughout the country. And what better proof that 12 Irishman have been regularly released from the nether world than the fact that McFaun, Conner, Burke, Keefe, O’Sullivan, Donohue, Brennan, Conlon, Dunn, Morrissey, Corcoran, Fagan, McCoy, Gannon, McCormack and the Sullivan ladies are in the building this morning!

Today I’d like to speak about a close friend of St. Patrick’s, St. Brigid of Kildare. Before there was a Wonder Woman, there was Brigid, a true original. Although born into slavery, she developed into a powerful leader who founded monasteries and convents throughout the country. She is the Patron Saint of brewers because she was reputed to be able to change water to beer—good beer! She wrote 'I should like a great lake of beer for the King of Kings. I should like the angels of the Heaven to be tippling there through time eternal.'

Perhaps now you can better understand the devotion the Irish people have held for Brigid throughout the centuries. She was also known for her generosity to the poor, her care for lepers, her message of devotion to God, her patience, her humble and forgiving nature, and her leadership on matters of state and church. These are all attributes that would have served her well in this chamber. After a long and productive life, Brigid was laid to rest next to her dear friend, Patrick. I like to think a little bit to the left of him.

Brigid, you were a woman of peace,
You brought harmony where there was conflict,
You brought light to the darkness,
You brought hope to the downcast.
May the mantle of your peace cover those
Who are troubled and anxious,
And may peace be firmly rooted on our hearts and in our world.”

Adjournment

At twelve o'clock and one minute in the afternoon, on motion of **Rep. Savage of Swanton**, the House adjourned until Tuesday, March 20, 2018, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 51.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 272

House concurrent resolution honoring Manchester Fire Chief Philip Bourn for his laudable public service;

H.C.R. 273

House concurrent resolution honoring Brendan J. Whittaker of Brunswick for his years of insightful leadership in the State, municipal, and religious sectors;

H.C.R. 274

House concurrent resolution in memory of Gordon E. Tallman of Hyde Park;

H.C.R. 275

House concurrent resolution congratulating William Busier of Essex on his

100th birthday;

H.C.R. 276

House concurrent resolution commemorating the 100th anniversary of the Wayside Restaurant in Berlin;

H.C.R. 277

House concurrent resolution congratulating the 2018 Milton High School Yellowjackets Division II boys' championship indoor track and field team;

H.C.R. 278

House concurrent resolution honoring those who care for, educate, and advocate for young Vermonters and designating March 14, 2018 as Early Childhood Day at the State House;

S.C.R. 21

Senate concurrent resolution congratulating the Woodstock Stoners on winning the 2017 Maine-iac 'Spiel curling championship;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2018, seventy-fourth Biennial session.]