

Journal of the Senate

THURSDAY, JANUARY 18, 2018

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

Devotional exercises were conducted by the Reverend Rosaire Bisson of Barre.

Rules Suspended; Motion Withdrawn

S. 101.

Appearing on the Calendar for action, Senator MacDonald, moved that the rules were suspended and Senate bill entitled:

An act relating to the conduct of forestry operations.

Be taken up for immediate consideration for the purpose of having the President commit the bill to the Committee of jurisdiction with the report of the Committee on Agriculture, *intact*.

Thereupon, pending the question, Shall the rules be suspended to have the President of the Senate commit the bill to the Committee of jurisdiction with the report of the Committee on Agriculture *intact?*, Senator MacDonald requested and was granted leave to withdraw his motion.

Message from the Governor Appointments Referred

A message was received from the Governor, by Brittney L. Wilson, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Besio, Nathan of Colchester - Member of the Human Rights Commission, - from January 5, 2018, to February 28, 2022.

To the Committee on Judiciary.

Recicar, Sean of Colchester - Member of the Community High School of Vermont Board, - from January 5, 2018, to February 28, 2019.

To the Committee on Education.

Voight, Steven of Norwich - Member of the Vermont Economic Development Authority, - from January 12, 2018, to June 30, 2020.

To the Committee on Finance.

Consideration Postponed

S. 101.

Senator Branagan, for the Committee on Agriculture, to which was referred Senate entitled:

An act relating to the conduct of forestry operations.

Reported recommending that the Senate amend the bill as follows:

By striking out all after the enacting clause and inserting in lieu thereof the following:

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

CHAPTER 196. VERMONT RIGHT TO CONDUCT FORESTRY
OPERATIONS

§ 5755. FINDINGS

The General Assembly finds that:

(1) Private and public forestlands:

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

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

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

(D) mitigate the effects of climate change; and

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

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

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

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

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

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

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

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

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

(7) The encouragement, development, improvement, and continuation of forestry operations will result in a general benefit to the health and welfare of the people of the State and the State's economy.

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

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

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

§ 5756. DEFINITIONS

As used in this chapter:

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

(2) "Conventional forestry practices" means:

(A) forestry operations;

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

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

(D) enrollment in governmental forestry or conservation programs;

(E) adoption of new forestry technology;

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 5757. FORESTRY OPERATIONS; PROTECTION FROM NUISANCE LAWSUITS

(a) A person conducting a conventional forestry practice shall be entitled to a rebuttable presumption that the conventional forestry practice does not

constitute a public or private nuisance if the person conducts the conventional forestry practice in compliance with the following:

(1) the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as adopted by the Commissioner; and

(2) other applicable law.

(b) The presumption under subsection (a) of this section that a person conducting a conventional forestry practice does not constitute a nuisance may be rebutted by showing that a nuisance resulted from:

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

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

(c) Nothing in this section shall be construed to limit the authority of State or local boards of health to abate nuisances affecting the public health.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass with such recommendation of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Agriculture?, Senator Baruth moved that consideration be postponed until Friday, January 19, 2018.

Which was agreed to.

Bill Passed

S. 150.

Senate bill of the following title was read the third time and passed:

An act relating to automated license plate recognition systems.

Bill Amended; Third Reading Ordered

S. 19.

Senator Cummings, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

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

Reported recommending that the bill be amended recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

(b) The Board shall have the following duties:

* * *

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

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

§ 1802. DEFINITIONS

As used in this subchapter:

* * *

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

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

§ 1811. HEALTH BENEFIT PLANS FOR INDIVIDUALS AND SMALL EMPLOYERS

(a) As used in this section:

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

* * *

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

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

* * *

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

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

§ 1813. REFLECTIVE SILVER PLANS

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

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

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

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

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

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to allowing silver-level nonqualified health benefit plans to be offered outside the Vermont Health Benefit Exchange.

And that when so amended the bill ought to pass.

Senator Cummings, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Adjournment

On motion of Senator Mazza, the Senate adjourned until eleven o'clock and thirty minutes in the morning.