

House Calendar

Friday, March 15, 2019

66th DAY OF THE BIENNIAL SESSION

House Convenes at 9:30 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Action Postponed Until March 15, 2019

Committee Bill for Second Reading

H. 514

An act relating to miscellaneous tax provisions.

(Rep. Young of Greensboro will speak for the Committee on Ways and Means.)

Amendment to be offered by Rep. Donahue of Northfield to H. 514

That the bill be amended in Sec. 20 (household income), after the ellipses but before subdivision (4), by inserting the following:

(3) "Household" means, for any individual and for any taxable year, the individual and such other persons as resided with the individual in the principal dwelling at any time during the taxable year; provided, however, an individual's household shall not include other persons with separate leases, notwithstanding the fact that the individual and the other persons may share some spaces in common. A person who is not related to any member of the household and who is residing in the household under a written homesharing agreement pursuant to a nonprofit homesharing program or a person residing in a household who is hired as a bona fide employee to provide personal care to a member of the household and who is not related to the person for whom the care is provided shall not be considered to be a member of the household.

Action Under Rule 52

J.R.S. 17

Joint resolution providing for a Joint Assembly to vote on the retention of eight Superior Judges and one Magistrate

(For text see House Journal March 13, 2019)

NEW BUSINESS

Third Reading

H. 278

An act relating to acknowledgment or denial of parentage

H. 321

An act relating to aggravated murder for killing a firefighter or an emergency medical provider

Committee Bill for Second Reading

H. 518

An act relating to fair and impartial policing.

(Rep. Hashim of Dummerston will speak for the Committee on Judiciary.)

Favorable with Amendment

H. 460

An act relating to sealing and expungement of criminal history records

Rep. Colburn of Burlington, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7601 is amended to read:

§ 7601. DEFINITIONS

As used in this chapter:

(1) “Court” means the Criminal Division of the Superior Court.

(2) “Criminal history record” means all information documenting an individual’s contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

(3) “Predicate offense” means a criminal offense that can be used to enhance a sentence levied for a later conviction, and includes operating a vehicle under the influence of alcohol or other substance in violation of 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title. “Predicate offense” shall not include misdemeanor possession of marijuana, or a disorderly conduct offense under section 1026 of this title, or possession of a controlled substance in violation of 18 V.S.A. § 4230(a), § 4231(a), § 4232(a), § 4233(a), § 4234(a), § 4234a(a), § 4234b(a), § 4235(b), or § 4235a(a).

(4) “Qualifying crime” means:

(A) a misdemeanor offense that is not:

(i) a listed crime as defined in subdivision 5301(7) of this title;

(ii) an offense involving sexual exploitation of children in violation of chapter 64 of this title;

(iii) an offense involving violation of a protection order in violation of section 1030 of this title;

(iv) prostitution as defined in section 2632 of this title, or prohibited conduct under section 2601a of this title; or

(v) a predicate offense;

(B) a violation of subsection 3701(a) of this title related to criminal mischief;

(C) a violation of section 2501 of this title related to grand larceny;

(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title; or

(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;

(F) a violation of subdivision 1404(c)(4) of this title related to conspiracy to receive stolen property;

(G) a violation of section 2001 of this title related to false personation;

(H) a violation of section 2002 of this title related to false pretenses or tokens;

(I) a violation of section 2561 of this title related to receiving stolen property;

(J) a violation of section 2575 of this title related to retail theft;

(K) a violation of 18 V.S.A. § 4230(a) related to possession of marijuana;

(L) a violation of 18 V.S.A. § 4231(a) related to possession of cocaine;

(M) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;

(N) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;

(O) a violation of 18 V.S.A. § 4234(a) related to possession of depressant, stimulant, and narcotic drugs;

(P) a violation of 18 V.S.A. § 4234a(a) related to possession of methamphetamine;

(Q) a violation of 18 V.S.A. § 4234b(a) related to possession of ephedrine and pseudoephedrine;

(R) a violation of 18 V.S.A. § 4235(b) related to possession of hallucinogenic drugs;

(S) a violation of 18 V.S.A. § 4235a(a) related to possession of ecstasy; or

(T) any offense for which a person has been granted an unconditional pardon from the Governor.

Sec. 2. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

~~(a) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. The court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. Order and notice. Upon finding that the requirements for expungement have been met, the court shall issue an order that shall include provisions that its effect is to annul the record of the arrest, conviction, and sentence, and that such person shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.~~

(b) Effect.

(1) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense.

(2) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been expunged.

(3) The response to an inquiry from any person regarding an expunged record shall be that “NO RECORD EXISTS.”

(4) Nothing in this section shall affect any right of the person whose record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense.

~~(c) Nothing in this section shall affect any right of the person whose record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense~~ Process.

(1) The court shall remove the expunged offense from any publicly and privately accessible database that it maintains.

(2) Until all charges on a docket are expunged, the case file shall remain publicly accessible.

(3) When all charges on a docket have been expunged, the case file shall be destroyed pursuant to policies established by the Court Administrator.

(d) Special index.

(1) The court shall keep a special index of cases that have been expunged together with the expungement order ~~and the certificate issued pursuant to this chapter.~~ The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) Inspection of the expungement order ~~and the certificate~~ may be permitted only upon petition by the person who is the subject of the case. The ~~Administrative Judge~~ Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

~~(4) All other court documents in a case that are subject to an expungement order shall be destroyed [Repealed].~~

(5) The Court Administrator shall establish policies for implementing this subsection.

~~(e) Upon receiving an inquiry from any person regarding an expunged record, an entity shall respond that “NO RECORD EXISTS.”~~

Sec. 4. 13 V.S.A. § 7607 is amended to read:

§ 7607. EFFECT OF SEALING

~~(a) Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence~~ Notice. The court shall provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to seal. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation's National Crime Information Center.

(b) Effect.

(1) Except as provided in subdivision (c) of this section, upon entry of a sealing order, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense.

(2) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been sealed.

(3) The response to an inquiry from any person regarding a sealed record shall be that "NO RECORD EXISTS."

(c) Exceptions. Notwithstanding a sealing order:

(1) An entity that possesses a sealed record may continue to use it for any litigation or claim arising out of the same incident or occurrence or involving the same defendant.

(2) An entity may use the criminal history record sealed in accordance with section 7603 of this title, regarding a person who was cited or arrested, for future criminal investigations or prosecutions without limitation.

~~(d) Upon receiving a sealing order, an entity shall:~~ Process.

~~(1) seal the investigation or prosecution record;~~ The court shall bar viewing of the sealed offense in any publicly and privately accessible database that it maintains.

~~(2) enter a copy of the sealing order into the record;~~ Until all charges on a docket have been sealed, the case file shall remain publicly accessible.

~~(3) flag the record as “SEALED” to prevent inadvertent disclosure of sealed information; and When all charges on a docket have been sealed, the case file shall become exempt from public access.~~

~~(4) upon receiving an inquiry from any person regarding a sealed record, respond that “NO RECORD EXISTS.”~~

Sec. 5. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

* * *

(e) Prior to the filing of any postjudgment motion in the Civil, Criminal, or Environmental Division of the Superior Court, including motions to reopen civil suspensions ~~and motions for sealing or expungement in the Criminal Division pursuant to 13 V.S.A. § 7602,~~ or motions to reopen existing cases in the Probate Division of the Superior Court, there shall be paid to the clerk of the court for the benefit of the State a fee of \$90.00 except for small claims actions and estates. A filing fee of \$90.00 shall be paid to the clerk of the court for a civil petition for minor settlements. There shall be no filing fee for motions to seal or expunge a criminal history record pursuant to 13 V.S.A. § 7602.

* * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee Vote: 11-0-0)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 521

An act relating to amending the special education laws.

(Rep. Webb of Shelburne will speak for the Committee on Education.)

H. 523

An act relating to miscellaneous changes to the State’s retirement systems.

(Rep. Harrison of Chittenden will speak for the Committee on Government Operations.)

Favorable with Amendment

H. 13

An act relating to alcoholic beverages

Rep. Walz of Barre City, for the Committee on General; Housing; and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Permitting Holders of an E-2 Visa to Acquire a Liquor License * * *

Sec. 1. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

As used in this title:

* * *

(30) "Person," as applied to licensees, means an individual who is a citizen ~~or~~ a lawful permanent resident of the United States, or a holder of an E-2 Visa; a partnership composed of individuals, a majority of whom are citizens ~~or~~ lawful permanent residents of the United States, or holders of an E-2 Visa; a corporation organized under the laws of this State or another state in which a majority of the directors are citizens ~~or~~ lawful permanent residents of the United States, or holders of an E-2 Visa; or a limited liability company organized under the laws of this State or another state in which a majority of the members or managers are citizens ~~or~~ lawful permanent residents of the United States, or holders of an E-2 Visa.

* * *

* * * Modernization of Penalties for Violations of Alcoholic Beverage and Tobacco Laws * * *

Sec. 2. 7 V.S.A. § 63 is amended to read:

§ 63. IMPORTATION OR TRANSPORTATION OF ALCOHOL;

PROHIBITIONS; PERSONAL IMPORT LIMIT; PENALTY

(a)(1) All spirits and fortified wines imported or transported into this State shall be imported or transported by and through the Board of Liquor and Lottery. A person importing or transporting or causing to be imported or transported into this State any spirits or fortified wines, or both, in violation of this section shall be imprisoned not more than one year or fined not more than ~~\$1,000.00~~ \$5,000.00, or both.

* * *

Sec. 3. 7 V.S.A. § 64 is amended to read:

§ 64. SALE OF MALT BEVERAGES AND VINOUS BEVERAGES IN
KEGS

* * *

(c) Any person, other than a wholesale dealer or manufacturer, who intentionally removes or defaces the label attached to a keg shall be imprisoned not more than ~~two years~~ one year or fined not more than \$1,000.00, or both.

Sec. 4. 7 V.S.A. § 65 is amended to read:

§ 65. PURCHASE OF KEGS

Any individual who, within 60 days of purchase, fails to return a keg sold pursuant to section 64 of this chapter to the second-class or fourth-class licensee from which the keg was purchased shall be fined ~~not more than~~ \$200.00.

Sec. 5. 7 V.S.A. § 210 is amended to read:

§ 210. SUSPENSION OR REVOCATION OF LICENSE OR PERMIT;
ADMINISTRATIVE PENALTY

* * *

(b)(1) ~~As an alternative to and in lieu of~~ In addition to the authority to suspend or revoke any permit or license, the Board of Liquor and Lottery ~~shall also have the power to~~ may impose an administrative penalty of up to ~~\$2,500.00~~ \$7,500.00 per violation against a holder of a wholesale dealer's license or a holder of a first-, second-, or third-class license for a violation of the conditions of the license or of this title or of any rule adopted by the Board.

* * *

(3) The Board may also impose an administrative penalty under this subsection against a holder of a tobacco license ~~for~~ of up to ~~\$100.00~~ \$250.00 for a first violation and up to ~~\$1,000.00~~ \$2,500.00 for subsequent violations.

* * *

Sec. 6. 7 V.S.A. § 213 is amended to read:

§ 213. LICENSEE EDUCATION

* * *

(c)(1) Each licensee, permittee, or common carrier certificate holder shall ensure that every employee who is involved in the delivery, sale, or serving of alcoholic beverages completes a training program approved by the Division of Liquor Control before the employee begins delivering, serving, or selling alcoholic beverages and at least once every 24 months thereafter. Each licensee shall maintain written documentation, signed by each employee trained, of each training program conducted.

(2) A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished or approved by the Division of Liquor Control. A licensee who fails to comply with the requirements of this subsection shall be subject to a suspension of the license issued under this title for not less than one day or a fine of not more than \$100.00, or both.

* * *

Sec. 7. 7 V.S.A. § 274 is amended to read:

§ 274. CERTIFICATE OF APPROVAL FOR DISTRIBUTION OF MALT
OR VINOUS BEVERAGES

* * *

(e) A person who violates a provision of this section shall be fined not more than ~~\$300.00~~ \$750.00 or imprisoned not more than one year, or both, for each offense and shall forfeit any license issued under the provisions of this title.

Sec. 8. 7 V.S.A. § 281 is amended to read:

§ 281. PROHIBITIONS

(a)(1) Except as otherwise provided in section 226 of this title, direct shipments of malt or vinous beverages are prohibited if the shipment is not specifically authorized and in compliance with sections 277-280 of this subchapter.

(2) Any person who knowingly makes, participates in, imports, or receives a direct shipment of malt or vinous beverages from a person who does not hold a license, permit, or certificate pursuant to sections 226 or 277-280 of this title may be fined not more than ~~\$1,000.00~~ \$2,500.00 or imprisoned not more than one year, or both.

* * *

Sec. 9. 7 V.S.A. § 651 is amended to read:

§ 651. SOLICITING ORDERS

A person who, for himself or herself or as agent, takes or solicits orders for the sale of malt or vinous beverages, except for licensees or from agencies of the U.S. Armed Forces as specified in section 421 of this title, or of spirits or fortified wines shall be imprisoned not more than six months ~~nor less than three months~~ or fined not more than \$500.00 nor less than \$100.00, or both.

Sec. 10. 7 V.S.A. § 652 is amended to read:

§ 652. TRANSPORTATION

A person who, by himself or herself, or through a clerk or agent, brings into the State, or conveys or transports over or along a railroad or public highway, or by land, air, or water, alcoholic beverages or alcohol ~~which~~ that the person knows or has reason to believe is to be unlawfully kept, sold, or furnished shall be imprisoned not more than six months nor less than three months or fined not more than ~~\$500.00~~ \$2,500.00 nor less than \$100.00, or both.

Sec. 11. 7 V.S.A. § 655 is amended to read:

§ 655. BARTER

(a) A licensee or permittee shall be imprisoned not more than ~~12 six~~ six months nor less than ~~six months~~ 30 days or fined not more than ~~\$1,000.00~~ \$1,500.00 nor less than ~~\$300.00~~ \$500.00, or both, if the licensee or permittee:

(1) purchases or receives apparel, tools, implements of trade or husbandry, household goods, furniture, or provisions, directly or indirectly, by way of sale or barter, the consideration for which is, in whole or in part, alcoholic beverages or alcohol or the price of the alcoholic beverages or alcohol; or

(2) receives apparel, tools, implements of trade or husbandry, household goods, furniture, or provisions in pawn for alcoholic beverages or alcohol or the price of the alcoholic beverages or alcohol.

* * *

Sec. 12. 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

(a) A person shall not:

(1) sell or furnish alcoholic beverages to a person under 21 years of age;
or

(2) knowingly enable the consumption of alcoholic beverages by a person under 21 years of age.

* * *

(c) A person who violates subsection (a) of this section shall be fined not less than \$500.00 nor more than \$2,000.00 or imprisoned not more than two years, or both. However, an employee of a licensee or an employee of a State liquor agency, who in the course of employment violates subdivision (a)(1) of this section:

(1) during a compliance check conducted by a law enforcement officer as defined in 20 V.S.A. § 2358:

(A) shall be assessed a civil penalty of not more than \$100.00 for the first violation, and a civil penalty of not less than \$100.00 nor more than ~~\$500.00~~ \$1,000.00 for a second violation that occurs more than one year after the first violation; and

(B) shall be subject to the criminal penalties provided in this subsection (c) for a second violation within a year of the first violation, and for a third or subsequent violation within three years of the first violation.

* * *

Sec. 13. 7 V.S.A. § 661 is amended to read:

§ 661. VIOLATIONS OF TITLE

(a)(1) A person that furnishes, sells, or keeps with intent to sell, or bottles or prepares for sale any alcoholic beverages, except as authorized by this title, or sells, barter, transports, imports, exports, delivers, prescribes, furnishes, or possesses alcohol, except as authorized by the Board of Liquor and Lottery, or that unlawfully manufactures alcohol or possesses a still or other apparatus for the manufacture of alcohol shall be imprisoned not more than 12 months nor less than three months or fined not more than ~~\$1,000.00~~ \$2,500.00 nor less than \$100.00, or both.

(2) For a subsequent conviction under subdivision (1) of this subsection within one year, a person shall be imprisoned not more than three years nor less than six months or fined not more than ~~\$2,000.00~~ \$5,000.00 nor less than \$500.00, or both.

(b) A person that willfully violates a provision of this title for which no other penalty is prescribed or that willfully violates a rule of the Board of Liquor and Lottery shall be imprisoned not more than three months nor less than one month or fined not more than ~~\$200.00~~ \$500.00 nor less than ~~\$50.00~~ \$100.00, or both.

* * *

Sec. 14. 7 V.S.A. § 1002a is amended to read:

§ 1002a. LICENSEE EDUCATION

* * *

(b) The holder of a tobacco license that does not also hold a liquor license issued pursuant to this title for the same premises shall:

(1) Complete the Division's in-person or online enforcement seminar at least once every two years. A corporation, partnership, or association shall designate a director, partner, or manager to comply with this subdivision.

(2) Ensure that every employee involved in the sale of tobacco products completes a Division of Liquor Control in-person or online training program or other training programs approved by the Division before the employee begins selling or providing tobacco products, and at least once every 24 months thereafter. A licensee may comply with this subdivision by conducting its own training program on its premises using information and materials furnished by the Division of Liquor Control. A licensee that fails to comply with the requirements of this subsection shall be subject to suspension of its tobacco license for not less than one day or a fine of not more than \$100.00, or both.

* * *

Sec. 15. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER 18 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a)(1) A person under 18 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment.

(2) A person under 18 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia.

(b)(1) A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of subsection (a) of this section shall be subject to having the tobacco products, tobacco substitutes, or tobacco

paraphernalia immediately confiscated and shall be further subject to a civil penalty of \$25.00-;

(A) for a first violation, a civil penalty of \$75.00 or be required to provide up to 10 hours of community service, or both;

(B) for a second violation, a civil penalty of \$100.00 or be required to provide up to 10 hours of community service, or both; and

(C) for subsequent violations, a civil penalty of \$200.00 or be required to provide up to 10 hours of community service, or both.

(2) An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

(c)(1) A person under 18 years of age who knowingly misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or provide up to 10 hours of community service, or both commits a civil violation.

(A) For a first violation of this subsection, a person shall be subject to a civil penalty of \$75.00 or required to provide up to 10 hours of community service, or both.

(B) For a second or subsequent violation of this subsection, a person shall be subject to a civil penalty of \$100.00 or required to provide up to 10 hours of community service, or both.

(2) An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

Sec. 16. 7 V.S.A. § 1007 is amended to read:

§ 1007. FURNISHING TOBACCO TO PERSONS UNDER 18 YEARS OF AGE; REPORT

* * *

(b)(1) The Division of Liquor Control shall conduct or contract for compliance tests of tobacco licensees as frequently and as comprehensively as necessary to ensure consistent statewide compliance with the prohibition on sales to persons under 18 years of age of at least 90 percent for buyers who are 16 or 17 years of age. An individual under 18 years of age participating in a compliance test shall not be in violation of section 1005 of this title.

(2) Any violation by a tobacco licensee of subsection 1003(a) of this title and this section after a first sale violation or during a compliance test

conducted within six months of a previous violation shall be considered a multiple violation and shall result in the minimum license suspension in addition to any other penalties available under this title. Minimum license suspensions for multiple violations shall be assessed as follows:

- (A) Two violations ~~one weekday~~ two weekdays;
- (B) Three violations ~~two weekdays~~ 15-day suspension;
- (C) Four violations ~~three weekdays~~ 90-day suspension;
- (D) Five violations ~~three weekend days, Friday through Sunday~~
one-year suspension.

* * *

Sec. 17. 7 V.S.A. § 1009 is amended to read:

§ 1009. CONTRABAND AND SEIZURE

(a) Any cigarettes or other tobacco products that have been sold, offered for sale, or possessed for sale in violation of section 1003 of this title, 20 V.S.A. § 2757, 32 V.S.A. § 7786, or 33 V.S.A. § 1919, and any commercial cigarette rolling machines possessed or utilized in violation of section 1011 of this title, shall be deemed contraband and shall be subject to seizure by the Commissioner, the Commissioner's agents or employees, the Commissioner of Taxes or any agent or employee of the Commissioner of Taxes, or by any law enforcement officer of this State when directed to do so by the Commissioner. All cigarettes or other tobacco products seized shall be destroyed.

(b)(1) Any person in possession of property considered contraband under this section shall be fined not more than \$1,000.00 nor less than \$500.00.

(2) Any vehicle, aircraft or watercraft, or other conveyance in which property considered contraband under this section is found may be seized and subject to forfeiture and condemnation pursuant to sections 570 and 572–574 of this title.

* * * Solicitor's License * * *

Sec. 18. 7 V.S.A. § 275 is amended to read:

§ 275. SOLICITOR'S LICENSE

(a) The Board of Liquor and Lottery may grant an individual a solicitor's license if he or she does all of the following:

(1) Submits an application to the Board of Liquor and Lottery on a form prescribed by the Board. The application shall include, at a minimum, the name, residence, and business address of the applicant, the name and address

of the vendor, manufacturer, or employer to be represented by the applicant, and an agreement by the applicant to comply with the rules of the Board.

(2) Submits to the Board a recommendation by the vendor, manufacturer, or employer to be represented by the applicant that indicates the applicant is qualified to hold a solicitor's license.

* * *

(b) A solicitor's license holder may, by canvassing or interviewing holders of licenses issued under the provisions of this title:

(1) solicit orders for and promote the sale of malt or vinous beverages ~~by canvassing or interviewing holders of licenses issued under the provisions of this title;~~ and

(2) promote the sale of spirits and fortified wines.

* * *

(d) A person who solicits, or attempts to solicit, orders for malt or vinous beverages, or promotes, or attempts to promote, the sale of malt or vinous beverages, ~~or attempts to solicit or promote the sale of malt or vinous beverages~~ spirits, or fortified wines by canvassing or interviewing a holder of a license issued under the provisions of this title, without having first obtained a solicitor's license as provided in this section, or who makes a false or fraudulent statement or representation in an application for the license or in connection with an application shall be imprisoned not more than six months or fined not more than \$500.00, or both.

* * * Technical Corrections Related to Department of Liquor and Lottery * * *

Sec. 19. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) As used in this subchapter:

* * *

(9) "Employee" shall mean:

* * *

(B) Any regular officer or employee of the Department of Public Safety assigned to police and law enforcement duties, including the Commissioner of Public Safety appointed before July 1, 2001; but, irrespective of the member's classification, shall not include any member of the General Assembly as such, any person who is covered by the Vermont Teachers' Retirement System, any person engaged under retainer or special agreement or

C beneficiary employed by the Department of Public Safety for not more than 208 hours per year, or any person whose principal source of income is other than State employment. In all cases of doubt, the Retirement Board shall determine whether any person is an employee as defined in this subchapter. Also included under this subdivision are employees of the Department of ~~Liquor Control~~ and Lottery who exercise law enforcement powers, employees of the Department of Fish and Wildlife assigned to law enforcement duties, motor vehicle inspectors, full-time deputy sheriffs compensated by the State of Vermont whose primary function is transports, full-time members of the Capitol Police force, investigators employed by the Criminal Division of the Office of the Attorney General, Department of State's Attorneys, Department of Health, or Office of the Secretary of State, who have attained Level III law enforcement officer certification from the Vermont Criminal Justice Training Council, who are required to perform law enforcement duties as the primary function of their employment, and who may be subject to mandatory retirement permissible under 29 U.S.C. § 623(j), who are first included in membership of the system on or after July 1, 2000. Also included under this subdivision are full-time firefighters employed by the State of Vermont and the Defender General.

* * *

Sec. 20. 7 V.S.A. § 752 is amended to read:

§ 752. DEFINITIONS

As used in this subchapter:

* * *

(2) "Certificate of approval holder" means a holder of a certificate of approval issued by the ~~Liquor Control~~ Board of Liquor and Lottery pursuant to section 274 of this title that produces or distributes a total annual volume of not more than 50,000 barrels of malt beverages and whose products comprise three percent or less of a wholesale dealer's total annual sales of malt beverages by volume.

* * *

Sec. 21. 10 V.S.A. § 1524 is amended to read:

§ 1524. LABELING

* * *

(b) The Commissioner of ~~Liquor Control~~ and Lottery may allow, in the case of liquor bottles, a conspicuous, adhesive sticker to be attached to indicate the deposit information required in subsection (a) of this section, provided that

the size, placement, and adhesive qualities of the sticker are as approved by the Commissioner. The stickers shall be affixed to the bottles by the manufacturer, except that liquor that is sold in the State in quantities less than 100 cases per year may have stickers affixed by personnel employed by the ~~Department~~ Division of Liquor Control.

* * *

Sec. 22. 10 V.S.A. § 1528 is amended to read:

§ 1528. BEVERAGE REGISTRATION

No distributor or manufacturer shall sell a beverage container in the State of Vermont without the manufacturer registering the beverage container with the Agency of Natural Resources prior to sale, unless distributed by the Department of Liquor ~~Control~~ and Lottery. This registration shall take place on a form provided by the Secretary and include the following:

* * *

Sec. 23. 13 V.S.A. § 7043 is amended to read:

§ 7043. RESTITUTION

* * *

(n)(1) Any monies owed by the State to an offender who is under a restitution order, including ~~lottery~~ Vermont Lottery winnings, unclaimed property, and tax refunds, shall be used to discharge the restitution order to the full extent of the unpaid total financial losses, regardless of the payment schedule established by the courts.

* * *

(4)(A) For all Vermont ~~lottery~~ Lottery games, the ~~Lottery Commission~~ Commissioner of Liquor and Lottery shall, before issuing prize money of \$500.00 or more to a winner, determine whether the winner has an outstanding restitution order. If the winner owes restitution, the ~~Lottery Commission~~ Commissioner of Liquor and Lottery shall withhold the entire amount of restitution owed and pay it to the Restitution Unit. The remainder of the winnings, if any, shall be sent to the winner. The winner shall be notified by the Restitution Unit of the offset prior to payment to the victim and given a period not to exceed 20 days to contest the accuracy of the information.

(B) The Restitution Unit shall inform the ~~Lottery Commission~~ Commissioner of Liquor and Lottery of persons with outstanding restitution orders upon request. Each person subject to such an order shall be identified by name, address, and Social Security number.

(C) If a ~~lottery~~ Vermont Lottery winner has an outstanding restitution order and an outstanding child support order, the ~~lottery~~ Lottery winnings shall be offset first pursuant to 15 V.S.A. § 792 by the amount of child support owed, and second pursuant to this subsection by the amount of restitution owed. The remainder of the winnings, if any, shall be sent to the winner.

* * *

Sec. 24. 15 V.S.A. § 792 is amended to read:

§ 792. LOTTERY OFFSET

(a) For all Vermont ~~lottery~~ Lottery games, the ~~lottery commission~~ Commissioner of Liquor and Lottery shall, before issuing prize money of \$500.00 or more to a winner, determine whether the winner has an outstanding child support arrearage payable to the ~~office of child support~~ Office of Child Support. If the winner has a child support arrearage, the ~~lottery commission~~ Commissioner of Liquor and Lottery shall withhold the entire amount of winnings and pay the same to the ~~office of child support~~ Office of Child Support. The ~~office of child support~~ Office of Child Support shall offset the winnings by the amount of support arrearages and the remainder of the winnings, if any, shall be sent to the winner. The obligor shall be notified by the ~~office of child support~~ Office of Child Support of the offset prior to payment to the obligee and given a period not to exceed 20 days to contest the accuracy of the information.

(b) The ~~office of child support~~ Office of Child Support shall inform the ~~lottery commission~~ Commissioner of Liquor and Lottery of persons with child support arrearages upon request. Each liable person shall be identified by name, address, and Social Security number.

(c) This section shall apply to ~~tri-state lottery~~ Tri-State Lottery games at such time as the same or similar provisions become law in Maine and New Hampshire in accordance with the ~~tri-state lotto compact~~ Tri-State Lotto Compact.

Sec. 25. 15 V.S.A. § 1151 is amended to read:

§ 1151. DEFINITIONS

Unless the context clearly requires otherwise, the definitions in this section apply throughout the subchapter.

* * *

(5) “Law enforcement agency” means the Department of Public Safety, a municipal police department, a sheriff’s department, the Attorney General’s Office, a State’s Attorney’s Office, or certified law enforcement officers of the

Department of Motor Vehicles, Agency of Natural Resources, or Department of Liquor ~~Control~~ and Lottery. “Law enforcement agency” shall also mean the Department for Children and Families when engaged in:

* * *

Sec. 26. 18 V.S.A. § 9503 is amended to read:

§ 9503. VERMONT TOBACCO PREVENTION AND TREATMENT

* * *

(c) The Department of Liquor ~~Control~~ and Lottery shall administer the component of the program that relates to enforcement activities.

* * *

Sec. 27. 18 V.S.A. § 9505 is amended to read:

§ 9505. GENERAL POWERS AND DUTIES

The Board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this section, and shall:

* * *

(6) Review and make recommendations regarding enforcement activities administered by the Department of Liquor ~~Control~~ and Lottery in accordance with the provisions of this chapter.

* * *

Sec. 28. 18 V.S.A. § 9504 is amended to read:

§ 9504. CREATION OF THE VERMONT TOBACCO EVALUATION AND
REVIEW BOARD

* * *

(b) The Board shall consist of 14 members, including ex officio the Commissioner of Health and the Secretary of Education or their designees; the Commissioner of Liquor ~~Control~~ and Lottery or designee; the Attorney General or designee; a member of the House of Representatives appointed by the Speaker of the House; a member of the Senate appointed by the Committee on Committees; a member representing a nonprofit organization qualifying under Section 501(c)(3) of the Internal Revenue Code and dedicated to anti-tobacco activities appointed by the Speaker of the House; a member representing the low-income community appointed by the Senate Committee on Committees; two persons under ~~the age of 30 years of age~~, one appointed by the Speaker of the House and one appointed by the Committee on

Committees; and four members appointed by the Governor with the advice and consent of the Senate, including: one K-12 educator involved in prevention education; one tobacco use researcher; one member representing the health care community; and one tobacco industry countermarketing expert. The public members shall serve for three-year terms, beginning on July 1 of the year in which the appointment is made, except that the first members appointed by the Governor to the Board shall be appointed, two for a term of two years, one for a term of three years, and one for a term of four years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.

* * *

Sec. 29. 18 V.S.A. § 9507 is amended to read:

§ 9507. ANNUAL REPORT

(a) On or before January 15 of each year, the Board shall submit a report concerning its activities under this chapter to the Governor and the General Assembly. The report shall include, to the extent possible, the following:

* * *

(2) a full financial report of the activities of the Departments of Health and of ~~Liquor Control~~ and Lottery, the Agency of Education, and the Board, including a special accounting of all activities from July 1 through December 31 of the year preceding the legislative session during which the report is submitted;

* * *

Sec. 30. 20 V.S.A. § 1883 is amended to read:

§ 1883. STATE LAW ENFORCEMENT; MEMORANDUM OF UNDERSTANDING

(a) The Commissioner of Public Safety shall develop and execute a memorandum of understanding with the Commissioners of Fish and Wildlife, of Motor Vehicles, and of ~~Liquor Control~~ and Lottery and their respective directors of law enforcement. The memorandum of understanding shall be reviewed at least every two years and shall at a minimum address:

* * *

(5) Providing for the Commissioner of Public Safety, with the approval of the Governor and in consultation with the Commissioners of Motor Vehicles, of Fish and Wildlife, and of ~~Liquor Control~~ and Lottery, to assume the role of lead coordinator of statewide law enforcement units in the event of

elevated alerts, critical incidents, and all hazard events. The lead coordinator shall maintain control until in his or her judgment the event no longer requires coordinated action to ensure the public safety.

* * *

Sec. 31. 20 V.S.A. § 2351a is amended to read:

§ 2351a. DEFINITIONS

As used in this chapter:

* * *

(3) “Law enforcement officer” means a member of the Department of Public Safety who exercises law enforcement powers; a member of the State Police; a Capitol Police officer; a municipal police officer; a constable who exercises law enforcement powers; a motor vehicle inspector; an employee of the Department of Liquor ~~Control~~ and Lottery who exercises law enforcement powers; an investigator employed by the Secretary of State; a Board of Medical Practice investigator employed by the Department of Health; an investigator employed by the Attorney General or a State’s Attorney; a fish and game warden; a sheriff; a deputy sheriff who exercises law enforcement powers; a railroad police officer commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8; or a police officer appointed to the University of Vermont’s Department of Police Services.

* * *

Sec. 32. 20 V.S.A. § 2367 is amended to read:

§ 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES;
REPORTING

(a) As used in this section:

* * *

(2) “Law enforcement officer” means a sheriff, deputy sheriff, police officer, Capitol Police officer, State game warden, State Police officer, constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, and a certified law enforcement officer employed by a State branch, agency, or department, including the Department of Motor Vehicles, the Agency of Natural Resources, the Office of the Attorney General, the Department of State’s Attorney, the Secretary of State, and the Department of Liquor ~~Control~~ and Lottery.

* * *

Sec. 33. 20 V.S.A. § 2757 is amended to read:

§ 2757. CIGARETTES; REDUCED IGNITION PROPENSITY

(a) As used in this section:

* * *

(8) “Wholesale dealer” means any person that sells cigarettes or tobacco products to retail dealers or other persons for resale, and includes ~~any person that owns, operates, or maintains one or more cigarette or tobacco product vending machines wherever located.~~ “Wholesale dealer” also includes the dealer’s agent.

* * *

(c) Each manufacturer shall submit to the Commissioner written certification attesting that each cigarette has been tested in accordance with and has met the performance standard required under subsection (b) of this section. The description of each cigarette listed in the certification shall include the brand; style; length in millimeters; circumference in millimeters; flavor, if applicable; filter or nonfilter; package description, such as a soft pack or box; and the mark approved pursuant to subsection (d) of this section. Upon request, this certification shall be made available to the Attorney General and Department of Liquor ~~Control~~ and Lottery. Each cigarette certified under this subsection shall be recertified every three years. For the certification or recertification of each brand style, the fee shall be \$1,000.00. The fees shall be paid into the Fire Prevention and Building Inspection Special Fund established in 20 V.S.A. § 2738.

* * *

(e) A manufacturer shall provide a copy of certifications to all wholesale dealers and stamping agents to which the manufacturer sells cigarettes and shall provide sufficient copies of an illustration of the packaging marking approved and used by the manufacturer pursuant to subsection (d) of this section for each of the retail dealers that purchases cigarettes from any of those wholesale dealers and stamping agents. Wholesale dealers and stamping agents shall provide a copy of the illustration to all retail dealers to which they sell cigarettes. Wholesale dealers, stamping agents, and retail dealers shall permit the Commissioner of Public Safety or the Commissioner of Liquor ~~Control~~ and Lottery or their designees to inspect markings on cigarette packaging at any time.

(f) The Commissioner:

(1) may adopt rules necessary to implement and administer this section;

(2) in consultation with the Commissioner of ~~Liquor Control~~ and Lottery, may adopt rules regarding the conduct of random inspections of wholesale dealers, importers, retail dealers, and stamping agents to ensure compliance with this section; and

(3) shall ~~assure~~ ensure that the implementation and substance of this section is in accordance with the implementation and substance of the New York Fire Safety Standards for Cigarettes.

* * *

Sec. 34. 20 V.S.A. § 4621 is amended to read:

§ 4621. DEFINITIONS

As used in this chapter:

* * *

(3) “Law enforcement agency” means:

* * *

(G) the Department of ~~Liquor Control~~ and Lottery;

* * *

Sec. 35. 21 V.S.A. § 494b is amended to read:

§ 494b. EMPLOYERS PERMITTED TO REQUIRE POLYGRAPH
EXAMINATIONS

The following employers may require that an applicant for employment take or submit to a polygraph examination, or administer or cause to be administered a polygraph examination to an applicant for employment:

(1) the Department of Public Safety; the Department of Motor Vehicles, for applicants for law enforcement positions; the Department of Fish and Wildlife, for applicants for law enforcement positions; the Department of ~~Liquor Control~~ and Lottery and the ~~Liquor Control~~ Board of Liquor and Lottery, for applicants for investigator positions; municipal police departments and county sheriffs, as to sworn police officers and deputy sheriffs;

* * *

Sec. 36. 26 V.S.A. § 5305 is amended to read:

§ 5305. EXEMPTIONS

(a) Generally.

* * *

(2)(A) Persons employed by the Judiciary, including judges, Superior Court clerks, court operations managers, Probate registers, case managers, docket clerks, assistant judges, county clerks, and after-hours relief from abuse contract employees.

(B) Persons employed as law enforcement officers certified under 20 V.S.A. chapter 151; who are noncertified constables; or who are employed by a Vermont law enforcement agency, the Department of Public Safety, of Fish and Wildlife, of Motor Vehicles, of Liquor Control and Lottery, or for Children and Families, the Office of the Defender General, the Office of the Attorney General, or a State's Attorney or Sheriff.

* * *

Sec. 37. 31 V.S.A. § 1201 is amended to read:

§ 1201. DEFINITIONS

As used in this chapter:

* * *

(2) "Commissioner" means the Commissioner of Liquor Control and Lottery.

* * *

Sec. 38. 31 V.S.A. § 1203 is amended to read:

§ 1203. DISTRIBUTION; RETAIL PURCHASE AND SALE

* * *

(f) A nonprofit organization that sells break-open tickets, other than a club as defined in 7 V.S.A. § 2, shall report to the Department of Liquor Control and Lottery on a quarterly basis the number of tickets purchased and distributed, and the corresponding serial numbers of those tickets, the amount of revenue realized by the nonprofit organization, and the amounts accounted for under subdivisions (e)(2)(A)–(D) of this section. The nonprofit organization shall also identify an individual from the organization responsible for the reporting requirements under this subsection. If the Department of Liquor Control and Lottery determines that a nonprofit organization has failed to comply with the requirements of this subsection, the Department of Liquor Control and Lottery shall notify the nonprofit organization and any licensed distributors of this failure, and any licensed distributor that continues to sell break-open tickets to that nonprofit organization after notice shall be considered in violation of the requirements of this chapter until the Department

of ~~Liquor Control~~ and Lottery has determined the nonprofit organization is back in compliance with this subsection.

* * *

Sec. 39. 31 V.S.A. § 1205 is amended to read:

§ 1205. RECORDS; REPORT

* * *

(d) Notwithstanding subsection (c) of this section, the Commissioner of ~~Liquor Control~~ and Lottery shall provide the records and reports filed under this section to the Attorney General, upon request.

Sec. 40. 31 V.S.A. § 1208 is amended to read:

§ 1208. RULEMAKING

The Department of ~~Liquor Control~~ and Lottery may regulate the licensing and reporting requirements of manufacturers and distributors of break-open tickets under this chapter. The Commissioner of ~~Liquor Control~~ and Lottery may adopt rules for licensure and indicia for boxes of break-open tickets, for record keeping relating to the distribution and sale of break-open tickets, and for the remittance of net proceeds from sales of break-open tickets to the intended eligible charitable recipients. The rules shall permit no proceeds to be retained by the operators of for-profit bars, except for:

* * *

Sec. 41. 32 V.S.A. § 602 is amended to read:

§ 602. DEFINITIONS

As used in this subchapter:

* * *

(2) "Fee":

* * *

(B) The following charges are exempt from the provisions of this subchapter:

* * *

(ii) A charge established by the ~~Liquor Control~~ Board of Liquor and Lottery as provided by Title 7.

* * *

Sec. 42. 32 V.S.A. § 1003 is amended to read:

§ 1003. STATE OFFICERS

* * *

(b) The Governor may appoint each officer of the Executive Branch listed in this subsection at a starting salary ranging from the base salary stated for that position to a salary that does not exceed the maximum salary unless otherwise authorized by this subsection. The maximum salary for each appointive officer shall be 50 percent above the base salary. Annually, the Governor may grant to each of those officers an annual salary adjustment subject to the maximum salary. The annual salary adjustment granted to officers under this subsection shall not exceed the average of the total rate of adjustment available to classified employees under the collective bargaining agreement then in effect. In addition to the annual salary adjustment specified in this subsection, the Governor may grant a special salary increase subject to the maximum salary, or a bonus, to any officer listed in this subsection whose job duties have significantly increased, or whose contributions to the State in the preceding year are deemed especially significant. Special salary increases or bonuses granted to any individual shall not exceed the average of the total rate of adjustment available to classified employees under the collective bargaining agreement then in effect.

(1) Heads of the following Departments and Agencies:

		Base Salary as of July 7, 2019	Base Salary as of January 5, 2020
(W)	Liquor Control and Lottery	93,155	94,413
(X)	Lottery	93,155	94,413 <u>[Repealed.]</u>

* * *

Sec. 43. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

* * *

(e) The Commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide, including any confidentiality requirements of the Internal Revenue Service, disclose a return or return information:

* * *

(15) To the ~~Department~~ Division of Liquor Control, provided that the information is limited to information concerning the sales and use tax and meals and rooms tax filing history with respect to the most recent five years of a person seeking a liquor license or a renewal of a liquor license.

* * *

Sec. 44. 32 V.S.A. § 3113b is amended to read:

§ 3113b. LOTTERY WINNINGS; SATISFACTION OF TAX LIABILITIES

For all Vermont ~~lottery~~ Lottery games, the ~~Lottery~~ Commissioner of Liquor and Lottery may, before issuing prize money to a winner, determine whether the winner has an outstanding tax liability payable to the Department of Taxes. If any such winner owes taxes to the State, the Commissioner of Taxes, after notice to the owner, may request and the ~~Lottery Commission~~ Department of Liquor and Lottery shall transfer the amount of ~~such~~ the tax liability to the Department for setoff of the taxes owed. The notice shall advise the winner of the action being taken and the right to appeal the setoff if the tax debt is not the winner's debt; or if the debt has been paid; or if the tax debt was appealed within 60 days from the date of the assessment and the appeal has not been finally determined; or if the debt was discharged in bankruptcy. Any offset of ~~lottery~~ Lottery winnings for taxes shall be third in priority to the offset of ~~lottery~~ Lottery winnings to the Office of Child Support pursuant to 15 V.S.A. § 792 and the offset of ~~lottery~~ Lottery winnings for restitution pursuant to 13 V.S.A. § 7043.

* * * Effective Date * * *

Sec. 45. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

and that after passage the title of the bill be amended to read: "An act relating to miscellaneous amendments to alcoholic beverage and tobacco laws"

(Committee Vote: 11-0-0)

H. 104

An act relating to professions and occupations regulated by the Office of Professional Regulation

Rep. Gannon of Wilmington, for the Committee on Government Operations, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Office of Professional Regulation * * *

Sec. 1. 3 V.S.A. § 121 is amended to read:

§ 121. DEFINITIONS

As used in this subchapter:

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

(2) “Licensing board” or “board” refers to the boards, commissions, and professions listed in section 122 of this ~~title subchapter~~ and, in the case of disciplinary matters or denials of licensure, either an administrative law officer appointed under subsection 129(j) of this ~~title subchapter~~ or the Director in advisor professions. Notwithstanding statutory language to the contrary, this subchapter shall apply to all those boards.

(3)(A) “License” includes any certification or registration or a permit, commission, or other official authorization to undertake a regulated activity.

(B) “Licensee” includes registrants and holders of certificates or permits any person to whom a license has been issued by a board or the Director.

(4) “Office” means the Office of Professional Regulation.

Sec. 2. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

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

* * *

(17) ~~Board of Radiologic Technology~~

* * *

(29) ~~Board of Real Estate Appraisers~~

* * *

(48) Notaries Public

Sec. 3. 3 V.S.A. § 127 is amended to read:

§ 127. UNAUTHORIZED PRACTICE

(a) When the Office receives a complaint of unauthorized practice, the Director shall refer the complaint to Office investigators and prosecutors.

(b)(1) A person practicing a regulated profession without authority or an employer permitting such practice may, upon the complaint of the Attorney General or a State's Attorney or an attorney assigned by the Office of Professional Regulation, be enjoined therefrom by the Superior Court where the violation occurred or the Washington County Superior Court and may be assessed a civil penalty of not more than ~~\$1,000.00~~ \$5,000.00.

(2)(A) The Attorney General or an attorney assigned by the Office of Professional Regulation may elect to bring an action seeking only a civil penalty of not more than ~~\$1,000.00~~ \$2,500.00 for practicing or permitting the practice of a regulated profession without authority before the board having regulatory authority over the profession or before an administrative law officer.

(B) Hearings shall be conducted in the same manner as disciplinary hearings.

(3)(A) A civil penalty imposed by a board or administrative law officer under this subsection (b) shall be deposited in the Professional Regulatory Fee Fund established in section 124 of this chapter for the purpose of providing education and training for board members and advisor appointees.

(B) The Director shall detail in the annual report receipts and expenses from these civil penalties.

(c) In addition to other provisions of law, unauthorized practice shall be punishable by a fine of not more than \$5,000.00 or imprisonment for not more than one year, or both. Prosecution may occur upon the complaint of the Attorney General or a State's Attorney or an attorney assigned by the Office of Professional Regulation under this section and shall not act as a bar to civil or administrative proceedings involving the same conduct.

* * *

Sec. 4. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items or any combination of items, whether the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:

* * *

(26) Sexually harassing or exploiting a patient, client, or consumer, or doing so to a coworker in a manner that impacts professional services; failing to maintain professional boundaries; or violating a patient, client, or consumer's reasonable expectation of privacy.

* * *

(d)(1) After hearing, and upon a finding of unprofessional conduct, a board or an administrative law officer may take disciplinary action against a licensee or applicant, including imposing an administrative penalty not to exceed \$1,000.00 \$5,000.00 for each unprofessional conduct violation.

(2)(A) Any money received under this subsection shall be deposited in the Professional Regulatory Fee Fund established in section 124 of this ~~title~~ chapter for the purpose of providing education and training for board members and advisor appointees.

(B) The Director shall detail in the annual report receipts and expenses from money received under this subsection.

* * *

Sec. 5. 3 V.S.A. § 129b is amended to read:

§ 129b. BOARD MEMBER AND ADVISOR APPOINTMENTS

* * *

(g) For advisor professions, ~~advisors~~:

(1) Advisors shall be appointed by the Secretary of State and shall serve at the pleasure of the Secretary of State. Advisor appointments shall be subject to the same conditions as those for board members under this section.

(2) The Office shall warn and conduct an open meeting including advisors, program staff, and interested members of the public:

(A) at least once per year for each profession with 500 or fewer active licensees; and

(B) at least twice per year for each profession with more than 500 active licensees.

Sec. 6. 3 V.S.A. § 135 is amended to read:

§ 135. UNIFORM STANDARD FOR RENEWAL FOLLOWING

EXTENDED ABSENCE

(a) Notwithstanding any provision of law to the contrary, when an applicant seeks to renew an expired or lapsed license after fewer than five

years of absence from practice, readiness to practice shall be inferred from completion of any continuing education that would have been required if the applicant had maintained continuous licensure, or by any less burdensome showing set forth in administrative rules specific to the profession or permitted by the Director.

* * *

Sec. 7. PROFESSIONAL REGULATION; ANALYSIS OF STATE
REGULATORY STRUCTURES

(a) Findings.

(1) The General Assembly finds that multiple State agencies regulate a variety of professions and occupations, resulting in professional regulatory structures that vary throughout the State.

(2) The General Assembly further finds that the State should review whether transferring the regulation of certain professions and occupations to a different State agency would enhance the effectiveness of those professional regulatory structures, including by improving public protection and customer service, reducing unnecessary barriers to licensure, and increasing efficiencies in the staffing, information technology, and other necessary costs associated with professional regulation.

(b) Office of Professional Regulation and other specified agencies; analysis and report.

(1) The Office of Professional Regulation and the Agency of Education, the Agency of Human Services, the Agency of Natural Resources, the Department of Public Safety, and the Department of Health shall collaborate in analyzing the professions and occupations that each of those agencies regulate in order to determine whether the effectiveness of those professional regulatory structures, including the elements of effectiveness described in subdivision (a)(2) of this section, would be enhanced by transferring an agency's professional regulation to a different agency.

(2) In conducting their analysis, the agencies shall consider the professional regulation reports and other information gathered as a result of 2016 Acts and Resolves No. 156, Secs. 20 and 21.

(3) The Office of Professional Regulation, as the State agency primarily focused on professional licensing administration and enforcement, shall lead this collaboration among all the agencies named in subdivision (1) of this subsection, but is encouraged to seek any available grants from outside

resources that may enable the agencies to contract with an independent entity to conduct this analysis.

(4) On or before January 15, 2020, the independent entity or, if a contract with such an entity was not executed, the Office of Professional Regulation shall report to the House Committees on Government Operations, on Education, on Human Services, on Health, on Natural Resources, Fish, and Wildlife, and on Commerce and Economic Development and the Senate Committees on Government Operations, on Education, on Health and Welfare, on Natural Resources and Energy, and on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

Sec. 8. CREATION OF POSITION WITHIN THE OFFICE OF
PROFESSIONAL REGULATION; LICENSING

(a) There is created within the Secretary of State's Office of Professional Regulation one new permanent classified Licensing Administrator position.

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

* * * Accountants * * *

Sec. 9. 26 V.S.A. chapter 1 is amended to read:

CHAPTER 1. ACCOUNTANTS

Subchapter 1. General Provisions

* * *

§ 17. PENALTY

Any person who violates any provision of section 14 of this ~~title~~ chapter shall be subject to the penalties set forth in 3 V.S.A. § 127(e).

* * *

Subchapter 3. Licenses

* * *

§ 74a. ~~FOREIGN REGISTRATION~~

~~(a) A foreign firm licensed or registered in another country seeking to practice temporarily in the state shall register with the board and pay the required fee. The board shall adopt rules prescribing the procedure to be followed in carrying out the registrations. Registrations under this section shall~~

~~expire three months after issuance. "Firm" is as defined in subdivision 13(5) of this title.~~

~~(b) A foreign firm providing public accounting services in the state of Vermont shall be registered and obtain a firm registration number.~~

~~(c) An accountant qualified for the practice of public accountancy in a foreign country may:~~

~~(1) use a title granted by that country, together with any suitable translation into English of that title, and the name of that country;~~

~~(2) temporarily practice public accounting after registering with the board under section 74a of this title. [Repealed.]~~

* * *

§ 81. OWNERSHIP OF ACCOUNTANT'S WORKING PAPERS

* * *

(d) An accountant or accountancy firm shall have in place a plan for responsible disposition of client records in case of unexpected incapacity or firm dissolution.

* * *

* * * Dental Hygienists * * *

Sec. 10. 26 V.S.A. chapter 12 is amended to read:

CHAPTER 12. DENTISTS, DENTAL THERAPISTS, DENTAL HYGIENISTS, AND DENTAL ASSISTANTS

* * *

Subchapter 2. Board of Dental Examiners

* * *

§ 582. AUTHORITY OF THE BOARD

In addition to any other provisions of law, the ~~board~~ Board shall have the authority to:

* * *

(3) adopt rules pursuant to the Vermont Administrative Procedure Act as ~~set forth in 3 V.S.A. chapter 25:~~

* * *

(H) ~~setting guidelines for general supervision of dental hygienists with no less than three years of experience by dentists with no less than three years of experience to,~~ to be known as “public-health hygienists,” who may perform tasks in ~~public or private schools or institutions~~ public-health settings as set forth in section 624 of this chapter; and

* * *

Subchapter 4. Dental Hygienists

* * *

§ 624. PRACTICE

(a) A dental hygienist may perform duties for which the dental hygienist has been qualified by successful completion of the normal curriculum offered by programs of dental hygiene accredited by the American Dental Association or in continuing education courses approved by the Board. A dental hygienist may perform tasks in the office of any licensed dentist consistent with the rules adopted by the Board.

(b) ~~In public or private schools or institutions, a dental hygienist, who shall be a dental hygienist with no less fewer than three years of experience, may perform tasks under the general supervision of a licensed dentist with no less than three years of experience as prescribed in out-of-office settings, including residences, schools, nursing home and long-term care facilities, clinics, hospitals, medical facilities, community health centers licensed or approved by the Department of Health, Head Start programs, and any other facilities or programs deemed appropriate by the Department of Health in a manner consistent with guidelines adopted by the Board by rule.~~ A public-health hygienist, who shall be a dental hygienist with no less fewer than three years of experience, may perform tasks under the general supervision of a licensed dentist with no less than three years of experience as prescribed in out-of-office settings, including residences, schools, nursing home and long-term care facilities, clinics, hospitals, medical facilities, community health centers licensed or approved by the Department of Health, Head Start programs, and any other facilities or programs deemed appropriate by the Department of Health in a manner consistent with guidelines adopted by the Board by rule.

* * *

* * * Nursing * * *

Sec. 11. 26 V.S.A. chapter 28 is amended to read:

CHAPTER 28. NURSING

Subchapter 1. General Provisions

* * *

§ 1574. POWERS AND DUTIES

(a) In addition to the powers granted by 3 V.S.A. § 129, the Board shall:

* * *

(3) Adopt rules setting standards for approval of medication nursing assistant and nursing education programs in Vermont, including all clinical

facilities. The Board may require reimbursement for actual and necessary costs incurred for site surveys.

(4) ~~Adopt rules for medication nursing assistant education and competency evaluation programs and survey and approve those programs that meet the rules. [Repealed.]~~

* * *

Subchapter 2. Advanced Practice Registered Nurses

* * *

§ 1613. TRANSITION TO PRACTICE

(a)(1) ~~Graduates~~ An APRN with fewer than 24 months and 2,400 hours of licensed active advanced nursing practice in an initial role and population focus or fewer than 12 months and 1,600 hours for any additional role and population focus shall have a formal agreement with a collaborating provider as required by ~~board~~ Board rule.

(2) ~~APRNs~~ An APRN shall have and maintain signed and dated copies of all required collaborative provider agreements as ~~part of the practice guidelines.~~

(3) An APRN required to practice with a collaborative provider agreement may not engage in solo practice, except with regard to a role and population focus in which the APRN has met the requirements of this subsection.

(b) An APRN who satisfies the requirements to engage in solo practice pursuant to subsection (a) of this section shall notify the ~~board~~ Board that these requirements have been met.

* * *

* * * Optometrists * * *

Sec. 12. 26 V.S.A. chapter 30 is amended to read:

CHAPTER 30. OPTOMETRY

* * *

§ 1703. DEFINITIONS

As used in this chapter:

* * *

(2) The “practice of optometry” means any one or combination of the following practices:

(A) ~~The examination of~~ Examining the human eyes and visual system for purposes of:

(i) diagnosing refractive and functional ability; or

(ii) diagnosing the presence of eye and adnexa disease or injury, treating the disease or injury with the appropriate pharmaceutical agents and procedures in accordance with this chapter, and making referrals to the appropriate health care provider when warranted.

(B) ~~The diagnosis and correction of~~ Diagnosing and correcting anomalies of the refractive and functional ability of the visual system and the enhancement of visual performance including, ~~but not limited to,~~ the following:

(i) ~~the prescribing and employment of~~ using ophthalmic lenses, prisms, autorefractor or other automatic testing devices, frames, ophthalmic aids, and prosthetic materials as consistent with the health of the eye;

(ii) ~~the prescribing and employment of~~ employing contact lenses;
and

(iii) administering visual training, vision therapy, orthoptics, and pleoptics.

(C) Prescribing appropriate pharmaceutical agents for the diagnosis, management, and treatment of the eye and adnexa.

(D) Removing superficial foreign bodies from the eye and adnexa; epilating the eyelashes, including by electrolysis; and punctal dilation, lacrimal irrigation, and punctal plugs insertion.

(E) Managing the following types of glaucoma in patients who are 16 years of age or older:

(i) adult primary open angle glaucoma;

(ii) exfoliative glaucoma;

(iii) pigmentary glaucoma;

(iv) low tension glaucoma;

(v) inflammatory (uveitic) glaucoma; and

(vi) emergency treatment of angle closure glaucoma.

(3) ~~“Disciplinary action” or “disciplinary cases” includes any action taken by a board against a licensee or applicant premised upon a finding of wrongdoing or unprofessional conduct by the licensee or applicant. It includes all sanctions of any kind, including obtaining injunctions, issuing warnings, reprimands, suspensions, or revocations of licenses, and other similar sanctions and ordering restitution. “Director” means the Director of the Office of Professional Regulation.~~

(4) “Financial interest” means being:

(A) a licensed practitioner of optometry; or

(B) a person who deals in goods and services ~~which~~ that are uniquely related to the practice of optometry; or

(C) a person who has invested anything of value in a business ~~which~~ that provides optometric services.

(5) “Contact lenses” means those lenses that are worn for cosmetic, therapeutic, or refractive purposes.

§ 1704. PENALTIES

A person who obtains a license by fraud or misrepresentation or who practices or attempts to practice optometry or hold himself or herself out as being able to do so in this state State without first having obtained the license required by this chapter shall be subject to the penalties provided in 3 V.S.A. § 127(e).

Subchapter 2. State Board of Optometry Board

§ 1707. QUALIFICATIONS; TERM OF OFFICE; REMOVAL

(a) ~~A state board of optometry~~ The State Board of Optometry is created ~~which shall be the continuation of and successor to the state board of examiners in optometry heretofore established by chapter 29 of this title.~~

(b) The ~~board~~ Board shall consist of five members, three of whom shall be residents of the ~~state,~~ State ~~who~~ have had at least five years’ experience in the practice of optometry in the ~~state,~~ State and are in the active practice of optometry at the time of their appointment; and two members who shall be representatives of the public, who shall be residents of the ~~state~~ State for five years and who shall have no financial interest in the profession other than as a consumer or potential consumer of its services.

* * *

§ 1708. POWERS AND DUTIES

(a) The ~~board~~ Board shall:

(1) Adopt rules under ~~3 V.S.A. chapter 25~~ the Vermont Administrative Procedure Act necessary for the performance of its duties, ensuring that at least the following are established by statute or rule:

(A) ~~A~~ a definition of the behavior for which a license is required;

(B) ~~Explanations~~ explanations of appeal and other significant rights given by law to licensees, applicants, and the public; and

(C) standards for acceptance of continuing education, which may identify mandatory content specific to pharmacology, and management of adverse drug reactions.

(b) The ~~board~~ may:

~~(1) exercise authority granted under 3 V.S.A. chapter 5;~~

~~(2) use the administrative services provided by the office of professional regulation under 3 V.S.A. chapter 5;~~

~~(3) Receive legal assistance from the attorney general of the state and from the legal counsel for the director of the office of professional regulation. [Repealed.]~~

(c) The ~~board~~ Board shall not limit the:

(1) ~~limit~~ the ownership of optometric practices to licensed optometrists;

(2) ~~limit~~ the number of offices or sites at which an optometrist may practice; or

(3) ~~limit~~ the right of optometrists to practice in an association, partnership, corporation, or other lawful entity with anyone.

* * *

Subchapter 3. Examinations and Licenses

* * *

§ 1715. LICENSURE BY EXAMINATION

(a) The ~~board~~ Board may grant a license to an applicant who:

(1) has attained the age of majority;

(2) is a graduate of an optometric school or college accredited by a regional or professional accreditation organization approved by the ~~board~~ Board;

(3) holds a current cardiopulmonary resuscitation certification from the American Red Cross, the Vermont Heart Association, or a comparable source recognized by the Director;

(4) has successfully completed an examination approved by the board Board; and

~~(4)(5)~~ has paid the fee required by section 1718 of this title chapter.

~~(b) A failed examination may be retaken once free of charge and each examination thereafter shall be subject to payment of a fee. [Repealed.]~~

* * *

§ 1716a. RENEWAL

Licenses shall be renewed every two years upon payment of the required fee, provided that the person applying for renewal completes at least ~~20~~ 40 hours of continuing education, approved by the ~~board~~ Board, during the preceding two-year period and holds a current cardiopulmonary resuscitation certification. ~~If the applicant has a special endorsement for the use of pharmaceutical agents as provided in section 1729 of this title, the applicant shall, during the preceding two-year period, complete at least 40 hours of continuing education, approved by the board, of which at least 20 hours shall be related to the use of therapeutic pharmaceutical agents. The board may specify particular areas of study which must be completed to satisfy the requirements of this section. The board may, by rule, adopt continuing education requirements for those who renew their licenses after less than a full two-year period.~~

* * *

Subchapter 4. Unprofessional Conduct and Discipline

§ 1719. UNPROFESSIONAL CONDUCT

(a) Unprofessional conduct is the conduct prohibited by this section and by 3 V.S.A. § 129a, whether or not taken by a license holder committed by a licensee, an applicant, or a person who later becomes an applicant.

(b) Unprofessional conduct means:

(1) Conduct ~~which~~ that evidences moral unfitness to practice the occupation.

(2) Any of the following except when reasonably undertaken in an emergency situation in order to protect life, health, or property:

(A) Practicing or offering to practice beyond the scope permitted by law.

(B) Performing treatments or providing services ~~which~~ that a licensee is not qualified to perform or ~~which~~ that are beyond the scope of the licensee's education, training, capabilities, experience, or scope of practice.

(C) Performing occupational services ~~which~~ that have not been authorized by the consumer or his or her legal representative.

* * *

Subchapter 5. Diagnostic Pharmaceutical Agents

* * *

§ 1727. EXPIRATION DATE

(a) An optometrist shall state the expiration date on the face of every prescription written by that optometrist for contact lenses. The expiration date shall be one year after the examination date unless a medical or refractive problem affecting vision requires an earlier expiration date.

(b) An optometrist ~~may~~ shall not refuse to give the buyer a copy of the buyer's prescription after the expiration date; however, the copy shall be clearly marked to indicate that it is an expired prescription.

Subchapter 6. Therapeutic Pharmaceutical Agents

§ 1728. USE OF THERAPEUTIC PHARMACEUTICAL AGENTS

~~(a) An optometrist licensed under this chapter who possesses the endorsement required under section 1729 of this title, may:~~

~~(1) use and prescribe appropriate pharmaceutical agents for the diagnosis, management, and treatment of the eye and adnexa.~~

~~(2) remove superficial foreign bodies from the eye and adnexa, perform epilation of the eyelashes including electrolysis, punctal dilation, and lacrimal irrigation, and insert punctal plugs.~~

~~(b) Nothing in this subchapter shall be construed to permit:~~

~~(1) the use of therapeutic ultrasound, the use of injections except for the appropriate emergency stabilization of a patient, or the performance of surgery. "Surgery" means any procedure in which human tissue is cut, penetrated, thermally or electrically cauterized except when performing electrolysis, or otherwise infiltrated by mechanical or laser means in a manner not specifically authorized by this act;~~

~~(2) the use of lasers for any procedure other than diagnostic testing; or~~

~~(3) a licensee to perform indocyanine green angiography, removal of benign skin lesions involving subcutaneous injections, sub-tenons injections, retrobulbar injections, intraocular injections, ketamine (IM) for an infant's examination under anesthesia, management of skin and conjunctival neoplasms, and botox injections.~~

(a)(1) A licensee who employs an oral therapeutic pharmaceutical agent that might prove to have significant systemic adverse reactions or systemic side effects shall, in a manner consistent with Vermont law, ascertain the risk of systemic side effects through either a case history or by communicating with the patient's primary care provider.

(2) The licensee shall also communicate with the patient's primary care provider, or with a physician skilled in diseases of the eye, when, in the professional judgment of the licensee, it is medically appropriate.

(3) Any communication shall be noted in the patient's permanent record. The methodology of communication shall be determined by the licensee.

(b)(1) If a glaucoma patient does not respond to up to three topically administered pharmaceutical agents within a reasonable time, the licensee shall refer the patient to a licensed ophthalmologist.

(2) A glaucoma patient shall not be treated by an optometrist with more than three topically administered agents at any given time.

(3) If an oral medication is required to obtain an adequate clinical response in a glaucoma patient, the licensee shall consult with a licensed ophthalmologist as soon as clinically prudent following initiation of the oral medication.

(4) This subsection shall not require that the licensee transfer care of the patient to the consulting ophthalmologist, but does require that the patient be seen by the consulting ophthalmologist.

~~§ 1728a. PERMISSIBLE TREATMENTS; GLAUCOMA TYPES~~

~~(a) A licensee may treat the following types of glaucoma on patients who are 16 years of age or older:~~

~~(1) adult primary open angle glaucoma;~~

~~(2) exfoliative glaucoma;~~

~~(3) pigmentary glaucoma;~~

~~(4) low tension glaucoma;~~

~~(5) inflammatory (uveitic) glaucoma; and~~

~~(6) emergency treatment of angle closure glaucoma.~~

~~(b) This section shall not prohibit a licensee from administering appropriate emergency stabilization treatment to a patient. [Repealed.]~~

~~* * *~~

~~§ 1728c. USE OF ORAL THERAPEUTIC PHARMACEUTICAL AGENT;
COMMUNICATION WITH PRIMARY CARE PROVIDER~~

~~A licensee who employs an oral therapeutic pharmaceutical agent that might prove to have significant systemic adverse reactions or systemic side-effects shall, in a manner consistent with Vermont law, ascertain the risk of systemic side effects through either a case history or by communicating with the patient's primary care provider. The licensee shall also communicate with the patient's primary care provider, or with a physician skilled in diseases of the eye, when in the professional judgment of the licensee, it is medically appropriate. The communication shall be noted in the patient's permanent record. The methodology of communication shall be determined by the licensee. [Repealed.]~~

~~§ 1728d. DURATION OF GLAUCOMA TREATMENT WITHOUT
REFERRAL~~

~~(a) If a glaucoma patient does not respond to up to three topically administered pharmaceutical agents within a reasonable time, the licensee shall refer the patient to a licensed ophthalmologist. No glaucoma patient shall be treated by an optometrist with more than three topically administered agents at any given time.~~

~~(b) If an oral medication is required to obtain an adequate clinical response, the licensee shall consult with a licensed ophthalmologist as soon as clinically prudent following initiation of the oral medication. This section shall not require that the licensee transfer care of the patient to the consulting ophthalmologist, but does require that the patient be seen by the consulting ophthalmologist. [Repealed.]~~

~~§ 1729. ENDORSEMENTS AND REQUIREMENTS~~

~~(a) Upon application, the board shall certify eligible licensees to use and prescribe therapeutic drugs and to perform those procedures authorized by subdivision 1728(a)(2) of this title, if the applicant meets the requirements of section 1715 of this chapter for licensure by examination or meets the requirements of section 1716 of this chapter for licensure by endorsement, and~~

~~is authorized under the license of another jurisdiction to use therapeutic pharmaceutical agents.~~

~~(b) A licensee certified under this section shall affix current documentation of certification to the license in the manner provided by the board.~~

~~(c) A licensee who is certified to use therapeutic pharmaceutical agents shall demonstrate proof of current cardiopulmonary resuscitation certification as a condition of initial certification and of license renewal. Acceptable courses shall include:~~

~~(1) courses in external cardiopulmonary resuscitation which are approved by the Vermont Heart Association or the American Red Cross; and~~

~~(2) courses which include a review of diseases or conditions which might produce emergencies such as anaphylactic shock, diabetes, heart condition, or epilepsy.~~

~~(d) A licensee certified to use therapeutic pharmaceutical agents shall, as part of required continuing education, receive not less than 50 percent of his or her continuing education in the use of pharmaceuticals, including treating possible complications arising from their use, and the treatment of glaucoma. [Repealed.]~~

§ 1729a. PREREQUISITES TO TREATING GLAUCOMA

~~A licensee who is already certified to use therapeutic pharmaceutical agents and who graduated from a school of optometry prior to 2003 and is not certified in another jurisdiction having substantially similar prerequisites to treating glaucoma shall, in addition to being certified to use therapeutic pharmaceutical agents, provide to the board verification of successful completion of an 18-hour course and examination offered by the State University of New York State College of Optometry or similar accredited institution. Successful completion shall include passing an examination substantially equivalent to the relevant portions on glaucoma and orals of the examination given to current graduates of optometry school and shall require the same passing grade. The course shall cover the diagnosis and treatment of glaucoma and the use of oral medications and shall be taught by both optometrists and ophthalmologists. In addition, the licensee shall collaborate with an optometrist who has been licensed to treat glaucoma for at least two years or an ophthalmologist regarding his or her current glaucoma patients for six months and at least five new glaucoma patients before treating glaucoma patients independently. These five new glaucoma patients shall be seen at least once by the collaborating glaucoma-licensed optometrist or ophthalmologist. [Repealed.]~~

Sec. 13. OFFICE OF PROFESSIONAL REGULATION; STUDY OF
OPTOMETRIC ADVANCED PROCEDURES

(a) The Office of Professional Regulation shall conduct a study to evaluate the safety and public health needs of enlarging the scope of practice of optometrists to include advanced procedures. In conducting this study, the Office shall consult with relevant stakeholders, including the Vermont Board of Optometry, the Vermont Optometric Association, the Vermont Board of Medical Practice, the Vermont Department of Health, and the Vermont Ophthalmological Society.

(b) The study shall evaluate, among other considerations, approaches to advanced procedures in jurisdictions outside Vermont, patient need for access to additional practitioners, effects on patient access to care, effects on patient safety, costs to the health care system, and the existing education and training for optometrists, including the degree to which it addresses training in advanced procedures. The Office shall inquire into the specific clinical training for both optometrists and ophthalmologists for specific procedures.

(c) On or before January 15, 2020, the Office shall report its findings, including any recommendations for legislative action, to the House Committees on Government Operations and on Health Care and to the Senate Committees on Government Operations and on Health and Welfare.

* * * Pharmacy * * *

Sec. 14. 26 V.S.A. chapter 36 is amended to read:

CHAPTER 36. PHARMACY
Subchapter 1. General Provisions

* * *

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(7) “Drug outlet” means all pharmacies, wholesalers, manufacturers, and other entities that are engaged in the manufacture, dispensing, delivery, or distribution of prescription drugs.

* * *

(11)(A) “Manufacturing” means the production, preparation, propagation, conversion, or processing of a drug or device, either directly or

indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis.

(B) “Manufacturing” includes the packaging or repackaging of a drug or device ~~or~~; the labeling or relabeling of the container of a drug or device for resale by a pharmacy, practitioner, or other person; and virtual manufacturing by an entity that sells its own prescription drug or device without physically possessing the product.

* * *

(19)(A) “Wholesale distributor” means any person who is engaged in wholesale distribution of prescription drugs, ~~but~~ including virtual distribution by an entity that sells a prescription drug or device without physically possessing the product.

(B) “Wholesale distributor” does not include any for-hire carrier or person hired solely to transport prescription drugs.

* * *

Subchapter 2. Board of Pharmacy

§ 2031. CREATION; APPOINTMENT; TERMS; ORGANIZATION

(a)(1) There is hereby created the Board of Pharmacy to enforce the provisions of this chapter.

(2) The Board shall consist of ~~seven~~ eight members, five of whom shall be pharmacists licensed under this chapter with five years of experience in the practice of pharmacy in this State. One member shall be a pharmacy technician registered under this chapter. Two members shall be members of the public having no financial interest in the practice of pharmacy.

(b) Members of the Board shall be appointed by the Governor pursuant to 3 V.S.A. §§ 129b and 2004.

§ 2032. POWERS; DUTIES; LIMITATIONS

(a) The Board shall adopt rules necessary for the performance of its duties, including:

- (1) scope of the practice of pharmacy;
- (2) qualifications for obtaining licensure;
- (3) explanations of appeal and other rights given to licensees, applicants, and the public; ~~and~~
- (4) rules regulating pharmacy technicians; and

(5) provisions for the inspection of any regulated entity or commercial location where legend drugs are manufactured or kept.

* * *

(c) The Board of Pharmacy shall also have the following responsibilities in regard to medications, drugs, legend devices, and other materials used in this State in the diagnosis, mitigation, and treatment or prevention of injury, illness, and disease:

(1) ~~The~~ the regulation of the sale ~~at retail and the, compounding, administration, and dispensing~~ of medications, drugs, legend devices, and other materials, including the right to seize any such drugs, legend devices, and other materials found to be detrimental to the public health and welfare by the Board pursuant to an appropriate hearing as required under the Administrative Procedure Act;

(2) ~~The~~ the specifications of minimum professional and technical equipment, environment, supplies, and procedures for the compounding or dispensing of such medications, drugs, legend devices, and other materials within the practice of pharmacy;

(3) ~~The~~ the control of the purity and quality of such medications, drugs, legend devices, and other materials within the practice of pharmacy; and

(4) ~~The~~ the issuance of certificates of registration and licenses of drug outlets; and

~~(5) The development of criteria for a standardized tamper-resistant prescription pad that can be used by all health care providers who prescribe drugs. Such criteria shall be developed in consultation with pharmacists, hospitals, nursing homes, physicians and other prescribers, and other affected parties.~~

* * *

Subchapter 3. Licensing

* * *

§ 2042b. ~~PHARMACY TECHNICIANS; NONDISCRETIONARY TASKS; SUPERVISION~~

~~(a) Notwithstanding any other provision of law, a registered pharmacy technician may perform packaging or other nondiscretionary tasks only while assisting and under the supervision and control of a pharmacist.~~

~~(b) This section does not authorize a pharmacy technician to perform packaging or other nondiscretionary tasks without a pharmacist on duty, and without being under the supervision and control of a pharmacist.~~

~~(c) This section does not authorize a pharmacy technician to perform any act requiring the exercise of professional judgment by a pharmacist.~~

~~(d) The Board may adopt rules to specify tasks that a pharmacy technician may perform under the supervision and control of a pharmacist pursuant to subsection (a) of this section. A pharmacy or pharmacist that employs a pharmacy technician to perform tasks specified in subsection (a) shall do so in conformity with the rules adopted by the Board pursuant to this section.~~

~~(e) [Repealed.]~~

~~(f)(1) A pharmacist on duty shall be directly responsible for the conduct of a pharmacy technician.~~

~~(2) A pharmacist responsible for a pharmacy technician shall be on the premises at all times, or in the case of a remote pharmacy approved by the Board, immediately available by a functioning videoconference link.~~

~~(3) A pharmacist shall verify a prescription before medication is provided to the patient. [Repealed.]~~

* * *

Subchapter 6. Wholesale Distributors and Manufacturers

§ 2067. ~~WHOLESALE DISTRIBUTOR~~ DISTRIBUTORS AND MANUFACTURERS; LICENSURE REQUIRED

(a) A person who is not licensed under this subchapter shall not engage in wholesale distribution or manufacturing in this State.

* * *

(c) The Board may require a separate license for each facility directly or indirectly owned or operated by the same business entity ~~within this State~~, or for a parent entity with divisions, subsidiaries, or affiliate companies ~~within this State~~ when operations are conducted at more than one location and there exists joint ownership and control among all the entities.

(d) An agent or employee of any licensed wholesale distributor shall not be required to obtain a license under this subchapter and may lawfully possess pharmaceutical drugs when that agent or employee is acting in the usual course of business or employment.

§ 2068. REQUIREMENTS; APPLICANTS; LICENSES

An applicant shall satisfy the ~~board~~ Board that it has, and licensees shall maintain, the following:

(1) Acceptable storage and handling conditions plus facilities standards.

(2) Minimum liability and other insurance as may be required under any applicable federal or state law.

(3) A security system ~~which~~ that includes after hours, central alarm or comparable entry detection capability, restricted premises access, adequate outside perimeter lighting, comprehensive employment applicant screening, and safeguards against employee theft.

(4) An electronic, manual, or any other reasonable system of records, describing ~~all wholesale distributor~~ activities governed by this subchapter for the two-year period following disposition of each product, which shall be reasonably accessible, as defined by the ~~board~~ Board by rule, during any inspection authorized by the ~~board~~ Board.

(5) Officers, directors, managers, and other persons in charge of wholesale drug distribution, manufacture, storage, and handling, who shall at all times demonstrate and maintain their capability to conduct business according to sound financial practices as well as state and federal law.

* * *

(9) Operations in compliance with all federal requirements ~~applicable to wholesale drug distribution~~.

(10)(A) Compliance with standards and procedures ~~which~~ that the ~~board~~ Board shall adopt by rule concerning provisions for initial and periodic on-site inspections, criminal and financial background checks, ongoing monitoring, reciprocity for out-of-state wholesale drug distributors inspected by a third party organization recognized by the ~~board~~ Board or inspected and licensed by a state State licensing authority with legal standards for licensure that are comparable to the standards adopted by the ~~board~~ Board pursuant to this subdivision (10), protection of a wholesale drug distributor's proprietary information, and any other requirements consistent with the purposes of this subdivision (10).

(B) The ~~board~~ Board rules may recognize third party accreditation in satisfaction of some or all of the requirements of this subdivision (10).

* * *

§ 2076. INSPECTION POWERS; ACCESS TO WHOLESALE
DISTRIBUTOR AND MANUFACTURER RECORDS

(a) A person authorized by the Board may enter, during normal business hours, all open premises purporting or appearing to be used by a wholesale distributor or manufacturer for purposes of inspection.

(b)(1) Wholesale distributors and manufacturers may keep records regarding purchase and sales transactions at a central location apart from the principal office of the wholesale distributor or the location at which the drugs were stored and from which they were shipped, provided that such records shall be made available for inspection within two working days of a request by the Board.

(2) Records may be kept in any form permissible under federal law applicable to prescription drugs record keeping.

(c) If the Board determines it is necessary to inspect a certain premises under the same ownership more than once in any two-year period, the Board may charge a reinspection fee of ~~\$100.00~~ \$500.00.

* * *

Sec. 15. OFFICE OF PROFESSIONAL REGULATION; EVALUATION
OF PHARMACIST PRESCRIBING AUTHORITY

(a) The Office of Professional Regulation shall evaluate the costs and benefits of incorporating prescribing authority into the scope of practice of licensed pharmacists. This evaluation shall be conducted in consultation with relevant stakeholders and shall include consideration of:

(1) approaches to clinical pharmacy in jurisdictions outside Vermont;

(2) potential impacts on patient safety and on primary and preventive care delivered by other health care professionals;

(3) effects on patient access to care; and

(4) the appropriate extent, if any, of the prescribing authority.

(b) On or before January 15, 2020, the Office shall report its findings and any recommendations for legislative action to the House and Senate Committees on Government Operations, the House Committee on Health Care, and the Senate Committee on Health and Welfare.

* * * Real Estate Brokers and Salespersons * * *

Sec. 16. 26 V.S.A. chapter 41 is amended to read:

CHAPTER 41. REAL ESTATE BROKERS AND SALESPERSONS

Subchapter 1. General Provisions

* * *

§ 2213. PENALTIES

A person who shall violate any provision of this chapter shall be subject to the penalties provided in 3 V.S.A. § 127(e).

* * *

Subchapter 3. Licenses

* * *

§ 2292. ELIGIBILITY

* * *

(b)(1) A license as a real estate salesperson shall be granted to a person who satisfies all of the following:

(A)(1) has passed an examination as required by the Commission;

(B)(2) is at least 18 years of age;

(C)(3) has been employed by or become associated with a brokerage firm and that firm's principal broker; and

(D)(4) has completed a course of instruction, approved by the Commission, of at least 40 hours.

~~(2)(A) An initial salesperson license shall expire 90 days from issuance.~~

~~(B) The license of a salesperson who has provided documentation to the Commission showing successful completion of eight hours of instruction addressing topics specified by the Commission relating to the salesperson's postlicensure practice of the profession shall be renewed without application or fee and remain valid until the end of the biennial licensing period.~~

~~(3) Has been employed by or become associated with a brokerage firm and that firm's principal broker.~~

~~(4) Has completed a course of instruction, approved by the Commission, of at least 40 hours.~~

* * *

§ 2293. RENEWAL OF LICENSE; EXPIRED LICENSE

(a) Licenses shall be renewed every two years without examination and on payment of the required fees, provided that the person applying for renewal completes at least 24 hours of instruction for brokers and 16 hours of instruction for salespersons, approved by the Commission, during the preceding two-year period. Four hours of this continuing education instruction shall address legislation and other topics specified by the Commission for each renewal period.

~~(b)(1) A broker or salesperson applying for reinstatement of a license that has expired shall be assessed both the renewal fee and late renewal penalty established by the Director of the Office of Professional Regulation and shall not be assessed renewal fees for the years during which the license was expired.~~

~~(2) Reinstatement shall not take place until the applicant completes the continuing education required for the previous renewal period.~~

~~(c)(1) If a broker or salesperson's license has expired for greater than five consecutive years, the broker or salesperson shall apply for reinstatement in accordance with the initial licensure requirements as set forth in section 2292 of this chapter, including a course of instruction and examination.~~

~~(2) The Commission may waive the reinstatement requirements based upon licensed practice in another state.~~

~~(d) The Commission may waive or postpone compliance with the instructional requirements of this section in cases of extreme hardship on the part of the licensee. No licensee, however, may receive a postponement or waiver for two successive two-year periods of licensure. The Commission may accept fewer hours of continuing education instruction for renewal of a license on a prorated basis following an initial licensing period of less than two years.~~

~~(e) [Repealed.]~~

* * *

§ 2296. UNPROFESSIONAL CONDUCT

~~Unprofessional conduct means the following conduct and In addition to the conduct set forth in 3 V.S.A. § 129a, the following conduct by those regulated under this chapter constitutes unprofessional conduct:~~

~~(1) makes a material misstatement in the application for his or her license;~~

~~(2) uses dishonest or misleading advertising;~~

~~(3) demonstrates incompetency to act as a real estate broker or salesperson;~~

~~(4) is found by the Commission to be guilty of fraud or fraudulent practices; or is convicted for violating this chapter; or is convicted of forgery, embezzlement, obtaining money under false pretenses, or conspiring to defraud;~~

~~(5) commingles commingling money or other property to which the licensee's clients or other persons are entitled with the licensee's own, except to the extent nominal sums of the licensee's funds may be required to maintain an open trust account;~~

~~(6)(2) fails failing to inform clients, establish trust and escrow accounts, maintain records, and otherwise act in accordance with the provisions of section 2214 of this chapter with respect to all monies received by the licensee as a real estate broker, or as escrow agent, or as the temporary custodian of the funds of others, in a real estate transaction;~~

~~(7)(3) fails failing promptly to segregate any properties received that are to be held for the benefit of others;~~

~~(8) is found by the Commission to have engaged in any act or conduct, whether of the same or different character as that described in this section, that contributes to or demonstrates incompetency or dishonest fraudulent dealings;~~

~~(9)(4) fails failing to fully disclose to a buyer all material facts within the licensee's knowledge concerning the property being sold;~~

~~(10)(5) fails failing to fully disclose to a buyer the existence of an agency relationship between the licensee and the seller.~~

* * *

* * * Opticians * * *

Sec. 17. 26 V.S.A. chapter 47 is amended to read:

CHAPTER 47. OPTICIANS

* * *

Subchapter 2. Administration

§ 2661. POWERS AND DUTIES OF THE DIRECTOR; ~~DUTIES~~

(a) The ~~director~~ Director shall:

(1) provide general information to applicants for licensure as opticians;

(2) explain appeal procedures to opticians and applicants and complaint procedures to the public;

(3) administer fees established by law;

(4) receive applications for licensure, issue licenses, to applicants qualified under this chapter, deny or renew licenses and issue, revoke, suspend, condition, and reinstate licenses as ordered by an administrative law officer;

(5) refer ~~complaints and disciplinary matters to~~ for adjudication by an administrative law officer;

(6) conduct or specify examinations and pass upon the qualifications of applicants for reciprocal registration;

(7) conduct hearings as necessary for the issuance, renewal, or discipline of a license; and

(8) establish by rule standards of education required of applicants, as well as minimum standards for any school presenting a course for present or future opticians.

(b) ~~The director~~ Director may, after consultation with the advisor appointees, adopt rules necessary to perform the director's duties under this chapter, including rules governing apprenticeship and continuing education. Rules adopted under this section shall not prohibit lawful advertising, the display of ophthalmic materials or merchandise, limit the place or location where opticians may practice, nor be designed to limit the number of opticians in the State.

* * *

§ 2665. ~~POWERS AND DUTIES OF THE DIRECTOR~~

~~(a) The Director shall:~~

~~(1) adopt only those rules necessary for the full and efficient performance of its duties;~~

~~(2) conduct examinations and pass upon the qualifications of applicants for reciprocal registration;~~

~~(3) establish standards of education required of applicants for licensing and establish, by appropriate rules, the minimum standards for any school presenting a course for present or future opticians;~~

~~(4) conduct any necessary hearings in connection with the issuance, renewal, suspension, or revocation of a license;~~

~~(5) [Repealed.]~~

~~(6) adopt rules establishing continuing education requirements and approve continuing education programs to assist a licensee in meeting these requirements.~~

~~(b) The Director shall not:~~

~~(1) adopt any rules prohibiting lawful advertising, the display of ophthalmic materials or merchandise, or limiting the place or location where opticians may practice; or~~

~~(2) adopt any rules specifically designed to limit the number of opticians in this State. [Repealed.]~~

* * *

Subchapter 3. Licenses

§ 2671. APPLICATIONS

~~Any person who desires to practice as an optician~~ be licensed under this chapter shall file a written submit an application for a license and the application as specified by the Director, accompanied by payment of the required fee with the office on forms provided by the office. An applicant shall submit satisfactory proof that he or she meets the qualifications under section 2672 of this title chapter.

§ 2672. QUALIFICATIONS

~~No~~ A person may shall not be examined or licensed under this chapter, except as otherwise provided in this chapter, unless the applicant has attained the age of majority he or she has obtained a high school education or its equivalent and possesses the following qualifications:

(1) Education. Has completed:

~~(A) Has obtained a high school education or its equivalent and has completed~~ at least a two-year course of study in a school of ophthalmic dispensing approved by the ~~board~~ Director or a school ~~which that~~ is a candidate for accreditation by an accreditation agency approved by the United States Department of Education and by the ~~director~~ Director; ~~or~~

~~(2)(B) Has completed three~~ at least two years of practical training and experience, approved by the ~~director~~ Director, under the supervision of a licensed optician, ophthalmologist, or optometrist; or

~~(C) the National Academy of Opticianry~~ Ophthalmic Career Progression Program, including at least one year of practical training and experience, approved by the Director, under the supervision of a licensed optician, ophthalmologist, or optometrist; and

(2) Examination. Has passed an examination recognized by the Director that shall include assessment of competency in ophthalmic materials; laboratory, practical, and physiological optics; prescription interpretation; dispensing preparation; adjustment of lenses, spectacles, eyeglasses, prisms, tinted lenses, and appurtenances; the use of lensometers or equivalent instruments; adjusting instruments; and pupillary and facial measurements.

§ 2673. EXAMINATION; LICENSES

~~(a) Examinations for licenses shall be conducted at least once each year and shall be devised in form and substance to evaluate fairly the applicant's qualifications to practice as a licensed optician. The examination shall include, but not be limited to, ophthalmic materials, laboratory, practical and physiological optics, prescription interpretation, dispensing preparation, adjustment of lenses, spectacles, eyeglasses, prisms, tinted lenses, and appurtenances, the use of lensometers or equivalent instruments, adjusting instruments, and pupillary and facial measurements.~~

~~(b) Any applicant passing the examination and meeting the requirements established by the director shall be issued a license under this chapter. [Repealed.]~~

* * *

* * * Radiology * * *

Sec. 18. 26 V.S.A. chapter 51 is amended to read:

CHAPTER 51. RADIOLOGY

Subchapter 1. General Provisions

§ 2801. DEFINITIONS

As used in this chapter:

(1) ~~“Board”~~ “Director” means the ~~board of radiologic technology~~ Director of the Office of Professional Regulation.

(2) “Practice of radiologic technology” means the practice of:

- (A) radiography; ~~or~~
- (B) nuclear medicine technology; or
- (C) radiation therapy.

(3) “Practice of radiography” means the direct application of ionizing radiation to human beings.

(4) “Practice of nuclear medicine technology” means the act of giving a radioactive substance to a human being or the act of performing associated imaging procedures, or both.

(5) “Practice of radiation therapy” means the direct application of ionizing radiation to human beings for therapeutic purposes or the act of performing associated imaging procedures, or both.

(6) “Licensed practitioner” means a person licensed under this title to practice medicine, osteopathy, advanced practice registered nursing, dentistry, podiatry, naturopathic medicine, or chiropractic.

(7) “Financial interest” means being:

(A) a licensed practitioner of radiologic technology; ~~or~~

(B) a person who deals in goods and services ~~which~~ that are uniquely related to the practice of radiologic technology; or

(C) a person who has invested anything of value in a business ~~which~~ that provides radiologic technology services.

(8) “Unauthorized practice” means conduct prohibited by section 2802 of this ~~title~~ chapter and not exempted by section 2803 of this ~~title~~ chapter.

(9) “Direct ~~personal~~ supervision” means that the person being supervised remains in the physical presence of the supervisor at all times.

(10) “General supervision” means that the supervisor is readily available for consultation or intervention on the premises where radiologic technology services are being provided.

(11) “ARRT” means the American Registry of Radiologic Technologists.

(12) “NMTCB” means the Nuclear Medicine Technologist Certification Board.

(13) “Office” means the Office of Professional Regulation.

§ 2802. PROHIBITIONS

(a) [Repealed.]

(b) ~~No~~ A person shall not practice radiologic technology unless he or she is licensed in accordance with the provisions of this chapter.

(c) ~~No~~ A person shall not practice radiography without a license for radiography ~~from the board~~ unless exempt under section 2803 of this ~~title~~ chapter.

(d) [Repealed.]

(e) ~~No~~ A person shall not practice nuclear medicine technology without a license for that purpose ~~from the board~~ unless exempt under section 2803 of this title chapter.

(f) ~~No~~ A person shall not practice radiation therapy technology without a license for that purpose ~~from the board~~ unless exempt under section 2803 of this title chapter.

§ 2803. EXEMPTIONS

The prohibitions in section 2802 of this chapter shall not apply to dentists licensed under chapter 12 of this title and actions within their scope of practice nor to:

(1) Licensed practitioners acting within the scope of practice for their licensed field, provided that their practice acts and rules adopted thereunder ~~make provisions for~~ have been expressly found by the Director, in consultation with advisors appointed under this chapter, to match or surpass the training in radiation safety and proper radiation practices determined in consultation with the Board required by this chapter and rules adopted under this chapter.

* * *

(5) Any of the following when operating dental radiographic equipment to conduct intraoral radiographic examinations under the general supervision of a licensed practitioner; and any of the following when operating dental radiographic equipment to conduct specialized radiographic examinations, including tomographic, cephalometric, or temporomandibular joint examinations, if the person has completed a course in radiography approved by the Board of Dental Examiners and practices under the general supervision of a licensed practitioner:

* * *

(D) a student of dental therapy, dental hygiene, or dental assisting as part of the training program when ~~directly supervised by~~ under the direct supervision of a licensed dentist, licensed dental therapist, licensed dental hygienist, or registered dental assistant.

* * *

(7) Researchers operating bone densitometry equipment for body composition upon successful completion of courses on body composition and radiation safety approved by the ~~Board~~ Director. The ~~Board~~ Director shall not require this coursework to exceed eight hours. The ~~Board~~ Director may consider other exemptions from licensure for bona fide research projects

subject to course and examination requirements as deemed necessary for public protection.

§ 2804. COMPETENCY REQUIREMENT OF CERTAIN LICENSED
PRACTITIONERS

(a) Unless the requirements of subdivision 2803(1) of this chapter have been satisfied, a ~~physician, as defined in chapter 23 of this title; podiatrist, as defined in chapter 7 of this title; chiropractic physician, as defined in chapter 10 of this title; osteopathic physician, as defined in chapter 33 of this title; or naturopathic physician, as defined in chapter 81 of this title,~~ licensed practitioner shall not apply ionizing radiation to human beings without first having satisfied the Board Director of his or her competency to do so.

(b) The Board Director shall:

(1) consult with the appropriate licensing boards concerning suitable performance standards; and

(2) by rule, provide for periodic recertification of competency.

(c) A person subject to the provisions of this section shall be subject to the fees established under subdivisions 2814(4) and (5) of this chapter.

(d) This section does not apply to radiologists who are certified or eligible for certification by the American Board of Radiology, nuclear cardiologists who are certified or eligible for certification by the Certification Board of Nuclear Cardiology, or interventional cardiologists and electrophysiologists who are certified or eligible for certification by the American Board of Internal Medicine.

§ 2805. PENALTY AND ENFORCEMENT

A person found guilty of violating section 2802 or 2804 of this ~~title~~ chapter shall be subject to the penalties provided in 3 V.S.A. § 127(~~e~~).

Subchapter 2. Board of Radiologic Technology Administration

§ 2811. BOARD REGULATION OF RADIOLOGIC TECHNOLOGY;
DIRECTOR; ADVISOR APPOINTEES

(a)(1) ~~A board of radiologic technology is created, consisting of six members. The board shall be attached to the office of professional regulation. The Director shall administer the provisions of this chapter.~~

(2)(A) The Secretary of State shall appoint six persons of suitable qualifications in accordance with this section to advise the Director in matters

concerning radiologic technology, radiologic safety, and the optimal administration of this chapter.

(B) The Secretary shall appoint the advisors for five-year staggered terms. Four of the initial appointments shall be for four-, three-, two-, and one-year terms.

(3) The Director shall consult the appointed advisors prior to exercising interpretive discretion, adopting or amending rules, and determining any substantial regulatory question presented in the course of administering this chapter.

~~(b) One member of the board~~ advisor shall be a member of the public who has no financial interest in radiologic technology other than as a consumer or possible consumer of its services. The public member shall have no financial interest personally or through a spouse.

~~(c) One member of the board~~ advisor shall be a radiologist certified by the American Board of Radiology.

~~(d) Three members of the board~~ advisors shall be licensed under this chapter, one representing each of the three following primary modalities: radiography; nuclear medicine technology; and radiation therapy.

~~(e) One member of the board~~ advisor shall be a representative from the radiological health program of the Vermont ~~department of health~~ Department of Health.

~~(f) Board members shall be appointed by the governor.~~ [Repealed.]

§ 2812. DIRECTOR; POWERS AND DUTIES

~~(a) The Board~~ Director shall adopt rules necessary for the ~~performancee effective administration of its duties~~ this chapter, including:

(1) a definition of the practice of radiologic technology, interpreting section 2801 of this ~~title~~ chapter;

(2) qualifications for obtaining licensure, interpreting sections 2821a and 2821b of this chapter;

(3) explanations of appeal and other significant rights given to applicants and the public;

(4) procedures for disciplinary and reinstatement cases;

(5) [Repealed.]

(6) procedures for mandatory reporting of unsafe radiologic conditions or practices;

- (7) procedures for continued competency evaluation;
- (8) procedures for radiation safety;
- (9) procedures for competency standards for license applications and renewals.

(b) The ~~Board~~ Director shall:

- (1) [Repealed.]
- (2) ~~use the administrative and legal services provided by the Office of Professional Regulation under 3 V.S.A. chapter 5; [Repealed.]~~
- (3) investigate suspected unprofessional conduct;
- (4) periodically determine whether a sufficient supply of good quality radiologic technology services is available in Vermont at a competitive and reasonable price and take suitable action, within the scope of ~~its~~ the Office's powers, to solve or bring public and professional attention to any problem that it finds in this area; and
- (5) as a condition of renewal require that a licensee establish that he or she has completed a minimum of 24 hours of continuing education as ~~approved by the Board,~~ the specific requirements of which may be specified by rule.

(c) The ~~Board~~ Director may:

- (1) Refer cases of apparent improper radiologic technology practice to any occupational board with authority over the person concerned.
- (2) Investigate suspected cases of unauthorized practice of radiologic technology, and refer any such case to the Office's State prosecuting attorney, the Attorney General, or a State's Attorney for possible prosecution and injunctive relief.

* * *

(8)(A) Conduct a competency evaluation where radiographic services are performed by licensees and licensed practitioners required to demonstrate competency under section 2804 of this title chapter to ensure that optimum radiologic technology practices are used to minimize patient and occupational radiation dose. ~~The fee required under section 2814 of this title shall not be assessed more than once in any two-year period against any licensed practitioner evaluated under this subdivision.~~

~~(B) The Director of the Office of Professional Regulation may contract with the Department of Health or others to perform evaluations under this subsection subdivision (8).~~

~~§ 2813. BOARD PROCEDURES~~

~~(a) Annually, the board shall meet to elect a chairperson and a secretary.~~

~~(b) Meetings may be called by the chairperson and shall be called upon the request of any other two members.~~

~~(c) Meetings shall be warned and conducted in accordance with 1 V.S.A. chapter 5.~~

~~(d) A majority of the members of the board shall be a quorum for transacting business.~~

~~(e) All action shall be taken upon a majority vote of the members present and voting, unless otherwise provided in 1 V.S.A. chapter 5.~~

~~(f) The provisions of the Vermont Administrative Procedure Act relating to contested cases shall apply to proceedings under this chapter.~~

~~(g) Fees for the service of process and attendance before the board shall be the same as the fees paid sheriffs and witnesses in superior court. [Repealed.]~~

* * *

Subchapter 3. Licensing

* * *

§ 2821a. LICENSE FOR PRIMARY MODALITIES; COMMON REQUIREMENTS

The ~~board~~ Director shall recognize and follow the ARRT and the NMTCB primary certification process. The ~~board~~ Director shall issue a license to practice in one of the following three primary modalities to any person who in addition to the other requirements of this section, has reached the age of majority and has completed preliminary education equivalent to at least four years of high school:

(1) Radiography. The ~~board~~ Director shall issue a radiography license to any person who, in addition to meeting the general requirements of this section:

* * *

(2) Nuclear medicine technology. The ~~board~~ Director shall issue a nuclear medicine technology license to any person who, in addition to meeting the general requirements of this section:

* * *

(3) Radiation therapy. The ~~board~~ Director shall issue a radiation therapy license to any person who, in addition to meeting the general requirements of this section:

* * *

§ 2821b. LICENSE FOR POSTPRIMARY MODALITIES

(a) The ~~Board recognizes and follows~~ Director shall recognize and follow the ARRT and NMTCB postprimary certification process ~~for~~ in the following postprimary practice categories: mammography, computed tomography (CT), cardiac-interventional radiography, vascular-interventional radiography, and positron emission tomography (PET).

* * *

§ 2822. PROCEDURE FOR DENIAL OF LICENSE

~~When the board intends to deny an application for license, it shall send the applicant written notice of its decision by certified mail. The notice shall include a statement of the reasons for the action. Within 30 days of the date that an applicant receives such notice, the applicant may file a petition with the board for review of its preliminary decision. At the hearing, the burden shall be on the applicant to show that a license should be issued. After the hearing, the board shall affirm or reverse its preliminary denial. [Repealed.]~~

§ 2823. RENEWAL AND PROCEDURE FOR NONRENEWAL

~~(a) Each radiographer, nuclear medicine technologist, and radiation therapist licensed to practice by the board shall apply biennially for the renewal of a license. One month prior to the renewal date, the office of professional regulation shall send to each of those licensees a license renewal application form and a notice of the date on which the existing license will expire. The licensee shall file the application for license renewal and pay a renewal fee. In order to be eligible for renewal, an applicant shall document completion of no fewer than 24 hours of board-approved continuing education. Required accumulation of continuing education hours shall begin on the first day of the first full biennial licensing period following initial licensure.~~

~~(b) A person who practices radiography, nuclear medicine technology, or radiation therapy and who fails to renew a license or registration or fails to pay~~

~~the fees required by this chapter shall be an illegal practitioner and shall forfeit the right to practice until reinstated by the board.~~

~~(c) The board shall adopt rules setting forth qualifications for reinstating lapsed licenses. [Repealed.]~~

* * *

§ 2825a. LICENSURE BY ENDORSEMENT

~~The board Director may grant a license to an applicant who possesses a license in good standing in another state and possesses the applicable ARRT or NMTCB primary and postprimary certifications as set forth in sections 2821a and 2821b of this subchapter, respectively.~~

~~Subchapter 4. Discipline [Repealed.]~~

§ 2831. UNPROFESSIONAL CONDUCT

~~(a) Unprofessional conduct is the conduct prohibited by this section and by 3 V.S.A. § 129a, whether or not taken by a license holder.~~

~~(b) Conduct by a radiologic technologist which evidences moral unfitness to practice the profession constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license.~~

~~(c) Unprofessional conduct includes the following actions by a licensee:~~

~~(1) practicing or offering to practice beyond the scope permitted by law;~~

~~(2) accepting and performing responsibilities which the licensee knows or has reason to know that he or she is not competent to perform;~~

~~(3) making any material misrepresentation in the practice of the profession, whether by commission or omission;~~

~~(4) agreeing with any other person or organization, or subscribing to any code of ethics or organizational bylaws, when the intent or primary effect of that agreement, code, or bylaw is to restrict or limit the flow of information concerning alleged or suspected unprofessional conduct to the board. [Repealed.]~~

§ 2832. DISCIPLINE OF LICENSEES

~~(a) The board shall accept oral and written complaints from any member of the public, any licensee, any state or federal agency, or the attorney general. The board may initiate disciplinary action in any complaint against a licensee and may act without having received a complaint.~~

~~(b) The burden of proof shall be on the state to show by a preponderance of the evidence that the licensee has engaged in unprofessional conduct.~~

~~(c) After hearing and upon a finding of unprofessional conduct, the board may:~~

- ~~(1) revoke a license;~~
- ~~(2) suspend a license; or~~
- ~~(3) issue a warning to a licensee.~~

~~(d) Before or after hearing, the board may approve a negotiated agreement between the parties when it is in the best interest of the public health, safety, or welfare to do so. Such an agreement may include, without limitation, any of the following conditions or restrictions which may be in addition to or in lieu of suspension:~~

- ~~(1) a requirement that a licensee submit to care or counseling;~~
- ~~(2) a restriction that a licensee practice only under supervision of a named person or a person with specified credentials;~~
- ~~(3) a requirement that a licensee participate in continuing education in order to overcome specified practical deficiencies;~~
- ~~(4) a requirement that the scope of practice permitted be restricted to a specified extent. Such an agreement may be modified by the parties after obtaining the approval of the board.~~

~~(e) An interested party may petition the board for modification of the terms of an order under this section.~~

~~(f) Where a license has been revoked, the board may reinstate the license on terms and conditions it deems proper. [Repealed.]~~

* * *

Sec. 19. TRANSITIONAL PROVISION; RADIOLOGIC TECHNOLOGY

RULES

On the effective date of Sec. 18 of this act (amending 26 V.S.A. chapter 51 (radiology)), the rules of the Board of Radiologic Technology shall constitute the rules of the Director of the Office of Professional Regulation for the practice of radiologic technology.

* * * Alcohol and Drug Abuse Counselors * * *

Sec. 20. 26 V.S.A. § 3231 is amended to read:

§ 3231. DEFINITIONS

As used in this chapter:

* * *

(5) “Practice of alcohol and drug abuse counseling” means the application of methods, including psychotherapy, that assist an individual or group to develop an understanding of alcohol and drug abuse dependency problems or process disorders, and to define goals and plan actions reflecting the individual’s or group’s interests, abilities, and needs as affected by alcohol and drug abuse dependency problems and comorbid conditions.

* * *

* * * Real Estate Appraisers * * *

Sec. 21. 26 V.S.A. chapter 69 is amended to read:

CHAPTER 69. REAL ESTATE APPRAISERS

Subchapter 1. General Provisions

§ 3311. DEFINITIONS

As used in this chapter:

* * *

(7) ~~“Board”~~ “Director” means the ~~Board of Real Estate Appraisers established under this chapter~~ Director of the Office of Professional Regulation.

(8)(A) “Disciplinary action” means any action ~~taken by the Board~~ any regulatory or certifying authority against a licensed real estate appraiser or applicant ~~premised on~~ upon a finding that the person has engaged in unprofessional conduct.

(B)(i) The term includes all sanctions of any kind, including obtaining injunctions, refusing to grant or renew a license, suspending, revoking, or restricting a license, and issuing warnings.

(ii) The term does not include monetary civil penalties imposed by a hearing officer in relation to an express finding under 3 V.S.A. § 129(a)(3) that the subject matter does not constitute unprofessional conduct.

(9) “Office” means the Office of Professional Regulation.

§ 3312. PROHIBITIONS; PENALTY; EXEMPTION

(a) Unless licensed in accordance with the provisions of this chapter, ~~no~~ a person ~~may~~ shall not:

(1) ~~Perform~~ perform an appraisal in a federally related transaction when a licensed or certified appraiser is required by the Act; or

(2) Use in connection with his or her name any letters, words, or insignia indicating that he or she is a state State certified or licensed real estate appraiser.

(b) An individual who violates a provision of subsection (a) of this section shall be subject to the penalties provided in 3 V.S.A. § 127(~~e~~).

(c) A registered appraisal management company shall not be required to be licensed in order to acquire and provide finished appraisals to third parties.

Subchapter 2. Administration

§ 3313. ~~BOARD~~ REGULATION OF REAL ESTATE APPRAISERS;

DIRECTOR; ADVISOR APPOINTEES

(a)(1) ~~A board of real estate appraisers is established. The board shall consist of six members appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004~~ The Director shall administer the provisions of this chapter.

(2)(A) The Secretary of State shall appoint six persons of suitable qualifications in accordance with this section to advise the Director in matters concerning real estate appraisal.

(B) The Secretary shall appoint the advisors for five-year staggered terms. Four of the initial appointments shall be for four-, three-, two-, and one-year terms.

(3) The Director shall consult the appointed advisors prior to exercising interpretive discretion, adopting or amending rules, and determining any substantial regulatory question presented in the course of administering this chapter.

(b) ~~Three members~~ advisors shall be real estate appraisers licensed under this chapter who have been actively engaged in the full-time practice of real estate appraising for five years preceding appointment and have been practicing in Vermont for the two-year period immediately preceding appointment.

(c) ~~Two members~~ advisors shall be public members who shall have no direct financial interest personally or through a spouse, parent, child, brother, or sister in real estate appraising.

(d) ~~One member~~ advisor shall be a public member actively engaged in the business of banking, including lending for the purpose of buying real property,

or shall be a person who is a consumer of appraisal services in the regular course of his or her business.

§ 3314. ~~BOARD~~ DIRECTOR; POWERS AND DUTIES

(a) The ~~Board~~ Director shall administer the provisions of this chapter in a manner that conforms in all respects with the requirements of the Act.

(b) In addition to ~~it's~~ the Director's other powers and duties under this chapter, the ~~Board~~ Director shall:

(1) Receive and review applications.

(2) Collect the registry fee as required by the Act and transmit that fee to the ASC. The registry fee shall be in addition to State licensing and registration fees.

(3) Annually publish a roster of all licensees and transmit the roster to the ASC as required by the Act.

(4) Register appraisal management companies.

(5) ~~The Board may make~~ Make inquiries ~~it he or she~~ he or she deems necessary into the character, integrity, and reputation of the applicant.

(6) Perform other functions and duties as may be necessary to carry out the provisions of this chapter and to comply with the requirements of the Act, including by adopting rules defining and regulating appraisal management companies in a manner consistent with the Act.

§ 3315. RULES

(a) The ~~Board~~ Director may adopt rules necessary to implement the provisions of this chapter.

(b) The ~~Board~~ Director shall adopt rules relating to procedures for processing applications, issuing licenses, registering trainees, inspecting records, and instituting and conducting disciplinary proceedings.

Subchapter 3. Licenses, Certifications, and Registrations

§ 3316. LICENSING AND REGISTRATION FEES

* * *

§ 3317. APPLICATION

An individual who desires to be licensed under this chapter shall ~~apply to submit an application as specified by the board in writing on a form furnished by the board.~~ The application shall be Director, accompanied by payment of the required fee.

§ 3318. EXAMINATION

The ~~Board~~ Director shall examine applicants ~~for~~ using an AQB-approved qualifying examination ~~for~~ applicable to the credential sought by the applicant.

§ 3319. TEMPORARY PRACTICE

The ~~board~~ Director shall issue a temporary license to an individual, after filing of an application and fee, who is a certified or licensed real estate appraiser in another jurisdiction if all of the following apply:

- (1) ~~The~~ the property to be appraised is part of a federally related transaction for which a licensed or certified appraiser is required by the Act;
- (2) ~~The~~ the applicant's business is of a temporary nature; and
- (3) ~~The~~ the applicant registers with the ~~board~~ Office.

§ 3319a. APPRAISER TRAINEE REGISTRATION

(a)(1)(A) A person who has completed a course of instruction approved by the AQB may work as a certified residential or certified general appraiser trainee provided the person is registered with the ~~Board~~ Office.

(B) An appraiser trainee shall work under the direct supervision of an appraiser who holds either a certified residential or a certified general license in good standing and has held the certified residential or certified general license for at least the minimum number of years required by the AQB.

(2)(A) An appraiser trainee may perform activities within the scope of practice of the license sought, provided that the supervising appraiser reviews and signs all resulting appraisals.

(B) The supervising appraiser shall be professionally responsible for such activities performed by the trainee.

(3) As used in this ~~section~~ subsection, "good standing" means that the appraiser supervisor holds a current, unrestricted license.

(b) [Repealed.]

(c) The ~~Board~~ Director may, ~~in its discretion~~, give credit for training hours, not exceeding 10 percent of the total hourly experience requirement, for hours worked or training given that does not include or is unrelated to a site inspection.

(d) Appraiser trainees registered with the Board as of July 1, 2013 and who continue on to satisfy the requirements specified by the AQB may become State licensed appraisers, notwithstanding the elimination of that license category.

§ 3320. LICENSURE BY RECIPROCITY

The ~~Board~~ Director shall waive all licensing requirements for an appraiser applicant holding a valid certification from another state if:

(1) the appraiser licensing and certification program of the other state is in compliance with the provisions of the Act; and

(2) the appraiser applicant holds the valid certification from a state whose requirements for certification or licensing meet or exceed the licensure standards established by this chapter.

* * *

§ 3321. RENEWALS

* * *

(c) The ~~Board~~ Director may reactivate the license of an individual whose license has lapsed for more than 30 days upon payment of the renewal fee, the reactivation fee, and the late renewal penalty, provided the individual has satisfied all requirements of AQB for reactivation.

(d) The ~~Board~~ Director may require, by rule, as a condition of reactivation, that an applicant undergo review of one or more aspects of the applicant's professional work in the practice of real estate appraising, provided that the manner and performance results of the review be specified by the ~~Board~~ Director. Such a review requirement shall:

* * *

§ 3322. USE OF LICENSE NUMBER; CONSUMER FEE DISCLOSURE

(a)(1) Each licensee or registrant shall be assigned a license or registration number ~~which~~ that shall be used in a report, a contract, engagement letter, or other instrument used by the licensee or registrant in connection with the licensee's or registrant's activities under this chapter. The license number shall be placed adjacent to or immediately below the title the licensee is entitled to use under this chapter.

(2) ~~The~~ Each licensed appraiser shall ensure that the registration number and the appraiser's fee for appraisal services shall appear adjacent to or immediately below the appraisal management company's registered name on documents supplied to clients or customers in this ~~state~~ State.

(b) ~~The~~ Each licensed appraiser shall include within the body of the appraisal report the amount of the appraiser's fee for appraisal services.

§ 3323. UNPROFESSIONAL CONDUCT

(a) The following conduct by a licensee and the conduct set forth in 3 V.S.A. § 129a constitute unprofessional conduct. When that conduct is by an applicant or a person who later becomes an applicant, it may constitute grounds for denial of a license:

* * *

(8) Violating any term or condition of a license restricted by the board Office.

(9) Failing to comply with practice standards adopted by the board Director.

* * *

~~(d) After hearing, and upon a finding of unprofessional conduct, the board may take disciplinary action against a licensee, applicant, or registrant. Without limitation, disciplinary action may include any of the following:~~

~~(1) suspending or conditioning a license or registration;~~

~~(2) requiring a licensee to submit to care or counseling;~~

~~(3) requiring that a licensee practice only under supervision of a named person or a person with specified credentials;~~

~~(4) requiring a licensee to participate in continuing education in order to overcome specified practical deficiencies;~~

~~(5) limiting the scope of the licensee's practice. [Repealed.]~~

(e) Appeals from decisions of the board disciplinary orders and final license denials shall be governed by the provisions of 3 V.S.A. § 130a.

§ 3324. RECORD RETENTION

(a) A licensee or registrant shall retain all records related to an appraisal, review, or consulting assignment for no less fewer than five years after preparation.

(b) A licensee or registrant shall retain records under this section that relate to a matter in litigation for two years after the litigation concludes or in conformance with the "Uniform Standards of Professional Appraisal Practice," as promulgated by the Appraisal Standards Board of the Appraisal Foundation, whichever period is longer.

(c) ~~With~~ Upon reasonable notice, a licensee or registrant shall ~~produce~~ provide to the Director for inspection and copying any records governed by this section ~~for inspection and copying by the board or its authorized agent.~~

§ 3325. REPORTING

An appraiser who reports to the ~~board~~ Director appraisal work ~~being performed which~~ that does not comply with the provisions of this chapter shall not be considered to have violated the ethics provision of the uniform standards of professional practice.

Sec. 22. TRANSITIONAL PROVISION; REAL ESTATE APPRAISER

RULES

On the effective date of Sec. 21 of this act (amending 26 V.S.A. chapter 69 (real estate appraisers)), the rules of the Board of Real Estate Appraisers shall constitute the rules of the Director of the Office of Professional Regulation for the practice of real estate appraisal.

* * * Acupuncturists * * *

Sec. 23. 26 V.S.A. chapter 75 is amended to read:

CHAPTER 75. ACUPUNCTURISTS

Subchapter 1. General Provisions

§ 3401. DEFINITIONS

As used in this chapter:

(1) “Acupuncture” or the “practice of acupuncture” means the insertion of fine needles through the skin at certain points on the body, with or without the application of electric current or the application of heat to the needles or skin, or both, for the purpose of promoting health and ~~balance as defined by traditional and modern Oriental theories.~~ Acupuncture involves the use of traditional and modern Oriental diagnostic techniques, acupuncture therapy, and adjunctive therapies, including but not limited to: nonprescription remedies, exercise, nutritional and herbal therapies, therapeutic massage, and lifestyle counselling well-being or to prevent or alleviate pain or unease.

* * *

(4) ~~“Disciplinary action” includes any action taken by an administrative law officer appointed pursuant to 3 V.S.A. § 129(j) against a licensed acupuncturist or applicant premised on a finding of unprofessional conduct. Disciplinary action includes all appropriate remedies, including denial of or renewal of a license, suspension, revocation, limiting, or conditioning of the license, issuing reprimands or warnings, and adopting consent orders.~~

(5) ~~“Secretary” means the secretary of state.~~

§ 3401a. SCOPE OF PRACTICE

(a) A licensed acupuncturist may, in addition to the practice of acupuncture employing fine needles, in a manner consistent with acupuncture theory, employ electrical, magnetic, thermal, and mechanical skin stimulation techniques; nonlaboratory diagnostic techniques; nutritional, herbal, and manual therapies; exercise and lifestyle counseling; acupressure; and massage.

(b) A licensed acupuncturist shall not offer diagnosis of any human pathology except for a functional diagnosis, based upon the physical complaint of a patient or acupuncture theory, for purposes of developing and managing a plan of acupuncture care, or as necessary to document to insurers and other payers the reason a patient sought care.

§ 3402. PROHIBITIONS; OFFENSES; EXEMPTIONS; EVALUATING
NONACUPUNCTURISTS

(a) Except as provided in subsections (d) through (g) of this section 3412 of this title, a person shall not practice acupuncture unless he or she is licensed in accordance with the provisions of this chapter.

* * *

(d) Nothing in subsection (a) of this section shall prevent a student from performing acupuncture under the supervision of a competent licensed acupuncturist instructor:

(1) within a school or a college or an acupuncture department of a college or university that is licensed by the Vermont Agency of Education or certified by the Accreditation Commission for Acupuncture and Oriental Medicine;

(2) as a student in a Director-approved apprenticeship; or

(3) as an intern in any hospital.

(e) Nothing in subsection (a) of this section shall prevent a person who is licensed or certified as an acupuncturist in another state or Canadian province from practicing acupuncture for no more than five days in a calendar year as part of a health care professional educational seminar or program in Vermont, if the educational seminar or program is directly supervised by a Vermont-licensed health care professional whose scope of practice includes acupuncture.

(f) This chapter shall not be construed to limit or restrict in any way the right of a licensed practitioner of a health care profession regulated under this title from performing services within the scope of his or her professional practice.

(g) Nothing in subsection (a) of this section shall prevent an unlicensed person from engaging in auriculotherapy, an unregulated practice wherein needles are inserted into the external human ear, provided such person:

(1) has appropriate training in clean needle technique;

(2) employs sterile, single-use needles, without reuse;

(3) does not purport to treat any disease, disorder, infirmity, or affliction;

(4) does not use any letters, words, or insignia indicating or implying that the person is an acupuncturist; and

(4) makes no statement implying that his or her practice of auriculotherapy is licensed, certified, or otherwise overseen by the State.

(h) The Director, with cooperation of the relevant professional regulatory boards, shall monitor and evaluate whether nonacupuncturists employing acupuncture as a therapeutic modality are doing so safely, within their scopes of practice, and in a manner consistent with the public health, safety, and welfare.

* * *

Subchapter 2. Administration

§ 3403. DIRECTOR; FUNCTIONS

* * *

§ 3404. ADVISOR APPOINTEES

(a)(1) The ~~secretary of state~~ Secretary of State shall appoint two licensed acupuncturists to serve as advisors in matters relating to acupuncture as set forth in 3 V.S.A. § 129b.

(2) Appointees shall have at least three years' experience as an acupuncturist immediately preceding appointment and shall be actively engaged in the practice of acupuncture in Vermont during incumbency.

(b) The ~~director~~ Director shall seek the advice of the acupuncturist advisors in carrying out the provisions of this chapter. ~~They shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the director for that purpose.~~

Subchapter 3. Licenses

§ 3405. ELIGIBILITY FOR LICENSURE

To be eligible for licensure as an acupuncturist, an applicant shall be at least 18 years of age and shall furnish satisfactory proof that he or she has:

~~(1)(A) completed a program in acupuncture and Oriental medicine and has received~~ holds a degree or diploma from an educational institution in ~~candidacy or~~ accredited by the Accreditation Commission for Acupuncture and Oriental Medicine or ~~an~~ a substantially equivalent or successor accrediting organization approved by the U.S. Department of Education and the Director. ~~The training received in the program shall be for a period of not less than three academic years, and, which shall include at least two academic years and a minimum of 800~~ 400 hours of supervised clinical practice; ~~or~~

~~(B) completed a training program no later than December 31, 2010 with a preceptor approved by the Director where the training program is approved by the Director and begun prior to December 31, 2007 and which shall include earning a minimum of 40 points earned in any one of the following categories or combination of categories:~~

~~(i) self-directed study-10 points for study equivalent to one year of full-time academic work in acupuncture and Oriental medicine, for a maximum of two years or 20 points;~~

~~(ii) apprenticeship-10 points for each 1,000 documented contact hours, up to a maximum of 13.5 points per year;~~

~~(iii) completed academic work in an accredited acupuncture program as described in subdivision (1) of this section five points for each six-month period of completed academic study in the field of acupuncture and Oriental medicine, up to a maximum of four periods or 20 points;~~

~~(iv) preceptors shall be licensed and in good standing and meet the standards of the National Certification Commission for Acupuncture and Oriental Medicine in order to be approved, with no preceptor having more than two apprentices at any one time; and~~

~~(2) passed the examination described in section 3406 of this title chapter.~~

§ 3406. EXAMINATION

(a) The ~~director~~ Director shall examine applicants for licensure and may use a standardized national examination. The examination shall include the following subjects:

(1) Anatomy and physiology.

(2) Traditional ~~Oriental~~ acupuncture pathology.

- (3) Traditional ~~Oriental~~ acupuncture diagnosis.
 - (4) Hygiene, sanitation, and sterilization techniques.
 - (5) The principles, practices, and techniques of acupuncture ~~and Oriental medicine.~~
 - (6) Clean needle techniques.
 - (7) Chinese herbology for those licensed after January 1, 2007 who intend to employ nonprescription remedies and herbal therapies.
- (b) The ~~director~~ Director may adopt rules necessary to perform his or her duties under this section.

§ 3407. LICENSURE WITHOUT EXAMINATION

(a) The ~~director~~ Director may waive the examination requirement under subdivision ~~3405(3)~~ 3405(2) of this ~~title~~ chapter if the applicant is an acupuncturist regulated under the laws of another state who is in good standing to practice acupuncture in that state and, in the opinion of the ~~director~~ Director, the standards and qualifications required for regulation of acupuncturists in that state are substantially equivalent to those required by this chapter.

(b) The ~~director~~ Director may waive the examination requirement under subdivision ~~3405(3)~~ 3405(2) of this ~~title~~ chapter for an applicant who has furnished evidence of having passed the examination administered by the National Commission for the Certification of Acupuncturists.

* * *

§ 3408. RENEWALS

(a) Licenses shall be renewed every two years upon payment of the required fee and furnishing satisfactory evidence of having completed 30 hours of continuing education credit during the preceding two years. The ~~director~~ Director may adopt rules for the approval of continuing education programs and the awarding of credit.

~~(b) Biennially, the director shall forward a renewal form to each licensed acupuncturist. Upon receipt of the completed form and the renewal fee, the director shall issue a new license.~~

~~(c) A license that has expired for three years or less shall be renewed upon meeting the renewal requirements and paying a late renewal penalty. A license that has expired for more than three years shall not be renewed; the applicant shall be required to apply for reinstatement. The director may adopt rules relating to reinstatement to assure that the applicant is professionally qualified.~~

* * *

§ 3410. UNPROFESSIONAL CONDUCT

(a) ~~A licensed acupuncturist or applicant shall not engage in unprofessional conduct.~~

(b) ~~Unprofessional conduct means any of the conduct listed in this section and 3 V.S.A. § 129a, whether committed by a licensed acupuncturist or an applicant:~~

~~(1) Using dishonest or misleading advertising.~~

~~(2) Addiction to narcotics, habitual drunkenness, or rendering professional services to a patient if the acupuncturist is intoxicated or under the influence of drugs.~~

~~(3) Sexual harassment of a patient.~~

~~(4) Engaging in sexual intercourse or other sexual conduct with a patient with whom the licensed acupuncturist has had a professional relationship within the previous two years.~~

~~(e) After hearing and upon a finding of unprofessional conduct, an administrative law officer appointed under 3 V.S.A. § 129(j) may take disciplinary action against a licensed acupuncturist or applicant. [Repealed.]~~

* * *

§ 3412. ACUPUNCTURE DETOXIFICATION; SPECIALIZED
CERTIFICATION

~~(a) A person not licensed under this chapter may obtain a specialized certification as an acupuncture detoxification technician to practice auricular acupuncture according to the National Acupuncture Detoxification Association protocol from the board for the purpose of the treatment of alcoholism, substance abuse, or chemical dependency if he or she provides documentation of successful completion of a board-approved training program in acupuncture for the treatment of alcoholism, substance abuse, or chemical dependency which meets or exceeds standards of training established by the National Acupuncture Detoxification Association.~~

~~(b) Treatment permitted under this section may only take place in a state, federal, or board-approved site under the supervision of an individual licensed under this chapter and certified by the National Acupuncture Detoxification Association.~~

~~(c) A person practicing under this section shall be subject to the requirements of section 3410 of this title.~~

~~(d) Nothing in this section shall be construed to modify any of the requirements for licensure of acupuncturists contained in this chapter, nor shall it grant any rights to practice acupuncture which exceed the scope of this section.~~

~~(e) The fee for obtaining a specialized certification or renewal of a specialized certification under this section shall be that established in 3 V.S.A. § 125(b).~~

~~(f) Anyone certified under this section, while practicing the National Acupuncture Detoxification Association protocol, shall be referred to as an acupuncture detoxification technician. [Repealed.]~~

* * * Athletic Trainers * * *

Sec. 24. 26 V.S.A. chapter 83 is amended to read:

CHAPTER 83. ATHLETIC TRAINERS

§ 4151. DEFINITIONS

As used in this chapter:

* * *

(3) “Athletic training” means the application of principles and methods of conditioning, the prevention, immediate care, recognition, evaluation, assessment, and treatment of athletic and orthopedic injuries within the scope of education and training, the organization and administration of an athletic training program, and the education and counseling of athletes, coaches, family members, medical personnel, ~~and communities, and groups~~ in the area of care and prevention of athletic and orthopedic injuries. ~~Athletic training may only be applied in the “traditional setting” and the “clinical setting”:~~

~~(A) Without further referral, to athletes participating in organized sports or athletic teams at an interscholastic, intramural, instructional, intercollegiate, amateur, or professional level.~~

~~(B) With a referral from a physician, osteopathic physician, advanced practice registered nurse, physician assistant, dentist, or chiropractor, to athletes or the physically active who have an athletic or orthopedic injury and have been determined, by a physician’s examination, to be free of an underlying pathology that would affect treatment.~~

* * *

(10) “Referral” means sending a patient for treatment determination, recorded in writing, by an allopathic or osteopathic physician, advanced practice registered nurse, dentist, or chiropractor, that an athlete or physically active individual should be treated by an athletic trainer, and that such person is free of an underlying pathology that would affect treatment.

(11) “Settings” means any areas in which an athletic trainer may practice athletic training. These areas include:

(A) “Traditional setting” means working with any organized sports or athletic teams at an interscholastic, intramural, instructional, intercollegiate, amateur, or professional level.

(B) “Clinical setting” means an outpatient orthopaedic or sports medicine clinic that employs one of the following: physician, osteopathic physician, chiropractor, or physical therapist. [Repealed.]

(12) “Underlying pathology” means any disease process, including neuromuscular disease, diabetes, spinal cord injuries, and systemic diseases.

§ 4151a. PRACTICE CONTEXTS; REFERRAL REQUIRED FOR

CLINICAL CARE

(a) A person licensed under this chapter may provide athletic training:

(1) by formal engagement with a team, school, college, university, league, or other sporting organization, to affiliated athletes participating in organized sports or athletic teams at an interscholastic, intramural, instructional, intercollegiate, amateur, or professional level;

(2) upon referral of an athlete or physically active individual to an athletic training clinic;

(3) by engagement with an employer or organization for the purpose of educating groups on the care and prevention of athletic and orthopedic injuries or conditioning appropriate to physical demands upon employees or members; or

(4) in a bona fide emergency necessitating response care of an injured athlete.

(b) Practice outside the settings set forth in subsection (a) of this section, including clinical practice without referral, exceeds an athletic trainer’s scope of practice. Such practice is not entitled to the protections of § 4160 of this chapter and may be sanctioned as unprofessional conduct.

§ 4152. PROHIBITION; OFFENSES

(a) ~~No~~ A person may shall not use in connection with the person's name any letters, words, or insignia indicating or implying that the person is a licensed athletic trainer unless the person is licensed in accordance with this chapter.

(b) A person who violates any of the provisions of subsection (a) of this section shall be subject to the penalties provided in 3 V.S.A. § 127(e).

§ 4153. EXEMPTIONS

The provisions of this chapter shall not apply to:

* * *

~~(2) a person who assists or provides response care to an injured athlete and who does not attempt to assess the injury, provide follow-up treatment, or otherwise practice athletic training as defined in this chapter; [Repealed.]~~

(3) a person duly licensed under the laws of this state State who is practicing within the scope of the profession for which the person is licensed; or

(4) the practice of athletic training ~~which~~ that is incidental to a program of study by a person enrolled in an athletic training education program approved by the ~~director~~ Director, or graduates of an approved athletic training education program ~~pending the results of the first licensing examination scheduled by the director following graduation. Graduates shall practice under the supervision of a licensed athletic trainer and shall have an application for licensure by examination on file working under the direct supervision of a person licensed under this chapter within 90 days following graduation from that program.~~

* * *

§ 4157a. TEMPORARY LICENSURE

~~An applicant who is currently certified by and in good standing with the National Athletic Trainers Association Board of Certification, or who is currently licensed or certified and in good standing in another state, shall be eligible for a 60-day temporary license. Applicants under this section shall meet the requirements of section 4158 of this title. Temporary practice shall not exceed 60 days in any calendar year. [Repealed.]~~

§ 4158. APPLICATION

~~A person who desires to be licensed as an athletic trainer shall apply to the director in writing, on a form furnished by the director, accompanied by~~

~~payment of a fee required pursuant to 3 V.S.A. § 125 and evidence that the applicant meets the requirements set forth in section 4156 or 4157 of this title. [Repealed.]~~

§ 4158a. RENEWALS

~~(a) Licenses shall be renewed every two years upon payment of the required fee.~~

~~(b) Biennially, the director shall forward a renewal form to each license holder. Upon receipt of the completed form and the renewal fee, the director shall issue a new license.~~

~~(c) Any application for renewal of a license which has expired shall be accompanied by the renewal fee and late fee. A person shall not be required to pay renewal fees for years during which the license was lapsed.~~

~~(d) The director may, after notice and opportunity for a hearing, revoke a person's right to renew licensure if the license has lapsed for five or more years. [Repealed.]~~

§ 4159. UNPROFESSIONAL CONDUCT

~~(a) A licensed athletic trainer shall not engage in unprofessional conduct. When such conduct is committed by an applicant, it shall be grounds for denial of the application or other disciplinary action.~~

~~(b) Unprofessional conduct means the following conduct and conduct set forth in 3 V.S.A. § 129a:~~

~~(1) Failing to make available to a person using athletic training services, upon that person's request, copies of documents in the possession or under the control of the practitioner, when those documents have been prepared for the user of services.~~

~~(2) Conduct which evidences unfitness to practice athletic training.~~

~~(3) Sexual harassment of a person using athletic training services.~~

~~(4) Engaging in a sexual act as defined in 13 V.S.A. § 3251 with a person using athletic training services.~~

~~(5) Any of the following except when reasonably undertaken in an emergency in order to protect life, health, or property:~~

~~(A) Practicing or offering to practice beyond the scope permitted by law.~~

~~(B) Performing athletic training services which have not been authorized by the consumer or his or her legal representative.~~

~~(6) Conduct prohibited under any other laws relating to athletic training.~~

~~(c) After notice and an opportunity for hearing, and upon a finding of unprofessional conduct, an administrative law officer may take disciplinary action against a licensed athletic trainer or applicant. [Repealed.]~~

* * *

* * * Applied Behavior Analysts * * *

Sec. 25. 26 V.S.A. chapter 95 is amended to read:

CHAPTER 95. APPLIED BEHAVIOR ANALYSTS

* * *

Subchapter 3. Licenses

* * *

§ 4925. RENEWALS

* * *

(b) Biennially, the Director shall provide notice to each licensee of license expiration and renewal requirements. Upon receipt of ~~the completed form and~~ a complete and satisfactory renewal application and fee, the Director shall issue a new license.

* * *

~~(d)(1) The Director may reinstate the license of an individual whose license has expired upon payment of the required fee and reinstatement penalty, provided the individual has satisfied all the requirements for renewal, including continuing education.~~

~~(2) The Director may adopt rules necessary for the protection of the public to assure the Director that an applicant whose license has expired or who has not worked for more than three years as an applied behavior analyst or an assistant behavior analyst is professionally qualified for license renewal. Conditions imposed under this subsection shall be in addition to the other requirements of this section. [Repealed.]~~

* * *

§ 4927. APPLICATIONS

~~Applications for licensure and license renewal shall be on forms provided by the~~ The Director shall promulgate applications for licensure and license renewal. Each application shall contain a statement under oath showing the

applicant's education, experience, and other pertinent information and shall be accompanied by the required fee.

* * *

* * * Effective Date * * *

Sec. 26. EFFECTIVE DATE

This act shall take effect on July, 1, 2019.

(**Committee Vote: 10-0-1**)

Rep. Scheu of Middlebury, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Government Operations and when further amended as follows:

In Sec. 14, 26 V.S.A. chapter 36 (pharmacy), in § 2076 (inspection powers; access to wholesale distributor and manufacturer records), by striking out in its entirety subsection (c)

(**Committee Vote: 10-0-1**)

Rep. Townsend of South Burlington, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committees on Government Operations and Ways and Means.

(**Committee Vote: 10-0-1**)

H. 133

An act relating to miscellaneous energy subjects

Rep. Patt of Worcester, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 203a is amended to read:

§ 203a. FUEL EFFICIENCY FUND

* * *

~~(c) Report. On or before January 15, 2010, and annually thereafter, the Department of Public Service shall report to the General Assembly on the expenditure of funds from the Fuel Efficiency Fund to meet the public's needs for energy efficiency services. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection. [Repealed.]~~

* * *

Sec. 2. 2012 Act and Resolves No. 165, Section 2 is amended to read:

Sec. 2 MEMORANDUM OF UNDERSTANDING; SMALL
HYDROELECTRIC PROJECTS

* * *

~~(e) No later than January 15, 2014 and annually by each second January 15 thereafter, the commissioner shall submit a written report to the general assembly detailing the progress of the MOU program, including an identification of each hydroelectric project participating in the program. After five hydroelectric projects participating in the program are approved and commence operation, reports filed under this subsection shall evaluate and provide lessons learned from the program, including recommendations, if any, on how to improve procedures for obtaining approval of micro hydroelectric projects (100 kilowatts capacity or less). The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be submitted under this subsection. [Repealed.]~~

* * *

Sec. 3. 30 V.S.A. § 8105 is amended to read:

§ 8105. REPORTING

~~(a) A host community for which a Vermont village green renewable project has been certified under this chapter shall file a report to the Commission and the Commissioner of Public Service by December 31 of each year following certification. The report shall contain such information as is required by the Commission and the Commissioner. The report shall include at a minimum sufficient information for the Commissioner of Public Service to submit the report required by subsection (b) of this section.~~

~~(b) Beginning on March 1, 2010, and annually thereafter, the Commissioner of Public Service shall submit a report to the Senate Committees on Economic Development, Housing and General Affairs, on Finance, and on Natural Resources and Energy, and the House Committees on Ways and Means, on Commerce and Economic Development, and on Energy and Technology, and the Governor, which shall include an update on progress made in the development of the Vermont village green renewable projects authorized under this chapter. The report also shall include an analysis of the costs and benefits of the projects as well as any recommendations consistent with the purposes of this chapter. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection. [Repealed.]~~

Sec. 4. 30 V.S.A. §202b is amended to read:

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

* * *

(e) The Commissioner of Public Service (Commissioner) shall file an annual report on progress in meeting the goals of the Plan. The report shall address each of the following sectors of energy consumption in the State: electricity, nonelectric fuels for thermal purposes, and transportation. In preparing the report, the Commissioner shall consult with the Secretaries of Administration, of Agriculture, Food and Markets, of Natural Resources, and of Transportation and the Commissioner of Buildings and General Services.

* * *

(7) The report shall include any activity that occurs under the Vermont Small Hydropower Assistance Program, the Vermont Village Green Program, and the Fuel Efficiency Fund.

Sec. 5. 30 V.S.A. § 8005b is amended to read:

§ 8005b. RENEWABLE ENERGY PROGRAMS; REPORTS

(a) The Department shall file reports with the General Assembly in accordance with this section.

* * *

(2) The Department shall file the report under include the components of subsection (b) of this section annually each January 15 in its Annual Energy Report required under subsection 202b(e) of this title commencing in 2018 2020 through 2033.

(3) The Department shall file the report under include the components of subsection (c) of this section biennially each March 1 in its Annual Energy Report required under subsection 202b(e) of this title biennially commencing in 2017 2020 through 2033.

* * *

(c) The biennial report under this section shall include at least each of the following:

* * *

(2) Commencing with the report to be filed in 2019, each retail electricity provider's required amount of renewable energy during the two preceding ~~calendar~~ years using the most recent available data for each category of the RES as set forth in section 8005 of this title.

* * *

Sec. 6. 30 V.S.A. § 8010 is amended to read:

§ 8010. SELF-GENERATION AND NET METERING

* * *

~~(d) On or before January 15, 2020 and every third January 15 thereafter Commencing in 2021 and biennially thereafter, the Department shall submit to the Commission a report that evaluates its evaluation of the current state of net metering in Vermont, which shall be included within the Department's Annual Energy Report required under subsection 202b(e) of this title and shall also be submitted to the Committees listed under subdivision 202b(e)(2) of this title. The Department shall make this report publicly available. The report evaluation shall:~~

* * *

Sec. 7. 30 V.S.A. § 202f is amended to read:

§ 202f. TELECOMMUNICATIONS AND CONNECTIVITY ADVISORY

BOARD

(a) There is created the Telecommunications and Connectivity Advisory Board for the purpose of making recommendations to the Commissioner of Public Service regarding his or her telecommunications responsibilities and duties as provided in this section. The Connectivity Advisory Board shall consist of eight members, ~~seven voting and one nonvoting,~~ selected as follows:

(1) the State Treasurer or designee;

(2) the Secretary of Commerce and Community Development or designee;

(3) five at-large members appointed by the Governor, who shall not be employees or officers of the State at the time of appointment; and

(4) the Secretary of Transportation or designee, ~~who shall be a nonvoting member.~~

* * *

~~(h) On September 15, 2015~~ November 15, 2019, and annually thereafter, the Commissioner shall submit to the Connectivity Advisory Board an accounting of monies in the Connectivity Fund and anticipated revenue for the next year. ~~On or before January 1 of each year, the Commissioner, after consulting with the Connectivity Advisory Board, shall recommend to the~~

~~relevant legislative committees of jurisdiction a plan for apportioning such funds to the High-Cost Program and the Connectivity Initiative.~~

* * *

Sec. 8. 30 V.S.A. § 7516 is amended to read:

§ 7516. CONNECTIVITY FUND

There is created a Connectivity Fund for the purpose of providing support to the High-Cost Program established under section 7515 of this chapter and the Connectivity Initiative established under section 7515b of this chapter. The fiscal agent shall determine annually, on or before ~~September~~ November 1, the amount of monies available to the Connectivity Fund. Such funds shall be apportioned as follows: 45 percent to the High-Cost Program and 55 percent to the Connectivity Initiative.

Sec. 9. 30 V.S.A. § 7001 is amended to read:

§ 7001. DEFINITIONS

In this chapter:

(1) “Commission” means the Public Utility Commission under section 3 of this title.

(2) “Company” means any public utility ~~company which~~, municipality, or person that supplies gas, electricity, hot water, steam, or telecommunications service and ~~which that~~ maintains underground utility facilities, and any cable television company operating a cable television system as defined in section 501 of this title ~~and which that~~ maintains underground utility facilities.

(3) “Damage” includes the substantial weakening of structural or lateral support of an underground utility facility_; penetration or destruction of any underground utility facility’s protective coating, housing, or device_; or the partial or complete severance of any underground utility facility.

(4) “Excavation activities” means any activities involving that will disturb the subsurface of the earth or could damage underground utility facilities and that may involve the removal of earth, rock, or other materials in the ground, ~~disturbing the subsurface of the earth,~~ or the demolition of any structure, by the discharge of explosives or the use of powered or mechanized equipment, including digging, trenching, blasting, boring, drilling, hammering, post driving, wrecking, razing, ~~or~~ tunneling, or pavement or concrete slab removal within 100 feet of an underground utility facility. Excavation activities shall not include the tilling of the soil for agricultural purposes, routine home gardening with hand tools outside easement areas and public

rights-of-way, activities relating to routine public highway maintenance, or the use of hand tools by a company, or the company's agent or a contractor working under the agent's direction, to locate or service the company's facilities, provided the company has a written damage prevention program.

(5) "Person" means any individual, trust, firm, joint stock company, corporation including a government corporation, partnership, association, state, municipality, commission, political subdivision of the state State, or any interstate body.

(6) "Public agency" means the State or any political subdivision thereof, including any governmental agency.

(7) "Approximate location of underground utility facilities" means a strip of land extending not more than 18 inches on either side of the underground utility facilities.

(8) "System" means the public utility underground facility damage prevention system referred to in section 7002 of this title.

(9) "Underground utility facility" or "facility" means any pipe, conduit, wire, or cable located beneath the surface of the earth and maintained by a company, including the protective covering of the pipe, conduit, wire, or cable, as well as any manhole, vault, ~~or~~ pedestal, or component maintained by a company.

(10) "Pre-mark" means to identify the general scope of excavation activities using white paint, stakes, or other suitable white markings, in a manner that will enable the operators of the underground utility facilities to know the boundaries of the proposed excavation activities.

(11) "Powered or mechanized equipment" means equipment that is powered or energized by any motor, engine, or hydraulic or pneumatic device and that is used for excavation or demolition work.

(12) "Hand tools" means tools powered solely by human energy.

(13) "Verified" means the location and depth have been ~~physically determined by hand digging~~ visually determined using careful and prudent excavating techniques such as hand digging, water excavation, or other safe means.

(14) "Damage prevention program" means a program established to ensure employees involved in excavation activities are aware of and utilize appropriate and safe excavating practices.

Sec. 10. 30 V.S.A. § 7003 is amended to read:

§ 7003. RULEMAKING

The Commission shall adopt rules, pursuant to 3 V.S.A. chapter 25 relative to:

- (1) minimum requirements for the operation of the System, including notification procedures and the reporting of underground utility facility locations;
- (2) procedures for the investigation of complaints;
- (3) emergency situations ~~for which notice of excavation activities is not required;~~
- (4) uniform standards for the marking of the approximate location of underground utility facilities;
- (5) uniform standards for the future installation of underground utility facilities, including the following:
 - (A) color coding of facilities;
 - (B) depth requirements for the laying of facilities;
 - (C) subsurface marking of facilities;
 - (D) surface marking of facilities;
 - (E) the filing of as-built plans of facilities with municipalities; and
 - (F) capability for location of facilities by sensors; ;
- (6) standards for the granting of exemptions under section 7002 of this title; and
- (7) situations where the premarks cannot be found.

Sec. 11. 30 V.S.A. § 7004 is amended to read:

§ 7004. NOTICE OF EXCAVATION ACTIVITIES

(a) No person or company shall engage in excavation activities, except in an emergency situation as defined by the Commission, without premarking the proposed area of excavation activities and giving notice as required by this section.

(b) Prior to notifying the System, the person shall premark the area of proposed excavation activities in a manner that will enable operators of underground facilities to identify the boundaries of the proposed excavation activities.

(c) At least 48 hours, excluding Saturdays, Sundays, and legal holidays, but not more than 30 days before commencing excavation activities, each person required to give notice of excavation activities shall notify the System referred to in section 7002 of this title. Such notice shall set forth a reasonably accurate and readily identifiable description of the geographical location of the proposed excavation activities and the premarks.

~~(e)~~(d) Notice to the System may be in writing or by telephone. For purposes of this section, the System shall provide a toll-free telephone number.

~~(d) Prior to notifying the System, the person must premark the area of proposed excavation activities in a manner that will enable operators of underground facilities to identify the boundaries of the proposed excavation activities. Premarking is not required if the actual excavation will be continuous and will exceed 500 feet in length.~~

(e) Notice of excavation activities shall be valid for an excavation site until one of the following occurs:

- (1) the excavation is not completed within 30 days of the notification;
- (2) the markings become faded, illegible, or destroyed; or
- (3) the company installs new underground facilities in a marked area still under excavation.

Sec. 12. 30 V.S.A. § 7006b is amended to read:

§ 7006b. EXCAVATION AREA PRECAUTIONS

Any person engaged in excavating activities in the approximate location of underground utility facilities marked pursuant to section 7006 of this title shall take reasonable precautions to avoid damage to underground utility facilities, including any substantial weakening of the structural or lateral support of such facilities or penetration, severance, or destruction of such facilities. ~~When excavation activities involve horizontal or directional boring, the~~ The person engaged in excavation activities shall expose underground facilities to verify their location and depth, in a safe manner, at each location where the work will cross a facility and at reasonable intervals when paralleling an underground facility. Powered or mechanized equipment may only be used within the approximate location where the facilities have been verified.

Sec. 13. 30 V.S.A. § 7007 is amended to read:

§ 7007. NOTICE OF DAMAGE

When any underground utility facility is damaged during excavation activities, the excavator shall immediately notify the affected company. Under

no circumstances shall the excavator backfill or conceal the damaged area until the company inspects and repairs the damage, provided that the excavator shall take reasonable and prudent actions to protect the public from serious injury from the damaged facilities until the company or emergency response personnel arrive at the damaged area. An excavator who causes damage to a pipeline that results in a release of natural or other gas or hazardous liquid shall promptly report the release to emergency responders by calling 911.

Sec. 14. 30 V.S.A. § 209(e) is amended to read:

(e) Thermal energy and process fuel efficiency funding.

(1) Each of the following shall be used to deliver thermal energy and process fuel energy efficiency services in accordance with this section for unregulated fuels to Vermont consumers of such fuels. In addition, the Commission may authorize an entity appointed to deliver such services under subdivision (d)(2)(B) of this section to use monies subject to this subsection for the engineering, design, and construction of facilities for the conversion of thermal energy customers using fossil fuels to district heat if the majority of the district's energy is from biomass sources, the district's distribution system is highly energy efficient, and such conversion is cost effective.

* * *

Sec. 15. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(**Committee Vote: 9-0-1**)

H. 205

An act relating to the regulation of neonicotinoid pesticides

Rep. Bartholomew of Hartland, for the Committee on Agriculture and Forestry, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. § 911 is amended to read:

§ 911. DEFINITIONS

As used in this chapter:

* * *

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

(5) “Economic poison” means:

(A) any substance produced, distributed, or used for preventing, destroying, or repelling any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living ~~man~~ humans or other animals, which the Secretary shall declare to be a pest;

(B) any substance produced, distributed, or used as a plant regulator, defoliant, or desiccant.

* * *

(7) “Fungicide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.

(8) “Herbicide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

* * *

(12) “Insecticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects ~~which~~ that may be present in any environment whatsoever.

* * *

(16) “Person” means any individual, partnership, association, corporation, or organized group of persons whether incorporated or not.

(17) “Registrant” means the person registering any economic poison pursuant to the provisions of this chapter.

(18) “Rodenticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal ~~which~~ that the Secretary shall declare to be a pest.

(19) “Weed” means any plant ~~which~~ that grows where not wanted.

(20) “Nematocide” means any substance produced, distributed, or used for preventing, destroying, or repelling nematodes.

(21) “Plant regulator” means any substance produced, distributed, or used for the purposes of accelerating or retarding the rate of growth or rate of maturation, or otherwise altering the behavior of plants but shall not include substances produced, distributed, or used for plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(22) “Defoliant” means any substance produced, distributed, or used for causing the foliage to drop from a plant, with or without causing abscission.

(23) “Desiccant” means any substance produced, distributed, or used for artificially accelerating the drying of plant tissues.

* * *

(25) “Agricultural seed” has the same meaning as in section 641 of this title.

(26) “Neonicotinoid pesticide” means any economic poison containing a chemical belonging to the neonicotinoid class of chemicals, including:

(A) imidacloprid;

(B) nithiazine;

(C) acetamiprid;

(D) clothianidin;

(E) dinotefuran;

(F) thiacloprid;

(G) thiamethoxam; and

(H) any other chemical designated by the Secretary by rule.

(27) “Treated article” or “treated article pesticide” shall have the same meaning as “treated article” in section 1101 of this title.

(28) “Treated article seed” means an agricultural seed, flower seed, or vegetable seed that is a treated article pesticide.

Sec. 2. 6 V.S.A. § 918 is amended to read:

§ 918. REGISTRATION

(a) Every economic poison ~~which~~ that is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered in the Office of the Secretary, and such registration shall be renewed annually; provided that products ~~which~~ that have the same formula are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison; and additional names and labels shall be added by ~~supplement~~ supplemental statements during the current period of registration. It is further provided that any economic poison imported into this State, which is subject to the provisions of any federal act providing for the registration of economic poisons and which has been duly registered under the provisions of this chapter, may, in the discretion of the Secretary, be exempted from registration under this chapter, when sold or distributed in the unbroken immediate

container in which it was originally shipped. The registrant shall file with the Secretary a statement including:

(1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant.

(2) The name of the economic poison.

(3) A complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including directions for use.

(4) If requested by the Secretary, a full description of the tests made and the results thereof upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information ~~which~~ that is different from that furnished when the economic poison was registered or last reregistered.

(b) The registrant shall pay an annual fee of ~~\$175.00~~ \$200.00 for each product registered, and \$160.00 of that amount shall be deposited in the special fund created in section 929 of this title, of which \$5.00 from each product registration shall be used for an educational program related to the proper purchase, application, and disposal of household pesticides, and \$5.00 from each product registration shall be used to collect and dispose of obsolete and unwanted pesticides. Of the registration fees collected under this subsection, \$15.00 of the amount collected shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title. Of the registration fees collected under this subsection, \$25.00 of the amount collected shall be used to offset the additional costs of inspection and to provide educational services and technical assistance to the general public and beekeepers in the State. The annual registration year shall be from December 1 to November 30 of the following year.

* * *

(f) The Secretary shall register as a restricted use pesticide any neonicotinoid pesticide labeled as approved for outdoor use that is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State, provided that the Secretary shall not register the following products as restricted use pesticides, unless classified under federal law as restricted use products:

(1) pet care products used for preventing, destroying, repelling, or mitigating fleas, mites, ticks, heartworms, or other insects or organisms;

(2) personal care products used for preventing, destroying, repelling, or mitigating lice or bedbugs;

(3) indoor pest control products used for preventing, destroying, repelling, or mitigating insects indoors; and

(4) treated article seed.

Sec. 3. 6 V.S.A. § 3023 is amended to read:

§ 3023. ~~DUTIES TO~~ REGISTRATION; REPORT

(a) It shall be the duty of any Registration. A person who is the owner of any bees, apiary, colony, or hive to report to in the State shall register with the Secretary in writing.

(b) Report. Annually the owner of any bees, apiary, colony, or hive registered under subsection (a) of this section shall submit a report to the Secretary that includes all of the following information:

(1) the The location of all such apiaries and number of colonies that the person owns. The location of an apiary shall become its registered location;

(2) the change of Whether the location of any apiary will change within two weeks of the date that the report is submitted unless the change of location is to provide pollination services and the colonies will be returned to a registered apiary. Hives from a registered apiary may be moved to another registered apiary without reregistering;

(3) the discovery of Whether a serious disease was discovered within any of his or her colonies; registered colony.

(4) the transportation Whether the owner transported into this the State of any colonies or used equipment, except as noted in authorized under subsection 3032(c) of this title; and.

(5) the fact that he or she Whether the owner is engaged in the rearing of queen bees or any other bees for sale, if applicable.

(6) A current varroa mite and pest mitigation plan for each registered colony.

(7) Proof of certification, if required, under section 3023a of this title.

Sec. 4. 6 V.S.A. § 3023a is added to read:

§ 3023a. VERMONT BEEKEEPER CERTIFICATE

(a) The Secretary shall establish an educational program to train a person who owns bees, apiaries, colonies, or hives in the State. The educational program shall address:

(1) bee health;

- (2) varroa mite identification and control;
- (3) identification of common diseases or pests;
- (4) proper maintenance of hives;
- (5) State laws regarding beekeeping and pesticide application; and
- (6) continued education opportunities.

(b) The Secretary shall award a certificate to a person who completes the Vermont beekeeper training program under subsection (a) of this section.

Sec. 5. 6 V.S.A. § 3032 is amended to read:

§ 3032. TRANSPORTATION OF BEES OR USED EQUIPMENT INTO
THE STATE

(a) ~~No~~ Except as provided under subsections (c) and (d) of this section, bees, used equipment, or colonies shall not be brought into the State of Vermont unless approved by the Secretary by permit. The Secretary shall not approve the import of bees, used equipment, or colonies from out of state unless accompanied by a valid certificate of inspection within the previous ~~ten months~~ 90 days from the state or country of origin stating that the bees, used equipment, or bee colonies are free from bee disease.

(b) Any person, other than a common carrier, who knowingly transports or causes to be transported used equipment or colonies to a point within this State shall provide the ~~secretary~~ Secretary with a copy of the certificate of inspection not more than 72 hours after entry into this State.

(c) This section shall not apply to a shipment of bees, equipment, or colonies which originated outside the ~~state~~ State and is destined for another point that is also located outside this State.

(d) The Secretary shall not require an import permit or a valid certificate of inspection under subsection (a) for bees, used equipment, or colonies that:

- (1) are registered in Vermont;
- (2) were transported no more than 75 miles from the registered location of the owner of the bees or colonies; and
- (3) are imported back into the State within 90 days of the date of original transport.

Sec. 6. 6 V.S.A. § 3030 is amended to read:

§ 3030. RULES

The Secretary may adopt and enforce such rules ~~which may provide for~~ to implement the requirements of this chapter, including rules regarding:

(1) inspection, disinfection, seizure, destruction, or other disposition of bees, equipment, or bee products capable of carrying or transmitting any disease;

(2) importation of bees, equipment, or bee products capable of carrying or transmitting any disease; or

(3) registration and reporting by persons owning bees, an apiary, a colony, or a hive.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee Vote: 8-0-0)

H. 235

An act relating to repealing the sunset of the authority to conduct on-farm slaughter

Rep. Fegard of Berkshire, for the Committee on Agriculture and Forestry, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 2013 Acts and Resolves No. 83, Sec. 13, as amended by 2016 Acts and Resolves No. 98, Sec. 2, is further amended to read:

Sec. 13. REPEAL; LIVESTOCK SLAUGHTER EXEMPTIONS

6 V.S.A. § 3311a (livestock slaughter inspection and license exemptions) shall be repealed on July 1, ~~2019~~ 2023.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 8-0-0)

H. 292

An act relating to town banners over highway rights-of-way

Rep. Gannon of Wilmington, for the Committee on Government Operations, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 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:

* * *

(18)(A) A sign that is a banner erected by a city, town, or village over a highway right-of-way for not more than 21 days if:

(i) it announces a civic campaign, drive, or event;

(ii) the bottom of the banner is not less than 14 feet 6 inches above the surface of the highway;

(iii) it is securely fastened with breakaway fasteners; and

(iv) it does not advertise a business.

(B) As used in this subdivision (18), “banner” means a sign that is constructed of soft cloth or fabric or flexible material such as vinyl or plastic cardboard.

Sec. 2. 10 V.S.A. § 495 is amended to read:

§ 495. OTHER REGULATIONS APPLYING TO PERMITTED SIGNS

* * *

(d) Notwithstanding any other provisions of this title, a person, firm, or corporation shall not erect or maintain any outdoor advertising structure, device, or display within the limits of the highway right-of-way; however, this limitation shall not apply to the signs and devices referred to in subdivisions 494(1), (2), (3), (6), (7), (10), (14), and (17) of this title.

* * *

(f) Except on limited access facilities, the limitation established by subsection (d) of this section shall not apply to the signs referred to in subdivision 494(18) of this title.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee Vote: 10-0-1)

H. 330

An act relating to repealing the statute of limitations for civil actions based on childhood sexual abuse

Rep. LaLonde of South Burlington, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 12 V.S.A. § 522 is amended to read:

§ 522. ACTIONS BASED ON CHILDHOOD SEXUAL ABUSE

(a) A civil action brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse shall may be commenced ~~within six years of~~ at any time after the act alleged to have caused the injury or condition, ~~or six years of the time the victim discovered that the injury or condition was caused by that act, whichever period expires later.~~ The victim need not establish which act in a series of continuing sexual abuse or exploitation incidents caused the injury.

(b) If a complaint is filed alleging an act of childhood sexual abuse ~~which occurred more than six years prior to the date the action is commenced~~, the complaint shall immediately be sealed by the clerk of the court. The complaint shall remain sealed until the answer is served or, if the defendant files a motion to dismiss under Rule 12(b) of the Vermont Rules of Civil Procedure, until the court rules on that motion. If the complaint is dismissed, the complaint and any related papers or pleadings shall remain sealed. Any hearing held in connection with the motion to dismiss shall be in camera.

(c) As used in this section, “childhood sexual abuse” means any act committed by the defendant against a complainant who was less than 18 years of age at the time of the act and which act would have constituted a violation of a statute prohibiting lewd and lascivious conduct, lewd or lascivious conduct with a child, sexual assault, or aggravated sexual assault in effect at the time the act was committed.

(d) Notwithstanding 1 V.S.A. § 214, this section shall apply retroactively to childhood sexual abuse that occurred prior to the effective date of this act, irrespective of any statute of limitations in effect at the time the abuse occurred. In an action based on childhood sexual abuse that occurred prior to the effective date of this act, damages may be awarded against an entity that employed, supervised, or had responsibility for the person allegedly committing the sexual abuse only if there is a finding of negligence on the part of the entity.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee Vote: 11-0-0)

H. 358

An act relating to technical corrections

Rep. Palasik of Milton, for the Committee on Government Operations, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 1 V.S.A. § 318(d) is amended to read:

(d) In responding to a request to inspect or copy a record under this subchapter, a public agency shall consult with the person making the request in order to clarify the request or to obtain additional information that will assist the public agency in responding to the request and, when authorized by this subchapter, in facilitating production of the requested record for inspection or copying. In unusual circumstances, as that term is defined in subdivision ~~(a)(5)~~ (b)(5) of this section, a public agency may request that a person seeking a voluminous amount of separate and distinct records narrow the scope of a public records request.

Sec. 2. 3 V.S.A. § 117(g) is amended to read:

(g) In fulfilling the duties as Director of the Vermont State Archives and Records Administration ~~Program~~, the State Archivist shall:

* * *

Sec. 3. 3 V.S.A. § 472a is amended to read:

§ 472a. COMPLIANCE WITH FEDERAL LAW

* * *

(k) Consent. An individual who is not a vested member of the System and who has not yet reached the later of normal retirement age or age 62 must consent to any withdrawal of his or her assets of greater than \$1,000.00. For individuals who are not vested members of the System and who have reached the later of normal retirement age or age 62, amounts greater than \$1,000.00 may be paid out without the individual's consent. In all cases, amounts of \$1,000.00 or less may be paid out without the individual's consent.

(l) Rules. The Board may adopt rules to ensure that this chapter complies with federal law requirements.

Sec. 4. 3 V.S.A. § 848 is amended to read:

§ 848. RULES REPEAL; AMENDMENT OF AUTHORITY; NOTICE BY

AGENCY

(a) Repeal by operation of law. A rule shall be repealed without formal proceedings under this chapter if:

* * *

(3) the statutory authority for the rule, as stated by the agency under subdivision ~~838(b)(4)~~ 838(a)(10) of this title, is repealed by the General Assembly or declared invalid by a court of competent jurisdiction.

* * *

(d) Amendment of authority for rule.

(1) If the statutory authority for a rule, as stated by the agency under subdivision ~~838(b)(4)~~ 838(a)(10) of this title, is amended by the General Assembly, and the amendment does not transfer authority from the adopting agency to another agency, the agency within 30 days following the effective date of the statutory amendment shall review the rule and make a written determination as to whether the statutory amendment repeals the authority upon which the rule is based or requires revision of the rule and shall submit a copy of this written determination to the Secretary of State and the Legislative Committee on Administrative Rules, in such manner as the Secretary may prescribe by rule or procedure.

(2) If the statutory authority for a rule, as stated by the agency under subdivision ~~838(b)(4)~~ 838(a)(10) of this title, is transferred by act of the General Assembly to another agency, the agency to which the authority is transferred shall provide notice of the transfer, in such manner as the Secretary of State may prescribe by rule or procedure, within 30 days following the effective date of the statutory amendment, to the Secretary and the Legislative Committee on Administrative Rules.

Sec. 5. 5 V.S.A. § 207a is amended to read:

§ 207a. CARRYING AND INSPECTION OF AIRMAN LICENSE

The federal license, certificate, or permit shall be kept in the personal possession of the airman when operating within this State and must be presented for inspection upon the demand of a passenger; a peace officer of this State; an authorized official or employee of the Agency; or an official, manager, or person in charge of any airport in this State upon which ~~it shall land~~ there is a landing. The federal aircraft license, certificate, or permit must be carried in every aircraft operating in this State at all times and must be presented for inspection upon the demand of a passenger; a peace officer of this State; an authorized official or employee of the Agency; or an official,

manager, or person in charge of any airport in this State upon which it shall land.

Sec. 6. 5 V.S.A. § 3639(a) is amended to read:

(a) A person or corporation owning or operating a railroad shall construct and maintain farm crossings of the road for the use of the proprietors of lands adjoining the railroad, and cattle guards at all farm and road crossings sufficient to prevent cattle and animals from getting on the railroad. A farm crossing may be temporarily or permanently closed or discontinued by mutual agreement between all parties having an interest therein. If no such mutual agreement can be reached by such interested parties, then a person or corporation owning or operating a railroad and desiring to close any farm crossing shall make application to the Transportation Board. The Board shall thereupon give notice to all parties interested, in such manner as the Board may direct, of hearing on the application, the hearing to be in the county where such crossing is located. After the hearing, a person or corporation owning or operating a railroad shall not close such farm crossing without the approval of the Transportation Board. A person aggrieved by the closing of a farm crossing after January 1, 1955 by a person or corporation owning or operating a railroad may notify the Transportation Board by registered or certified mail of the closing, and thereupon the Board shall conduct a hearing. Notice and place of hearing shall be ~~as hereinbefore provided~~ as set forth in this subsection. The Transportation Board may require the reopening of any such crossing and make such other order as is permitted in section 3649 of this title. At any such hearing, the burden of proof shall rest with the person or persons effecting or seeking to effect the closing of such farm crossing. Any person aggrieved by an order of the Transportation Board may, in accordance with Rule 74 of the Vermont Rules of Civil Procedure, appeal to the Superior Court, whereupon such cause shall be tried as an original action brought under the provisions of 12 V.S.A. § 402.

Sec. 7. 6 V.S.A. § 857 is amended to read:

§ 857. ENFORCEMENT; ADMINISTRATIVE ORDERS

(a) Notwithstanding the requirements of section 856 of this title, the Secretary at any time may pursue one or more of the following:

(1) issue a cease and desist order ~~in accordance~~ to a person the Secretary believes to be in violation of the rules listed in section 852 of this title;

* * *

Sec. 8. 7 V.S.A. § 251 is amended to read:

§ 251. EDUCATIONAL SAMPLING EVENT PERMIT

* * *

(f) Taxes for the alcoholic beverages served at the event shall be paid as follows:

(1) malt beverages:

(A) \$0.265 per gallon of malt beverages served that contain not more than six percent of alcohol by volume at 60 degrees Fahrenheit; and

(B) \$0.55 per gallon of malt beverages served that contain more than six percent of alcohol by volume at 60 degrees Fahrenheit;

* * *

Sec. 9. 7 V.S.A. § 1001 is amended to read:

§ 1001. DEFINITIONS

As used in this chapter:

* * *

(5) "Tobacco license" means a license issued by the Division of Liquor Control under this chapter permitting the licensee to engage in the retail sale of tobacco products ~~or locate a vending machine on the premises identified in the license.~~

* * *

Sec. 10. 8 V.S.A. § 4091f(c) is amended to read:

(c) Liability of succeeding carrier.

* * *

(3) The succeeding carrier is not liable under this ~~subdivision~~ subsection for benefits required to be paid by the prior carrier.

* * *

Sec. 11. 8 V.S.A. § 11201 is amended to read:

§ 11201. BUSINESS DAYS

(a)(1) For purposes of this title, unless otherwise provided under other state or federal law applicable to a Vermont or state financial institution ~~which~~ that is a depository institution, a business day is a calendar day other than the following:

(A) Saturday and Sunday;

January 1, ~~New Year's Day~~;

~~The 3rd the third Monday in January, Martin Luther King, Jr. Day;~~

~~February 12, Lincoln's birthday;~~

~~The 3rd the third Monday in February, President's Day;~~

~~The first Tuesday in March, Town Meeting Day;~~

~~The last Monday in May, Memorial Day, but if the United States government designates May 30 as the date of observance of Memorial Day, then May 30;~~

~~July 4, Independence Day;~~

~~August 16, Bennington Battle Day;~~

~~The first Monday in September, Labor Day;~~

~~The 2nd the second Monday in October, Columbus Day~~

~~November 11, Veterans' Day;~~

~~The 4th the fourth Thursday in November, Thanksgiving Day; and~~

~~December 25, Christmas Day.~~

(B) New Year's Day, January 1;

(C) Martin Luther King, Jr.'s Birthday, the third Monday in January;

(D) President's Day, the third Monday in February;

(E) Town Meeting Day, the first Tuesday in March;

(F) Memorial Day, the last Monday in May;

(G) Independence Day, July 4;

(H) Bennington Battle Day, August 16;

(I) Labor Day, the first Monday in September;

(J) Columbus Day, the second Monday in October;

(K) Veterans' Day, November 11;

(L) Thanksgiving Day, the fourth Thursday in November;

(M) Christmas Day, December 25.

(2) A legal holiday ~~which~~ that falls on a Saturday may be observed on the preceding Friday and a legal holiday ~~which~~ that falls on a Sunday may be observed on the following Monday.

* * *

Sec. 12. 10 V.S.A. § 329 is amended to read:

§ 329. ANNUAL REPORT

Prior to January 31 of each year, the corporation formed under section 328 of this title shall submit a report concerning its activities to the Governor, ~~and to the legislative committees on commerce, general affairs, natural resources, ways and means, finance, institutions and appropriations~~ House Committees on Appropriations, on Commerce and Economic Development, on Corrections and Institutions, on General, Housing, and Military Affairs, on Natural Resources, Fish, and Wildlife, and on Ways and Means and to the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, on Finance, on Institutions, and on Natural Resources and Energy. The report shall include the following information:

* * *

Sec. 13. 10 V.S.A. § 531 is amended to read:

§ 531. THE VERMONT TRAINING PROGRAM

(a) Authority.

(1) The Secretary of Commerce and Community Development, in consultation with the State Workforce Development Board, shall have the authority to design and implement a Vermont Training Program, the purpose of which shall be to issue performance-based grants to employers and to education and training providers to increase employment opportunities in Vermont consistent with this chapter.

* * *

(c) Disclosure. In the case of a grant to a training provider, the Secretary shall require as a condition of the grant that the provider shall disclose to the Secretary the name of the employer and the number of employees trained prior to final payment for the training.

(d) Conditions. In order to avoid duplication of programs or services and to provide the greatest return on investment from training provided under this section, the Secretary of Commerce and Community Development shall:

* * *

(f) Certificate. Upon completion of the training program for any individual, the Secretary of Commerce and Community Development shall review the records and shall award to the trainee, if appropriate, a certificate of completion for the training.

* * *

(k) Report. Annually on or before January 15, the Secretary shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs. In addition to the reporting requirements under section 540 of this title, the report shall identify:

* * *

Sec. 14. 10 V.S.A. § 627 is amended to read:

§ 627. MORTGAGE PURCHASES

* * *

(b) Bonds, notes, and other obligations issued by the Agency pursuant to this section shall not be general obligations of the Agency, shall not be secured in whole or in part by a debt service reserve fund to which State funds may be appropriated pursuant to subsection ~~632(d)~~ 632a(f) of this title, shall not be subject to subdivision 631(b)(1) of this title, and shall not be taken into account for purposes of the limitation on indebtedness of the Agency contained in the last sentence of subdivision 631(a)(1). Such bonds, notes, and other obligations shall be payable solely from the receipts, revenues, or other income derived in respect of loans and securities purchased pursuant to this section or from the proceeds of such bonds, notes, and other obligations, or from receipts, revenues, or other income derived in respect of such proceeds or reserves established therefrom. Any official statement or other prospectus used by the Agency in offering such obligations for sale shall clearly indicate that such obligations are not the debt or obligation of the State or of the Agency except to the extent provided in this section.

* * *

(d)~~(1)~~ In issuing eligible securities pursuant to this section, the Agency and any trust established by it shall have, in addition to its other powers under this chapter or general law, all the powers the Agency has in issuing bonds, notes, and other obligations pursuant to subsection (b) of this section, subject to the special provisions of subsection (b) of this section, including the following powers:

~~(1)(A)~~ to authorize such securities, to issue them as negotiable investment securities, to execute them through appropriate present or former officers, and to sell them at public or private sale;

~~(2)(B)~~ to make agreements and contracts with, and valid and effective pledges of property to, securities holders by resolution or otherwise;

~~(3)~~(C) to issue taxable securities, cause them to be registered, and grant appropriate indemnification;

~~(4)~~(D) to purchase and deal in such securities;

~~(5)~~(E) to secure such securities by appropriate trust instruments and agree that its contracts with securities holders will not be impaired by the State; and

~~(6)~~(F) to use and invest proceeds of securities and refunding securities.

~~(2) All of the foregoing~~ The Agency's exercise of the powers set forth in subdivision (1) of this subsection shall be in the manner more fully provided in this chapter for bonds, notes, and other obligations, or in a manner the Agency determines is reasonably comparable thereto taking into account the different characteristics of eligible securities, or of the issuer thereof, and other matters the Agency considers necessary or appropriate to effectively issue such securities.

* * *

Sec. 15. 10 V.S.A. § 690(a) is amended to read:

(a) If the Secretary finds, after reasonable notice and opportunity for hearing, that a grantee under this subchapter has failed to comply substantially with the provisions of this subchapter, the rules ~~promulgated~~ adopted under the provisions of this subchapter, or of applicable provisions of federal law, the Secretary, until he or she is satisfied that there is no longer any such failure to comply, may:

(1) terminate payments to the grantee under this subchapter; or

(2) limit the availability of payments under this subchapter under such conditions as may be established by the Secretary.

Sec. 16. 10 V.S.A. § 719 is amended to read:

§ 719. ELECTIONS

After the issuance of a certificate by the Secretary of State certifying to the organization of a natural resources conservation district, nominating petitions shall be filed with the districts and shall be submitted to the Council once the nominee is approved by the districts as defined in section 720 of this title, who shall be qualified voters as hereinafter specified. No such nominating petition shall be accepted unless it shall be subscribed to by 25 or more owners of land lying within the boundaries of the district. Landowners may sign more than one nominating petition to nominate more than one candidate for supervisor.

The names of all nominees shall appear, arranged in the alphabetical order of the surnames, upon ballots with a square before each name and a direction to insert an X mark in the square before one name to indicate the voter's choice. Only landowners shall be eligible to vote. The candidates who shall receive the largest number of the votes cast in the election shall be the elected supervisors for the districts. The Council shall pay all the expenses, supervise, prescribe ~~regulations~~ rules, determine eligibility of voters, and publish the results of all elections.

Sec. 17. 10 V.S.A. § 722(a) is amended to read:

(a) The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds. They shall keep a full record of all proceedings and of all resolutions, ~~regulations~~ rules, and orders issued, and shall provide for an annual audit of the receipts and disbursements.

Sec. 18. 10 V.S.A. § 724 is amended to read:

§ 724. LAND-USE, EROSION CONTROL, AND NATURAL RESOURCES
CONSERVATION ~~REGULATIONS~~ RULES; APPROVAL

The supervisors of any district shall have authority to formulate ~~regulations~~ rules, as ~~hereinafter provided set forth in this chapter~~, governing the use of lands within the district in the interest of conserving soil, controlling soil and stream bank erosion, and promoting conservation of natural resources and drainage. The supervisors may conduct such public meetings and public hearings upon ~~regulations~~ rules proposed to be enacted as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use ~~regulations~~ rules into ordinances unless a majority of the owners of land lying within the boundaries of the district cast their votes for the approval of the proposed ordinance. The approval of the proposed ordinance by a majority of the votes cast in the referendum shall not be deemed to require the supervisors to enact the proposed ordinance. The ~~regulations~~ rules to be adopted by the supervisors under the provisions of this chapter may include provisions for conserving soil resources, soil and stream bank erosion, water quality improvement, and conservation of natural resources and drainage.

Sec. 19. 10 V.S.A. § 725 is amended to read:

§ 725. UNIFORMITY OF ~~REGULATIONS~~ RULES

The ~~regulations~~ rules shall be uniform throughout the district, except that the supervisors may classify, prior to the adoption of such ordinances, the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices

in use, and other relevant factors, and may provide ~~regulations~~ rules varying with the type or class of land affected, but uniform as to the lands within each class or type, provided however, that such classification has first been included in the notice published for such meeting. Copies of land-use ~~regulations~~ rules adopted under the provisions of this chapter shall be made available to all owners and persons in possession of lands lying within the district, but such ordinances shall not apply to ~~forest lands~~ forestlands.

Sec. 20. 10 V.S.A. § 726 is amended to read:

§ 726. ORDINANCES PRESCRIBING ~~REGULATIONS~~ RULES;
REFERENDUM

A referendum shall be conducted as follows:

(1) The ordinances proposed to be enacted shall be delivered by the supervisors or by agents authorized by them, or by mail to the last known address of such owners of land within the district, together with a warning of a district meeting, which warning shall contain an article for a vote upon the following question:

Shall the proposed ordinance, No. . . . , prescribing land-use ~~regulations~~ rules for conserving soil resources, soil and stream bank erosion, and conservation of natural resources, be adopted, the substance of which is as follows?

(2) The vote under such article shall be by ballot in the following form:

Shall the proposed ordinance No. . . . , prescribing land-use ~~regulations~~ rules for conserving soil resources, soil and stream bank erosion, and conservation of natural resources be adopted?

YES []

NO []

Sec. 21. 10 V.S.A. § 727 is amended to read:

§ 727. CONDUCT OF REFERENDUM

The supervisors shall prescribe appropriate ~~regulations~~ rules governing the conduct of the referendum, and shall publish and record the result of the ballot. All owners of lands within the district shall be eligible to vote in such referendum.

Sec. 22. 10 V.S.A. § 728 is amended to read:

§ 728. AMENDMENT OR REPEAL OF ~~REGULATIONS~~ RULES

Any owner or person in possession of land within a district may at any time file a petition with the supervisors asking that any or all of the land-use

~~regulations rules~~ prescribed in any ordinance adopted by the supervisors under the provisions of this chapter shall be amended, supplemented, or repealed. Land-use ~~regulations rules~~ prescribed in any ordinance adopted pursuant to the provisions of this chapter shall not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this chapter for adoption of land-use ~~regulations rules~~. Referenda on adoption, amendment, supplementation, or repeal of land-use ~~regulations rules~~ shall not be held more often than once in six months.

Sec. 23. 10 V.S.A. § 730 is amended to read:

§ 730. EFFECT OF TERMINATION

Upon issuance of a certificate of dissolution under the provisions of this chapter, all ordinances and ~~regulations theretofore~~ rules previously adopted and in force within such districts shall be of no further force and effect. All contracts ~~theretofore~~ previously entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The State Natural Resources Conservation Council shall have the right to be substituted for the district or supervisors as party to such contracts and, if it elects, the Council shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of this chapter, nor the pendency of any action instituted under the provisions of this chapter, and the Council shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

Sec. 24. 10 V.S.A. § 731 is amended to read:

§ 731. FAILURE TO OBSERVE LAND-USE ORDINANCE;

CONFERENCES

In the event that the supervisors of a district find that the provisions of a land-use ordinance adopted according to the provisions of this chapter are not being observed on particular lands, and that such nonobservance tends substantially to increase erosion on such lands and substantially interferes with the prevention or control of erosion or conservation of natural resources on other lands within the district, the supervisors may summon the owner of the land to appear before them to discuss the failure of the owner to observe the ~~regulations rules~~, and to perform particular work, operations, or avoidances as required by ordinance of the district, when the nonobservance tends

substantially to increase erosion on the lands and substantially interferes with the prevention or control of erosion or conservation of natural resources on other lands within the district. By conference thus ~~convoked~~ summoned, the supervisors and the owner of land not observing the ordinance adopted by the district, shall together make and sign a finding as to the issues ~~which are~~ involved in the failure of the owner to observe the ordinance of the district. ~~Upon~~ On the basis of such findings and if, after conference, it appears to the supervisors that there are great practical difficulties or unnecessary hardship involved in the full observance of the ordinance of the district, the supervisor shall endeavor to work out a program with the owner, as shall be acceptable to the owner and shall enable the owner to comply with the ordinance.

Sec. 25. 10 V.S.A. § 733 is amended to read:

§ 733. POWERS OF BOARD

Upon the basis of such inquiry as it deems it necessary to conduct, and ~~upon~~ on the basis of findings resulting ~~therefrom~~ from the inquiry, the board of adjustment shall have authority by order to authorize ~~such a~~ a variance from the ordinances in their application to the lands of the owner who has not complied with the ordinance of the district, when ~~such the~~ the variance will relieve practical difficulties or unnecessary hardship to ~~such the~~ the owner and when ~~such the~~ the variance is not contrary to public ~~interest~~ interests and is in accordance with the purpose of land-use ~~regulations~~ rules. The board of adjustment may request the landowner not complying with an ordinance to sign a stipulation setting forth the conditions agreed upon by the landowner and supervisors so that the practical difficulties or unnecessary hardship may be overcome and work proceed by the consent of ~~such the~~ the landowner upon his or her land. ~~However,; provided, however, that~~ nothing in this chapter shall be construed so as to make ineffective any remedies available under the laws of the ~~state~~ State.

Sec. 26. 10 V.S.A. § 803(b) is amended to read:

(b)(1) The board of directors shall present to the Secretary of State an application signed by them ~~which~~ that shall set forth:

~~(1)(A)~~ (A) that a petition for the creation of the union was filed with the council pursuant to the provisions of this chapter;

~~(2)(B)~~ (B) that the proceedings specified in this chapter were taken pursuant to such petition; and

~~(3)(C)~~ (C) that the application is filed in order to complete the organization of the union as a corporate entity.

(2) The application shall be subscribed to by each of the directors.

Sec. 27. 10 V.S.A. § 821 is amended to read:

§ 821. DEFINITIONS

~~(a)~~ As used in this chapter:

~~(1)~~ (1) “Conservation rights and interests” mean rights held by a qualified holder to restrict or condition the use, modification, or subdivision of a land or water area and rights to perform, or require the performance of, specified activities with respect thereto. These rights and interests shall be for the purpose of maintaining, enhancing, and conserving that land or water area, including improvements thereon, predominantly in its natural, scenic, or open condition, or in agricultural, farming, forest, wildlife, or open space use, or for public recreation, or in other use or condition consistent with the purposes set forth in section 6301 of this title.

~~(b)(2)~~ (2) “Preservation rights and interests” mean rights held by a qualified holder to restrict or condition the use, modification, or subdivision of a structure or site, and rights to perform, or require the performance of, specified activities with respect thereto. Such rights and interests shall be for the purpose of preserving, rehabilitating, or restoring a structure or site having significant historical, architectural, cultural, or archaeological characteristics.

~~(c)(3)~~ (3) “Qualified holder” and “holder,” ~~as used in this chapter,~~ mean:

~~(1)(A)~~ (1)(A) a municipality, department, or board of the State of Vermont;

~~(2)(B)~~ (2)(B) an organization qualifying under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, provided one of the stated purposes of the organization is to acquire property or rights and interests in property in order to preserve historic, agricultural, forestry, or open space resources;

~~(3)(C)~~ (3)(C) an organization qualifying under Section 501(c)(2) of the Internal Revenue Code of 1986, as amended, provided that organization is controlled exclusively by an organization or organizations described in subdivision ~~(2)(B)~~ (2)(B) of this subsection ~~subdivision (3);~~ and

~~(4)(D)~~ (4)(D) the United States of America.

Sec. 28. 10 V.S.A. § 1204 is amended to read:

§ 1204. EFFECTIVE DATE-ARTICLE III

A. This compact shall become effective when a bill of the New Hampshire General ~~Assembly~~ Court that incorporates the compact becomes a law in New Hampshire and when it is approved by the U.S. Congress.

Sec. 29. 10 V.S.A. § 1235 is amended to read:

§ 1235. EFFECTIVE DATE-ARTICLE III

This compact shall become effective when a bill of the New Hampshire General Assembly Court that incorporates the compact becomes a law in New Hampshire and when it is approved by the U.S. Congress.

Sec. 30. 10 V.S.A. § 1250 is amended to read:

§ 1250. STATE WATER QUALITY POLICY

It is the policy of the State of Vermont to:

(1) protect and enhance the quality, character and usefulness of its surface waters and to assure the public health;

(2) maintain the purity of drinking water;

(3) control the discharge of wastes to the waters of the State, prevent degradation of high quality waters and prevent, abate or control all activities harmful to water quality;

(4) assure the maintenance of water quality necessary to sustain existing aquatic communities;

(5) provide clear, consistent, and enforceable standards for the permitting and management of discharges;

(6) protect from risk and preserve in their natural state certain high quality waters, including fragile high-altitude waters, and the ecosystems they sustain;

(7) manage the waters of the State to promote a healthy and prosperous agricultural community, to increase the opportunities for use of the State's forest, park, and recreational facilities, and to allow beneficial and environmentally sound development;and

~~(8) It is further the policy of the State to seek over the long term to upgrade the quality of waters and to reduce existing risks to water quality.~~

Sec. 31. 10 V.S.A. § 1268 is amended to read:

§ 1268. EMERGENCY PERMITS

When a discharge permit holder finds that pollution abatement facilities require repairs, replacement, or other corrective action in order for them to continue to meet standards specified in the permit, the holder may apply in the manner specified by the Secretary for an emergency pollution permit for a term sufficient to effect repairs, replacements, or other corrective action. The Secretary shall proceed in accordance with chapter 170 of this title. No

emergency pollution permit shall be issued unless the applicant certifies and the Secretary finds that:

* * *

(4) the discharge will not be unreasonably harmful to the quality of the receiving waters; and

(5) the cause or reason for the emergency is not due to willful or intended acts or omissions of the applicant.

Sec. 32. 10 V.S.A. § 1343 is amended to read:

§ 1343. COMMISSION MEMBERSHIP

The State shall be represented on the Commission by five commissioners, one of whom shall be the Commissioner of ~~Water Resources~~ Environmental Conservation, and four of whom shall be appointed by the Governor. Of those appointed by the Governor, one shall be an officer of municipal government, and the remaining members may be members of the public or officers or employees of State government.

Sec. 33. 10 V.S.A. § 1390 is amended to read:

§ 1390. POLICY

The General Assembly hereby finds and declares that:

(1) ~~the~~ The State should adhere to the policy for management of groundwater of the State as set forth in section 1410 of this title;_

(2) ~~in~~ In recognition that the groundwater of Vermont is a precious, finite, and invaluable resource upon which there is an ever-increasing demand for present, new, and competing uses; and in further recognition that an adequate supply of groundwater for domestic, farming, dairy processing, and industrial uses is essential to the health, safety, and welfare of the people of Vermont, the withdrawal of groundwater of the State should be regulated in a manner that benefits the people of the State; is compatible with long-range water resource planning, proper management, and use of the water resources of Vermont; and is consistent with Vermont's policy of managing groundwater as a public resource for the benefit of all Vermonters;_

(3) ~~it~~ It is the policy of the State that the State shall protect its groundwater resources to maintain high-quality drinking water;_

(4) ~~it~~ It is the policy of the State that the groundwater resources of the State shall be managed to minimize the risks of groundwater quality deterioration by regulating human activities that present risks to the use of groundwater in the vicinities of such activities while balancing the State's

groundwater policy with the need to maintain and promote a healthy and prosperous agricultural community; ~~and~~.

(5) ~~It~~ It is the policy of the State that the groundwater resources of the State are held in trust for the public. The State shall manage its groundwater resources in accordance with the policy of this section, the requirements of subchapter 6 of this chapter, and section 1392 of this title for the benefit of citizens who hold and share rights in such waters. The designation of the groundwater resources of the State as a public trust resource shall not be construed to allow a new right of legal action by ~~an individual~~ a person other than the State of Vermont, except to remedy injury to a particularized interest related to water quantity protected under this subchapter.

Sec. 34. 10 V.S.A. § 1394(e) is amended to read:

(e) In determining the appropriate classification of groundwater, the Secretary shall consider:

- (1) its use or potential future use as a public water supply source;
- (2) the extent of activity which poses a risk to the groundwater;
- (3) its current water quality;
- (4) its availability in quantities needed for beneficial use;
- (5) the consequences of its potential contamination and the availability of alternate sources of water; ~~and~~
- (6) the classification of adjacent surface waters; and
- (7) other factors relevant to determine the maximum beneficial use of the aquifer.

Sec. 35. 10 V.S.A. § 1418(a) is amended to read:

(a)(1) On and after July 1, 2010, no person, for commercial or industrial uses, shall make a new or increased groundwater withdrawal of more than 57,600 gallons a day from any well or spring on a single tract of land or at a place of business without first receiving from the Secretary of Natural Resources a groundwater withdrawal permit. The following shall constitute a “new or increased withdrawal”:

~~(1)(A)~~ The ~~the~~ expansion of any existing withdrawal through:

~~(A)(i)~~ additional withdrawal from one or more new wells or springs;

or

~~(B)(ii)~~ an increase in the rate of withdrawal from a well or spring above the maximum rate set forth in any existing permit issued by the Secretary of Natural Resources under this section; or

~~(2)(B)~~ For ~~for~~ previously unpermitted withdrawals, an increase in the rate of withdrawal after July 1, 2010 from a well or spring on a single tract of land or at a place of business of 25 percent of the baseline withdrawal or an increase of 57,600 gallons of groundwater withdrawn, whichever is smaller.

~~(3)(2)~~ For the purposes of this subsection, the baseline withdrawal shall be the highest amount withdrawn by a person between 2005 and 2010.

Sec. 36. 10 V.S.A. § 1426 is amended to read:

§ 1426. PENALTY

Any person who violates a rule ~~promulgated~~ adopted under this chapter, shall be subject to the civil penalty provision of 23 V.S.A. § 3317(b).

Sec. 37. 10 V.S.A. § 1525(a) is amended to read:

(a)(1) No beverage shall be sold or offered for sale at retail in this State:

~~(1)(A)~~ in a metal container designed and constructed so that part of the container other than a piece of pressure sensitive tape is detachable in opening the container; or

~~(2)(B)~~ in containers connected to each other with plastic rings or similar devices that are not classified as biodegradable by the Secretary.

(2) For the purposes of this subsection only, the word “beverage” includes all drinks sold in liquid form intended for human consumption, whether or not specifically listed in section 1521 of this chapter.

Sec. 38. 10 V.S.A. § 1675(f)(1) is amended to read:

(1) The Secretary may, after notice and opportunity for hearing, revoke or suspend any permit issued pursuant to the authority under this title if the Secretary finds that:

* * *

(B) the permit holder has violated any material requirement, restriction, or condition of this chapter, any rule ~~promulgated thereunder~~ adopted pursuant to this chapter, ~~or~~ any permit or certification issued pursuant to this chapter, or any assurance of discontinuance or order relating to the provisions of this chapter or the rules ~~promulgated thereunder~~ adopted pursuant to this chapter; or

* * *

Sec. 39. 10 V.S.A. § 1681 is amended to read:

§ 1681. CRIMINAL ENFORCEMENT

(a) Any permit holder or person who violates a provision of this chapter or the rules ~~promulgated thereunder~~ adopted pursuant to this chapter, or who fails or neglects to obey or comply with the terms of a permit issued under this chapter or who fails or neglects to obey or comply with an assurance of discontinuance or order relating to this chapter or the rules ~~promulgated thereunder~~ adopted pursuant to this chapter shall be fined not more than \$5,000.00. Each violation shall be a separate and distinct offense and, in the case of a continuing violation, each day's continuance shall be deemed a separate violation.

(b) Any permit holder or person who refuses to obey or comply with the terms of a permit issued under this chapter or who refuses to obey or comply with an assurance of discontinuance or order relating to this chapter or the rules ~~promulgated thereunder~~ adopted pursuant to this chapter shall be fined not more than \$25,000.00 or be imprisoned not more than six months, or both. Each violation shall be a separate offense and, in the case of a continuing violation, each day's continuance shall be deemed a separate violation.

(c) Any person who knowingly makes a false statement, representation, or certification as to any material fact in any application, record, report, plan, testing result, or other document filed or required to be maintained under this chapter, or who falsifies, tampers with, or knowingly renders inaccurate a testing device or method required to be maintained under this chapter or the rules adopted pursuant to this chapter, or any permit or certification issued pursuant to this chapter, or any assurance of discontinuance or order relating to the provisions of this chapter or the rules ~~promulgated thereunder~~ adopted pursuant to this chapter shall be fined not more than \$10,000.00 or be imprisoned for not more than six months, or both.

* * *

Sec. 40. 10 V.S.A. § 1683 is amended to read:

§ 1683. FILTRATION REQUIREMENTS

(a) The Department of Environmental Conservation shall review each application for a construction grant ~~under section 1624 of this title~~ to determine whether the project qualifies for an avoidance of filtration waiver under the surface water treatment rule and notify the applicant of the results of that review. The Department shall provide an opportunity for the applicant to submit information in support of an affirmative finding.

* * *

Sec. 41. 10 V.S.A. § 1927(b) is amended to read:

(b) A permit for an underground storage tank shall specify:

* * *

(10) requirements for the upgrade or closure of tanks by December 22, 1998 that do not meet standards adopted to prevent releases due to corrosion, and spills or overfills; and

(11) other requirements necessary to carry out the purposes indicated in section 1921 of this title.

Sec. 42. 10 V.S.A. § 1935(b) is amended to read:

(b) Civil penalty. Any person who violates any provision of this chapter, the rules ~~promulgated herein~~ adopted pursuant to this chapter, or the terms and conditions of any order or permit issued by the ~~secretary~~ Secretary, shall be subject to a civil penalty not to exceed \$10,000.00 per storage tank.

Sec. 43. 10 V.S.A. § 4254 is amended to read:

§ 4254. FISHING AND HUNTING LICENSES; ELIGIBILITY, DESIGN,
DISTRIBUTION, SALE, AND ISSUE

* * *

(c) Training. The Commissioner shall provide for a course of basic instruction in the safe handling of firearms, survival training, and first aid training and a course in bow hunter education. For this purpose, the Commissioner may cooperate with any reputable association, organization, or agency, and he or she may designate any person found by him or her to be competent to give such instruction. A person satisfactorily completing the course of instruction shall receive from the instructor a certificate in evidence thereof. No fee shall be charged for a course of instruction provided under this subsection.

(d) Administration. The Commissioner shall be responsible for the design of all licensing documents and forms, the sale of licenses, the reporting of sales, and the full return of all funds due the Department.

(e) Licenses. The Commissioner shall establish:

* * *

(f) License agency. All persons or businesses who wish to serve as agents shall apply on forms provided by the Department. Except for the fee collected under subdivision (e)(9) of this section, all license fees collected by an agent

are the property of the State of Vermont and shall be promptly paid to the State following the procedures established under subdivision (e)(6) of this section.

(g) [Repealed.]

(h) Lotteries. If the Board decides to hold a lottery for the purpose of allocating permits to hunt or fish, except for a lottery held pursuant to sections 4081 or 4153 of this title or for water fowl hunting permits for specific areas as defined by the Board by rule, the Department shall require that each resident entering the lottery shall submit a nonrefundable fee of \$10.00 and each nonresident entering the lottery shall submit a nonrefundable fee of \$25.00 with each application. Proceeds from the sale of applications shall be deposited into the Fish and Wildlife Fund.

(i) Moose hunting.

(1) If the Board establishes a moose hunting season, up to five moose permits shall be set aside to be auctioned. The moose permits set aside for auction shall be in addition to the number of annual moose permits authorized by the Board. The Board shall adopt rules necessary for the Department to establish, implement, and run the auction process. The Commissioner annually may establish a minimum dollar amount of not less than \$1,500.00 for any winning bid for a moose permit auctioned under this subdivision. Proceeds from the auction shall be deposited in the Fish and Wildlife Fund and used for conservation education programs run by the Department. Successful bidders must have a Vermont hunting or combination license in order to purchase a moose permit.

* * *

Sec. 44. 13 V.S.A. § 2153 is amended to read:

§ 2153. RACING ANIMALS; DRUGS OR DEVICES; FALSE NAMES

A person shall not:

(1) influence, induce, or conspire with any owner, jockey, groom, or other person associated with or interested in any stable, horse, or race in which a horse participates, ~~or any greyhound dog or race in which a greyhound dog participates,~~ to affect the result of such race by stimulating or depressing a horse ~~or dog~~ through the administration of any drug to such horse ~~or dog~~, or by the use of any electrical device or any electrical equipment or by any mechanical or other device not generally accepted as regulation racing equipment;

(2) so stimulate or depress a horse ~~or dog~~;

(3) knowingly enter any horse ~~or dog~~ in any race within a period of 24 hours after any drug has been administered to such horse ~~or dog~~ for the purpose of increasing or retarding the speed of such horse ~~or dog~~;

* * *

Sec. 45. 13 V.S.A. § 2156 is amended to read:

§ 2156. TOUTING PROHIBITED; PENALTY

Any person who knowingly and designedly by false representation attempts to, or does persuade, procure, or cause another person to wager on a horse ~~or dog~~ in a race to be run in this State or elsewhere, and upon which money is wagered in this ~~state~~ State, and who asks or demands compensation as a reward for information or purported information given in such case is a tout, and is guilty of touting and shall be fined not more than \$500.00 or imprisoned not more than one year, or both.

Sec. 46. 15C V.S.A. § 402(b) is amended to read:

(b) A proceeding to challenge the parentage of a person whose parentage is presumed under section 401 of this title may be commenced two years or more after the birth of the child in the following circumstances:

* * *

(2) An alleged genetic parent who did not know of the potential genetic parentage of a child and who could not reasonably have known on account of material misrepresentation or concealment may commence a proceeding under this section within two years after discovering the potential genetic parentage. If the person is adjudicated to be the genetic parent of the child, the court ~~may~~ shall not disestablish a presumed parent.

* * *

Sec. 47. 17 V.S.A. § 2647(a)(1) is amended to read:

(a)(1) An auditor shall not be town clerk, town treasurer, selectboard member, first constable, collector of current or delinquent taxes, trustee of public funds, town manager, road commissioner, water commissioner, sewage system commissioner, sewage disposal commissioner, cemetery commissioner, or ~~town district school director~~ town school district director; nor shall a spouse of or any person assisting any of these officers in the discharge of official duties be eligible to hold office as auditor.

Sec. 48. 18 V.S.A. § 1561(i) is amended to read:

(i) Definition. As used in this chapter, “child” means an individual from the time of birth to 18 years of age.

Sec. 49. 18 V.S.A. § 4466 is amended to read:

§ 4466. INSPECTION

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

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

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

Sec. 50. 18 V.S.A. § 4474e(n) is amended to read:

(n) Nothing in this subchapter shall prevent a dispensary from acquiring, possessing, cultivating, manufacturing, transferring, transporting, supplying, selling, and dispensing hemp and hemp-infused products for symptom relief. "Hemp" As used in this section, "hemp" shall have the same meaning as provided in 6 V.S.A. § 562. A dispensary shall not be required to comply with the provisions of 6 V.S.A. chapter 34.

Sec. 51. 18 V.S.A. § 4750 is amended to read:

§ 4750. DEFINITION

As used in this chapter, "medication-assisted treatment" means the use of U.S. ~~Federal~~ Food and Drug Administration-approved medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.

Sec. 52. [Deleted.]

Sec. 53. 18 V.S.A. § 9371 is amended to read:

§ 9371. PRINCIPLES FOR HEALTH CARE REFORM

* * *

(4) Primary care must be preserved and enhanced so that Vermonters have care available to them, preferably within their own communities. The health care system must ensure that Vermonters have access to appropriate mental health care that meets ~~the Institute of Medicine's triple aims~~ standards of

quality, access, and affordability ~~and that is~~ equivalent to other components of health care as part of an integrated, holistic system of care. Other aspects of Vermont's health care infrastructure, including the educational and research missions of the State's academic medical center and other postsecondary educational institutions, the nonprofit missions of the community hospitals, and the critical access designation of rural hospitals, must be supported in such a way that all Vermonters, including those in rural areas, have access to necessary health services and that these health services are sustainable.

* * *

Sec. 54. 18 V.S.A. § 9382 is amended to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

(a) In order to be eligible to receive payments from Medicaid or commercial insurance through any payment reform program or initiative, including an all-payer model, each accountable care organization shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying accountable care organizations. To the extent permitted under federal law, the Board shall ensure these rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In order to certify an ACO to operate in this State, the Board shall ensure that the following criteria are met:

* * *

(2) The ACO has established appropriate mechanisms and care models to provide, manage, and coordinate high-quality health care services for its patients, including incorporating the Blueprint for Health, coordinating services for complex high-need patients, and providing access to health care providers who are not participants in the ACO. The ACO ensures equal access to appropriate mental health care that meets ~~the Institute of Medicine's triple aims~~ standards of quality, access, and affordability ~~in a manner that is~~ equivalent to other ~~aspects~~ components of health care as part of an integrated, holistic system of care.

* * *

Sec. 55. 18 V.S.A. § 9405(a) is amended to read:

(a) The Secretary of Human Services or designee, in consultation with the Chair of the Green Mountain Care Board and health care professionals and after receipt of public comment, shall adopt a State Health Improvement Plan that sets forth the health goals and values for the State. The Secretary may amend the Plan as the Secretary deems necessary and appropriate. The Plan

shall include health promotion, health protection, nutrition, and disease prevention priorities for the State; identify available human resources as well as human resources needed for achieving the State's health goals and the planning required to meet those needs; identify gaps in ensuring equal access to appropriate mental health care that meets ~~the Institute of Medicine's triple aims~~ standards of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care; and identify geographic parts of the State needing investments of additional resources in order to improve the health of the population. Copies of the Plan shall be submitted to members of the Senate Committee on Health and Welfare and the House Committee on Health Care.

Sec. 56. 18 V.S.A. § 9405a(a) is amended to read:

(a) Each hospital shall have a protocol for meaningful public participation in its strategic planning process for identifying and addressing health care needs that the hospital provides or could provide in its service area. Needs identified through the process shall be integrated with the hospital's long-term planning. Each hospital shall post on its website a description of its identified needs, strategic initiatives developed to address the identified needs, annual progress on implementation of the proposed initiatives, opportunities for public participation, and the ways in which the hospital ensures access to appropriate mental health care that meets ~~the Institute of Medicine's triple aims~~ standards of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care. Hospitals may meet the community health needs assessment and implementation plan requirement through compliance with the relevant Internal Revenue Service community health needs assessment requirements for nonprofit hospitals.

Sec. 57. 18 V.S.A. § 9437 is amended to read:

§ 9437. CRITERIA

A certificate of need shall be granted if the applicant demonstrates that the project serves the public good and the Board finds:

* * *

(9) The project will support equal access to appropriate mental health care that meets ~~the Institute of Medicine's triple aims~~ standards of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care, as appropriate.

* * *

Sec. 58. 18 V.S.A. § 9456(c) is amended to read:

(c) Individual hospital budgets established under this section shall:

* * *

(6) demonstrate that they support equal access to appropriate mental health care that meets ~~the Institute of Medicine's triple aims~~ standards of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care.

* * *

Sec. 59. 18 V.S.A. § 9491 is amended to read:

§ 9491. HEALTH CARE WORKFORCE; STRATEGIC PLAN

* * *

(b) The Director or designee shall collaborate with the area health education centers, the State Workforce Development Board established in 10 V.S.A. § 541a, the Prekindergarten-16 Council established in 16 V.S.A. § 2905, the Department of Labor, the Department of Health, the Department of Vermont Health Access, and other interested parties to develop and maintain the plan. The Director of Health Care Reform shall ensure that the strategic plan includes recommendations on how to develop Vermont's health care workforce, including:

* * *

(2) the resources needed to ensure that:

* * *

(C) all Vermont residents have access to appropriate mental health care that meets ~~the Institute of Medicine's triple aims~~ standards of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care;

* * *

Sec. 60. 18 V.S.A. § 9603(a) is amended to read:

§ 9603. DUTIES AND AUTHORITY

(a) The Office of the Health Care Advocate shall:

* * *

(11) Submit to the Governor; the House Committees on Health Care, the House Committee on Ways and Means, and the House and Senate Committees on Appropriations; and the Senate Committees on Health and Welfare, on Finance, and on Appropriations, on or before January 1 of each

year, a report on the activities, performance, and fiscal accounts of the Office during the preceding calendar year.

Sec. 61. 19 V.S.A. § 1111(k) is amended to read:

(k) Recording of deeds. No deed purporting to subdivide land abutting a State highway or a class 1 town highway can be recorded unless all the abutting lots so created are in accord with the standards of this section, including the requirement to provide a frontage road or roads.

Sec. 62. 23 V.S.A. § 800 is amended to read:

§ 800. MAINTENANCE OF FINANCIAL RESPONSIBILITY

* * *

(d) A person who violates subsection (c) of this section shall be subject to a fine civil penalty of not more than \$100.00.

Sec. 63. 23 V.S.A. § 3302(4) is amended to read:

(4) “Motorboat” means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel ~~which~~ that has a valid marine document issued by ~~the Bureau of Customs of the United States government~~ U.S. Customs and Border Protection or any federal agency successor thereto.

Sec. 64. 23 V.S.A. § 3307a(a) is amended to read:

(a) Annual validation required.

(1) An owner of a vessel, as defined in subdivision 3302(11) of this title, that has been registered in another state under a federally-approved numbering system, or that has a valid document issued by the U.S. Coast Guard, ~~the U.S. Bureau of Customs~~ U.S. Customs and Border Protection, or any other federal agency, and that is used in the waters of the State for at least 30 days in any calendar year shall apply annually to the Commissioner of Motor Vehicles for validation of the out-of-state or federal registration of that vessel.

* * *

Sec. 65. 23 V.S.A. § 3801(8) is amended to read:

(8) “Motorboat” means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion, but shall not include a vessel ~~which~~ that has a valid marine document issued by ~~the Bureau of Customs of the United States government~~ U.S. Customs and Border Protection or any federal agency successor thereto.

Sec. 66. 24 V.S.A. § 1891(7) is amended to read:

(7) “Financing” means debt incurred, including principal, interest, and any fees or charges directly related to that debt, or other instruments or borrowing used by a municipality to pay for improvements in a tax increment financing district, only if authorized by the legal voters of the municipality in accordance with section 1894 of this subchapter. Payment for the cost of district improvements may also include direct payment by the municipality using the district increment. However, such payment is also subject to a vote by the legal voters of the municipality in accordance with section 1894 of this subchapter and, if not included in the tax increment financing plan approved under subsection 1894(d) of this subchapter, is also considered a substantial change and subject to the review process provided by subdivision ~~1901(3)~~ 1901(2)(B) of this subchapter. If interfund loans within the municipality are used as the method of financing, no interest shall be charged.

Sec. 67. 24 V.S.A. § 4362(a) is amended to read:

§ 4362. APPROPRIATIONS

(a) For the purposes outlined in ~~section 4361~~ subdivisions 4345(6) and (12) of this title, regional planning commissions may receive and expend monies from any source, including, ~~without limitation,~~ the participating municipalities and the ~~agency of commerce and community development~~ Agency of Commerce and Community Development, out of funds appropriated to that ~~office~~ Agency for this purpose. Municipalities may appropriate to and expend funds for regional planning commissions for this purpose. Direct financial assistance from the ~~state~~ State to regional planning commissions for the purposes outlined in ~~section 4361~~ subdivisions 4345(6) and (12) of this title is restricted to ~~fifty~~ 50 percent of the annual operating expenses of the commission.

Sec. 68. 24 V.S.A. § 5063a is amended to read:

§ 5063a. COMPLIANCE WITH FEDERAL LAW

* * *

(k) Consent. An individual who is not a vested member of the System and who has not yet reached the later of normal retirement age or age 62 must consent to any withdrawal of his or her assets of greater than \$1,000.00. For individuals who are not vested members of the System and who have reached the later of normal retirement age or age 62, amounts greater than \$1,000.00 may be paid out without the individual’s consent. In all cases, amounts of \$1,000.00 or less may be paid out without the individual’s consent.

(l) Rules. The Board may adopt rules to ensure that this chapter complies with federal law requirements.

* * *

Sec. 69. 31 V.S.A. § 605 is redesignated to read:

§ 605. ~~RULES AND REGULATIONS~~

Sec. 70. 31 V.S.A. § 614(a) is amended to read:

§ 614. PENALTY

(a) Any person, association, or corporation holding, conducting, or simulcasting a pari-mutuel horse race or aiding or abetting same, without a license from the Commission, shall be fined not more than \$1,000.00 or imprisoned not more than one year, or both. Any person, association, or corporation violating any rules ~~or regulations~~ of the Commission shall be fined not more than \$500.00 or imprisoned not more than six months, or both.

Sec. 71. 31 V.S.A. § 674 is amended to read:

§ 674. PROCEDURES AND CONDITIONS GOVERNING THE TRI-
STATE LOTTERY—ARTICLE II

* * *

Q. Immunity and limitation of liability. The Vermont Board of Liquor and Lottery shall be immune from:

* * *

Sec. 72. 32 V.S.A. § 309(e) is amended to read:

(e) Report duration. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to any report to be made under this section.

Sec. 73. 32 V.S.A. § 312(b) is amended to read:

(b) Tax expenditure reports. ~~Tax expenditure reports.~~ Biennially, as part of the budget process, beginning on January 15, 2009, the Department of Taxes and the Joint Fiscal Office shall file with the House Committees on Ways and Means and on Appropriations and the Senate Committees on Finance and on Appropriations a report on tax expenditures in the personal and corporate income taxes, sales and use tax, ~~and~~ meals and rooms tax, insurance premium tax, bank franchise tax, education property tax, diesel fuel tax, gasoline tax, and motor vehicle purchase and use tax. The Office of Legislative Council shall also be available to assist with this tax expenditure report. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall

not apply to the report to be made under this subsection. The report shall include, for each tax expenditure, the following information:

* * *

Sec. 74. 32 V.S.A. § 642 is amended to read:

§ 642. CIVIL INVESTIGATIVE DEMANDS

(a) In general.

* * *

(2) Service authority. The Attorney General may delegate the authority to issue civil investigative demands under this subsection. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served. Any information obtained by the Attorney General or a designee of the Attorney General under this section may be shared with any qui tam relator if the Attorney General or designee determines it is necessary as part of any false claims act investigation.

* * *

Sec. 75. 32 V.S.A. § 1052(b) is amended to read:

(b) During any session of the General Assembly, each member is entitled to receive expenses as follows:

* * *

(3) Absences. If a member is absent for reasons other than sickness or legislative business for one or more entire days while the House in which the member sits is in session, the member shall notify the Legislative Council staff of that absence, and expenses received shall not include the amount which the legislator specifies was not incurred during the period of that absence.

(4) Intent. It is the intent of the General Assembly that only a member who is away from home and remains in Montpelier or the vicinity on the night preceding or following the day in which that member's chamber met shall receive reimbursement for expenses as provided in subdivision (1) of this subsection.

* * *

Sec. 76. 32 V.S.A. § 3201 is amended to read:

§ 3201. ADMINISTRATION OF TAXES

(a) Commissioner authority. In the administration of taxes, the Commissioner may:

* * *

Sec. 77. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT
FINANCING DISTRICTS

(a) ~~Tax agreements and exemptions affecting the education property tax grand list.~~ A tax agreement or exemption shall affect the education property tax grand list of the municipality in which the property subject to the agreement is located if the agreement or exemption is:

* * *

(h) ~~Criteria for approval.~~ To approve utilization of incremental revenues pursuant to subsection (f) of this section, the Vermont Economic Progress Council shall do all the following:

* * *

(j) ~~Tax increment financing district rulemaking, oversight, and enforcement.~~

(1) Authority to adopt rules. The Vermont Economic Progress Council is hereby granted authority to adopt rules in accordance with 3 V.S.A. chapter 25 for the purpose of providing clarification and detail for administering the provisions of 24 V.S.A. chapter 53, subchapter 5 and the tax increment financing district provisions of this section. A single rule shall be adopted for all tax increment financing districts that will provide further clarification for statutory construction and include a process whereby a municipality may distribute excess increment to the Education Fund as allowed under 24 V.S.A. § 1900. From the date the rules are adopted, the municipalities with districts in existence prior to 2006 are required to abide by the governing rule and any other provisions of the law in force; provided, however, that the rule shall indicate which specific provisions are not applicable to those districts in existence prior to January 2006.

* * *

Sec. 78. 32 V.S.A. § 5409(3) is amended to read:

(3) In any case of administration under subdivision (2) of this section by the Commissioner of Taxes of education property tax:

(A) Sections 3202, 3203, 5868, 5869, 5873, 5875, 5881, 5882-5887, and 5891-5895 of this title, as amended, shall apply in the same manner as to income tax.

* * *

Sec. 79. 32 V.S.A. § 5844 is amended to read:

§ 5844. LIABILITY; PENALTY; TRUST FOR THE STATE

(a) Withholding requirement. Any person who fails to withhold the required tax or to pay it to the Commissioner as required under this subchapter shall be personally and individually liable for the amount of such tax; and if the person is a corporation or other entity, the personal liability shall extend and be applicable to any officer or agent of the corporation or entity who as an officer or agent of the same is under a duty to withhold the tax and transmit it to the Commissioner as required in this chapter.

(b) Held in trust for State. Any sum or sums withheld in accordance with this subchapter shall be deemed to be held by the person in trust for the State of Vermont. Such sums shall be recorded by such person in a ledger account so as clearly to indicate the amount of tax withheld, and that the same are the property of the State of Vermont.

(c)(1) Failure to file; failure to withhold; failure to remit. Any employer, including any corporate officer or agent, who knowingly fails to file a return, fails to withhold a tax, or fails to remit a tax required under this subchapter shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(2) Failure to file; failure to withhold; failure to remit; over \$500.00. Any employer, including any corporate officer or agent, who with intent to evade a tax liability fails to file a return, fails to withhold a tax, or fails to remit a tax required under this subchapter shall, if the amount of tax withheld or required to be withheld exceeds \$500.00 in a single calendar year, be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) False or fraudulent return. Any employer, including any corporate officer or agent, who knowingly makes, signs, verifies, or files with the Commissioner a false or fraudulent tax return shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. Any employer, including any corporate officer or agent, who with intent to evade a tax liability makes, signs, verifies, or files with the Commissioner a false or fraudulent return, if the amount of tax withheld or required to be withheld

exceeds \$500.00, shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(4) ~~Lien Lien.~~ In addition, an unpaid tax shall constitute a lien in favor of the State of Vermont as provided in this chapter.

(d) Withholding liability. Any amount required to be deducted and withheld, and to be paid over to the Commissioner, by a person under this subchapter shall be considered to be a tax liability of the person for purposes of this chapter. The person shall be subject, with respect to that tax liability, to the provisions of this chapter including, without limitation, the provisions governing returns, fees for late filing of returns, interest and penalties for nonpayment of tax liabilities, liens, levies, and appeals, except as those provisions conflict with the express provisions of this subchapter. Any report required under subsection 5842(c) of this title or regulations issued under that section shall be considered to be a return for the purposes of this chapter.

Sec. 80. 32 V.S.A. § 5895(c) is amended to read:

(c) The lien provided for by this section may be foreclosed at any time after the tax liability with respect to which the lien arose becomes collectible under section 5886 of this title. In the case of real property, the lien may be foreclosed in the manner prescribed in ~~12 V.S.A. §§ 4523 through 4530~~ 12 V.S.A. §§ 4931 through 4954 and in such rules as the Supreme Court may promulgate for the foreclosure of mortgages on real estate. In the case of personal property, the lien may be satisfied in the manner prescribed in 9A V.S.A. Article 9 for the disposition of collateral under a security interest, or in the manner provided by law for the foreclosure of other security interests in personal property.

Sec. 81. 32 V.S.A. § 6066a(f) is amended to read:

(f) ~~Property tax bills.~~

* * *

Sec. 82. 32 V.S.A. § 7477(b) is amended to read:

(b) Upon the failure of a taxpayer to file any return required under this chapter within 15 days ~~of~~ after the date of a notice to the taxpayer under section 7476 of this title, whether or not a petition has been or will be filed under subsection (a) of this section, the Commissioner may compute the tax liability of the taxpayer with respect to which the return was required to be filed, according to the Commissioner's best information and belief. Upon that computation, the Commissioner shall notify the taxpayer of his or her deficiency with respect to the payment of that tax liability, and may assess any

penalty or interest with respect thereto, under ~~section 7485~~ sections 3202 and 3203 of this title.

Sec. 83. 32 V.S.A. § 10401 is amended to read:

§ 10401. DEFINITIONS

As used in this ~~section~~ chapter:

* * *

Sec. 84. INTERPRETATION

It is the intent of the General Assembly that the technical amendments in this act shall not supersede substantive changes contained in other bills enacted by the General Assembly during the current biennium. Where possible, the amendments in this act shall be interpreted to be supplemental to other amendments of the same sections of statute; to the extent the provisions conflict, the substantive changes in other acts shall take precedence over the technical changes of this act.

Sec. 85. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 9-0-2)

H. 394

An act relating to the disposition of the remains of veterans

Rep. Troiano of Stannard, for the Committee on General; Housing; and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 1586 is added to read:

§ 1586. INTERMENT OF UNCLAIMED REMAINS OF VETERANS

The Vermont Veterans Memorial Cemetery shall accept and inter the unclaimed remains of an eligible veteran if:

(1) a funeral director or crematory operator has determined pursuant to 18 V.S.A. § 5227(c)(2) that interment of the veteran's remains in the Cemetery is appropriate; or

(2) the Office of the Chief Medical Examiner has determined pursuant to 18 V.S.A. § 5227(d)(4) that interment of the veteran's remains in the Cemetery is appropriate.

Sec. 2. 18 V.S.A. § 5227 is amended to read:

§ 5227. RIGHT TO DISPOSITION

(a) If there is no written directive of the decedent, in the following order of priority, one or more competent adults shall have the right to determine the disposition of the remains of a decedent, including the location, manner, and conditions of disposition and arrangements for funeral goods and services:

* * *

(9) the funeral director or crematory operator with custody of the body, after attesting in writing that a good faith effort has been made to contact the individuals described in subdivisions (1) through (8) of this subsection; or

* * *

(c)(1) If the disposition of the remains of a decedent is determined under subdivision (a)(9) of this section and the funeral director or crematory operator has cremated the remains, the funeral director or crematory operator shall retain the remains for three years and, if no interested party as provided in subdivisions (a)(1) through (8) of this section claims the decedent's remains after three years, the funeral director or crematory operator shall arrange for the final disposition of the cremated remains consistent with any applicable law and standard funeral practices.

(2) Notwithstanding any provision of subdivision (1) of this subsection to the contrary, a funeral director or crematory operator may determine that the unclaimed cremated remains of a deceased veteran shall be interred at the Vermont Veterans Memorial Cemetery pursuant to 20 V.S.A. § 1586 if:

(A) at least 180 days have passed since the funeral director or crematory operator cremated the remains;

(B) the funeral director or crematory operator either:

(i) has actual knowledge that there is no interested party as provided in subdivisions (a)(1) through (8) of this section to claim the decedent's remains; or

(ii) after making reasonable efforts, has been unable to locate and contact any known interested party as provided in subdivisions (a)(1) through (8) of this section; and

(C) the funeral director or crematory operator has confirmed with the Office of Veterans Affairs that the deceased veteran is eligible to be interred at the Vermont Veterans Memorial Cemetery.

(d)(1) If the disposition of the remains of a decedent is determined under subdivision (a)(10) of this section, the Office of the Chief Medical Examiner may contract with a funeral director or crematory operator to cremate the remains of the decedent.

* * *

(3) The cremated remains shall be returned to the Office of the Chief Medical Examiner. The Office shall retain the remains for three years, and if no interested party, as described in subdivisions (a)(1) through (8) of this section, claims the decedent's remains after three years, the Office shall arrange for the final disposition of the cremated remains consistent with any applicable law and standard funeral practices.

(4) Notwithstanding any provision of subdivision (3) of this subsection to the contrary, the Office of the Chief Medical Examiner may determine that the unclaimed cremated remains of a deceased veteran shall be interred at the Vermont Veterans Memorial Cemetery pursuant to 20 V.S.A. § 1586 if:

(A) at least 180 days have passed since the remains were cremated;

(B) the Office of the Chief Medical Examiner either:

(i) has actual knowledge that there is no interested party as provided in subdivisions (a)(1) through (8) of this section to claim the decedent's remains; or

(ii) after making reasonable efforts, has been unable to locate and contact any known interested party as provided in subdivisions (a)(1) through (8) of this section; and

(C) the Office of the Chief Medical Examiner has confirmed with the Office of Veterans Affairs that the deceased veteran is eligible to be interred at the Vermont Veterans Memorial Cemetery.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee Vote: 11-0-0)

Favorable

H. 204

An act relating to miscellaneous provisions affecting navigators, Medicaid records, and the Department of Vermont Health Access

Rep. Houghton of Essex, for the Committee on Health Care, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

H. 342

An act relating to qualification for a public defender

Rep. Hashim of Dummerston, for the Committee on Judiciary, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

H. 427

An act relating to a uniform process for foreign credential verification in the Office of Professional Regulation

Rep. Colston of Winooski, for the Committee on Government Operations, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of March 14, 2019.

H.C.R. 67

House concurrent resolution designating Tuesday, March 19, 2019 as Project Trio Day at the State House

H.C.R. 68

House concurrent resolution congratulating Cabot Creamery Co-operative on its centennial

H.C.R. 69

House concurrent resolution congratulating the St. Albans Cooperative Creamery on its centennial

H.C.R. 70

House concurrent resolution honoring Dr. Dennis LeBlanc for his four decades of outstanding dental service in Derby

H.C.R. 71

House concurrent resolution honoring civic activist Shirley Searles Squires of Guilford

H.C.R. 72

House concurrent resolution congratulating the 2018 Windsor High School Division III championship baseball team

H.C.R. 73

House concurrent resolution congratulating the 2018 Mt. Abraham Union High School Eagles Division II championship field hockey team

H.C.R. 74

House concurrent resolution congratulating the Brookfield Ice Harvest at the Floating Bridge on its 40th anniversary and honoring the event's founder, Al Wilder

H.C.R. 75

House concurrent resolution congratulating the 2018 Champlain Valley Union High School Redhawks Division I championship boys' soccer team

H.C.R. 76

House concurrent resolution congratulating The Pharmacy in Bennington and its founding pharmacists, Philip J. O'Neill and Edward P. Molloy, on the retailer's 50th anniversary

H.C.R. 77

House concurrent resolution congratulating Bennington Project Independence on its 40th anniversary and the 10th anniversary of its home at the Dr. Richard A. Sleeman Center

H.C.R. 78

House concurrent resolution recognizing March 15, 2019 as Brain Injury Awareness Day in Vermont

H.C.R. 79

House concurrent resolution in memory of former Norwich University professor and Northfield civic leader Donald MacPherson Wallace Jr.

H.C.R. 80

House concurrent resolution designating March 12, 2019 as Vermont Lions Day at the State House

H.C.R. 81

House concurrent resolution honoring Daniel Roberts on his half century of exemplary service as a Tunbridge volunteer firefighter

H.C.R. 82

House concurrent resolution in memory of former Assistant Sergeant at Arms and Head Doorkeeper Laurence A. Wade Sr. of East Barre

S.C.R. 6

Senate concurrent resolution honoring Linda Hall for her 30 years of outstanding volunteer leadership as the director of the Solomon Wright Public Library in Pownal

Information Notice

CROSSOVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2)) on or before **Friday, March 15, 2019**, and filed with the Secretary/Clerk so that they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 22, 2019**, and filed with the Secretary/Clerk so that they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.