

# Journal of the Senate

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MONDAY, MAY 7, 2018

The Senate was called to order by the President.

## Devotional Exercises

A moment of silence was observed in lieu of devotions.

## Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

## Message from the House No. 62

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

**S. 197.** An act relating to liability for toxic substance exposures or releases.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

**S. 166.** An act relating to the provision of medication-assisted treatment for inmates.

And has concurred therein.

## Proposals of Amendment; Third Reading Ordered

### H. 917.

Senator Mazza, for the Committee on Transportation, to which was referred House bill entitled:

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

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Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Transportation Program Adopted as Amended; Definitions \* \* \*

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation's proposed fiscal year 2019 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2019 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) "Agency" means the Agency of Transportation.

(2) "Secretary" means the Secretary of Transportation.

(3) The table heading "As Proposed" means the Transportation Program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As Amended" figure; and the terms "change" or "changes" in the text refer to the project- and program-specific amendments, the aggregate sum of which equals the net "Change" in the applicable table heading.

(4) "TIB funds" means monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

\* \* \* Federal Infrastructure Funding \* \* \*

Sec. 2. FEDERAL INFRASTRUCTURE FUNDING

(a) Subsection (b) of this section shall expire on February 1, 2019.

(b)(1) If a federal infrastructure bill or other federal legislation that provides for infrastructure funding is enacted that provides Vermont with additional federal funding for transportation-related projects, to the extent that federal monies allocated to the State of Vermont are subject to a requirement that the monies be obligated or under contract by the State within a specified time period, the Secretary is authorized to exceed spending authority in the fiscal year 2018 and 2019 Transportation Programs and to obligate and expend the federal monies:

(A) on eligible projects in the fiscal year 2018 or 2019 Transportation Program; and

(B) on additional town highway projects or activities that meet federal eligibility and readiness criteria.

(2) Nothing in this subsection shall be construed to authorize the Secretary to obligate or expend State Transportation or TIB funds above amounts authorized in the fiscal year 2018 or 2019 Transportation Program.

(c) The Agency shall promptly report the obligation or expenditure of monies under the authority of this section to the House and Senate Committees on Transportation and to the Joint Fiscal Office while the General Assembly is in session, and to the Joint Fiscal Office, the Joint Fiscal Committee, and the Joint Transportation Oversight Committee when the General Assembly is not in session.

\* \* \* Infrastructure for Rebuilding America Grant \* \* \*

### Sec. 3. INFRASTRUCTURE FOR REBUILDING AMERICA GRANT

(a)(1) According to the Agency, in 2018, the U.S. Department of Transportation (USDOT) may solicit applications for grants under the Infrastructure for Rebuilding America (INFRA) Program.

(2) If USDOT does solicit INFRA grant applications in 2018, the Agency may submit an application for an INFRA grant for bridge and culvert projects on Interstate 89 with a total cost of up to \$105,000,000.00, which amount includes a State match of up to \$21,000,000.00. If it submits a grant application, the Agency shall identify Transportation Infrastructure Bonds as a possible source of State matching dollars and, promptly upon its submission to the USDOT, the Agency shall send an electronic copy of the grant application to the Joint Fiscal Office, which shall then transmit it to the Joint Fiscal Committee and to the chairs of the House and Senate Committees on Transportation.

(b) If the Agency is awarded an INFRA grant as described in subsection (a) of this section and the grant requires that work under the grant begin during fiscal year 2019, the Agency shall include in its fiscal year 2019 budget adjustment proposal any adjustments to fiscal year 2019 appropriations and to the approved fiscal year 2019 Transportation Program that may be required to comply with the terms of the grant.

\* \* \* Program Development; Traffic & Safety Operations \* \* \*

### Sec. 4. PROGRAM DEVELOPMENT—TRAFFIC & SAFETY OPERATIONS

The following project is added to the candidate list of the Program Development—Traffic & Safety Program within the fiscal year 2019 Transportation Program: South Burlington STP SGNL ( ) I-89 Exit 14 signal upgrades.

\*\*\* Program Development; Bike & Pedestrian Facilities \*\*\*

Sec. 5. PROGRAM DEVELOPMENT—BIKE & PEDESTRIAN FACILITIES

Spending authority on the Statewide—New Awards activity within the fiscal year 2019 Program Development—Bike & Pedestrian Facilities Program is amended as follows:

<u>FY19</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
ROW	0	0	0
Const	600,000	900,000	300,000
Total	600,000	900,000	300,000
<u>Sources of funds</u>			
State	300,000	450,000	150,000
Local	300,000	450,000	150,000
Federal	0	0	0
Total	600,000	900,000	300,000

\*\*\* Aviation Program \*\*\*

Sec. 6. AVIATION PROGRAM

For fiscal year 2019:

(1) The sources of funds for the AV-FY18-001 (local match of FAA projects; Burlington Airport) project within the Aviation Program are amended to read:

<u>FY19</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
<u>Sources of funds</u>			
State	750,000	600,000	-150,000
Local	500,000	650,000	150,000
Federal	11,250,000	11,250,000	0
Total	12,500,000	12,500,000	0

(2) Spending authority of transportation funds in the Aviation Program is reduced by \$150,000.00.

\*\*\* Town Highway Bridge Program \*\*\*

Sec. 7. TOWN HIGHWAY BRIDGE PROGRAM

The following project is added to the candidate list of the Town Highway Bridge Program within the fiscal year 2019 Transportation Program: Salisbury – Cornwall BO 1445( ), scoping for replacement of BR8 over the Otter Creek.

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\* \* \* Maintenance Program and District Leveling \* \* \*

Sec. 8. MAINTENANCE PROGRAM AND DISTRICT LEVELING;  
SPENDING AUTHORITY

(a) As used in this section, “TDI” refers to Champlain VT, LLC d/b/a TDI New England and “TDI Agreement” refers to the lease option agreement entered into between TDI and the State on July 17, 2015.

(b) Authorized spending in fiscal year 2019 for the Statewide District Leveling activity in the Program Development—Paving Program is reduced by \$2,400,000.00 in transportation funds and increased by \$2,400,00.00 in federal funds.

(c) Authorized spending in fiscal year 2019 for operating expenses in the Maintenance Program is reduced by \$1,600,000.00 in transportation funds.

(d) If TDI makes a payment to the State in fiscal year 2018 or 2019 pursuant to the TDI Agreement or pursuant to a renegotiation of the TDI Agreement, the Secretary shall allocate the amount of the payment received to the Statewide District Leveling activity or to the Maintenance Program, or to both, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the allocation made.

(e) If TDI makes no payment to the State in fiscal year 2018 or 2019 pursuant to the TDI Agreement or a renegotiation thereof or if a payment made by TDI is insufficient to restore the reduction in spending authority made in subsections (b) and (c) of this section, the Secretary shall allocate any unreserved surplus in the Transportation Fund as of the end of fiscal year 2018 to the Statewide District Leveling activity or to the Maintenance Program, or to both, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the allocation made.

(f)(1) Subject to subdivision (2) of this subsection, and notwithstanding 32 V.S.A. § 706, if the contingent allocations directed in subsections (d) and (e) of this section do not occur or are insufficient to restore the reduction in spending authority made in subsections (b) and (c) of this section, the Secretary of Administration, after consulting with the Secretary of Transportation, is authorized to transfer balances of fiscal year 2019 Transportation Fund appropriations within the Agency to the extent required to restore the reduction in spending authority made in subsections (b) and (c) of this section, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the balances transferred.

(2) An appropriation may be transferred pursuant to subdivision (1) of this subsection only if the monies are not needed for a project:

(A) because the project has been delayed due to permitting, right-of-way, or other unforeseen issues; or

(B) because of cost savings generated by the project.

(3) In making any appropriation transfer authorized under this section, the Secretary of Administration shall avoid, to the extent possible, any reductions in appropriations to the town programs described in 19 V.S.A. § 306. Any reductions to these town programs shall not affect the timing of reimbursements to towns for projects or delay any projects or grants and shall be replaced in the affected appropriations in fiscal year 2020.

\* \* \* Contingent Addition to State Highway System \* \* \*

Sec. 9. CONTINGENT ADDITION OF VERMONT ROUTE 119 IN THE TOWN OF BRATTLEBORO TO THE STATE HIGHWAY SYSTEM

(a) If the condition specified in subsection (b) of this section is satisfied, pursuant to 19 V.S.A. § 15(a), upon substantial completion of construction of the Brattleboro-Hinsdale, NH bridge replacement project (BF A004(152)), the following highway segment in the Town of Brattleboro shall be added to the State highway system: the entirety of the new Vermont Route 119 in the Town of Brattleboro, extending from its intersection with Vernon Street (TH#4) to the westerly low watermark of the Connecticut River.

(b) The addition to the State highway system specified in subsection (a) of this section shall occur only if the Town of Brattleboro enters into a maintenance agreement with the Agency.

\* \* \* Abandoned Aircraft \* \* \*

Sec. 10. 5 V.S.A. chapter 9 is amended to read:

CHAPTER 9. GENERAL PROVISIONS; ABANDONED AIRCRAFT

Subchapter 1. Aeronautics; Authority and Duties; Penalties

\* \* \*

Subchapter 2. Abandoned Aircraft

§ 221. DEFINITIONS

As used in this subchapter:

(1) “Airport manager” means the owner of an airport in this State or an agent authorized to act on behalf of an airport owner.

(2) “Storage operator” means a person who stores an aircraft or aircraft component at the request of an airport manager.

§ 222. ABANDONED AIRCRAFT; AUTHORITY TO TAKE CUSTODY, REMOVE, AND STORE; NOTICE OF INTENT; LIMITATION ON LIABILITY

(a) Subject to subsection (b) of this section, an airport manager who discovers an aircraft or aircraft component apparently abandoned, or an aircraft without a currently effective federal registration certificate, on the property of the airport has authority to:

(1) take custody of the aircraft or component;

(2) arrange for the aircraft or component to be secured and stored at its current location or to be removed and stored elsewhere.

(b)(1) As used in this subsection, a “notice of intent” shall include:

(A) a statement of the airport manager’s intent to exercise authority under subsection (a) of this section and of the owner’s responsibility for reasonable charges under this subchapter;

(B) the make and the factory or identification number of the aircraft or aircraft component;

(C) the current location of the aircraft or aircraft component and the planned location for its storage; and

(D) the aircraft registration number, if any.

(2) At least 60 days prior to exercising the authority granted in subsection (a) of this section, the airport manager shall:

(A) Attempt to provide a notice of intent to the owner and to the lienholder, if any, of the aircraft or aircraft component. If the address of the last place of residence of the owner or lienholder of the aircraft or aircraft component is ascertainable through the exercise of reasonable diligence, including inquiry of the Federal Aviation Administration’s aircraft registry, the airport manager shall send the notice of intent by certified mail to the address or addresses; otherwise, the airport manager shall be deemed to have fulfilled the requirement of this subdivision (b)(2)(A) if the manager posts the notice of intent on the aircraft or aircraft component.

(B) Send a written notice of intent to the Secretary.

(c) The Secretary shall place on file notices of intent received under subdivision (b)(2)(B) of this section and, upon request, make the notices available for public inspection and copying.

(d) Except in the case of intentionally inflicted damages, an airport manager who takes custody of an aircraft or aircraft component or an airport manager or storage operator who arranges for the removal or storage of an aircraft or aircraft component under this subchapter shall not be liable to the owner or lienholder for any damages to the aircraft or aircraft component incurred while it was in the manager's custody or during its removal or storage.

§ 223. LIEN; RIGHT TO CONTEST COSTS

(a) If the notice requirements of subsection 222(b) of this title are fulfilled, all reasonable storage, removal, and other costs necessarily incurred thereafter by an airport manager or a storage operator in carrying out the provisions of this subchapter shall be a lien on the aircraft or aircraft component held by the person who incurred the costs.

(b) In exercising rights under section 224 or 226 of this title, the owner or lienholder may contest the reasonableness and necessity of the costs by bringing an action before the Transportation Board.

§ 224. RIGHT OF OWNER TO RECLAIM

The owner or lienholder of an aircraft or aircraft component stored under this subchapter may reclaim the aircraft or aircraft component prior to any sale by paying the outstanding costs described in section 223 of this title.

§ 225. SALE AUTHORIZED; NOTICE OF PROPOSED SALE

(a) If the owner or lienholder has not reclaimed the aircraft or aircraft component after the aircraft manager fulfills the notice requirements of subsection 222(b) of this title, and if the airport manager fulfills the notice requirements of subsection (b) of this section, the airport manager may sell the aircraft or aircraft component in a commercially reasonable manner as described in 9A V.S.A. § 9-610 (disposition of collateral after default).

(b)(1) The notice of proposed sale required in this subsection shall include:

(A) the make and the factory or identification number of the aircraft or aircraft component;

(B) the aircraft registration number, if any;

(C) contact information for the person from whom the owner or lienholder may reclaim the aircraft or aircraft component pursuant to section 224 of this title; and

(D) the date and location of the proposed sale.



(2) At least 14 days before a sale under this section, the airport manager shall:

(A) if the value of the aircraft or aircraft component exceeds \$1,000.00, publish the notice of proposed sale in a media outlet of general circulation in the municipality; and

(B) if the address of the last place of residence of the owner or the lienholder, if any, of the aircraft or aircraft component is ascertainable through the exercise of reasonable diligence, including inquiry of the Federal Aviation Administration's aircraft registry, send the notice of proposed sale by certified mail to the address or addresses; otherwise, the airport manager shall be deemed to have fulfilled the requirement of this subdivision (b)(2)(B) if the manager posts the notice on the aircraft or aircraft component.

#### § 226. APPLICATION OF PROCEEDS

The airport manager shall pay the balance of the proceeds of the sale, if any, after payment of liens and the reasonable expenses incident to the sale, to the owner or lienholder of the aircraft or aircraft component, if claimed at any time within one year from the date of the sale. If the owner or lienholder does not claim the balance within one year, the airport manager shall retain the proceeds.

\* \* \* Abandoned Vessels \* \* \*

Sec. 11. 10 V.S.A. chapter 48A is added to read:

#### CHAPTER 48A. ABANDONED VESSELS

##### § 1420. VESSELS; ABANDONMENT PROHIBITED; REMOVAL AND DISPOSITION OF ABANDONED VESSELS

(a) Definitions. In this chapter, unless the context clearly requires otherwise:

(1) "Abandon" means, with respect to a vessel, any of the following:

(A) to leave unattended on public waters or on immediately adjacent land for more than 30 days without the express consent of the Secretary or, if on immediately adjacent land, of the person in control of the land;

(B) to leave partially or fully submerged in public waters for more than 30 days without the express consent of the Secretary;

(C) to leave partially or fully submerged in public waters a petroleum-powered vessel for more than 48 hours without the express consent of the Secretary; or

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(D) to leave unattended on public waters or on immediately adjacent land for any period if the vessel poses an imminent threat to navigation or to public health or safety.

(2) “Commissioner” means the Commissioner of Motor Vehicles or designee.

(3) “Law enforcement officer” means an individual described in 23 V.S.A. § 3302 who is certified by the Vermont Criminal Justice Training Council as a level II or level III law enforcement officer under 20 V.S.A. § 2358.

(4)(A) “Public waters” means:

(i) the portions of Lake Champlain, Lake Memphremagog, and the Connecticut River that are within the territorial limits of Vermont;

(ii) boatable tributaries of Lake Champlain and Lake Memphremagog upstream to the first barrier to navigation, and impoundments and boatable tributaries of those impoundments of the Connecticut River upstream to the first barrier to navigation, within the territorial limits of Vermont; and

(iii) all natural inland lakes, ponds, and rivers within Vermont, and other waters within the territorial limits of Vermont including the Vermont portion of boundary waters, that are boatable under the laws of this State.

(B) “Public waters” does not include waters in private ponds and private preserves as set forth in chapter 119 of this title.

(5) “Secretary” means the Secretary of Natural Resources or designee.

(6) “Storage operator” means:

(A) the Secretary, if storing an abandoned vessel after causing its removal pursuant to this section; or

(B) a person who stores a vessel removed pursuant to this section at the request of the Secretary, or a subsequent transferee thereof.

(7) “Vessel” means:

(A) a motorboat; or

(B) a sailboat, or other boat, that is 16 or more feet in length.

(b) Relationship with other laws. The authority conferred to the Secretary and the penalties established in this section are in addition to authority granted or penalties established elsewhere in law, and nothing in this section shall be construed to modify any authority or the application of penalties under any other provision of law, including under chapter 47, 159, 201, or 211 of this title.

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(c) Abandonment of vessels prohibited.

(1) Civil violation. A person shall not abandon a vessel on public waters or immediately adjacent land. A person who violates this subdivision shall be subject to civil enforcement under chapters 201 and 211 of this title and, in any such enforcement action, the Secretary may obtain an order to recover costs specified in subdivision (d)(1) of this section incurred by the Agency of Natural Resources.

(2) Criminal violation. A person shall not knowingly abandon a petroleum-powered vessel or knowingly abandon a vessel that poses an imminent threat to navigation or to public health or safety. A person who violates this subdivision shall be subject to a fine of up to \$10,000.00.

(d)(1) Removal of abandoned vessel. Upon request from a law enforcement officer or at his or her own initiative, the Secretary shall promptly cause the removal and safe storage of a vessel that is abandoned as described in subdivision (a)(1) of this section, unless the vessel is to be removed by a federal agency. If removal is requested by a law enforcement officer, the Secretary shall make reasonable efforts to determine if the vessel qualifies as abandoned. In addition, the Secretary shall have the authority to take actions as may be necessary to eliminate risks to public health or safety caused by the condition of the vessel.

(2) Responsibility for costs; lien.

(A) The owner of a vessel removed under the authority of this section shall be responsible for reasonable:

(i) removal costs;

(ii) cleanup and disposal costs;

(iii) storage costs incurred after the storage operator sends the Department of Motor Vehicles a notice of removal consistent with subdivision (e)(1) of this section; and

(iv) costs of enforcing this section borne by the Secretary.

(B) Costs for which an owner is responsible under subdivision (d)(2)(A) of this section shall be a lien on the vessel held by the person who incurred the costs. Nothing in this subdivision (d)(2)(B) shall be construed to modify any rights or authority to recover such costs that may exist under any other provision of law.

(3) Limitation on liability. Except in the case of intentionally inflicted damages, the Secretary shall not be liable to the owner or lienholder of an abandoned vessel for any damages to the vessel incurred during its removal or

storage, or as a result of actions taken to eliminate risks to public health or safety caused by the condition of the vessel, in accordance with this section.

(e)(1) Notice of removal and place of storage. Within three business days of the date of removal of an abandoned vessel, the storage operator shall send notice to the Commissioner of:

(A) the federal, state, or foreign registration number, and the hull identification number, of the vessel, if any;

(B) a description of the vessel, including its color, size, and, if available, its manufacturer's trade name and manufacturer's series name;

(C) the date of removal and the location from where the vessel was removed;

(D) the name and contact information of an individual at the Agency of Natural Resources who can provide information about the vessel's removal and how to reclaim it; and

(E) the periodic storage charges that will apply, if any.

(2) Listing of removed vessel. The Commissioner shall post and maintain on the website of the Department of Motor Vehicles a listing of vessels removed under the authority of this section with the information received under subdivision (1) of this subsection.

(f) Disposition following removal.

(1) As used in this subdivision:

(A) A "notice of intent" shall include the information described in subdivision (e)(1) of this section and an indication of the storage operator's intent to take ownership or otherwise dispose of an abandoned vessel.

(B) The term "address" shall mean the plural "addresses" if more than one address is ascertained.

(2) Within 30 days after the date of removal of the abandoned vessel, a storage operator shall:

(A) Cause a notice of intent to be published in the environmental notice bulletin under 3 V.S.A. § 2826.

(B) Make reasonable efforts to ascertain the address of the owner and any lienholder and, if the address is ascertained, send the notice of intent to the address by certified mail, return receipt requested. Reasonable efforts shall include inquiring of the person in control of the waters or land from which the abandoned vessel was removed, the clerk of the municipality in which the waters or land is located, the State Police, the Office of the Secretary of State,

and the Department of Motor Vehicles as to the identity and address of the owner and any lienholder.

(3) Ownership of the vessel shall pass to the storage operator free of all claims of any prior owner or lienholder if the owner or lienholder has not reclaimed the vessel and paid all costs authorized under subdivision (d)(2) of this section within 60 days after the later of:

(A) publication in the environmental notice bulletin under 3 V.S.A. § 2826; or

(B) if the address of the owner or lienholder is ascertained, the date the notice of intent is mailed.

(4) If ownership passes to the storage operator under this subsection, the storage operator may sell, transfer, or otherwise dispose of the vessel. However, if the vessel is subject to titling under 23 V.S.A. chapter 36, the storage operator shall apply to the Commissioner for a title or salvage title as may be appropriate, and the Commissioner shall issue an appropriate title or salvage title, at no charge, if the storage operator offers sufficient proof that ownership of the vessel lawfully passed to the storage operator under this section.

(g) Owner and lienholder rights. An owner or lienholder of an abandoned vessel removed from public waters or immediately adjacent land under this section may contest the removal, transfer of title, or other disposition of a vessel under this section, and the necessity or reasonableness of any costs described in subdivision (d)(2) of this section, by petitioning the Secretary. The contested case provisions of 3 V.S.A. chapter 25 shall govern any matter brought under this subsection. A person aggrieved by a final decision of the Secretary may appeal the decision to the Civil Division of the Superior Court. Nothing in this subsection shall be construed to interfere with the right of an owner or lienholder to contest these issues in any enforcement action brought by the Secretary.

Sec. 12. 10 V.S.A. § 8003 is amended to read:

#### § 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

\* \* \*

(27) 10 V.S.A. chapter 123, relating to threatened and endangered species; and

(28) 30 V.S.A. § 255, relating to regional coordination to reduce greenhouse gases; and

(29) 10 V.S.A. § 1420, relating to abandoned vessels.

\* \* \*

\* \* \* Railroads; Vegetation Control \* \* \*

Sec. 13. 5 V.S.A. § 3672 is amended to read:

§ 3672. ~~SELECTBOARD MEMBERS' DUTIES; RECOVERY~~

~~In case of failure so to do in a town through which such road passes, the selectboard members shall send notice thereof by mail to the principal office of such person or corporation. In case such failure continues for ten days after notice, the selectboard members shall forthwith cause the thistles and weeds to be destroyed at the expense of the town. Such town shall thereupon be entitled to recover from such person or corporation its actual cost for destroying the thistles and weeds. In the event such person or corporation fails to pay to the town such cost for 60 days from the time the selectboard members sent notice thereof by mail to the principal office of such person or corporation, such town shall be entitled to recover such cost including a reasonable fee paid to an attorney for the recovery in an action on this statute. [Repealed.]~~

Sec. 14. 5 V.S.A. § 3673 is amended to read as follows:

§ 3673. ~~CUTTING OF TREES~~ VEGETATION CONTROL

~~A person or corporation operating a railroad in this State shall cause all trees, shrubs, and bushes to be destroyed at reasonable times within the surveyed boundaries of their lands, for a distance of 80 rods in each direction from all public grade crossings. A railroad shall take reasonable measures to control vegetation that is both on railroad property and on or immediately adjacent to the roadbed, so that the vegetation does not obstruct a highway user's view of traffic control devices at a grade crossing or of a train approaching the crossing.~~

Sec. 15. 5 V.S.A. § 3674 is amended to read:

§ 3674. ~~SELECTBOARD MEMBERS' DUTIES; LIABILITY FOR DAMAGES~~ ENFORCEMENT

~~When such person or corporation neglects or refuses to destroy the trees, shrubs, and bushes, as required by section 3673 of this title, after 60 days' notice in writing, given by the selectboard members of the town in which such trees, shrubs, and bushes are located, the selectboard members shall immediately cause them to be destroyed at the expense of the town. The town shall thereafter be entitled to recover from such person or corporation its actual~~

~~cost for the destruction. In the event such person or corporation fails to pay to the town such cost for 60 days from the time the selectboard members sent notice thereof by mail to the principal office of such person or corporation, such town shall be entitled to recover such cost including a reasonable fee. If a railroad fails to control vegetation as required by section 3671 or 3673 of this title within 30 days after written notice is given by the selectboard of the town in which the vegetation is located or by the Agency in the case of violations involving a State highway grade crossing, the Transportation Board, upon application by the town or the Agency and after notice and hearing, may order the railroad to perform the work. Any such order shall specify a date by which the work must be completed. If the railroad fails to comply with the Board's order, the Board may impose a civil penalty of \$100.00 against the railroad for each day that the railroad fails to comply with the Board's order.~~

\* \* \* Penalties for Furnishing Alcoholic Beverages to Minors \* \* \*

Sec. 16. 7 V.S.A. § 658 is amended to read:

§ 658. SALE OR FURNISHING TO MINORS; ENABLING  
CONSUMPTION BY MINORS; MINORS CAUSING DEATH OR  
SERIOUS BODILY INJURY

\* \* \*

(d)(1) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle, snowmobile, vessel, or all-terrain vehicle on a public highway, public land, or public waters, or in a place where a Vermont Association of Snow Travelers (VAST) trail maintenance assessment or a Vermont ATV Sportsman's Association (VASA) Trail Access Decal is required, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(2) As used in this subsection:

(A) "All-terrain vehicle" shall have the same meaning as set forth in 23 V.S.A. § 3501.

(B) "Public land" means all land in Vermont that is either owned or controlled by a local, State, or federal governmental body.

(C) "Public waters" shall have the same meaning as in 10 V.S.A. § 1422.

(D) "Snowmobile" shall have the same meaning as set forth in 23 V.S.A. § 3201.

(E) "Vessel" shall have the same meaning as set forth in 23 V.S.A. § 3302.

\* \* \* President Calvin Coolidge State Historic Site;

Supplemental Guide Signs \* \* \*

Sec. 17. 10 V.S.A. § 494 is amended to read:

§ 494. EXEMPT SIGNS

The following signs are exempt from the requirements of this chapter except as indicated in section 495 of this title:

\* \* \*

(6)(A) Official traffic control signs, including signs on limited access highways, consistent with the ~~manual on uniform traffic control devices, Manual on Uniform Traffic Control Devices (MUTCD)~~ adopted under 23 V.S.A. § 1025, directing people to:

(i) other towns;

(ii) international airports;

(iii) postsecondary educational institutions;

(iv) cultural and recreational destination areas;

(v) nonprofit ~~diploma-granting~~ diploma-granting educational institutions for people with disabilities; and

(vi) ~~official traffic control signs, including signs on limited access highways, consistent with the manual on uniform traffic control devices, adopted under 23 V.S.A. § 1025, directing people to~~ official State visitor information centers.

(B) After having considered the six priority categories in this subdivision (A) of this subdivision (6), the Travel Information Council may approve installation of a sign for any of the following provided the location is open a minimum of 120 days each year and is located within 15 miles of an interstate highway exit:

(A)(i) Nonprofit ~~nonprofit~~ museums;

(B)(ii) ~~Cultural~~ cultural and recreational attractions owned by the State or federal government;

(C)(iii) Officially ~~officially~~ designated scenic byways;

(D)(iv) ~~Park~~ park and ride or multimodal centers; and



~~(E)(v)~~ Fairgrounds ~~fairgrounds~~ or exposition sites;

~~provided the designations in subdivisions (A) through (E) of this subdivision (6) are open a minimum of 120 days each year and are located within 15 miles of an interstate highway exit.~~

(C) Notwithstanding the limitations of this subdivision (6), supplemental guide signs consistent with the MUTCD for the President Calvin Coolidge State Historic Site may be installed at the following highway interchanges:

(i) Interstate 91, Exit 9 (Windsor); and

(ii) Interstate 89, Exit 1 (Quechee).

(D) Signs erected under this subdivision (6) of this section shall not exceed a maximum allowable size of 80 square feet.

\* \* \*

\* \* \* Central Garage \* \* \*

Sec. 18. 19 V.S.A. § 13 is amended to read:

### § 13. CENTRAL GARAGE FUND

(a) There is created ~~a central garage fund~~ the Central Garage Fund which shall be used:

(1) to furnish equipment on a rental basis to the districts and other sections of the ~~agency~~ Agency for use ~~in~~ construction, maintenance, and operation of highways or other transportation activities; and

(2) to provide a general equipment repair and major overhaul service as well as to furnish necessary supplies for the operation of the equipment.

(b) To maintain a safe, reliable equipment fleet, new or replacement highway maintenance equipment shall be acquired using ~~central garage funds~~ Central Garage Fund monies. The ~~agency~~ Agency is authorized to acquire replacement pieces for existing highway equipment, or new, additional equipment equivalent to equipment already owned; however, the ~~agency~~ Agency shall not increase the total number of permanently assigned or authorized motorized or self-propelled vehicles without legislative approval by the General Assembly.

~~(c)(1) There shall be established and maintained within the central garage fund a separate transportation equipment replacement account for the purposes stated in subsection (b) of this section. In fiscal year 2008, \$1,120,000.00, and thereafter an amount equal to two-thirds of one percent of the prior year transportation fund appropriation, but not less than \$1,120,000.00, shall be~~

~~transferred prior to August 1 from the transportation fund to the central garage fund and allocated to the transportation equipment replacement account, and beginning in fiscal year 2001, and thereafter, an amount not less than the sum of equipment depreciation expense and net equipment sales from the prior fiscal year, shall be allocated prior to August 1 from within the central garage fund to the transportation equipment replacement account. All expenditures from this account shall be appropriated by the general assembly and used exclusively for the purchase of equipment as authorized in subsection (b) of this section. For the purpose specified in subsection (b) of this section, the following amount shall be transferred from the Transportation Fund to the Central Garage Fund:~~

(A) in fiscal year 2019, \$1,318,442.00; and

(B) in subsequent fiscal years, at a minimum, the amount specified in subdivision (A) of this subdivision (1) as adjusted annually by increasing the previous fiscal year's amount by the percentage increase in the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) during the previous State fiscal year.

(2) Each fiscal year, the sum of the following shall be appropriated from the Central Garage Fund exclusively for the purpose specified in subsection (b) of this section:

(A) the amount transferred pursuant to subdivision (1) of this subsection;

(B) the amount of the equipment depreciation expense from the prior fiscal year; and

(C) the amount of the net equipment sales from the prior fiscal year.

(d) In each fiscal year, net income of the fund Fund earned during that fiscal year shall be retained in the fund Fund.

(e) The fiscal year of the central garage for For the purposes of computing net worth and net income, the fiscal year shall be the year ending June 30.

(f) For purposes of As used in this section, "equipment" means registered motor vehicles and highway maintenance equipment assigned to the central garage Central Garage.

(g) [Repealed.]

\* \* \* Town Highway Aid \* \* \*

Sec. 19. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

(a) General State aid to town highways.

(1) An annual appropriation to class 1, 2, and 3 town highways shall be made. This appropriation shall increase or decrease over the previous fiscal year's appropriation by the same percentage as any increase or decrease in the following, whichever is less:

(A) the ~~Transportation~~ year-over-year increase in the Agency's total appropriations in the previous fiscal year funded by Transportation Fund revenues, excluding the ~~town highway appropriations~~ appropriation for town highways under this subsection for that year; or

(B) the year-over-year increase in the State's total appropriations in the previous fiscal year of General Fund, Education Fund, and State Health Care Resources Fund monies.

(2) If the year-over-year change in appropriations specified in either subdivision (1)(A) or (B) of this subsection is negative, then the appropriation to town highways under this subsection shall be equal to the previous fiscal year's appropriation.

(3) The funds appropriated shall be distributed to towns as follows:

~~(1)~~(A) Six percent of the State's annual town highway appropriation shall be apportioned to class 1 town highways. The apportionment for each town shall be that town's percentage of class 1 town highways of the total class 1 town highway mileage in the State.

~~(2)~~(B) Forty-four percent of the State's annual town highway appropriation shall be apportioned to class 2 town highways. The apportionment for each town shall be that town's percentage of class 2 town highways of the total class 2 town highway mileage in the State.

~~(3)~~(C) Fifty percent of the State's annual town highway appropriation shall be apportioned to class 3 town highways. The apportionment for each town shall be that town's percentage of class 3 town highways of the total class 3 town highway mileage in the State.

~~(4)~~(D) Monies apportioned under subdivisions (1), (2), and (3) of this subsection shall be distributed to each town in quarterly payments beginning July 15 in each year.

~~(5)~~(E) Each town shall use the monies apportioned to it solely for town highway construction, improvement, and maintenance purposes or as the nonfederal share for public transit assistance. These funds may also be used for the establishment and maintenance of bicycle routes. The members of the selectboard shall be personally liable to the State, in a civil action brought by the Attorney General, for making any unauthorized expenditures from money apportioned to the town under this section.

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\* \* \*

\* \* \* Transportation Public-Private Partnerships \* \* \*

Sec. 20. 19 V.S.A. chapter 26 is amended to read:

CHAPTER 26. DESIGN-BUILD CONTRACTS AND PUBLIC-PRIVATE PARTNERSHIPS

Subchapter 1. Design-build Contracts

\* \* \*

Subchapter 2. Public-Private Partnership Pilot

§ 2611. PILOT ESTABLISHED; INTENT

(a)(1) The General Assembly hereby establishes a pilot program to authorize the Agency, for a time-limited period, to receive solicited and unsolicited proposals and to enter into P3 agreements if certain conditions are met.

(2) Nothing in this subchapter is intended to modify any obligations or rights under any other law.

(b) Before the authority conferred under this subchapter terminates, the General Assembly intends to:

(1) review whether and how the Agency has exercised the authority and whether the P3 agreements it has entered into have served the public interest; and

(2) determine whether the authority should terminate, be extended, or be amended.

(c) If the Agency's authority under this subchapter terminates, the General Assembly intends that:

(1) the Agency not have authority to pursue any proposal that has not resulted in a P3 agreement prior to termination of the Agency's authority; and

(2) any P3 agreement lawfully entered into prior to termination of the Agency's authority shall continue in effect after termination of the authority.

§ 2612. DEFINITIONS

As used in this subchapter:

(1) "Facility" means transportation infrastructure that is, or if developed, would be, within the jurisdiction of the Agency or eligible for federal-aid funding managed through the Agency.

(2) "Project" means the capital development of a facility.

(3) “Proposal” means a conditional offer of a private entity that, after review, negotiation, and documentation, and after legislative approval if required under this subchapter, may lead to a P3 agreement as provided in this subchapter.

(4) “Public-private partnership” or “P3” means an alternative project delivery mechanism that may be used by the Agency to permit private sector participation in a project, including in its financing, development, operation, management, ownership, leasing, or maintenance.

(5) “P3 agreement” means a contract or other agreement between the Agency and a private entity to undertake a project as a public-private partnership and that sets forth rights and obligations of the Agency and the private entity in that partnership.

#### § 2613. AUTHORITY

(a) The Agency is authorized to receive unsolicited proposals or to solicit proposals to undertake a project as a public-private partnership. The Agency shall develop, and have authority to amend, criteria to review and evaluate such proposals to determine if they are in the public interest and shall review and evaluate all proposals received in accordance with these criteria. In addition to other criteria that the Agency may develop, at minimum, the criteria shall require consideration of:

(1) the benefits of the proposal to the State transportation system and the potential impact to other projects currently prioritized in the most recently adopted Transportation Program;

(2) the extent to which a proposal would reduce the investment of State funds required to advance the project that the proposal addresses; and

(3) the extent to which a proposal would enable the State to receive additional federal funding that would not otherwise be available.

(b) If the Agency determines that a proposal is in the public interest:

(1) The Agency is authorized to enter into a P3 agreement with respect to the proposal without legislative approval if:

(A) the project has been approved in the most recently adopted Transportation Program; and

(B) total estimated State funding over the lifetime of the project will be less than \$2,000,000.00.

(2) For the following projects, the Agency is authorized to enter into a P3 agreement with respect to the proposal only if the Agency receives specific legislative approval to enter into the P3 agreement:

---

(A) a project that has not been approved in the most recently adopted Transportation Program; or

(B) a project for which total estimated State funding over the lifetime of the project will be \$2,000,000.00 or more.

§ 2614. LEGISLATIVE APPROVAL

If the Secretary determines that a proposal that requires legislative approval under section 2613 of this title is in the public interest and should be pursued, the Secretary shall submit to the General Assembly:

(1) a description of the proposal, including:

(A) a summary of the project scope and timeline;

(B) the rights and obligations of the State and private entity partner or partners, including the level of involvement of all partners in any ongoing operations, maintenance, and ownership of a facility;

(C) the nature and amount of State funding of the project and of any ongoing State financial responsibility for ongoing maintenance or operation costs; and

(D) its effect on any project in the most recent approved Transportation Program;

(2) a statement detailing how the proposal meets the Agency's criteria developed under this subchapter; and

(3) proposed legislation to confer authority to the Agency to enter into a P3 agreement with respect to the proposal.

§ 2615. REPORT

(a) Annually, on or before January 15, the Agency shall report to the House and Senate Committees on Transportation:

(1) for each P3 agreement entered into following legislative approval required under this subchapter, for as long as the agreement is in effect, a description of the current status of the project and of any substantive change to the P3 agreement since the prior year's report; and

(2) for each P3 agreement entered into since the prior year's report pursuant to section 2613 of this title that did not require legislative approval, a description of the P3 agreement and of the project.

(b) Notwithstanding 2 V.S.A. § 20(d), the annual report required under this section shall continue to be required unless the General Assembly takes specific action to repeal the report requirement.

\* \* \* Sunset of Transportation Public-Private Partnership Authority \* \* \*

Sec. 21. REPEAL OF TRANSPORTATION P3 AUTHORITY

19 V.S.A. §§ 2613 (Agency of Transportation's P3 authority) and 2614 (legislative approval of P3 proposals) shall be repealed on July 1, 2023.

\* \* \* Gasoline Assessments; Calculations; Data Retention \* \* \*

Sec. 22. 23 V.S.A. § 3106(a)(2) is amended to read:

(2) For the purposes of subdivision (1)(B) of this subsection, ~~the~~:

(A) The tax-adjusted retail price applicable for a quarter shall be the average of the retail price for regular gasoline collected and determined to three decimal places and published by the Department of Public Service for each of the three months of the preceding quarter after all federal and State taxes and assessments, and the petroleum distributor licensing fee established by 10 V.S.A. § 1942, applicable in each month have been subtracted from that month's retail price. Calculations of the tax-adjusted retail price applicable for a quarter shall be permanently maintained on the website of the Department of Public Service.

(B) In calculating assessment amounts under subdivisions (a)(1)(B)(i)(II) and (a)(1)(B)(ii)(II) of this section, the Department of Motor Vehicles shall calculate the amounts to four decimal places. The Department of Motor Vehicles shall permanently retain the records of its calculations, any corrections thereto, and the data that are the basis for the calculations.

\* \* \* Green Mountain Transit Authority; Name Update \* \* \*

Sec. 23. 24 V.S.A. § 5084 is amended to read:

§ 5084. PUBLIC TRANSIT ADVISORY COUNCIL

(a) The Public Transit Advisory Council shall be created by the Secretary of Transportation under 19 V.S.A. § 7(f)(5), to consist of the following members:

\* \* \*

(3) a representative of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority;

\* \* \*

Sec. 24. 24 App. V.S.A. chapter 801 is amended to read:

CHAPTER 801. ~~CHITTENDEN COUNTY TRANSPORTATION~~ GREEN MOUNTAIN TRANSIT AUTHORITY

§ 1. CREATION OF AUTHORITY

---

There is hereby created a transit authority to be known as the "~~Chittenden County Transportation~~ Green Mountain Transit Authority."

\* \* \*

### § 3. MEMBERSHIP IN THE AUTHORITY

Membership in the Authority shall consist of those municipalities which elect to join the Authority by majority vote of its voters present and voting on the question at an annual or special meeting duly warned for the purpose prior to July 1, 2010. Beginning on July 1, 2010, a municipality may hold an annual meeting or a special meeting for the purpose of determining through election by a majority vote of its voters present and voting on the question only if the municipality is specifically authorized to join the Authority either under section 12 of this chapter or by resolution duly passed by the ~~Chittenden County Transportation~~ Green Mountain Transit Authority Board of Commissioners. The initial meeting of a municipality called to determine whether or not to join the Authority shall be warned in the manner provided by law, except that for such meeting only, any warning need not be posted for a period in excess of 20 days, any other provision of law or municipal charter to the contrary notwithstanding. Membership may be terminated only in the manner provided in section 8 of this chapter.

\* \* \*

### § 11. ASSESSMENTS OF NEW MEMBERS OUTSIDE CHITTENDEN COUNTY

Municipalities outside Chittenden County that vote to join the ~~Chittenden County Transportation~~ Green Mountain Transit Authority on or after July 1, 2010 shall negotiate with the Board of Commissioners of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority on the amount of the levy to be assessed upon the municipality and terms of payment of that assessment; and the municipality may not join prior to agreement with the Authority on terms of the levy and payment. Upon the addition of one municipality to the membership of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority from outside Chittenden County, the Authority shall immediately begin work on the formula for assessment that will be approved in accordance with this chapter.

### § 12. MUNICIPALITIES AUTHORIZED TO VOTE FOR MEMBERSHIP IN THE ~~CHITTENDEN COUNTY TRANSPORTATION~~ GREEN MOUNTAIN TRANSIT AUTHORITY

The following municipalities are authorized to hold an election for the purpose of determining membership in the ~~Chittenden County Transportation~~ Green Mountain Transit Authority: Barre City, Berlin, Colchester, Hinesburg,



Montpelier, Morristown, Richmond, St. Albans City, Stowe, and Waterbury.

§ 13. OTHER REPRESENTATION

If Washington, Lamoille, Franklin, or Grand Isle County does not have a municipal member from its county on the Board of Commissioners of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority, the regional planning commission serving the ~~County~~ county may appoint a Board member to the ~~Chittenden County Transportation~~ Green Mountain Transit Authority from a member of its regional planning commission or regional planning commission staff to represent its interests on the ~~Chittenden County Transportation~~ Green Mountain Transit Authority Board.

\* \* \* Electric Vehicles; Public Service \* \* \*

Sec. 25. PUBLIC UTILITY COMMISSION; INVESTIGATION; ELECTRIC VEHICLE CHARGING

(a) After notice and opportunity for hearing, the Public Utility Commission (PUC or Commission) shall complete an investigation and issue a final order on or before July 1, 2019 concerning the charging of plug-in electric vehicles (EV).

(b) As used in this section, “electric distribution utility” means a company that delivers electric energy to retail customers over a pole-and-wire network.

(c) The Commission’s final order shall include:

(1) its findings, determinations, or recommendations on each of the following issues related to the role of electric distribution utilities:

(A) removal or mitigation, as appropriate, of barriers to EV charging, including strategies, such as time-of-use rates, to reduce operating costs for current and future EV users without shifting costs to ratepayers who do not own or operate EVs;

(B) strategies for managing the impact of EVs on and services provided by EVs to the electric transmission and distribution system;

(C) electric system benefits and costs of EV charging, electric utility planning for EV charging, and rate design for EV charging; and

(D) the appropriate role of electric distribution utilities with respect to the deployment and operation of EV charging stations;

(2) its findings or recommendations, or both, on each of the following issues related to EV charging stations owned or operated by persons other than electric distribution utilities:

---

(A) the recommended scope of the jurisdiction of the Commission, the Department of Public Service, and other State agencies over such stations;

(B) the appropriate oversight of the rates and prices charged by such stations, including the transparency to the consumer of those rates and prices; and

(C) the recommended billing and complaint procedures for such charging stations; and

(3) its findings or recommendations, or both, on each of the following issues:

(A) jointly with the Secretary of Transportation, recommended options to address how EV users pay toward the cost of maintaining the State's transportation infrastructure;

(B) the accuracy of electric metering and submetering technology for charging EVs;

(C) strategies to encourage EV usage at a pace necessary to achieve the goals of the State's Comprehensive Energy Plan and its greenhouse gas reduction goals, without shifting costs to electric ratepayers who do not own or operate EVs; and

(D) any other issues the Commission considers relevant to ensuring a fair, cost-effective, and accessible EV charging infrastructure that will be sufficient to meet increased deployment of EVs.

(d) During the course of the investigation and in its final order, the Commission shall identify recommendations on the issues identified in subsection (c) of this section that may require enabling legislation.

(e) The Commission shall submit copies of its final order to the House and Senate Committees on Transportation, the House Committee on Energy and Technology, and the Senate Committees on Finance and on Natural Resources and Energy.

\* \* \* All-terrain Vehicles; Enforcement \* \* \*

Sec. 26. 23 V.S.A. § 3507 is amended to read:

§ 3507. ENFORCEMENT; PENALTIES AND REVOCATION OF REGISTRATION

\* \* \*

(c) Law enforcement officers may conduct safety inspections on all-terrain vehicles stopped for other all-terrain vehicle law violations on the VASA Trail System. Safety inspections may also be conducted in a designated area by law

enforcement officials. A designated area shall be warned solely by blue lights either on a stationary all-terrain vehicle parked on a trail or on a cruiser parked at a roadside trail crossing.

\* \* \* All-terrain Vehicles; Operation Along Highways \* \* \*

Sec. 27. 23 V.S.A. § 3506 is amended to read:

§ 3506. OPERATION

(a) A person ~~may~~ shall only operate or permit an all-terrain vehicle owned by him or her or under his or her control to be operated in accordance with this chapter.

(b) An all-terrain vehicle ~~may~~ shall not be operated:

(1) Along a public highway ~~unless it~~ except if one or more of the following applies:

(A) the highway is not being maintained during the snow season or ~~unless;~~

(B) the highway has been opened to all-terrain vehicle travel by the selectboard or trustees or local governing body and is so posted by the municipality ~~except an;~~

(C) the all-terrain vehicle is being used for agricultural purposes ~~may be and is~~ operated not closer than three feet from the traveled portion of any highway for the purpose of traveling within the confines of the farm; or

(D) the all-terrain vehicle is being used by an employee or agent of an electric transmission or distribution company subject to the jurisdiction of the Public Utility Commission under 30 V.S.A. § 203 for utility purposes, including safely accessing utility corridors, provided that the all-terrain vehicle shall be operated along the edge of the roadway and shall yield to other vehicles.

\* \* \*

\* \* \* All-terrain Vehicles; Allocation of Fees and Penalties \* \* \*

Sec. 28. 23 V.S.A. § 3513 is amended to read:

§ 3513. LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT SERVICES

(a) The amount of ~~85~~ 90 percent of the fees and penalties collected under this ~~subchapter~~ chapter, except interest, is ~~hereby~~ allocated to the Agency of Natural Resources for use by the Vermont ATV Sportsman's Association (VASA) for development and maintenance of a Statewide ATV Trail Program, for trail liability insurance, and to contract for law enforcement services with

any constable, sheriff's department, municipal police department, the Department of Public Safety, and the Department of Fish and Wildlife for purposes of trail compliance pursuant to this chapter. The Departments of Public Safety and of Fish and Wildlife are authorized to contract with VASA to provide these law enforcement services. ~~The Agency of Natural Resources may retain for its use up to \$7,000.00 during each fiscal year to be used for administration of the State grant that supports this program.~~

(b) ~~The Office of the Secretary of Administration shall assist VASA with the procurement of trail liability and other related insurance.~~

\* \* \*

Sec. 29. 23 V.S.A. § 3513(a) is amended to read:

(a) The amount of ~~90~~ 85 percent of the fees and penalties collected under this chapter, except interest, is allocated to the Agency of Natural Resources for use by the Vermont ATV Sportsman's Association (VASA) for development and maintenance of a Statewide ATV Trail Program, for trail liability insurance, and to contract for law enforcement services with any constable, sheriff's department, municipal police department, the Department of Public Safety, and the Department of Fish and Wildlife for purposes of trail compliance pursuant to this chapter. The Departments of Public Safety and of Fish and Wildlife are authorized to contract with VASA to provide these law enforcement services.

\* \* \* Default Weight Limits on Town Highways \* \* \*

Sec. 30. 23 V.S.A. § 1392 is amended to read:

#### § 1392. GROSS WEIGHT LIMITS ON HIGHWAYS

Except as provided in section 1400 of this title, a person or corporation shall not operate or cause to be operated a motor vehicle in excess of the total weight, including vehicle, object, or contrivance and load, of:

(1) 16,000 pounds upon any bridge with a wood floor, wood subfloor, or wood stringers on a class 3 or 4 town highway or 20,000 pounds on a bridge with wood floor, wood subfloor, or wood stringers on a class 1 or 2 town highway unless otherwise posted by the selectboard of such town.

(2) 24,000 pounds, upon a class 2, 3, or 4 town highway or bridge with other than wood floor, in any town, or incorporated village, ~~or city~~.

\* \* \*

Sec. 31. 23 V.S.A. § 1393 is amended to read:

§ 1393. WEIGHT LIMITS IN INCORPORATED VILLAGES AND CITIES;  
ADOPTION BY TOWNS OR INCORPORATED VILLAGES OF  
STATE LIMITS; LIMITS ON CLASS 1 TOWN HIGHWAYS

(a)(1) On all highways in ~~an incorporated village or a~~ city, the legal load shall be as prescribed for the State Highway System in section 1392 of this title, unless otherwise restricted and posted by the local authorities, as provided in this subchapter.

(2) With the approval of the Secretary of Transportation, the ~~selectboard~~ legislative body of a town or incorporated village may designate any highway ~~in the town under its jurisdiction~~ to carry the same legal load as specified in section 1392 of this title for ~~the State highways~~ Highway System. When a certain highway has been so approved by the Secretary and the legislative body as to the legal load limit, then the Secretary shall have the highway posted for the legal load limit.

(3) ~~Notwithstanding the provisions of this chapter, Except as provided in subdivision 1392(1) of this title, State highway~~ Highway System weight limits as specified in section 1392 of this title shall apply to class 1 town highways.

\* \* \*

\* \* \* Signs Indicating Weight Limits \* \* \*

Sec. 32. 23 V.S.A. § 1394 is amended to read:

§ 1394. DESIGNATION OF CLASS 1 TOWN HIGHWAYS; SIGNS  
INDICATING LEGAL LOAD OFF STATE HIGHWAYS OR  
CLASS 1 TOWN HIGHWAYS

(a) The class 1 town highways connecting the State highways through cities, villages, or ~~municipalities~~ towns shall be designated by the State Transportation Board and marked by the ~~State~~ Secretary of Transportation.

(b) The ~~State~~ Secretary of Transportation shall have signs erected on each ~~road which town highway that~~ leads off the State Highway System stating the legal load of the town highway leading from, if the legal load of the town highway differs from the legal load on the State Highway System.

(c) If the legal load limit of a class 2, 3, or 4 town highway leading off a class 1 town highway differs from the legal load limit on the class 1 town highway, the Secretary of Transportation shall furnish a sign to the municipality where the class 1 town highway is located, as needed to indicate the legal load for each town highway leading from the class 1 town highway

that has a different legal load. The Secretary shall furnish the sign, and any replacement sign as may be needed, at no cost to the municipality. The municipality shall be responsible for erecting each sign furnished to it under this subsection on each town highway leading off a class 1 town highway that has a legal load limit that differs from the limit on the class 1 town highway.

\* \* \* Aircraft Fuel Tax \* \* \*

Sec. 33. 23 V.S.A. chapter 28 is amended to read:

CHAPTER 28. GASOLINE TAX

Subchapter 1. General Gasoline Tax

§ 3101. DEFINITIONS; SCOPE

(a) As used in this chapter:

(1) The term “distributor” as used in this subchapter shall mean a person, firm, or corporation who imports or causes to be imported gasoline or other motor fuel for use, distribution, or sale within the State, or any person, firm, or corporation who produces, refines, manufactures, or compounds gasoline or other motor fuel within the State for use, distribution, or sale. When a person receives motor fuel in circumstances ~~which~~ that preclude the collection of the tax from the distributor by reason of the provisions of the Constitution and laws of the United States, and thereafter sells or uses the motor fuel in the State in a manner and under circumstances as may subject the sale to the taxing power of the State, the person shall be considered a distributor and shall make the same reports, pay the same taxes, and be subject to all provisions of this subchapter relating to distributors of motor fuel.

(2) “Dealer” means any person who sells or delivers motor fuel into the fuel supply tanks of motor vehicles or aircraft owned or operated by others.

(3) “Motor vehicle” means any self-propelled vehicle using motor fuel on the public highways and registered or required to be registered for operation on these highways.

(b) As used in this subchapter:

(1) “gasoline “Gasoline or other motor fuel” or “motor fuel” includes aviation gasoline and shall not include the following:

(A) kerosene;

(B) clear or undyed diesel “fuel” as defined in section 3002 of this title;

(C) “railroad fuel” as defined in section 3002 of this title;

(D) aircraft jet fuel; or

(E) natural gas in any form.

(c) Except for “railroad fuel” taxed under section 3003 of this title, the taxation or exemption from taxation of dyed diesel fuel is not addressed under this title.

(4) ~~“Motor vehicle” means any self-propelled vehicle using motor fuel on the public highways and registered or required to be registered for operation on these highways.~~

\* \* \*

#### § 3105. RECORDS OF SALES AND IMPORTATIONS

(a)(1) A distributor shall keep a record of all sales of motor fuel, ~~which that~~ shall include the number of gallons sold, the date of sale, and also the number of gallons used by the distributor. With every consignment of motor fuel to a purchaser within the State, each distributor shall also deliver a written statement containing the date and the number of gallons delivered and the names of the purchaser and the seller. The distributor shall also keep a record of all importations of motor fuel, ~~which that~~ shall include the number of gallons imported and the date of importation.

(2) With respect to any sale, use, consignment, or importation of aviation gasoline, a distributor shall separately record the same information required under subdivision (1) of this subsection.

(3) The records and statements shall be preserved by distributors and purchasers, respectively, for a period of three years, and shall be offered for inspection upon verbal or written demand of the Commissioner or his or her agent.

\* \* \*

(d) A dealer shall keep a record of all purchases of motor fuel ~~which that~~ shall include the date of purchase, number of gallons, ~~and~~ the identity of the seller, and, if applicable, shall separately record this information with respect to the purchase of aviation gasoline. The records and statements shall be preserved for a period of three years. The record shall include daily motor fuel meter readings.

#### § 3106. IMPOSITION, RATE, AND PAYMENT OF TAX

(a)(1) Except for sales of motor fuels between distributors licensed in this State, which sales shall be exempt from the taxes and assessments authorized under this section, unless exempt under the laws of the United States at the time of filing the report required by section 3108 of this title, each distributor shall pay to the Commissioner:

---

\* \* \*

(4) The distributor shall also pay to the Commissioner the tax and assessments specified in this subsection upon each gallon of motor fuel used within the State by him or her.

(5) Monies collected on the sales and use of aviation gasoline pursuant to this subsection shall be used exclusively for aviation purposes consistent with 49 U.S.C. § 47133 and Federal Aviation Administration regulations and policies.

\* \* \*

(d) Since many nonresidents and residents drive to outdoor areas of Vermont in order to view our natural resources, to hunt and fish, and to use our natural resources for other healthful recreational purposes, it is the policy of this State that a portion of the gasoline tax shall be dedicated for the purpose of conserving and maintaining our natural resources. Therefore, beginning in fiscal year 1998, three-eighths of one cent of the tax collected under subsection (a) of this section, except for the tax collected on aviation gasoline, shall be transferred 76 percent to the Fish and Wildlife Fund and 24 percent to the Department of Forests, Parks and Recreation for natural resource management. Of the funds deposited in the Fish and Wildlife Fund, the interest earned by deposited funds and all funds remaining at the end of the fiscal year shall remain in the Fish and Wildlife Fund.

\* \* \*

#### § 3108. RETURNS

For the purpose of determining the amount of the tax levied and assessed, by the 25th day of each calendar month, each distributor shall send to the Commissioner upon a form prepared and furnished by him or her a statement or return under oath or affirmation, showing:

(1) both the number of gallons of motor fuel sold and the number of gallons of motor fuel used by the distributor during the preceding calendar month. ~~The report shall contain;~~

(2) separately, both the number of gallons of aviation gasoline sold and the number of gallons of aviation gasoline used by the distributor during the preceding calendar month; and

(3) any further information which that the Commissioner prescribes.

\* \* \*



Sec. 34. 23 V.S.A. § 1220a(b) is amended to read:

(b) The DUI Enforcement Special Fund shall consist of:

\* \* \*

(3) beginning May 1, 2013 and thereafter, \$0.0038 per gallon of the revenues raised by the motor fuel tax on gasoline imposed by chapter 28 of this title, except for the revenues raised by the tax on aviation gasoline; and

(4) any additional funds transferred or appropriated by the General Assembly.

Sec. 35. 5 V.S.A. § 211 is amended to read:

§ 211. APPROPRIATION FROM GASOLINE TAXES ON AIRCRAFT FUEL

Funds appropriated from the proceeds of the any tax on gasoline used in aircraft and capital development projects for aeronautical purposes are to aircraft fuel, including jet fuel and aviation gasoline, shall be expended under the direction of the Agency exclusively for aviation purposes consistent with 49 U.S.C. § 47133 and Federal Aviation Administration regulations and policies, including to provide:

(1) navigation aids to airmen or;

(2) marking, lighting, removal, or elimination of obstructions or hazards to flight; and to provide

(3) for the improvement of landing areas or facilities that are permanently established for the public use of aircraft or in any other way that will promote aviation in the State.

Sec. 36. 24 V.S.A. § 138 is amended to read:

§ 138. LOCAL OPTION TAXES

\* \* \*

(c) Any tax imposed under the authority of this section shall be collected and administered by the Department of Taxes, in accordance with State law governing such State tax or taxes; provided, however, that a sales tax imposed under this section shall be collected on each sale that is subject to the Vermont sales tax using a destination basis for taxation. A Except with respect to taxes collected on the sale of aviation jet fuel, a per-return fee of \$5.96 shall be assessed to compensate the Department for the costs of administration and collection, 70 percent of which shall be borne by the municipality, and 30 percent of which shall be borne by the State to be paid from the PILOT Special Fund. The fee shall be subject to the provisions of 32 V.S.A. § 605.

(d)(1) Of Except as provided in subsection (c) and subdivision (2) of this section with respect to taxes collected on the sale of aviation jet fuel, of the taxes collected under this section, 70 percent of the taxes shall be paid on a quarterly basis to the municipality in which they were collected, after reduction for the costs of administration and collection under subsection (c) of this section. Revenues received by a municipality may be expended for municipal services only, and not for education expenditures. Any remaining revenue shall be deposited into the PILOT Special Fund established by 32 V.S.A. § 3709.

(2)(A) Of the taxes collected under this section on the sale of aviation jet fuel, on a quarterly basis, 70 percent of the taxes shall be paid to the municipality in which they were collected, and 30 percent shall be deposited in the Transportation Fund.

(B) All revenues referenced in subdivision (A) of this subdivision (2) shall be used exclusively for aviation purposes consistent with 49 U.S.C. § 47133 and Federal Aviation Administration regulations and policies.

Sec. 37. 19 V.S.A. § 11 is amended to read:

#### § 11. TRANSPORTATION FUND

The Transportation Fund shall comprise the following:

\* \* \*

(4) monies received from the sales and use tax on aviation jet fuel and on natural gas used to propel a motor vehicle under 32 V.S.A. chapter 233, and from the portion of a local option tax on the sale of aviation jet fuel specified in 24 V.S.A. § 138;

\* \* \*

\* \* \* Petroleum Cleanup Fund; Releases of Aircraft Fuel \* \* \*

Sec. 38. 10 V.S.A. § 1941 is amended to read:

#### § 1941. PETROLEUM CLEANUP FUND

\* \* \*

(b) The Secretary may authorize disbursements from the Fund for the purpose of the cleanup and restoration of contaminated soil and groundwater caused by releases of petroleum, including aviation gasoline, from underground storage tanks and aboveground storage tanks, including air emissions for remedial actions, and for compensation of third parties for injury and damage caused by a release. This Fund shall be used for no other governmental purposes, nor shall any portion of the Fund ever be available to

borrow from by any branch of government; it being the intent of the General Assembly that this Fund and its increments shall remain intact and inviolate for the purposes set out in this chapter. Disbursements under this section may be made only for uninsured costs incurred after January 1, 1987 and for which a claim is made prior to July 1, 2019 and judged to be in conformance with prevailing industry rates. This includes:

\* \* \*

Sec. 39. 5 V.S.A. § 693 is amended to read:

§ 693. CONDITIONS

A municipality receiving grants from the State of Vermont shall meet such conditions as the Secretary:

(1) may establish with respect to maintenance and continued use of the subject airport site for aeronautical purposes; and

(2) shall establish in order to require the municipality to assist the State in identifying vendors that distribute, sell, or use aircraft jet fuel in the State in connection with the airport.

\* \* \* Passing Motor Vehicles and Vulnerable Users \* \* \*

Sec. 40. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS

(a) Passing motor vehicles generally. Motor vehicles proceeding in the same direction may be overtaken and passed only as follows:

(1) The driver of a motor vehicle overtaking another motor vehicle proceeding in the same direction may pass to its left at a safe distance, and when so doing shall exercise due care, shall not pass to the left of the center of the highway except as authorized in section 1035 of this title, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken motor vehicle shall give way to the right in favor of the overtaking motor vehicle and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(b) Passing Approaching or passing vulnerable users. The operator of a motor vehicle approaching or passing a vulnerable user as defined in subdivision 4(81) of this title shall exercise due care, which includes reducing speed and increasing clearance to a recommended distance of at least four feet, to pass the vulnerable user safely, and shall cross the center of the highway

only as provided in section 1035 of this title. A person who violates this subsection shall be subject to a civil penalty of not less than \$200.00.

(c) Approaching or passing certain stationary vehicles. The operator of a motor vehicle approaching or passing a stationary sanitation, maintenance, utility, or delivery vehicle with flashing lights shall exercise due care, which includes reducing speed and increasing clearance to a recommended distance of at least four feet, to pass the vehicle safely, and shall cross the center of the highway only as provided in section 1035 of this title. A person who violates this subsection shall be subject to a civil penalty of not less than \$200.00.

\* \* \* Effective Dates \* \* \*

#### Sec. 41. EFFECTIVE DATES

(a) This section and Secs. 2 (federal infrastructure funding), 16 (penalties for furnishing alcoholic beverages to minors), 20 (transportation public-private partnerships), 23–24 (Green Mountain Transit Authority name update), and 25 (PUC investigation; electric vehicle charging) shall take effect on passage.

(b) Secs. 30–32 (town highway weight limits; signs) and 33–37 (aircraft fuel taxes) shall take effect on January 1, 2019.

(c) Sec. 29, 23 V.S.A. § 3513(a) (sunset of change to ATV fee and penalty allocation) shall take effect on July 1, 2023.

(d) All other sections shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator MacDonald, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Transportation with the following amendments thereto:

First: By striking out Sec. 25 in its entirety and inserting in lieu thereof a new Sec. 25 to read:

#### Sec. 25. PUBLIC UTILITY COMMISSION; REPORT; ELECTRIC VEHICLE CHARGING

(a) After providing public notice and an opportunity for submission of written information and conducting one or more workshops, the Public Utility Commission (PUC or Commission) shall complete an evaluation and submit a written report on or before July 1, 2019 concerning the charging of plug-in electric vehicles (EV).

(b) As used in this section, “electric distribution utility” means a company that delivers electric energy to retail customers over a pole-and-wire network.

(c) The Commission shall provide direct notice of the opportunity and workshops described in subsection (a) of this section to the Agencies of Natural Resources and of Transportation, the Department of Public Service, each electric distribution utility, each efficiency entity appointed pursuant to 30 V.S.A. § 209(d) to deliver services to electric customers, and such other persons as the Commission may consider appropriate.

(d) The Commission’s report shall include:

(1) its analysis and recommendations on each of the following issues related to the role of electric distribution utilities:

(A) removal or mitigation, as appropriate, of barriers to EV charging, including strategies, such as time-of-use rates, to reduce operating costs for current and future EV users without shifting costs to ratepayers who do not own or operate EVs;

(B) strategies for managing the impact of EVs on and services provided by EVs to the electric transmission and distribution system;

(C) electric system benefits and costs of EV charging, electric utility planning for EV charging, and rate design for EV charging; and

(D) the appropriate role of electric distribution utilities with respect to the deployment and operation of EV charging stations;

(2) its analysis and recommendations on each of the following issues related to EV charging stations owned or operated by persons other than electric distribution utilities:

(A) how and on what terms, including quantity, pricing, and time of day, such charging stations will obtain electric energy to provide to EVs;

(B) what safety standards should apply to the charging of EVs;

(C) the recommended scope of the jurisdiction of the Commission, the Department of Public Service, and other State agencies over such stations;

(D) whether such stations will be free to set the rates or prices at which they provide electric energy to EVs, and any other issues relevant to the appropriate oversight of the rates and prices charged by such stations, including the transparency to the consumer of those rates and prices; and

(E) the recommended billing and complaint procedures for such charging stations; and

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(3) its analysis and recommendations on each of the following issues:

(A) jointly with the Secretary of Transportation, recommended options to address how EV users pay toward the cost of maintaining the State's transportation infrastructure, including consideration of methods to assess the impact of EVs on that infrastructure and how to calculate a charge based on that impact, the potential assessment of a charge to EVs as a rate per kilowatt hour delivered to an EV; varying such a charge by size and type of EV; and phasing in such a charge;

(B) the accuracy of electric metering and submetering technology for charging EVs;

(C) strategies to encourage EV usage at a pace necessary to achieve the goals of the State's Comprehensive Energy Plan and its greenhouse gas reduction goals, without shifting costs to electric ratepayers who do not own or operate EVs; and

(D) any other issues the Commission considers relevant to ensuring a fair, cost-effective, and accessible EV charging infrastructure that will be sufficient to meet increased deployment of EVs.

(e) During the course of the evaluation and in its report, the Commission shall identify recommendations on the issues identified in subsection (c) of this section that may require enabling legislation.

(f) The Commission shall submit copies of its report to the House and Senate Committees on Transportation, the House Committee on Energy and Technology, and the Senate Committees on Finance and on Natural Resources and Energy.

Second: In Sec. 33, 23 V.S.A. chapter 28, in section 3105, in subsection (d), in the third sentence, by striking out the words "The record shall include" and inserting in lieu thereof the following: "The Except for purchases of aviation gasoline, the record shall include"

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Transportation, as amended with the following amendments thereto:

First: By adding two new sections to be numbered Secs. 41 and 42 to read as follows:

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\* \* \* Motor Vehicle Inspections \* \* \*

Sec. 41. 23 V.S.A. § 1222 is amended to read:

§ 1222. INSPECTION OF REGISTERED VEHICLES

(a) Except for school buses, which shall be inspected as prescribed in section 1282 of this title, and motor buses as defined in subdivision 4(17) of this title, which shall be inspected twice during the calendar year at six-month intervals, all motor vehicles registered in this State shall be inspected once each year. Any motor vehicle, trailer, or semi-trailer not currently inspected in this State shall be inspected within 15 days ~~from~~ following the date of its registration in the State of Vermont.

(b)(1) The inspections shall be made at garages or qualified service stations, designated by the Commissioner as inspection stations, for the purpose of determining whether those motor vehicles are properly equipped and maintained in good mechanical condition; provided, however, the scope of the safety inspection of a motor vehicle other than a school bus or a commercial motor vehicle shall be limited to parts or systems that are relevant to the vehicle's safe operation, and such vehicles shall not fail the safety portion of the inspection unless the condition of the part or system poses or may pose a danger to the operator or to other highway users.

(2) The charges for such inspections made by garages or qualified service stations designated to conduct periodic inspections shall be subject to the approval of the Commissioner. If a fee is charged for inspection, it shall be based upon the hourly rate charged by each official inspection station or it may be a flat rate fee and, in either instance, the fee shall be prominently posted and displayed beside the official inspection station certificate. In addition, the official inspection station may disclose the State inspection certificate charge on the repair order as a separate item and collect the charge from the consumer.

\* \* \*

Sec. 42. RULEMAKING; TRANSITION

(a)(1) As soon as practicable after the effective date of this section, and not later than May 1, 2018, the Commissioner of Motor Vehicles (Commissioner) shall file with the Secretary of State a proposed amended rule governing motor vehicle inspections (C.V.R. 14-050-022) that:

(A) is consistent with the permissible scope of safety inspections under the amendments to 23 V.S.A. § 1222 in Sec. 41 of this act; and

(B) clarifies ambiguous language in the rule.

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(2) The amended rule described in subdivision (1) of this subsection shall be adopted so as to take effect no later than July 1, 2019.

(3) As soon as practicable after the effective date of this section, the Commissioner shall update the content of inspections conducted through the Automated Vehicle Inspection Program to exclude any requirement of C.V.R. 14-050-022 that is inconsistent with the permissible scope of safety inspections under the amendments to 23 V.S.A. § 1222 in Sec. 41 of this act, with the result that no vehicle will fail inspection as a result of any such inconsistent requirement.

(b) In the proposed rule amendments, the Commissioner may direct inspection stations to identify advisory, recommended repairs that are not required for the vehicle to pass inspection.

(c) Except as provided in subdivision (a)(2) and subsection (d) of this section, nothing in this section or Sec. 41 of this act is intended to affect the emissions-related requirements of the rule governing motor vehicle inspections.

(d) Notwithstanding 10 V.S.A. § 567 and C.V.R. 14-050-022, the Commissioner may establish criteria to allow vehicles that would otherwise fail inspection as a result of the emissions component of the inspection to pass inspection and receive an inspection sticker, provided that the vehicle satisfies all inspection requirements that are relevant to the vehicle's safe operation. The authority conferred in this subsection shall expire on January 15, 2019.

(e) As soon as practicable after the effective date of this section, the Commissioner of Motor Vehicles, in consultation with the Commissioner of Environmental Conservation, shall develop a program of waivers related to the emissions component of the State's inspection program that is consistent with the requirements of the Clean Air Act and its implementing regulations.

(f) On November 30, 2018, the Commissioners of Motor Vehicles and of Environmental Conservation shall send a written update to the Joint Transportation Oversight Committee that includes:

(1) a copy of any criteria developed under the authority granted in subsection (d) of this section;

(2) if the authority granted in subsection (d) of this section is exercised:

(A) whether the authority is still being exercised; and

(B) the number of conditional passes issued since the effective date of this section;



(3) a summary of the status of efforts to amend the Department's rule as required under subsection (a) of this section, and an estimate of the likely effective date of the amended rule if not yet adopted; and

(4) a summary of the status of the requirement to develop a program of waivers related to the emissions component of the State's inspection program and any efforts to educate consumers and inspection stations about issues related to emissions inspections, including: the availability of any such waivers; manufacturer warranties available for emissions components for certain vehicle models and model years; and vehicle readiness for emissions testing.

And by renumbering the remaining section to be numerically correct.

Second: In Sec. 43, EFFECTIVE DATES, by adding a new subsection (d) to read as follows:

(d) Secs. 41–42 (motor vehicle inspections) shall take effect on passage, except that notwithstanding 1 V.S.A. § 214, in Sec. 42, subsection (d) shall take effect retroactively on January 1, 2017.

And by relettering the remaining subsection to be alphabetically correct.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Transportation was amended as recommended by the Committee on Finance.

Thereupon, the recommendation of proposal of amendment of the Committee on Transportation, as amended was amended as recommended by the Committee on Appropriations on a roll call, Yeas 29, Nays 0.

Senator Ashe having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Balint, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

**Those Senators who voted in the negative were:** None.

**The Senator absent and not voting was:** Baruth.

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Thereupon, the proposal of amendment recommended by the Committee on Transportation, as amended, was agreed to and third reading of the bill was ordered on a roll call, Yeas 29, Nays 0.

Senator Mazza having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Balint, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

**Those Senators who voted in the negative were:** None.

**The Senator absent and not voting was:** Baruth.

### **Consideration Resumed; House Proposal of Amendment Concurred In S. 111.**

Consideration was resumed on Senate bill entitled:

An act relating to privatization contracts.

Thereupon, the pending question, Shall the Senate concur with the House proposal of amendment? was decided in the affirmative.

### **Proposals of Amendment; Third Reading Ordered**

#### **H. 571.**

Senator Clarkson, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 63, 7 V.S.A. § 278, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) A manufacturer or rectifier of vinous beverages that is licensed in ~~state~~ the State or ~~out-of-state~~ outside the State and holds valid state and federal permits and operates a winery in the United States may apply for a retail shipping license by filing with the ~~Department~~ Division of Liquor Control an application in a form required by the Commissioner accompanied by a copy of its in-state or out-of-state license and the fee provided in section 204 of this title.

Second: In Sec. 90, 31 V.S.A. § 654a, redesignated § 652, in subdivision (2)(C), after the words “A procedure adopted pursuant to this section shall” by inserting the words have the force of law and

Third: In Sec. 94, 31 V.S.A. § 658, redesignated § 656, in subsection (b), in the second sentence before the second occurrence of the following: “percent of gross receipts,” by striking out the number “1” and inserting in lieu thereof the following: ± one

Fourth: After Sec. 111, by inserting three new Secs. 112, 113, and 114 to read as follows:

Sec. 112. 7 V.S.A. § 660 is amended to read:

§ 660. ADVERTISING

(a) ~~A person shall not display on~~ Any outside billboards or signs ~~erected on the highway any that contain an advertisement of any kind~~ relating to alcoholic beverages, or indicate where alcoholic beverages may be procured shall comply with the requirements of 10 V.S.A. chapter 21. A person who violates any provision of this section shall be fined not more than \$100.00 nor less than \$10.00, for each offense, and a conviction for a violation shall be cause for revoking the person’s license issued under this title.

\* \* \*

Sec. 113. 13 V.S.A. § 2143 is amended to read:

§ 2143. NONPROFIT ORGANIZATIONS

(a)(1) Notwithstanding the provisions of this chapter, ~~a~~

(A) A nonprofit organization, as defined in 31 V.S.A. § 1201(5), may organize and execute, and an individual may participate in lotteries, raffles, or other games of chance for the purpose of raising funds to be used in charitable, religious, educational, and civic undertakings or used by fraternal organizations to provide direct support to charitable, religious, educational, or civic undertakings with which they are affiliated.

(B) A nonprofit organization, as defined in 31 V.S.A. § 1201(5), may organize and execute, and a member of that organization may participate in, lotteries, raffles, or other games of chance in which all of the proceeds are awarded as prizes to the members who participated. An individual who is not a member of the nonprofit organization shall not be allowed to participate in a lottery, raffle, or other game of chance organized under this subdivision (B).

(2) Except as provided in subsection (d) of this section, gambling machines and other mechanical devices described in section 2135 of this title shall not be ~~utilized~~ used under authority of this section.

\* \* \*

(d) Casino events shall be limited as follows:

\* \* \*

(4) As used in this subsection, “casino event” means an event held during any 24-hour period at which ~~any game of chance is a card tournament or casino table games, such as baccarat, blackjack, craps, poker, or roulette, or both are conducted except those.~~ Games of chance prohibited by subdivision 2135(a)(1) or (2) of this title- shall not be permitted at a “casino event.” A “casino event” shall not include a fair, bazaar, field days, agricultural exposition, or similar event that ~~utilizes~~ uses a wheel of fortune, chuck-a-luck, or other ~~such~~ games commonly conducted at such events, or break-open tickets, bingo, a lottery, or a raffle. “Card tournament” means an event during which participants, as individual players or members of a team, pay a fixed entry fee to play a series of card games, with the tournament winners determined based on the cumulative results of the games and the winners’ prizes determined as a portion of the proceeds from the entry fees.

(e) Games of chance shall be limited as follows:

(1) ~~All~~ Except as otherwise provided pursuant to subdivision (a)(1)(B) of this section, all proceeds raised by a game of chance shall be used exclusively for charitable, religious, educational, and civic undertakings after deducting:

\* \* \*

#### Sec. 114. EDUCATION AND OUTREACH

On or before November 15, 2018, the Attorney General shall update the gambling page on the Attorney General’s website to include the amendments to 13 V.S.A. § 2143 made pursuant to this act.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Ashe, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

In the *fourth* proposal of amendment by adding a new Sec. 115 to read as follows:

#### Sec. 115. LOTTERY AGENT SALES PRACTICES; INTEGRITY; REVIEW; REPORT

(a) The Commissioner of Liquor and Lottery shall conduct a review of:

(1) lottery prize winners by agency location to determine whether a disproportionate number of winning tickets sold by each lottery agent was purchased by the owner or of an employee of the agent, or by an immediate family member of the owner or of an employee of the agent; and

(2) the sales, fraud prevention, and security practices of each lottery agent to determine whether those practices are sufficient to preserve the integrity of the Lottery and to avoid the occurrence or appearance of illegitimate winnings by the owner or an employee of the agent, or by an immediate family member of the owner or of an employee of the agent.

(b) On or before October 1, 2018, the Commissioner shall submit a written report on the findings of the review conducted pursuant to subsection (a) of this section to the Joint Fiscal Committee.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, the proposals of amendment recommended by the Committee on Economic Development, Housing and General Affairs, as amended, was agreed to and third reading of the bill was ordered.

### **House Proposal of Amendment Concurred In with Amendment**

#### **S. 192.**

House proposal of amendment to Senate bill entitled:

An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 2405 is amended to read:

#### **§ 2405. COUNCIL HEARING AND SANCTION PROCEDURE**

(a) Generally. Except as otherwise provided in this subchapter, ~~the Council~~ all proceedings under this subchapter shall conduct its proceedings be conducted in accordance with the Vermont Administrative Procedure Act. This includes the ability to summarily suspend the certification of a law enforcement officer in accordance with 3 V.S.A. § 814(c).

(b) Prosecutor.

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(1) An Assistant Attorney General assigned by the Office of the Attorney General shall be responsible for prosecuting unprofessional conduct cases under this subchapter.

(2) The burden of proof shall be on the State to show by a preponderance of the evidence that a law enforcement officer has engaged in unprofessional conduct.

(c) Hearing officer.

(1) The Council shall appoint a hearing officer, who shall be an attorney admitted to practice law in this State, to conduct any unprofessional conduct hearing under this subchapter. The Council shall choose the hearing officer from a list of hearing officers provided by the Office of Professional Regulation.

(2) The hearing officer may administer oaths and exercise powers properly incidental to the conduct of the hearing.

(3) Any hearing officer sitting in an unprofessional conduct case shall do so impartially and without any ex parte knowledge of the case in controversy.

(4)(A) The hearing officer shall issue findings of fact and conclusions of law regarding the prosecutor's charges of unprofessional conduct.

(B) For the purposes of subdivision 2406(b)(1)(B) of this subchapter, the hearing officer shall determine at the hearing and shall include in his or her findings of fact whether there is a pending labor proceeding related to any unprofessional conduct that the hearing officer concludes a law enforcement officer committed.

(5)(A) The hearing officer shall report the findings of fact and conclusions of law to the Council within 30 days after the conclusion of the hearing, unless the Council grants an extension. The provisions of 3 V.S.A. § 811 regarding proposals for decision shall not apply to the hearing officer's report.

(B) The hearing officer's findings and conclusions shall be binding on the Council; provided, however, that the Council may request that the hearing officer make clarifications or additional findings.

(d) Council.

(1) The Council shall hold a sanction hearing based on the hearing officer's findings of fact and conclusions of law. Unless the Council grants an extension, the Council shall hold its sanction hearing within 30 days after the date the hearing officer reports his or her findings of fact and conclusions of

law to the Council or within 30 days after the date the hearing officer makes clarifications or additional findings under subdivision (c)(5)(B) of this section, whichever occurs later.

(2) Unless the Council grants an extension, the Council shall issue its sanction order within 10 days after its sanction hearing.

Sec. 2. 20 V.S.A. § 2406 is amended to read:

§ 2406. PERMITTED COUNCIL SANCTIONS

(a) Generally. The Council may impose any of the following sanctions on a law enforcement officer's certification upon its finding a hearing officer's conclusion that a law enforcement officer committed unprofessional conduct:

(1) written warning;

(2) suspension, but to run concurrently with the length and time of any suspension imposed by a law enforcement agency with an effective internal affairs program, which shall amount to suspension for time already served if an officer has already served a suspension imposed by his or her agency with such a program;

(3) revocation, with the option of recertification at the discretion of the Council; or

(4) permanent revocation.

(b) Intended revocation; temporary voluntary surrender.

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

(B) Within 10 business days ~~from~~ after the date of that ~~decision order~~, such an officer may voluntarily surrender his or her certification if the hearing officer determined under subdivision 2405(c)(4)(B) of this subchapter that there is a pending labor proceeding related to the Council's unprofessional conduct findings the hearing officer concluded the law enforcement officer committed.

(C) A voluntary surrender of an officer's certification shall remain in effect until the labor proceeding and all appeals are finally adjudicated or until the officer requests a final sanction hearing, whichever occurs first, and thereafter until the Council's final sanction hearing on the matter. At that hearing, the Council may modify its ~~findings and decision~~ sanction order on the basis of additional evidence set forth in the labor proceeding decision, but shall not be bound by any outcome of the labor proceeding.

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(2) If an officer fails to voluntarily surrender his or her certification in accordance with subdivision (1) of this subsection, the Council's original ~~findings and decision~~ sanction order shall take effect.

Sec. 3. 20 V.S.A. § 2410 is amended to read:

§ 2410. COUNCIL ADVISORY COMMITTEE

(a) Creation. There is created the Council Advisory Committee to provide advice to the Council regarding its duties under this subchapter.

(1) The Committee shall specifically:

(A) advise and assist the Council in developing procedures to ensure that allegations of unprofessional conduct by law enforcement officers are investigated fully and fairly, and to ensure that appropriate action is taken in regard to those allegations; and

(B) recommend to the Council any appropriate sanctions to impose on a law enforcement officer's certification upon a hearing officer's concluding that the law enforcement officer committed unprofessional conduct.

(2) The Committee shall be advisory only and shall not have any decision-making authority.

(b) Membership. The Committee shall be composed of five individuals appointed by the Governor. The Governor may solicit recommendations for appointments from the Chair of the Council.

(1) Four of these members shall be public members who during incumbency shall not serve and shall have never served as a law enforcement officer or corrections officer and shall not have an immediate family member who is serving or has ever served as either of those officers.

(2) One of these members shall be a retired law enforcement officer.

(c) Assistance. The Executive Director of the Council or designee shall attend Committee meetings as a resource for the Committee.

(d) Reimbursement. Members of the Committee ~~who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance~~ shall be entitled to per diem compensation and reimbursement of expenses ~~pursuant to~~ as permitted under 32 V.S.A. § 1010 for not more than ~~five~~ eight meetings per year. Such payments shall be derived from the budget of the Council.



Sec. 4. 2017 Acts and Resolves No. 56, Sec. 2 is amended to read:

Sec. 2. TRANSITIONAL PROVISIONS TO IMPLEMENT THIS ACT

(a) Effective internal affairs programs.

(1) Law enforcement agencies. On or before ~~July 1, 2018~~ January 1, 2019, each law enforcement agency shall adopt an effective internal affairs program in accordance with 20 V.S.A. § 2402(a) in Sec. 1 of this act.

(2) Vermont Criminal Justice Training Council. On or before ~~April 1, 2018~~ July 1, 2018, the Vermont Criminal Justice Training Council shall adopt an effective internal affairs program model policy in accordance with 20 V.S.A. § 2402(b) in Sec. 1 of this act.

(b) Alleged law enforcement officer unprofessional conduct. The provisions of 20 V.S.A. chapter 151, subchapter 2 (unprofessional conduct) in Sec. 1 of this act shall apply to law enforcement officer conduct alleged to have been committed on and after the effective date of that subchapter.

(c) Duty to disclose. The requirement for a former law enforcement agency to disclose the reason that a law enforcement officer is no longer employed by the agency as set forth in 20 V.S.A. § 2362a in Sec. 1 of this act shall not apply if there is a binding nondisclosure agreement prohibiting that disclosure that was executed prior to the effective date of that section.

(d) Council rules. The Vermont Criminal Justice Training Council may adopt rules in accordance with 20 V.S.A. § 2411 (Council rules) in Sec. 1 of this act, prior to the effective date of that section.

(e) Council Advisory Committee. The Governor shall make appointments to the Council Advisory Committee set forth in 20 V.S.A. § 2410 in Sec. 1 of this act prior to the effective date of that section.

(f) Annual report of Executive Director. Annually, on or before January 15, beginning in the year ~~2019~~ 2020 and ending in the year ~~2022~~ 2023, the Executive Director of the Vermont Criminal Justice Training Council shall report to the ~~General Assembly~~ House and Senate Committees on Government Operations regarding the Executive Director's analysis of the implementation of this act and any recommendations he or she may have for further legislative action.

(g) Council, OPR; joint report. On or before October 1, 2017, the Executive Director of the Vermont Criminal Justice Training Council and the Director of the Office of Professional Regulation (Office) shall consult with law enforcement stakeholders and report to the Senate and House Committees on Government Operations on a proposal for the Office to perform duties related to the professional regulation of law enforcement officers.

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Sec. 5. 2017 Acts and Resolves No. 56, Sec. 6 is amended to read:

Sec. 6. EFFECTIVE DATES

This act shall take effect on ~~July 1, 2018~~ January 1, 2019, except:

(1) this section and Sec. 2 (transitional provisions to implement this act) shall take effect on passage; and

(2) the following shall take effect on July 1, 2017:

(A) in Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council):

(i) § 2351 (creation and purpose of Council);

(ii) § 2351a (definitions);

(iii) § 2352 (Council membership);

(iv) § 2354 (Council meetings);

(v) § 2355 (Council powers and duties), except that subsection (a) shall take effect on ~~July 1, 2018~~ January 1, 2019;

(vi) § 2358 (minimum training standards; definitions); and

(vii) § 2362a (potential hiring agency; duty to contact former agency);

(B) Sec. 3, 20 V.S.A. § 1812 (definitions); and

(C) Sec. 4, 20 V.S.A. § 1922 (creation of State Police Advisory Commission; members; duties).

Sec. 6. 13 V.S.A. § 3251 is amended to read:

§ 3251. DEFINITIONS

As used in this chapter:

\* \* \*

(9) “Law enforcement officer” means a person certified as a law enforcement officer under the provisions of 20 V.S.A. chapter 151.

Sec. 7. 13 V.S.A. § 3259 is added to read:

§ 3259. SEXUAL EXPLOITATION OF A PERSON IN THE CUSTODY OF A LAW ENFORCEMENT OFFICER

(a) No law enforcement officer shall engage in a sexual act with a person whom the officer is detaining, arresting, or otherwise holding in custody or who the officer knows is being detained, arrested, or otherwise held in custody by another officer.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both.

Sec. 8. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1, 20 V.S.A. § 2405 (Council hearing and sanction procedure); 2, 20 V.S.A. § 2406 (permitted Council sanctions); and 3, 20 V.S.A. § 2410 (Council Advisory Committee) shall take effect on January 1, 2019.

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

An act relating to the Vermont Criminal Justice Training Council's professional regulation of law enforcement officers.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Pearson moved that the Senate concur in the House proposal of amendment with an amendment as follows:

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

Sec. 1. 20 V.S.A. § 2405 is amended to read:

§ 2405. COUNCIL HEARING AND SANCTION PROCEDURE

(a) Generally. Except as otherwise provided in this subchapter, ~~the Council~~ all proceedings under this subchapter shall ~~conduct its proceedings be~~ conducted in accordance with the Vermont Administrative Procedure Act. This includes the ability to summarily suspend the certification of a law enforcement officer in accordance with 3 V.S.A. § 814(c).

(b) Prosecutor.

(1) An Assistant Attorney General assigned by the Office of the Attorney General shall be responsible for prosecuting unprofessional conduct cases under this subchapter.

(2) The burden of proof shall be on the State to show by a preponderance of the evidence that a law enforcement officer has engaged in unprofessional conduct.

(c) Hearing officer.

(1) The Council shall appoint a hearing officer, who shall be an attorney admitted to practice law in this State, to conduct any unprofessional conduct hearing under this subchapter. The Council shall choose the hearing officer from a list of hearing officers provided by the Office of Professional Regulation.

(2) The hearing officer may administer oaths and exercise powers properly incidental to the conduct of the hearing.

(3) Any hearing officer sitting in an unprofessional conduct case shall do so impartially and without any ex parte knowledge of the case in controversy.

(4)(A) The hearing officer shall issue findings of fact and conclusions of law regarding the prosecutor's charges of unprofessional conduct.

(B) For the purposes of subdivision 2406(b)(1)(B) of this subchapter, the hearing officer shall determine at the hearing and shall include in his or her findings of fact whether there is a pending labor proceeding related to any unprofessional conduct that the hearing officer concludes a law enforcement officer committed.

(5) The hearing officer shall report the findings of fact and conclusions of law to a Council Disciplinary Panel within 30 days after the conclusion of the hearing, unless the Council grants an extension. The provisions of 3 V.S.A. § 811 regarding proposals for decision shall not apply to the hearing officer's report.

(d) Council Disciplinary Panel.

(1) The Council shall appoint on a case-by-case basis a Council Disciplinary Panel to make sanction recommendations based on the hearing officer's findings of fact and conclusions of law. The Panel shall comprise six members of the Council, at least half of whom shall not be law enforcement officers, and all of whom shall be balanced in regard to labor and management positions to the greatest extent practicable.

(2)(A) Unless the Council grants an extension, the Panel shall meet and make sanction recommendations within 10 days after the date the hearing officer reports his or her findings of fact and conclusions of law to the Panel.

(B) Unless the Council grants an extension, the Panel shall issue its sanction recommendations to the hearing officer within 10 days after its meeting.

(3) The hearing officer shall not be bound by the Panel's sanction recommendations, which shall be advisory only.

Sec. 2. 20 V.S.A. § 2406 is amended to read:

§ 2406. ~~PERMITTED COUNCIL~~ HEARING OFFICER SANCTIONS

(a) Generally. ~~The Council~~ Within 10 days after receiving the Council Disciplinary Panel's sanction recommendations, the hearing officer may impose any of the following sanctions on a law enforcement officer's

certification upon ~~its finding~~ his or her conclusion that a law enforcement officer committed unprofessional conduct:

(1) written warning;

(2) suspension, but to run concurrently with the length and time of any suspension imposed by a law enforcement agency with an effective internal affairs program, which shall amount to suspension for time already served if an officer has already served a suspension imposed by his or her agency with such a program;

(3) revocation, with the option of recertification at the discretion of the Council; or

(4) permanent revocation.

(b) Intended revocation; temporary voluntary surrender.

(1)(A) If, after ~~an evidentiary~~ a sanction hearing, the Council hearing officer intends to revoke a law enforcement officer's certification due to ~~its finding~~ his or her conclusion that the officer committed unprofessional conduct, the Council hearing officer shall issue ~~a decision~~ an order to that effect.

(B) Within 10 business days ~~from~~ after the date of that ~~decision order~~, such an officer may voluntarily surrender his or her certification if the hearing officer determined under subdivision 2405(c)(4)(B) of this subchapter that there is a pending labor proceeding related to the Council's unprofessional conduct findings the hearing officer concluded the law enforcement officer committed.

(C) A voluntary surrender of an officer's certification shall remain in effect until the labor proceeding and all appeals are finally adjudicated or until the officer requests a final sanction hearing, whichever occurs first, and thereafter until the Council's hearing officer's final sanction hearing on the matter. At that hearing, the Council hearing officer may modify ~~its findings and decision~~ his or her sanction order on the basis of additional evidence set forth in the labor proceeding decision, but shall not be bound by any outcome of the labor proceeding.

(2) If an officer fails to voluntarily surrender his or her certification in accordance with subdivision (1) of this subsection, the Council's hearing officer's original ~~findings and decision~~ sanction order shall take effect.

### Sec. 3. REPEAL

20 V.S.A. § 2410 (Council Advisory Committee) is repealed.

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Sec. 4. 2017 Acts and Resolves No. 56, Sec. 2 is amended to read:

Sec. 2. TRANSITIONAL PROVISIONS TO IMPLEMENT THIS ACT

(a) Effective internal affairs programs.

(1) Law enforcement agencies. On or before ~~July 1, 2018~~ January 1, 2019, each law enforcement agency shall adopt an effective internal affairs program in accordance with 20 V.S.A. § 2402(a) in Sec. 1 of this act.

(2) Vermont Criminal Justice Training Council. On or before ~~April 1, 2018~~ July 1, 2018, the Vermont Criminal Justice Training Council shall adopt an effective internal affairs program model policy in accordance with 20 V.S.A. § 2402(b) in Sec. 1 of this act.

(b) Alleged law enforcement officer unprofessional conduct. The provisions of 20 V.S.A. chapter 151, subchapter 2 (unprofessional conduct) in Sec. 1 of this act shall apply to law enforcement officer conduct alleged to have been committed on and after the effective date of that subchapter.

(c) Duty to disclose. The requirement for a former law enforcement agency to disclose the reason that a law enforcement officer is no longer employed by the agency as set forth in 20 V.S.A. § 2362a in Sec. 1 of this act shall not apply if there is a binding nondisclosure agreement prohibiting that disclosure that was executed prior to the effective date of that section.

(d) Council rules. The Vermont Criminal Justice Training Council may adopt rules in accordance with 20 V.S.A. § 2411 (Council rules) in Sec. 1 of this act, prior to the effective date of that section.

~~(e) Council Advisory Committee. The Governor shall make appointments to the Council Advisory Committee set forth in 20 V.S.A. § 2410 in Sec. 1 of this act prior to the effective date of that section. [Repealed.]~~

(f) Annual report of Executive Director. Annually, on or before January 15, beginning in the year ~~2019~~ 2020 and ending in the year ~~2022~~ 2023, the Executive Director of the Vermont Criminal Justice Training Council shall report to the ~~General Assembly~~ House and Senate Committees on Government Operations regarding the Executive Director's analysis of the implementation of this act and any recommendations he or she may have for further legislative action.

(g) Council, OPR; joint report. On or before October 1, 2017, the Executive Director of the Vermont Criminal Justice Training Council and the Director of the Office of Professional Regulation (Office) shall consult with law enforcement stakeholders and report to the Senate and House Committees on Government Operations on a proposal for the Office to perform duties related to the professional regulation of law enforcement officers.

Sec. 5. 2017 Acts and Resolves No. 56, Sec. 6 is amended to read:

Sec. 6. EFFECTIVE DATES

This act shall take effect on ~~July 1, 2018~~ January 1, 2019, except:

(1) this section and Sec. 2 (transitional provisions to implement this act) shall take effect on passage; and

(2) the following shall take effect on July 1, 2017:

(A) in Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council):

(i) § 2351 (creation and purpose of Council);

(ii) § 2351a (definitions);

(iii) § 2352 (Council membership);

(iv) § 2354 (Council meetings);

(v) § 2355 (Council powers and duties), except that subsection (a) shall take effect on ~~July 1, 2018~~ January 1, 2019;

(vi) § 2358 (minimum training standards; definitions); and

(vii) § 2362a (potential hiring agency; duty to contact former agency);

(B) Sec. 3, 20 V.S.A. § 1812 (definitions); and

(C) Sec. 4, 20 V.S.A. § 1922 (creation of State Police Advisory Commission; members; duties).

Sec. 6. 13 V.S.A. § 3251 is amended to read:

§ 3251. DEFINITIONS

As used in this chapter:

\* \* \*

(9) “Law enforcement officer” means a person certified as a law enforcement officer under the provisions of 20 V.S.A. chapter 151.

Sec. 7. 13 V.S.A. § 3259 is added to read:

§ 3259. SEXUAL EXPLOITATION OF A PERSON IN THE CUSTODY OF A LAW ENFORCEMENT OFFICER

(a) No law enforcement officer shall engage in a sexual act with a person whom the officer is detaining, arresting, or otherwise holding in custody or who the officer knows is being detained, arrested, or otherwise held in custody by another officer.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both.

Sec. 8. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Secs. 1, 20 V.S.A. § 2405 (Council hearing and sanction procedure) and 2, 20 V.S.A. § 2406 (permitted hearing officer sanctions) shall take effect on January 1, 2019; and

(2) Sec. 3 (repeal of 20 V.S.A. § 2410 (Council Advisory Committee)) shall take effect on July 1, 2018.

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

An act relating to the Vermont Criminal Justice Training Council's professional regulation of law enforcement officers.

Which was agreed to.

**Bills Passed in Concurrence with Proposals of Amendment**

House bills of the following titles were severally read the third time and passed in concurrence with proposals of amendment:

**H. 897.** An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support.

**H. 911.** An act relating to changes in Vermont's personal income tax and education financing system.

**Bill Passed in Concurrence**

**H. 927.**

House bill of the following title was read the third time and passed in concurrence:

An act relating to approval of amendments to the charter of the City of Montpelier.

**Third Reading Ordered**

**H. 916.**

Senator Clarkson, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

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

Reported that the bill ought to pass in concurrence.



Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass in concurrence.

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

**Rules Suspended; Bills Messaged**

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**S.192, H. 897, H. 911, H. 927.**

**Recess**

On motion of Senator Ashe the Senate recessed until 4:00 P.M.

**Called to Order**

The Senate was called to order by the President.

**Rules Suspended; Bill Passed in Concurrence with Proposals of  
Amendment; Bill Messaged**

**H. 917.**

Pending entry on the Calendar for action tomorrow, on motion of Senator Mazza, the rules were suspended and House bill entitled:

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

Was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

Thereupon, on motion of Senator Ashe, the rules were suspended and the bill was ordered messaged to the House forthwith.

**Proposal of Amendment; Third Reading Ordered**

**H. 663.**

Senator Collamore, for the Committee on Agriculture, to which was referred House bill entitled:

An act relating to municipal land use regulation of accessory on-farm businesses.

Reported recommending that the Senate propose to the House to amend the bill in Sec. 2, 24 V.S.A. § 4412, subdivision (11)(A)(i) (definition of accessory

on-farm business), by striking out subdivision (II) and inserting in lieu thereof a new subdivision (II) to read:

(II) Educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such events may include tours of the farm, farm stays, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products. As used in this subdivision (II), “farm stay” means a paid, overnight guest accommodation on a farm for the purpose of participating in educational, recreational, or social activities on the farm that feature agricultural practices or qualifying products, or both. A farm stay includes the option for guests to participate in such activities.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Bray, for the Committee on Natural Resources and Energy, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture with the following amendments thereto:

First: In Sec. 1 (purpose), after the words “General Assembly adopts” by inserting the following: Sec. 2 of

Second: Following Sec. 2, 24 V.S.A. § 4412, by inserting a new Sec. 3 to read as follows:

Sec. 3. 6 V.S.A. § 1113 is added to read:

§ 1113. ACCESSORY ON-FARM BUSINESSES; PESTICIDES; POSTING

When an agricultural pesticide is applied on a farm in an area in which an accessory on-farm business operates or conducts activity, the accessory on-farm business shall post the same warning signs that would be posted for agricultural workers under the rules of the U.S. Environmental Protection Agency adopted pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. chapter 6, subchapter II (environmental pest control). The manner and duration of posting shall be the same as under those rules. As used in this section:

(1) “Accessory on-farm business” and “farm” shall have the same meaning as in 24 V.S.A. § 4412(11).

(2) “Agricultural pesticide” means any pesticide labeled for use in or on a farm, forest, nursery, or greenhouse.

And by renumbering the remaining section to be numerically correct.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Agriculture was amended as recommended by the Committee on Natural Resources and Energy.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture?, as amended Senators Rodgers, Bray, Campion, MacDonald and Pearson moved to amend the proposal of amendment of the Committee on Agriculture, as amended, as follows:

By striking out Sec. 4 (effective date) in its entirety and inserting in lieu thereof the following:

#### Sec. 4. PURPOSE

The purpose of this section and Secs. 5–6 of this act is to amend the laws of Vermont regarding the cultivation of industrial hemp to conform with federal requirements for industrial hemp research set forth in section 7606 of the federal Agricultural Act of 2014, Pub. L. No. 113-79, codified at 7 U.S.C. § 5940.

Sec. 5. 6 V.S.A. chapter 34 is amended to read:

#### CHAPTER 34. HEMP

#### § 561. FINDINGS; INTENT

##### (a) Findings.

(1) Hemp has been continuously cultivated for millennia, is accepted and available in the global marketplace, and has numerous beneficial, practical, and economic uses, including: high-strength fiber, textiles, clothing, ~~bio-fuel~~ biofuel, paper products, protein-rich food containing essential fatty acids and amino acids, biodegradable plastics, resins, nontoxic medicinal and cosmetic products, construction materials, rope, and value-added crafts.

(2) The many agricultural and environmental beneficial uses of hemp include: livestock feed and bedding, stream buffering, erosion control, water and soil purification, and weed control.

(3) The hemp plant, an annual herbaceous plant with a long slender stem ranging in height from four to 15 feet and a stem diameter of one-quarter to three-quarters of an inch is morphologically distinctive and readily identifiable as an agricultural crop grown for the cultivation and harvesting of its fiber and seed.

(4) Hemp cultivation will enable the State of Vermont to accelerate economic growth and job creation, promote environmental stewardship, and expand export market opportunities.

(5) The federal Agricultural Act of 2014, Pub. L. No. 113-79 authorized the growing, cultivation, and marketing of industrial hemp, notwithstanding restrictions under the federal Controlled Substances Act, if certain criteria are satisfied.

(b) Purpose. The intent of this chapter is to establish policy and procedures for growing hemp in Vermont that comply with federal law so that farmers and other businesses in the Vermont agricultural industry can take advantage of this market opportunity.

#### § 562. DEFINITIONS

As used in this chapter:

(1) [Repealed.]

(2) “Hemp products” or “hemp-infused products” means all products made from hemp, including cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics, seed, seed meal, seed oil, and certified seed for cultivation.

(3) “Hemp” or “industrial hemp” means the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(4) “Secretary” means the Secretary of Agriculture, Food and Markets.

#### § 563. HEMP; AN AGRICULTURAL PRODUCT

~~Hemp~~ Industrial hemp is an agricultural product ~~which~~ that may be grown as a crop, produced, possessed, marketed, and commercially traded in Vermont pursuant to the provisions of this chapter. The cultivation of industrial hemp shall be subject to and comply with ~~the requirements of~~ the required agricultural practices adopted under section 4810 of this title.

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§ 564. REGISTRATION; ADMINISTRATION; PILOT PROJECT

(a) The Secretary shall establish a pilot program to research the growth, cultivation, and marketing of industrial hemp. Under the pilot program, the Secretary shall register persons who will participate in the pilot program through growing or cultivating industrial hemp. The Secretary shall certify the site where industrial hemp will be cultivated by each person registered under this chapter. A person who intends to participate in the pilot program and grow industrial hemp shall register with the Secretary and submit on a form provided by the Secretary the following:

(1) the name and address of the person;

(2) a statement that the seeds obtained for planting are of a type and variety that do not exceed the maximum concentration of tetrahydrocannabinol set forth in subdivision 562(3) of this title; and

(3) the location and acreage of all parcels sown and other field reference information as may be required by the Secretary.

(b) The form provided by the Secretary pursuant to subsection (a) of this section shall include a notice statement that, ~~until current federal law is amended to provide otherwise:~~

(1) cultivation and possession of industrial hemp in Vermont is a violation of the federal Controlled Substances Act unless the industrial hemp is grown, cultivated, or marketed under a pilot program authorized by section 7606 of the federal Agricultural Act of 2014, Pub. L. No. 113-79; and

(2) federal prosecution for growing hemp in violation of federal law may include criminal penalties, forfeiture of property, and loss of access to federal agricultural benefits, including agricultural loans, conservation programs, and insurance programs; and

(3) registrants may purchase or import hemp genetics from any state that complies with federal requirements for the cultivation of industrial hemp.

(c) A person registered with the Secretary pursuant to this section shall allow industrial hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected and tested by and at the discretion of the Secretary or his or her designee. The Secretary shall retain tests and inspection information collected under this section for the purposes of research of the growth and cultivation of industrial hemp.

(d) The Secretary may assess an annual registration fee of \$25.00 for the performance of his or her duties under this chapter.

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§ 566. RULEMAKING AUTHORITY

(a) The Secretary may adopt rules to provide for the implementation of this chapter and the pilot project authorized under this chapter, which may include rules to require hemp to be tested during growth for tetrahydrocannabinol levels and to require inspection and supervision of hemp during sowing, growing season, harvest, storage, and processing. The Secretary shall not adopt under this or any other section a rule that would prohibit a person to grow hemp based on the legal status of hemp under federal law.

(b) The Secretary shall adopt rules establishing how the Agency of Agriculture, Food and Markets will conduct research within the pilot program for industrial hemp.

(c) The Secretary shall adopt rules establishing requirements for the registration of processors of hemp and hemp-infused products.

Sec. 6. TRANSITION; IMPLEMENTATION

All persons registered prior to July 1, 2018 with the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 34 to grow or cultivate hemp shall be deemed to be registered with the Secretary of Agriculture, Food and Markets as participants in the industrial hemp pilot project established by this act under 6 V.S.A. § 564, and those previously registered persons shall not be required to reregister with the Secretary of Agriculture, Food and Markets.

Sec. 7. 6 V.S.A. §§ 567 and 568 are added to read:

§ 567. AGENCY OF AGRICULTURE, FOOD AND MARKETS; TESTING

The Agency of Agriculture, Food and Markets shall establish a cannabis quality control program for the following purposes:

(1) to develop potency and contaminant testing protocols for hemp and hemp-infused products;

(2) to verify cannabinoid label guarantees of hemp and hemp-infused products;

(3) to test for pesticides, solvents, heavy metals, mycotoxins, and bacterial and fungal contaminants in hemp and hemp-infused products; and

(4) to certify testing laboratories that can offer the services in subdivisions (2) and (3) of this section.

§ 568. TEST RESULTS; ENFORCEMENT

(a) If the Secretary or a dispensary registered under 18 V.S.A. chapter 86 tests a hemp crop and the hemp has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis, the person registered with the Secretary as growing the hemp crop shall:

(1) enter into an agreement with a dispensary registered under 18 V.S.A. chapter 86 for the separation of the delta-9 tetrahydrocannabinol from the hemp crop, return of the hemp crop to the person registered with the Secretary, and retention of the separated delta-9 tetrahydrocannabinol by the dispensary;

(2) sell the hemp crop to a dispensary registered under 18 V.S.A. chapter 86; or

(3) arrange for the Secretary to destroy or order the destruction of the hemp crop.

(b) A person registered with the Secretary as growing the hemp crop shall not be subject to civil, criminal, or administrative liability or penalty under 18 V.S.A. chapter 84 if the tested industrial hemp has a delta-9 tetrahydrocannabinol concentration of one percent or less on a dry weight basis.

(c) A crop or product confirmed by the Secretary to meet the definition of hemp under State or federal law may be sold or transferred in interstate commerce to the extent authorized by federal law.

Sec. 8. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, process, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief.

\* \* \*

(5) Acquire, possess, manufacture, process, transfer, transport, market, and test hemp provided by persons registered with the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 34 to grow or cultivate hemp.

\* \* \*

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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

An act relating to municipal regulation of accessory on-farm businesses and to hemp cultivation.

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Which was agreed to.

Thereupon, the proposal of amendment recommended by the Committee on Agriculture, as amended, was agreed to and third reading of the bill was ordered.

### **Proposal of Amendment; Third Reading Ordered**

#### **H. 707.**

Senator Balint, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to the prevention of sexual harassment.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 495h is amended to read:

§ 495h. SEXUAL HARASSMENT

(a)(1) All employers, employment agencies, and labor organizations have an obligation to ensure a workplace free of sexual harassment.

(2) All persons who engage a person to perform work or services have an obligation to ensure a working relationship with that person that is free from sexual harassment.

\* \* \*

~~(c)(1) Employers shall provide individual copies of their written policies to current employees no later than November 1, 1993, and to new employees upon their being hired. Employers who have provided individual written notice to all employees within the 12 months prior to October 1, 1993, shall be exempt from having to provide an additional notice during the 1993 calendar year.~~

(2) If an employer makes changes to its policy against sexual harassment, it shall provide to all employees a written copy of the updated policy.

\* \* \*

~~(f)(1) Employers and labor organizations are encouraged to conduct an education and training program within one year after September 30, 1993 for all current employees and members, and for all new employees and members thereafter within one year of commencement of employment, that includes at a minimum all the information outlined in this section within one year after commencement of employment.~~



(2) Employers and labor organizations are encouraged to conduct an annual education and training program for all employees and members that includes at a minimum all the information outlined in this section.

(3) Employers are encouraged to conduct additional training for current supervisory and managerial employees and members within one year of September 30, 1993, and for new supervisory and managerial employees and members within one year of after commencement of employment or membership, which should include at a minimum the information outlined in subsection (b) of this section and, the specific responsibilities of supervisory and managerial employees, and the methods actions that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints.

(4) Employers, labor organizations, and appropriate State agencies are encouraged to cooperate in making this training available.

(g)(1) An employer shall not require any employee or prospective employee, as a condition of employment, to sign an agreement or waiver that does either of the following:

(A) prohibits, prevents, or otherwise restricts the employee or prospective employee from opposing, disclosing, reporting, or participating in an investigation of sexual harassment; or

(B) except as otherwise permitted by State or federal law, purports to waive a substantive or procedural right or remedy available to the employee with respect to a claim of sexual harassment.

(2) Any provision of an agreement that violates subdivision (1) of this subsection shall be void and unenforceable.

(h)(1) An agreement to settle a claim of sexual harassment shall not prohibit, prevent, or otherwise restrict the employee from working for the employer or any parent company, subsidiary, division, or affiliate of the employer.

(2) An agreement to settle a sexual harassment claim shall expressly state that:

(A) it does not prohibit, prevent, or otherwise restrict the individual who made the claim from doing any of the following:

(i) lodging a complaint of sexual harassment committed by any person with the Attorney General, a State's Attorney, the Human Rights Commission, the Equal Employment Opportunity Commission, or any other State or federal agency;

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(ii) testifying, assisting, or participating in any manner with an investigation related to a claim of sexual harassment conducted by the Attorney General, a State's Attorney, the Human Rights Commission, the Equal Employment Opportunity Commission, or any other State or federal agency;

(iii) complying with a valid request for discovery in relation to civil litigation or testifying in a hearing or trial related to a claim of sexual harassment that is conducted by a court, pursuant to an arbitration agreement, or before another appropriate tribunal; or

(iv) exercising any right the individual may have pursuant to State or federal labor relations laws to engage in concerted activities with other employees for the purposes of collective bargaining or mutual aid and protection; and

(B) it does not waive any rights or claims that may arise after the date the settlement agreement is executed.

(3) Any provision of an agreement to settle a sexual harassment claim that violates subdivision (1) or (2) of this subsection shall be void and unenforceable with respect to the individual who made the claim.

(4) Nothing in subdivision (2) of this subsection shall be construed to prevent an agreement to settle a sexual harassment claim from waiving or releasing the claimant's right to seek or obtain any remedies relating to sexual harassment of the claimant by another party to the agreement that occurred before the date on which the agreement is executed.

(i)(1)(A)(i) For the purpose of assessing compliance with the provisions of this section, the Attorney General or designee, or, if the employer is the State, the Human Rights Commission or designee, may, with 48 hours' notice, at reasonable times and without unduly disrupting business operations enter and inspect any place of business or employment, question any person who is authorized by the employer to receive or investigate complaints of sexual harassment, and examine an employer's records, policies, procedures, and training materials related to the prevention of sexual harassment and the requirements of this section.

(ii) An employer may agree to waive or shorten the 48-hour notice period.

(iii) As used in this subsection (i), the term "records" includes de-identified data regarding the number of complaints of sexual harassment received and the resolution of each complaint.

(B) The employer shall at reasonable times and without unduly disrupting business operations make any persons who are authorized by the employer to receive or investigate complaints of sexual harassment and any records, policies, procedures, and training materials related to the prevention of sexual harassment and the requirements of this section available to the Attorney General or designee or, if the employer is the State, the Human Rights Commission or designee.

(2) Following an inspection and examination pursuant to subdivision (1) of this subsection (i), the Attorney General or the Human Rights Commission shall notify the employer of the results of the inspection and examination, including any issues or deficiencies identified, provide resources regarding practices and procedures for the prevention of sexual harassment that the employer may wish to adopt or utilize, and identify any technical assistance that the Attorney General or the Human Rights Commission may be able to provide to help the employer address any identified issues or deficiencies. If the Attorney General or the Human Rights Commission determines that it is necessary to ensure the employer's workplace is free from sexual harassment, the employer may be required, for a period of up to three years, to provide an annual education and training program that satisfies the provisions of subsection (f) of this section to all employees or to conduct an annual, anonymous working-climate survey, or both.

(3)(A) The Attorney General shall keep records, materials, and information related to or obtained through an inspection carried out pursuant to this subsection (i) confidential as provided pursuant to 9 V.S.A. § 2460(a)(4).

(B) The Human Rights Commission shall keep records, materials, and information related to or obtained through an inspection carried out pursuant to this subsection (i) confidential as provided pursuant to 9 V.S.A. § 4555.

(j) The Attorney General shall adopt rules as necessary to implement the provisions of this section.

Sec. 2. 21 V.S.A. § 495b is amended to read:

§ 495b. PENALTIES AND ENFORCEMENT

(a)(1) The Attorney General or a State's Attorney may enforce the provisions of this subchapter by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458-2461 as though an unlawful employment practice were an unfair act in commerce. Any employer, employment agency, or labor organization

complained against shall have the same rights and remedies as specified therein. The Superior Courts are authorized to impose the same civil penalties and investigation costs and to order other relief to the State of Vermont or an aggrieved employee for violations of this subchapter as they are authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the Superior Courts may order restitution of wages or other benefits on behalf of an employee and may order reinstatement and other appropriate relief on behalf of an employee.

(2) Any charge or formal complaint filed by the Attorney General or a State's Attorney against a person for unlawful discrimination or sexual harassment in violation of the provisions of this chapter shall include a statement setting forth the prohibition against retaliation pursuant to subdivision 495(a)(8) of this title.

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Sec. 3. 9 V.S.A. § 4552 is amended to read:

§ 4552. DUTIES; JURISDICTION

\* \* \*

(b)(1) The Commission shall have jurisdiction to investigate and enforce complaints of unlawful discrimination in violation of chapter 139 of this title, discrimination in public accommodations and rental and sale of real estate. The Commission shall also have jurisdiction when the party complained against is a State agency in matters for which the Attorney General would otherwise have jurisdiction under subsection (c) of this section.

(2) In any case relating to unlawful discrimination or sexual harassment in violation of 21 V.S.A. § 495 et seq. that the Commission has jurisdiction over pursuant to this subsection, it shall include a statement setting forth the prohibition against retaliation pursuant to 21 V.S.A. § 495(a)(8) with any formal complaint that is sent to a respondent.

(c) All complaints of unlawful discrimination in violation of 21 V.S.A. §§ 495 et seq. and 710, the Fair Employment Practices Act and the provisions for workers' compensation discrimination, respectively, and of 21 V.S.A. § 471 et seq. shall be referred to the Attorney General's office, for investigation and enforcement.

Sec. 4. ATTORNEY GENERAL; HUMAN RIGHTS COMMISSION;  
ENHANCED REPORTING OF DISCRIMINATION AND SEXUAL  
HARASSMENT

(a) On or before December 15, 2018, the Attorney General and the Human Rights Commission shall develop and implement enhanced mechanisms for

employees and members of the public to submit complaints of discrimination and sexual harassment in employment or in the course of a working relationship.

(b) The methods shall include, at a minimum, an easy-to-use portal on the Attorney General's or Human Rights Commission's website and a telephone hotline. Each method shall provide a clear statement that information submitted may be referred to the Office of the Attorney General, a State's Attorney, the Vermont Human Rights Commission, the Equal Employment Opportunity Commission, or another State or federal agency that has jurisdiction over the complaint.

Sec. 5. PUBLIC EDUCATION AND OUTREACH; VERMONT  
COMMISSION ON WOMEN

(a) On or before December 15, 2018, the Vermont Commission on Women, in consultation with the Attorney General and the Human Rights Commission, shall develop a public education and outreach program that is designed to make Vermont employees, employers, businesses, and members of the public aware of:

(1) methods for reporting employment and work-related discrimination and sexual harassment;

(2) where to find information regarding:

(A) the laws related to employment and work-related discrimination and sexual harassment; and

(B) best practices for preventing employment and work-related discrimination and sexual harassment; and

(3) methods for preventing and addressing sexual harassment in the workplace.

(b) The sum of \$125,000.00 is appropriated to the Vermont Commission on Women for the purpose of creating and implementing the public education and outreach program.

(c) The program may include:

(1) public service announcements;

(2) print and electronic advertisements;

(3) web-based and electronic training materials;

(4) printed informational and training materials;

(5) model educational programs and curricula; and

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(6) in-person seminars and workshops.

Sec. 6. REPORT REGARDING ENHANCED REPORTING MECHANISMS

On or before January 15, 2020, the Attorney General, in consultation with the Human Rights Commission and the Vermont Commission on Women, shall submit to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs a report regarding the implementation of the enhanced reporting mechanisms for instances of employment and work-related discrimination and sexual harassment. The report shall include:

(1) a detailed description of how any existing reporting mechanisms were enhanced and any new reporting mechanisms that were implemented;

(2) a summary of changes, if any, in the annual number of complaints of employment and work-related discrimination and sexual harassment received and the number of complaints resulting in an investigation, settlement, or State court action during calendar years 2018 and 2019 in comparison to calendar years 2016 and 2017;

(3) the number of employees and other persons that reported employment or work-related discrimination or sexual harassment to their employer, supervisor, or the person for whom they were working prior to making a complaint in comparison to the number that did not, and the reasons that employees and other persons gave for not reporting the discrimination or sexual harassment to their employer, supervisor, or the person for whom they were working prior to making a complaint; and

(4) any suggestion for legislative action to enhance further the reporting mechanisms or to reduce the amount of employment and work-related discrimination and sexual harassment.

Sec. 7. 21 V.S.A. § 495n is added to read:

§ 495n. SEXUAL HARASSMENT COMPLAINTS; NOTICE TO  
ATTORNEY GENERAL AND HUMAN RIGHTS COMMISSION

(a) A person that files a claim of sexual harassment pursuant to section 495b of this subchapter in which neither the Attorney General nor the Human Rights Commission is a party shall provide notice of the action to the Attorney General and the Human Rights Commission within 14 days after filing the complaint. The notice may be submitted electronically and shall include a copy of the filed complaint.

(b)(1) Upon receiving notice of a complaint in which the State is a party, the Human Rights Commission may elect to:

(A) intervene in the action to seek remedies pursuant to section 495b of this subchapter; or

(B) without becoming a party to the action, file a statement with the court addressing questions of law related to the provisions of this subchapter.

(2) Upon receiving notice of a complaint in which the State is not a party, the Attorney General may elect to:

(A) intervene in the action to seek remedies pursuant to section 495b of this subchapter; or

(B) without becoming a party to the action, file a statement with the court addressing questions of law related to the provisions of this subchapter.

#### Sec. 8. COMMISSIONER OF LABOR; POSTER

On or before September 15, 2018, the Commissioner of Labor shall update the model policy and model poster created pursuant to 21 V.S.A. § 495h(d) to reflect the provisions of this act.

Sec. 9. 3 V.S.A. § 348 is added to read:

#### § 348. PREVENTION OF SEXUAL HARASSMENT; TRAINING

The Secretary of Administration shall include in the terms and conditions of all contracts for services a requirement that the contractor shall:

(1) conduct an annual education and training program for all employees performing services pursuant to the contract that addresses, at a minimum, all of the information outlined in 21 V.S.A. § 495h;

(2) conduct an additional education and training program for all supervisory and managerial employees who are performing services pursuant to the contract or supervising or managing employees performing services pursuant to the contract that includes, at a minimum, the information outlined in 21 V.S.A. § 495h, the specific responsibilities of the supervisory and managerial employees with respect to the prevention of sexual harassment, and the actions that the employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints; and

(3) provide to the Secretary of Administration annual written certification of compliance with the sexual harassment prevention training requirements of this section.

#### Sec. 10. PRIOR HARASSMENT CLAIMS; IDENTIFICATION; RELEASE FROM NONDISCLOSURE AGREEMENT; REPORT

(a) On or before January 15, 2019, the Office of Legislative Council shall submit a written report to the Senate Committee on Economic Development,

Housing and General Affairs and the House Committee on General, Housing, and Military Affairs that examines mechanisms to:

(1) provide the Attorney General and the Human Rights Commission with notice of agreements to settle sexual harassment claims that contain a provision that prohibits or restricts the individual who made the claim from disclosing information related to the claim of sexual harassment; and

(2) render provisions of agreements to settle sexual harassment claims that prohibit or restrict the individual who made the claim from disclosing information related to the claim of sexual harassment void and unenforceable if, in relation to a separate claim, the alleged harasser is later adjudicated by a court or tribunal of competent jurisdiction to have engaged in sexual harassment or retaliation in relation to a claim of sexual harassment.

(b) In particular, the report shall:

(1) identify potential mechanism to accomplish the potential changes described in subdivisions (a)(1) and (2) of this section;

(2) review and examine laws and pending legislation in other states that are related to subdivisions (a)(1) and (2) of this section;

(3) identify and examine potential legal issues, advantages, disadvantages, and obstacles to the mechanisms identified; and

(4) identify and examine any alternative mechanisms that would accomplish substantially similar policy outcomes to the potential changes described in subdivisions (a)(1) and (2) of this section.

(c) The Office of Legislative Council shall consult with the Attorney General's Office and the Human Rights Commission when preparing this report.

(d) As used in this section, "information related to the claim of sexual harassment" does not include the specific terms of the related settlement agreement or the amount of any monetary settlement.

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Nitka, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:



First: In Sec. 5, public education and outreach, in subsection (b), after the words “Vermont Commission on Women” by inserting the following: from the General Fund in fiscal year 2018 to carry forward to fiscal year 2019

Second: By striking out Sec. 11, effective date, in its entirety and inserting in lieu thereof a new Sec. 11 to read as follows:

Sec. 11. EFFECTIVE DATES

(a) This section and, in Sec. 5, subsection (b) shall take effect on passage. The remaining provisions of Sec. 5 shall take effect on July 1, 2018.

(b) The remaining sections of this act shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs?, as amended Senators Balint, Baruth, Clarkson, Sirotkin and Soucy moved to amend the proposal of amendment of the Committee on Economic Development, Housing and General Affairs, as amended, by striking out Sec. 9, 3 V.S.A. § 348, in its entirety and inserting in lieu thereof:

Sec. 9. [Deleted.]

Which was agreed to.

Thereupon, the proposal of amendment recommended by the Committee on Economic Development, Housing and General Affairs, as amended, was agreed to and third reading of the bill was ordered.

**Proposal of Amendment; Third Reading Ordered**

**H. 728.**

Senator Sears, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to bail reform.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7551 is amended to read:

§ 7551. IMPOSITION OF BAIL, SECURED APPEARANCE BONDS, AND APPEARANCE BONDS; GENERALLY

(a) Bonds; generally. A bond given by a person charged with a criminal offense or by a witness in a criminal prosecution under section 6605 of this title, conditioned for the appearance of the person or witness before the court in cases where the offense is punishable by fine or imprisonment, and in appealed cases, shall be taken to the Criminal Division of the Superior Court where the prosecution is pending, and shall remain binding upon parties until discharged by the court or until sentencing. The person or witness shall appear at all required court proceedings.

(b) Limitation on imposition of bail, secured appearance bonds, and appearance bonds.

(1) No bond may be imposed Except as provided in subdivision (2) of this subsection, no bail, secured appearance bond, or appearance bond may be imposed:

(A) at the initial appearance of a person charged with a misdemeanor if the person was cited for the offense in accordance with Rule 3 of the Vermont Rules of Criminal Procedure; or

(B) at the initial appearance or upon the temporary release pursuant to Rule 5(b) of the Vermont Rules of Criminal Procedure of a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title.

(2) In the event the court finds that imposing bail is necessary to mitigate the risk of flight from prosecution for a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title, the court may impose bail in a maximum amount of \$200.00.

(3) This subsection shall not be construed to restrict the court's ability to impose conditions on such persons to reasonably ensure his or her appearance at future proceedings mitigate the risk of flight from prosecution or to reasonably protect the public in accordance with section 7554 of this title.

Sec. 2. Rule 3(k) of the Vermont Rules of Criminal Procedure is amended to read:

(k) Temporary Release. A Either a law enforcement officer arresting a person or the prosecuting attorney shall contact a judicial officer for determination of temporary release pursuant to Rule 5(b) of these rules without unnecessary delay. The law enforcement officer or prosecuting attorney shall

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provide the judicial officer with the information and affidavit or sworn statement required by Rule 4(a) of these rules.

Sec. 3. 13 V.S.A. § 7554 is amended to read:

§ 7554. RELEASE PRIOR TO TRIAL

(a) Release; conditions of release. Any person charged with an offense, other than a person held without bail under section 7553 or 7553a of this title, shall at his or her appearance before a judicial officer be ordered released pending trial in accordance with this section.

(1) The defendant shall be ordered released on personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer unless the judicial officer determines that such a release will not reasonably ~~ensure the appearance of the person~~ mitigate the risk of flight from prosecution as required. In determining whether the defendant presents a risk of ~~nonappearance~~ flight from prosecution, the judicial officer shall consider, in addition to any other factors, the seriousness of the offense charged and the number of offenses with which the person is charged. If the officer determines that ~~such a release will not reasonably ensure the appearance of the defendant as required~~ the defendant presents a risk of flight from prosecution, the officer shall, either in lieu of or in addition to the methods of release in this section, impose the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably ~~ensure the appearance~~ mitigate the risk of flight of the defendant as required:

(A) Place the defendant in the custody of a designated person or organization agreeing to supervise him or her if the defendant is charged with an offense that is not a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301.

(B) Place restrictions on the travel, or ~~association, or place of abode~~ of the defendant during the period of release.

(C) Require the defendant to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(D) ~~Require~~ Upon consideration of the defendant's financial means, ~~require~~ the execution of a secured appearance bond in a specified amount and the deposit with the clerk of the ~~Court~~ court, in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the appearance of the defendant as required.

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(E) ~~Require~~ Upon consideration of the defendant's financial means, require the execution of a surety bond with sufficient solvent sureties, or the deposit of cash in lieu thereof.

(F) Impose any other condition found reasonably necessary to ~~ensure appearance~~ mitigate the risk of flight as required, including a condition requiring that the defendant return to custody after specified hours.

(G) Place the defendant in a program of community-based electronic monitoring in accordance with section 7554d of this title.

(2) If the judicial officer determines that conditions of release imposed to ~~ensure appearance~~ mitigate the risk of flight will not reasonably protect the public, the judicial officer may impose in addition the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably ensure protection of the public:

(A) Place the defendant in the custody of a designated person or organization agreeing to supervise him or her if the defendant is charged with an offense that is not a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301.

(B) Place restrictions on the travel, association, or place of abode of the defendant during the period of release.

(C) Require the defendant to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(D) Impose any other condition found reasonably necessary to protect the public, except that a physically restrictive condition may only be imposed in extraordinary circumstances.

(E) ~~If the defendant is a State, county, or municipal officer charged with violating section 2537 of this title, the court may suspend~~ Suspend the officer's duties in whole or in part, if the defendant is a State, county, or municipal officer charged with violating section 2537 of this title and the court finds that it is necessary to protect the public.

(F) Place the defendant in a program of community-based electronic monitoring in accordance with section 7554d of this title.

(3) A judicial officer may order that a defendant not harass or contact or cause to be harassed or contacted a victim or potential witness. This order shall take effect immediately, regardless of whether the defendant is incarcerated or released.

(b) Judicial considerations in imposing conditions of release. In determining which conditions of release to impose ~~under subsection:~~

(1) In subdivision (a)(1) of this section, the judicial officer, on the basis of available information, shall take into account the nature and circumstances of the offense charged; the weight of the evidence against the accused; the accused's employment; financial resources, including the accused's ability to post bail; the accused's character and mental condition; the accused's length of residence in the community; and the accused's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

(2) In subdivision (a)(2) of this section, the judicial officer shall, on the basis of available information, shall take into account the nature and circumstances of the offense charged, the weight of the evidence against the accused, the accused's family ties, employment, ~~financial resources,~~ character and mental condition, the length of residence in the community, record of convictions, and record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings. Recent history of actual violence or threats of violence may be considered by the judicial officer as bearing on the character and mental condition of the accused.

(c) Order. A judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any; shall inform such person of the penalties applicable to violations of the conditions of release; and shall advise him or her that a warrant for his or her arrest will be issued immediately upon any such violation.

(d) Review of conditions.

(1) A person for whom conditions of release are imposed and who is detained as a result of his or her inability to meet the conditions of release or who is ordered released on a condition that he or she return to custody after specified hours, or the State, following a material change in circumstances, shall, within 48 hours ~~of following~~ application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A ~~person~~ party applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any Superior judge may review such conditions.

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(2) A person for whom conditions of release are imposed shall, within five working days of following application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A person applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any Superior judge may review such conditions.

(e) Amendment of order. A judicial officer ordering the release of a person on any condition specified in this section may at any time amend the order to impose additional or different conditions of release; provided that the provisions of subsection (d) of this section shall apply.

(f) Definition. The term “judicial officer” as used in this section and section 7556 of this title shall mean a clerk of a Superior Court or a Superior Court judge.

(g) Admissibility of evidence. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

(h) Forfeiture. Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security where if such disposition is authorized by the court.

(i) Forms. The Court Administrator shall establish forms for appearance bonds, secured appearance bonds, surety bonds, and for use in the posting of bail. Each form shall include the following information:

(1) The bond or bail may be forfeited in the event that the defendant or witness fails to appear at any required court proceeding.

(2) The surety or person posting bond or bail has the right to be released from the obligations under the bond or bail agreement upon written application to the judicial officer and detention of the defendant or witness.

(3) The bond will continue through sentencing in the event that bail is continued after final adjudication.

(j) Juveniles. Any juvenile between 14 and 16 years of age who is charged with a listed crime as defined in subdivision 5301(7) of this title shall appear before a judicial officer and be ordered released pending trial in accordance with this section within 24 hours of following the juvenile’s arrest.

Sec. 4. 13 V.S.A. § 7575 is amended to read:

§ 7575. REVOCATION OF THE RIGHT TO BAIL

The right to bail may be revoked entirely if the judicial officer finds that the accused has:

(1) intimidated or harassed a victim, potential witness, juror, or judicial officer in violation of a condition of release; or

(2) repeatedly violated conditions of release in a manner that impedes the prosecution of the accused; or

(3) violated a condition or conditions of release ~~which~~ that constitute a threat to the integrity of the judicial system; or

(4) without just cause, failed to appear at a specified time and place ordered by a judicial officer; or

(5) in violation of a condition of release, been charged with a felony or a crime against a person or an offense ~~like~~ similar to the underlying charge, for which, after hearing, probable cause is found.

Sec. 5. 13 V.S.A. § 7576 is amended to read:

§ 7576. DEFINITIONS

As used in this chapter:

\* \* \*

(9) “Flight from prosecution” means any action or behavior undertaken by a person charged with a criminal offense to avoid court proceedings.

Sec. 6. INCARCERATION RATES OF PEOPLE OF COLOR; STUDY COMMITTEE; REPORT

(a) Study Committee. The Commissioner of the Department of Corrections, the Commissioner of the Department of Public Safety, the Attorney General, the Executive Director of the Department of State’s Attorneys and Sheriffs, and the Director of the Vermont State Police shall meet during the 2018 legislative interim to examine data regarding people of color who are incarcerated in Vermont. To the extent possible, the Committee shall also review data regarding people of color incarcerated in Maine and New Hampshire.

(b) On or before October 15, 2018, the committee shall report to the Joint Legislative Justice Oversight Committee on:

(1) data regarding all nonwhite offenders in the custody of the Department of Corrections, including:

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(A) demographic information about the offender, including race and ethnicity and all known places of residence;

(B) the crime or crimes for which the offender is serving a sentence or being detained; and

(C) the length of the sentence being served by the offender or the length of his or her detention;

(2) sentence length comparison data between white and nonwhite offenders who committed the same offense; and

(3) comparison data among Vermont, Maine, and New Hampshire regarding sentence lengths and incarceration rates of people of color.

Sec. 7. 13 V.S.A. § 7554b is amended to read:

§ 7554b. HOME DETENTION PROGRAM

(a) Definition. As used in this section, “home detention” means a program of confinement and supervision that restricts a defendant to a preapproved residence continuously, except for authorized absences, and is enforced by appropriate means of surveillance and electronic monitoring by the Department of Corrections. The court may authorize scheduled absences such as for work, school, or treatment. Any changes in the schedule shall be solely at the discretion of the Department of Corrections. A defendant who is on home detention shall remain in the custody of the Commissioner of Corrections with conditions set by the court.

(b) Procedure. At the request of the court, the Department of Corrections, or the defendant, the status of a defendant who is detained pretrial in a correctional facility for ~~lack of~~ inability to pay bail after bail has been set by the court may be reviewed by the court to determine whether the defendant is appropriate for home detention. The review shall be scheduled upon the court’s receipt of a report from the Department determining that the proposed residence is suitable for the use of electronic monitoring. A defendant held without bail pursuant to section 7553 or 7553a of this title shall not be eligible for release to the Home Detention Program on or after June 1, 2018. At arraignment or after a hearing, the court may order that the defendant be released to the Home Detention Program, ~~providing~~ provided that the court finds placing the defendant on home detention will reasonably assure his or her appearance in court when required and the proposed residence is appropriate for home detention. In making such a determination, the court shall consider:

(1) the nature of the offense with which the defendant is charged;

(2) the defendant’s prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight; and



(3) any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.

\* \* \*

Sec. 8. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE;  
HOME DETENTION PROGRAM REVIEW

During the 2018 legislative interim, the Joint Legislative Justice Oversight Committee shall evaluate the Home Detention Program established under 13 V.S.A. § 7554b and recommend how to improve and expand the Program and what entity should manage the Program. Any resulting legislative recommendations shall be introduced as a bill in the 2019 legislative session.

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

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

**Proposal of Amendment; Third Reading Ordered**

**H. 731.**

Senator Sirotkin, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to miscellaneous workers' compensation and occupational safety amendments.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Workers' Compensation; Protection Against Retaliation \* \* \*

Sec. 1. 21 V.S.A. § 710 is amended to read:

§ 710. UNLAWFUL DISCRIMINATION

(a) No person, firm, or corporation shall refuse to employ any applicant for employment because ~~sueh~~ the applicant asserted a claim for workers' compensation benefits under this chapter or under the law of any state or of the United States. Nothing in this section shall require a person to employ an applicant who does not meet the qualifications of the position sought.

(b) No person shall discharge or discriminate against an employee from employment because ~~such~~ the employee asserted or attempted to assert a claim for benefits under this chapter or under the law of any state or of the United States.

(c) The Department shall not include in any publication or public report the name or contact information of any individual who has alleged that an employer has made a false statement or misclassified any employees, unless it is required by law or necessary to enable enforcement of this chapter.

(d) An employer shall not retaliate or take any other negative action against an individual because the employer knows or suspects that the individual has filed a complaint ~~with the Department or other authority~~, or reported a violation of this chapter, or has testified, assisted, or cooperated in any manner with the Department or other appropriate governmental agency or department in an investigation of misclassification, discrimination, or other violation of this chapter.

(e) The Attorney General or a State's Attorney may enforce the provisions of this section by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458-2461 as though ~~discrimination under a violation of this section~~ were an unfair act in commerce.

(f) The provisions against retaliation in subdivision 495(a)(8) of this title and the penalty and enforcement provisions of section 495b of this title shall apply to this ~~subchapter~~ section.

\* \* \* Workers' Compensation Administration Fund \* \* \*

## Sec. 2. WORKERS' COMPENSATION RATE OF CONTRIBUTION

For fiscal year 2019, after consideration of the formula in 21 V.S.A. § 711(b) and historical rate trends, the General Assembly has established that the rate of contribution for the direct calendar year premium for workers' compensation insurance shall remain at the rate of 1.4 percent. The contribution rate for self-insured workers' compensation losses and workers' compensation losses of corporations approved under 21 V.S.A. chapter 9 shall remain at one percent.

## Sec. 3. POTENTIAL DELEGATION OF RATE SETTING AUTHORITY; REPORT

On or before January 15, 2019, the Commissioner of Labor shall submit a written report to the House Committees on Commerce and Economic Development and on Ways and Means and the Senate Committees on Economic Development, Housing and General Affairs and on Finance regarding the potential for delegating the authority to set the Workers' Compensation Administration Fund rate of contribution for the direct calendar year premium for workers' compensation insurance to the Commissioner of Labor. In particular, the report shall:

(1) describe how the Department calculates the rate of contribution that it annually proposes to the General Assembly pursuant to 21 V.S.A. § 711(b);

(2) identify any advantages and disadvantages of the General Assembly's delegating to the Commissioner of Labor authority to establish annually the rate of contribution for the direct calendar year premium for workers' compensation insurance; and

(3) identify any legislative, regulatory, and administrative changes that would need to be made in order to delegate to the Commissioner the authority to establish annually the rate of contribution for the direct calendar year premium for workers' compensation insurance.

\* \* \* Discontinuance of Workers' Compensation Benefits \* \* \*

Sec. 4. 2014 Acts and Resolves No. 199, Sec. 54a is amended to read:

Sec. 54a. REPEAL

21 V.S.A. § 643a shall be repealed on July 1, ~~2018~~ 2023.

Sec. 5. 2014 Acts and Resolves No. 199, Sec. 69 is amended to read:

Sec. 69. EFFECTIVE DATES

\* \* \*

(b) Sec. 54b (reinstatement of current law governing discontinuance of workers' compensation insurance benefits) shall take effect on July 1, ~~2018~~ 2023.

\* \* \*

\* \* \* Vermont Occupational Safety and Health Act \* \* \*

Sec. 6. 21 V.S.A. § 225 is amended to read:

§ 225. CITATIONS

(a)(1) If, upon inspection or investigation, the Commissioner or the Director, or the agent of either of them, finds that an employer has violated a requirement of the VOSHA Code, the Commissioner shall with reasonable promptness issue a citation to the employer and serve it on the employer by certified mail or in the same manner as a summons to the Superior Court. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provisions of the statute, standard, rule, or order alleged to have been violated, as well as the penalty, if any, proposed to be assessed pursuant to section 210 of this title. In addition, the citation shall fix a reasonable time for the abatement of the violation.

(2) By rule, the Commissioner shall ~~prescribe~~ adopt procedures for issuance of a notice in lieu of a citation with respect to ~~de minimus~~ minimis violations ~~which~~ that have no direct or immediate relationship to safety or health, and for hearing interested parties before a civil penalty is assessed.

(b) Each citation issued under this section, or a copy or copies thereof ~~of the citation~~, shall be prominently posted, as prescribed in rules ~~promulgated~~ adopted by the Commissioner, at or near each place a violation referred to in the citation occurred or existed.

\* \* \*

Sec. 7. 21 V.S.A. § 226 is amended to read:

§ 226. ENFORCEMENT

(a)(1) ~~After issuing a citation under section 225 of this title, the Commissioner shall notify the employer by certified mail or by service by an agent, of the penalty, if any, proposed to be assessed under section 210 of this title. The An employer shall have, within 20 days after personal service or receipt of the notice within which to a citation issued under section 225 of this title, notify the Commissioner that he or she wishes to appeal the citation or proposed assessment of penalty, and if no notice is filed by.~~

(2) If an employer does not notify the Commissioner as provided in this subsection and an employee does not file a notice under subsection (c) of this section, the citation and assessment penalty, as proposed, shall be deemed a final order of the Review Board and not subject to review by any court or agency.

(b)(1)(A) ~~If the Commissioner on inspection or investigation finds that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the Review Board in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, or on the day the citation and assessment becomes final under subsection (a) of this section), the Commissioner shall notify the employer by certified mail of such the failure and of the penalty proposed to be assessed under section 210 of this title by reason of such the failure.~~

(B) The period to correct a violation shall begin to run:

(i) when a final order is entered by the Review Board in relation to review proceedings under this section that are initiated by an employer in good faith and not solely for delay or avoidance of penalties; or

(ii) on the day the citation and penalty become final under subsection (a) of this section.

(2) ~~The employer shall have 20 days after the receipt of the notice within which to notify the Commissioner that he or she wishes to appeal the Commissioner's notification citation or the proposed assessment of penalty. If within 20 days from the receipt of the notification issued by the Commissioner, the employer fails to notify the Commissioner that he or she intends to appeal the notification or proposed assessment of penalty, the notification citation and~~

assessment, as proposed, shall be deemed a final order of the Review Board and not subject to review by any court or agency.

(c) If an employer notifies the Commissioner that he or she intends to contest a citation issued under section 225 of this title ~~or notification issued under subsection (a) or (b) of this section~~, or if, within 20 days ~~of~~ after the issuance of a citation issued under section 225 of this title, any employee or representative of employees files a notice with the Commissioner alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Commissioner shall immediately advise the Review Board of ~~such~~ the notification and the Review Board shall afford an opportunity for a hearing. Unless ~~the~~ a notice is timely filed, the proposed penalty and, in appropriate cases, the ~~notification of the Commissioner citation~~ shall be deemed a final order of the Review Board not subject to review by any court or agency.

(d) After hearing an appeal, the Review Board shall ~~thereafter~~ issue an order based on findings of fact ~~affirming, modifying, or vacating~~ that affirms, modifies, or vacates the Commissioner's citation or proposed penalty, ~~or both, or directing~~ or provides other appropriate relief, ~~and the~~. The order shall become final 30 days after its issuance unless judicial review is timely taken under section 227 of this title. The rules of procedure ~~prescribed~~ adopted by the Review Board shall provide affected employees or their representatives with an opportunity to participate as parties in ~~hearings~~ a hearing under this subsection.

\* \* \* Report on Debarment \* \* \*

#### Sec. 8. DEBARMENT; OFFICE OF LEGISLATIVE COUNCIL; REPORT

(a) On or before January 15, 2019, the Office of Legislative Council shall submit to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development a written report on the use of debarment in relation to the laws against employee misclassification. In particular, the report shall:

(1) summarize Vermont's laws, rules, and procedures related to debarment, including the violations that can trigger a debarment proceeding;

(2) describe the use of Vermont's debarment procedures and why they have not been used more frequently to date;

(3) identify any obstacles that prevent or hinder the use of Vermont's debarment procedures;

(4) summarize the actions taken by the Agencies of Administration and of Transportation and the Departments of Labor, of Financial Regulation, and of Buildings and General Services to utilize debarment to ensure that the State is not contracting with employers that misclassify employees in violation of Vermont law;

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(5) identify other states that utilize debarment as a means of enforcing the laws against employee misclassification and summarize the manner and frequency of debarment proceedings in those states;

(6) summarize specific characteristics of other states' laws, rules, and procedures related to debarment that have been identified as either enhancing or limiting their effectiveness in enforcing those states' laws against employee misclassification; and

(7) summarize any legislative, regulatory, or administrative changes that are identified by the Agency of Administration, Agency of Transportation, Department of Labor, Department of Financial Regulation, or Department of Buildings and General Services as necessary to make debarment a more effective tool for reducing the occurrence of and enforcing the laws against employee misclassification.

(b) In preparing the report, the Office of Legislative Council shall consult with the Agencies of Administration and of Transportation and the Departments of Labor, of Financial Regulation, and of Buildings and General Services.

(c) The Secretaries of Administration and of Transportation and the Commissioners of Labor, of Financial Regulation, and of Buildings and General Services shall, upon request, promptly provide the Office of Legislative Council with any pertinent information related to debarment procedures and the use of debarment as a means of enforcing Vermont's laws against employee misclassification.

\* \* \* Effective Dates \* \* \*

#### Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 4, 5, 6, and 7 shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Sirotkin, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Economic Development, Housing and General Affairs.

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

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**Proposal of Amendment; Third Reading Ordered****H. 764.**

Senator Sirotkin, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to data brokers and consumer protection.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND INTENT

(a) The General Assembly finds the following:

(1) Providing consumers with more information about data brokers, their data collection practices, and the right to opt out.

(A) While many different types of business collect data about consumers, a “data broker” is in the business of aggregating and selling data about consumers with whom the business does not have a direct relationship.

(B) A data broker collects many hundreds or thousands of data points about consumers from multiple sources, including: Internet browsing history; online purchases; public records; location data; loyalty programs; and subscription information. The data broker then scrubs the data to ensure accuracy; analyzes the data to assess content; and packages the data for sale to a third party.

(C) Data brokers provide information that is critical to services offered in the modern economy, including: targeted marketing and sales; credit reporting; background checks; government information; risk mitigation and fraud detection; people search; decisions by banks, insurers, or others whether to provide services; ancestry research; and voter targeting and strategy by political campaigns.

(D) While data brokers offer many benefits, there are also risks associated with the widespread aggregation and sale of data about consumers, including risks related to consumers’ ability to know and control information held and sold about them and risks arising from the unauthorized or harmful acquisition and use of consumer information.

(E) There are important differences between “data brokers” and businesses with whom consumers have a direct relationship.

(i) Consumers who have a direct relationship with traditional and e-commerce businesses may have some level of knowledge about and control over the collection of data by those business, including: the choice to use the business’s products or services; the ability to review and consider data collection policies; the ability to opt out of certain data collection practices; the ability to identify and contact customer representatives; the ability to pursue contractual remedies through litigation; and the knowledge necessary to complain to law enforcement.

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(ii) By contrast, consumers may not be aware that data brokers exist, who the companies are, or what information they collect, and may not be aware of available recourse.

(F) The State of Vermont has the legal authority and duty to exercise its traditional “Police Powers” to ensure the public health, safety, and welfare, which includes both the right to regulate businesses that operate in the State and engage in activities that affect Vermont consumers as well as the right to require disclosure of information to protect consumers from harm.

(G) To provide consumers with necessary information about data brokers, Vermont should adopt a narrowly tailored definition of “data broker” and require data brokers to register annually with the Secretary of State and provide information about their data collection activities, opt out policies, purchaser credentialing practices, and security breaches.

(2) Ensuring that data brokers have adequate security standards.

(A) News headlines in the past several years demonstrate that large and sophisticated businesses, governments, and other public and private institutions are constantly subject to cyberattacks, which have compromised sensitive personal information of literally billions of consumers worldwide.

(B) While neither government nor industry can prevent every security breach, the State of Vermont has the authority and the duty to enact legislation to protect its consumers where possible.

(C) One approach to protecting consumer data has been to require government agencies and certain regulated businesses to adopt an “information security program” that has “appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records” and “to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm.” Federal Privacy Act; 5 U.S.C. § 552a.

(D) The requirement to adopt such an information security program currently applies to “financial institutions” subject to the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq; to certain entities regulated by the Vermont Department of Financial Regulation pursuant to rules adopted by the Department; to persons who maintain or transmit health information regulated by the Health Insurance Portability and Accountability Act; and to various types of businesses under laws in at least 13 other states.

(E) Vermont can better protect its consumers from data broker security breaches and related harm by requiring data brokers to adopt an information security program with appropriate administrative, technical, and physical safeguards to protect sensitive personal information.

(3) Prohibiting the acquisition of personal information through fraudulent means or with the intent to commit wrongful acts.



(A) One of the dangers of the broad availability of sensitive personal information is that it can be used with malicious intent to commit wrongful acts, such as stalking, harassment, fraud, discrimination, and identity theft.

(B) While various criminal and civil statutes prohibit these wrongful acts, there is currently no prohibition on acquiring data for the purpose of committing such acts.

(C) Vermont should create new causes of action to prohibit the acquisition of personal information through fraudulent means, or for the purpose of committing a wrongful act, to enable authorities and consumers to take action.

(4) Removing financial barriers to protect consumer credit information.

(A) In one of several major security breaches that have occurred in recent years, the names, Social Security numbers, birth dates, addresses, driver's license numbers, and credit card numbers of over 145 million Americans were exposed, including over 247,000 Vermonters.

(B) In response to concerns about data security, identity theft, and consumer protection, the Vermont Attorney General and the Department of Financial Regulation have outlined steps a consumer should take to protect his or her identity and credit information. One important step a consumer can take is to place a security freeze on his or her credit file with each of the national credit reporting agencies.

(C) Under State law, when a consumer places a security freeze, a credit reporting agency issues a unique personal identification number or password to the consumer. The consumer must provide the PIN or password, and his or her express consent, to allow a potential creditor to access his or her credit information.

(D) Except in cases of identity theft, current Vermont law allows a credit reporting agency to charge a fee of up to \$10.00 to place a security freeze, and up to \$5.00 to lift temporarily or remove a security freeze.

(E) Vermont should exercise its authority to prohibit these fees to eliminate any financial barrier to placing or removing a security freeze.

(b) Intent.

(1) Providing consumers with more information about data brokers, their data collection practices, and the right to opt out. It is the intent of the General Assembly to provide Vermonters with access to more information about the data brokers that collect consumer data and their collection practices by:

(A) adopting a narrowly tailored definition of "data broker" that:

(i) includes only those businesses that aggregate and sell the personal information of consumers with whom they do not have a direct relationship; and

(ii) excludes businesses that collect information from their own customers, employees, users, or donors, including: banks and other financial institutions; utilities; insurers; retailers and grocers; restaurants and hospitality businesses; social media websites and mobile “apps”; search websites; and businesses that provide services for consumer-facing businesses and maintain a direct relationship with those consumers, such as website, “app,” and e-commerce platforms; and

(B) requiring a data broker to register annually with the Secretary of State and make certain disclosures in order to provide consumers, policy makers, and regulators with relevant information.

(2) Ensuring that data brokers have adequate security standards. It is the intent of the General Assembly to protect against potential cyber threats by requiring data brokers to adopt an information security program with appropriate technical, physical, and administrative safeguards.

(3) Prohibiting the acquisition of personal information with the intent to commit wrongful acts. It is the intent of the General Assembly to protect Vermonters from potential harm by creating new causes of action that prohibit the acquisition or use of personal information for the purpose of stalking, harassment, fraud, identity theft, or discrimination.

(4) Removing financial barriers to protect consumer credit information. It is the intent of the General Assembly to remove any financial barrier for Vermonters who wish to place a security freeze on their credit report by prohibiting credit reporting agencies from charging a fee to place or remove a freeze.

Sec. 2. 9 V.S.A. chapter 62 is amended to read:

## CHAPTER 62. PROTECTION OF PERSONAL INFORMATION

### Subchapter 1. General Provisions

#### § 2430. DEFINITIONS

~~The following definitions shall apply throughout this chapter unless otherwise required~~ As used in this chapter:

(1) “Biometric record” means an individual’s psychological, biological, or behavioral characteristics that can be used, singly or in combination with each other or with other identifying data, to establish individual identity, including:

(A) imagery of the iris, retina, fingerprint, face, hand, palm, or vein patterns, and voice recordings, from which an identifier template, such as a face print or a minutiae template or voiceprint, can be extracted;

(B) keystroke patterns or rhythms;

(C) gait patterns or rhythms; and

(D) sleep health or exercise data that contain identifying information.

(2)(A) “Brokered personal information” means:

(i) one or more of the following computerized data elements about a consumer:

(I) name;

(II) address;

(III) a personal identifier, including a Social Security number, other government-issued identification number, or biometric record;

(IV) an indirect identifier, including date of birth, place of birth, or mother’s maiden name; or

(V) other information that, alone or in combination, is linked or linkable to the consumer that would allow a reasonable person to identify the consumer with reasonable certainty; and

(ii) the computerized data element or elements are:

(I) categorized by characteristic for dissemination to third parties; or

(II) combined with nonpublic information.

(B) “Brokered personal information” does not include publicly available information that is solely related to a consumer’s business or profession.

(3) “Business” means a commercial entity, including a sole proprietorship, partnership, corporation, association, limited liability company, or other group, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the laws of this State, any other state, the United States, or any other country, or the parent, affiliate, or subsidiary of a financial institution, but ~~in no case shall it~~ does not include the State, a State agency, or any political subdivision of the State, or a vendor acting solely on behalf of, and at the direction of, the State.

(2)(4) “Consumer” means an individual residing in this State.

(5)(A) “Data broker” means:

(i) A business that:

(I) provides people search services; or

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(II) collects and sells or licenses to one or more third parties the brokered personal information of a consumer with whom the business does not have a direct relationship.

(ii) “Data broker” includes each affiliated business that is under common ownership or control if one business collects brokered personal information and provides it to another to sell or license.

(B) “Data broker” does not include:

(i) a business that solely develops or maintains third-party e-commerce or application platforms; or

(ii) a business that solely provides publicly available information via real-time or near-real-time alert services for health or safety purposes.

(C) For purposes of subdivision (5)(A)(i)(II) of this subsection, examples of a direct relationship with a business include if the consumer is a past or present:

(i) customer, client, subscriber, or user of the business’s goods or services;

(ii) employee, contractor, or agent of the business;

(iii) investor in the business; or

(iv) donor to the business.

(D) For purposes of subdivision (5)(A)(i)(II) of this subsection, a business does not sell or license brokered personal information within the meaning of the definition of “data broker” if the sale or license is merely incidental to one of its lines of business.

(6)(A) “Data broker security breach” means an unauthorized acquisition or a reasonable belief of an unauthorized acquisition of more than one element of brokered personal information maintained by a data broker when the brokered personal information is not encrypted, redacted, or protected by another method that renders the information unreadable or unusable by an unauthorized person.

(B) “Data broker security breach” does not include good faith but unauthorized acquisition of brokered personal information by an employee or agent of the data broker for a legitimate purpose of the data broker, provided that the brokered personal information is not used for a purpose unrelated to the data broker’s business or subject to further unauthorized disclosure.

(C) In determining whether brokered personal information has been acquired or is reasonably believed to have been acquired by a person without

valid authorization, a data broker may consider the following factors, among others:

(i) indications that the brokered personal information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing brokered personal information;

(ii) indications that the brokered personal information has been downloaded or copied;

(iii) indications that the brokered personal information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the brokered personal information has been made public.

(3)(7) “Data collector” may include the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, retail operators, and any other entity that, means a person who, for any purpose, whether by automated collection or otherwise, handles, collects, disseminates, or otherwise deals with nonpublic personal information personally identifiable information, and includes the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, and retail operators.

(4)(8) “Encryption” means use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without use of a confidential process or key.

(9) “License” means a grant of access to, or distribution of, data by one person to another in exchange for consideration. A use of data for the sole benefit of the data provider, where the data provider maintains control over the use of the data, is not a license.

(10)(A) “People search services” means an Internet-based service in which an individual can pay a fee to search for a specific consumer, and which provides information about the consumer such as the consumer’s address, age, maiden name, alias, name or addresses of relatives, financial records, criminal records, background reports, or property details, where the consumer whose data is provided does not have a direct relationship with the business.

(B) “People search services” does not include a service that solely provides publicly available information related to a consumer’s business or profession.

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~~(5)(11)~~(A) “Personally identifiable information” means ~~an individual’s a~~ consumer’s first name or first initial and last name in combination with any one or more of the following digital data elements, when either the name or the data elements are not encrypted or redacted or protected by another method that renders them unreadable or unusable by unauthorized persons:

(i) Social Security number;

(ii) motor vehicle operator’s license number or nondriver identification card number;

(iii) financial account number or credit or debit card number, if circumstances exist in which the number could be used without additional identifying information, access codes, or passwords;

(iv) account passwords or personal identification numbers or other access codes for a financial account.

(B) “Personally identifiable information” does not mean publicly available information that is lawfully made available to the general public from federal, State, or local government records.

~~(6)(12)~~ “Records Record” means any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

~~(7)(13)~~ “Redaction” means the rendering of data so that ~~it is~~ the data are unreadable or is are truncated so that no more than the last four digits of the identification number are accessible as part of the data.

~~(8)(14)~~(A) “Security breach” means unauthorized acquisition of ~~electronic data~~ or a reasonable belief of an unauthorized acquisition of ~~electronic data that compromises the security, confidentiality, or integrity of a~~ consumer’s personally identifiable information maintained by ~~the~~ a data collector.

(B) “Security breach” does not include good faith but unauthorized acquisition of personally identifiable information by an employee or agent of the data collector for a legitimate purpose of the data collector, provided that the personally identifiable information is not used for a purpose unrelated to the data collector’s business or subject to further unauthorized disclosure.

(C) In determining whether personally identifiable information has been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data collector may consider the following factors, among others:

(i) indications that the information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing information;

(ii) indications that the information has been downloaded or copied;

(iii) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the information has been made public.

§ 2433. ACQUISITION OF BROKERED PERSONAL INFORMATION;  
PROHIBITIONS

(a) Prohibited acquisition and use.

(1) A person shall not acquire brokered personal information through fraudulent means.

(2) A person shall not acquire or use brokered personal information for the purpose of:

(A) stalking or harassing another person;

(B) committing a fraud, including identity theft, financial fraud, or e-mail fraud; or

(C) engaging in unlawful discrimination, including employment discrimination and housing discrimination.

(b) For purposes of this section, brokered personal information includes information acquired from people search services.

(c) Enforcement.

(1) A person who violates a provision of this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(2) The Attorney General has the same authority to adopt rules to implement the provisions of this section and to conduct civil investigations, enter into assurances of discontinuance, bring civil actions, and take other enforcement actions as provided under chapter 63, subchapter 1 of this title.

\* \* \*

Subchapter 5. Data Brokers

§ 2446. ANNUAL REGISTRATION

(a) Annually, on or before January 31 following a year in which a person meets the definition of data broker as provided in section 2430 of this title, a data broker shall:

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- (1) register with the Secretary of State;
  - (2) pay a registration fee of \$100.00; and
  - (3) provide the following information:
    - (A) the name and primary physical, e-mail, and Internet addresses of the data broker;
    - (B) the nature and type of sources used to compile data;
    - (C) if the data broker permits a consumer to opt out of the data broker's collection of brokered personal information, opt out of its databases, or opt out of certain sales of data:
      - (i) the method for requesting an opt out;
      - (ii) if the opt out applies to only certain activities or sales, which ones; and
      - (iii) whether the data broker permits a consumer to authorize a third party to perform the opt out on the consumer's behalf;
    - (D) a statement specifying the data collection, databases, or sales activities from which a consumer may not opt out;
    - (E) a statement whether the data broker implements a purchaser credentialing process;
    - (F) the number of data broker security breaches that the data broker has experienced during the prior year, and if known, the total number of consumers affected by the breaches;
    - (G) where the data broker has actual knowledge that it possesses the brokered personal information of minors, a separate statement detailing the data collection practices, databases, sales activities, and opt out policies that are applicable to the brokered personal information of minors; and
    - (H) any additional information or explanation the data broker chooses to provide concerning its data collection practices.
- (b) A data broker that fails to register pursuant to subsection (a) of this section is liable to the State for:
- (1) a civil penalty of \$50.00 for each day, not to exceed a total of \$10,000.00 for each year, it fails to register pursuant to this section;
  - (2) an amount equal to the fees due under this section during the period it failed to register pursuant to this section; and
  - (3) other penalties imposed by law.



(c) The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in this section and to seek appropriate injunctive relief.

§ 2447. DATA BROKER DUTY TO PROTECT INFORMATION;  
STANDARDS; TECHNICAL REQUIREMENTS

(a) Duty to protect personally identifiable information.

(1) A data broker shall develop, implement, and maintain a comprehensive information security program that is written in one or more readily accessible parts and contains administrative, technical, and physical safeguards that are appropriate to:

(A) the size, scope, and type of business of the data broker obligated to safeguard the personally identifiable information under such comprehensive information security program;

(B) the amount of resources available to the data broker;

(C) the amount of stored data; and

(D) the need for security and confidentiality of personally identifiable information.

(2) A data broker subject to this subsection shall adopt safeguards in the comprehensive security program that are consistent with the safeguards for protection of personally identifiable information and information of a similar character set forth in other State rules or federal regulations applicable to the data broker.

(b) Information security program; minimum features. A comprehensive information security program shall at minimum have the following features:

(1) designation of one or more employees to maintain the program;

(2) identification and assessment of reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of any electronic, paper, or other records containing personally identifiable information, and a process for evaluating and improving, where necessary, the effectiveness of the current safeguards for limiting such risks, including:

(A) ongoing employee training, including training for temporary and contract employees;

(B) employee compliance with policies and procedures; and

(C) means for detecting and preventing security system failures;

(3) security policies for employees relating to the storage, access, and transportation of records containing personally identifiable information outside business premises;

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(4) disciplinary measures for violations of the comprehensive information security program rules;

(5) measures that prevent terminated employees from accessing records containing personally identifiable information;

(6) supervision of service providers, by:

(A) taking reasonable steps to select and retain third-party service providers that are capable of maintaining appropriate security measures to protect personally identifiable information consistent with applicable law; and

(B) requiring third-party service providers by contract to implement and maintain appropriate security measures for personally identifiable information;

(7) reasonable restrictions upon physical access to records containing personally identifiable information and storage of the records and data in locked facilities, storage areas, or containers;

(8)(A) regular monitoring to ensure that the comprehensive information security program is operating in a manner reasonably calculated to prevent unauthorized access to or unauthorized use of personally identifiable information; and

(B) upgrading information safeguards as necessary to limit risks;

(9) regular review of the scope of the security measures:

(A) at least annually; or

(B) whenever there is a material change in business practices that may reasonably implicate the security or integrity of records containing personally identifiable information; and

(10)(A) documentation of responsive actions taken in connection with any incident involving a breach of security; and

(B) mandatory post-incident review of events and actions taken, if any, to make changes in business practices relating to protection of personally identifiable information.

(c) Information security program; computer system security requirements. A comprehensive information security program required by this section shall at minimum, and to the extent technically feasible, have the following elements:

(1) secure user authentication protocols, as follows:

(A) an authentication protocol that has the following features:

(i) control of user IDs and other identifiers;

(ii) a reasonably secure method of assigning and selecting passwords or use of unique identifier technologies, such as biometrics or token devices;

(iii) control of data security passwords to ensure that such passwords are kept in a location and format that do not compromise the security of the data they protect;

(iv) restricting access to only active users and active user accounts;  
and

(v) blocking access to user identification after multiple unsuccessful attempts to gain access; or

(B) an authentication protocol that provides a higher level of security than the features specified in subdivision (A) of this subdivision (c)(1).

(2) secure access control measures that:

(A) restrict access to records and files containing personally identifiable information to those who need such information to perform their job duties; and

(B) assign to each person with computer access unique identifications plus passwords, which are not vendor-supplied default passwords, that are reasonably designed to maintain the integrity of the security of the access controls or a protocol that provides a higher degree of security;

(3) encryption of all transmitted records and files containing personally identifiable information that will travel across public networks and encryption of all data containing personally identifiable information to be transmitted wirelessly or a protocol that provides a higher degree of security;

(4) reasonable monitoring of systems for unauthorized use of or access to personally identifiable information;

(5) encryption of all personally identifiable information stored on laptops or other portable devices or a protocol that provides a higher degree of security;

(6) for files containing personally identifiable information on a system that is connected to the Internet, reasonably up-to-date firewall protection and operating system security patches that are reasonably designed to maintain the integrity of the personally identifiable information or a protocol that provides a higher degree of security;

(7) reasonably up-to-date versions of system security agent software that must include malware protection and reasonably up-to-date patches and virus definitions, or a version of such software that can still be supported with up-to-date patches and virus definitions and is set to receive the most current security updates on a regular basis or a protocol that provides a higher degree of security; and

(8) education and training of employees on the proper use of the computer security system and the importance of personally identifiable information security.

(d) Enforcement.

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(1) A person who violates a provision of this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(2) The Attorney General has the same authority to adopt rules to implement the provisions of this chapter and to conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under chapter 63, subchapter 1 of this title.

Sec. 3. 9 V.S.A. § 2480b is amended to read:

§ 2480b. DISCLOSURES TO CONSUMERS

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

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

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

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

(b) As frequently as new telephone directories are published, the credit reporting agency shall cause to be listed its name and number in each telephone directory published to serve communities of this State. In accordance with rules adopted by the Attorney General, the credit reporting agency shall make provision for consumers to request by telephone the information required to be disclosed pursuant to subsection (a) of this section at no cost to the consumer.

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

“NOTICE TO VERMONT CONSUMERS

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

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

(A) in response to a court order;

(B) for direct mail offers of credit;

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

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

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

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

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

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

#### Vermont Consumers Have the Right to Obtain a Security Freeze

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

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

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

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

(2) Proper identification to verify your identity.

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

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

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

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

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

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

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

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

Sec. 4. 9 V.S.A. § 2480h is amended to read:

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

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

(2) A consumer ~~who has been the victim of identity theft~~ may place a security freeze on his or her credit report by making a request in writing by certified mail to a credit reporting agency ~~with a valid copy of a police report, investigative report, or complaint the consumer has filed with a law enforcement agency about unlawful use of his or her personal information by another person.~~ All other Vermont consumers may place a security freeze on his or her credit report by making a request in writing by certified mail to a credit reporting agency.

(3) A security freeze shall prohibit, subject to the exceptions in subsection (1) of this section, the credit reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. ~~When a security freeze is in place, information from a consumer's credit report shall not be released to a third party without prior express authorization from the consumer.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

(1) A person, or the person's subsidiary, affiliate, agent, or assignee with which the consumer has or, prior to assignment, had an account, contract, or debtor-creditor relationship for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or debt, or extending credit to a consumer with a prior or existing account, contract, or debtor-creditor relationship, subject to the requirements of section 2480e of this title. For purposes of this subdivision, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

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

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

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

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

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

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

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

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

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

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**Sec. 5. REPORTS**

(a) On or before March 1, 2019, the Attorney General and Secretary of State shall submit a preliminary report concerning the implementation of this act to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

(b) On or before January 15, 2020, the Attorney General and Secretary of State shall update its preliminary report and provide additional information concerning the implementation of this act to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

(c) On or before January 15, 2019, the Attorney General shall:

(1) review and consider additional legislative and regulatory approaches to protecting the data security and privacy of Vermont consumers, including:

(A) whether to create or designate a Chief Privacy Officer and if so, the appropriate duties for, and the resources necessary to support, that position; and

(B) whether to expand the scope of regulation to businesses with direct relationships to consumers; and

(2) report its findings and recommendations to the House Committees on Commerce and Economic Development and on Energy and Technology and to the Senate Committee on Economic Development, Housing and General Affairs.

**Sec. 6. ONE-STOP FREEZE NOTIFICATION**

(a) The Attorney General, in consultation with industry stakeholders, shall consider one or more methods to ease the burden on consumers when placing or lifting a credit security freeze, including the right to place a freeze with a single nationwide credit reporting agency and require that agency to initiate a freeze with other agencies.

(b) On or before January 15, 2019, the Attorney General shall report his or her findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

**Sec. 7. EFFECTIVE DATES**

(a) This section, Secs. 1 (findings and intent), 3–4 (eliminating fees for placing or removing a credit freeze), and 5–6 (reports) shall take effect on passage.

(b) Sec. 2 (data brokers) shall take effect on January 1, 2019.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Sirotkin, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of

amendment as recommended by the Committee on Economic Development, Housing and General Affairs.

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

### **Proposal of Amendment; Third Reading Ordered**

#### **H. 777.**

Senator Rodgers, for the Committee on Institutions, to which was referred House bill entitled:

An act relating to the Clean Water State Revolving Loan Fund.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, Declaration of Policy, in the last sentence, after the word “promote” by striking out the following: public-private partnerships and expenditures by private entities for

Second: In Sec.5, 24 V.S.A. § 4755(a), by striking out subdivision (C) and inserting in lieu thereof the following:

(C) without voter approval for a natural resources project under the sponsorship program, as defined in 24 V.S.A. § 4752, provided that:

(i) the amount of the debt incurred does not exceed an amount to be forgiven or cancelled upon the completion of the project; and

(ii) the municipality obtains voter approval for the paired water pollution abatement and control facilities project under the sponsorship program, pursuant to the requirements set forth in 24 V.S.A. chapter 53.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Institutions.

Senator Nitka, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Institutions.

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

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**Proposal of Amendment; Third Reading Ordered****H. 907.**

Senator Sirotkin, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to improving rental housing safety.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 2477 is added to read:

§ 2477. RENTAL HOUSING ADVISORY BOARD

(a)(1) The Department of Housing and Community Development shall create the Rental Housing Advisory Board consisting of 11 members, each of whom shall be a resident of Vermont and shall be appointed by the Commissioner of the Department, as follows:

(A) three members representing landlords, one of whom is a for-profit landlord and one of whom represents a nonprofit housing provider;

(B) three members representing tenants;

(C) three members representing municipalities; and

(D) two members of the public.

(2) A member shall serve a term of three years.

(3) The Board shall annually elect a chair from among its members.

(4) A majority of the Board shall constitute a quorum for transacting business.

(5) The Board shall take action by a majority vote of the members present and voting.

(b) The Board shall be staffed by the Department, which, along with the Departments of Health and of Public Safety, shall provide support to the Board as required.

(c) The Board shall have the following powers and duties:

(1) to act as an advisory group to the Governor, General Assembly, and appropriate State agencies on issues related to rental housing statutes, policies, and regulations;

(2) to report regularly to the Vermont Housing Council on its deliberations and recommendations;

(3) to work with appropriate State agencies on developing adequate data on the location and condition of Vermont's rental housing stock;

(4) to provide guidance to the State on the implementation of programs, policies, and regulations better to support decent, safe, and sanitary housing, including recommendations for incentives and programs to assist landlords with building repairs;

(5) to provide information to community partners, municipalities, landlords, and tenants, including educational materials on applicable rental housing statutes, regulations, and ordinances; and

(6) in preparation for a natural disaster, to collect information regarding available resources, disaster-related information, and community needs, and, in the event of a natural disaster, work with government authorities in charge of disaster response and communication.

## Sec. 2. TASKS OF RENTAL HOUSING ADVISORY BOARD

(a) On or before January 15, 2019, the Rental Housing Advisory Board created in 3 V.S.A. § 2477 shall submit to the General Assembly potential legislation or policy changes to better support decent, safe, and sanitary rental housing that address the following issues:

(1) recommendations for one State agency to be responsible for overseeing all aspects of rental housing code enforcement; and

(2) whether to retain or modify the current system of rental housing code enforcement, including current statutory provisions for issuance of health orders for violations of a rental housing health code.

(b) In formulating the potential legislation or policy changes identified pursuant to subsection (a) of this section, the Board shall consider the following proposals:

(1) professionalize or otherwise improve the current system of town health officers;

(2) regionalize rental housing code enforcement;

(3) create a public-private system of rental housing code inspections and enforcement;

(4) allow self-certification by property owners of compliance with applicable rental housing codes;

(5) require inspection reports to utilize a hazard index rating system similar to that used by the Department of Public Safety's Division of Fire Safety to standardize timelines for repair and amounts of fines;

(6) require landlords and tenants, as applicable, to submit an action plan for correcting violations within the time limit for correction;

(7) enable a landlord or tenant to appeal an inspection report to address habitability issues;

(8) make inspection reports available to the public online; and

(9) enable a local health officer to file a report of violation in the land records as a lien on the property if a landlord does not comply with the inspection report.

(c) Not later than September 1, 2018 and November 15, 2018, the Board shall report on its progress on formulating the potential legislation or policy changes identified pursuant to subsection (a) of this section to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing, and Military Affairs.

### Sec. 3. IMPROVING EFFECTIVENESS OF LOCAL HEALTH OFFICERS; REPORT

(a) The Department of Health, shall provide the Rental Housing Advisory Board with information on the current system for local health officers and the enforcement of Vermont rental housing and habitability statutes and regulations, as well as any recommendation it has for how the system could be improved or substantially modified, including recommendations for regional approaches to housing code enforcement.

(b) The Department shall develop a system for keeping data about the type and number of complaints concerning violations of the rental safety codes.

(c) The Department shall assign a person to be in charge of providing assistance to local health officers in their duties and make the name and contact information of that person available on request.

Sec. 4. 18 V.S.A. § 602a is amended to read:

### § 602a. DUTIES OF LOCAL HEALTH OFFICERS

(a) A local health officer, within his or her jurisdiction, shall:

(1) upon request of a landlord or tenant, or upon receipt of information regarding a condition that may be a public health hazard, conduct an investigation;

\* \* \*

Sec. 5. 18 V.S.A. § 603 is added to read:

§ 603. RENTAL HOUSING SAFETY; INSPECTION REPORTS

(a)(1) When conducting an investigation of rental housing, a local health officer shall issue a written inspection report on the rental property using the protocols for implementing the Rental Housing Health Code of the Department or the municipality, in the case of a municipality that has established a code enforcement office.

(2)(A) A written inspection report shall:

(i) contain findings of fact that serve as the basis of one or more violations;

(ii) specify the requirements and timelines necessary to correct a violation;

(iii) provide notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and

(iv) provide notice in plain language that, consistent with the access provisions in 9 V.S.A. § 4460, the tenant must allow the landlord and agents of the landlord access to the rental unit to make repairs as ordered by the health officer.

(B) For purposes of subdivision (2)(A)(iv) of this subsection, the notice concerning access may read: "Notice - The landlord of this property may enter the unit either with the tenant's consent, which shall not be unreasonably withheld, or between 9:00 a.m. and 9:00 p.m. on not less than 48 hours' notice. If the health officer has identified an imminent danger, the landlord shall have access immediately."

(3) A local health officer shall provide a copy of the inspection report to the landlord and any tenants affected by a violation by delivering the report electronically, in person, by first class mail, or by leaving a copy at each unit affected by the deficiency.

(4) If an entire property is affected by a violation, the local health officer shall post a copy of the inspection report in a common area of the property and include a prominent notice that the report shall not be removed until authorized by the local health officer.

(b) A local health officer may impose a fine of not more than \$100.00 per day for each violation that is not corrected by the date provided in the written inspection report, or when a unit is re-rented to a new tenant prior to the correction of a violation.

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(c) If a local health officer fails to conduct an investigation pursuant to section 602a of this title or fails to issue an inspection report pursuant to this section, a landlord or tenant may request that the Department, at its discretion, conduct an investigation or contact the local board of health to take action.

Sec. 6. 32 V.S.A. § 6069 is amended to read:

§ 6069. LANDLORD CERTIFICATE

\* \* \*

(f) Annually, on or before October 31, the Department shall prepare and make available to a member of the public upon request a database in the form of a sortable spreadsheet that contains the following information for each rental unit for which the Department received a certificate pursuant to this section:

- (1) name of owner or landlord;
- (2) mailing address of landlord;
- (3) location of rental unit;
- (4) type of rental unit;
- (5) number of units in building; and
- (6) School Property Account Number.

Sec. 7. ACCELERATED WEATHERIZATION PROGRAM; HOUSING IMPROVEMENT PROGRAM; STATE TREASURER; FUNDING

(a) The General Assembly finds that, in addition to the weatherization efforts provided under the Home Weatherization Assistance Program established in 33 V.S.A. chapter 25, an increased pace of weatherization would result in both environmental and economic benefits to the State. Accelerated weatherization efforts will:

- (1) decrease the emission of greenhouse gases; and
- (2) increase job opportunities in the field of weatherization.

(b) The General Assembly further finds that the State of Vermont has one of the oldest housing stocks in the United States, with many owned and rented homes in need of basic health and safety repairs and having high levels of lead paint and mold. Increased housing improvement initiatives will:

- (1) enable Vermonters to live in safer, healthier housing; and
- (2) reduce health care costs by reducing the incidence of respiratory illnesses, allergies, and other health problems.



(c) In fiscal years 2019 and 2020, the State Treasurer is authorized to invest up to \$5,000,000.00 of funds from the credit facility established in 10 V.S.A. § 10 for an accelerated weatherization and housing improvement program, provided that:

(1) for owner-occupied homes, the funds shall be used to support weatherization efforts and housing improvement efforts for homeowners with a family income that is not more than 120 percent of the area or statewide median family income, whichever is higher, as reported by the U.S. Department of Housing and Urban Development for the most recent year for which data are available; and

(2) for multi-family rental homes, the funds shall be used in conjunction with other State programs, and that not less than 50 percent of the tenant households residing in properties to be rehabilitated shall have an annual household income that is not more than 80 percent of the area or statewide median family income, whichever is higher, as reported by the U.S. Department of Housing and Urban Development for the most recent year for which data are available.

#### Sec. 8. EFFECTIVE DATES

- (a) This section and Sec. 1 (advisory board) shall take effect on passage.
- (b) Sec. 6 (rental housing database) shall take effect on July 1, 2019.
- (c) The remaining sections shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Nitka, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

By striking out Sec. 7, accelerated weatherization program; housing improvement program; State Treasurer; funding, and inserting in lieu thereof the following:

#### Sec. 7. ACCELERATED WEATHERIZATION PROGRAM; HOUSING IMPROVEMENT PROGRAM; STATE TREASURER; FUNDING

(a) The General Assembly finds that, in addition to the weatherization efforts provided under the Home Weatherization Assistance Program established in 33 V.S.A. chapter 25, an increased pace of weatherization and housing improvements would result in both environmental and economic

benefits to the State. Accelerated weatherization efforts and housing improvements will:

- (1) decrease the emission of greenhouse gases;
- (2) increase job opportunities in the field of weatherization;
- (3) enable Vermonters to live in safer, healthier housing; and
- (4) reduce health care costs by reducing the incidence of respiratory illnesses, allergies, and other health problems.

(c) In fiscal years 2019 and 2020, the State Treasurer is authorized to invest up to \$5,000,000.00 of funds from the credit facility established in 10 V.S.A. § 10 for an accelerated weatherization and housing improvement program, provided that:

(1) for owner-occupied homes, the funds shall be used to support weatherization efforts and housing improvement efforts for homeowners with a family income that is not more than 120 percent of the area or statewide median family income, whichever is higher, as reported by the U.S. Department of Housing and Urban Development for the most recent year for which data are available;

(2) for multi-family rental homes, the funds shall be used in conjunction with other State programs, and that not less than 50 percent of the tenant households residing in properties to be rehabilitated shall have an annual household income that is not more than 80 percent of the area or statewide median family income, whichever is higher, as reported by the U.S. Department of Housing and Urban Development for the most recent year for which data are available; and

(3) weatherization efforts are included in the improvements to any housing unit funded from the credit facility.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Economic Development, Housing and General Affairs, as amended, was agreed to and third reading of the bill was ordered.

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**House Proposal of Amendment Concurred In****S. 175.**

House proposal of amendment to Senate bill entitled:

An act relating to the wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 91, subchapter 4 is added to read:

Subchapter 4. Wholesale Prescription Drug Importation Program

§ 4651. WHOLESAL IMPORTATION PROGRAM FOR PRESCRIPTION DRUGS; DESIGN

(a) The Agency of Human Services, in consultation with interested stakeholders and appropriate federal officials, shall design a wholesale prescription drug importation program that complies with the applicable requirements of 21 U.S.C. § 384, including the requirements regarding safety and cost savings. The program design shall:

(1) designate a State agency that shall either become a licensed drug wholesaler or contract with a licensed drug wholesaler in order to seek federal certification and approval to import safe prescription drugs and provide significant prescription drug cost savings to Vermont consumers;

(2) use Canadian prescription drug suppliers regulated under the laws of Canada or of one or more Canadian provinces, or both;

(3) ensure that only prescription drugs meeting the U.S. Food and Drug Administration's safety, effectiveness, and other standards shall be imported by or on behalf of the State;

(4) import only those prescription drugs expected to generate substantial savings for Vermont consumers;

(5) ensure that the program complies with the tracking and tracing requirements of 21 U.S.C. §§ 360eee and 360eee-1 to the extent feasible and practical prior to imported drugs coming into the possession of the State wholesaler and that it complies fully after imported drugs are in the possession of the State wholesaler;

(6) prohibit the distribution, dispensing, or sale of imported products outside Vermont's borders;

(7) recommend a charge per prescription or another method of support to ensure that the program is funded adequately in a manner that does not jeopardize significant consumer savings; and

(8) include a robust audit function.

(b) On or before January 1, 2019, the Secretary of Human Services shall submit the proposed design for a wholesale prescription drug importation program to the House Committee on Health Care and on Ways and Means and the Senate Committees on Health and Welfare and on Finance.

#### § 4652. MONITORING FOR ANTICOMPETITIVE BEHAVIOR

The Agency of Human Services shall consult with the Office of the Attorney General to identify the potential, and to monitor, for anticompetitive behavior in industries that would be affected by a wholesale prescription drug importation program.

#### § 4653. FEDERAL COMPLIANCE

(a) On or before July 1, 2019, the Agency of Human Services shall submit a formal request to the Secretary of the U.S. Department of Health and Human Services for certification of the State's wholesale prescription drug importation program.

(b) The Agency of Human Services shall seek the appropriate federal approvals, waivers, exemptions, or agreements, or a combination thereof, as needed to enable all covered entities enrolled in or eligible for the federal 340B Drug Pricing Program to participate in the State's wholesale prescription drug importation program to the fullest extent possible without jeopardizing their eligibility for the 340B Program.

#### § 4654. PROGRAM FINANCING

The Agency of Human Services shall not implement the wholesale prescription drug importation program until the General Assembly enacts legislation establishing a charge per prescription or another method of financial support for the program.

#### § 4655. IMPLEMENTATION PROVISIONS

Upon the last to occur of the General Assembly enacting a method of financial support pursuant to section 4654 of this chapter and receipt of certification and approval by the Secretary of the U.S. Department of Health and Human Services, the Agency of Human Services shall begin implementation of the wholesale prescription drug importation program and shall begin operating the program within six months. As part of the implementation process, the Agency of Human Services shall, in accordance

with State procurement and contract laws, rules, and procedures as appropriate:

(1) become licensed as a wholesaler or enter into a contract with a Vermont-licensed wholesaler;

(2) contract with one or more Vermont-licensed distributors;

(3) contract with one or more licensed and regulated Canadian suppliers;

(4) engage with health insurance plans, employers, pharmacies, health care providers, and consumers;

(5) develop a registration process for health insurance plans, pharmacies, and prescription drug-administering health care providers who are willing to participate in the program;

(6) create a publicly available source for listing the prices of imported prescription drug products that shall be made available to all participating entities and consumers;

(7) create an outreach and marketing plan to generate program awareness;

(8) starting in the weeks before the program becomes operational, create and staff a hotline to answer questions and address the needs of consumers, employers, health insurance plans, pharmacies, health care providers, and other affected sectors;

(9) establish the audit function and a two-year audit work-plan cycle; and

(10) conduct any other activities that the Agency determines to be important for successful implementation of the program.

#### § 4656. ANNUAL REPORTING

(a) Annually on or before January 15, the Agency of Human Services shall report to the House Committees on Health Care and Ways and Means and the Senate Committees on Health and Welfare and on Finance regarding the operation of the wholesale prescription drug importation program during the previous calendar year, including:

(1) which prescription drugs were included in the wholesale importation program;

(2) the number of participating pharmacies, health care providers, and health insurance plans;

(3) the number of prescriptions dispensed through the program;

(4) the estimated savings to consumers, health plans, employers, and the State during the previous calendar year and to date;

(5) information regarding implementation of the audit plan and audit findings; and

(6) any other information the Secretary of Human Services deems relevant.

(b) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

Sec. 2. WHOLESALE IMPORTATION PROGRAM; DESIGN  
CONTINGENT ON FUNDING

The Agency of Human Services shall be required to design the wholesale prescription drug importation program described in Sec. 1 of this act only to the extent that funds are appropriated for this purpose in the budget bill enacted by the General Assembly for fiscal year 2019 or are otherwise made available.

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

An act relating to the wholesale importation of prescription drugs into Vermont.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative on a roll call, Yeas 29, Nays 0.

Senator Ashe having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Balint, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

**Those Senators who voted in the negative were:** None.

**The Senator absent and not voting was:** Baruth.

**House Proposal of Amendment to Senate Proposal of Amendment to  
House Proposal of Amendment Concurred In**

**S. 203.**

House proposal of amendment to Senate proposal of amendment to House Proposal of Amendment to House bill entitled:

An act relating to systemic improvements of the mental health system.

Was taken up.

The House proposes to the Senate to amend the House proposal of amendment to the Senate proposal of amendment as follows:

First: By striking out Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. WAIVER OF CERTIFICATE OF NEED REQUIREMENTS

Notwithstanding any provisions of 18 V.S.A. chapter 221, subchapter 5 to the contrary:

(1) the implementation of renovations at the Brattleboro Retreat as authorized in the fiscal year 2019 capital budget adjustment bill shall not be considered a “new health care project” for which a certificate of need is required; and

(2) the proposal by the University of Vermont Health Network to expand psychiatric inpatient capacity at the Central Vermont Medical Center campus shall be exempt from the requirement to secure a conceptual development phase certificate of need pursuant to 18 V.S.A. § 9434(c) if the University of Vermont Health Network:

(A) consults with the Secretary of Human Services in identifying the appropriate number and type of additional inpatient beds needed in the State;

(B) ensures that the planning process for designing its proposed expansion of inpatient psychiatric bed capacity at the Central Vermont Medical Center campus includes broad stakeholder input, including from patients and providers; and

(C) works with the Green Mountain Care Board for ongoing oversight of expenditures.

Second: In Sec. 9, amending 2017 Acts and Resolves No. 82, Sec. 3(c), by striking out the third sentence and inserting in lieu thereof the following: The evaluation process shall include such stakeholder involvement in working toward an articulation of a common, long-term vision of full integration of mental health services within a comprehensive and holistic health care system.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment to the House proposal of amendment?, was decided in the affirmative.

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**Rules Suspended; Bills Committed**

Pending entry on the Calendar for notice, on motion of Senator Ashe the rules were suspended and House bill entitled:

**H. 904.** An act relating to miscellaneous agricultural subjectsAn act relating to a universal, publicly financed primary care system.

was committed to the Committee on Appropriations pursuant to Rule 31 with the reports of the Committee on Agriculture and Committee on Natural Resources and Energy *intact*.

Pending entry on the Calendar for notice, on motion of Senator Ashe the rules were suspended and House bill entitled:

**H. 922.** An act relating to making numerous revenue changesAn act relating to a universal, publicly financed primary care system.

was committed to the Committee on Appropriations pursuant to Rule 31 with the report of the Committee on Finance *intact*.

**Committee of Conference Appointed****H. 910.**

An act relating to the Open Meeting Law and the Public Records Act.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Collamore

Senator Pearson

Senator White

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

**Adjournment**

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