

House Calendar

Wednesday, May 08, 2019

120th DAY OF THE BIENNIAL SESSION

House Convenes at 10:30 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

Action Postponed Until May 8, 2019

Senate Proposal of Amendment

H. 79 Eligibility for farm-to-school grant assistance.....	1978
H. 104 Professions and occupations regulated by the Office of Professional Regulation.....	1983

NEW BUSINESS

Third Reading

H. 143 Appointing town agents.....	2043
S. 31 An act relating to informed health care financial decision making...	2043
S. 73 An act relating to licensure of ambulatory surgical centers.....	2043
S. 112 An act relating to earned good time.....	2043
Rep. Donahue Amendment.....	2043
S. 131 An act relating to insurance and securities.....	2043
Rep. Jerome Amendment.....	2043

Action Postponed Until May 9, 2019

Senate Proposal of Amendment

H. 132 Adopting protections against housing discrimination for victims of domestic and sexual violence.....	2046
--	------

NOTICE CALENDAR

Favorable with Amendment

S. 18 An act relating to consumer justice enforcement.....	2057
Rep. Colburn for Judiciary	

S. 58 An act relating to the State hemp program.....	2060
Rep. O'Brien for Agriculture and Forestry	
Rep. Young for Ways and Means.....	2071
Rep. Conquest for Appropriations.....	2071
S. 113 An act relating to the prohibition of plastic carryout bags, expanded polystyrene, and single-use plastic straws.....	2071
Rep. McCullough for Natural Resources, Fish, and Wildlife	
Rep. Lanpher for Appropriations.....	2080
S. 160 An act relating to agricultural development.....	2081
Rep. Partridge for Agriculture and Forestry	

ORDERS OF THE DAY

ACTION CALENDAR

Action Postponed Until May 8, 2019

Senate Proposal of Amendment

H. 79

An act relating to eligibility for farm-to-school grant assistance

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

Sec. 1. 6 V.S.A. § 4721 is amended to read:

§ 4721. LOCAL FOODS GRANT PROGRAM

(a) There is created in the Agency of Agriculture, Food and Markets the Rozo McLaughlin Farm-to-School Program to execute, administer, and award local grants for the purpose of helping Vermont schools develop farm-to-school programs that will sustain relationships with local farmers and producers, enrich the educational experience of students, improve the health of Vermont children, and enhance Vermont's agricultural economy.

(b) A school, a school district, a consortium of schools, a consortium of school districts, ~~or a registered or licensed child care providers~~ provider, or an organization administering or assisting the development of farm-to-school programs may apply to the Secretary of Agriculture, Food and Markets for a grant award to:

(1) fund equipment, resources, training, and materials that will help to increase use of local foods in child nutrition programs;

(2) fund items, including local food products, gardening supplies, field trips to farms, gleaning on farms, and stipends to visiting farmers, that will help educators to use hands-on educational techniques to teach children about nutrition and farm-to-school connections;

(3) fund professional development and technical assistance, in partnership with the Agency of Education and farm-to-school technical service providers, to help teachers, child nutrition personnel, organizations administering or assisting the development of farm-to-school programs, and members of the farm-to-school community educate students about nutrition and farm-to-school connections and assist schools and licensed or registered child care providers in developing a farm-to-school program; and

(4) fund technical assistance or support strategies to increase participation in federal child nutrition programs that increase the viability of sustainable meal programs.

(c) The Secretaries of Agriculture, Food and Markets and of Education and the Commissioner of Health, in consultation with farmers, child nutrition staff, educators, organizations administering or assisting the development of farm-to-school programs, and farm-to-school technical service providers jointly shall adopt procedures relating to the content of the grant application and the criteria for making awards.

(d) The Secretary shall determine that there is significant interest in the school community before making an award and shall give priority consideration to schools, school districts, and registered or licensed child care providers that are developing farm-to-school connections and education, that indicate a willingness to make changes to their child nutrition programs to increase student access and participation, and that are making progress toward the implementation of the Vermont School Wellness Policy Guidelines developed by the Agency of Agriculture, Food and Markets, the Agency of Education, and the Department of Health, updated in June 2015 or of the successor of these guidelines.

(e) No award shall be greater than ~~\$15,000.00~~ 20 percent of the total annual amount available for granting except that a grant award to the following entities may, at the discretion of the Secretary of Agriculture, Food and Markets, exceed the cap:

(1) Farm-to-School service providers; or

(2) school districts or consortiums of school districts that completed merger under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46 on or before July 1, 2019, provided that the grant is used for the purpose of expanding Farm-to-School projects to additional schools within the new school district.

Sec. 2. 6 V.S.A. § 4722 is amended to read:

§ 4722. FARM ASSISTANCE; SECRETARY OF AGRICULTURE, FOOD AND MARKETS

(a) The Secretary of Agriculture, Food and Markets shall work with existing programs and organizations to develop and implement educational opportunities for farmers to help them increase their markets through selling their products to schools, registered or licensed child care providers, and State government agencies that operate or participate in child nutrition programs.

(b) The Secretary of Agriculture, Food and Markets shall work with distributors that sell products to schools, registered or licensed child care providers, and State government agencies to increase the availability of local products. The Secretary of Agriculture, Food and Markets shall consult and cooperate with the Secretary of Education when working with distributors to schools under this subsection.

Sec. 3. 6 V.S.A. § 4724(b) is amended to read:

(b) The duties of the Food Systems Administrator shall include:

(1) working with institutions, schools, the Agency of Education, registered or licensed child care providers, distributors, producers, commercial markets, and others to create matchmaking opportunities that increase the number of Vermont institutions that purchase foods grown or produced in Vermont;

* * *

Sec. 4. 16 V.S.A. § 1264 is amended to read:

§ 1264. FOOD PROGRAM

(a)(1) Each school board operating a public school shall cause to operate within the school district a food program that makes available a school lunch, as provided in the National School Lunch Act as amended, and a school breakfast, as provided in the National Child Nutrition Act as amended, to each attending student every school day.

(2) Each school board operating a public school shall offer a summer snack or meals program funded by the Summer Food Service program or the National School Lunch Program for participants in a summer educational or recreational program or camp if:

(A) at least 50 percent of the students in a school in the district were eligible for free or reduced-price meals under subdivision (1) of this subsection for at least one month in the preceding academic year;

(B) the district operates or funds the summer educational or recreational program or camp; and

(C) the summer educational or recreational program or camp is offered 15 or more hours per week.

(b) In the event of an emergency, the school board may apply to the Secretary for a temporary waiver of the requirements in subsection (a) of this section. The Secretary shall grant the requested waiver if he or she finds that it is unduly difficult for the school district to provide a school lunch, breakfast,

or summer meals program, or any combination of the three, and if he or she finds that the school district and supervisory union have exercised due diligence to avoid the emergency situation that gives rise to the need for the requested waiver. In no event shall the waiver extend for a period to exceed 20 school days or, in the case of a summer meals program, the remainder of the summer vacation.

(c) The State shall be responsible for the student share of the cost of breakfasts provided to all students eligible for a reduced-price breakfast under the federal school breakfast program and for the student share of the cost of lunches provided to all students eligible for a reduced-price lunch under the federal school lunch program.

(d) It is a goal of the State that by the year 2022 school boards operating a school lunch, breakfast, or summer meals program shall purchase at least 20 percent of all food for those programs from local producers.

(e)(1) On or before December 31, 2020, and annually thereafter, a school board operating a school lunch, breakfast, or summer meals program shall submit to the Agency of Education an estimate of the percentage of locally produced foods that were purchased by the school board for those programs.

(2) On or before January 31, 2021, and annually thereafter, the Agency of Education shall submit to the Senate Committees on Agriculture and on Education and the House Committees on Agriculture and Forestry and on Education in an aggregated form the information received from school boards regarding the percentage of locally produced foods that are purchased as part of a school lunch, breakfast, or summer meals program. The provisions of 2 V.S.A. § 20(d) regarding expiration of required reports shall not apply to the report required by this subdivision.

Sec. 5. 16 V.S.A. § 559 is amended to read:

§ 559. PUBLIC BIDS

(a) When the cost exceeds \$15,000.00. A school board or supervisory union board shall publicly advertise or invite three or more bids from persons deemed capable of providing items or services if costs are in excess of \$15,000.00 for any of the following:

(1) the construction, purchase, lease, or improvement of any school building;

(2) the purchase or lease of any item or items required for supply, equipment, maintenance, repair, or transportation of students; or

(3) a contract for transportation, maintenance, or repair services.

* * *

(c) Contract award.

(1) A contract for any such item or service to be obtained pursuant to subsection (a) of this section shall be awarded to one of the three lowest responsible bids conforming to specifications, with consideration being given to quantities involved, time required for delivery, purpose for which required, competency and responsibility of bidder, and his or her ability to render satisfactory service. A board shall have the right to reject any or all bids.

* * *

(e) Application of this section. Any contract entered into or purchase made in violation of the provisions of this section shall be void; provided, however, that:

* * *

(4) Nothing in this section shall be construed to prohibit a school board from awarding a school nutrition contract after using any method of bidding or requests for proposals permitted under federal law for award of the contract. Notwithstanding the monetary amount in subsection (a) of this section for which a school board is required to advertise publicly or invite three or more bids or requests for proposal, a school board is required to publicly advertise or invite three or more bids or requests for proposal for purchases made from the nonprofit school food service account for purchases in excess of the federal simplified acquisition threshold when purchasing food or in excess of \$25,000.00 when purchasing nonfood items, unless a municipality sets a lower threshold for purchases from the nonprofit school food service account.

* * *

Sec. 6. NATIONAL SCHOOL LUNCH PROGRAM; FREE AND REDUCED LUNCH; INCREASED QUALIFIED PARTICIPANTS

(a) It is the goal of the General Assembly that the State attempt to identify as many families as possible in the State who are qualified to receive free and reduced lunches under the National School Lunch Program.

(b)(1) The Department of Taxes shall consult with the Agency of Education and the Department for Children and Families regarding whether existing tax data in the possession of the Department, including earned income tax credit data, can be used to:

(A) maximize enrollment in State and federal assistance programs;
and

(B) increase enrollment in State and federal assistance programs that may be used to directly certify families in the State as qualified to receive free and reduced lunches under the National School Lunch Program.

(2) If the Department of Taxes determines that tax data may be used to directly certify families as qualified to receive free and reduced lunches, the Agency of Education shall apply to the U.S. Department of Agriculture for a waiver to use the relevant tax data to directly certify qualified families in the State.

(3) On or before January 15, 2020, the Department of Taxes shall submit to the Senate Committees on Agriculture and on Education and the House Committees on Agriculture and Forestry and on Education a report regarding the status of State efforts under subdivision (1) of this subsection to directly certify families as qualified to receive free and reduced lunches.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(For text see House Journal February 20, 2019)

H. 104

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

The Senate proposes to the House to amend the bill 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 threatens the health, safety, or welfare of patients, clients, or consumers; 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, Agency of Administration, 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 and the Agency of Administration shall lead this collaboration among all the agencies named in subdivision (1) of this subsection, but are 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 and the Agency of Administration 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. 7a. SPECIFIED PROFESSIONAL REGULATORY ENTITIES;
REPORT ON APPRENTICESHIP PATHWAYS TO LICENSURE

On or before January 15, 2020, the Office of Professional Regulation and the Agency of Administration shall collect the following information from the Agency of Education, the Agency of Human Services, the Agency of Natural Resources, the Department of Public Safety, and the Department of Health and

report that information, along with the Office's own information, to the Senate and House Committees on Government Operations, the Senate Committee on Economic Development, Housing and General Affairs, and the House Committee on Commerce and Economic Development:

(1) a list of all professions licensed under the entity's authority, identifying which of the licensed professions have an apprenticeship pathway to licensure and which do not;

(2) an explanation detailing why professions that do not have an apprenticeship pathway to licensure do not, and if one should be established; and

(3) a proposal for how to implement an apprenticeship pathway to licensure for those professions for which such a pathway should be established.

Sec. 7b. SPECIFIED PROFESSIONAL REGULATORY ENTITIES;
REPORT ON BRIDGE-TO-LICENSURE PROGRAMS FOR
CANADIAN CREDENTIALS

(a) The Office of Professional Regulation, 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 identify direct license equivalents, if any, to credentials issued by Canadian federal and provincial licensing bodies for professions licensed under the entity's authority and propose bridge-to-licensure programs where supplemental effort is needed to meet Vermont's licensing criteria.

(b) The Office of Professional Regulation and the Agency of Administration shall collaborate with the other agencies and departments specified in subsection (a) of this section in order to submit on or before January 15, 2020 a unified report that includes any recommended changes to statute to the Senate and House Committees on Government Operations, the Senate Committee on Economic Development, Housing and General Affairs, and the House Committee on Commerce and Economic Development.

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 entirely from the Office's Professional Regulatory Fee Fund.

* * * Accountants * * *

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

CHAPTER 1. ACCOUNTANTS

Subchapter 1. General Provisions

* * *

§ 13. DEFINITIONS

As used in this chapter:

* * *

~~(4) “Disciplinary action” or “disciplinary cases” includes any action taken by a board against a licensee, registrant, or applicant premised upon a finding of wrongdoing or unprofessional conduct by the licensee or applicant. It includes all sanctions of any kind, excluding obtaining injunctions, but including issuing warnings, other similar sanctions, and ordering restitution. [Repealed.]~~

(5) “Firm” means a sole proprietorship, a corporation, a partnership, association, or any other entity that practices public accountancy.

~~(6) “Foreign firm” means a firm not located in the United States, its territories, or possessions. [Repealed.]~~

* * *

(14) “Sole proprietorship,” when used for the specific purpose of describing the fee category applicable to a firm under this chapter, means a firm that employs only one certified public accountant.

(15) “State” includes the states of the United States, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and other jurisdictions recognized by the National Association of State Boards of Accountancy (NASBA).

* * *

§ 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 the settings 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 5. Registration of Facilities

§ 2061. REGISTRATION AND LICENSURE

(a) All drug outlets shall biennially register with the Board of Pharmacy.

(b) Each drug outlet shall apply for a license in one or more of the following classifications:

- (1) Retail.
- (2) Institutional.
- (3) Manufacturer.
- (4) Wholesale distributor.
- (5) Investigative and research projects.
- (6) Compounding.
- (7) Outsourcing.
- (8) Home infusion.
- (9) Nuclear.
- (10) Third-party logistics provider.

* * *

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 or manufacturer 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~~ entities 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.

* * *

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 ~~performance 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~~ 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 its 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 ~~if 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

(5) 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 Certification Commission for the Certification of for Acupuncturists Acupuncture and Oriental Medicine.

* * *

§ 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, podiatrist, advanced practice registered nurse, physician assistant, physical therapist, naturopath, 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 the 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.

* * *

* * * Notaries Public * * *

Sec. 26. 24 V.S.A. § 1160 is amended to read:

§ 1160. ACKNOWLEDGEMENTS; OATH

(a) A town clerk, commissioned as a notary public pursuant to 26 V.S.A. chapter 103, may take acknowledgements of deeds and other instruments throughout his or her county.

(b) In his or her county, he or she may administer oaths in all cases where an oath is required, without being commissioned as a notary public pursuant to 26 V.S.A. chapter 103.

(c)(1) Each town clerk may designate from among the members of his or her staff at least one notary public to be available to perform notarial acts for the public in the town clerk's office during normal business hours free of charge.

(2) Each individual designated by the town clerk under this subsection shall be commissioned as a notary public pursuant to 26 V.S.A. chapter 103 and shall be exempt from the notary public application fee under that chapter.

Sec. 27. 26 V.S.A. § 5304 is amended to read:

§ 5304. DEFINITIONS

As used in this chapter:

* * *

(8) "Notarial officer" means ~~a notary public or other~~ an individual authorized to perform a notarial act under authority and within the jurisdiction of another state, under authority and within the jurisdiction of a federally recognized Indian tribe, under authority of federal law, under authority and within the jurisdiction of a foreign state or constituent unit of the foreign state, or under authority of a multinational or international governmental organization.

* * *

Sec. 28. 26 V.S.A. § 5305 is amended to read:

§ 5305. EXEMPTIONS

(a) Generally Judiciary- and law enforcement-related employees.

(1) Employee exemptions.

(A) Judiciary-related.

(i) The persons set forth in subdivision (2)(A) of this subsection, when acting within the scope of their official duties, are exempt from all of the requirements of this chapter, including the requirement to pay the fee set forth in section 5324 of this chapter, except for the requirements:

~~(A) requirement to apply for a commission as set forth in section 5341(a), (b)(1)–(3), (c), (d), and (e) of this chapter; and~~

~~(B) unless exempted under subsection (c) of this section, to pay the fee set forth in section 5324 of this chapter.~~

(ii) A commission issued to a person under this subdivision (A) shall not be considered a license.

(B) Law enforcement-related.

(i) The persons set forth in subdivision (2)(B) of this subsection, when acting within the scope of their official duties, shall be commissioned as notaries public authorized to perform a notarial act as a matter of law and are exempt from all of the requirements of this chapter, including the requirement to pay the fee set forth in section 5324 of this chapter.

(ii) A notarial act that identifies the notary public as a person who is exempt under this subdivision (B) shall establish as a matter of law that the person is commissioned as a notary public for the purpose of acting within the scope of official duties under this subsection.

(2) Employees, defined.

(A) Judiciary-related. 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) Law enforcement-related. 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, or for Children and Families, the Office of the Defender General, the Office of the Attorney General, or a State's Attorney or Sheriff.

(3) Official duties, defined. As used in subdivision (1) of this subsection, "acting within the scope of official duties" means that a person is notarizing a document that:

(A) he or she believes is related to the execution of his or her duties and responsibilities of employment or is the type of document that other employees notarize in the course of employment;

(B) is useful or of assistance to any person or entity identified in subdivision (2) of this subsection (a);

(C) is required, requested, created, used, submitted, or relied upon by any person or entity identified in subdivision (2) of this subsection (a);

(D) is necessary in order to assist in the representation, care, or protection of a person or the State;

(E) is necessary in order to protect the public or property;

(F) is necessary to represent or assist crime victims in receiving restitution or other services;

(G) relates to a Vermont or federal court rule or statute governing any criminal, postconviction, mental health, family, juvenile, civil, probate, Judicial Bureau, Environmental Division, or Supreme Court matter; or

(H) relates to a matter subject to Title 4, 12, 13, 15, 18, 20, 23, or 33 of the Vermont Statutes Annotated.

(b) Attorneys.

(1) Attorneys licensed and in good standing in this State are exempt from:

(A) the examination requirement set forth in subsection 5341(b) of this chapter; and

(B) the continuing education requirement set forth in section 5343 of this chapter.

(2) If a complaint of a violation of this chapter is filed in regard to a Vermont licensed attorney, the Office shall refer the complaint to the Professional Responsibility Board and shall request a report back from the Board regarding the final disposition of the complaint.

~~(c) Fees Town clerks, assistants, and justices of the peace. The following persons are exempt from the fee set forth in section 5324 of this chapter:~~

~~(1)(A) a judge, clerk, or other court staff, as designated by the Court Administrator; A town clerk and his or her assistants may perform notarial acts as notaries public throughout the town clerk's county, provided that they shall comply with all of the requirements of this chapter, except as provided in subdivision (2) of this subsection.~~

~~(B) Subject to the provisions of subdivision (A) of this subdivision (1), performing notarial acts as a notary public shall be considered within the scope of the official duties of a town clerk and his or her assistants.~~

~~(2) State's Attorneys and their deputies and Assistant Attorneys General, public defenders, and their staff;~~

~~(3) justices Justices of the peace and town clerks and their assistants;~~
and

~~(4) State Police officers, municipal police officers, fish and game wardens, sheriffs and deputy sheriffs, motor vehicle inspectors, employees of the Department of Corrections, and employees of the Department for Children and Families are exempt from the fee set forth in section 5324 of this chapter.~~

~~(d) Unauthorized practice. Nothing in this section is intended to prohibit prosecution of a person under 3 V.S.A. § 127 (unauthorized practice).~~

Sec. 29. 26 V.S.A. § 5361 is amended to read:

§ 5361. NOTARIAL ACTS IN THIS STATE; AUTHORITY TO PERFORM

(a) A notarial act, as defined in subdivision 5304(7)(A) of this chapter, may only be performed in this State by a notary public commissioned under this chapter.

(b) The signature and title of an individual performing a notarial act in this State are prima facie evidence that the signature is genuine and that the individual holds the designated title.

* * * Massage Services * * *

Sec. 30. OFFICE OF PROFESSIONAL REGULATION; ADDENDUM TO PRELIMINARY SUNRISE ASSESSMENT ON MASSAGE THERAPY

(a) On or before January 15, 2020, the Office of Professional Regulation shall prepare and submit to the Senate and House Committees on Government Operations an Addendum to its 2015-2016 Preliminary Sunrise Assessment on Massage Therapy, dated January 5, 2016. The Addendum shall apply the criteria set forth in 26 V.S.A. chapter 57 (review of regulatory laws) to assess whether new regulation of businesses or individuals offering massage services will serve the interests of public safety pertaining to sexual misconduct and human trafficking. Development of the Addendum shall not require the Office to repeat its 2010 and 2016 analyses of proposals by applicants for sunrise review.

(b) In preparing the Addendum, the Office shall consult with the Vermont Center for Crime Victim Services, the Vermont Network Against Domestic and Sexual Violence, the Vermont Department of Public Safety, the Vermont Police Association, the Vermont Association of Chiefs of Police, the Vermont Human Trafficking Task Force, representatives of massage therapists, and such other advocacy organizations, researchers, State and federal agencies, and law enforcement authorities as the Office may deem appropriate.

* * * Effective Date * * *

Sec. 31. EFFECTIVE DATE

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

(For text see House Journal March 19, 2019)

NEW BUSINESS

Third Reading

H. 143

An act relating to appointing town agents

S. 31

An act relating to informed health care financial decision making

S. 73

An act relating to licensure of ambulatory surgical centers

S. 112

An act relating to earned good time

Amendment to be offered by Rep. Donahue of Northfield to S. 112

That the House proposal of amendment be amended in Sec. 2, 28 V.S.A. § 818(b)(2), after the word “sentence”, by inserting “, or a reduction of six days in the minimum and maximum sentence if the offender is serving the sentence out of state,”

S. 131

An act relating to insurance and securities

Amendment to be offered by Rep. Jerome of Brandon to S. 131

That the House proposal of amendment be amended by striking out Sec. 17 and the accompanying reader assistance in their entireties and by inserting in lieu thereof a new Sec. 17 and a Sec. 17a and an accompanying reader assistance to read as follows:

* * * Financial Services Education and Victim Restitution

Special Fund * * *

Sec. 17. REPEAL; FINANCIAL SERVICES EDUCATION AND TRAINING SPECIAL FUND

9 V.S.A. § 5601(e), establishing the Financial Services Education and Training Special Fund, is repealed.

Sec. 17a. 9 V.S.A. § 5616 is added to read:

§ 5616. VERMONT FINANCIAL SERVICES EDUCATION AND VICTIM RESTITUTION SPECIAL FUND

(a) Purpose. The purpose of this section is to provide:

(1) funds for the purposes specified in subsection 5601(d) of this title;
and

(2) restitution assistance to victims of securities violations who:

(A) were awarded restitution in a final order issued by the Commissioner or were awarded restitution in the final order in a legal action initiated by the Commissioner;

(B) have not received the full amount of restitution ordered before the application for restitution assistance is due; and

(C) demonstrate to the Commissioner's satisfaction that there is no reasonable likelihood that they will receive the full amount of restitution in the future.

(b) Definitions. As used in this section,

(1) "Claimant" means a person who files an application for restitution assistance under this section on behalf of a victim. The claimant and the victim may be the same but do not have to be the same. The term includes the named party in a restitution award in a final order, the executor of a named party in a restitution award in a final order, and the heirs and assigns of a named party in a restitution award in a final order.

(2) "Final order" means a final order issued by the Commissioner or a final order in a legal action initiated by the Commissioner.

(3) "Fund" means the Vermont Financial Services Education and Victim Restitution Special Fund created by this section.

(4) "Securities violation" means a violation of this chapter and any related administrative rules.

(5) "Victim" means a person who was awarded restitution in a final order.

(6) "Vulnerable person" means:

(A) a person who meets the definition of vulnerable person under 33 V.S.A. § 6902(14); or

(B) a person who is at least 60 years of age.

(c) Eligibility.

(1) A natural person who was a resident of Vermont at the time of the alleged fraud is eligible for restitution assistance.

(2) The Commissioner shall not award securities restitution assistance under this section:

(A) to more than one claimant per victim;

(B) unless the person ordered to pay restitution has not paid the full amount of restitution owed to the victim before the application for restitution assistance from the fund is due;

(C) if there was no award of restitution in the final order; or

(D) to a claimant who has not exhausted his or her appeal rights.

(d) Denial of assistance. The Commissioner shall not award restitution assistance if the victim:

(1) sustained the monetary injury as a result of:

(A) participating or assisting in the securities violation; or

(B) attempting to commit or committing the securities violation;

(2) profited or would have profited from the securities violation; or

(3) is an immediate family member of the person who committed the securities violation.

(e) Application for restitution assistance and maximum amount of restitution assistance award.

(1) The Commissioner may adopt procedures and forms for application for restitution assistance under this section.

(2) An application must be received by the Commissioner within two years after the deadline for payment of restitution established in the final order.

(3) Except as provided in subdivision (4) of this subsection, the maximum award from the Fund for each claimant shall be the lesser of \$25,000.00 or 25 percent of the amount of unpaid restitution awarded in a final order.

(4) If the claimant is a vulnerable person, the maximum award from the Fund shall be the lesser of \$50,000.00 or 50 percent of the amount of unpaid restitution awarded in the final order.

(f) Vermont Financial Services Education and Victim Restitution Special Fund. The Vermont Financial Services Education and Victim Restitution Special Fund, pursuant to 32 V.S.A. chapter 7, subchapter 5, is created to provide funds for the purposes specified in this section and in subsection 5601(d) of this title. All monies received by the State for use in financial services education initiatives pursuant to subsection 5601(d) of this title or in providing uncompensated victims restitution pursuant to this section shall be deposited into the Fund. The Commissioner may direct a party to deposit a

sum not to exceed 15 percent of the total settlement amount into the Fund in conjunction with settling a State securities law enforcement matter. Interest earned on the Fund shall be retained in the Fund.

(g) Award not subject to execution, attachment, or garnishment. An award made by the Commissioner under this section is not subject to execution, attachment, garnishment, or other process.

(h) State's liability for award. The Commissioner shall have the discretion to suspend applications and awards based on the solvency of the Fund. The State shall not be liable for any determination made under this section.

(i) Subrogation of rights of State.

(1) The State is subrogated to the rights of the person awarded restitution under this chapter to the extent of the award.

(2) The subrogation rights are against the person who committed the securities violation or a person liable for the pecuniary loss.

(j) Rulemaking authority. The Commissioner may adopt rules to implement this section.

(k) Bulletin. The Commissioner shall publish a bulletin defining the term "immediate family member" for purposes of this section.

Action Postponed Until May 9, 2019

Senate Proposal of Amendment

H. 132

An act relating to adopting protections against housing discrimination for victims of domestic and sexual violence

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

* * * Housing Discrimination; Domestic and Sexual Violence * * *

Sec. 1. REDESIGNATION

(a) 9 V.S.A. chapter 138 (campgrounds) is redesignated as 9 V.S.A. chapter 136.

(b) 9 V.S.A. § 4470 (campgrounds; removal) is redesignated as 9 V.S.A. § 4410.

Sec. 2. 9 V.S.A. chapter 137 is amended to read:

CHAPTER 137. RESIDENTIAL RENTAL AGREEMENTS

Subchapter 1. General

§ 4451. DEFINITIONS

* * *

Subchapter 2. Residential Rental Agreements

§ 4455. TENANT OBLIGATIONS; PAYMENT OF RENT

* * *

Subchapter 3. Farm Employee Housing

§ 4469. [Reserved.]

§ 4469a. TERMINATION OF OCCUPANCY OF FARM EMPLOYEE HOUSING

* * *

Subchapter 4. Housing Discrimination; Domestic and Sexual Violence

§ 4471. DEFINITIONS

As used in this subchapter:

(1) “Abuse” has the same meaning as in 15 V.S.A. § 1101.

(2) “Protected tenant” means a tenant who is:

(A) a victim of abuse, sexual assault, or stalking;

(B) a parent, foster parent, legal guardian, or caretaker with at least partial physical custody of a victim of abuse, sexual assault, or stalking.

(3) “Sexual assault” and “stalking” have the same meaning as in 12 V.S.A. § 5131.

§ 4472. RIGHT TO TERMINATE RENTAL AGREEMENT

(a) Notwithstanding a contrary provision of a rental agreement or of subchapter 2 of this chapter, a protected tenant may terminate a rental agreement pursuant to subsection (b) of this section without penalty or liability if he or she reasonably believes it is necessary to vacate a dwelling unit:

(1) based on a fear of imminent harm to any protected tenant due to abuse, sexual assault, or stalking; or

(2) if any protected tenant was a victim of sexual assault that occurred on the premises within the six months preceding the date of his or her notice of termination.

(b) Not less than 30 days before the date of termination, the protected

tenant shall provide to the landlord:

(1) a written notice of termination; and

(2) documentation from one or more of the following sources supporting his or her reasonable belief that it is necessary to vacate the dwelling unit:

(A) a court, law enforcement, or other government agency;

(B) an abuse, sexual assault, or stalking assistance program;

(C) a legal, clerical, medical, or other professional from whom the tenant, or the minor or dependent of the tenant, received counseling or other assistance concerning abuse, sexual assault, or stalking; or

(D) a self-certification of a protected tenant's status as a victim of abuse, sexual assault, or stalking, signed under penalty of perjury, on a standard form adopted for that purpose by:

(i) a federal or State government entity, including the federal Department of Housing and Urban Development or the Vermont Department for Children and Families; or

(ii) a nonprofit organization that provides support services to protected tenants.

(c) A notice of termination provided pursuant to subsection (b) of this section may be revoked and the rental agreement shall remain in effect if:

(1)(A) the protected tenant provides a written notice to the landlord revoking the notice of termination; and

(B) the landlord has not entered into a rental agreement with another tenant prior to the date of the revocation; or

(2)(A) the protected tenant has not vacated the premises as of the date of termination; and

(B) the landlord has not entered into a rental agreement with another tenant prior to the date of termination.

§ 4473. RIGHT TO CHANGE LOCKS; OTHER SECURITY MEASURES

Notwithstanding any contrary provision of a rental agreement or of subchapter 2 of this chapter:

(1) Subject to subdivision (2) of this subsection, a protected tenant may request that a landlord change the locks of a dwelling unit within 48 hours following the request:

(A) based on a fear of imminent harm to any protected tenant due to abuse, sexual assault, or stalking; or

(B) if any protected tenant was a victim of sexual assault that occurred on the premises within the six months preceding the date of his or her request.

(2) If the perpetrator of abuse, sexual assault, or stalking is also a tenant in the dwelling unit, the protected tenant shall include with his or her request a copy of a court order that requires the perpetrator to leave the premises.

(3) If the landlord changes the locks as requested, the landlord shall provide a key to the new locks to each tenant of the dwelling unit, not including the perpetrator of the abuse, sexual assault, or stalking who is subject to a court order to leave the premises.

(4) If the landlord does not change the locks as requested, the protected tenant may change the locks without the landlord's prior knowledge or permission, provided that the protected tenant shall:

(A) ensure that the new locks, and the quality of the installation, equal or exceed the quality of the original;

(B) notify the landlord of the change within 24 hours of installation;
and

(C) provide the landlord with a key to the new locks.

(5) Unless otherwise agreed to by the parties, a protected tenant is responsible for the costs of installation of new locks pursuant to this section.

(6)(A) A protected tenant may request permission of a landlord to install additional security measures on the premises, including a security system or security camera.

(B) A protected tenant:

(i) shall submit his or her request not less than seven days prior to installation;

(ii) shall ensure the quality and safety of the security measures and of their installation;

(iii) is responsible for the costs of installation and operation of the security measures; and

(iv) is liable for damages resulting from installation.

(C) A landlord shall not unreasonably refuse a protected tenant's request to install additional security measures pursuant to this subdivision (6).

§ 4474. CONFIDENTIALITY

An owner, landlord, or housing subsidy provider who possesses documentation or information concerning a protected tenant's status as a victim of abuse, sexual assault, or stalking shall keep the documentation or information confidential and shall not allow or provide access to another person unless:

- (1) authorized by the protected tenant;
- (2) required by a court order, government regulation, or governmental audit requirement; or
- (3) required as evidence in a court proceeding, provided:
 - (A) the documentation or information remains under seal; and
 - (B) use of the documentation or information is limited to a claim brought pursuant to section 4472 or 4473 of this title.

§ 4475. LIMITATION OF LIABILITY; ENFORCEMENT

Except in the case of gross negligence or willful misconduct, a landlord is immune from liability for damages to a protected tenant if he or she acts in good faith reliance on:

- (1) the provisions of this subchapter; or
- (2) information provided or action taken by a protected tenant pursuant to the provisions of this subchapter.

Sec. 3. PROTECTED TENANT SELF-CERTIFICATION; FORM

(a) The Vermont Network Against Domestic and Sexual Violence, in collaboration with the Vermont Apartment Owners Association and other interested parties, shall:

- (1) develop and make available a standard self-certification form for use by protected tenants pursuant to 9 V.S.A. § 4472(b);
- (2) provide the self-certification form to the Department for Children and Families, once developed; and
- (3) provide a status report regarding the form, its availability, and its use to the Senate Committee on Economic Development, Housing and General Affairs and to the House Committee on General, Housing, and Military Affairs on or before January 15, 2020.

Sec. 4. 9 V.S.A. chapter 139 is amended to read:

CHAPTER 139. DISCRIMINATION; PUBLIC ACCOMMODATIONS;

RENTAL AND SALE OF REAL ESTATE

* * *

§ 4501. DEFINITIONS

As used in this chapter:

* * *

(11) “Abuse,” “sexual assault,” and “stalking” have the same meaning as in section 4471 of this title.

* * *

§ 4503. UNFAIR HOUSING PRACTICES

(a) It shall be unlawful for any person:

(1) To refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling or other real estate to any person because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, or because a person is a victim of abuse, sexual assault, or stalking.

(2) To discriminate against, or to harass any person in the terms, conditions, ~~or~~ privileges, and protections of the sale or rental of a dwelling or other real estate, or in the provision of services or facilities in connection therewith, because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, or because a person is a victim of abuse, sexual assault, or stalking.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling or other real estate that indicates any preference, limitation, or discrimination based on race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, or because a person is a victim of abuse, sexual assault, or stalking.

(4) To represent to any person because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a person intends to occupy a

dwelling with one or more minor children, or because a person is a recipient of public assistance, or because a person is a victim of abuse, sexual assault, or stalking, that any dwelling or other real estate is not available for inspection, sale, or rental when the dwelling or real estate is in fact so available.

(5) To disclose to another person information regarding or relating to the status of a tenant or occupant as a victim of abuse, sexual assault, or stalking for the purpose or intent of:

(A) harassing or intimidating the tenant or occupant;

(B) retaliating against a tenant or occupant for exercising his or her rights;

(C) influencing or coercing a tenant or occupant to vacate the dwelling; or

(D) recovering possession of the dwelling.

(6) To discriminate against any person in the making or purchasing of loans or providing other financial assistance for real-estate-related transactions or in the selling, brokering, or appraising of residential real property, because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, or because a person is a victim of abuse, sexual assault, or stalking.

(7) To engage in blockbusting practices, for profit, which may include inducing or attempting to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of a person or persons of a particular race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, or because a person is a victim of abuse, sexual assault, or stalking.

(8) To deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against any person in the terms or conditions of such access, membership, or participation, on account of race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a person is a recipient of public assistance, or because a person is a victim of abuse, sexual assault, or stalking.

* * *

(12) To discriminate in land use decisions or in the permitting of housing because of race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, disability, the presence of one or more minor children, income, or because of the receipt of public assistance, or because a person is a victim of abuse, sexual assault, or stalking, except as otherwise provided by law.

* * *

* * * Housing Health and Safety; Rental Housing
Health Code Enforcement * * *

Sec. 5. 18 V.S.A. § 5 is amended to read:

§ 5. DUTIES OF DEPARTMENT OF HEALTH

The Department of Health shall:

(1) Conduct studies, develop State plans, and administer programs and State plans for hospital survey and construction, hospital operation and maintenance, medical care, and treatment of substance abuse.

(2) Provide methods of administration and such other action as may be necessary to comply with the requirements of federal acts and regulations as relate to studies, development of plans and administration of programs in the fields of health, public health, health education, hospital construction and maintenance, and medical care.

(3) Appoint advisory councils, with the approval of the Governor.

(4) Cooperate with necessary federal agencies in securing federal funds ~~which~~ that become available to the State for all prevention, public health, wellness, and medical programs.

(5) Seek accreditation through the Public Health Accreditation Board.

(6) Create a State Health Improvement Plan and facilitate local health improvement plans in order to encourage the design of healthy communities and to promote policy initiatives that contribute to community, school, and workplace wellness, which may include providing assistance to employers for wellness program grants, encouraging employers to promote employee engagement in healthy behaviors, and encouraging the appropriate use of the health care system.

(7) Serve as the leader on State rental housing health laws.

(8) Provide policy assistance, technical support, and legal guidance to municipalities concerning the interpretation, implementation, and enforcement of State rental housing health and safety laws.

Sec. 6. 18 V.S.A. § 603 is amended to read:

§ 603. RENTAL HOUSING SAFETY; INSPECTION REPORTS

(a)(1) When conducting an investigation of rental housing, a local health officer shall issue a written inspection report on the rental property using the protocols for implementing the Rental Housing Health Code of the Department or the municipality, in the case of a municipality that has established a code enforcement office.

(2) A written inspection report shall:

(A) contain findings of fact that serve as the basis of one or more violations;

(B) specify the requirements and timelines necessary to correct a violation;

(C) provide notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and

(D) provide notice in plain language that the landlord and agents of the landlord must have access to the rental unit to make repairs as ordered by the health officer consistent with the access provisions in 9 V.S.A. § 4460.

(3) A local health officer shall:

(A) provide a copy of the inspection report to the landlord and any tenants affected by a violation by delivering the report electronically, in person, by first class mail, or by leaving a copy at each unit affected by the deficiency; and

(B) provide information on each inspection to the Department within seven days of issuing the report using an electronic system designed for that purpose.

(4) If an entire property is affected by a violation, the local health officer shall post a copy of the inspection report in a common area of the property and include a prominent notice that the report shall not be removed until authorized by the local health officer.

(5) A municipality shall make an inspection report available as a public record.

(b)(1) A local health officer may impose a ~~fine~~ civil penalty of not more than ~~\$100.00~~ \$200.00 per day for each violation that is not corrected by the date provided in the written inspection report, or when a unit is re-rented to a new tenant prior to the correction of a violation.

(2)(A) If the cumulative amount of penalties imposed pursuant to this subsection is \$800.00 or less, the local health officer, Department of Health, or State's Attorney may bring a civil enforcement action in the Judicial Bureau pursuant to 4 V.S.A. chapter 29.

(B) The waiver penalty for a violation in an action brought pursuant to this subsection is 50 percent of the full penalty amount.

(3) If the cumulative amount of penalties imposed pursuant to this subsection is more than \$800.00, or if injunctive relief is sought, the local health officer, Department of Health, or State's Attorney shall commence an action in the Civil Division of the Superior Court for the county in which a violation occurred.

(c) If a local health officer fails to conduct an investigation pursuant to section 602a of this title or fails to issue an inspection report pursuant to this section, a landlord or tenant may request that the Department, at its discretion, conduct an investigation or contact the local board of health to take action.

Sec. 7. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) The Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(21) Violations of State or municipal rental housing health and safety laws when the amount of the cumulative penalties imposed pursuant to 18 V.S.A. § 603 is \$800.00 or less.

* * *

(c) The Judicial Bureau shall not have jurisdiction over municipal parking violations.

(d) Three hearing officers appointed by the Court Administrator shall determine waiver penalties to be imposed for violations within the Judicial Bureau's jurisdiction, except:

~~(1) Municipalities~~ municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

Sec. 8. RENTAL HOUSING HEALTH AND SAFETY ENFORCEMENT

SYSTEM; RECOMMENDATIONS; REPORT

(a) On or before January 15, 2020, in collaboration with the Rental Housing Advisory Board, the Department of Health and the Department of Public Safety shall develop recommendations for the design and implementation of a comprehensive system for the professional enforcement of State rental housing health and safety laws, which shall include:

(1) an outline of options, including an option for a State government-run system, with a timeline and budget for each;

(2) a needs assessment outlining the demand for inspections based on inspection information collected through the electronic system created pursuant to Sec. 6 of this act, summary information for fiscal year 2019 inspection reports provided pursuant to subsection (c) of this section, summary information from municipalities with self-governed rental housing health code programs, and other stakeholders and relevant sources; and

(3) any additional recommendations from the Rental Housing Advisory Board, the Department of Public Safety, the Department of Housing and Community Development, or other executive branch agencies.

(b) On or before September 30, 2019, the Department of Health shall provide an interim progress report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing, and Military Affairs.

(c) On or before August 1, 2019, each municipality in this State shall provide to the Department of Health summary information on its inspection activity from July 1, 2018 through June 30, 2019 in order to assist the Department in completing the needs assessment pursuant to subdivision (a)(2) of this section.

* * * Affordable Housing * * *

Sec. 9. STATE TREASURER RECOMMENDATION FOR FINANCING
OF AFFORDABLE HOUSING INITIATIVE

(a) Evaluation. On or before January 15, 2020, the State Treasurer shall evaluate options for financing affordable housing in the State. The evaluation shall include:

(1) a plan, formed in consultation with interested stakeholders, for the creation of 1,000 housing units over five years for Vermonters with incomes up to 120 percent of the area median income as determined by the U.S. Department of Housing and Urban Development;

(2) alternatives for financing the plan that take into consideration the

use of appropriations, general obligation bonds, revenue bonds, investments, new revenues, and other financing mechanisms, including initiatives undertaken by other states;

(3) an assumption that the 1,000 units shall be in addition to what would otherwise have been produced through projected base appropriations available to the Vermont Housing and Conservation Board over five years commencing with FY 2021; and

(4) provision for meeting housing needs in the following areas:

(A) creating new multifamily and single-family homes;

(B) addressing blighted properties and other existing housing stock requiring reinvestment, including in mobile home parks; and

(C) providing service-supported housing in coordination with the Agency of Human Services, including for those who are elderly, homeless, in recovery, experiencing severe mental illness, or leaving incarceration.

(b) Cooperation. In conducting the evaluation described in subsection (a) of this section, the State Treasurer shall have the cooperation of the Agency on Commerce and Community Development and the Department of Taxes.

(c) Report. The State Treasurer shall submit a report with recommendations based on the evaluation described in subsection (a) of this section to the Senate Committees on Economic Development, Housing and General Affairs, on Appropriations, and on Finance and the House Committees on General, Housing, and Military Affairs, on Appropriations, and on Ways and Means. The report shall also include a legislative proposal to implement the recommendations proposed in the report.

* * * Effective Date * * *

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(For text see House Journal March 20, 2019)

NOTICE CALENDAR

Favorable with Amendment

S. 18

An act relating to consumer justice enforcement

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

Sec. 1. 9 V.S.A. chapter 152 is added to read:

CHAPTER 152. MODEL STATE CONSUMER JUSTICE ENFORCEMENT
ACT; STANDARD-FORM CONTRACTS

§ 6051. UNCONSCIONABLE TERMS IN STANDARD-FORM

CONTRACTS PROHIBITED

(a) Unconscionable terms. There is a rebuttable presumption that the following contractual terms are substantively unconscionable when included in a standard-form contract to which only one of the parties to the contract is an individual and that individual does not draft or have a meaningful opportunity to negotiate the contract:

(1) A requirement that resolution of legal claims takes place in an inconvenient venue. As used in this subdivision, “inconvenient venue” for State law claims means a place other than the state in which the individual resides or the contract was consummated, and for federal law claims means a place other than the federal judicial district where the individual resides or the contract was consummated. Notwithstanding this subdivision, a standard-form contract may include a term requiring that resolution of legal claims takes place in a State or federal court in Vermont.

(2) A waiver of the individual’s right to seek punitive damages as provided by law.

(3) Pursuant to 12 V.S.A. § 465, a provision that limits the time in which an action may be brought under the contract or that waives the statute of limitations.

(4) A requirement that the individual pay fees and costs to bring a legal claim substantially in excess of the fees and costs that this State’s courts require to bring such a State law claim or that federal courts require to bring such a federal law claim.

(b) Relation to common law and the Uniform Commercial Code. In determining whether the terms described in subsection (a) of this section are unenforceable, a court shall consider the principles that normally guide courts in this State in determining whether unconscionable terms are enforceable. Additionally, the common law and Uniform Commercial Code shall guide courts in determining the enforceability of unfair terms not specifically identified in subsection (a) of this section.

(c) Severability.

(1) If a court finds that a standard-form contract contains an illegal or unconscionable term, the court shall:

(A) refuse to enforce the entire contract or the specific part, clause, or provision containing the illegal or unconscionable term; or

(B) so limit the application of the illegal or unconscionable term or the clause containing such term as to avoid any illegal or unconscionable result.

(2) In performing its analysis under this subsection (c), the court may consider the actual purposes of the contracting parties and whether severing the term would create an incentive for contract drafters to include similar illegal or unconscionable terms.

(d) Unfair and deceptive act and practice.

(1) In an underlying legal dispute between the drafting and nondrafting parties in which the drafting party seeks to enforce one or more terms identified in subsection (a) of this section, and upon a finding that such terms are actually unconscionable, the court may also find that the drafting party has thereby committed an unfair and deceptive practice in violation of section 2453 of this title and may order up to \$1,000.00 in statutory damages per violation and an award of reasonable costs and attorney's fees.

(2) Each term found to be unconscionable pursuant to subsection (a) of this section shall constitute a separate violation of this section.

(e) Limitation on applicability. This section shall not apply to the following contracts:

(1) A contract to which one party is:

(A) regulated by the Vermont Department of Financial Regulation; or

(B) a financial institution as defined by 8 V.S.A. § 11101(32) or a credit union as defined by 8 V.S.A. § 30101(5).

(2) A contract for the nondrafting party's enrollment or participation in a recreational activity, sport, or competition.

(3) A motor vehicle retail installment contract subject to chapter 59 of this title.

Sec. 2. EFFECTIVE DATE

This act shall take effect on October 1, 2020.

(Committee vote: 9-2-0)

(For text see Senate Journal February 28, 2019)

S. 58

An act relating to the State hemp program

Rep. O'Brien of Tunbridge, for the Committee on Agriculture and Forestry, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. chapter 34 is amended to read:

CHAPTER 34. HEMP

§ 561. FINDINGS; INTENT

(a) Findings.

* * *

(5) The federal Agricultural Act of 2014, Pub. L. No. 113-79 authorized Section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334 authorizes the growing, cultivation, and marketing of industrial hemp, notwithstanding restrictions under the federal Controlled Substances Act, if certain criteria are satisfied under a U.S. Department of Agriculture approved State program.

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

§ 562. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2)(A) “Grow” means:

(i) planting, cultivating, harvesting, or drying of hemp; and

(ii) selling, storing, and transporting hemp grown by a grower.

(B) “Grow” may be used interchangeably with the word “produce.”

(3) “Grower” means a person who is registered with the Agency to produce hemp crops.

(4) “Hemp products” or “hemp-infused products” means all products made from hemp with the federally defined tetrahydrocannabinol concentration level for hemp derived from, or made by, processing hemp

plants or plant parts, that are prepared in a form available for commercial sale, including cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics, seed, seed meal, seed oil, and certified seed for cultivation and any product containing one or more hemp-derived cannabinoids, such as cannabidiol.

~~(3)~~(5) “Hemp” or “industrial hemp” means the plant Cannabis sativa L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis including the seeds and all derivatives, extracts, cannabinoids, acids, salts, isomers, and salts of isomers, whether growing or not, with the federally defined tetrahydrocannabinol concentration level of hemp. “Hemp” shall be considered an agricultural commodity.

(6) “Process” means the storing, drying, trimming, handling, compounding, or converting of a hemp crop by a processor for a single grower or multiple growers into hemp products or hemp-infused products. “Process” includes transporting, aggregating, or packaging hemp from a single grower or multiple growers.

(7) “Processor” means a person who is registered with the Agency to process hemp crops. A retail establishment selling hemp products or hemp-infused products is not a processor.

~~(4)~~(8) “Secretary” means the Secretary of Agriculture, Food and Markets.

§ 563. HEMP; AN AGRICULTURAL PRODUCT

Industrial hemp is an agricultural product that may be grown as a crop produced, possessed, marketed, and commercially traded in Vermont pursuant to the provisions of this chapter and section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334. The cultivation of industrial hemp shall be subject to and comply with the required agricultural practices adopted under section 4810 of this title.

§ 564. STATE HEMP PROGRAM; REGISTRATION; APPLICATION; ADMINISTRATION; PILOT PROJECT

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

~~grow industrial hemp shall register with the Secretary and submit on a form provided by the Secretary the following:~~

~~(1) the name and address of the person;~~

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

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

~~(b) The form provided by the Secretary pursuant to subsection (a) of this section shall include a notice statement that:~~

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

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

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

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

~~(d) The Secretary may assess an annual registration fee of \$25.00 for the performance of his or her duties under this chapter. The Secretary shall establish and administer a State Hemp Program to regulate the growing, processing, testing, and marketing of industrial hemp and hemp products in the State.~~

(b)(1) A person shall register annually with the Secretary as part of the State Hemp Program in order to grow, process, or test hemp or hemp products in the State. A person shall apply for registration or renewal of a registration on a form provided by the Secretary. The application shall be accompanied by the fee required under section 570 of this title. The application or renewal form shall include:

(A) the name and address of the person applying for or renewing a registration;

(B) whether the person is applying to grow, process, or test hemp or hemp products;

(C) for a person applying as a grower:

(i) the location and acreage of all parcels where hemp will be grown;

(ii) a statement that the seeds obtained for planting are of a type and variety that do not exceed the federally defined tetrahydrocannabinol concentration level of hemp;

(D) for a person applying as a processor, the location of the processing site;

(E) for a person applying to test hemp or hemp products, the location of the site where testing will occur and any proof of certification required by the Secretary; and

(F) any additional information that the Secretary may require by rule.

(2) The Secretary may verify the information provided in the application or renewal form under subdivision (1) of this subsection and on any maps accompanying the application or renewal form and may request additional information in order to perform a review of an application for registration or renewal.

(c) The Secretary may deny an application for registration or renewal if the applicant:

(1) does not provide all the information requested on the application or renewal form;

(2) fails to submit the fee required under section 570 of this title;

(3) fails to submit additional information requested by the Secretary under subsection (a) of this section; or

(4) does not, as determined by the Secretary, satisfy the requirements of section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334 for participation in the Program.

(d) A person registered under this section may purchase or import hemp genetics from any state that complies with the federal requirements for the cultivation of industrial hemp.

(e) A person registered with the Secretary under this section to grow, process, or test hemp crops or hemp products, shall allow the Secretary to inspect hemp crops, processing sites, or laboratories registered under the State Hemp Program. The Secretary shall retain tests and inspection information collected under this section for the purposes of research of the growth and cultivation of industrial hemp.

(f) The name and general location of a person registered under this section shall be available for inspection and copying under the Public Records Act, provided that all records produced or acquired by the Agency of Agriculture, Food and Markets related to the location of parcels where hemp will be grown, including coordinates, maps, and parcel identifiers, shall be confidential and shall not be disclosed for inspection and copying under the Public Records Act.

§ 566. RULEMAKING AUTHORITY

(a) The Secretary may adopt rules to provide for the implementation of this chapter and the ~~pilot project program~~ program authorized under this chapter, which may include rules to:

(1) require hemp to be tested during growth for tetrahydrocannabinol levels;

(2) authorize or specify the method or methods of testing hemp, including, where appropriate, the ratio of cannabidiol to tetrahydrocannabinol levels or a taxonomic determination using genetic testing; and

(3) ~~to~~ require inspection and supervision of hemp during sowing, growing season, harvest, storage, and processing. The Secretary shall not adopt under this or any other section a rule that would prohibit a person to grow hemp based on the legal status of hemp under federal law; and

(4) require labels or label information for hemp products in order to provide consumers with product content or source information or to conform with federal requirements.

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

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

* * *

§ 568. TEST RESULTS; ENFORCEMENT

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

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

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

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

~~(b) A person registered with the Secretary as growing the hemp crop shall not be subject to civil, criminal, or administrative liability or penalty under 18 V.S.A. chapter 84 if the tested industrial hemp has a delta-9 tetrahydrocannabinol concentration of one percent or less on a dry weight basis. To enforce the provisions of this chapter, the Secretary, upon presenting appropriate credentials, may conduct one or more of the following:~~

(1) Enter upon any premises where hemp is grown or processed and inspect premises, machinery, equipment and facilities, any crop during any growth phase, or any hemp product or hemp-infused product during processing or storage. Inspection under this section may include the taking of samples, inspection of records, and inspection of equipment or vehicles used in the growing, processing, or transport of hemp crops, hemp products, or hemp-infused products.

(2) Inspect any retail location offering hemp products or hemp-infused products. Inspection under this section may include the taking of samples of such products.

(3) Issue and enforce a written or printed “stop sale” order to the owner or custodian of any hemp crop, hemp product, or hemp-infused product subject to the requirements of this chapter or rules adopted under this chapter that the Secretary finds is in violation of any of the provisions of this chapter or rules adopted under this chapter. An order may prohibit further sale, processing, and movement of the hemp crop, hemp product, or hemp-infused product until the Secretary has approved and issued a release from the “stop sale” order.

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

§ 569. ADMINISTRATIVE PENALTIES

(a) Except for violations set forth under subsection (b) of this section, the Secretary may assess an administrative penalty, not to exceed \$1,000.00 per violation, for any violation of this chapter or rules adopted under this chapter, including:

(1) failure to provide the location of the land on which the grower grows hemp crops or the processor processes hemp crops into hemp products or hemp-infused products; or

(2) failing to obtain a registration in accordance with section 570 of this title.

(b) The Secretary may assess an administrative penalty, not to exceed \$5,000.00 per violation in any case in which the Secretary determines that a grower or processor:

(1) failed to follow a corrective action plan to correct a negligent violation;

(2) has grown or processed hemp in violation of the requirements of this chapter or the rules adopted under this chapter three times in a five-year period; or

(3) has produced hemp in violation of the requirements of this chapter or the rules adopted under this chapter with a culpable mental state greater than negligence.

(c) In determining the amount of the penalty assessed under this section, the Secretary may give consideration to the appropriateness of the penalty with respect to the size of the business being assessed, the gravity of the violation, the good faith of the person alleged to be in violation, and the overall compliance history of the person alleged to be in violation.

(d) The Secretary shall use the following procedure in assessing penalties:

(1) the Secretary shall issue a written notice of violation setting forth facts that would establish probable cause that a violation of this chapter or the rules adopted under this chapter has occurred;

(2) the notice required under subdivision (1) of this subsection shall comply with all of the following:

(A) The notice shall be served by personal service or by certified mail, return receipt requested.

(B) The notice shall advise the recipient of the right to a hearing. If a hearing is requested, the hearing shall be conducted pursuant to 3 V.S.A. chapter 25.

(C) The notice shall state the proposed penalty and shall advise the recipient that, if no hearing is requested, the decision of the Secretary shall become final and a penalty shall be imposed.

(D) The notice shall advise the recipient that they shall have 15 days from the date on which notice is received to request a hearing.

(e) Any party aggrieved by a final decision of the Secretary may appeal to a Superior Court within 30 days of the final decision of the Secretary. The Secretary may enforce a final administrative penalty by filing a civil collection action in any District or Superior Court.

§ 570. REGISTRATION FEES

(a) A person applying for a registration or renewal under section 564 of this title annually shall pay the following fees:

(1) for an application to grow less than 0.5 acres of hemp for personal use: \$25.00;

(2) for an application or renewal of registration to grow or process hemp seed for food oil production, grain crop, fiber, or textile: \$100.00;

(3) except as provided for in subdivision (4) of this subsection, for an application or renewal of registration to grow, process, or grow and process hemp commercially for floral material production, viable seed, or cannabinoids, including cannabidiolic acid (CBDA), cannabidiol (CBD), cannabinol (CBN), cannabigerol (CBG), cannabichromene (CBC), or tetrahydrocannabivarin (THCV), the following fee based on the greater of the number of acres planted or the weight of hemp or viable seed processed:

<u>Acres of Hemp Grown or</u>	<u>Fee</u>
<u>Pounds of Hemp Processed or</u>	
<u>Viable Seed Cultivated</u>	
<u>Annually for Floral Material or</u>	
<u>Cannabinoids</u>	
<u>Less than 0.5 acres or less than 500 pounds</u>	<u>\$100.00</u>
<u>0.5 to 9.9 acres or less than 10,000 pounds</u>	<u>\$500.00</u>
<u>10 to 50 acres or less than 50,000 pounds</u>	<u>\$1,000.00</u>

Greater than 50 acres or greater than

50,000 pounds

\$3,000.00

(4) for an application or renewal of registration to operate exclusively within an indoor facility in order to grow, process, or grow and process hemp commercially for floral material production, viable seed, or cannabinoids, including cannabidiolic acid (CBDA), cannabidiol (CBD), cannabinol (CBN), cannabigerol (CBG), cannabichromene (CBC), or tetrahydrocannabivarin (THCV): \$2,000.00; and

(5) for an application or renewal of registration as a laboratory certified to conduct testing of hemp and hemp products as part of the Agency's cannabis control program: \$1,500.00.

(b) A person registered to grow, process, or grow and process hemp for floral material production, viable seed, or cannabinoids shall not grow more acres of hemp per year than the amount identified in a registration without first notifying the Secretary and paying an additional registration fee if necessary under subsection (a) of this section.

(c) The registration fees collected under this section shall be deposited in the special fund created by subsection 364(e) of this title and shall be used for the administration of the requirements of this chapter.

Sec. 2. TRANSITION; COLLECTION OF REGISTRATION FEE

Beginning on January 1, 2020, the Secretary of Agriculture, Food and Markets shall initiate collection under 6 V.S.A. § 570 of the registration fees to grow hemp, process hemp, grow and process hemp, or operate a certified laboratory to test hemp in the State. Prior to January 1, 2020, the Secretary of Agriculture, Food and Markets shall collect a registration fee of \$25.00 for any registration under 6 V.S.A. chapter 34 (State Hemp Program).

Sec. 3. 20 V.S.A. § 2730 is amended to read:

§ 2730. DEFINITIONS

(a) As used in this subchapter, "public building" means:

(1)(A) a building owned or occupied by a public utility, hospital, school, house of worship, convalescent center or home for elders or persons who have an infirmity or a disability, nursery, kindergarten, or child care;

(B) a building in which two or more persons are employed, or occasionally enter as part of their employment or are entertained, including private clubs and societies;

(C) a cooperative or condominium;

(D) a building in which people rent accommodations, whether overnight or for a longer term;

(E) a restaurant, retail outlet, office or office building, hotel, tent, or other structure for public assembly, including outdoor assembly, such as a grandstand;

(F) a building owned or occupied by the State of Vermont, a county, a municipality, a village, or any public entity, including a school or fire district; or

(G)(i) a building in which two or more persons are employed, or occasionally enter as part of their employment, and where the associated extraction of plant botanicals utilizing flammable, volatile, or otherwise unstable liquids, pressurized gases, or other substances capable of combusting or whose properties would readily support combustion or pose a deflagration hazard; and

(ii) notwithstanding subdivision (b)(3) of this section, a building on a working farm or farms that meets the criteria of subdivision (G)(i) of this subsection is a “public building.”

(2) Use of any portion of a building in a manner described in this subsection shall make the entire building a “public building” for purposes of this subsection. For purposes of this subsection, a “person” does not include an individual who is directly related to the employer and who resides in the employment-related building.

(b) The term “public building” does not include:

* * *

(3) Farm buildings on a working farm or farms. For purposes of this subchapter and subchapter 3 of this chapter, the term “working farm or farms” means farms with fewer than the equivalent of 10 full-time employees who are not family members and who do not work more than 26 weeks a year. In addition, the term means a farm or farms:

(A) Whose owner is actively engaged in farming.

(B) If the farm or farms are owned by a partnership or a corporation, one that includes at least one partner or principal of the corporation who is actively engaged in farming.

(C) Where the farm or farms are leased, the lessee is actively engaged in farming. The term “farming” means:

(i) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops;

(ii) the raising, feeding, or management of livestock, poultry, equines, fish, or bees;

(iii) the production of maple syrup;

(iv) the operation of greenhouses;

(v) the on-site storage, preparation, and sale of agricultural products principally produced on the farm. Notwithstanding this definition of farming, housing provided to farm employees other than family members shall be treated as rental housing and shall be subject to the provisions of this chapter. In addition, any farm building that is open for public tours and for which a fee is charged for those tours shall be considered a public building.

(4) A single family residence with an accessory dwelling unit as permitted under 24 V.S.A. § 4406(4)(D).

* * *

Sec. 4. POSITIONS; STATE HEMP PROGRAM

The establishment of the following new classified, full-time positions is authorized in fiscal year 2020 for purposes of implementing and administering the State Hemp Program under 6 V.S.A. chapter 34:

(1) In the Agency of Agriculture, Food and Markets—attorney counsel position.

(2) In the Agency of Agriculture, Food and Markets—laboratory and certification specialist.

(3) In the Agency of Agriculture, Food and Markets—enforcement specialist.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 7-0-1)

(For text see Senate Journal March 26, 2019)

Rep. Young of Greensboro, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Agriculture and Forestry and when further amended as follows:

In Sec. 1, 6 V.S.A. chapter 34, in section 570, by striking out subdivision (a)(4) in its entirety and inserting in lieu thereof the following new subdivision (a)(4):

(4) for an application or renewal of registration to operate exclusively within an indoor facility in order to grow, process, or grow and process hemp commercially for floral material production, viable seed, or cannabinoids, including cannabidiolic acid (CBDA), cannabidiol (CBD), cannabinol (CBN), cannabigerol (CBG), cannabichromene (CBC), or tetrahydrocannabivarin (THCV), the following fee based on the size of the indoor facility:

(A) for a facility with an area of 500 square feet or less: \$1,000.00;
and

(B) for a facility with an area greater than 500 square feet: \$2,000.00.

(Committee Vote: 11-0-0)

Rep. Conquest of Newbury, for the Committee on Appropriations, recommends the bill ought to pass in concurrence of proposal of amendment as recommended by the Committees on Agriculture and Forestry and Ways and Means.

(Committee Vote: 10-0-1)

S. 113

An act relating to the prohibition of plastic carryout bags, expanded polystyrene, and single-use plastic straws

Rep. McCullough of Williston, for the Committee on Natural Resources; Fish; and Wildlife, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

It is the purpose of this act to:

(1) mitigate the harmful effects of single-use products on Vermont's municipalities and natural resources; and

(2) relieve the pressure for landfills to manage the disposition of single-

use products.

Sec. 2. 10 V.S.A. chapter 159, subchapter 5 is added to read:

Subchapter 5. Single-Use Carryout Bags; Expanded Polystyrene Food Service Products; Single-use Plastic Straws; and Single-use Plastic Stirrers

§ 6691. DEFINITIONS

As used in this subchapter:

(1) “Agency” means the Agency of Natural Resources.

(2) “Carryout bag” means a bag provided by a store or food service establishment to a customer at the point of sale for the purpose of transporting groceries or retail goods, except that a “carryout bag” shall not mean:

(A) a bag provided by a pharmacy to a customer purchasing a prescription medication; or

(B) a bag in which loose produce or products are placed by a consumer or a store employee to deliver the produce or products to the point of sale.

(3) “Expanded polystyrene” means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by a number of techniques, including: fusion of polymer spheres, known as expandable bead 20 polystyrene; injection molding; foam molding; and extrusion-blow molding, also known as extruded foam polystyrene.

(4)(A) “Expanded polystyrene food service product” means a product made of expanded polystyrene that is:

(i) used for selling or providing food or beverages and intended by the manufacturer to be used once for eating or drinking; or

(ii) generally recognized by the public as an item to be discarded after one use.

(B) “Expanded polystyrene food service product” shall include:

(i) food containers;

(ii) plates;

(iii) hot and cold beverage cups;

(iv) trays; and

(v) cartons for eggs or other food.

(C) “Expanded polystyrene food service product” shall not include:

(i) food or beverages that have been packaged in expanded polystyrene outside the State before receipt by a food service establishment or store;

(ii) a product made of expanded polystyrene that is used to package raw, uncooked, or butchered meat, fish, poultry, or seafood; or

(iii) nonfoam polystyrene food service products.

(5) “Food service establishment” has the same meaning as in 18 V.S.A. § 4301.

(6) “Plastic” means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal, including material derived from either petroleum or a biologically based polymer, such as corn or other plant sources.

(7) “Point of sale” means a check-out stand, cash register, or other point of departure from a store or food service establishment, including the location where remotely ordered food or products are delivered to a purchaser.

(8) “Reusable carryout bag” means a carryout bag that is designed and manufactured for multiple uses and is:

(A) made of cloth or other machine-washable fabric that has stitched handles; or

(B) a polypropylene bag that has stitched handles.

(9) “Secretary” means the Secretary of Natural Resources.

(10) “Single-use plastic carryout bag” means a carryout bag that is:

(A) made of plastic;

(B) a single use product; and

(C) not a reusable carryout bag.

(11) “Single-use plastic stirrer” means a device that is:

(A) used to mix beverages;

(B) made predominantly of plastic; and

(C) a single-use product.

(12) “Single-use plastic straw” means a tube made of plastic that is:

(A) used to transfer liquid from a container to the mouth of a person drinking the liquid; and

(B) is a single-use product.

(13) “Single-use product” or “single use” means a product designed and manufactured to be used only once and is generally recognized by the public as an item that is to be discarded after one use.

(14) “Single-use, recyclable paper carryout bag” means a carryout bag made of paper that:

(A) contains at least 40 percent post-consumer recycled material;

(B) is 100 percent recyclable; and

(C) is a single-use product.

(15) “Store” means a grocery store, supermarket, convenience store, liquor store, drycleaner, pharmacy, drug store, or other retail establishment that provides carryout bags to its customers.

§ 6692. SINGLE-USE PLASTIC CARRYOUT BAGS; PROHIBITION

A store or food service establishment shall not provide a single-use plastic carryout bag to a customer.

§ 6693. SINGLE-USE, RECYCLABLE PAPER CARRYOUT BAG

(a) A store or food service establishment may, upon request, provide a consumer a carryout bag made of paper at the point of sale if the bag is a single-use, recyclable paper carryout bag.

(b) A store or food service establishment may charge for the provision of a single-use, recyclable paper carryout bag, provided that if a charge is assessed, the amount of the charge shall not be less than \$0.10 per bag.

(c) All monies collected by a store or food service establishment under this section for provision of a single-use, recyclable paper carryout bag shall be retained by the store or food service establishment.

§ 6694. SINGLE-USE PLASTIC STRAWS

(a) A food service establishment shall not provide a single-use plastic straw to a customer, except that a food service establishment may provide a straw to a person upon request.

(b) The prohibition on sale or provision of a single-use plastic straw under subsection (a) of this section shall not apply to:

(1) a hospital licensed under 18 V.S.A. chapter 43;

(2) a nursing home, residential care home, assisted living residence, home for the terminally ill, or therapeutic community, as those terms are defined in 33 V.S.A. chapter 71; or

(3) an independent living facility as that term is defined in 32 V.S.A. chapter 225.

(c) This section shall not alter the requirements of 9 V.S.A. chapter 139 regarding the provision of services by a place of public accommodation.

§ 6695. SINGLE-USE PLASTIC STIRRERS

A food service establishment shall not provide a single-use plastic stirrer to a customer.

§ 6696. EXPANDED POLYSTYRENE FOOD SERVICE PRODUCTS

(a) A person shall not sell or offer for sale in the State an expanded polystyrene food service product.

(b) A store or food service establishment shall not sell or provide food or beverages in an expanded polystyrene food service product.

(c) This section shall not prohibit a person from storing or packaging a food or beverage in an expanded polystyrene food service product for distribution out of State.

§ 6697. CIVIL PENALTIES; WARNING

(a) A person, store, or food service establishment that violates the requirements of this subchapter shall:

(1) receive a written warning for a first offense;

(2) be subject to a civil penalty of \$25.00 for a second offense; and

(3) be subject to a civil penalty of \$100.00 for a third or subsequent offense.

(b) For the purposes of enforcement under this subchapter, an offense shall be each day a person, store, or food service establishment is violating the requirement of this subchapter.

§ 6698. RULEMAKING

The Secretary may adopt rules to implement the requirements of this subchapter.

§ 6699. APPLICATION TO MUNICIPAL BYLAWS, ORDINANCES, OR CHARTERS; PREEMPTION

(a) The General Assembly finds that the requirements of this chapter are of statewide interest and shall be applied uniformly in the State and shall occupy the entire field of regulation of single-use plastic carryout bags, single-use, recyclable paper carryout bag, single-use plastic straws, single-use plastic stirrers, and expanded polystyrene food service products.

(b) A municipal ordinance, bylaw, or charter adopted or enacted before July 1, 2020 that regulates or addresses the use, sale, or provision of single-use plastic carryout bags, single-use paper carryout bags, single-use plastic straws, single-use plastic stirrers, or expanded polystyrene food service products is preempted by the requirements of this subchapter and a municipality shall not enforce or otherwise implement the ordinance, bylaw, or charter.

Sec. 3. SINGLE-USE PRODUCTS WORKING GROUP; REPORT

(a) Creation; purpose. There is created the Single-Use Products Working Group to:

(1) evaluate current State and municipal policy and requirements for the management of single-use products; and

(2) recommend to the Vermont General Assembly policy or requirements that the State should enact to:

(A) reduce the use of single-use products;

(B) reduce the environmental impact of single-use products;

(C) improve statewide management of single-use products;

(D) divert single-use products from disposal in landfills; and

(E) prevent contamination of natural resources by discarded single-use products.

(b) Definitions. As used in this section:

(1) “Carryout bag” means a bag provided by a store or food service establishment to a customer at the point of sale for the purpose of transporting groceries or retail goods.

(2) “Disposable plastic food service ware” means containers, plates, clamshells, serving trays, meat and vegetable trays, hot and cold beverage cups, cutlery, and other utensils that are made of plastic or plastic-coated paper, including products marketed as biodegradable products but a portion of the product is not compostable.

(3) “Expanded polystyrene food service product” means a product made of expanded polystyrene that is:

(A) used for selling or providing food or beverages and intended by the manufacturer to be used once for eating or drinking; or

(B) generally recognized by the public as an item to be discarded after one use.

(4) “Extended producer responsibility” means a requirement for a producer of a product to provide for and finance the collection, transportation, reuse, recycling, processing, and final management of the product.

(5) “Food service establishment” has the same meaning as in 18 V.S.A. § 4301.

(6) “Packaging” means materials that are used for the containment, protection, handling, delivery, and presentation of goods sold or delivered in Vermont.

(7) “Plastic” means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal.

(8) “Point of sale” means a check-out stand, cash register, or other point of departure from a store or food service establishment, including the location where remotely ordered food or products are delivered to a purchaser.

(9) “Printed materials” means material that is not packaging, but is printed with text or graphics as a medium for communicating information, including telephone books but not including other bound reference books, bound literary books, or bound textbooks.

(10) “Single-use” means a product that is designed and intended to be used only once and is generally recognized by the public as an item that is to be discarded after one use.

(11) “Single-use products” means single-use carryout bags, single-use packaging, single-use disposable plastic food service ware, expanded polystyrene food service products, printed materials, and other single-use plastics or single-use products that are provided to consumers by stores, food service establishments, or other retailers.

(12) “Store” means a grocery store, supermarket, convenience store, liquor store, pharmacy, drycleaner, drug store, or other retail establishment.

(13) “Unwanted” means when a person in possession of a product intends to abandon or discard the product.

(c) Membership. The Single-Use Products Working Group shall be

composed of the following members:

(1) a member of the Senate appointed by the Committee on Committees;

(2) a member of the House of Representatives appointed by the Speaker of the House;

(3) the Secretary of Natural Resources or designee;

(4) a representative of a single-stream materials recovery facility located in Vermont appointed by the Governor;

(5) one representative from a solid waste management entity in the State, appointed by the Committee on Committees;

(6) one representative from the Vermont League of Cities and Towns appointed by the Speaker of the House;

(7) one representative of an association or group representing manufacturers or distributors of single-use products appointed by the Governor;

(8) one representative of an environmental advocacy group located in the State that advocates for the reduction of solid waste and the protection of the environment appointed by the Speaker of the House; and

(9) one representative of stores or food service establishments in the State, appointed by the Committee on Committees.

(d) Powers and duties. The Single-Use Products Working Group shall:

(1) Evaluate the success of existing State and municipal requirements for the management of unwanted single-use products.

(2) Estimate the effects on landfill capacity of single-use products that can be recycled, but are currently being disposed.

(3) Recommend methods or mechanisms to address the effects on landfill capacity of single-use products that can be recycled, but are currently being disposed, in order to improve the management of single-use products in the State, including whether the State should establish extended producer responsibility or similar requirements for manufacturers, distributors, or brand owners of single-use products.

(4) If extended producer responsibility or similar requirements for single-use products are recommended under subdivision (3) of this subsection, recommend:

(A) The single-use products to be included under the requirements.

(B) A financial incentive for manufacturers, distributors, or brand owners of single-use products to minimize the environmental impacts of the products in Vermont. The environmental impacts considered shall include review of the effect on climate change of the production, use, transport, and recovery of single-use products.

(C) How to structure a requirement for manufacturers, distributors, or brand owners to provide for or finance the collection, processing, and recycling of single-use products using existing infrastructure in the collection, processing, and recycling of products where feasible.

(5) An estimate of the costs and benefits of any recommended method or mechanism for improving the management of single-use products in the State.

(e) Assistance. The Single-Use Products Working Group shall have the administrative, technical, financial, and legal assistance of the Agency of Natural Resources, the Department of Health, the Office of Legislative Council, and the Joint Fiscal Office.

(f) Report. On or before December 1, 2019, the Single-Use Products Working Group shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife the findings and recommendations required under subsection (d) of this section.

(g) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Single-Use Products Working Group to occur on or before July 1, 2019.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Working Group shall cease to exist on February 1, 2020.

(h) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Working Group serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings.

(2) Other members of the Working Group shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A.

§ 1010 for not more than six meetings.

(3) Payments to members of the Working Group authorized under this subsection shall be made from monies appropriated to the General Assembly.

Sec. 4. ANR REPORT ON LANDFILL OPERATION IN THE STATE

As part of the Biennial Report on Solid Waste required under 10 V.S.A. § 6604(b) to be submitted to the General Assembly in 2021, the Secretary of Natural Resources shall include a feasibility study addressing issues related to the opening of a second landfill in the State. The report shall include:

(1) An assessment of the capacity of the two sites in the State that are currently permitted and certified for landfill operation, but are not in operation, to receive solid waste.

(2) An evaluation of the environmental costs of continuing to truck solid waste to a single landfill located in the northeast corner of the State. This evaluation shall include the amount of greenhouse gases emitted over the course of a year from trucks making round trips to the existing landfill in Vermont. The evaluation shall also include an estimate of the impact that trucking to the one landfill in the State is having annually on the State transportation infrastructure.

(3) An estimate of the timeframe to physically activate either one or both of the sites in the State that are currently permitted and certified for landfill operation, but are not in operation, to receive solid waste.

(4) An estimate of the timeframe to locate and operate an additional solid waste landfill in the State.

Sec. 5. EFFECTIVE DATES

(a) This section, Sec. 1 (purpose), Sec. 3 (single-use working group), and Sec. 4 (landfill report) shall take effect on passage.

(b) Sec. 2 (single-use products) shall take effect July 1, 2020.

(Committee vote: 8-2-0)

(For text see Senate Journal March 29, April 3, 2019)

Rep. Lanpher of Vergennes, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment when as recommended by the Committee on Natural Resources; Fish; and Wildlife.

(Committee Vote: 9-1-1)

S. 160

An act relating to agricultural development

Rep. Partridge of Windham, for the Committee on Agriculture and Forestry, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. STRATEGIC PLAN TO STABILIZE AND REVITALIZE THE
VERMONT AGRICULTURAL INDUSTRY

(a) On or before January 15, 2020, the Vermont Farm-to-Plate Investment Program, after consultation with the Secretary of Agriculture, Food and Markets and industry stakeholders, shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry a report that shall serve as the basis for an update to the Farm-to-Plate Strategic Plan. After additional industry stakeholder engagement, the report shall be used to develop a prioritized strategic plan for the stabilization, diversification, and revitalization of the agricultural and food industry in Vermont by August 31, 2020.

(b) The report required under subsection (a) of this section shall:

(1) summarize the current conditions within particular subsectors, product categories, and market channels that comprise the Vermont food system, including the most recent data synthesis, research, reports, and expert documentation of challenges and opportunities for growth;

(2) recommend State investment in research and development by universities or other qualified organizations to establish new markets, products, or ingredients; and

(3) recommend methods for improving the marketing of Vermont agricultural products.

(c) The strategic plan required under subsection (a) of this section shall outline prioritized next steps and opportunities to assist in stabilizing, diversifying, and revitalizing Vermont's food system. The plan may include recommendations related to:

(1) technical assistance resources and capital availability to farmers to assist in the diversification of agricultural products produced on a farm;

(2) alternatives or methods for encouraging, maintaining, or increasing the amount of land in agricultural production and the number and diversity of

people participating in the growing, harvesting, and processing of food in the State;

(3) resources for financing research and development by universities and businesses that promote innovative methods for managing and commoditizing manure to mitigate the environmental concerns raised by current manure management techniques;

(4) techniques, strategies, or systems for improving the ecological footprint and environmental sustainability of farming in the State;

(5) the potential to increase the amount of Vermont agricultural products that are purchased by school nutrition programs and other publicly funded institutions in the State;

(6) approaches for improving transparency in the agricultural industry so that the public is educated and aware of the need for and effect of certain dairy practices;

(7) approaches for improving agricultural and food literacy among Vermonters, including increased understanding of where their food comes from, how food is produced, and enhanced opportunities to learn about and participate in the growing and processing of crops for food and fiber; and

(8) the level of State, private, and philanthropic investment needed over the next 10 years in order to stabilize, diversify, and revitalize the Vermont food system.

(d) The Secretary of Agriculture, Food and Markets in partnership with the Vermont Farm-to-Plate Investment Program shall hold at least four public hearings combined with other stakeholder engagement sessions around the State to receive public input on priorities for stabilizing and revitalizing the agricultural industries in Vermont. The public input that the Secretary receives shall be included in the strategic plan required under subsection (c) of this section.

(e) The Vermont Farm-to-Plate Investment Program and the Secretary of Agriculture, Food and Markets shall not implement the requirements of this section unless and until appropriations to implement the program are approved by the General Assembly for fiscal year 2020.

* * * Local Food Purchasing Working Group * * *

Sec. 2. LOCAL FOOD PURCHASING WORKING GROUP

(a)(1) The Secretary of Agriculture, Food and Markets shall convene a Local Food Purchasing Working Group to develop a plan to assist schools in

the State in increasing the purchase of local foods. The working group shall be composed of:

(A) the Secretary of Agriculture, Food and Markets or designee;

(B) the Secretary of Education or designee;

(C) a representative of Vermont FEED to be appointed by the organization;

(D) a representative of the Northeast Organic Farming Association Vermont, appointed by the association;

(E) two representatives of the School Nutrition Association Vermont, appointed by the Secretary of Agriculture, Food and Markets; and

(F) two school nutrition directors, appointed by the Secretary of Agriculture, Food and Markets.

(2) The Secretary of Agriculture, Food and Markets shall invite additional stakeholders, such as farmers, food distributors, school administrators, and other interested parties to provide input in the development of a recommended local food purchasing plan.

(b) On or before January 15, 2020, the Secretary of Agriculture, Food and Markets shall submit to the House Committee on Agriculture and Forestry and the Senate Committee on Agriculture a recommended local foods purchasing plan for schools. The plan shall include:

(1)(A) A proposed “per plate” incentive for local food purchasing for Vermont K–12 school meals and a timeline for implementation of the incentive. This proposal shall include:

(i) a proposed incentive amount per plate;

(ii) an analysis of why the proposed incentive amount will be effective for schools to increase school purchasing of local food; and

(iii) an estimate of the percentage increase in local food purchasing from implementation of the proposed incentive.

(B) In order to develop the per plate incentive proposal, the Working Group shall field test the per plate incentive with several school districts or supervisory unions during the 2019–2020 school year and shall collect data from the field test to contribute to the recommended plan required under this subsection.

(2) A proposal to support and assist schools in increasing local food purchasing. The proposal may include:

(A) additional procurement training for school personnel to purchase local foods;

(B) proposed work with the Agency of Education Child Nutrition Programs to determine how to collect and manage the data needed to track local food purchasing in schools;

(C) research and development of a tracking system or modification of current data collection systems; and

(D) a methodology for helping schools to know what is available and how to purchase and track it.

(c) The Secretary of Agriculture, Food and Markets shall not implement the requirements of this section unless and until the General Assembly approves appropriations in fiscal year 2020 to complete the “field testing” with schools required under subdivision (b)(2)(B) of this section.

* * * Dairy Marketing Assessment * * *

Sec. 3. DAIRY MARKETING ASSESSMENT; REPORT

On or before January 15, 2020, the Secretary of Agriculture, Food and Markets shall report to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry regarding the development of a dairy marketing assessment for the purpose of increasing the consumption of Vermont dairy products by major metropolitan markets in New England and the Northeast. The report shall:

(1) conduct market research to identify consumer preferences and upcoming trends around dairy products;

(2) summarize how the State could facilitate messaging and marketing based on dairy products with additional benefits resulting in high value resonance with consumers, including health, nutrition, social, and environmental benefits; and

(3) identify existing funding sources or economic incentives that could be utilized to fund the development of dairy trend research and marketing campaigns in key identified markets and sectors, including innovation grants or financing under federal or State law.

* * * Soil Conservation * * *

Sec. 4. SOIL CONSERVATION PRACTICE AND PAYMENT FOR
ECOSYSTEM SERVICES WORKING GROUP

(a) The Secretary of Agriculture, Food and Markets shall convene a Soil Conservation Practice and Payment for Ecosystem Services Working Group to recommend financial incentives designed to encourage farmers in Vermont to implement agricultural practices that exceed the requirements of 6 V.S.A. chapter 215 and that improve soil health, enhance crop resilience, increase carbon storage and stormwater storage capacity, and reduce agricultural runoff to waters. The Working Group shall:

(1) identify agricultural standards or practices that farmers can implement that improve soil health, enhance crop resilience, increase carbon storage and stormwater storage capacity, and reduce agricultural runoff to waters;

(2) recommend existing financial incentives available to farmers that could be modified or amended to incentivize implementation of the agricultural standards identified under subdivision (1) of this subsection or incentivize the reclamation or preservation of wetlands and floodplains;

(3) propose new financial incentives, including a source of revenue, for implementation of the agricultural standards identified under subdivision (1) of this subsection if existing financial incentives are inadequate or if the goal of implementation of the agricultural standards would be better served by a new financial incentive; and

(4) recommend legislative changes that may be required to implement any financial incentive recommended or proposed in the report.

(b) The Soil Conservation Practice and Payment for Ecosystem Services Working Group shall consist of persons with knowledge or expertise in agricultural water quality, soil health, economic development, or agricultural financing. The Secretary of Agriculture, Food and Markets shall appoint the members that are not ex officio members. The Working Group shall include the following members:

(1) the Secretary of Agriculture, Food and Markets or designee;

(2) the Secretary of Natural Resources or designee;

(3) the Commissioner of Forests, Parks and Recreation or designee

(4) a representative of the Vermont Housing and Conservation Board;

(5) a member of the former Dairy Water Collaborative;

- (6) a representative of the Farmer's Watershed Alliance;
- (7) a representative from the Champlain Valley Farmer Coalition;
- (8) a representative from the Connecticut River Watershed Farmers Alliance;
- (9) a representative of the Natural Resources Conservation Council;
- (10) a representative of the Gund Institute for Environment of the University of Vermont;
- (11) a representative of the University of Vermont (UVM) Extension;
- (12) at least two members of the Agricultural Water Quality Partnership;
- (13) a representative of small-scale, diversified farming; and
- (14) a member of the Vermont Healthy Soils Coalition.

(c) The Secretary of Agriculture, Food and Markets or designee shall be the chair of the Working Group, and the representative of the Vermont Housing and Conservation Board shall be the vice chair.

(d) On or before January 15, 2020, the Secretary of Agriculture, Food and Markets shall submit an interim report to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry regarding the progress of the Working Group. On or before January 15, 2021, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry a final report including the findings and recommendations of the Soil Conservation Practice and Payment for Ecosystem Services Working Group regarding financial incentives designed to encourage farmers in Vermont to implement agricultural practices that improve soil health, enhance crop resilience, and reduce agricultural runoff to waters.

* * * Clean Water Affinity Card * * *

Sec. 5. 32 V.S.A. § 584 is amended to read:

§ 584. VERMONT CLEAN WATER VERMONT STATE-SPONSORED
AFFINITY CARD PROGRAM

(a) The State Treasurer is hereby authorized to sponsor and participate in an Affinity Card Program for the benefit of water quality improvement in the residents of this State upon his or her determination that such a Program is feasible and may be procured at rates and terms in the best ~~interest~~ interests of the cardholders. ~~In selecting an affinity card issuer, the Treasurer shall consider the issuer's record of investments in the State and shall take into consideration~~

~~program features which will enhance the promotion of the State-sponsored affinity card, including consumer-friendly terms, favorable interest rates, annual fees, and other fees for using the card.~~

~~(b) In selecting an affinity card issuer, the Treasurer shall consider the issuer's record of investments in the State and shall take into consideration program features that will enhance the promotion of the State-sponsored affinity card, including consumer-friendly terms, favorable interest rates, annual fees, and other fees for using the card. The Treasurer shall consult with other State agencies about potential public purpose projects to be designated for the Program and shall allow cardholders to designate that funds be used either to support sustainable agricultural programs, renewable energy programs, State parks and forestland programs, or any combination of these. The net proceeds of the State fees or royalties generated by this program shall be transmitted to the State and shall be deposited in a State-sponsored Affinity Card Fund and subsequently transferred to the designated State programs and purposes as selected by the cardholders. The funds received shall be held by the Treasurer until transferred for the purposes directed by participating State-sponsored affinity cardholders in accordance with the trust fund provisions of section 462 of this title.~~

~~(c) The net proceeds of the State fees or royalties generated by the Vermont Clean Water Affinity Card Program shall be transmitted to the State and shall be deposited into the Clean Water Fund under 10 V.S.A. § 1388 to provide financial incentives to encourage farmers in Vermont to implement agricultural practices that improve soil health, enhance crop resilience, or reduce agricultural runoff to waters. All program balances at the end of the fiscal year shall be carried forward and shall not revert to the General Fund. Interest earned shall remain in the program.~~

~~(d) The State shall not assume any liability for lost or stolen credit cards nor any other legal debt owed to the financial institutions.~~

~~(e) The State Treasurer is authorized to adopt such rules as may be necessary to implement the Vermont Clean Water State-sponsored Affinity Card Program.~~

* * * On-Farm Slaughter * * *

Sec. 6. 2013 Acts and Resolves No. 83, Sec. 13, as amended by 2016 Acts and Resolves No. 98, Sec. 2, is amended to read:

6 V.S.A. § 3311a (livestock slaughter inspection and license exemptions) shall be repealed on July 1, ~~2019~~ 2023.

Sec. 7. 6 V.S.A. § 3311a is amended to read:

§ 3311a. LIVESTOCK; INSPECTION; LICENSING; PERSONAL
SLAUGHTER; ITINERANT SLAUGHTER

(a) As used in this section:

(1) “Assist in the slaughter of livestock” means the act of slaughtering or butchering an animal and shall not mean the farmer’s provision of a site on the farm for slaughter, provision of implements for slaughter, or the service of disposal of the carcass or offal from slaughter.

(2) “Sanitary conditions” means a site on a farm that is:

(A) clean and free of contaminants; and

(B) located or designed in a way to prevent:

(i) the occurrence of water pollution; and

(ii) the adulteration of the livestock or the slaughtered meat.

(b) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to the slaughter by an ~~individual owner~~ of livestock that the ~~individual owner~~ raised for the ~~individual’s owner’s~~ exclusive use or for the use of members of his or her household and his or her nonpaying guests and employees.

(c) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to the slaughter of livestock that occurs in a manner that meets all of the following requirements:

(1) ~~An individual~~ A person or persons purchases livestock from a farmer that raised the livestock.

(2) The farmer is registered with the Secretary, on a form provided by the Secretary, as selling livestock for slaughter under this subsection.

(3) The ~~individual~~ or individuals who purchased the livestock performs the act of slaughtering the livestock, as the owner of the livestock.

(4) The act of slaughter occurs, after approval from the farmer who sold the livestock, on a site on the farm where the livestock was purchased.

(5) The slaughter is conducted under sanitary conditions.

(6) The farmer who sold the livestock to the ~~individual~~ or individuals does not assist in the slaughter of the livestock.

(7) No more than the following number of livestock per year are slaughtered under this subsection:

- (A) 15 swine;
- (B) five cattle;
- (C) 40 sheep or goats; or

(D) any combination of swine, cattle, sheep, or goats, provided that no more than 6,000 pounds of the live weight of livestock are slaughtered per year.

(8) The farmer who sold the livestock to the individual or individuals maintains a record of each slaughter conducted under this subsection and reports quarterly to the Secretary, on a form provided by the Secretary, on or before April 15 for the calendar quarter ending March 31, on or before July 15 for the calendar quarter ending June 30, on or before October 15 for the calendar quarter ending September 30, and on or before January 15 for the calendar quarter ending December 31. If a farmer fails to report slaughter activity conducted under this subsection, the Secretary, in addition to any enforcement action available under this chapter or chapter 1 of this title, may suspend the authority of the farmer to sell animals to an individual or individuals for slaughter under this subsection.

(9) The slaughtered livestock may be halved or quartered by the individual or individuals who purchased the livestock but solely for the purpose of transport from the farm.

(10) The livestock is slaughtered according to a humane method, as that term is defined in subdivision 3131(6) of this title.

(d) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to an itinerant slaughterer engaged in the act of itinerant livestock slaughter or itinerant poultry slaughter.

(e) An itinerant slaughterer may slaughter livestock owned by a person on the farm where the livestock was raised under the following conditions:

(1) the meat from the slaughter of the livestock is distributed only as whole ~~or half~~, halved, or quartered carcasses to the person who owned the animal for his or her personal use or for use by members of his or her household or nonpaying guests; ~~and~~

(2) the slaughter is conducted under sanitary conditions; and

(3) the livestock is slaughtered according to a humane method, as that term is defined in subdivision 3131(6) of this title.

(f) A carcass or offal from slaughter conducted under this section shall be disposed of according to the requirements under the required agricultural practices for the management of agricultural waste.

* * * Animal Welfare; Traceability * * *

Sec. 8. 6 V.S.A. § 1152 is amended to read:

§ 1152. ADMINISTRATION; INSPECTION; TESTING; RECORDS

(a) The Secretary shall be responsible for the administration and enforcement of the livestock disease control program. The Secretary may appoint the State Veterinarian to manage the program, and other personnel as are necessary for the sound administration of the program.

(b) The Secretary shall maintain a public record of all permits issued and of all animals tested by the Agency of Agriculture, Food and Markets under this chapter for a period of five years.

(c) The Secretary may conduct any inspections, investigations, tests, diagnoses, or other reasonable steps necessary to discover and eliminate contagious diseases existing in domestic animals in this State. The Secretary shall investigate any reports of diseased animals, provided there are adequate resources. In carrying out the provisions of this part, the Secretary or his or her authorized agent may enter any real estate, premises, buildings, enclosures, or areas where animals may be found for the purpose of making reasonable inspections and tests. A livestock owner or the person in possession of the animal to be inspected, upon request of the Secretary, shall restrain the animal and make it available for inspection and testing.

(d) The Secretary may contract and cooperate with the U.S. Department of Agriculture, other federal agencies or states, and accredited veterinarians for the control and eradication of contagious diseases of animals. The Secretary shall consult and cooperate, as appropriate, with the Commissioners of Fish and Wildlife and of Health regarding the control of contagious diseases.

(e) If necessary, the Secretary shall set priorities for the use of the funds available to operate the program established by this chapter.

(f) Any commercial slaughterhouse operating in the State shall maintain and retain for three years records of the number of animals slaughtered at the facility, the physical address of origination of each animal, the date of slaughter of each animal, and all official identification numbers of slaughtered animals. A commercial slaughterhouse shall make the records required under this subsection available to the Agency upon request.

(g) Records produced or acquired by the Secretary under this chapter shall be available to the public, except that:

(1) the Secretary may withhold from inspection and copying records that are confidential under federal law; and

(2) the Secretary may withhold or redact a record to the extent needed to avoid disclosing directly or indirectly the identity of individual persons, households, or businesses.

Sec. 9. 6 V.S.A. § 1470 is added to read:

§ 1470. RECORDS

(a) A commercial slaughter facility operating in the State shall maintain and retain for three years records of the number of animals slaughtered at the facility, the physical address of origination of each animal, the date of slaughter of each animal, and all official identification numbers of slaughtered animals. A commercial slaughterhouse shall make the records required under this subsection available to the Agency upon request.

(b) Records produced or acquired by the Secretary under this chapter shall be available to the public for inspection and copying, except that:

(1) the Secretary may withhold from inspection and copying records that are confidential under federal law; and

(2) the Secretary may withhold or redact a record to the extent needed to avoid disclosing directly or indirectly the identity of individual persons, households, or businesses.

Sec. 10. REPORT ON RADIO FREQUENCY IDENTIFICATION FOR LIVESTOCK

On or before January 15, 2020, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committees on Agriculture and on Appropriations and the House Committees on Agriculture and Forestry and on Appropriations a report regarding the use of radio frequency identification (RFID) tags and readers by livestock owners and federally inspected commercial slaughter facilities in the State. The Secretary shall consult with the Vermont Grass Farmers Association, the Vermont Sheep and Goat Association, and the Vermont Agricultural Fairs Association in the development of the report. The report shall include:

(1) a summary of the current Agency of Agriculture, Food and Markets practice of providing metal or plastic animal identification tags to livestock owners at no or low cost;

(2) a summary of any existing or pending federal requirements for the use of RFID tags and readers by livestock owners or federally inspected commercial slaughter facilities;

(3) a summary of how RFID tags and readers are used to manage livestock or track animals through the slaughter process, including the benefits of RFID in comparison to metal or plastic animal identification tags;

(4) an analysis of whether RFID tags and readers are beneficial for the management or slaughter of all livestock, including whether use of RFID tags and readers is appropriate for certain livestock types, small farms, or small slaughter facilities;

(5) an estimate of the cost of equipping a farm or a federally inspected commercial slaughter facility with RFID tags and readers; and

(6) a recommendation of whether the State should provide financial assistance to livestock owners or federally inspected commercial slaughter facilities for the purchase of RFID tags and readers, including eligibility requirements, cost-share, timing, or other criteria recommended by the Secretary of Agriculture, Food and Markets for the provision of RFID tags and readers to livestock owners or federally inspected commercial slaughter facilities in in the State.

* * * Vermont Forest Carbon Sequestration Working Group * * *

Sec. 11. VERMONT FOREST CARBON SEQUESTRATION WORKING GROUP; REPORT

(a) Creation. There is created the Vermont Forest Carbon Sequestration Working Group to study how to create a Statewide program to facilitate the enrollment of Vermont forestlands in carbon sequestration markets.

(b) Membership. The Working Group shall be composed of the following members:

(1) two members of the House of Representatives, not from the same political party, appointed by the Speaker of the House;

(2) two members from the Senate, not from the same political party, appointed by the Committee on Committees;

(3) the Secretary of Natural Resources or designee;

(4) four persons with expertise of or experience with the requirements for participating in carbon sequestration markets, two appointed by the Speaker of the House and two appointed by the Committee on Committees; and

(5) a private landowner or a representative of an association or organization representing private landowners, appointed by the Governor.

(c) Powers and duties. The Working Group shall study how to create a statewide program to facilitate the enrollment of Vermont forestlands in carbon sequestration markets, and shall:

(1) evaluate the current status of carbon sequestration markets, including:

(A) review of available information on the feasibility of enrolling public and private land from Vermont in a carbon sequestration market, including review of existing feasibility analyses specific to the development of forest carbon sequestration projects in New England and Vermont;

(B) examples from forest carbon sequestration project development on public land in other states; and

(C) if available, technical assistance programs developed by other states and organizations to assist private landowners in engaging in carbon sequestration markets;

(2) evaluate the economic and environmental case for encouraging forest carbon sequestration offset projects in Vermont;

(3) analyze how to best market and sell carbon credits from State-owned and privately owned forestland in carbon sequestration markets;

(4) determine how to develop economies of scale in marketing and selling carbon credits in carbon sequestration markets;

(5) evaluate how to utilize financial incentives and existing forest management and certification programs and Vermont's Use Value Appraisal program to maximize the potential value of forestland in carbon sequestration markets while also enhancing conservation and other goals;

(6) review how to structure and regulate a Statewide program to facilitate the enrollment of Vermont forestlands in carbon sequestration markets, including how the program should be governed, whether the program should be governed by a State agency, how forestland will be assessed and enrolled, how parcels and landowners will enter and leave the program, how landowners will be paid, and how requirements and standards concerning forest management will be applied and enforced;

(7) estimate expected revenue from enrolling forestland in carbon markets and how that revenue should be allocated to:

(A) support the governance structure, management, and oversight of the program;

(B) fairly compensate landowners; and

(C) encourage enrollment in the program; and

(8) any other issue the Working Group deems relevant to designing and implementing a statewide program to facilitate the enrollment of Vermont forestlands in carbon sequestration markets.

(d) Assistance. The Working Group shall have the technical and legal assistance of the Agency of Natural Resources. The Working Group shall have the administrative and legislative drafting assistance of the Office of Legislative Council. The Working Group may consult with stakeholders and experts in relevant subject areas, including carbon markets, forest management strategies, and parcel mapping.

(e) Report. On or before January 15, 2020, the Working Group shall submit a written report to the House Committees on Agriculture and Forestry, on Natural Resources, Fish, and Wildlife, and on Energy and Technology and to the Senate Committees on Agriculture and on Natural Resources and Energy. The report shall include:

(1) specific and detailed findings and proposals concerning the issues set forth in subsection (c);

(2) a proposal for a pilot project to enroll State-owned forestland in a carbon sequestration market; and

(3) any recommendations for legislative or regulatory action.

(f) Meetings.

(1) The Secretary of Natural Resources or designee shall call the first meeting of the Working Group to occur on or before July 15, 2019.

(2) The Secretary of Natural Resources or designee shall be the chair.

(3) A majority of the membership shall constitute a quorum.

(4) The Working Group shall meet as often as necessary and shall cease to exist on January 31, 2020.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Working Group shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A.

§ 406. These payments shall be made from monies appropriated to the General Assembly.

(2) Any nonlegislative member of the Working Group who is a State employee shall not be entitled to per diem compensation or reimbursement of expenses. Any member of the Working Group who is not a State employee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for any meeting he or she attended in person. These payments shall be made from monies appropriated to the Agency of Natural Resources.

* * * Logger Safety * * *

Sec. 12. 10 V.S.A. §§ 2622b and 2622c are added to read:

§ 2622b. ACCIDENT PREVENTION AND SAFETY TRAINING FOR LOGGING CONTRACTORS

(a) Training Program. The Commissioner of Forests, Parks and Recreation shall develop a logging operations accident prevention and safety training curriculum and supporting materials to assist logging safety instructors in providing logging safety instruction. In developing the logging operations accident prevention and safety training curriculum and supporting materials, the Commissioner shall consult with and seek the approval of the training curriculum by the Workers' Compensation and Safety Division of the Department of Labor.

(1) The accident prevention and safety training curriculum and supporting materials shall consist of an accident prevention and safety course that addresses the following:

(A) safe performance of standard logging practices, whether mechanized or nonmechanized;

(B) safe use, operation, and maintenance of tools, machines, and vehicles typically utilized and operated in the logging industry; and

(C) recognition of health and safety hazards associated with logging practices.

(2) The Commissioner shall make the accident prevention and safety training curriculum and supporting materials available to persons, organizations, or groups for presentation to individuals being trained in forest operations and safety.

(b) Request for proposal. The Commissioner shall prepare and issue a request for proposal to develop at least three course curriculums and associated

training materials. The Commissioner may cooperate with any reputable association, organization, or agency to provide course curriculums and training required under this subsection.

(c) Certificate of completion. The Commissioner, any logging safety instructor, or a logger safety certification organization shall issue a certificate of completion to each person who satisfactorily completes a logging operations accident prevention and safety training program based on the curriculum developed under this section.

§ 2622c. FINANCIAL ASSISTANCE; LOGGER SAFETY; MASTER
LOGGER CERTIFICATION; COST-SHARE

(a) The Commissioner of Forests, Parks and Recreation annually shall award a grant to the Vermont Logger Education to Advance Professionalism (LEAP) program for the purpose of providing financial assistance to:

(1) logging contractors to reduce the total costs of logger safety training or continuing education in logger safety; and

(2) the Trust to Conserve Northeast Forestlands for the purpose of cost sharing the certification of logging contractors participating in the Master Logger Program.

(b) Financial assistance to the LEAP program and to the Trust to Conserve Northeast Forestlands shall be in the form of grants. The following costs to a logging contractor shall be eligible for assistance:

(1) the costs of safety training, continuing education, or a loss prevention consultation;

(2) the costs of certification under the Master Logger Program administered by the Trust to Conserve Northeast Forestlands; or

(3) the costs of completion of a logging career technical education program.

(c) A grant awarded under this section shall pay up to 50 percent of the cost of an eligible activity.

(d) Of the grant funds awarded annually by the Commissioner of Forests, Parks and Recreation under subsection (a) of this section, the Commissioner annually shall award grants to pay for up to 50 percent, but not more than \$1,500.00, of the costs of the initial certification of up to 10 logging contractors enrolled in the Master Logger Certification Program through the Trust to Conserve Northeast Forestlands.

Sec. 13. 10 V.S.A. § 2702 is added to read:

§ 2702. VALUE-ADDED FOREST PRODUCTS; FINANCIAL ASSISTANCE

The Commissioner shall award grants of up to \$10,000.00 to applicants engaged in adding value to forest products within the State. A grant awarded under this section may be used by the applicant to pay for expenses associated with State and local permit application costs, project consultation costs, engineering and siting costs, and expert witness analysis and testimony necessary for permitting.

Sec. 14. IMPLEMENTATION OF LOGGER SAFETY AND VALUE-ADDED PRODUCTS PROGRAMS; FUNDING

The Commissioner of Forests, Parks and Recreation shall not implement the programs established under 10 V.S.A. §§ 2622b and 2622c (logger safety) and under 10 V.S.A. § 2702 (value-added forest products) unless and until appropriations to implement the programs are approved by the General Assembly for fiscal year 2020.

* * * Wetlands; Environmental Permitting Fees * * *

Sec. 15. REPEAL OF SUNSET OF FEE FOR PIPELINES IN WETLAND

2018 Acts and Resolves No. 194, Sec. 8a (sunset of maximum fee for manure pipeline in wetland) is repealed.

Sec. 16. 3 V.S.A. § 2822(j) is amended to read:

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the Agency of Natural Resources.

* * *

(26) For individual conditional use determinations, for individual wetland permits, for general conditional use determinations issued under 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit, an administrative processing fee assessed under subdivision (2) of this subsection and an application fee of:

(A) \$0.75 per square foot of proposed impact to Class I or II wetlands.

(B) \$0.25 per square foot of proposed impact to Class I or II wetland buffers.

* * *

(H) Maximum fee, for the construction of any water quality improvement project in any Class II wetland or buffer, \$200.00 per application. As used in this subdivision, “water quality improvement project” means projects specifically designed and implemented to reduce pollutant loading in accordance with the requirements of a Total Maximum Daily Load Implementation Plan or Water Quality Remediation Plan, or pursuant to a plan for reducing pollutant loading to a waterbody. These projects include:

(i) the retrofit of impervious surfaces in existence as of January 1, 2019 for the purpose of addressing stormwater runoff;

(ii) the replacement of stream-crossing structures necessary to improve aquatic organism passage, stream flow, or flood capacity;

(iii) construction of the following conservation practices on farms, when constructed and maintained in accordance with Natural Resources Conservation Service Conservation Practice Standards for Vermont and the Agency of Agriculture, Food and Markets’ Required Agricultural Practices:

(I) construction of animal trails and walkways;

(II) construction of access roads;

(III) designation and construction of a heavy-use protection area;

(IV) construction of artificial wetlands; and

(V) the relocation of structures, when necessary, to allow for the management and treatment of agricultural waste, as defined in the Required Agricultural Practices Rule.

(I) Maximum fee for the construction of a permanent structure used for farming, \$5,000.00, provided that the maximum fee for a waste storage facility or bunker silo shall be \$200.00 when constructed and maintained in accordance with Natural Resources Conservation Service Conservation Practice Standards for Vermont and the Agency of Agriculture, Food and Markets’ Required Agricultural Practices.

Sec. 17. WETLAND SCIENTIST LICENSURE REQUIREMENTS

The Agency of Natural Resources shall commence a study of potential approaches to licensing and certifying qualified wetlands scientists, including developing a set of standard qualifications required for all professional wetland scientists. On or before January 1, 2024, the Agency shall submit a report to the Legislature summarizing its findings and providing recommendations for the development of a professional certification program for wetland scientists.

* * * Advanced Wood Boilers * * *

Sec. 18. 2018 Acts and Resolves No. 194, Sec. 26b is amended to read:

Sec. 26b. REPEALS

(a) 32 V.S.A. § 9741(52) (sales tax exemption for advanced wood boilers) shall be repealed on July 1, ~~2021~~ 2023.

(b) Sec. 26a of this act (transfer from CEDF) shall be repealed on July 1, ~~2021~~ 2023.

* * * Composting; Food Residuals * * *

Sec. 19. 10 V.S.A. § 6607a(g) is amended to read:

(g)(1) Except as set forth in subdivisions (2), (3), and (4) of this subsection, a commercial hauler that offers the collection of municipal solid waste:

(A) Beginning on July 1, 2015, shall offer to collect mandated recyclables separate from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning on July 1, 2020, shall offer to nonresidential customers and apartment buildings with four or more residential units the collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title. Commercial haulers shall not be required to offer collection of food residuals if another commercial hauler provides collection services for food residuals in the same area and has sufficient capacity to provide service to all customers.

* * *

* * * Pesticide Regulation * * *

Sec. 20. 6 V.S.A. § 642 is amended to read:

§ 642. DUTIES AND AUTHORITY OF THE SECRETARY

(a) The Secretary shall enforce and carry out the provisions of this subchapter, including:

(1) Sampling, inspecting, making analysis of, and testing seeds subject to the provisions of this subchapter that are transported, sold, or offered or exposed for sale within the State for sowing purposes. The Secretary shall notify promptly a person who sells, offers, or exposes seeds for sale and, if appropriate, the person who labels or transports seeds, of any violation and

seizure of the seeds, or order to cease sale of the seeds under section 643 of this title.

(2) Making or providing for purity and germination tests of seed for farmers and dealers on request and to fix and collect charges for the tests made.

(3) Cooperating with the U.S. Department of Agriculture and other agencies in seed law enforcement.

(4) Prior to sale, distribution, or use of a new genetically engineered seed in the State and after consultation with a seed review committee convened under subsection (c) of this section, review the traits of the new genetically engineered seed. The Secretary may prohibit, restrict, condition, or limit the sale, distribution, or use of the seed in the State when determined necessary to prevent an adverse effect on agriculture in the State.

(b) The Secretary shall establish rules to carry out the provisions of this subchapter, including those governing the methods of sampling, inspecting, analyzing, testing, and examining seeds and reasonable standards for seed.

(c)(1) The Secretary shall convene a seed review committee to review the seed traits of a new genetically engineered seed proposed for sale, distribution, or use in the State.

(2) A seed review committee convened under this subsection shall be comprised of the Secretary of Agriculture, Food and Markets or designee and the following members appointed by the Secretary:

(A) a certified commercial agricultural pesticide applicator;

(B) an agronomist or relevant crop specialist from the University of Vermont or Vermont Technical College;

(C) a licensed seed dealer; and

(D) a member of a farming sector affected by the new genetically engineered seed.

(3) A majority of the seed review committee must approve of the sale, distribution, or use of a new genetically engineered seed prior to sale, distribution, or use in the State. In order to ensure the appropriate use or traits of a new genetically engineered seed in the State, a seed review committee may propose to the Secretary limits or conditions on the sale, distribution, or use of a seed or recommend a limited period of time for sale of the seed.

* * * Dairy Sanitation Rules * * *

Sec. 21. 6 V.S.A. § 2701 is amended to read:

§ 2701. RULES

(a) The Secretary, in accordance with 3 V.S.A. chapter 25, shall adopt, and may amend and rescind, dairy sanitation rules relating to dairy products to enforce this chapter, including labeling, weighing, measuring and testing facilities, buildings, equipment, methods, procedures, health of animals, health and capability of personnel, and quality standards. In addition, the uniform regulation for sanitation requirements, as adopted by the National Conference on Interstate Milk Shippers, and published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Grade A Pasteurized Milk Ordinance (PMO), as amended, supplemented, or revised, are adopted as part of this chapter, ~~except as modified or rejected by rule that any exemption to the preventative controls for human food requirements for Grade "A" milk and milk products for a very small business, as defined in the PMO and federal regulations, shall not apply.~~ The Secretary may modify or reject by rule the PMO. When adherence to the PMO is deemed unreasonable by the Agency for non-Grade "A" products, the most current version of the Recommended Requirements of the U.S. Department of Agriculture, Agricultural Marketing Service, Milk for Manufacturing Purposes and its Production and Processing may be used.

* * *

* * * Effective Dates * * *

Sec. 22. EFFECTIVE DATES

(a) This section and Secs. 15 (repeal of sunset on maximum wetland fee), 16 (wetlands permit fees), and 17 (wetlands scientist licensing) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2019.

(Committee vote: 8-0-0)

(For text see Senate Journal March 27, 2019)

Information Notice

May 8, 2019 - Room 11 - 5:00-7:00 P.M. - Hearing held by House Government Operations Committee on Constitutional Proposal 2- Declaration of Rights; Clarifying the prohibition on slavery and indentured servitude.