Friday, January 24, 2020
18th DAY OF THE ADJOURNED SESSION
House Convenes at 9:30 A.M.

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H.C.R. 225 Recognizing Nurse Anesthetists

H.C.R. 226 In memory of East Montpelier firefighting veteran William Howard George Jr.

S.C.R. 17 Senate concurrent resolution congratulating the 2019 Burr and Burton Academy Bulldogs Division I football championship team
ORDERS OF THE DAY

ACTION CALENDAR

Committee of Conference Report

S. 23

An act relating to increasing the minimum wage

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S. 23 An act relating to increasing the minimum wage

Respectfully report that they have met and considered the same and recommend that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 384(a) is amended to read:

(a)(1) An employer shall not employ any employee at a rate of less than $9.15. Beginning on January 1, 2016, an employer shall not employ any employee at a rate of less than $9.60. Beginning on January 1, 2017, an employer shall not employ any employee at a rate of less than $10.00. Beginning on January 1, 2018, an employer shall not employ any employee at a rate of less than $10.50, and beginning $10.96. Beginning on January 1, 2019 January 1, 2021, an employer shall not employ any employee at a rate of less than $11.75. Beginning on January 1, 2022, an employer shall not employ any employee at a rate of less than $12.55, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest $0.01.

(2) An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than one-half the minimum wage. As used in this subsection, “a service or tipped employee” means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than $120.00 per month in tips for direct and personal customer service.

(3) If the minimum wage rate established by the U.S. government is
greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the U.S. government.

Sec. 2.  TIPPED AND STUDENT MINIMUM WAGE STUDY; REPORT

On or before January 15, 2021, the Office of Legislative Council and the Joint Fiscal Office shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding the potential effects of altering or eliminating the basic wage rate for tipped employees in Vermont and of eliminating the subminimum wage for secondary school students during the school year. In particular, the report shall:

(1) for states that have eliminated their tipped minimum wage, examine available research and information regarding the impact on:

(A) jobs, prices, and the state economy; and

(B) the welfare of tipped workers, women, and working families with children;

(2) for states that have increased their tipped wage during the last 10 years, examine available research and information regarding the impact on:

(A) jobs, prices, and the state economy; and

(B) the welfare of tipped workers, women, and working families with children;

(3) for states that have decoupled their tipped wage from the standard minimum wage during the last 10 years, examine available research and information regarding the impact on:

(A) jobs, prices, and the state economy; and

(B) the welfare of tipped workers, women, and working families with children;

(4) examine any available research and information regarding the projected impact in Vermont of altering or eliminating the basic wage rate for tipped employees on:

(A) jobs, prices, and the State economy; and

(B) the welfare of tipped workers, women, and working families with children;

(5) for states that have eliminated a subminimum wage for secondary school students, examine available research and information regarding the impact on:
(A) jobs, prices, and the state economy; and
(B) the welfare of individuals under 22 years of age; and

(6) for Vermont, examine available research and information regarding the projected impact in Vermont of eliminating the subminimum wage for secondary school students on:

(A) jobs, prices, and the State economy; and
(B) the welfare of individuals under 22 years of age.

Sec. 3. WAGE AND HOUR LAWS FOR AGRICULTURAL WORKERS;

REPORT

On or before January 15, 2021, the Office of Legislative Council shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding the wage and hour laws for agricultural workers. In particular, the report shall:

(1) examine the overlapping legal requirements of Vermont’s wage and hour laws, the federal Fair Labor Standards Act, and other federal employment laws with respect to agricultural employees and employers; and

(2) summarize how other states’ wage and hour laws address agricultural employees and employers.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2020.
NOTICE CALENDAR
Favorable with Amendment

H. 606

An act relating to regulating storage units

Rep. Morris of Springfield, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after
the enacting clause and inserting in lieu thereof the following:

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

Sec. 1. 9 V.S.A. chapter 98 is amended to read:

CHAPTER 98. STORAGE UNITS

§ 3901. DEFINITIONS

As used in this chapter, the following terms shall have the following meanings:

(1) “Default” means the violation or failure to perform a duty or obligation created in this chapter or in a rental agreement.

(2) “Electronic mail” means the transmission of information through computer or other electronic means, or a communication sent to a person identified by a unique electronic address.

(3) “Last known address” means that the mailing address, and the e-mail address if applicable, provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.

(4)(A) “Late fee” means a fee or charge assessed for an occupant’s failure to pay rent or other fees, charges, or expenses when due.

(B) “Late fee” does not include:

(i) interest on a debt;

(ii) reasonable expenses, fees, or charges incurred in the collection of unpaid rent or expenses; or

(iii) fees or charges associated with the enforcement of any other remedy provided by law or a rental agreement.

(2)(5) “Occupant” means a person, successor, assignee, agent, or representative entitled to the use of the storage space in a self-storage facility under a rental agreement to the exclusion of others.
“Owner” means the owner, operator, lessor, or sublessor of a self-storage facility, an agent, or any other person authorized by the owner to manage the facility or to receive rent from an occupant under a rental agreement.

“Personal information” means written information about a person that is not publicly available and that readily identifies that person or is closely associated with that person, including a Social Security number, credit or debit card information, a bank account number, medical information, or passport information.

“Personal property” means movable property not affixed to land, and includes goods, merchandise, and household items.

“Rental agreement” means any written agreement that establishes or modifies the terms, conditions, rules, or any other provision concerning the use and occupancy of a self-storage facility storage space.

“Self-storage facility” means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such space for the purpose of storing and removing personal property.

A self-storage facility is not a “warehouse” as used in Article 7 of the Uniform Commercial Code (U.C.C.) as codified in Title defined in 9A § 7-102. If an owner issues any warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner and the occupant are subject to the U.C.C., and this act does not apply.

“Storage space” means the individual space at a self-storage facility that is rented to an occupant under a rental agreement.

§ 3902. RESIDENTIAL PURPOSES

(a) No occupant shall use storage space at a self-storage facility for residential purposes.

(b) No owner shall knowingly permit the use of a storage space at a self-storage facility to be used for residential purposes.

§ 3903. DISCLOSURES

(a) A rental agreement shall contain the following:

(1) The name and address of the owner and occupant;

(2) The actual monthly occupancy charge, rent, or lease amount for the storage space provided, expressed in dollars;
(3) An itemization of other charges imposed or which may be imposed in connection with
(A) disclosure of the charges the owner may impose for the occupancy;
(B) a description of the charges;
(C) whether the charges are mandatory or optional; and
(D) the amount of each charge expressed in dollars.

(4) A statement of a provision that states:
(A) whether property stored in the leased storage space is or is not insured by the owner against loss or damage; and
(B) of the requirement that the occupant must provide his or her own insurance for any property stored.

(5) A statement advising notice to an occupant that:
(A) the occupant of the existence of the lien created by this chapter, this chapter creates a lien on property stored in the storage space;
(B) that the owner may sell the property stored in the leased storage space may be sold to satisfy the lien, and;
(C) that the owner shall not be liable for damage, loss, or alienation of items of sentimental nature or value; and
(D) if the owner offers notice by electronic mail, the occupant may elect to receive notice by electronic mail only by indicating the election in the rental agreement.

(b) If a rental agreement contains a limit on the value of property that may be stored in a storage space, the limit is deemed to be the maximum value of the property in the storage space and the maximum liability of the owner for any claim.

(c)(1) An owner may impose a late fee of not more than $20.00 or 20 percent of a rental payment, whichever is greater, for each service period that an occupant does not pay the rent, charges, fees, or expenses when due.
(2) An owner shall not impose a late fee if the occupant pays the rent, charges, fees, and expenses in full not later than five days after the due date.
(3) An owner shall not impose a late fee unless the amount of the fee and the conditions for imposing that fee are stated in the rental agreement.
(d) Except as otherwise provided in a rental agreement, an occupant has the exclusive care, custody, and control of property in a storage space until the property is sold or otherwise disposed pursuant to this chapter.

(e) The disclosures required under subdivisions (a)(4) and (a)(5) and subsections (b)–(d) of this section shall be written in bold type and of a font size equal to or greater than the general text of the agreement.

§ 3904. LIEN

The owner of a self-storage facility

(a) An owner has a possessory lien upon all personal property located in a storage space at a self-storage facility for:

   (1) rent;
   (2) labor;
   (3) late fees or other charges, present or future, in relation to the personal property; and
   (4) for expenses relevant to its preservation or expenses reasonably incurred in its arising from the preservation or sale of the property pursuant to this chapter.

(b) The lien created in this section attaches as of the date the personal property is brought to or placed in a regular storage space at a self-storage facility in accordance with the provisions of a valid rental agreement.

§ 3905. ENFORCEMENT OF LIEN

In the event of a default under the terms of a rental agreement, the lien created under this chapter may be enforced in accordance with the provisions of this section. If an occupant defaults under a rental agreement, the owner may enforce the lien created in section 3904 of this title pursuant to this section.

(1) First notice of default. No sooner than seven days after a default, the owner shall notify the occupant of the default by regular mail or electronic mail sent to his or her last known address.

(2) Second notice of default.

   (A) No sooner than 14 days after mailing of the first notice, the owner shall notify the occupant of the default by certified mail, first-class mail with a certificate of mailing, or electronic mail sent to his or her last known address.
(B) If the owner sent the second notice of default to the occupant by electronic mail and does not receive a response, return receipt, or delivery confirmation from the same electronic mail address within two days, then before proceeding with a sale the owner shall send the notice to the occupant either by certified mail or by first-class mail with a certificate of mailing.

(C) The second notice shall contain the following:

(A)(i) An itemized statement of the owner’s claim showing the sum due at the time of the notice and the date when the sum became due.

(B)(ii) A brief and general description of the personal property subject to the lien. There shall be no requirement An owner is not required to describe the specific contents of a storage space in a self-storage facility beyond stating that it is the contents of a specific storage space in a specific self-storage facility rented by a specific occupant.

(C)(iii) A notice of denial of access to the personal property, if such denial is permitted under the terms of the rental agreement.

(D)(iv) A demand for payment within a specified time not less than fifteen days after the mailing of the second notice of default.

(E)(v) A conspicuous statement that unless the claim is paid in full within the time stated in the notice, the personal property will be advertised for sale and sold according to law.

(3) Advertisement. Except as otherwise provided in subdivision (C) or (D) of this subdivision (3):

(A) After the expiration of the time given in the second notice under subdivision (2) of this section, the owner shall publish an advertisement of the sale shall be published once a week for two consecutive weeks in the print or electronic version of a newspaper of general circulation where the self-storage facility is located.

(B) The advertisement shall contain the following:

(A)(i) A brief and general description of the personal property as provided in subdivision (2)(B) of this section;

(B)(ii) The address of the self-storage facility; and

(iii) the number, if any, of the space where the personal property is located;

(iv) the name of the occupant; and

(v) the time, place, and manner of the sale.
(C) The time, place, and manner of the sale. If there is no newspaper of general circulation where the self-storage facility is located, the owner shall post the advertisement shall be posted at least 15 days before the date of the sale at the town hall where the self-storage facility is located in such fashion the same manner as the auction sales of real property are posted.

(D) A sale or other disposition of goods as provided for in this chapter shall not be defeated or deemed not in compliance with this provisions of this chapter if the owner attempted, but was not able to obtain personal service on those persons entitled to notice or if the certified mail return receipt is not signed by the person to whom notice must be sent, unless the owner fails to publish in accordance with this section. As an alternative to the advertisement required in subdivisions (A)–(C) of this subdivision (3), an owner may advertise the sale of personal property in a commercially reasonable manner. For purposes of this subdivision (D), a manner of advertisement is commercially reasonable if three or more independent bidders attend or view the sale.

(4) Notice to other lienholders. Before the expiration of the time given in the second notice under subdivision (2) of this section, the owner shall determine whether the occupant owns any personal property subject to an active lien registered with the Vermont Secretary of State. If any such lien exists, the owner shall notify the lienholder shall be notified by certified mail not less than 21 days prior to the sale of the property. The notice shall include the following:

(A) A statement describing the property to be sold. There shall be no requirement to describe the specific contents of a storage space in a self-storage facility beyond stating that it is the contents of a specific storage space in a specific self-storage facility rented by a specific occupant.

(B) A statement of the lienholder’s rights under this chapter.

(C) A statement of the time, place, and manner of the sale of the property.

(5) Delivery. For purposes of this chapter:

(A) notice by regular mail or first-class mail with a certificate of mailing is delivered when deposited with the U.S. Postal Service if the mail is properly addressed to the occupant’s last known address and postage is prepaid; and

(B) notice by electronic mail is delivered when properly addressed and sent to an occupant’s last known electronic mail address.
(6) Sale. Upon fulfillment of the notification and advertisement requirements of this section, sale of the personal property shall be permitted, provided the following conditions are met:

(A) An owner that fulfills the notice and advertisement requirements of this section may sell personal property stored in a storage space, subject to the following conditions:

(A) The sale of the personal property shall take place

(i) the sale occurs not sooner than 15 days after the first publication under subdivision (3) of this section;

(B) Any sale of the personal property under this chapter shall conform

(ii) the sale conforms to the terms of all the notifications required under this section; or, if the sale will not or does not take place as provided for in the notifications, then the owner makes subsequent notifications shall be made in the same manner as the original notifications had been made consistent with this section;

(iii) subject to subdivision (6)(C) of this section, the owner does not knowingly sell personal information contained in the storage space;

(C) Any sale of the personal property shall be

(iv) the sale is held at the self-storage facility, or at the nearest suitable place, or on a publicly accessible website;

(D) Any sale of the personal property shall be

(v) the owner does not purchase personal property at the sale; and

(vi) the sale is performed in a commercially reasonable manner, meaning the owner sells the goods in the usual manner in any recognized market therefor, at the price current in such market at the time of the sale; or otherwise sold in conformity with.

(B) For purposes of subdivision (6)(A)(v) of this section:

(i) A sale is commercially reasonable if it conforms to commercially reasonable practices within a recognized market for the goods or among dealers in the type of goods sold; however,

(ii) the sale of more goods than apparently necessary to ensure satisfaction of the satisfy an occupant’s obligation is not commercially reasonable unless necessary due to the nature of the goods being sold or the manner in which they are customarily sold.
(iii) The fact that an owner could obtain a better price could have been obtained by sale at a different time or by a different method from that selected by the owner is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner.

(C)(i) If an owner has a reasonable belief that storage space contains the personal information of an occupant or clients, customers, or others with whom the occupant does business, the owner shall not hold a lien sale of the personal information and may destroy the personal information without liability to any person.

(ii) Before taking possession of any personal property sold, a purchaser shall acknowledge that if any of the contents contain personal information, the purchaser will return the personal information to the owner, which the owner may destroy without liability to any person.

(E)(D) Any Except as provided in subdivision (7) of this section, an owner shall conduct a sale or disposition of a motor vehicle shall be performed pursuant to 23 V.S.A. chapter 21 and any a sale or disposition of a vessel, snowmobile, or all-terrain vehicle shall be performed pursuant to 23 V.S.A. chapter 36.

(7) Towing.

(A) If rent, charges, fees, or expenses remain unpaid after 51 days, an owner may have a vehicle, vessel, snowmobile, trailer, or all-terrain vehicle towed away by a towing company.

(B) Not later than five days after having personal property towed pursuant to this subdivision (7), an owner shall notify the occupant by regular mail or electronic mail at the occupant’s last known address and shall include the name, address, and telephone number of the towing company.

(C) An owner has no liability to any person for having property towed or for damage to the property after the towing company takes possession of the property.

(6)(8) Right of satisfaction.

(A) Before any a sale of personal property pursuant to this chapter, the occupant may pay redeem the property by paying the amount necessary to satisfy the lien in full and the reasonable expenses incurred under this section, and thereby redeem the personal property.

(B) Upon receipt of such payment, the owner shall return the personal property, and thereafter the owner shall have no liability is not liable to any person with respect to such the personal property.
(7) Proceeds in excess of lien amount.

(A) In the event of sale under this section, the owner that sells property pursuant to this section:

(i) may satisfy the owner’s lien from the proceeds of the sale, but;

and

(ii) shall hold the balance, if any, for delivery on demand to the occupant.

(B) If the occupant does not claim the balance of the proceeds such funds shall be paid over, the owner shall deliver the balance without interest to the Treasurer of the State of Vermont in accordance with 27 V.S.A. chapter 14.

(8) Rights of other lienholders. The holder of any perfected lien or security interest on personal property stored in the storage unit and registered with the Vermont Secretary of State may take possession of its liened property at any time prior to sale or other disposition.

(9) Rights of purchasers. A purchaser in good faith of the personal property sold to satisfy a lien, as provided elsewhere in this chapter, takes the property free of any rights of persons against whom the lien was valid, despite noncompliance by the owner with the requirements of this chapter.

(12) Disposal of personal property. If an owner complies with the requirements of this section and a qualified buyer does not purchase the property offered for sale, the owner may dispose of the property without liability.

(13) Liability. An owner that has complied with the applicable provisions of this chapter is not liable to an occupant, lienholder, or any other person.

§ 3906. SCOPE; SUPPLEMENTAL NATURE OF ACT

(a) If an owner issues a warehouse receipt, bill of lading, or other document of title for the personal property stored in a self-storage facility, the owner and the occupant are subject to Title 9A and this chapter does not apply.

(b) Nothing in this chapter shall be construed in any manner to impair or affect the right of parties to create liens by special contract or agreement, nor shall it in any manner affect or impair other liens arising at common law or in equity, or by any statute in this State.

* * *
Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 11-0-0)

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today’s adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary’s office and/or the House Clerk’s office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of January 23, 2020.

H.C.R. 201

House concurrent resolution congratulating Robert Sausville on his 100th birthday

H.C.R. 204

House concurrent resolution congratulating the 2019 Champlain Valley Union High School Redhawks boys’ volleyball program on winning a fourth consecutive State championship

H.C.R. 205

House concurrent resolution congratulating the 2019 Champlain Valley Union High School Redhawks State championship girls’ volleyball team

H.C.R. 206

House concurrent resolution congratulating the 2019 Champlain Valley Union High School Redhawks Division I boys’ cross-country championship team

H.C.R. 207

House concurrent resolution congratulating the 2019 Champlain Valley Union High School Redhawks Division I championship girls’ cross-country team

H.C.R. 208

House concurrent resolution congratulating the Champlain Valley Union High School Redhawks Division I boys’ soccer program on winning a second consecutive Division I championship
H.C.R. 209
House concurrent resolution congratulating the 2019 Champlain Valley Union High School Redhawks girls’ soccer program on winning a third consecutive Division I championship

H.C.R. 210
House concurrent resolution congratulating the Champlain Valley Union High School Redhawks on winning a second consecutive Division I boys’ golf championship

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House concurrent resolution in memory of former Representative Doris Mills (Lingelbach) Brettell

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House concurrent resolution congratulating Nancy Baker on her receipt of a 2019 Vermont Outstanding Teacher Award

H.C.R. 225
House concurrent resolution recognizing Nurse Anesthetists

H.C.R. 226
House concurrent resolution in memory of East Montpelier firefighting veteran William Howard George Jr.

S.C.R. 17
Senate concurrent resolution congratulating the 2019 Burr and Burton Academy Bulldogs Division I football championship team.

Public Hearings
January 28, 2020; Room 11; 4:30-6:30 PM for Literacy Bills (awaiting Bill #s)
- Literacy Instruction by the House Committee on Education, Rep. Kathleen James, Clerk of the Committee; Avery Lamb, Committee Assistant
PUBLIC HEARING
Joint Community-Based Public Hearings on Fiscal Year 2021 State Budget
House and Senate Committees on Appropriations

Monday, February 10, 2020, 6:00 - 7:00 p.m. – The Vermont House and Senate Committees on Appropriations are seeking public input on the Governor’s Recommended FY 2021 State Budget and will hold community-based public hearings on Monday, February 10, 2020, 6:00 – 7:00 p.m. at the following 7 locations. An additional location in Springfield will be held from 5:30 – 6:30 p.m.

Barre City – Downstreet Housing and Community Development, 22 Keith Ave., Ste 100
Dorset – Dorset Town Office, 112 Mad Tom Road, East Dorset
Morrisville – People’s Academy High School, Auditorium, top of Copley Avenue
Rutland City – Rutland Public Schools, Longfellow School Building, Board Room
St. Johnsbury – St. Johnsbury House, main dining room, 1207 Main Street
St. Albans City – St. Albans City School, Library, 29 Bellows Street
Winooski – Vermont Student Assistance Corp. (VSAC), 10 East Allen Street (follow the signs when entering the building for location).

Springfield – Springfield Town Hall, 96 Main Street, 3rd Floor Conference Room (Selectmen’s Hall) 5:30-6:30 p.m.

The Committees will take testimony on the Governor’s recommended State budget at the above dates and times. Anyone interested in testifying should come to one of the hearings. Time limits on testimony may apply depending on volume of participants. If you have a story you would like to share privately with the committee members, please contact Theresa to schedule a time.

To view the Governor’s proposed budget go to the Department of Finance and Management’s website or by clicking HERE.

For more information about the format of these events, contact Theresa Utton-Jerman or Rebecca Buck at tutton@leg.state.vt.us or rbuck@leg.state.vt.us, or call 802-828-5767 or toll-free within Vermont at 1-800-322-5616. Written testimony can be submitted electronically to Theresa or Rebecca through e-mail or mailed to
the House and Senate Committees on Appropriations, 115 State Street, Montpelier, VT, 05633. Requests for interpreters should be made by Monday, January 27, 2020.

Information Notice

A meeting of the House Committee on Rules has been scheduled for Friday, January 24 at Noon in the House Education Room 31. The purpose of this meeting is for consideration of the following matters:

(1) H. 754 walk-through
(2) Other business