

House Calendar

Wednesday, February 26, 2020

51st DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 557

An act relating to municipal regulation of livestock running at large

S. 240

An act relating to recruiting new remote workers and new relocating workers

Favorable with Amendment

H. 254

An act relating to adequate shelter for livestock

Rep. Norris of Shoreham, for the Committee on Agriculture and Forestry, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 351 is amended to read:

§ 351. DEFINITIONS

As used in this chapter:

- (1) “Animal” means all living sentient creatures, not human beings.
- (2) “Secretary” means the Secretary of Agriculture, Food and Markets.
- (3) “Horse” means the entire family of equidae Equidae.

* * *

(7) “Necessary medical attention” shall include medical or surgical treatment for ~~illness~~, injury, disease, excessive parasitism, dehydration, malnutrition, pain, or ~~malformed or overgrown hoof~~ impaired locomotive function.

(8) “Person” means any individual, firm, partnership, or corporation, or authorized agent or representative of a person, partnership, or corporation.

(9) “Sanitation” means the maintenance of clean conditions for indoor and outdoor enclosures to minimize health hazards, including periodic cleanings to remove excretions or other waste materials, dirt, and trash.

* * *

- (11) “Livestock” means cattle, bison, horses, sheep, goats, swine,

~~cervidae~~ Cervidae, ratites, and camelids.

* * *

(13) “Livestock and poultry husbandry practices” means the raising, management, and using of animals to provide humans with food, fiber, or transportation in a manner consistent with:

(A) husbandry practices recommended for the species by fully accredited agricultural colleges and the U.S. Department of Agriculture Extension Service;

(B) husbandry practices modified for the species to conform to the Vermont environment and terrain; and

(C) husbandry practices that minimize pain and suffering.

* * *

(15) “Living space” means any cage, crate, or other structure used to confine an animal that serves as its principal, primary housing and that provides protection from the elements. Living space does not include a structure, such as a doghouse, in which an animal is not confined, or a cage, crate, or other structure in which the animal is temporarily confined.

(16) “Adequate food” means food that is not spoiled or contaminated and is of sufficient ~~quantity and quality~~ nutritional content to meet the normal daily requirements for the condition and size of the animal and the environment in which it is kept. An animal shall be fed or have food available at least once each day, unless a licensed veterinarian instructs otherwise, or withholding food is in accordance with accepted veterinary practices or livestock and poultry husbandry practices.

(17) “Adequate water” means potable water that is either accessible to the animal at all times or is provided at suitable intervals for the species and in sufficient quantity for the health of the animal. In no event shall the interval when water is not provided exceed 24 hours. Snow or ice is not an adequate water source unless provided in accordance with livestock and poultry husbandry practices.

(18) ~~“Adequate shelter” means shelter which protects the animal from injury and environmental hazards.~~ [Repealed.]

(19) “Enclosure” means any structure, fence, device, or other barrier used to restrict an animal or animals to a limited amount of space.

(20) “Livestock guardian dog” means a purpose-bred dog that is:

(A) specifically trained to live with livestock without causing them

harm while repelling predators;

(B) being used to live with and guard livestock; and

(C) acclimated to local weather conditions.

(21) “Sexual conduct” means:

(A) any act between a person and animal that involves contact between the mouth, sex organ, or anus of a person and the mouth, sex organ, or anus of an animal; or

(B) without a bona fide veterinary or animal husbandry purpose, the insertion, however slight, of any part of a person’s body or of any instrument, apparatus, or other object into the vaginal or anal opening of an animal.

(22) “Adequate constructed shelter” means a well-drained and structurally sound building with a waterproof roof that is of sufficient size to provide a windbreak and protection from exposure to prevailing winds, rain, hail, sleet, snow, and sun and that provides enough space to accommodate at one time all livestock and animals comfortably. The building opening size and height shall, at a minimum, allow six inches of clearance above the largest animal’s ears when the animal is standing in a normal position and the clearance shall be maintained at that level even with manure and litter buildup.

(23) “Adequate natural shelter” means a natural structure or formation, which may include a stand of trees that:

(A) is a well-drained area of sufficient size to provide a windbreak and protection from exposure to prevailing winds, rain, hail, sleet, sun, and snow; and

(B) provides enough space to accommodate at one time all livestock or animals maintained out-of-doors in the area.

(24) “Adequate ventilation” means that ventilation in an enclosed or confined area shall be sufficient to control excessive ambient temperatures and humidity and to prevent the accumulation of toxic gases, such as ammonia.

Sec. 2. 13 V.S.A. § 365 is amended to read:

§ 365. SHELTER OF ANIMALS

(a) Adequate shelter. All livestock and animals that are to be predominantly maintained in an outdoor area shall be provided with adequate natural shelter or adequate constructed shelter to prevent direct exposure to the elements.

(b) Shelter for livestock.

(1) ~~Adequate natural shelter, or a three-sided, roofed building with exposure out of the prevailing wind and of sufficient size to adequately accommodate all livestock maintained in an outdoor area shall be provided. The building opening size and height shall, at a minimum, extend one foot above the withers of the largest animal housed and shall be maintained at that level even with manure and litter build-up. Livestock animals confined in enclosed areas shall be provided with adequate ventilation and shall have access to adequate exercise. Equines housed within a designated space continually, without access to a paddock, turn out, or other exercise area shall be provided the opportunity for periodic exercise, either through free choice or through a forced work program, to maintain normal muscle tone and mass for the age, size, and condition of the animal or in accordance with accepted agricultural or veterinary practices. Nothing in this section shall control dairy herd housing facilities, either loose housing, comfort tie-stall, or stanchion ties lockups, or other housing under control of the Agency of Agriculture, Food and Markets. This section subdivision shall not apply to any accepted housing or grazing practices for any livestock industry.~~

(2) Notwithstanding the provisions of subdivision (1) of this subsection, livestock may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with livestock and poultry husbandry practices, and are provided sufficient food, water, shelter, and proper ventilation.

(3) A leash, rope, or chain used to restrict a livestock animal shall be affixed in a manner that prevents the livestock animal from becoming entangled or injured and shall permit the livestock animal access to adequate shelter, adequate food, and adequate water. This subdivision shall not apply to a livestock animal that is in transit or in the immediate control of a person.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 8-0-0)

H. 555

An act relating to rulemaking on food concessions, lotteries, raffles, or games of chance on lands and buildings within the jurisdiction of the Department of Buildings and General Services

Rep. Demrow of Corinth, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 29 V.S.A. § 152 is amended to read:

§ 152. DUTIES OF COMMISSIONER

(a) The Commissioner of Buildings and General Services, in addition to the duties expressly set forth elsewhere by law, shall have the authority to:

* * *

(d) The Commissioner of Buildings and General Services shall adopt rules to permit nonprofit organizations to sell food concessions on State-owned lands that are under his or her jurisdiction, provided that any net sales revenue is used to support local community-based activities.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to the authority of nonprofits to sell food concessions on State-owned lands within the jurisdiction of the Department of Buildings and General Services”

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

S. 54

An act relating to the regulation of cannabis

Rep. Copeland Hanzas of Bradford, for the Committee on Government Operations, 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:

* * * Title Redesignation * * *

Sec. 1. Title 7 of the V.S.A. is redesignated to read:

7. ALCOHOLIC BEVERAGES, CANNABIS, AND TOBACCO

* * * Cannabis Generally; Cannabis Control Board * * *

Sec. 2. 7 V.S.A. chapter 31 is added to read:

CHAPTER 31. CANNABIS

Subchapter 1. General Provisions

§ 831. DEFINITIONS

As used in this chapter:

(1) “Board” means the Cannabis Control Board.

(2)(A) “Cannabis” means all parts of the plant Cannabis sativa L.,

except as provided by subdivision (B) of this subdivision (2), whether growing or harvested, and includes:

- (i) the seeds of the plant;
- (ii) the resin extracted from any part of the plant; and
- (iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) “Cannabis” does not include:

- (i) the mature stalks of the plant and fiber produced from the stalks;
- (ii) oil or cake made from the seeds of the plant;
- (iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;
- (iv) the sterilized seed of the plant that is incapable of germination; or
- (v) hemp or hemp products, as defined in 6 V.S.A. § 562.

(3) “Cannabis product” means concentrated cannabis and a product that is composed of cannabis and other ingredients and is intended for use or consumption, including an edible product, ointment, and tincture. Cannabis product shall include a vaporizer cartridge containing cannabis oil that is intended for use with a battery-powered device.

(4) “Chair” means the chair of the Cannabis Control Board.

(5) “Criminal history record” shall have the same meaning as in 20 V.S.A. § 2056a(a).

(6) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute is prohibited by law pursuant to 18 VSA chapter 37.

§ 832. CANNABIS POSSESSED UNLAWFULLY SUBJECT TO SEIZURE AND FORFEITURE

Cannabis possessed unlawfully in violation of this title may be seized by law enforcement and is subject to forfeiture.

§ 833. CONSUMPTION OF CANNABIS IN A PUBLIC PLACE

No person shall consume cannabis in a public place unless specifically authorized by law. Violations shall be punished in accordance with 18 V.S.A. § 4230a.

Subchapter 2. Cannabis Control Board

§ 841. CANNABIS CONTROL BOARD; DUTIES; MEMBERS

(a) Creation. There is created within the Executive Branch an independent commission named the Cannabis Control Board for the purpose of safely, equitably, and effectively implementing and administering the laws enabling access to adult-use cannabis in Vermont.

(b) Duties. The duties of the Board shall be:

(1) rulemaking in accordance with this chapter, chapter 33 of this title, and 3 V.S.A. chapter 25;

(2) administration of a program for licensed cannabis establishments, which shall include compliance and enforcement; and

(3) submission of an annual budget to the Governor.

(c) Membership.

(1) The Board shall consist of five members who shall be appointed as follows:

(A) one member to serve as chair who shall be appointed by the Governor;

(B) one member who shall be appointed by the Senate Committee on Committees;

(C) one member who shall be appointed by the Speaker of the House;

(D) one member who shall be appointed by the Treasurer; and

(E) one member who shall be appointed by the Attorney General.

(2) Board members shall serve for a term of three years or until a successor is appointed and shall be eligible for reappointment, provided that no member may serve more than nine years.

(3) A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the term. A member appointed to fill a vacancy created before the expiration of a term shall not be deemed to have served a term for the purpose of subdivision (2) of this subsection.

(4) A member may be removed only for cause by the remaining members of the Commission in accordance with the Vermont Administrative Procedure Act.

(d)(1) Conflicts of interest. No Board member shall, during his or her term or terms on the Board, be an officer of, director of, organizer of, employee of, consultant to, or attorney for any person subject to regulation by the Board.

(2) No Board member shall participate in creating or applying any law, rule, or policy or in making any other determination if the Board member, individually or as a fiduciary, or the Board member's spouse, parent, or child wherever residing or any other member of the Board member's family residing in his or her household has an economic interest in the matter before the Board or has any more than a de minimus interest that could be substantially affected by the proceeding.

(3) No Board member shall, during his or her term or terms on the Board, solicit, engage in negotiations for, or otherwise discuss future employment or a future business relationship of any kind with any person subject to supervision or regulation by the Board.

(4) No Board member may appear before the Board or any other State agency on behalf of a person subject to supervision or regulation by the Board for a period of one year following his or her last day as a member of the Cannabis Control Board.

(e) Salaries. The Chair and all members of the Board shall be full-time State employees and shall be exempt from the State classified system. The Chair shall receive compensation equal to two-thirds that of a Superior Court Judge and other members shall receive compensation equal to one-half that of a Superior Court Judge.

(f) Executive Director. The Board shall appoint an Executive Director who shall be an attorney with experience in legislative or regulatory matters. The Director shall be a full-time State employee, shall be exempt from the State classified system, and shall serve at the pleasure of the Board. The Director shall be responsible for:

(1) supervising and administering the operation and implementation of this chapter and the rules adopted by the Board as directed by the Board;

(2) assisting the Board in its duties and administering the licensing requirements of this chapter;

(3) acting as Secretary to the Board, but as a nonvoting member of the Board;

(4) employing such staff as may be required to carry out the functions of the Board; and

(5) preparing an annual budget for submission to the Board.

(g) Consultant. The Board is authorized to hire a consultant as needed to assist with its duties under this section.

(h) Advisory committee.

(1) There is an advisory committee established within the Board that shall be comprised of members with expertise and knowledge relevant to the Board's mission. The advisory committee shall include, at a minimum:

(A) one member with an expertise in public health appointed by the Governor;

(B) one member with an expertise in agriculture, horticulture, or plant science appointed by the Governor;

(C) one member with an expertise in laboratory science or toxicology appointed by the Governor;

(D) one member with an expertise in systemic social justice and equity issues appointed by the Speaker of the House;

(E) one member with an expertise in women and minority-owned business ownership appointed by the Speaker of the House;

(F) one member with an expertise in substance misuse prevention appointed by the Senate Committee on Committees;

(G) one member with an expertise in the cannabis industry appointed by the Senate Committee on Committees;

(H) one member with an expertise in business management or regulatory compliance appointed by the Treasurer;

(I) one member with an expertise in municipal issues appointed by the Treasurer;

(J) one member with an expertise in public safety appointed by the Attorney General; and

(K) one member with an expertise in criminal justice reform appointed by the Attorney General.

(2) Initial appointments to the advisory committee as provided in subdivision (1) of this subsection (h) shall be made on or before December 1, 2019.

(3) The Board may appoint members to the advisory committee in addition to those identified in subdivision (1) of this subsection (h) and this subsection shall not be construed to limit the Board in any way regarding whom it may consult with in an effort to execute its duties.

(4) The Board may establish subcommittees within the advisory committee to accomplish its work.

§ 842. AUTHORITY FOR CRIMINAL BACKGROUND CHECKS

The Board shall establish a user agreement with the Vermont Crime Information Center in accordance with 20 V.S.A. chapter 117 for the purpose of obtaining Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation as required by chapter 33 of this title.

§ 843. CANNABIS REGULATION FUND

(a) There is established the Cannabis Regulation Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. The Fund shall be maintained by the Cannabis Control Board.

(b) The Fund shall be composed of all application fees, annual license fees, renewal fees, advertising review fees, and civil penalties collected by the Board pursuant to chapter 33 of this title.

(c) Monies from the fund shall only be appropriated for the purposes of implementation, administration, and enforcement of this chapter and chapter 33 of this title.

§ 844. FEES

(a) The Board shall have the authority to charge and collect fees as provided by this chapter and chapter 33 of this title.

(b) Fees shall be deposited in the Cannabis Regulation Fund.

§ 845. APPEALS

(a)(1) A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Executive Director who shall assign the case to an appellate officer.

(2)(A) The review shall be conducted on the basis of the record created before the Board.

(B) In cases of alleged irregularities in procedure before the Board, not shown in the record, proof on that issue may be taken by the appellate officer.

(b) The appellate officer shall not substitute his or her judgment for that of the Board as to the weight of the evidence on questions of fact. The appellate officer may affirm the decision, or may reverse and remand the matter with recommendations if substantial rights of the appellant have been prejudiced because the Board's finding, inferences, conclusions, or decisions are:

- (1) in violation of constitutional or statutory provisions;
- (2) in excess of the statutory authority of the Board;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) clearly erroneous in view of the evidence on the record as a whole;
- (6) arbitrary or capricious; or
- (7) characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(c) A party aggrieved by a decision of the appellate officer may appeal to the Supreme Court, which shall review the matter on the basis of the records created before the Board.

(d) The Board shall have the authority to contract for the services of an appellate officer.

Sec. 3. IMPLEMENTATION OF THE CANNABIS CONTROL BOARD

(a) The Cannabis Control Board, created in Sec. 2 of this act, is established on July 1, 2019.

(b) Members of the Board shall be appointed on or before September 1, 2019 and terms of members shall officially begin on such date.

(c)(1) In order to stagger the terms of the members of the Board, the initial terms of those members shall be as follows:

- (A) the Governor shall appoint the Chair for a three-year term;
- (B) the Senate Committee on Committees shall appoint one member for a two-year term;
- (C) the Speaker of the House shall appoint one member for a two-year term;
- (D) the Treasurer shall appoint one member for a one-year term; and
- (E) the Attorney General shall appoint one member for a one-year term.

(2) After the expiration of the initial terms set forth in subdivision (1) of this subsection, Board member terms shall be as set forth in 7 V.S.A. § 841.

Sec. 4. IMPLEMENTATION OF RULEMAKING BY THE CANNABIS
CONTROL BOARD

On or before March 1, 2020 the Cannabis Control Board shall initiate rulemaking for cannabis establishments pursuant to chapter 33 of this title as provided in Sec. 7 of this act.

Sec. 5. CANNABIS CONTROL BOARD REPORT TO THE GENERAL
ASSEMBLY; PROPOSAL FOR POSITIONS, FEES, AND
APPROPRIATIONS FOR FISCAL YEARS 2021 AND 2022; LAND
USE, ENVIRONMENTAL, ENERGY, AND EFFICIENCY
REQUIREMENTS OR STANDARDS; OUTREACH, TRAINING,
AND EMPLOYMENT PROGRAMS; ONLINE ORDERING AND
DELIVERY; ADDITIONAL TYPES OF LICENSES

(a) On or before January 15, 2020, the Executive Director of the Cannabis Control Board shall provide recommendations to the General Assembly on the following:

(1) Resources necessary for implementation of this act for fiscal years 2021 and 2022, including positions and funding. The Board shall consider utilization of current expertise and resources within State government and cooperation with other State departments and agencies where there may be an overlap in duties.

(2) Fees to be charged and collected in accordance with the Board's authority pursuant to 7 V.S.A. § 844. The recommendations shall be accompanied by information justifying the recommended rate as required by 32 V.S.A. § 605(d). The fees submitted in accordance with this subdivision are projected, at a minimum, to equal the cost of application and license fees for marijuana establishments in the Commonwealth of Massachusetts that are collected by the Cannabis Control Commission. The Board may recommend fees that are lower or higher provided they are designed to provide sufficient funding to meet the duties of the Cannabis Control Board as provided in 7 V.S.A. § 841(b).

(A) Application fees, initial annual license fees, and annual license renewal fees for each type of cannabis establishment license as provided in 7 V.S.A. § 910: cultivator, product manufacturer, wholesaler, retailer, testing

laboratory, and integrated. If the Board establishes tiers within a licensing category, it shall provide a fee recommendation for each tier.

(B) Fee for a cannabis establishment identification card as provided in 7 V.S.A. § 884.

(C) Fee for advertisement review for a cannabis establishment licensee as provided in 7 V.S.A. § 865.

(3) Whether monies expected to be generated by fees identified in subdivision (2) of this subsection are sufficient to support the statutory duties of the Board and whether any portion of the tax established pursuant to 32 V.S.A. § 7901 should be allocated to the Cannabis Regulation Fund to ensure these duties are met.

(4) Whether monies collected pursuant to a local option tax should be shared with municipalities that host a cannabis establishment that is not a licensed retailer or integrated licensee and, if so, a recommended formula for sharing the revenue.

(b) On or before January 15, 2020, the Executive Director of the Cannabis Control Board, after consultation with the Secretary of Natural Resource, the Chair of the Natural Resources Board, and the Secretary of Agriculture, Food and Markets, shall recommend to the General Assembly land use or environmental regulatory requirements or standards applicable to cannabis establishments. The Executive Director may provide the recommendations based on the tier or category of cannabis establishment. The recommendations shall address:

(1) the State and local land use requirements for cannabis establishments, including if and how cannabis establishments shall be regulated under 10 V.S.A. chapter 151;

(2) whether certain cannabis establishments should be regulated by the Secretary of Agriculture as farming;

(3) the water quality requirements for cannabis establishments, including whether cannabis establishment shall be required to obtain, where applicable, direct discharge permits, indirect discharge permits, stormwater permits, groundwater withdrawal permits, or other relevant water quality permits;

(4) the solid waste and hazardous waste handling requirements for cannabis establishments, including any requirements for the management or reporting of the use of toxic substances; and

(5) any additional permitting or licensing recommendations.

(c) On or before January 15, 2020, the Executive Director of the Cannabis Control Board, after consultation with the Commissioner of Public Service and the Chair of the Public Utility Commission, shall recommend to the General Assembly energy or efficiency requirements or standards for the operation of cannabis establishments in the State. The recommendations shall include:

(1) recommended building energy standards for cannabis establishment if different from existing commercial building standards;

(2) recommended energy audits for cannabis establishments, including the recommended frequency of audits and who should perform the audits; and

(3) energy efficiency and conservation measures applicable to cannabis establishments.

(d) In making the recommendations required under subsections (b) and (c) of this section, the Executive Director of the Cannabis Control Board, shall recommend the permits, licenses, or standards that a licensed cannabis cultivator or cannabis product manufacturer shall demonstrate, as a condition of licensure, or as a condition for licensure renewal if such standards are not established prior to initial licensure.

(e) On or before March 1, 2020, the Executive Director of the Cannabis Control Board shall submit to the General Assembly the Board's recommendation whether licensed cannabis product manufacturers should be considered a food manufacturing establishment or food processor pursuant to 18 V.S.A. § 4301(7) for the purpose of licensing and regulation by the Department of Health.

(f) On or before November 15, 2020, the Executive Director of the Cannabis Control Board shall submit to the General Assembly:

(1) a proposal to work with the Department of Labor, Agency of Commerce and Community Development, and the Department of Corrections to develop outreach, training, and employment programs focused on providing economic opportunities to individuals who historically have been disproportionately impacted by cannabis prohibition.

(2) regarding the experience of other jurisdictions with regulated cannabis markets that allow licensed retail cannabis establishments to accept online ordering for in-store pick-up of items and to deliver to customers and the advantages and disadvantages of allowing such services in Vermont; and

(3) recommendations as to whether the General Assembly should consider adding additional types of cannabis licenses including a craft cooperative license, delivery license, or special event license.

(4) recommendations as to whether cannabis and cannabis products should have a minimum amount of cannabidiol to aid in the prevention of the cannabis-induced psychosis that occurs in some users of cannabis and cannabis products.

Sec. 6. CANNABIS CONTROL BOARD; POSITIONS

The following new permanent positions are created in the Cannabis Control Board:

- (1) five full-time, exempt members of the Board;
- (2) one full-time, exempt Executive Director of the Board; and
- (3) one full-time, classified Administrative Assistant.

Sec. 6a. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION

The Commissioner of Buildings and General Services shall allocate space for the Cannabis Control Board established in Sec. 2 of this act. This space shall be allocated on or before September 1, 2019.

Sec. 6b. APPROPRIATION

In fiscal year 2020, \$810,000.00 is appropriated from the Cannabis Regulation Fund to the Cannabis Control Board. This appropriation is made in anticipation of receipts in the Fund.

Sec. 6c. CONTINGENT CANNABIS REGULATION FUND DEFICIT OFFSET

To the extent that the Cannabis Regulation Fund has a negative balance at the close of the fiscal year 2022, proceeds in that amount from the tax established 32 V.S.A. § 7901 in fiscal year 2023 shall be deposited into the Cannabis Regulation Fund.

Sec. 6d. AUDITOR OF ACCOUNTS REPORT

On or before November 15, 2023, the Auditor of Accounts shall report to the General Assembly regarding the organizational structure and membership of the Cannabis Control Board and whether the structure continues to be the most efficient for carrying out the statutory duties of the Board.

* * * Cannabis Establishments * * *

Sec. 7. 7 V.S.A. chapter 33 is added to read:

CHAPTER 33. CANNABIS ESTABLISHMENTS

Subchapter 1. General Provisions

§ 861. DEFINITIONS

As used in this chapter:

(1) “Advertise” means the publication or dissemination of an advertisement.

(2) “Advertisement” means any written or verbal statement, illustration, or depiction that is calculated to induce sales of cannabis or cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, other periodical literature, publication, or in a radio or television broadcast, the Internet, or in any other media. The term does not include:

(A) any label affixed to any cannabis or cannabis product, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of these standards;

(B) any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any cannabis establishment, and which is not written by or at the direction of the licensee;

(C) any educational, instructional, or otherwise noncommercial material that is not intended to induce sales and that does not propose an economic transaction, but which merely provides information to the public in an unbiased manner; or

(D) a sign attached to the premises of a cannabis establishment that merely identifies the location of the cannabis establishment.

(3) “Affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with another person.

(4) “Applicant” means a person that applies for a license to operate a cannabis establishment pursuant to this chapter.

(5) “Board” means the Cannabis Control Board.

(6) “Cannabis” shall have the same meaning as provided in section 831 of this title.

(7) “Cannabis cultivator” or “cultivator” means a person licensed by the Board to engage in the cultivation of cannabis in accordance with this chapter.

(8) “Cannabis establishment” means a cannabis cultivator, wholesaler, product manufacturer, retailer, or testing laboratory licensed by the Board to engage in commercial cannabis activity in accordance with this chapter.

(9) “Cannabis product” shall have the same meaning as provided in section 831 of this title.

(10) “Cannabis product manufacturer” or “product manufacturer” means a person licensed by the Board to manufacture cannabis products in accordance with this chapter.

(11) “Cannabis retailer” or “retailer” means a person licensed by the Board to sell cannabis and cannabis products to adults 21 years of age and older for off-site consumption in accordance with this chapter.

(12) “Cannabis testing laboratory” or “testing laboratory” means a person licensed by the Board to test cannabis and cannabis products in accordance with this chapter.

(13) “Cannabis wholesaler” or “wholesaler” means a person licensed by the Board to purchase, process, transport, and sell cannabis and cannabis products in accordance with this chapter.

(14) “Chair” means the Chair of the Cannabis Control Board.

(15) “Child-resistant packaging” means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance in the container within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging that all children under five years of age cannot open or obtain a toxic or harmful amount of the substance in the container within a reasonable time.

(16) “Controls,” “is controlled by,” and “under common control” mean the power to direct, or cause the direction or management and policies of a person, whether through the direct or beneficial ownership of voting securities, by contract, or otherwise. A person who directly or beneficially owns 10 percent or more equity interest, or the equivalent thereof, of another person shall be deemed to control the person.

(17) “Dispensary” means a business organization licensed pursuant to 18 V.S.A. chapter 86.

(18) “Enclosed, locked facility” means a building, room, greenhouse, outdoor fenced-in area, or other location that is enclosed on all sides and prevents cannabis from easily being viewed by the public. The facility shall be equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include cannabis cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where cannabis is being grown, processed, packaged, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(19) “Integrated licensee” means a person licensed by the Board to engage in the activities of a cultivator, wholesaler, product manufacturer, retailer, and testing laboratory in accordance with this chapter.

(20) “Municipality” means a town, city, or incorporated village.

(21) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency, or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

(22) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

(23) “Principal” means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership.

§ 862. NOT APPLICABLE TO HEMP OR MEDICAL USE OF

CANNABIS

This chapter applies to the regulation of cannabis establishments by the Board and shall not apply to activities regulated by 6 V.S.A. chapter 34 (hemp) or 18 V.S.A. chapter 86 (therapeutic use of cannabis).

§ 863. REGULATION BY LOCAL GOVERNMENT

(a)(1) Prior to a cannabis retailer operating within a municipality, the municipality shall affirmatively permit the operation of such retailers by majority vote of those present and voting by Australian ballot at an annual or

special meeting warned for that purpose.

(2) A vote to permit the operation of a licensed cannabis retailer within the municipality shall remain in effect until rescinded by majority vote of those present and voting by Australian ballot at a subsequent annual or special meeting warned for that purpose. A rescission of the permission to operate a licensed cannabis retailer within the municipality under this subdivision shall not apply to a licensed cannabis retailer that is operating within the municipality at the time of the vote.

(b) A municipality that hosts a cannabis establishment may establish a cannabis control commission composed of commissioners who may be members of the municipal legislative body. The local cannabis control commission may issue and administer local control licenses under this subsection for cannabis establishments within the municipality. The commissioners may condition the issuance of a local control license upon compliance with any bylaw adopted pursuant to 24 V.S.A. § 4414 or ordinances regulating signs or public nuisances adopted pursuant to 24 V.S.A. § 2291. The commission may suspend or revoke a local control license for a violation of any condition placed upon the license. The Board shall adopt rules relating to a municipality's issuance of a local control license in accordance with this subsection and the local commissioners shall administer the rules furnished to them by the Board as necessary to carry out the purposes of this section.

(c) Prior to issuing a license to a cannabis establishment under this chapter, the Board shall ensure that the applicant has obtained a local control license from the municipality, if required.

(d) A municipality shall not:

(1) prohibit the operation of a cannabis establishment within the municipality through an ordinance adopted pursuant to 24 V.S.A. § 2291 or a bylaw adopted pursuant to 24 V.S.A. § 4414;

(2) condition the operation of a cannabis establishment, or the issuance or renewal of a municipal permit to operate a cannabis establishment, on any basis other than the conditions in subsection (b) of this section; and

(3) exceed the authority granted to it by law to regulate a cannabis establishment.

§ 864. ADVERTISING

(a) "Advertise" and "advertisement" have the same meaning as in section 831 of this title.

(b) A cannabis establishment advertisement shall not contain any statement or illustration that:

- (1) is deceptive, false or misleading;
- (2) promotes overconsumption;
- (3) represents that the use of cannabis has curative effects;
- (4) offers a prize, award, or inducement for purchasing cannabis or a cannabis product, except that price discounts are allowed;
- (5) offers free samples of cannabis or cannabis products;
- (6) depicts a person under 21 years of age consuming cannabis or cannabis products; or
- (7) is designed to be or has the effect of being particularly appealing to persons under 21 years of age.

(c) Cannabis establishments shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age.

(d) All advertisements shall contain the following warnings:

- (1) For use only by adults 21 years of age or older. Keep out of the reach of children.
- (2) Cannabis has intoxicating effects and may impair concentration, coordination, and judgment.
- (3) Cannabis should not be used by women who are pregnant or breastfeeding.
- (4) Use of cannabis may cause dependence in some individuals.

(e) All advertisements shall be submitted to the Board on a form or in a format prescribed by the Board, prior to the dissemination of the advertisement. The Board shall:

- (1) require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the Board determines that the advertisement would be false or misleading without such a disclosure; or
- (2) make recommendations with respect to changes that are necessary to protect the public health, safety, and welfare or consistent with dispensing information for the product under review.

(f) The Board may charge and collect fees for review of advertisements.

§ 865. EDUCATION

(a) A licensee shall complete an enforcement seminar every three years conducted by the Board. A license shall not be renewed unless the records of the Board show that the licensee has complied with the terms of this subsection.

(b) A licensee shall ensure that each employee involved in the sale of cannabis or cannabis products completes a training program approved by the Board prior to selling cannabis or cannabis products and at least once every 24 months thereafter. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Board. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of not less than one day of the license issued under this chapter.

§ 866. YOUTH

(a) A cannabis establishment licensed pursuant to this chapter shall not dispense or sell cannabis to a person under 21 years of age or employ a person under 21 years of age. The Board may assess civil penalties against or suspend or revoke the license of a cannabis establishment that dispenses or sells cannabis or cannabis products to a person under 21 years of age.

(b) A cannabis establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where cannabis is located. This subsection shall not apply to a registered patient visiting a dispensary even if that dispensary is located in a building that is located on the same premises of a cannabis establishment.

(c) In accordance with section 864 of this title, advertising by a cannabis establishment shall not depict a person under 21 years of age consuming cannabis or cannabis products or be designed to be or has the effect of being particularly appealing to persons under 21 years of age. Cannabis establishments shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age. All advertising shall contain a warning that cannabis and cannabis products are for use only by adults 21 years of age or older and shall be kept out of the reach of children.

(d) The Board shall adopt rules in accordance with section 881 of this title to:

(1) prohibit cannabis products or the packaging of such products that are designed to make the product more appealing to persons under 21 years of age;

(2) prohibit the packaging of cannabis that is designed to make the product more appealing to persons under 21 years of age;

(3) require that cannabis products sold by licensed retailers and integrated licensees are contained in child-resistant packaging; and

(4) require that cannabis and cannabis products sold by licensed retailers and integrated licensees are packaged with labels that clearly indicate that the contents of the package contains cannabis and should be kept away from persons under 21 years of age.

§ 867. STANDARD SYMBOL FOR CANNABIS

The Board shall create a standard symbol that shall be used on all cannabis and cannabis products sold by a licensed cannabis retailer to indicate that the contents of a package contains cannabis.

§ 868. PROHIBITED PRODUCTS

(a) The following are prohibited products and may not be cultivated, produced or sold pursuant to a license issued under this chapter:

(1) cannabis flower with greater than 30 percent tetrahydrocannabinol;

(2) solid concentrate cannabis products with greater than 60 percent tetrahydrocannabinol;

(3) oil cannabis products except for those that are sold prepackaged for use with battery-powered devices; and

(4) cannabis products that contain delta-9 tetrahydrocannabinol and nicotine or alcoholic beverages.

Subchapter 2. Administration

§ 881. RULEMAKING; CANNABIS ESTABLISHMENTS

(a) The Board shall adopt rules to implement and administer this chapter in accordance with subdivisions (1)–(7) of this subsection.

(1) Rules concerning any cannabis establishment shall include:

(A) the form and content of license and renewal applications;

(B) qualifications for licensure that are directly and demonstrably related to the operation of a cannabis establishment, including:

(i) a requirement to submit an operating plan, which shall include information concerning:

(I) the type of business organization; the identity of its controlling owners and principals; and the identity of the controlling owners

and principals of its affiliates; and

(II) the sources, amount, and nature of its capital, assets, and financing; the identity of its financiers; and the identity of the controlling owners and principals of its financiers;

(ii) a requirement to file an amendment to its operating plan in the event of a significant change in organization, operation, or financing; and

(iii) the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to section 883 of this title;

(C) oversight requirements, including provisions to ensure that a licensed establishment complies with State and federal regulatory requirements governing insurance, securities, workers' compensation, unemployment insurance, and occupational health and safety;

(D) inspection requirements;

(E) records to be kept by licensees and the required availability of the records;

(F) employment and training requirements;

(G) security requirements, including any appropriate lighting, physical security, video, and alarm requirements;

(H) restrictions on advertising, marketing, and signage;

(I) health and safety requirements;

(J) regulation of additives to cannabis and cannabis products, including those that are toxic or designed to make the product more addictive, more appealing to persons under 21 years of age, or to mislead consumers;

(K) procedures for seed-to-sale traceability of cannabis, including any requirements for tracking software;

(L) regulation of the storage and transportation of cannabis;

(M) sanitary requirements;

(N) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the cannabis establishment's license;

(O) procedures for suspension and revocation of a license;

(P) requirements for banking and financial transactions, including provisions to ensure that the Board, the Department of Financial Regulation, and financial institutions have access to relevant information concerning

licensed establishments to comply with State and federal regulatory requirements;

(Q) disclosure or eligibility requirements for a financier, its owners and principals, and its affiliates, which may include:

(i) requirements to disclose information to a licensed establishment, the Board, or the Department of Financial Regulation;

(ii) a minimum age requirement and a requirement to conduct a background check for natural persons;

(iii) requirements to ensure that a financier complies with applicable State and federal laws governing financial institutions, licensed lenders, and other financial service providers; and

(iv) any other requirements, conditions, or limitations on the type or amount of loans or capital investments made by a financier or its affiliates, which the Board, in consultation with the Department of Financial Regulation, determines is necessary to protect the public health, safety, and general welfare; and

(R) policies and procedures for conducting outreach and promoting participation in the regulated cannabis market by diverse groups of individuals, including those who have been disproportionately harmed by cannabis prohibition.

(2)(A) Rules concerning cultivators shall include:

(i) creation of a tiered system of licensing based on the plant canopy size of the cultivation operation or plant count for breeding stock;

(ii) restrictions on the use by cultivators of pesticides that are injurious to human health;

(iii) standards for both the indoor and outdoor cultivation of cannabis, including environmental protection requirements;

(iv) procedures and standards for testing cannabis for contaminants, potency, and quality assurance and control;

(v) labeling requirements for products sold to retailers that include appropriate warnings concerning the potential risks of consuming cannabis, the need to keep the product away from persons under 21 years of age, that cannabis should not be used by women who are pregnant or breastfeeding, and that use of cannabis may cause dependence in some individuals;

(vi) regulation of visits to the establishments, including the number of visitors allowed at any one time and record keeping concerning

visitors; and

(vii) facility inspection requirements and procedures.

(B) The Board shall consider the different needs and risks of small cultivators when adopting rules and shall make an exception or accommodation to such rules for cultivators of this size where appropriate.

(3) Rules concerning product manufacturers shall include:

(A) requirements that a single package of a cannabis product shall not contain more than 100 milligrams of THC, except in the case of:

(i) cannabis products that are not consumable, including topical preparations; and

(ii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and regulations issued pursuant to that chapter;

(B) requirements that cannabis products are labeled in a manner that states the number of servings of tetrahydrocannabinol in the product, measured in servings of a maximum of 5 milligrams per serving, except:

(i) cannabis products that are not consumable, including topical preparations; and

(ii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and regulations issued pursuant to that chapter;

(C) requirements that cannabis products are labeled with a date the product was manufactured, the date the product is best used by, and the ingredients contained in the product;

(D) requirements that cannabis products are labeled with information on the length of time it typically takes for products to take effect and appropriate warnings concerning the potential risks of consuming cannabis, the need to keep the product away from persons under 21 years of age, and that cannabis should not be used by women who are pregnant or breastfeeding, and that use of cannabis may cause dependence in some individuals;

(E) requirements that a cannabis product is clearly identifiable with a standard symbol adopted by the Board indicating that it contains cannabis;

(F) procedures and standards for testing cannabis products for contaminants, potency, and quality assurance and control;

(G) requirements for opaque, child-resistant packaging; and

(H) a prohibition on:

(i) products or packaging that are designed to make the product more appealing to persons under 21 years of age; and

(ii) the inclusion of nicotine or alcoholic beverages in a cannabis product.

(4) Rules concerning wholesalers shall include any provisions the Board has not addressed in subdivision (a)(1) of this section that are appropriate for safe regulation of wholesalers in accordance with this chapter.

(5) Rules concerning retailers shall include:

(A) requirements for proper verification of age of customers;

(B) restrictions that cannabis shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the cannabis;

(C) requirements that if the retailer sells hemp or hemp products, the hemp and hemp products are clearly labeled as such and displayed separately from cannabis and cannabis products;

(D) requirements for opaque, child-resistant packaging of cannabis and cannabis products at point of sale to customer; and

(E) facility inspection requirements and procedures.

(6) Rules concerning testing laboratories shall include:

(A) procedures and standards for testing cannabis and cannabis products for contaminants, potency, and quality assurance and control;

(B) reporting requirements, including requirements for chain-of-custody record keeping; and

(C) procedures for destruction of all cannabis and cannabis products samples.

(7) Rules concerning integrated licensees shall include the provisions provided in subdivisions (a)(1)–(6) of this section and any additional provisions the Board deems appropriate for safe regulation of integrated licensees in accordance with this chapter.

(b) The Board shall consult with other State agencies and departments as necessary in the development and adoption of rules where there is shared expertise and duties.

§ 882. SUSPENSION AND REVOCATION OF LICENSES; CIVIL

PENALTIES

(a) The Board shall have the authority to suspend or revoke a cannabis

establishment license for violations of this chapter in accordance with rules adopted pursuant to this chapter.

(b) The Board shall have authority to issue civil citations for violations of this chapter in accordance with rules adopted pursuant to this chapter. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

§ 883. CRIMINAL BACKGROUND RECORD CHECKS; APPLICANTS

(a) The Board shall obtain from the Vermont Crime Information Center a copy of a license applicant's fingerprint-based Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(b) The Board shall adopt rules that set forth standards for determining whether an applicant should be denied a cannabis establishment license because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify an applicant.

§ 884. CANNABIS ESTABLISHMENT IDENTIFICATION CARD

(a) Every owner, principal, and employee of a cannabis establishment shall obtain an identification card issued by the Board.

(b)(1) Prior to issuing the identification card, the Board shall obtain from the Vermont Crime Information Center a copy of the person's Vermont fingerprint-based criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(2) The Board shall adopt rules that set forth standards for determining whether a person should be denied a cannabis establishment identification card because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify an applicant.

(c) Once an identification card application has been submitted, a person may serve as an employee of a cannabis establishment pending the background check, provided the person is supervised in his or her duties by someone who is a cardholder. The Board shall issue a temporary permit to the person for this purpose, which shall expire upon the issuance of the identification card or disqualification of the person in accordance with this section.

(d) An identification card shall expire one year after its issuance or upon

the expiration of the cannabis establishment's license, whichever occurs first.

Subchapter 3. Licenses

§ 901. GENERAL PROVISIONS

(a) Except as otherwise permitted by law, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of cannabis or cannabis products without obtaining a license from the Board.

(b) All licenses shall be valid for one year and expire at midnight on the eve of the anniversary of the date the license was issued. A licensee may apply to renew the license annually.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Board and shall be accompanied by the fees provided for in section 909 of this title.

(d)(1) There shall be six types of licenses available:

- (A) a cultivator license;
- (B) a wholesaler license;
- (C) a product manufacturer license;
- (D) a retailer license;
- (E) a testing laboratory license; and
- (F) integrated license.

(2)(A) The Board shall develop tiers for:

- (i) cultivator licenses based on the plant canopy size of the cultivation operation or plant count for breeding stock.
- (ii) retailer licenses.

(B) The Board may develop tiers for other types of licenses.

(3)(A) Except as provided in subdivision (3)(B) of this subsection (d), an applicant and its affiliates may obtain a maximum of one type of each type of license as provided in subdivision (d)(1)(A)–(E) of this title. Each license shall permit only one location of the establishment.

(B) An applicant and its affiliates that are a dispensary registered pursuant to 18 V.S.A. chapter 86 may obtain one integrated license provided in subdivision (d)(1)(F) of this title or a maximum of one of each type of license provided in subdivision (d)(1)(A)–(E) of this title. An integrated licensee may not hold a separate cultivator, wholesaler, product manufacturer, retailer, or testing laboratory license. An integrated license shall permit only one location

for each of the types of activities permitted by the license: cultivation, wholesale operations, product manufacturing, retail sales, and testing.

(e) A dispensary that obtains a retailer license or an integrated license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Board.

(f) Each licensee shall obtain and maintain commercial general liability insurance in accordance with rules adopted by the Board. Failure to provide proof of insurance to the Board, as required, may result in revocation of the license.

(g) All licenses may be renewed according to procedures adopted through rulemaking by the Board.

(h)(1) The following records shall be exempt from public inspection and copying under the Public Records Act and shall be confidential:

(A) any record in an application for a license relating to security, public safety, transportation, or trade secrets, including information provided in an operating plan pursuant to subdivision 881(a)(1)(B) of this title; and

(B) any licensee record relating to security, public safety, transportation, trade secrets, or employees.

(2) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption created in this subsection shall continue in effect and shall not be repealed through operation of 1 V.S.A. § 317(e).

§ 902. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

(a) An applicant, principal of an applicant, and person who owns or controls an applicant, who is a natural person:

(1) shall be 21 years of age or older; and

(2) shall consent to the release of his or her criminal and administrative history records.

(b) As part of the application process, each applicant shall submit, in a format prescribed by the Board, an operating plan. The Board shall adopt rules regarding the required components of an application for each type of license.

(c) The Board shall obtain a fingerprint-based Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of a business in this State or any other jurisdiction for each of the

following who is a natural person:

- (1) the applicant;
- (2) each proposed principal;
- (3) each individual who would control the business.

(d) An applicant who is denied a license may appeal the Board's determination in accordance with section 845 of this title.

§ 903. PRIORITIES; BUSINESS AND TECHNICAL ASSISTANCE

(a) The Board shall issue licenses pursuant to this chapter as determined according to a system of priorities adopted by rule by the Board. The system of priorities shall require consideration of criteria, including:

- (1) whether the applicants have an existing medical cannabis dispensary license in good standing;
- (2) whether the applicants would foster social justice and equity in the cannabis industry by being a minority or women-owned business;
- (3) whether the applicants propose specific plans to recruit, hire, and implement a development ladder for minorities, women, or individuals who have historically been disproportionately impacted by cannabis prohibition;
- (4) whether applicants propose specific plans to pay employees a living wage and offer benefits;
- (5) whether the project incorporates principles of environmental resiliency or sustainability, including energy efficiency; and
- (6) the geographic distribution of cannabis establishments based on population and market needs.

(b) The Agency of Commerce and Community Development, in collaboration with the Agency of Agriculture, Food and Markets, shall provide business and technical assistance to Vermont applicants with priority for services based on criteria adopted by the Board in accordance with subsection (a) of this section.

§ 904. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, process, package, label, transport, test, and sell cannabis to a licensed wholesaler, product manufacturer, retailer, integrated licensee, and dispensary.

(b) Cultivation of cannabis shall occur only in an enclosed, locked facility.

(c) Representative samples of each lot or batch of cannabis intended for

human consumption shall be tested for safety and potency in accordance with rules adopted by the Board.

(d) Each cultivator shall create packaging for its cannabis.

(1) Packaging shall include:

(A) The name and registration number of the cultivator.

(B) The strain and variety of cannabis contained.

(C) The potency of the cannabis represented by the amount of tetrahydrocannabinol and cannabidiol in milligrams total and per serving

(D) A “produced on” date reflecting the date that the cultivator finished producing the cannabis.

(E) Appropriate warnings as prescribed by the Board in rule.

(F) Any additional requirements contained in rules adopted by the Board in accordance with this chapter. Rules shall take into consideration that different labeling requirements may be appropriate depending on whether the cannabis is sold to a wholesaler, product manufacturer, or retailer.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(e)(1) Only unadulterated cannabis shall be offered for sale. If, upon inspection, the Board finds any violative pesticide residue or other contaminants of concern, the Board shall order the cannabis, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Board’s instructions.

(2) Cannabis ordered destroyed or placed on stop-sale shall be clearly separable from salable cannabis. Any order shall be confirmed in writing within seven days. The order shall include the reason for action, a description of the cannabis affected, and any recommended treatment.

(3) A person may appeal an order issued pursuant to this section within 15 days after receiving the order. The appeal shall be made in writing to in accordance with section 845 of this title and shall clearly identify the cannabis affected and the basis for the appeal.

§ 904a. SMALL CULTIVATORS

(a) It is the intent of the General Assembly to move as much of the illegal

cannabis market as possible into the regulated market for the purposes of consumer protection and public safety. It is also the intent of the General Assembly to encourage participation in the regulated cannabis market by small, local farmers. In furtherance of these goals, the Board shall consider policies to promote small cultivators. As used in this section, “small cultivator” means a cultivator of not more than 500 square feet.

(b) During the initial application period for cultivator licenses, the Board shall prioritize licenses for small cultivators.

(c) In accordance with subdivision 881(a)(2)(B) of this chapter, the Board shall consider the different needs and risks of small cultivators when adopting rules and shall make an exception or accommodation to such rules for cultivators of this size where appropriate.

(d) Upon licensing, a small cultivator may sell cannabis to a licensed dispensary at any time, for sale to patients and caregivers pursuant to the dispensary license or to the public pursuant to an integrated license, including the time period before retail sales are permitted for licensed cannabis retailers.

§ 905. WHOLESALER LICENSE

A wholesaler licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator and integrated licensee, and cannabis products from a licensed product manufacturer, integrated licensee, and dispensary;

(2) transport, process, package, and sell cannabis and cannabis products to a licensed product manufacturer, retailer, integrated licensee, and dispensary.

§ 906. PRODUCT MANUFACTURER LICENSE

A product manufacturer licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator, wholesalers, or integrated licensee, and cannabis products from a licensed wholesaler, product manufacturer, integrated licensee, and dispensary;

(2) use cannabis and cannabis products to produce cannabis products; and

(3) transport, process, package, and sell cannabis products to a licensed wholesaler, product manufacturer, retailer, integrated licensee, and dispensary.

§ 907. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator, wholesaler, or integrated licensee, and cannabis products from a licensed wholesaler, product manufacturer, integrated licensee, and dispensary; and

(2) transport, possess, and sell cannabis and cannabis products to the public for consumption off the registered premises.

(b) In a single transaction, a retailer may provide one ounce of cannabis or the equivalent in cannabis products, or a combination thereof, to a person 21 years of age or older upon verification of a valid government-issued photograph identification card.

(c)(1) Packaging shall include:

(A) The strain and variety of cannabis contained.

(B) The potency of the cannabis represented by the amount of tetrahydrocannabinol and cannabidiol in milligrams total and per serving.

(C) A “produced on” date reflecting the date that the cultivator finished producing the cannabis.

(D) Appropriate warnings as prescribed by the Board in rule.

(E) Any additional requirements contained in rules adopted by the Board in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(d) A retailer shall display a safety information flyer or flyers developed or approved by the Board and supplied to the retailer free of charge. The flyer or flyers shall contain information concerning the methods for administering cannabis, the amount of time it may take for cannabis products to take effect, the risks of driving under the influence of cannabis, the potential risks of cannabis use, the symptoms of problematic usage, and how to receive help for cannabis abuse.

(e) Internet ordering and delivery of cannabis to customers are prohibited.

§ 908. TESTING LABORATORY LICENSE

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport cannabis and cannabis products obtained from a licensed cannabis establishment, dispensary, or a member of the public.

(b) Testing may address the following:

(1) residual solvents;

(2) poisons or toxins;

- (3) harmful chemicals;
- (4) dangerous molds, mildew, or filth;
- (5) harmful microbials, such as E. coli or salmonella;
- (6) pesticides; and
- (7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing laboratory shall establish a protocol for recording the chain of custody of all cannabis samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.

(f) A cannabis establishment that is subject to testing requirements under this chapter or rules adopted pursuant to this chapter shall have its cannabis or cannabis products tested by an independent licensed testing laboratory and not a licensed testing laboratory owned or controlled by the license holder of the cannabis establishment.

§ 909. INTEGRATED LICENSE

(a) An integrated license shall allow the licensee to engage in the activities of a cultivator, wholesaler, product manufacturer, retailer, and testing laboratory as provided in sections 904–908 of this title.

(b) An integrated license is only available to an applicant and its affiliates that hold a dispensary registration pursuant 18 V.S.A. chapter 86 on July 1, 2020. There shall be no more than five total integrated licenses, one for each registered dispensary. Upon compliance with all application procedures and requirements, the Board shall issue an integrated license to the applicant. The licensee shall have the right to renew the license in accordance with rules adopted by the Board.

§ 910. FEES

(a) The Board shall charge and collect license application fees, initial annual license fees, and annual license renewal fees for each type of cannabis establishment license under this chapter. Fees shall be due and payable at the time of license application, annual license, or renewal.

(b) Fees shall be deposited in the Cannabis Regulation Fund.

Sec. 8. IMPLEMENTATION OF LICENSING CANNABIS

ESTABLISHMENTS

(a)(1) The cannabis plant, cannabis product, and useable cannabis possession limits for a registered dispensary set forth in 18 V.S.A. chapter 86 shall no longer apply on and after September 1, 2020. A dispensary shall be permitted to cultivate cannabis and manufacture cannabis products for the purpose of transferring or selling them to an integrated licensee on or after January 15, 2021 and engaging in the activities permitted by 7 V.S.A. chapter 33.

(2) On or before January 15, 2021, the Board shall begin accepting applications for integrated licenses.

(3) On or before February 15, 2021, the Board shall begin issuing integrated licenses to qualified applicants. An integrated licensee may begin selling cannabis and cannabis products transferred or purchased from a dispensary immediately.

(b)(1) On or before January 15, 2021, the Board shall begin accepting applications for cultivator licenses. During this initial application period, the Board shall give priority to applications for small cultivator licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before February 15, 2021, the Board shall begin issuing cultivator licenses to qualified applicants. Upon licensing, cultivators shall be permitted to sell cannabis to an integrated licensee and a dispensary licensed pursuant to 18 V.S.A. chapter 86 prior to other types of cannabis establishment licensees beginning operations.

(c)(1) On or before February 15, 2021, the Board shall begin accepting applications for testing laboratory licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before April 1, 2021, the Board shall begin issuing testing laboratory licenses to qualified applicants.

(d)(1) On or before April 1, 2021, the Board shall begin accepting applications for product manufacturer licenses and wholesaler licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before May 15, 2021, the Board shall begin issuing product

manufacturer and wholesaler licenses to qualified applicants.

(c)(1) On or before June 1, 2021, the Board shall begin accepting applications for retailer licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before July 15, 2021, the Board shall begin issuing retailer licenses to qualified applicants and sales of cannabis and cannabis products by licensed retailers to the public shall be allowed immediately.

* * * Medical Cannabis Registry * * *

Sec. 9. [Deleted.]

Sec. 10. [Deleted.]

Sec. 11. [Deleted.]

* * * Medical Cannabis Dispensaries * * *

Sec. 12. [Deleted.]

Sec. 13. [Deleted.]

* * * Creation of Excise and Local Option Tax * * *

Sec. 14. 32 V.S.A. chapter 207 is added to read:

CHAPTER 207. CANNABIS TAXES

§ 7900. DEFINITIONS

As used in this chapter:

(1) “Cannabis” has the same meaning as in 7 V.S.A. § 831.

(2) “Cannabis cultivator” has the same meaning as in 7 V.S.A. § 861.

(3) “Cannabis product” has the same meaning as in 7 V.S.A. § 831.

(4) “Cannabis product manufacturer” has the same meaning as in 7 V.S.A. § 831.

(5) “Cannabis retailer” has the same meaning as in 7 V.S.A. § 861.

(6) “Cannabis wholesaler” has the same meaning as in 7 V.S.A. § 861.

(7) “Integrated licensee” has the same meaning as in 7 V.S.A. § 861.

(8) “Retail sale” or “sold at retail” means any sale, lease, or rental for any purpose other than for resale by a cannabis retailer or integrated licensee.

(9) “Sales price” has the same meaning as in section 9701 of this title.

§ 7901. CANNABIS EXCISE TAX

(a) There is imposed a cannabis excise tax equal to 16 percent of the sales price of each retail sale in this State of cannabis and cannabis products, including food or beverages.

(b) The tax imposed by this section shall be paid by the purchaser to the retailer or integrated licensee. Each retailer or integrated licensee shall collect from the purchaser the full amount of the tax payable on each taxable sale.

(c) The tax imposed by this section is separate from and in addition to the cannabis local option tax authorized under section 7902 of this title. The tax imposed by this section shall not be part of the sales price to which the cannabis local option tax applies. The cannabis excise tax shall be separately itemized from the cannabis local option tax on the receipt provided to the purchaser.

(d) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax;

(2) sales made by any dispensary as authorized under 18 V.S.A. chapter 86, provided that the cannabis or cannabis product is sold only to registered qualifying patients directly or through their registered caregivers; and

(3) sales from a cannabis cultivator, cannabis product manufacturer, cannabis wholesaler, or integrated licensee to a cannabis product manufacturer, cannabis retailer, cannabis wholesaler, or integrated licensee.

§ 7902. CANNABIS LOCAL OPTION TAX

(a) Notwithstanding 24 V.S.A. § 138, any municipality may collect a cannabis local option tax of two percent of the sales price on each retail sale in the municipality of cannabis and cannabis products, including food and beverages.

(b) The cannabis local option tax may be adopted by a municipality that:

(1) does not currently prohibit the retail sale of cannabis and cannabis products within the municipality; and

(2) provided notice of the imposition and the amount to the Department of Taxes at least 90 days prior to the first day of the tax quarter when the cannabis local option tax will be collected.

(c) The tax imposed by this section shall be paid by the purchaser to the retailer or integrated licensee. Each retailer or integrated licensee shall collect

from the purchaser the full amount of the tax payable on each taxable sale.

(d) The tax imposed by this section is separate from and in addition to the cannabis excise tax authorized under section 7901 of this title. The tax imposed by this section shall not be part of the sales price to which the cannabis excise tax applies. The cannabis local option tax shall be separately itemized from the cannabis excise tax on the receipt provided to the purchaser.

(e) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax;

(2) sales made by any dispensary as authorized under 18 V.S.A. chapter 86, provided that the cannabis or cannabis product is sold only to registered qualifying patients directly or through their registered caregivers; and

(3) sales from a cannabis cultivator, cannabis product manufacturer, cannabis wholesaler, or integrated licensee to a cannabis product manufacturer, cannabis retailer, cannabis wholesaler, or integrated licensee.

(f) Any tax imposed under the authority of this section shall be collected and administered by the Department of Taxes, in accordance with State law governing the cannabis excise and cannabis local option taxes imposed under chapter 207 of this title, and provided to the municipality in which they were collected on a quarterly basis after reduction for the costs of administration and collection. A tax imposed under this section shall be collected using a destination basis for taxation. A per-return fee of \$5.96 shall be assessed to compensate the Department for the costs of administration and collection, which shall be paid by the municipality. The fee shall be subject to the provisions of section 605 of this title.

(g) As used in this section, "municipality" means a city, town, or incorporated village.

(h) Nothing in this section shall affect the validity of any existing provision of law or municipal charter authorizing a municipality to impose a local option tax on anything not subject to the cannabis local option tax.

§ 7903. LIABILITY FOR TAXES

(a) Any tax collected in accordance with this chapter shall be deemed to be held by the retailer or integrated licensee in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as clearly to indicate the amount of tax collected and that the same are the property of the State of Vermont.

(b) Every retailer or integrated licensee required to collect and remit tax under this chapter to the Commissioner shall be personally and individually liable for the amount of such tax together with such interest and penalty as has accrued under the provisions of section 3202 of this title. If the retailer or integrated licensee is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect and remit tax to the Commissioner of Taxes as required in this chapter.

(c) A retailer or integrated licensee shall have the same rights in collecting tax from his or her purchaser or regarding nonpayment of tax by the purchaser as if the tax or taxes were a part of the purchase price of cannabis or cannabis products and payable at the same time; provided, however, if the retailer or integrated licensee required to collect tax has failed to remit any portion of the tax or taxes to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer or integrated licensee to collect tax and shall have the right to intervene in such action or proceeding.

(d) A retailer or integrated licensee required to collect tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer or integrated licensee for tax collected unless the purchaser has provided written notice to a retailer or integrated licensee and the retailer or integrated licensee has had 60 days to respond.

§ 7904. RETURNS; RECORDS

(a) Any retailer or integrated licensee required to collect tax imposed by this chapter shall, on or before the 25th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer or integrated licensee, a statement containing its name and place of business, the total amount of sales subject to the cannabis excise tax and cannabis local option tax, if applicable, made in the preceding month, and any information required by the Department of Taxes, along with the total tax due. The Commissioner of Taxes may require that returns be submitted electronically and may prohibit the remittance in cash of taxes collected.

(b) Every retailer and integrated licensee shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. The records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7905. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes cannabis or a cannabis product is subject to the cannabis excise tax and cannabis local option tax, where applicable, imposed by this chapter on the entire selling price of the bundled transaction. If there is a conflict with the bundling transaction provisions applicable to another tax type, this section shall apply.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the products that are nontaxable are subject to the tax imposed by this chapter unless the retailer or integrated licensee can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business, and any discounts applied to the bundle must be attributed to the products that are nontaxable under this chapter.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products is or contains cannabis; or

(2) cannabis or a cannabis product that is provided free of charge with the required purchase of another product.

§ 7906. LICENSE

(a) Any retailer or integrated licensee required to collect tax imposed by this chapter must apply for and receive a cannabis retail tax license from the Commissioner for each place of business within the State where he or she sells cannabis or cannabis products prior to commencing business. The Commissioner shall issue without charge a license, or licenses, empowering the retailer or integrated licensee to collect the cannabis excise tax and cannabis local option tax, where applicable, provided that a retailer or integrated licensee’s application is properly submitted and the retailer or integrated licensee is otherwise in compliance with applicable laws, rules, and provisions.

(b) Each cannabis retail tax license shall state the place of business to which it is applicable and be prominently displayed in the place of business. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant ceasing to do business in the place named. A cannabis retail tax license shall be separate and in addition to any licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title.

(c) The Cannabis Control Board may require the Commissioner of Taxes to suspend or revoke the tax licenses issued under this section for any retailer or integrated licensee that fails to comply with 7 V.S.A. chapter 33 or any rules adopted by the Board.

§ 7907. ADMINISTRATION OF CANNABIS TAXES

(a) The Commissioner of Taxes shall administer and enforce this chapter and the tax. The Commissioner may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out such administration and enforcement.

(b) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use tax in chapter 233 of this title shall apply to the taxes imposed by this chapter.

§ 7908. STATUTORY PURPOSES

(a) The statutory purpose of the exemptions for cannabis and cannabis products sold by any dispensary as authorized under 18 V.S.A. chapter 86 in subdivisions 7901(d)(2) and 7902(e)(2) of this title is to lower the cost of medical products in order to support the health and welfare of Vermont residents.

(b) The statutory purpose of the exemption for nonretail sales in 7901(d)(3) and 7902(e)(3) of this title is to avoid taxation when purchased cannabis or cannabis product is intended to be incorporated into a new cannabis product.

§ 7909. ADDITIONAL TAXES DO NOT APPLY

The cannabis excise tax and cannabis local option tax are the only taxes that apply to a retail sale of cannabis or cannabis product in this State.

Sec. 14a. 32 V.S.A. § 3102(d)(3) is amended to read:

(3) to any person who inquires, provided that the information is limited to whether a person is registered to collect Vermont income withholding, sales and use, ~~or~~ meals and rooms, or cannabis excise tax; whether a person is in good standing with respect to the payment of these taxes; whether a person is authorized to buy or sell property free of tax; or whether a person holds a valid license under chapter 205 or 239 of this title or 10 V.S.A. § 1942;

* * * Sales Tax Exemption * * *

Sec. 15. 32 V.S.A. § 9701(31) is amended to read:

(31) “Food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages,

tobacco, cannabis and cannabis products as defined under 7 V.S.A. § 831, or soft drinks.

Sec. 16. 32 V.S.A. § 9741(53) is added to read:

(53) Cannabis and cannabis products as defined under 7 V.S.A. § 831.

* * * Tax Expenditure * * *

Sec. 17. 32 V.S.A. § 9706(mm) is added to read:

(mm) The statutory purpose of the exemption for cannabis and cannabis products as defined under 7 V.S.A. § 831 in subdivision 9741(53) of this title is to lower the cost of medical products sold by any dispensary as authorized under 18 V.S.A. chapter 86 in order to support the health and welfare of Vermont residents and avoid having both the sales tax and the cannabis excise and cannabis local option taxes apply to cannabis and cannabis products that are not sold as a medical product.

* * * Meals and Rooms Tax * * *

Sec. 17a. 32 V.S.A. § 9202(10) is amended to read:

(10) “Taxable meal” means:

* * *

(D) “Taxable meal” shall not include:

(i) Food or beverage, other than that taxable under subdivision (10)(C) of this section, that is a grocery-type item furnished for take-out: whole pies or cakes, loaves of bread; single-serving bakery items sold in quantities of three or more; delicatessen and nonprepackaged candy sales by weight or measure, except party platters; whole uncooked pizzas; pint or larger closed containers of ice cream or frozen confection; eight ounce or larger containers of salad dressings or sauces; maple syrup; quart or larger containers of cider or milk.

* * *

(iii) Cannabis or cannabis products as defined under 7 V.S.A. § 831.

Sec. 17b. 32 V.S.A. § 9201(n) is added to read:

(n) The statutory purpose for the exemption for cannabis and cannabis products as defined under 7 V.S.A. § 831 in subdivision 9202(10)(D)(iii) of this title is to avoid having both the meals and rooms tax and the cannabis excise tax apply to edible cannabis products.

* * * Income Tax Deduction * * *

Sec. 18. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

* * *

(18) “Vermont net income” means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

* * *

(ii) decreased by:

(I) the “gross-up of dividends” required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the foreign tax credit; ~~and~~

(II) the amount of income which results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under 7 V.S.A. chapter 33 or 18 V.S.A. chapter 86, but for 26 U.S.C. § 280E.

* * *

(21) “Taxable income” means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

* * *

(C) Decreased by the following exemptions and deductions:

* * *

(iii) an additional deduction of \$1,000.00 for each federal deduction under 26 U.S.C. § 63(f) that the taxpayer qualified for and received; ~~and~~

(iv) the dollar amounts of the personal exemption allowed under subdivision (i) of this subdivision (21)(C), the standard deduction allowed under subdivision (ii) of this subdivision (21)(C), and the additional deduction allowed under subdivision (iii) of this subdivision (21)(C) shall be adjusted annually for inflation by the Commissioner of Taxes beginning with taxable year 2018 by using the Consumer Price Index and the same methodology as used for adjustments under 26 U.S.C. § 1(f)(3); provided, however, that as

used in this subdivision, “consumer price index” means the last Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor; and

(v) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under 7 V.S.A. chapter 33 or 18 V.S.A. chapter 86, but for 26 U.S.C. § 280E.

* * *

* * * Substance Misuse Prevention Fund * * *

Sec. 18a. 18 V.S.A. chapter 94 is amended to read:

~~CHAPTER 94. DIVISION OF ALCOHOL AND DRUG ABUSE~~
PROGRAMS SUBSTANCE USE DISORDER

* * *

§ 4810. SUBSTANCE MISUSE PREVENTION FUND

(a) The Substance Misuse Prevention Fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 for the purpose of funding substance misuse prevention programming and for necessary costs incurred in administering the Fund. The Fund shall be administered by the Commissioner of Health or designee.

(b) The Fund shall consist of revenues derived from any funds that may be dedicated by the General Assembly.

(c) All balances remaining at the end of any fiscal year shall be carried forward and remain in the Fund.

(d) The Commissioner of Finance and Management may draw warrants for disbursements from this Fund in anticipation of receipts.

Sec. 18b. 18 V.S.A. § 4810 is amended to read:

§ 4810. SUBSTANCE MISUSE PREVENTION FUND

(a) The Substance Misuse Prevention Fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 for the purpose of funding substance misuse prevention programming and for necessary costs incurred in administering the Fund. The Fund shall be administered by the Commissioner of Health or designee.

(b) The Fund shall consist of revenues derived from:

(1) 30 percent of the revenues raised by the cannabis excise tax imposed by 32 V.S.A. § 7901, but not more than \$6 million per fiscal year; and

(2) any other funds that may be dedicated by the General Assembly.

(c) All balances remaining at the end of any fiscal year shall be carried forward and remain in the Fund.

(d) The Commissioner of Finance and Management may draw warrants for disbursements from this Fund in anticipation of receipts.

* * * Impaired Driving * * *

Sec. 18c. 20 V.S.A. § 2358(f) is added to read:

(f) The criteria for all minimum training standards under this section shall include Advanced Roadside Impaired Driving Enforcement training as approved by the Vermont Criminal Justice Training Council. On or before December 31, 2020, law enforcement officers shall receive a minimum of 16 hours of training as required by this subsection.

Sec. 18d. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(3) “Evidentiary test” means a breath, saliva, or blood test ~~which~~ that indicates the person’s alcohol concentration or the presence of other drug and ~~which~~ that is intended to be introduced as evidence.

* * *

Sec. 18e. 23 V.S.A. § 1201 is amended to read:

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF

ALCOHOL OR OTHER SUBSTANCE; CRIMINAL REFUSAL;

ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person’s alcohol concentration is:

(A) 0.08 or more; or

(B) 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(C) 0.04 or more if the person is operating a commercial vehicle as defined in subdivision 4103(4) of this title; or

(2) when the person is under the influence of alcohol; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug; or

~~(4) when the person's alcohol concentration is 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title.~~

(b) A person who has previously been convicted of a violation of this section shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer had reasonable grounds to believe the person was in violation of subsection (a) of this section.

(c) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and be involved in an accident or collision resulting in serious bodily injury or death to another and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer has reasonable grounds to believe the person has any amount of alcohol or drugs in the his or her system.

* * *

(i) Evidence of the results of a standardized field sobriety test conducted by a law enforcement officer trained in Advanced Roadside Impaired Driving Enforcement or a certified Drug Recognition Expert's systematic evaluation of observable signs and symptoms of a person charged with a violation of this section shall be presumptively admissible at trial to demonstrate whether or not the person was operating under the influence in violation of this section.

Sec. 18f. 23 V.S.A. § 1202 is amended to read:

§ 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD
ALCOHOL CONTENT OR PRESENCE OF OTHER DRUG

(a)(1) Implied consent. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to have given consent to an evidentiary test of that person's breath for the purpose of determining the person's alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2) Blood test. If breath testing equipment is not reasonably available or if the officer has reason to believe that the person is unable to give a sufficient sample of breath for testing or if the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, the person is deemed to have given consent to the taking of an

evidentiary sample of blood. If in the officer's opinion the person is incapable of decision or unconscious or dead, it is deemed that the person's consent is given and a sample of blood shall be taken. A blood test sought pursuant to this subdivision (2) shall be obtained pursuant to subsection (f) of this section.

(3) Saliva test. If the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, or under the combined influence of alcohol and a drug, the person is deemed to have given consent to providing of an evidentiary sample of saliva. A saliva test sought pursuant to this subdivision (3) shall be obtained pursuant to subsection (f) of this section. Any saliva test administered under this section shall be used only for the limited purpose of detecting the presence of a drug in the person's body, and shall not be used to extract DNA information.

(4) Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

~~(4)~~(5) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

(b) A refusal to take a breath test may be introduced as evidence in a criminal proceeding.

(c) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has a right as limited in this subsection to consult an attorney before deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and not later than 30 minutes after the time of the initial attempt to contact the attorney. The person must make a decision about whether to submit to the test or tests at the expiration of the 30 minutes, regardless of whether a consultation took place.

(d) At the time a test is requested, the person shall be informed of the following statutory information:

(1) Vermont law authorizes a law enforcement officer to request a test to determine whether the person is under the influence of alcohol or other drug.

(2) If the officer's request is reasonable and testing is refused, the person's license or privilege to operate will be suspended for at least six

months.

(3) If a test is taken and the results indicate that the person is under the influence of alcohol or other drug, the person will be subject to criminal charges and the person's license or privilege to operate will be suspended for at least 90 days.

(4) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has the limited right to consult an attorney before deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and no later than 30 minutes from the time of the initial attempt to contact the attorney, regardless of whether a consultation took place. The person also has the right to have additional tests made by someone of the person's own choosing at the person's own expense. The person shall also be informed of the location of one or more facilities available for drawing blood.

(5) A person who is requested by a law enforcement officer to submit to an evidentiary test administered with an infrared breath-testing instrument may elect to have a second infrared test administered immediately after receiving the results of the first test.

(6) If the person refuses to take an evidentiary test, the refusal may be offered into evidence against the person at trial, whether or not a search warrant is sought. The person may be charged with the crime of criminal refusal if the person:

(A) has previously been convicted of a violation of section 1201 of this title; or

(B) is involved in an accident or collision resulting in serious bodily injury or death to another, in which case the court may issue a search warrant and order the person to submit to a blood test, the results of which may be offered into evidence against the person at trial.

* * *

(f)(1) If a blood test is sought from a person pursuant to subdivision (a)(2) of this section, or if a person who has been involved in an accident or collision resulting in serious bodily injury or death to another refuses an evidentiary test, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of blood for an evidentiary test. If Pursuant to subsection (d)(6) of this section, if a blood sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test. Once a law enforcement official begins the application process for a search

warrant, the law enforcement official is not obligated to discontinue the process even if the person later agrees to provide an evidentiary ~~breath~~ sample. The limitation created by Rule 41(g) of the Vermont Rules of Criminal Procedure regarding blood specimens shall not apply to search warrants authorized by this section.

(2) If an evidentiary saliva test is sought from a person pursuant to subdivision (a)(3) of this section, a law enforcement officer may apply for a search warrant pursuant Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of saliva for the evidentiary test. Pursuant to subdivision (d)(6) of this section, if a saliva sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test.

(g) The Defender General shall provide statewide 24-hour coverage seven days a week to assure that adequate legal services are available to persons entitled to consult an attorney under this section.

Sec. 18g. 23 V.S.A. § 1203 is amended to read:

§ 1203. ADMINISTRATION OF TESTS; RETENTION OF TEST AND
VIDEOTAPE

(a) A breath test shall be administered only by a person who has been certified by the Vermont Criminal Justice Training Council to operate the breath testing equipment being employed. In any proceeding under this subchapter, a person's testimony that he or she is certified to operate the breath testing equipment employed shall be prima facie evidence of that fact.

(b)(1) Only a physician, licensed nurse, medical technician, physician assistant, medical technologist, ~~or~~ laboratory assistant, intermediate or advanced emergency medical technician, or paramedic acting at the request of a law enforcement officer may withdraw blood for the purpose of determining the presence of alcohol or ~~other~~ another drug. This limitation does Any withdrawal of blood shall not be taken at roadside. These limitations do not apply to the taking of a breath sample. A medical facility or business may not charge more than \$75.00 for services rendered when an individual is brought to a facility for the sole purpose of an evidentiary blood sample or when an emergency medical technician or paramedic draws an evidentiary blood sample.

(2) A saliva sample may be obtained by a person authorized by the Vermont Criminal Justice Training Council to collect a saliva sample for the purpose of evidentiary testing to determine the presence of a drug. Any saliva sample obtained pursuant to this section shall not be taken at roadside.

(c) ~~When a breath test which is intended to be introduced in evidence is taken with a crimper device or when~~ blood or saliva is withdrawn at an officer's request, a sufficient amount of breath saliva or blood, as the case may be, shall be taken to enable the person to have made an independent analysis of the sample, and shall be held for at least 45 days from the date the sample was taken. At any time during that period the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent analysis. The Department of Public Safety shall adopt rules providing for the security of the sample. At no time shall the defendant or any agent of the defendant have access to the sample. A preserved sample of breath shall not be required when an infrared breath-testing instrument is used. A person tested with an infrared breath-testing instrument shall have the option of having a second infrared test administered immediately after receiving the results of the first test.

(d) In the case of a breath, saliva, or blood test ~~administered using an infrared breath testing instrument~~, the test shall be analyzed in compliance with rules adopted by the Department of Public Safety. The analyses shall be retained by the State. A sample is adequate if the infrared breath testing instrument analyzes the sample and does not indicate the sample is deficient. ~~Analysis~~ An analysis of the person's breath saliva or blood ~~which that is~~ is available to that person for independent analysis shall be considered valid when performed according to methods approved by the Department of Public Safety. The analysis performed by the State shall be considered valid when performed according to a method or methods selected by the Department of Public Safety. The Department of Public Safety shall use rule making procedures to select its method or methods. Failure of a person to provide an adequate breath or saliva sample constitutes a refusal.

(e) [Repealed.]

(f) When a law enforcement officer has reason to believe that a person may be violating or has violated section 1201 of this title, the officer may request the person to provide a sample of breath for a preliminary screening test using a device approved by the Commissioner of Public Safety for this purpose. The person shall not have the right to consult an attorney prior to submitting to this preliminary breath alcohol screening test. The results of this preliminary screening test may be used for the purpose of deciding whether an arrest should be made and whether to request an evidentiary test and shall not be used in any court proceeding except on those issues. Following the screening, test additional tests may be required of the operator pursuant to the provisions of section 1202 of this title.

(g) The Office of the Chief Medical Examiner shall report in writing to the

Department of Motor Vehicles the death of any person as the result of an accident involving a vehicle and the circumstances of such accident within five days of such death.

(h) A Vermont law enforcement officer shall have a right to request a breath, saliva or blood sample in an adjoining state or country under this section unless prohibited by the law of the other state or country. If the law in an adjoining state or country does not prohibit an officer acting under this section from taking a breath, saliva, or blood sample in its jurisdiction, evidence of such sample shall not be excluded in the courts of this State solely on the basis that the test was taken outside the State.

(i) The Commissioner of Public Safety shall adopt emergency rules relating to the operation, maintenance, and use of preliminary alcohol screening devices for use by law enforcement officers in enforcing the provisions of this title. The ~~commissioner~~ Commissioner shall consider relevant standards of the National Highway Traffic Safety Administration in adopting such rules. Any preliminary alcohol screening device authorized for use under this title shall be on the qualified products list of the National Highway Traffic Safety Administration.

* * *

Sec. 18h. 23 V.S.A. § 1203a(b) is amended to read:

(b) Arrangements for a blood test shall be made by the person submitting to the evidentiary breath or saliva test, by the person's attorney, or by some other person acting on the person's behalf unless the person is detained in custody after administration of the evidentiary test and upon completion of processing, in which case the law enforcement officer having custody of the person shall make arrangements for administration of the blood test upon demand but at the person's own expense.

Sec. 18i. 23 V.S.A. § 1204 is amended to read:

§ 1204. PERMISSIVE INFERENCES

* * *

(b) The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of alcohol or under the combined influence of alcohol and another drug, nor shall they be construed as requiring that evidence of the amount of alcohol or drug in the person's blood, breath, urine, or saliva must be presented.

Sec. 18j. DEPARTMENT OF PUBLIC SAFETY; DRUG RECOGNITION

EXPERTS; REPORT

On or before January 15, 2020, the Department of Public Safety shall report to the House and Senate Committees on Judiciary and on Government Operations on how to:

(1) achieve geographic equity in Drug Recognition Expert availability to conduct roadside evaluations of drivers suspected of violating 23 V.S.A. § 1201 across Vermont; and

(2) whether to expand the availability of the Drug Recognition Expert program beyond law enforcement officers to other public safety officials to the extent authorized by the national qualification standards of the International Association of Chiefs of Police and the National Highway Traffic Safety Administration.

Sec. 18k. DEPARTMENT OF PUBLIC SAFETY; NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION APPROVED SALIVA TESTING DEVICE; REPORT

Upon the National Traffic Highway Safety Association identifying a threshold level of concentration of a psychoactive metabolite of cannabis in a person's bloodstream to establish impairment and approving a chemical testing device for roadside use capable of demonstrating such a threshold level of concentration of such psychoactive metabolite of cannabis in a person's system, the Department of Public Safety shall report to the House and Senate Committees on Judiciary and on Government Operations on a proposal to implement the use of such a device to evaluate individuals suspected of operating under the influence of marijuana in violation of 23 V.S.A. § 1201.

* * * Safety Belts * * *

Sec. 18l. 23 V.S.A. § 1259 is amended to read:

§ 1259. SAFETY BELTS; PERSONS AGE 18 YEARS OF AGE OR OVER

* * *

~~(e) This section may be enforced only if a law enforcement officer has detained the operator of a motor vehicle for another suspected traffic violation. An operator shall not be subject to the penalty established in this section unless the operator is required to pay a penalty for the primary violation. [Repealed.]~~

(f) The penalty for violation of this section shall be as follows:

(1) ~~\$25.00~~ \$0.00 for a first violation;

(2) ~~\$50.00~~ \$25.00 for a second violation;

(3) \$50.00 for a third violation; and

(4) \$100.00 for ~~third~~ fourth and subsequent violations.

Sec. 18m. REPORTING BY THE VERMONT CRIMINAL JUSTICE
TRAINING COUNCIL

The Vermont Criminal Justice Training Council, in consultation with law enforcement agencies, shall submit a written report to the House and Senate Committees on Transportation and on Judiciary on or before the 15th day of January in 2022, 2023, and 2024 containing, for the prior State fiscal year:

(1) the total number of traffic stops broken out by race of the driver involved in the traffic stop; and

(2) the following information for all traffic stops involving safety belts not worn by persons 18 years of age or over:

(A) the age, gender, and race of the driver involved in the traffic stop;

(B) the reason for the traffic stop;

(C) the type of search conducted, if any;

(D) the evidence located, if any;

(E) the outcome of the traffic stop, including whether:

(i) a written warning was issued,

(ii) a citation for a civil ticket was issued;

(iii) a citation or arrest for a misdemeanor or a felony occurred; or

(iv) no subsequent action was taken;

(F) summary data broken out by age, gender, race, and outcome of the traffic stop where the reason for the stop was the primary enforcement of a person 18 years of age or over not wearing a safety belt; and

(G) summary data broken out by age, gender, race, and outcome of the traffic stop where the reason for the stop was for any reason other than the primary enforcement of a person 18 years of age or over not wearing a safety belt.

* * * Miscellaneous Cannabis Provisions * * *

Sec. 18n. 6 V.S.A. § 567 is amended to read:

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

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

(1) to develop potency and contaminant testing protocols for hemp, and hemp-infused products, cannabis, and cannabis products as defined in 7 V.S.A. § 831;

(2) to verify cannabinoid label guarantees of hemp, and hemp-infused products, cannabis, and cannabis products as defined in 7 V.S.A. § 831;

(3) to test for pesticides, solvents, heavy metals, mycotoxins, and bacterial and fungal contaminants in hemp, and hemp-infused products, cannabis, and cannabis products as defined in 7 V.S.A. § 831; and

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

(b) For purposes of this section, a laboratory operating under a dispensary registration pursuant to 18 V.S.A. chapter 86 that offers the services in subdivisions (2) and (3) of subsection (a) of this section on July 1, 2019 shall be deemed certified by the Agency.

(c) The cost of a test of a product produced at a registered dispensary shall be paid by the Department of Public Safety.

Sec. 19. 18 V.S.A. § 4230a(a)(2)(A) is amended to read:

(2)(A) A person shall not consume ~~marijuana~~ cannabis in a public place. “Public place” ~~means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute as defined in 7 V.S.A. § 1001 is prohibited by law~~ has the same meaning as provided by 7 V.S.A. § 831.

Sec. 20. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA CANNABIS

* * *

(b) Selling or dispensing.

(1) A person knowingly and unlawfully selling ~~marijuana~~ cannabis or hashish shall be imprisoned not more than two years or fined not more than \$10,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing more than one ounce of ~~marijuana~~ cannabis or five grams or more of hashish shall be imprisoned not more than five years or fined not more than \$100,000.00, or

both.

(3) A person knowingly and unlawfully selling or dispensing one pound or more of ~~marijuana~~ cannabis or 2.8 ounces or more of hashish shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(4) A person 21 years of age or older may dispense one ounce or less of cannabis or five grams or less of hashish to another person who is 21 years of age or older provided that the dispensing is not advertised or promoted to the public.

Sec. 20a. 18 V.S.A. § 4474n is added to read:

§ 4474n. USE OF U.S. FOOD AND DRUG ADMINISTRATION-

APPROVED DRUGS CONTAINING ONE OR MORE

CANNABINOIDS

(a) Upon approval by the U.S. Food and Drug Administration (FDA) of one or more prescription drugs containing one or more cannabinoids, the following activities shall be lawful in Vermont:

(1) the clinically appropriate prescription for a patient of an FDA-approved prescription drug containing one or more cannabinoids by a health care provider licensed to prescribe medications in this State and acting within his or her authorized scope of practice;

(2) the dispensing, pursuant to a valid prescription, of an FDA-approved prescription drug containing one or more cannabinoids to a patient or a patient's authorized representative by a pharmacist or by another health care provider licensed to dispense medications in this State and acting within his or her authorized scope of practice;

(3) the possession and transportation of an FDA-approved prescription drug containing one or more cannabinoids by a patient to whom a valid prescription was issued or by the patient's authorized representative;

(4) the possession and transportation of an FDA-approved prescription drug containing one or more cannabinoids by a licensed pharmacy or wholesaler in order to facilitate the appropriate dispensing and use of the drug; and

(5) the use of an FDA-approved prescription drug containing one or more cannabinoids by a patient to whom a valid prescription was issued, provided the patient uses the drug only for legitimate medical purposes in conformity with instructions from the prescriber and dispenser.

(b) Upon approval by the U.S. Food and Drug Administration of one or more prescription drugs containing one or more cannabinoids, the Department of Health shall amend its rules to conform to the provisions of subsection (a) of this section.

Sec. 20b. REPEAL

2017 Act and Resolves No. 62, Sec. 8 (use of U.S. Food and Drug Administration-approved drugs containing cannabidiol) is repealed.

Sec. 21. STATUTORY REVISION AUTHORITY

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall replace “marijuana” with “cannabis” throughout the statutes as needed for consistency with this act, as long as the revisions have no other effect on the meaning of the affected statutes.

* * * Effective Dates * * *

Sec. 22. EFFECTIVE DATES

(a) This section and Secs. 18c (Advanced Roadside Impaired Driving Enforcement training), 18j (drug recognition experts report), 18n (Agency of Agriculture, Food and Markets; testing), 20 (cannabis dispensing), 20a (F.D.A.-approved drugs containing one or more cannabinoids), 20b (repeal of F.D.A.-approved drugs containing cannabidiol), and 21 (statutory revision authority) shall take effect on passage.

(b) Secs. 1 (Title 7 redesignation), 2 (cannabis chapter), 3 (implementation of the Cannabis Control Board), 4 (implementation of rulemaking by the Cannabis Control Board), 5 (Cannabis Control Board; fees), 6 (creation of Board positions), 6a (space allocation), 6b (appropriation), 7 (cannabis establishments chapter), 8 (implementation of licensing of cannabis establishments), 18a (Substance Misuse Prevention Fund), 18i (permissive inference), 18k (National Highway Traffic safety Administration-approved saliva testing device), and 19 (public place definition) shall take effect July 1, 2019.

(c) Secs. 14 (creation of excise and local option tax), 14a (tax license disclosure), 15 (sales tax exemption), 16 (tax exemption), 17 (tax expenditure), 17a (meals and rooms tax), 17b (meals and rooms tax expenditure), and 18 (income tax deduction), 18b (Substance Misuse Prevention Fund), 18d (definition of evidentiary test), 18e (operating vehicle under the influence of alcohol or other substance), 18f (consent to taking of tests to determine blood alcohol content or presence of other drug), 18g (administration of tests), and 18h (independent testing of evidentiary sample) shall take effect January 1,

2021.

(d) Secs. 6c and 6d shall take effect on July 1, 2021.

(Committee vote: 10-1-0)

(For text see Senate Journal February 28, 2019)

Rep. Gannon of Wilmington, for the Committee on Government Operations, 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:

* * * Title Redesignation * * *

Sec. 1. Title 7 of the V.S.A. is redesignated to read:

7. ALCOHOLIC BEVERAGES, CANNABIS, AND TOBACCO

* * * Cannabis Generally; Cannabis Control Board * * *

Sec. 2. 7 V.S.A. chapter 31 is added to read:

CHAPTER 31. CANNABIS

Subchapter 1. General Provisions

§ 831. DEFINITIONS

As used in this chapter:

(1) “Board” means the Cannabis Control Board.

(2)(A) “Cannabis” means all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (2), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) “Cannabis” does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(iv) the sterilized seed of the plant that is incapable of

germination; or

(v) hemp or hemp products, as defined in 6 V.S.A. § 562.

(3) “Cannabis product” means concentrated cannabis and a product that is composed of cannabis and other ingredients and is intended for use or consumption, including an edible product, ointment, and tincture. Cannabis product shall include a vaporizer cartridge containing cannabis oil that is intended for use with a battery-powered device.

(4) “Chair” means the chair of the Cannabis Control Board.

(5) “Criminal history record” shall have the same meaning as in 20 V.S.A. § 2056a(a).

(6) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute is prohibited by law pursuant to 18 V.S.A. chapter 37.

§ 832. CANNABIS POSSESSED UNLAWFULLY SUBJECT TO SEIZURE AND FORFEITURE

Cannabis possessed unlawfully in violation of this title may be seized by law enforcement and is subject to forfeiture.

§ 833. CONSUMPTION OF CANNABIS IN A PUBLIC PLACE

No person shall consume cannabis in a public place unless specifically authorized by law. Violations shall be punished in accordance with 18 V.S.A. § 4230a.

Subchapter 2. Cannabis Control Board

§ 841. CANNABIS CONTROL BOARD; APPOINTMENT

(a) When a vacancy occurs on the Cannabis Control Board, the Governor shall make a public announcement about the vacancy. The Governor shall submit at least 10 names of potential nominees to the Cannabis Control Board Nominating Committee for review.

(b) The Committee shall review the candidates to determine which candidates are well-qualified for appointment to the Board and shall recommend those candidates to the Governor.

(c) The Governor shall appoint a chair and four members of the Board from the list of well-qualified candidates sent to the Governor by the Committee.

(d) The names of candidates shall be confidential.

§ 842. CANNABIS CONTROL BOARD NOMINATING COMMITTEE

(a) Creation. The Cannabis Control Board Nominating Committee is created for the purpose of assessing the qualifications of applicants for appointment to the Cannabis Control Board in accordance with section 841 of this title.

(b) Members. The Committee shall consist of seven members who shall be selected as follows:

(1) The Governor shall appoint three members from the Executive Branch.

(2) The Speaker of the House of Representatives shall appoint two members from the House of Representatives.

(3) The Senate Committee on Committees shall appoint two members from the Senate.

(c) Duties. When the Governor submits the names of candidates for appointment to the Cannabis Control Board in accordance with section 841 of this title, the Committee shall review candidates to determine which candidates are well-qualified for the Board and submit those names to the Governor.

(d) Terms. The members of the Committee shall serve for terms of two years. The appointments shall be between June 1 and July 1 of each even-numbered year, except to fill a vacancy. Members shall serve until their successors are appointed. Members shall serve not more than three consecutive terms in any capacity. A legislative member who is appointed as a member of the Committee shall retain the position for the term for which he or she was appointed to the Committee even if the member is subsequently not reelected to the General Assembly during the member's term on the Committee.

(e) Chair. The members shall elect their own chair.

(f) Quorum. A quorum of the Committee shall consist of four members.

(g) Staff and services. The Committee is authorized to use the staff and services of appropriate State agencies and departments as necessary to conduct investigations of applicants.

(h) Confidentiality. Except as provided in subsection (i) of this section, proceedings of the Committee, including the names of candidates considered by the Committee and information about any candidate submitted by the Governor, shall be confidential. The provisions of 1 V.S.A. 317(e) (expiration

of Public Records Act exemptions) shall not apply to the exemptions or confidentiality provisions in this subsection.

(i) Public information. The following shall be public:

(1) operating procedures of the Committee;

(2) standard application forms and any other forms used by the Committee, provided they do not contain personal information about a candidate or confidential proceedings;

(3) all proceedings of the Committee prior to the Board's receipt of the first candidate's completed application; and

(4) at the time the Committee sends the names of the candidates to the Governor, the total number of applicants for the vacancies and the total number of candidates sent to the Governor.

(j) Reimbursement. Legislative members of the Committee shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406. Compensation and reimbursement shall be paid from the legislative appropriation.

§ 843. CANNABIS CONTROL BOARD; DUTIES; MEMBERS

(a) Creation. There is created within the Executive Branch an independent commission named the Cannabis Control Board for the purpose of safely, equitably, and effectively implementing and administering the laws enabling access to adult-use cannabis in Vermont.

(b) Duties. The duties of the Board shall be:

(1) rulemaking in accordance with this chapter, chapter 33 of this title, and 3 V.S.A. chapter 25;

(2) administration of a program for licensed cannabis establishments, which shall include compliance and enforcement; and

(3) submission of an annual budget to the Governor.

(c) Membership.

(1) The Board shall be composed of a chair and four members appointed by the Governor in accordance with sections 841 and 842 of this title.

(2) All Board members shall serve for a term of three years or until a successor is appointed and shall be eligible for reappointment, provided that no member may serve more than three terms.

(3) A vacancy created before the expiration of a term shall be filled in

the same manner as the original appointment for the unexpired portion of the term. A member appointed to fill a vacancy created before the expiration of a term shall not be deemed to have served a term for the purpose of subdivision (2) of this subsection.

(4) A member may be removed only for cause by the remaining members of the Commission in accordance with the Vermont Administrative Procedure Act.

(d)(1) Conflicts of interest. No Board member shall, during his or her term or terms on the Board, be an officer of, director of, organizer of, employee of, consultant to, or attorney for any person subject to regulation by the Board.

(2) No Board member shall participate in creating or applying any law, rule, or policy or in making any other determination if the Board member, individually or as a fiduciary, or the Board member's spouse, parent, or child wherever residing or any other member of the Board member's family residing in his or her household has an economic interest in the matter before the Board or has any more than a de minimus interest that could be substantially affected by the proceeding.

(3) No Board member shall, during his or her term or terms on the Board, solicit, engage in negotiations for, or otherwise discuss future employment or a future business relationship of any kind with any person subject to supervision or regulation by the Board.

(4) No Board member may appear before the Board or any other State agency on behalf of a person subject to supervision or regulation by the Board for a period of one year following his or her last day as a member of the Cannabis Control Board.

(e) Salaries. The Chair and all members of the Board shall be full-time State employees and shall be exempt from the State classified system. The Chair shall receive compensation equal to two-thirds that of a Superior Court Judge and other members shall receive compensation equal to one-half that of a Superior Court Judge.

(f) Executive Director. The Board shall appoint an Executive Director who shall be an attorney with experience in legislative or regulatory matters. The Director shall be a full-time State employee, shall be exempt from the State classified system, and shall serve at the pleasure of the Board. The Director shall be responsible for:

(1) supervising and administering the operation and implementation of this chapter and the rules adopted by the Board as directed by the Board;

(2) assisting the Board in its duties and administering the licensing

requirements of this chapter;

(3) acting as Secretary to the Board, but as a nonvoting member of the Board;

(4) employing such staff as may be required to carry out the functions of the Board; and

(5) preparing an annual budget for submission to the Board.

(g) Consultant. The Board is authorized to hire a consultant as needed to assist with its duties under this section.

(h) Advisory committee.

(1) There is an advisory committee established within the Board that shall be comprised of members with expertise and knowledge relevant to the Board's mission. The advisory committee shall be composed of the following 12 members:

(A) one member with an expertise in public health appointed by the Governor;

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

(C) one member with an expertise in laboratory science or toxicology appointed by the Governor;

(D) one member with an expertise in systemic social justice and equity issues appointed by the Speaker of the House;

(E) one member with an expertise in women and minority-owned business ownership appointed by the Speaker of the House;

(F) one member with an expertise in substance misuse prevention appointed by the Senate Committee on Committees;

(G) one member with an expertise in the cannabis industry appointed by the Senate Committee on Committees;

(H) one member with an expertise in business management or regulatory compliance appointed by the Treasurer;

(I) one member with an expertise in municipal issues appointed by the Treasurer;

(J) one member with an expertise in public safety appointed by the Attorney General;

(K) one member with an expertise in criminal justice reform appointed by the Attorney General; and

(L) the Secretary of Natural Resources or designee.

(2) Initial appointments to the advisory committee as provided in subdivision (1) of this subsection (h) shall be made on or before December 1, 2020.

(3) The Board may establish subcommittees within the advisory committee to accomplish its work.

(4) Members of the Advisory Committee who are not otherwise compensated by the member's employer for attendance at meetings 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 annually. These payments shall be made from the Cannabis Regulation Fund.

§ 844. AUTHORITY FOR CRIMINAL BACKGROUND CHECKS

The Board shall establish a user agreement with the Vermont Crime Information Center in accordance with 20 V.S.A. chapter 117 for the purpose of obtaining Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation as required by chapter 33 of this title.

§ 845. CANNABIS REGULATION FUND

(a) There is established the Cannabis Regulation Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. The Fund shall be maintained by the Cannabis Control Board.

(b) The Fund shall be composed of all application fees, annual license fees, renewal fees, advertising review fees, and civil penalties collected by the Board pursuant to chapter 33 of this title.

(c) Monies from the fund shall only be appropriated for the purposes of implementation, administration, and enforcement of this chapter and chapter 33 of this title.

§ 846. FEES

(a) The Board shall have the authority to charge and collect fees as provided by this chapter and chapter 33 of this title.

(b) Fees shall be deposited in the Cannabis Regulation Fund.

§ 847. APPEALS

(a)(1) A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Executive Director who shall assign the case to an appellate officer.

(2)(A) The review shall be conducted on the basis of the record created before the Board.

(B) In cases of alleged irregularities in procedure before the Board, not shown in the record, proof on that issue may be taken by the appellate officer.

(b) The appellate officer shall not substitute his or her judgment for that of the Board as to the weight of the evidence on questions of fact. The appellate officer may affirm the decision, or may reverse and remand the matter with recommendations if substantial rights of the appellant have been prejudiced because the Board's finding, inferences, conclusions, or decisions are:

(1) in violation of constitutional or statutory provisions;

(2) in excess of the statutory authority of the Board;

(3) made upon unlawful procedure;

(4) affected by other error of law;

(5) clearly erroneous in view of the evidence on the record as a whole;

(6) arbitrary or capricious; or

(7) characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(c) A party aggrieved by a decision of the appellate officer may appeal to the Supreme Court, which shall review the matter on the basis of the records created before the Board.

(d) The Board shall have the authority to contract for the services of an appellate officer.

Sec. 3. IMPLEMENTATION OF THE CANNABIS CONTROL BOARD

(a) The Cannabis Control Board, created in Sec. 2 of this act, is established on June 1, 2020.

(b) Members of the Board shall be appointed on or before September 1, 2020 and terms of members shall officially begin on such date.

(c)(1) In order to stagger the terms of the members of the Board, the initial terms of those members shall be as follows:

(A) the Chair shall serve for a three-year term;

(B) two members shall serve for a two-year term; and

(C) two members shall serve for a one-year term.

(2) After the expiration of the initial terms set forth in subdivision (1) of this subsection, Board member terms shall be as set forth in 7 V.S.A. § 843.

Sec. 4. IMPLEMENTATION OF RULEMAKING BY THE CANNABIS
CONTROL BOARD

On or before March 1, 2021 the Cannabis Control Board shall initiate rulemaking for cannabis establishments pursuant to chapter 33 of this title as provided in Sec. 7 of this act.

Sec. 5. CANNABIS CONTROL BOARD REPORT TO THE GENERAL
ASSEMBLY; PROPOSAL FOR POSITIONS, FEES, AND
APPROPRIATIONS FOR FISCAL YEARS 2022 AND 2023; LAND
USE, ENVIRONMENTAL, ENERGY, AND EFFICIENCY
REQUIREMENTS OR STANDARDS; OUTREACH, TRAINING,
AND EMPLOYMENT PROGRAMS; ONLINE ORDERING AND
DELIVERY; ADDITIONAL TYPES OF LICENSES

(a) On or before January 15, 2021, the Executive Director of the Cannabis Control Board shall provide recommendations to the General Assembly on the following:

(1) Resources necessary for implementation of this act for fiscal years 2022 and 2023, including positions and funding. The Board shall consider utilization of current expertise and resources within State government and cooperation with other State departments and agencies where there may be an overlap in duties.

(2) Fees to be charged and collected in accordance with the Board's authority pursuant to 7 V.S.A. § 847. The recommendations shall be accompanied by information justifying the recommended rate as required by 32 V.S.A. § 605(d). The fees submitted in accordance with this subdivision are projected, at a minimum, to equal the cost of application and license fees for marijuana establishments in the Commonwealth of Massachusetts that are collected by the Cannabis Control Commission. The Board may recommend fees that are lower or higher, provided they are designed to provide sufficient funding to meet the duties of the Cannabis Control Board as provided in 7 V.S.A. § 843.

(A) Application fees, initial annual license fees, and annual license renewal fees for each type of cannabis establishment license as provided in 7 V.S.A. § 910: cultivator, product manufacturer, wholesaler, retailer, testing

laboratory, and integrated. If the Board establishes tiers within a licensing category, it shall provide a fee recommendation for each tier.

(B) Fee for a cannabis establishment identification card as provided in 7 V.S.A. § 884.

(C) Fee for advertisement review for a cannabis establishment licensee as provided in 7 V.S.A. § 865.

(3) Whether monies expected to be generated by fees identified in subdivision (2) of this subsection are sufficient to support the statutory duties of the Board and whether any portion of the tax established pursuant to 32 V.S.A. § 7901 should be allocated to the Cannabis Regulation Fund to ensure these duties are met.

(4) Whether monies collected pursuant to a local option tax should be shared with municipalities that host a cannabis establishment that is not a licensed retailer or integrated licensee and, if so, a recommended formula for sharing the revenue.

(b) On or before January 15, 2021, the Executive Director of the Cannabis Control Board, after consultation with the Secretary of Natural Resources, the Chair of the Natural Resources Board, and the Secretary of Agriculture, Food and Markets, shall recommend to the General Assembly exemptions, specific criteria, or additional requirements under applicable State or local environmental or land use law for cannabis establishments in the State. The recommendations shall address whether additional groundwater quality requirements or regulations are required for the cultivation of cannabis in order to protect the groundwater resources of the State from overuse. The Executive Director may provide the recommendations based on a tier, type, or category of cannabis cultivation or cannabis establishment.

(c) On or before January 15, 2021, the Executive Director of the Cannabis Control Board, after consultation with the Commissioner of Public Service and the Chair of the Public Utility Commission, shall recommend to the General Assembly energy or efficiency requirements or standards for the operation of cannabis establishments in the State. The recommendations shall include:

(1) recommended building energy standards for cannabis establishments if different from existing commercial building standards;

(2) recommended energy audits for cannabis establishments, including the recommended frequency of audits and who should perform the audits; and

(3) energy efficiency and conservation measures applicable to cannabis establishments.

(d) In making the recommendations required under subsections (b) and (c) of this section, the Executive Director of the Cannabis Control Board shall recommend the permits, licenses, or standards that a licensed cannabis cultivator or cannabis product manufacturer shall demonstrate, as a condition of licensure, or as a condition for licensure renewal if such standards are not established prior to initial licensure.

(e) On or before March 1, 2021, the Executive Director of the Cannabis Control Board shall submit to the General Assembly the Board's recommendation whether licensed cannabis product manufacturers should be considered a food manufacturing establishment or food processor pursuant to 18 V.S.A. § 4301(7) for the purpose of licensing and regulation by the Department of Health.

(f) On or before November 15, 2021, the Executive Director of the Cannabis Control Board shall submit to the General Assembly:

(1) a proposal to work with the Department of Labor, Agency of Commerce and Community Development, the Department of Corrections, and the Director of Racial Equity to develop outreach, training, and employment programs focused on providing economic opportunities to individuals who historically have been disproportionately impacted by cannabis prohibition;

(2) a summary of the experience of other jurisdictions with regulated cannabis markets that allow licensed retail cannabis establishments to accept online ordering for in-store pick-up of items and to deliver to customers and the advantages and disadvantages of allowing such services in Vermont;

(3) recommendations as to whether the General Assembly should consider adding additional types of cannabis licenses, including a craft cooperative license, delivery license, or special event license;

(4) recommendations as to whether cannabis and cannabis products should have a minimum amount of cannabidiol to aid in the prevention of the cannabis-induced psychosis that occurs in some users of cannabis and cannabis products; and

(5) recommendations regarding the display and sale of cannabis-related paraphernalia that is sold by persons who are not licensed as a cannabis establishment or a dispensary.

Sec. 6. CANNABIS CONTROL BOARD; POSITIONS

The following new permanent positions are created in the Cannabis Control Board:

(1) five full-time, exempt members of the Board;

(2) one full-time, exempt Executive Director of the Board; and

(3) one full-time, classified Administrative Assistant.

Sec. 6a. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION

The Commissioner of Buildings and General Services shall allocate space for the Cannabis Control Board established in Sec. 2 of this act. This space shall be allocated on or before September 1, 2020.

Sec. 6b. APPROPRIATION

In fiscal year 2021, \$810,000.00 is appropriated from the Cannabis Regulation Fund to the Cannabis Control Board. This appropriation is made in anticipation of receipts in the Fund.

Sec. 6c. CONTINGENT CANNABIS REGULATION FUND DEFICIT

OFFSET

To the extent that the Cannabis Regulation Fund has a negative balance at the close of the fiscal year 2022, proceeds in that amount from the tax established in 32 V.S.A. § 7901 in fiscal year 2023 shall be deposited into the Cannabis Regulation Fund.

Sec. 6d. AUDITOR OF ACCOUNTS REPORT

On or before November 15, 2023, the Auditor of Accounts shall report to the General Assembly regarding the organizational structure and membership of the Cannabis Control Board and whether the structure continues to be the most efficient for carrying out the statutory duties of the Board.

* * * Cannabis Establishments * * *

Sec. 7. 7 V.S.A. chapter 33 is added to read:

CHAPTER 33. CANNABIS ESTABLISHMENTS

Subchapter 1. General Provisions

§ 861. DEFINITIONS

As used in this chapter:

(1) “Advertise” means the publication or dissemination of an advertisement.

(2) “Advertisement” means any written or verbal statement, illustration, or depiction that is calculated to induce sales of cannabis or cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, other periodical literature, publication, or in a radio or television broadcast, the Internet, or in any other media. The term does not

include:

(A) any label affixed to any cannabis or cannabis product, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of these standards;

(B) any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any cannabis establishment, and that is not written by or at the direction of the licensee;

(C) any educational, instructional, or otherwise noncommercial material that is not intended to induce sales and that does not propose an economic transaction, but that merely provides information to the public in an unbiased manner; or

(D) a sign attached to the premises of a cannabis establishment that merely identifies the location of the cannabis establishment.

(3) “Affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with another person.

(4) “Applicant” means a person that applies for a license to operate a cannabis establishment pursuant to this chapter.

(5) “Board” means the Cannabis Control Board.

(6) “Cannabis” shall have the same meaning as provided in section 831 of this title.

(7) “Cannabis cultivator” or “cultivator” means a person licensed by the Board to engage in the cultivation of cannabis in accordance with this chapter.

(8) “Cannabis establishment” means a cannabis cultivator, wholesaler, product manufacturer, retailer, or testing laboratory licensed by the Board to engage in commercial cannabis activity in accordance with this chapter.

(9) “Cannabis product” shall have the same meaning as provided in section 831 of this title.

(10) “Cannabis product manufacturer” or “product manufacturer” means a person licensed by the Board to manufacture cannabis products in accordance with this chapter.

(11) “Cannabis retailer” or “retailer” means a person licensed by the Board to sell cannabis and cannabis products to adults 21 years of age and older for off-site consumption in accordance with this chapter.

(12) “Cannabis testing laboratory” or “testing laboratory” means a person licensed by the Board to test cannabis and cannabis products in accordance with this chapter.

(13) “Cannabis wholesaler” or “wholesaler” means a person licensed by the Board to purchase, process, transport, and sell cannabis and cannabis products in accordance with this chapter.

(14) “Chair” means the Chair of the Cannabis Control Board.

(15) “Characterizing flavor” means a taste or aroma, other than the taste or aroma of cannabis, imparted either prior to or during consumption of a cannabis product. The term includes tastes or aromas relating to any fruit, chocolate, vanilla, honey, maple, candy, cocoa, dessert, alcoholic beverage, mint, menthol, wintergreen, herb or spice, or other food or drink, or to any conceptual flavor that imparts a taste or aroma that is distinguishable from cannabis flavor but may not relate to any particular known flavor.

(16) “Child-resistant packaging” means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance in the container within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging that all children under five years of age cannot open or obtain a toxic or harmful amount of the substance in the container within a reasonable time.

(17) “Controls,” “is controlled by,” and “under common control” mean the power to direct, or cause the direction or management and policies of a person, whether through the direct or beneficial ownership of voting securities, by contract, or otherwise. A person who directly or beneficially owns 10 percent or more equity interest, or the equivalent thereof, of another person shall be deemed to control the person.

(18) “Dispensary” means a business organization licensed pursuant to 18 V.S.A. chapter 86.

(19) “Enclosed, locked facility” means a building, room, greenhouse, outdoor fenced-in area, or other location that is enclosed on all sides and prevents cannabis from easily being viewed by the public. The facility shall be equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include cannabis

cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where cannabis is being grown, processed, packaged, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(20) “Flavored oil cannabis product” means any oil cannabis product that contains an additive to give it a characterizing flavor.

(21) “Integrated licensee” means a person licensed by the Board to engage in the activities of a cultivator, wholesaler, product manufacturer, retailer, and testing laboratory in accordance with this chapter.

(22) “Municipality” means a town, city, or incorporated village.

(23) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency, or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

(24) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

(25) “Principal” means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership.

(26) “Small cultivator” means a cultivator with a plant canopy or space for cultivating plants for breeding stock of not more than 500 square feet.

§ 862. NOT APPLICABLE TO HEMP OR THERAPEUTIC USE OF CANNABIS

This chapter applies to the regulation of cannabis establishments by the Board and shall not apply to activities regulated by 6 V.S.A. chapter 34 (hemp) or 18 V.S.A. chapter 86 (therapeutic use of cannabis).

§ 863. REGULATION BY LOCAL GOVERNMENT

(a)(1) Prior to a cannabis retailer operating within a municipality, the

municipality shall affirmatively permit the operation of such retailers by majority vote of those present and voting by Australian ballot at an annual or special meeting warned for that purpose.

(2) A vote to permit the operation of a licensed cannabis retailer within the municipality shall remain in effect until rescinded by majority vote of those present and voting by Australian ballot at a subsequent annual or special meeting warned for that purpose. A rescission of the permission to operate a licensed cannabis retailer within the municipality under this subdivision shall not apply to a licensed cannabis retailer that is operating within the municipality at the time of the vote.

(b) A municipality that hosts a cannabis establishment may establish a cannabis control commission composed of commissioners who may be members of the municipal legislative body. The local cannabis control commission may issue and administer local control licenses under this subsection for cannabis establishments within the municipality. The commissioners may condition the issuance of a local control license upon compliance with any bylaw adopted pursuant to 24 V.S.A. § 4414 or ordinances regulating signs or public nuisances adopted pursuant to 24 V.S.A. § 2291. The commission may suspend or revoke a local control license for a violation of any condition placed upon the license. The Board shall adopt rules relating to a municipality's issuance of a local control license in accordance with this subsection and the local commissioners shall administer the rules furnished to them by the Board as necessary to carry out the purposes of this section.

(c) Prior to issuing a license to a cannabis establishment under this chapter, the Board shall ensure that the applicant has obtained a local control license from the municipality, if required.

(d) A municipality shall not:

(1) prohibit the operation of a cannabis establishment within the municipality through an ordinance adopted pursuant to 24 V.S.A. § 2291 or a bylaw adopted pursuant to 24 V.S.A. § 4414;

(2) condition the operation of a cannabis establishment, or the issuance or renewal of a municipal permit to operate a cannabis establishment, on any basis other than the conditions in subsection (b) of this section; and

(3) exceed the authority granted to it by law to regulate a cannabis establishment.

§ 864. ADVERTISING

(a) "Advertise" and "advertisement" have the same meaning as in

section 831 of this title.

(b) A cannabis establishment advertisement shall not contain any statement or illustration that:

(1) is deceptive, false or misleading;

(2) promotes overconsumption;

(3) represents that the use of cannabis has curative effects;

(4) offers a prize, award, or inducement for purchasing cannabis or a cannabis product, except that price discounts are allowed;

(5) offers free samples of cannabis or cannabis products;

(6) depicts a person under 21 years of age consuming cannabis or cannabis products; or

(7) is designed to be or has the effect of being particularly appealing to persons under 21 years of age.

(c) Cannabis establishments shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age.

(d) All advertisements shall contain health warnings adopted by rule by the Board in consultation with the Department of Health.

(e) All advertisements shall be submitted to the Board on a form or in a format prescribed by the Board, prior to the dissemination of the advertisement. The Board may:

(1) require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the Board determines that the advertisement would be false or misleading without such a disclosure; or

(2) require changes that are necessary to protect the public health, safety, and welfare or consistent with dispensing information for the product under review.

(f) The Board may charge and collect fees for review of advertisements.

§ 865. EDUCATION

(a) A licensee shall complete an enforcement seminar every three years conducted by the Board. A license shall not be renewed unless the records of the Board show that the licensee has complied with the terms of this subsection.

(b) A licensee shall ensure that each employee involved in the sale of

cannabis or cannabis products to the public completes a training program approved by the Board prior to selling cannabis or cannabis products and at least once every 24 months thereafter. The training shall include information about the health effects of the use of cannabis and cannabis products. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Board. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of not less than one day of the license issued under this chapter.

§ 866. YOUTH

(a) A cannabis establishment licensed pursuant to this chapter shall not dispense or sell cannabis to a person under 21 years of age or employ a person under 21 years of age. The Board may assess civil penalties against or suspend or revoke the license of a cannabis establishment that dispenses or sells cannabis or cannabis products to a person under 21 years of age.

(b) A cannabis establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where cannabis is located. This subsection shall not apply to a registered patient visiting a dispensary even if that dispensary is located in a building that is located on the same premises of a cannabis establishment.

(c) In accordance with section 864 of this title, advertising by a cannabis establishment shall not depict a person under 21 years of age consuming cannabis or cannabis products or be designed to be or has the effect of being particularly appealing to persons under 21 years of age. Cannabis establishments shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age.

(d) The Board, in consultation with the Department of Health, shall adopt rules in accordance with section 881 of this title to:

(1) prohibit cannabis products or the packaging of such products that are designed to make the product more appealing to persons under 21 years of age;

(2) prohibit the packaging of cannabis that is designed to make the product more appealing to persons under 21 years of age;

(3) require that cannabis products sold by licensed retailers and integrated licensees are contained in child-resistant packaging; and

(4) require that cannabis and cannabis products sold by licensed retailers and integrated licensees are packaged with labels that clearly indicate that the

contents of the package contain cannabis and should be kept away from persons under 21 years of age.

§ 867. STANDARD SYMBOL FOR CANNABIS

The Board shall create a standard symbol that shall be used on all cannabis and cannabis products sold by a licensed cannabis retailer to indicate that the contents of a package contain cannabis.

§ 868. PROHIBITED PRODUCTS

(a) The following are prohibited products and may not be cultivated, produced or sold pursuant to a license issued under this chapter:

(1) cannabis flower with greater than 30 percent tetrahydrocannabinol;

(2) solid concentrate cannabis products with greater than 60 percent tetrahydrocannabinol;

(3) oil cannabis products except for those that are sold prepackaged for use with battery-powered devices;

(4) flavored oil cannabis products sold prepackaged for use with battery-powered devices and any cannabis flower that contains characterizing flavor that is not naturally occurring in the cannabis;

(5) cannabis products that contain delta-9 tetrahydrocannabinol and nicotine or alcoholic beverages; and

(6) any cannabis or cannabis products that are designed to make the product more appealing to persons under 21 years of age.

§ 869. CULTIVATION OF CANNABIS; ENVIRONMENTAL AND LAND USE STANDARDS

(a) A cannabis establishment shall not be regulated as “farming” under the Required Agricultural Practices, 6 V.S.A. chapter 215, or other State law, and cannabis produced from cultivation shall not be considered an agricultural product or agricultural crop for the purposes of 32 V.S.A. chapter 124, 32 V.S.A. § 9741, or other relevant State law.

(b) The cultivation, processing, and manufacturing of cannabis regulated under this chapter shall comply with all applicable State, federal, and local environmental, energy, or public health law, unless otherwise provided under this chapter or rules adopted under this chapter.

(c) A cannabis establishment regulated under this chapter shall be subject to regulation under 24 V.S.A. chapter 117 as authorized by this chapter.

(d)(1) The cultivation, processing, and manufacturing of cannabis

regulated under this chapter shall comply with the following sections of the Required Agricultural Practices:

(A) section 6, regarding conditions, restriction, and operating standards;

(B) section 8, regarding groundwater quality and groundwater quality investigations; and

(C) section 12, regarding subsurface tile drainage.

(2) Application of or compliance with the Required Agricultural Practices under subdivision (1) of this subsection shall not be construed to provide a presumption of compliance with or exemption to any applicable State, federal, and local environmental, energy, public health, or land use law required under subsections (b) and (c) of this section.

Subchapter 2. Administration

§ 881. RULEMAKING; CANNABIS ESTABLISHMENTS

(a) The Board shall adopt rules to implement and administer this chapter in accordance with subdivisions (1)–(7) of this subsection.

(1) Rules concerning any cannabis establishment shall include:

(A) the form and content of license and renewal applications;

(B) qualifications for licensure that are directly and demonstrably related to the operation of a cannabis establishment, including:

(i) a requirement to submit an operating plan, which shall include information concerning:

(I) the type of business organization; the identity of its controlling owners and principals; and the identity of the controlling owners and principals of its affiliates; and

(II) the sources, amount, and nature of its capital, assets, and financing; the identity of its financiers; and the identity of the controlling owners and principals of its financiers;

(ii) a requirement to file an amendment to its operating plan in the event of a significant change in organization, operation, or financing; and

(iii) the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to section 883 of this title;

(C) oversight requirements, including provisions to ensure that a licensed establishment complies with State and federal regulatory requirements governing insurance, securities, workers' compensation, unemployment

insurance, and occupational health and safety;

(D) inspection requirements;

(E) records to be kept by licensees and the required availability of the records;

(F) employment and training requirements;

(G) security requirements, including any appropriate lighting, physical security, video, and alarm requirements;

(H) restrictions on advertising, marketing, and signage;

(I) health and safety requirements;

(J) regulation of additives to cannabis and cannabis products, including those that are toxic or designed to make the product more addictive, more appealing to persons under 21 years of age, or to mislead consumers;

(K) procedures for seed-to-sale traceability of cannabis, including any requirements for tracking software;

(L) regulation of the storage and transportation of cannabis;

(M) sanitary requirements;

(N) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the cannabis establishment's license;

(O) procedures for suspension and revocation of a license;

(P) requirements for banking and financial transactions, including provisions to ensure that the Board, the Department of Financial Regulation, and financial institutions have access to relevant information concerning licensed establishments to comply with State and federal regulatory requirements;

(Q) disclosure or eligibility requirements for a financier, its owners and principals, and its affiliates, which may include:

(i) requirements to disclose information to a licensed establishment, the Board, or the Department of Financial Regulation;

(ii) a minimum age requirement and a requirement to conduct a background check for natural persons;

(iii) requirements to ensure that a financier complies with applicable State and federal laws governing financial institutions, licensed lenders, and other financial service providers; and

(iv) any other requirements, conditions, or limitations on the type or amount of loans or capital investments made by a financier or its affiliates, which the Board, in consultation with the Department of Financial Regulation, determines is necessary to protect the public health, safety, and general welfare; and

(R) policies and procedures for conducting outreach and promoting participation in the regulated cannabis market by diverse groups of individuals, including those who have been disproportionately harmed by cannabis prohibition.

(2)(A) Rules concerning cultivators shall include:

(i) creation of a tiered system of licensing based on the plant canopy size of the cultivation operation or plant count for breeding stock;

(ii) pesticides or classes of pesticides that may not be used by cultivators;

(iii) standards for indoor cultivation of cannabis;

(iv) procedures and standards for testing cannabis for contaminants, potency, and quality assurance and control;

(v) labeling requirements for cannabis sold to retailers and integrated licensee that include health warnings developed in consultation with the Department of Health;

(vi) regulation of visits to the establishments, including the number of visitors allowed at any one time and record keeping concerning visitors; and

(vii) facility inspection requirements and procedures.

(B) The Board shall consider the different needs and risks of small cultivators when adopting rules and shall make an exception or accommodation to such rules for cultivators of this size where appropriate.

(3) Rules concerning product manufacturers shall include:

(A) requirements that a single package of a cannabis product shall not contain more than 100 milligrams of THC, except in the case of:

(i) cannabis products that are not consumable, including topical preparations; and

(ii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and regulations issued pursuant to that chapter;

(B) requirements that cannabis products are labeled in a manner that

states the number of servings of tetrahydrocannabinol in the product, measured in servings of a maximum of five milligrams per serving, except:

(i) cannabis products that are not consumable, including topical preparations; and

(ii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and regulations issued pursuant to that chapter;

(C) requirements that cannabis products are labeled with a date the product was manufactured, the date the product is best used by, the ingredients contained in the product, information on the length of time it typically takes for products to take effect, and health warnings developed in consultation with the Department of Health;

(D) requirements that a cannabis product is clearly identifiable with a standard symbol adopted by the Board indicating that it contains cannabis;

(E) procedures and standards for testing cannabis products for contaminants, potency, and quality assurance and control;

(F) requirements for opaque, child-resistant packaging; and

(G) a prohibition on:

(i) products or packaging that are designed to make the product more appealing to persons under 21 years of age; and

(ii) the inclusion of nicotine or alcoholic beverages in a cannabis product.

(4) Rules concerning wholesalers shall include any provisions the Board has not addressed in subdivision (a)(1) of this section that are appropriate for safe regulation of wholesalers in accordance with this chapter.

(5) Rules concerning retailers shall include:

(A) requirements for proper verification of age of customers;

(B) restrictions that cannabis shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the cannabis;

(C) requirements that if the retailer sells hemp or hemp products, the hemp and hemp products are clearly labeled as such and displayed separately from cannabis and cannabis products;

(D) requirements for opaque, child-resistant packaging of cannabis and cannabis products at point of sale to customer; and

(E) facility inspection requirements and procedures.

(6) Rules concerning testing laboratories shall include:

(A) procedures and standards for testing cannabis and cannabis products for contaminants, potency, and quality assurance and control;

(B) reporting requirements, including requirements for chain-of-custody record keeping; and

(C) procedures for destruction of all cannabis and cannabis products samples.

(7) Rules concerning integrated licensees shall include the provisions provided in subdivisions (a)(1)–(6) of this section and any additional provisions the Board deems appropriate for safe regulation of integrated licensees in accordance with this chapter.

(b) The Board shall consult with other State agencies and departments as necessary in the development and adoption of rules where there is shared expertise and duties.

§ 882. SUSPENSION AND REVOCATION OF LICENSES; CIVIL

PENALTIES

(a) The Board shall have the authority to suspend or revoke a cannabis establishment license for violations of this chapter in accordance with rules adopted pursuant to this chapter.

(b) The Board shall have authority to issue civil citations for violations of this chapter in accordance with rules adopted pursuant to this chapter. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

§ 883. CRIMINAL BACKGROUND RECORD CHECKS; APPLICANTS

(a) The Board shall obtain from the Vermont Crime Information Center a copy of a license applicant's fingerprint-based Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(b) The Board shall adopt rules that set forth standards for determining whether an applicant should be denied a cannabis establishment license because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify an applicant.

§ 884. CANNABIS ESTABLISHMENT IDENTIFICATION CARD

(a) Every owner, principal, and employee of a cannabis establishment shall obtain an identification card issued by the Board.

(b)(1) Prior to issuing the identification card, the Board shall obtain from the Vermont Crime Information Center a copy of the person's Vermont fingerprint-based criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(2) The Board shall adopt rules that set forth standards for determining whether a person should be denied a cannabis establishment identification card because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify an applicant.

(c) Once an identification card application has been submitted, a person may serve as an employee of a cannabis establishment pending the background check, provided the person is supervised in his or her duties by someone who is a cardholder. The Board shall issue a temporary permit to the person for this purpose, which shall expire upon the issuance of the identification card or disqualification of the person in accordance with this section.

(d) An identification card shall expire one year after its issuance or upon the expiration of the cannabis establishment's license, whichever occurs first.

Subchapter 3. Licenses

§ 901. GENERAL PROVISIONS

(a) Except as otherwise permitted by law, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of cannabis or cannabis products without obtaining a license from the Board.

(b) All licenses shall be valid for one year and expire at midnight on the eve of the anniversary of the date the license was issued. A licensee may apply to renew the license annually.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Board and shall be accompanied by the fees provided for in section 909 of this title.

(d)(1) There shall be six types of licenses available:

(A) a cultivator license;

(B) a wholesaler license;

(C) a product manufacturer license;

- (D) a retailer license;
- (E) a testing laboratory license; and
- (F) an integrated license.

(2)(A) The Board shall develop tiers for:

(i) cultivator licenses based on the plant canopy size of the cultivation operation or plant count for breeding stock.

(ii) retailer licenses.

(B) The Board may develop tiers for other types of licenses.

(3)(A) Except as provided in subdivision (3)(B) of this subsection (d), an applicant and its affiliates may obtain a maximum of one type of each type of license as provided in subdivision (d)(1)(A)–(E) of this title. Each license shall permit only one location of the establishment.

(B) An applicant and its affiliates that are a dispensary registered pursuant to 18 V.S.A. chapter 86 may obtain one integrated license provided in subdivision (d)(1)(F) of this title or a maximum of one of each type of license provided in subdivision (d)(1)(A)–(E) of this title. An integrated licensee may not hold a separate cultivator, wholesaler, product manufacturer, retailer, or testing laboratory license. An integrated license shall permit only one location for each of the types of activities permitted by the license: cultivation, wholesale operations, product manufacturing, retail sales, and testing.

(e) A dispensary that obtains a retailer license or an integrated license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Board.

(f) Each licensee shall obtain and maintain commercial general liability insurance in accordance with rules adopted by the Board. Failure to provide proof of insurance to the Board, as required, may result in revocation of the license.

(g) All licenses may be renewed according to procedures adopted through rulemaking by the Board.

(h)(1) The following records shall be exempt from public inspection and copying under the Public Records Act and shall be confidential:

(A) any record in an application for a license relating to security, public safety, transportation, or trade secrets, including information provided in an operating plan pursuant to subdivision 881(a)(1)(B) of this title; and

(B) any licensee record relating to security, public safety, transportation, trade secrets, or employees.

(2) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption created in this subsection shall continue in effect and shall not be repealed through operation of 1 V.S.A. § 317(e).

§ 902. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

(a) An applicant, principal of an applicant, and person who owns or controls an applicant, who is a natural person:

(1) shall be 21 years of age or older; and

(2) shall consent to the release of his or her criminal and administrative history records.

(b) As part of the application process, each applicant shall submit, in a format prescribed by the Board, an operating plan. The Board shall adopt rules regarding the required components of an application for each type of license.

(c) The Board shall obtain a fingerprint-based Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of a business in this State or any other jurisdiction for each of the following who is a natural person:

(1) the applicant;

(2) each proposed principal; and

(3) each individual who would control the business.

(d) An applicant who is denied a license may appeal the Board's determination in accordance with section 847 of this title.

§ 903. PRIORITIES; BUSINESS AND TECHNICAL ASSISTANCE

(a) The Board shall issue licenses pursuant to this chapter as determined according to a system of priorities adopted by rule by the Board. The system of priorities shall require consideration of criteria, including:

(1) whether the applicants have an existing medical cannabis dispensary license in good standing;

(2) whether the applicants would foster social justice and equity in the cannabis industry by being a minority or women-owned business;

(3) whether the applicants propose specific plans to recruit, hire, and implement a development ladder for minorities, women, or individuals who

have historically been disproportionately impacted by cannabis prohibition;

(4) whether applicants propose specific plans to pay employees a living wage and offer benefits;

(5) whether the project incorporates principles of environmental resiliency or sustainability, including energy efficiency; and

(6) the geographic distribution of cannabis establishments based on population and market needs.

(b) The Agency of Commerce and Community Development, in collaboration with the Agency of Agriculture, Food and Markets, shall provide business and technical assistance to Vermont applicants with priority for services based on criteria adopted by the Board in accordance with subsection (a) of this section.

§ 904. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, process, package, label, transport, test, and sell cannabis to a licensed wholesaler, product manufacturer, retailer, integrated licensee, and dispensary.

(b) Cultivation of cannabis shall occur only in an enclosed, locked facility.

(c) Representative samples of each lot or batch of cannabis intended for human consumption shall be tested for safety and potency in accordance with rules adopted by the Board.

(d) Each cultivator shall create packaging for its cannabis.

(1) Packaging shall include:

(A) The name and registration number of the cultivator.

(B) The strain and variety of cannabis contained.

(C) The potency of the cannabis represented by the amount of tetrahydrocannabinol and cannabidiol in milligrams total and per serving.

(D) A “produced on” date reflecting the date that the cultivator finished producing the cannabis.

(E) Appropriate warnings as prescribed by the Board in rule.

(F) Any additional requirements contained in rules adopted by the Board in accordance with this chapter. Rules shall take into consideration that different labeling requirements may be appropriate depending on whether the cannabis is sold to a wholesaler, product manufacturer, or retailer.

(2) Packaging shall not be designed to appeal to persons under 21 years

of age.

(e)(1) Only unadulterated cannabis shall be offered for sale. If, upon inspection, the Board finds any violative pesticide residue or other contaminants of concern, the Board shall order the cannabis, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Board's instructions.

(2) Cannabis ordered destroyed or placed on stop-sale shall be clearly separable from salable cannabis. Any order shall be confirmed in writing within seven days. The order shall include the reason for action, a description of the cannabis affected, and any recommended treatment.

(3) A person may appeal an order issued pursuant to this section within 15 days after receiving the order. The appeal shall be made in writing and in accordance with section 847 of this title and shall clearly identify the cannabis affected and the basis for the appeal.

§ 904a. SMALL CULTIVATORS

(a) It is the intent of the General Assembly to move as much of the illegal cannabis market as possible into the regulated market for the purposes of consumer protection and public safety. It is also the intent of the General Assembly to encourage participation in the regulated cannabis market by small, local farmers. In furtherance of these goals, the Board shall consider policies to promote small cultivators as defined in section 861 of this title.

(b) The application for small cultivator licenses shall be prioritized over larger cultivation licenses during the initial application period.

(c) In accordance with subdivision 881(a)(2)(B) of this chapter, the Board shall consider the different needs and risks of small cultivators when adopting rules and shall make an exception or accommodation to such rules for cultivators of this size where appropriate.

(d) Upon licensing, a small cultivator may sell cannabis to a licensed dispensary at any time, for sale to patients and caregivers pursuant to the dispensary license or to the public pursuant to an integrated license, including the time period before retail sales are permitted for licensed cannabis retailers.

§ 905. WHOLESALE LICENSE

A wholesaler licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator and integrated licensee, and cannabis products from a licensed product manufacturer, integrated licensee, and dispensary; and

(2) transport, process, package, and sell cannabis and cannabis products to a licensed product manufacturer, retailer, integrated licensee, and dispensary.

§ 906. PRODUCT MANUFACTURER LICENSE

A product manufacturer licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator, wholesalers, or integrated licensee, and cannabis products from a licensed wholesaler, product manufacturer, integrated licensee, and dispensary;

(2) use cannabis and cannabis products to produce cannabis products; and

(3) transport, process, package, and sell cannabis products to a licensed wholesaler, product manufacturer, retailer, integrated licensee, and dispensary.

§ 907. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator, wholesaler, or integrated licensee, and cannabis products from a licensed wholesaler, product manufacturer, integrated licensee, and dispensary; and

(2) transport, possess, and sell cannabis and cannabis products to the public for consumption off the registered premises.

(b) In a single transaction, a retailer may provide one ounce of cannabis or the equivalent in cannabis products, or a combination thereof, to a person 21 years of age or older upon verification of a valid government-issued photograph identification card.

(c)(1) Packaging shall include:

(A) the strain and variety of cannabis contained;

(B) the potency of the cannabis represented by the amount of tetrahydrocannabinol and cannabidiol in milligrams total and per serving;

(C) a “produced on” date reflecting the date that the cultivator finished producing the cannabis;

(D) appropriate warnings as prescribed by the Board in rule; and

(E) any additional requirements contained in rules adopted by the

Board in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(d) A retailer shall display a safety information flyer at the point of purchase and offer a customer a copy of the flyer with each purchase. A retailer shall inform the customer that if the customer elects not to receive the flyer, the information contained in the flyer is available on the website for the Board. The flyer shall be developed by the Board in consultation with the Department of Health, posted on the Board's website, and supplied to the retailer free of charge. At a minimum, the flyer or flyers shall contain information concerning the methods for administering cannabis, the amount of time it may take for cannabis products to take effect, the risks of driving under the influence of cannabis, the potential health risks of cannabis use, the symptoms of problematic usage, how to receive help for cannabis abuse, and a warning that cannabis possession is illegal under federal law.

(e) Internet ordering and delivery of cannabis to customers are prohibited.

§ 908. TESTING LABORATORY LICENSE

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport cannabis and cannabis products obtained from a licensed cannabis establishment, dispensary, or a member of the public.

(b) Testing may address the following:

- (1) residual solvents;
- (2) poisons or toxins;
- (3) harmful chemicals;
- (4) dangerous molds, mildew, or filth;
- (5) harmful microbials, such as E. coli or salmonella;
- (6) pesticides; and
- (7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing laboratory shall establish a protocol for recording the chain of custody of all cannabis samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.

(f) A cannabis establishment that is subject to testing requirements under this chapter or rules adopted pursuant to this chapter shall have its cannabis or cannabis products tested by an independent licensed testing laboratory and not a licensed testing laboratory owned or controlled by the license holder of the cannabis establishment.

§ 909. INTEGRATED LICENSE

(a) An integrated license shall allow the licensee to engage in the activities of a cultivator, wholesaler, product manufacturer, retailer, and testing laboratory as provided in sections 904–908 of this title.

(b) An integrated license is only available to an applicant and its affiliates that hold a dispensary registration pursuant 18 V.S.A. chapter 86 on July 1, 2021. There shall be no more than five total integrated licenses, one for each registered dispensary. Upon compliance with all application procedures and requirements, the Board shall issue an integrated license to the applicant. The licensee shall have the right to renew the license in accordance with rules adopted by the Board.

§ 910. FEES

(a) The Board shall charge and collect license application fees, initial annual license fees, and annual license renewal fees for each type of cannabis establishment license under this chapter. Fees shall be due and payable at the time of license application, annual license, or renewal.

(b) Fees shall be deposited in the Cannabis Regulation Fund.

Sec. 8. IMPLEMENTATION OF LICENSING CANNABIS ESTABLISHMENTS

(a)(1) The cannabis plant, cannabis product, and useable cannabis possession limits for a registered dispensary set forth in 18 V.S.A. chapter 86 shall no longer apply on and after September 1, 2021. A dispensary shall be permitted to cultivate cannabis and manufacture cannabis products for the purpose of transferring or selling such products to an integrated licensee on or after January 15, 2022 and engaging in the activities permitted by 7 V.S.A. chapter 33.

(2) On or before January 15, 2022, the Board shall begin accepting applications for integrated licenses.

(3) On or before February 15, 2022, the Board shall begin issuing integrated licenses to qualified applicants. An integrated licensee may begin selling cannabis and cannabis products transferred or purchased from a dispensary immediately.

(b)(1) On or before January 15, 2022, the Board shall begin accepting applications for small cultivator licenses and testing laboratories. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before February 15, 2022, the Board shall begin issuing small cultivator and testing laboratories licenses to qualified applicants. Upon licensing, small cultivators shall be permitted to sell cannabis to an integrated licensee and a dispensary licensed pursuant to 18 V.S.A. chapter 86 prior to other types of cannabis establishment licensees beginning operations.

(c)(1) On or before February 15, 2022, the Board shall begin accepting applications for all cultivator licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before April 1, 2022, the Board shall begin issuing all cultivator licenses to qualified applicants.

(d)(1) On or before April 1, 2022, the Board shall begin accepting applications for product manufacturer licenses and wholesaler licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before May 15, 2022, the Board shall begin issuing product manufacturer and wholesaler licenses to qualified applicants.

(e)(1) On or before June 1, 2022, the Board shall begin accepting applications for retailer licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before July 15, 2022, the Board shall begin issuing retailer licenses to qualified applicants and sales of cannabis and cannabis products by licensed retailers to the public shall be allowed immediately.

* * * Medical Cannabis Registry * * *

Sec. 9. [Deleted.]

Sec. 10. [Deleted.]

Sec. 11. [Deleted.]

* * * Medical Cannabis Dispensaries * * *

Sec. 12. [Deleted.]

Sec. 13. [Deleted.]

* * * Creation of Excise and Local Option Tax * * *

Sec. 14. 32 V.S.A. chapter 207 is added to read:

CHAPTER 207. CANNABIS TAXES

§ 7900. DEFINITIONS

As used in this chapter:

- (1) “Cannabis” has the same meaning as in 7 V.S.A. § 831.
- (2) “Cannabis cultivator” has the same meaning as in 7 V.S.A. § 861.
- (3) “Cannabis product” has the same meaning as in 7 V.S.A. § 831.
- (4) “Cannabis product manufacturer” has the same meaning as in 7 V.S.A. § 831.
- (5) “Cannabis retailer” has the same meaning as in 7 V.S.A. § 861.
- (6) “Cannabis wholesaler” has the same meaning as in 7 V.S.A. § 861.
- (7) “Integrated licensee” has the same meaning as in 7 V.S.A. § 861.
- (8) “Retail sale” or “sold at retail” means any sale, lease, or rental for any purpose other than for resale by a cannabis retailer or integrated licensee.
- (9) “Sales price” has the same meaning as in section 9701 of this title.

§ 7901. CANNABIS EXCISE TAX

- (a) There is imposed a cannabis excise tax equal to 16 percent of the sales price of each retail sale in this State of cannabis and cannabis products, including food or beverages.
- (b) The tax imposed by this section shall be paid by the purchaser to the retailer or integrated licensee. Each retailer or integrated licensee shall collect from the purchaser the full amount of the tax payable on each taxable sale.
- (c) The tax imposed by this section is separate from and in addition to the cannabis local option tax authorized under section 7902 of this title. The tax imposed by this section shall not be part of the sales price to which the cannabis local option tax applies. The cannabis excise tax shall be separately itemized from the cannabis local option tax on the receipt provided to the purchaser.

(d) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax;

(2) sales made by any dispensary as authorized under 18 V.S.A. chapter 86, provided that the cannabis or cannabis product is sold only to registered qualifying patients directly or through their registered caregivers; and

(3) sales from a cannabis cultivator, cannabis product manufacturer, cannabis wholesaler, or integrated licensee to a cannabis product manufacturer, cannabis retailer, cannabis wholesaler, or integrated licensee.

§ 7902. CANNABIS LOCAL OPTION TAX

(a) Notwithstanding 24 V.S.A. § 138, any municipality may collect a cannabis local option tax of two percent of the sales price on each retail sale in the municipality of cannabis and cannabis products, including food and beverages.

(b) The cannabis local option tax may be adopted by a municipality that:

(1) does not currently prohibit the retail sale of cannabis and cannabis products within the municipality; and

(2) provided notice of the imposition and the amount to the Department of Taxes at least 90 days prior to the first day of the tax quarter when the cannabis local option tax will be collected.

(c) The tax imposed by this section shall be paid by the purchaser to the retailer or integrated licensee. Each retailer or integrated licensee shall collect from the purchaser the full amount of the tax payable on each taxable sale.

(d) The tax imposed by this section is separate from and in addition to the cannabis excise tax authorized under section 7901 of this title. The tax imposed by this section shall not be part of the sales price to which the cannabis excise tax applies. The cannabis local option tax shall be separately itemized from the cannabis excise tax on the receipt provided to the purchaser.

(e) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax;

(2) sales made by any dispensary as authorized under 18 V.S.A. chapter 86, provided that the cannabis or cannabis product is sold only to registered

qualifying patients directly or through their registered caregivers; and

(3) sales from a cannabis cultivator, cannabis product manufacturer, cannabis wholesaler, or integrated licensee to a cannabis product manufacturer, cannabis retailer, cannabis wholesaler, or integrated licensee.

(f) Any tax imposed under the authority of this section shall be collected and administered by the Department of Taxes, in accordance with State law governing the cannabis excise and cannabis local option taxes imposed under chapter 207 of this title, and provided to the municipality in which they were collected on a quarterly basis after reduction for the costs of administration and collection. A tax imposed under this section shall be collected using a destination basis for taxation. A per-return fee of \$5.96 shall be assessed to compensate the Department for the costs of administration and collection, which shall be paid by the municipality. The fee shall be subject to the provisions of section 605 of this title.

(g) As used in this section, "municipality" means a city, town, or incorporated village.

(h) Nothing in this section shall affect the validity of any existing provision of law or municipal charter authorizing a municipality to impose a local option tax on anything not subject to the cannabis local option tax.

§ 7903. LIABILITY FOR TAXES

(a) Any tax collected in accordance with this chapter shall be deemed to be held by the retailer or integrated licensee in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as clearly to indicate the amount of tax collected and that the same are the property of the State of Vermont.

(b) Every retailer or integrated licensee required to collect and remit tax under this chapter to the Commissioner shall be personally and individually liable for the amount of such tax together with such interest and penalty as has accrued under the provisions of section 3202 of this title. If the retailer or integrated licensee is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect and remit tax to the Commissioner of Taxes as required in this chapter.

(c) A retailer or integrated licensee shall have the same rights in collecting tax from his or her purchaser or regarding nonpayment of tax by the purchaser as if the tax or taxes were a part of the purchase price of cannabis or cannabis products and payable at the same time; provided, however, if the retailer or integrated licensee required to collect tax has failed to remit any portion of the

tax or taxes to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer or integrated licensee to collect tax and shall have the right to intervene in such action or proceeding.

(d) A retailer or integrated licensee required to collect tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer or integrated licensee for tax collected unless the purchaser has provided written notice to a retailer or integrated licensee and the retailer or integrated licensee has had 60 days to respond.

§ 7904. RETURNS; RECORDS

(a) Any retailer or integrated licensee required to collect tax imposed by this chapter shall, on or before the 25th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer or integrated licensee, a statement containing its name and place of business, the total amount of sales subject to the cannabis excise tax and cannabis local option tax, if applicable, made in the preceding month, and any information required by the Department of Taxes, along with the total tax due. The Commissioner of Taxes may require that returns be submitted electronically and may prohibit the remittance in cash of taxes collected.

(b) Every retailer and integrated licensee shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. The records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7905. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes cannabis or a cannabis product is subject to the cannabis excise tax and cannabis local option tax, where applicable, imposed by this chapter on the entire selling price of the bundled transaction. If there is a conflict with the bundling transaction provisions applicable to another tax type, this section shall apply.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the products that are nontaxable are subject to the tax imposed by this chapter unless the retailer or integrated licensee can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business, and any discounts applied to the bundle must be attributed to the products that are

nontaxable under this chapter.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products is or contains cannabis; or

(2) cannabis or a cannabis product that is provided free of charge with the required purchase of another product.

§ 7906. LICENSE

(a) Any retailer or integrated licensee required to collect tax imposed by this chapter must apply for and receive a cannabis retail tax license from the Commissioner for each place of business within the State where he or she sells cannabis or cannabis products prior to commencing business. The Commissioner shall issue without charge a license, or licenses, empowering the retailer or integrated licensee to collect the cannabis excise tax and cannabis local option tax, where applicable, provided that a retailer or integrated licensee’s application is properly submitted and the retailer or integrated licensee is otherwise in compliance with applicable laws, rules, and provisions.

(b) Each cannabis retail tax license shall state the place of business to which it is applicable and be prominently displayed in the place of business. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant ceasing to do business in the place named. A cannabis retail tax license shall be separate and in addition to any licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title.

(c) The Cannabis Control Board may require the Commissioner of Taxes to suspend or revoke the tax licenses issued under this section for any retailer or integrated licensee that fails to comply with 7 V.S.A. chapter 33 or any rules adopted by the Board.

§ 7907. ADMINISTRATION OF CANNABIS TAXES

(a) The Commissioner of Taxes shall administer and enforce this chapter and the tax. The Commissioner may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out such administration and enforcement.

(b) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use tax in chapter 233 of this title shall apply to the taxes imposed by this chapter.

§ 7908. STATUTORY PURPOSES

(a) The statutory purpose of the exemptions for cannabis and cannabis products sold by any dispensary as authorized under 18 V.S.A. chapter 86 in subdivisions 7901(d)(2) and 7902(e)(2) of this title is to lower the cost of medical products in order to support the health and welfare of Vermont residents.

(b) The statutory purpose of the exemption for nonretail sales in 7901(d)(3) and 7902(e)(3) of this title is to avoid taxation when purchased cannabis or cannabis product is intended to be incorporated into a new cannabis product.

§ 7909. ADDITIONAL TAXES DO NOT APPLY

The cannabis excise tax and cannabis local option tax are the only taxes that apply to a retail sale of cannabis or cannabis product in this State.

Sec. 14a. 32 V.S.A. § 3102(d)(3) is amended to read:

(3) to any person who inquires, provided that the information is limited to whether a person is registered to collect Vermont income withholding, sales and use, ~~or meals and rooms,~~ or cannabis excise tax; whether a person is in good standing with respect to the payment of these taxes; whether a person is authorized to buy or sell property free of tax; or whether a person holds a valid license under chapter 205 or 239 of this title or 10 V.S.A. § 1942;

* * * Sales Tax Exemption * * *

Sec. 15. 32 V.S.A. § 9701(31) is amended to read:

(31) “Food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages, tobacco, cannabis and cannabis products as defined under 7 V.S.A. § 831, or soft drinks.

Sec. 16. 32 V.S.A. § 9741(53) is added to read:

(53) Cannabis and cannabis products as defined under 7 V.S.A. § 831.

* * * Tax Expenditure * * *

Sec. 17. 32 V.S.A. § 9706(mm) is added to read:

(mm) The statutory purpose of the exemption for cannabis and cannabis products as defined under 7 V.S.A. § 831 in subdivision 9741(53) of this title is to lower the cost of medical products sold by any dispensary as authorized under 18 V.S.A. chapter 86 in order to support the health and welfare of Vermont residents and avoid having both the sales tax and the cannabis excise and cannabis local option taxes apply to cannabis and cannabis products that

are not sold as a medical product.

* * * Meals and Rooms Tax * * *

Sec. 17a. 32 V.S.A. § 9202(10) is amended to read:

(10) “Taxable meal” means:

* * *

(D) “Taxable meal” shall not include:

(i) Food or beverage, other than that taxable under subdivision (10)(C) of this section, that is a grocery-type item furnished for take-out: whole pies or cakes, loaves of bread; single-serving bakery items sold in quantities of three or more; delicatessen and nonprepackaged candy sales by weight or measure, except party platters; whole uncooked pizzas; pint or larger closed containers of ice cream or frozen confection; eight ounce or larger containers of salad dressings or sauces; maple syrup; quart or larger containers of cider or milk.

* * *

(iii) Cannabis or cannabis products as defined under 7 V.S.A. § 831.

Sec. 17b. 32 V.S.A. § 9201(n) is added to read:

(n) The statutory purpose for the exemption for cannabis and cannabis products as defined under 7 V.S.A. § 831 in subdivision 9202(10)(D)(iii) of this title is to avoid having both the meals and rooms tax and the cannabis excise tax apply to edible cannabis products.

* * * Income Tax Deduction * * *

Sec. 18. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

* * *

(18) “Vermont net income” means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

* * *

(ii) decreased by:

(I) the “gross-up of dividends” required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the foreign tax credit; ~~and~~

(II) the amount of income which results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under 7 V.S.A. chapter 33 or 18 V.S.A. chapter 86, but for 26 U.S.C. § 280E.

* * *

(21) “Taxable income” means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

* * *

(C) Decreased by the following exemptions and deductions:

* * *

(iii) an additional deduction of \$1,000.00 for each federal deduction under 26 U.S.C. § 63(f) that the taxpayer qualified for and received; ~~and~~

(iv) the dollar amounts of the personal exemption allowed under subdivision (i) of this subdivision (21)(C), the standard deduction allowed under subdivision (ii) of this subdivision (21)(C), and the additional deduction allowed under subdivision (iii) of this subdivision (21)(C) shall be adjusted annually for inflation by the Commissioner of Taxes beginning with taxable year 2018 by using the Consumer Price Index and the same methodology as used for adjustments under 26 U.S.C. § 1(f)(3); provided, however, that as used in this subdivision, “consumer price index” means the last Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor; and

(v) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under 7 V.S.A. chapter 33 or 18 V.S.A. chapter 86, but for 26 U.S.C. § 280E.

* * *

* * * Substance Misuse Prevention Fund * * *

Sec. 18a. 18 V.S.A. chapter 94 is amended to read:

~~CHAPTER 94. DIVISION OF ALCOHOL AND DRUG ABUSE
PROGRAMS~~ SUBSTANCE USE DISORDER

* * *

§ 4810. SUBSTANCE MISUSE PREVENTION FUND

(a) The Substance Misuse Prevention Fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 for the purpose of funding substance misuse prevention programming and for necessary costs incurred in administering the Fund. The Fund shall be administered by the Commissioner of Health or designee.

(b) The Fund shall consist of revenues derived from any funds that may be dedicated by the General Assembly.

(c) All balances remaining at the end of any fiscal year shall be carried forward and remain in the Fund.

(d) The Commissioner of Finance and Management may draw warrants for disbursements from this Fund in anticipation of receipts.

Sec. 18b. 18 V.S.A. § 4810 is amended to read:

§ 4810. SUBSTANCE MISUSE PREVENTION FUND

(a) The Substance Misuse Prevention Fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 for the purpose of funding substance misuse prevention programming and for necessary costs incurred in administering the Fund. The Fund shall be administered by the Commissioner of Health or designee.

(b) The Fund shall consist of revenues derived from:

(1) 30 percent of the revenues raised by the cannabis excise tax imposed by 32 V.S.A. § 7901, but not more than \$6 million per fiscal year; and

(2) any other funds that may be dedicated by the General Assembly.

(c) All balances remaining at the end of any fiscal year shall be carried forward and remain in the Fund.

(d) The Commissioner of Finance and Management may draw warrants for disbursements from this Fund in anticipation of receipts.

* * * Impaired Driving * * *

Sec. 18c. 20 V.S.A. § 2358(f) is added to read:

(f) The criteria for all minimum training standards under this section shall include Advanced Roadside Impaired Driving Enforcement training as approved by the Vermont Criminal Justice Training Council. On or before December 31, 2021, law enforcement officers shall receive a minimum of 16 hours of training as required by this subsection.

Sec. 18d. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(3) “Evidentiary test” means a breath, saliva, or blood test ~~which~~ that indicates the person’s alcohol concentration or the presence of other drug and ~~which~~ that is intended to be introduced as evidence.

* * *

Sec. 18e. 23 V.S.A. § 1201 is amended to read:

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF

ALCOHOL OR OTHER SUBSTANCE; CRIMINAL REFUSAL;

ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person’s alcohol concentration is:

(A) 0.08 or more; ~~or~~

(B) 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(C) 0.04 or more if the person is operating a commercial vehicle as defined in subdivision 4103(4) of this title; or

(2) when the person is under the influence of alcohol; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug; ~~or~~

~~(4) when the person’s alcohol concentration is 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title.~~

(b) A person who has previously been convicted of a violation of this section shall not operate, attempt to operate, or be in actual physical control of

any vehicle on a highway and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer had reasonable grounds to believe the person was in violation of subsection (a) of this section.

(c) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and be involved in an accident or collision resulting in serious bodily injury or death to another and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer has reasonable grounds to believe the person has any amount of alcohol or drugs in the his or her system.

* * *

(i) Evidence of the results of a standardized field sobriety test conducted by a law enforcement officer trained in Advanced Roadside Impaired Driving Enforcement or a certified Drug Recognition Expert's systematic evaluation of observable signs and symptoms of a person charged with a violation of this section shall be presumptively admissible at trial to demonstrate whether or not the person was operating under the influence in violation of this section.

Sec. 18f. 23 V.S.A. § 1202 is amended to read:

§ 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD
ALCOHOL CONTENT OR PRESENCE OF OTHER DRUG

(a)(1) Implied consent. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to have given consent to an evidentiary test of that person's breath for the purpose of determining the person's alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2) Blood test. If breath testing equipment is not reasonably available or if the officer has reason to believe that the person is unable to give a sufficient sample of breath for testing or if the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, the person is deemed to have given consent to the taking of an evidentiary sample of blood. If in the officer's opinion the person is incapable of decision or unconscious or dead, it is deemed that the person's consent is given and a sample of blood shall be taken. A blood test sought pursuant to this subdivision (2) shall be obtained pursuant to subsection (f) of this section.

(3) Saliva test. If the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, or under the combined influence of alcohol and a drug, the person is deemed to

have given consent to providing of an evidentiary sample of saliva. A saliva test sought pursuant to this subdivision (3) shall be obtained pursuant to subsection (f) of this section. Any saliva test administered under this section shall be used only for the limited purpose of detecting the presence of a drug in the person's body and shall not be used to extract DNA information.

(4) Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

(4)(5) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

(b) A refusal to take a breath test may be introduced as evidence in a criminal proceeding.

(c) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has a right as limited in this subsection to consult an attorney before deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and not later than 30 minutes after the time of the initial attempt to contact the attorney. The person must make a decision about whether to submit to the test or tests at the expiration of the 30 minutes, regardless of whether a consultation took place.

(d) At the time a test is requested, the person shall be informed of the following statutory information:

(1) Vermont law authorizes a law enforcement officer to request a test to determine whether the person is under the influence of alcohol or other drug.

(2) If the officer's request is reasonable and testing is refused, the person's license or privilege to operate will be suspended for at least six months.

(3) If a test is taken and the results indicate that the person is under the influence of alcohol or other drug, the person will be subject to criminal charges and the person's license or privilege to operate will be suspended for at least 90 days.

(4) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has the limited right to consult an attorney before

deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and no later than 30 minutes from the time of the initial attempt to contact the attorney, regardless of whether a consultation took place. The person also has the right to have additional tests made by someone of the person's own choosing at the person's own expense. The person shall also be informed of the location of one or more facilities available for drawing blood.

(5) A person who is requested by a law enforcement officer to submit to an evidentiary test administered with an infrared breath-testing instrument may elect to have a second infrared test administered immediately after receiving the results of the first test.

(6) If the person refuses to take an evidentiary test, the refusal may be offered into evidence against the person at trial, whether or not a search warrant is sought. The person may be charged with the crime of criminal refusal if the person:

(A) has previously been convicted of a violation of section 1201 of this title; or

(B) is involved in an accident or collision resulting in serious bodily injury or death to another, in which case the court may issue a search warrant and order the person to submit to a blood test, the results of which may be offered into evidence against the person at trial.

* * *

(f)(1) If a blood test is sought from a person pursuant to subdivision (a)(2) of this section, or if a person who has been involved in an accident or collision resulting in serious bodily injury or death to another refuses an evidentiary test, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of blood for an evidentiary test. If Pursuant to subdivision (d)(6) of this section, if a blood sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test. Once a law enforcement official begins the application process for a search warrant, the law enforcement official is not obligated to discontinue the process even if the person later agrees to provide an evidentiary ~~breath~~ sample. The limitation created by Rule 41(g) of the Vermont Rules of Criminal Procedure regarding blood specimens shall not apply to search warrants authorized by this section.

(2) If an evidentiary saliva test is sought from a person pursuant to subdivision (a)(3) of this section, a law enforcement officer may apply for a

search warrant pursuant Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of saliva for the evidentiary test. Pursuant to subdivision (d)(6) of this section, if a saliva sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test.

(g) The Defender General shall provide statewide 24-hour coverage seven days a week to ~~assure~~ ensure that adequate legal services are available to persons entitled to consult an attorney under this section.

Sec. 18g. 23 V.S.A. § 1203 is amended to read:

§ 1203. ADMINISTRATION OF TESTS; RETENTION OF TEST AND
VIDEOTAPE

(a) A breath test shall be administered only by a person who has been certified by the Vermont Criminal Justice Training Council to operate the breath testing equipment being employed. In any proceeding under this subchapter, a person's testimony that he or she is certified to operate the breath testing equipment employed shall be prima facie evidence of that fact.

(b)(1) Only a physician, licensed nurse, medical technician, physician assistant, medical technologist, ~~or laboratory assistant,~~ intermediate or advanced emergency medical technician, or paramedic acting at the request of a law enforcement officer may withdraw blood for the purpose of determining the presence of alcohol or ~~other~~ another drug. ~~This limitation does~~ Any withdrawal of blood shall not be taken at roadside. These limitations do not apply to the taking of a breath sample. A medical facility or business may not charge more than \$75.00 for services rendered when an individual is brought to a facility for the sole purpose of an evidentiary blood sample or when an emergency medical technician or paramedic draws an evidentiary blood sample.

(2) A saliva sample may be obtained by a person authorized by the Vermont Criminal Justice Training Council to collect a saliva sample for the purpose of evidentiary testing to determine the presence of a drug. Any saliva sample obtained pursuant to this section shall not be taken at roadside.

(c) ~~When a breath test which is intended to be introduced in evidence is taken with a crimper device or when blood~~ or saliva is withdrawn at an officer's request, a sufficient amount of ~~breath~~ saliva or blood, as the case may be, shall be taken to enable the person to have made an independent analysis of the sample, and shall be held for at least 45 days from the date the sample was taken. At any time during that period the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent

analysis. The Department of Public Safety shall adopt rules providing for the security of the sample. At no time shall the defendant or any agent of the defendant have access to the sample. A preserved sample of breath shall not be required when an infrared breath-testing instrument is used. A person tested with an infrared breath-testing instrument shall have the option of having a second infrared test administered immediately after receiving the results of the first test.

(d) In the case of a breath, saliva, or blood test ~~administered using an infrared breath testing instrument~~, the test shall be analyzed in compliance with rules adopted by the Department of Public Safety. The analyses shall be retained by the State. A sample is adequate if the infrared breath testing instrument analyzes the sample and does not indicate the sample is deficient. ~~Analysis~~ An analysis of the person's breath saliva or blood ~~which that~~ is available to that person for independent analysis shall be considered valid when performed according to methods approved by the Department of Public Safety. The analysis performed by the State shall be considered valid when performed according to a method or methods selected by the Department of Public Safety. The Department of Public Safety shall use rule making procedures to select its method or methods. Failure of a person to provide an adequate breath or saliva sample constitutes a refusal.

(e) [Repealed.]

(f) When a law enforcement officer has reason to believe that a person may be violating or has violated section 1201 of this title, the officer may request the person to provide a sample of breath for a preliminary screening test using a device approved by the Commissioner of Public Safety for this purpose. The person shall not have the right to consult an attorney prior to submitting to this preliminary breath alcohol screening test. The results of this preliminary screening test may be used for the purpose of deciding whether an arrest should be made and whether to request an evidentiary test and shall not be used in any court proceeding except on those issues. Following the screening, test additional tests may be required of the operator pursuant to the provisions of section 1202 of this title.

(g) The Office of the Chief Medical Examiner shall report in writing to the Department of Motor Vehicles the death of any person as the result of an accident involving a vehicle and the circumstances of such accident within five days of such death.

(h) A Vermont law enforcement officer shall have a right to request a breath, saliva or blood sample in an adjoining state or country under this section unless prohibited by the law of the other state or country. If the law in

an adjoining state or country does not prohibit an officer acting under this section from taking a breath, saliva, or blood sample in its jurisdiction, evidence of such sample shall not be excluded in the courts of this State solely on the basis that the test was taken outside the State.

(i) The Commissioner of Public Safety shall adopt emergency rules relating to the operation, maintenance, and use of preliminary alcohol screening devices for use by law enforcement officers in enforcing the provisions of this title. The ~~commissioner~~ Commissioner shall consider relevant standards of the National Highway Traffic Safety Administration in adopting such rules. Any preliminary alcohol screening device authorized for use under this title shall be on the qualified products list of the National Highway Traffic Safety Administration.

* * *

Sec. 18h. 23 V.S.A. § 1203a(b) is amended to read:

(b) Arrangements for a blood test shall be made by the person submitting to the evidentiary breath or saliva test, by the person's attorney, or by some other person acting on the person's behalf unless the person is detained in custody after administration of the evidentiary test and upon completion of processing, in which case the law enforcement officer having custody of the person shall make arrangements for administration of the blood test upon demand but at the person's own expense.

Sec. 18i. 23 V.S.A. § 1204 is amended to read:

§ 1204. PERMISSIVE INFERENCES

* * *

(b) The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of alcohol or under the combined influence of alcohol and another drug, nor shall they be construed as requiring that evidence of the amount of alcohol or drug in the person's blood, breath, urine, or saliva must be presented.

Sec. 18j. DEPARTMENT OF PUBLIC SAFETY; DRUG RECOGNITION
EXPERTS; REPORT

On or before January 15, 2021, the Department of Public Safety shall report to the House and Senate Committees on Judiciary and on Government Operations on how to:

(1) achieve geographic equity in Drug Recognition Expert availability

to conduct roadside evaluations of drivers suspected of violating 23 V.S.A. § 1201 across Vermont; and

(2) whether to expand the availability of the Drug Recognition Expert program beyond law enforcement officers to other public safety officials to the extent authorized by the national qualification standards of the International Association of Chiefs of Police and the National Highway Traffic Safety Administration.

Sec. 18k. DEPARTMENT OF PUBLIC SAFETY; NATIONAL HIGHWAY
TRAFFIC SAFETY ADMINISTRATION APPROVED SALIVA
TESTING DEVICE; REPORT

Upon the National Traffic Highway Safety Association identifying a threshold level of concentration of a psychoactive metabolite of cannabis in a person's bloodstream to establish impairment and approving a chemical testing device for roadside use capable of demonstrating such a threshold level of concentration of such psychoactive metabolite of cannabis in a person's system, the Department of Public Safety shall report to the House and Senate Committees on Judiciary and on Government Operations on a proposal to implement the use of such a device to evaluate individuals suspected of operating under the influence of marijuana in violation of 23 V.S.A. § 1201.

* * * Safety Belts * * *

Sec. 18l. 23 V.S.A. § 1259 is amended to read:

§ 1259. SAFETY BELTS; PERSONS AGE 18 YEARS OF AGE OR OVER

* * *

~~(e) This section may be enforced only if a law enforcement officer has detained the operator of a motor vehicle for another suspected traffic violation. An operator shall not be subject to the penalty established in this section unless the operator is required to pay a penalty for the primary violation. [Repealed.]~~

(f) The penalty for violation of this section shall be as follows:

- (1) ~~\$25.00~~ \$0.00 for a first violation;
- (2) ~~\$50.00~~ \$25.00 for a second violation;
- (3) \$50.00 for a third violation; and
- (4) \$100.00 for ~~third~~ fourth and subsequent violations.

Sec. 18m. REPORTING BY THE VERMONT CRIMINAL JUSTICE
TRAINING COUNCIL

The Vermont Criminal Justice Training Council, in consultation with law enforcement agencies, shall submit a written report to the House and Senate Committees on Transportation and on Judiciary on or before the 15th day of January in 2022, 2023, and 2024 containing, for the prior State fiscal year:

(1) the total number of traffic stops broken out by race of the driver involved in the traffic stop; and

(2) the following information for all traffic stops involving safety belts not worn by persons 18 years of age or over:

(A) the age, gender, and race of the driver involved in the traffic stop;

(B) the reason for the traffic stop;

(C) the type of search conducted, if any;

(D) the evidence located, if any;

(E) the outcome of the traffic stop, including whether:

(i) a written warning was issued,

(ii) a citation for a civil ticket was issued;

(iii) a citation or arrest for a misdemeanor or a felony occurred; or

(iv) no subsequent action was taken;

(F) summary data broken out by age, gender, race, and outcome of the traffic stop where the reason for the stop was the primary enforcement of a person 18 years of age or over not wearing a safety belt; and

(G) summary data broken out by age, gender, race, and outcome of the traffic stop where the reason for the stop was for any reason other than the primary enforcement of a person 18 years of age or over not wearing a safety belt.

* * * Miscellaneous Cannabis Provisions * * *

Sec. 18n. 6 V.S.A. § 567 is amended to read:

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

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

(1) to develop potency and contaminant testing protocols for hemp, and hemp-infused products, cannabis, and cannabis products as defined in 7 V.S.A. § 831;

(2) to verify cannabinoid label guarantees of hemp₂ ~~and~~ hemp-infused products, cannabis, and cannabis products as defined in 7 V.S.A. § 831;

(3) to test for pesticides, solvents, heavy metals, mycotoxins, and bacterial and fungal contaminants in hemp₂ ~~and~~ hemp-infused products, cannabis, and cannabis products as defined in 7 V.S.A. § 831; and

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

(b) For purposes of this section, a laboratory operating under a dispensary registration pursuant to 18 V.S.A. chapter 86 that offers the services in subdivisions (2) and (3) of subsection (a) of this section on July 1, 2020 shall be deemed certified by the Agency.

(c) The cost of a test of a product produced at a registered dispensary shall be paid by the Department of Public Safety.

Sec. 19. 18 V.S.A. § 4230a(a)(2)(A) is amended to read:

(2)(A) A person shall not consume ~~marijuana~~ cannabis in a public place. “Public place” ~~means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute as defined in 7 V.S.A. § 1001 is prohibited by law~~ has the same meaning as provided by 7 V.S.A. § 831.

Sec. 20. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA CANNABIS

* * *

(b) Selling or dispensing.

(1) A person knowingly and unlawfully selling ~~marijuana~~ cannabis or hashish shall be imprisoned not more than two years or fined not more than \$10,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing more than one ounce of ~~marijuana~~ cannabis or five grams or more of hashish shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing one pound or more of ~~marijuana~~ cannabis or 2.8 ounces or more of hashish shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(4) A person 21 years of age or older may dispense one ounce or less of cannabis or five grams or less of hashish to another person who is 21 years of age or older provided that the dispensing is not advertised or promoted to the public.

Sec. 21. STATUTORY REVISION AUTHORITY

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall replace “marijuana” with “cannabis” throughout the statutes as needed for consistency with this act, provided the revisions have no other effect on the meaning of the affected statutes.

* * * Effective Dates * * *

Sec. 22. EFFECTIVE DATES

(a) This section and Secs. 2 (cannabis chapter), 3 (implementation of the Cannabis Control Board), 18c (Advanced Roadside Impaired Driving Enforcement training), 18j (drug recognition experts report), 18n (Agency of Agriculture, Food and Markets; testing), 20 (cannabis dispensing), and 21 (statutory revision authority) shall take effect on passage.

(b) Secs. 1 (Title 7 redesignation), 4 (implementation of rulemaking by the Cannabis Control Board, 5 (Cannabis Control Board; fees), 6 (creation of Board positions), 6a (space allocation), 6b (appropriation), 7 (cannabis establishments chapter), 8 (implementation of licensing of cannabis establishments), 18a (Substance Misuse Prevention Fund), 18i (permissive inference), 18k (National Highway Traffic safety Administration-approved saliva testing device), 18l (seat belts) and 19 (public place definition) shall take effect July 1, 2020.

(c) Secs. 14 (creation of excise and local option tax), 14a (tax license disclosure), 15 (sales tax exemption), 16 (tax exemption), 17 (tax expenditure), 17a (meals and rooms tax), 17b (meals and rooms tax expenditure), 18 (income tax deduction), 18b (Substance Misuse Prevention Fund), 18d (definition of evidentiary test), 18e (operating vehicle under the influence of alcohol or other substance), 18f (consent to taking of tests to determine blood alcohol content or presence of other drug), 18g (administration of tests), 18h (independent testing of evidentiary sample) and 18m (reporting by the Vermont Criminal Justice Training Council) shall take effect January 1, 2022.

(d) Secs. 6c and 6d shall take effect on July 1, 2022.

(Committee vote: 11-0-0)

(For text see Senate Journal February 28, 2018)

Rep. Young of Greensboro, for the Committee on Ways and Means, recommends the House propose to the Senate to amend the bill as recommended by the Committee on Government Operations and when further amended as follows:

First: In Sec. 5 (Cannabis Control Board report), in subdivision (a)(3), by striking out “32 V.S.A. § 7901” and inserting in lieu thereof “32 V.S.A. § 7902”

Second: In Sec. 6c, contingent Cannabis Regulation Fund deficit offset, by striking out “32 V.S.A. § 7901” and inserting in lieu thereof “32 V.S.A. § 7902”

Third: By striking out Secs. 14–18 and their reader assistance headings in their entireties and inserting in lieu thereof new Secs. 14–18 and reader assistance headings to read as follows:

* * * Creation of Excise Tax * * *

Sec. 14. 32 V.S.A. chapter 207 is added to read:

CHAPTER 207. CANNABIS TAXES

§ 7901. DEFINITIONS

As used in this chapter:

- (1) “Cannabis” has the same meaning as in 7 V.S.A. § 831.
- (2) “Cannabis cultivator” has the same meaning as in 7 V.S.A. § 861.
- (3) “Cannabis product” has the same meaning as in 7 V.S.A. § 831.
- (4) “Cannabis product manufacturer” has the same meaning as in 7 V.S.A. § 861.
- (5) “Cannabis retailer” has the same meaning as in 7 V.S.A. § 861.
- (6) “Cannabis wholesaler” has the same meaning as in 7 V.S.A. § 861.
- (7) “Integrated licensee” has the same meaning as in 7 V.S.A. § 861.
- (8) “Retail sale” or “sold at retail” means any sale for any purpose other than for resale by a cannabis retailer or integrated licensee.
- (9) “Sales price” has the same meaning as in section 9701 of this title.

§ 7902. CANNABIS EXCISE TAX

(a) There is imposed a cannabis excise tax equal to 14 percent of the sales price of each retail sale in this State of cannabis and cannabis products, including food or beverages.

(b) The tax imposed by this section shall be paid by the purchaser to the retailer or integrated licensee. Each retailer or integrated licensee shall collect from the purchaser the full amount of the tax payable on each taxable sale.

(c) The tax imposed by this section is separate from and in addition to the general sales and use tax imposed by chapter 233 of this title. The tax imposed by this section shall not be part of the sales price to which the general sales and use tax applies. The cannabis excise tax shall be separately itemized from the general sales and use tax on the receipt provided to the purchaser.

(d) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary as authorized under 18 V.S.A. chapter 86, provided that the cannabis or cannabis product is sold only to registered qualifying patients directly or through their registered caregivers.

§ 7903. LIABILITY FOR TAX

(a) Any tax collected in accordance with this chapter shall be deemed to be held by the retailer or integrated licensee in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as clearly to indicate the amount of tax collected and that the same are the property of the State of Vermont.

(b) Every retailer or integrated licensee required to collect and remit the tax under this chapter to the Commissioner shall be personally and individually liable for the amount of such tax together with such interest and penalty as has accrued under the provisions of section 3202 of this title. If the retailer or integrated licensee is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect and remit tax to the Commissioner of Taxes as required in this chapter.

(c) A retailer or integrated licensee shall have the same rights in collecting tax from his or her purchaser or regarding nonpayment of tax by the purchaser as if the tax were a part of the purchase price of cannabis or cannabis products and payable at the same time; provided, however, if the retailer or integrated licensee required to collect tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer or integrated licensee to collect tax and shall have the right to intervene in such action or proceeding.

(d) A retailer or integrated licensee required to collect tax may also refund

or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer or integrated licensee for tax collected unless the purchaser has provided written notice to a retailer or integrated licensee and the retailer or integrated licensee has had 60 days to respond.

§ 7904. RETURNS; RECORDS

(a) Any retailer or integrated licensee required to collect the tax imposed by this chapter shall, on or before the 25th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer or integrated licensee, a statement containing its name and place of business, the total amount of sales subject to the cannabis excise tax made in the preceding month, and any information required by the Department of Taxes, along with the total tax due. Retailers and integrated licensees shall not remit the tax collected to the Department of Taxes in cash absent the issuance of a waiver by the Commissioner of Taxes and the Commissioner may require that returns be submitted electronically.

(b) Every retailer and integrated licensee shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. The records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7905. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes cannabis or a cannabis product is subject to the cannabis excise tax imposed by this chapter on the entire sales price of the bundled transaction. If there is a conflict with the bundling transaction provisions applicable to another tax type, this section shall apply.

(b) If the sales price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the products that are nontaxable are subject to the tax imposed by this chapter unless the retailer or integrated licensee can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business, and any discounts applied to the bundle must be attributed to the products that are nontaxable under this chapter.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products is or contains cannabis; or

(2) cannabis or a cannabis product that is provided free of charge with the required purchase of another product.

§ 7906. LICENSE

(a) Any retailer or integrated licensee required to collect tax imposed by this chapter must apply for and receive a cannabis retail tax license from the Commissioner for each place of business within the State where he or she sells cannabis or cannabis products prior to commencing business. The Commissioner shall issue without charge a license, or licenses, empowering the retailer or integrated licensee to collect the cannabis excise tax, provided that a retailer or integrated licensee's application is properly submitted and the retailer or integrated licensee is otherwise in compliance with applicable laws, rules, and provisions.

(b) Each cannabis retail tax license shall state the place of business to which it is applicable and be prominently displayed in the place of business. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant ceasing to do business in the place named. A cannabis retail tax license shall be separate from and in addition to any licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title.

(c) The Cannabis Control Board may require the Commissioner of Taxes to suspend or revoke the tax licenses issued under this section for any retailer or integrated licensee that fails to comply with 7 V.S.A. chapter 33 or any rules adopted by the Board.

§ 7907. ADMINISTRATION OF THE CANNABIS EXCISE TAX

(a) The Commissioner of Taxes shall administer and enforce this chapter. The Commissioner may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out such administration and enforcement.

(b) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use tax in chapter 233 of this title shall apply to the cannabis excise tax imposed by this chapter.

§ 7908. STATUTORY PURPOSE

The statutory purpose of the exemption for cannabis and cannabis products sold by any dispensary as authorized under 18 V.S.A. chapter 86 in subdivision 7902(d)(2) of this title is to lower the cost of medical products in order to support the health and welfare of Vermont residents.

Sec. 14a. 32 V.S.A. § 3102(d)(3) is amended to read:

(3) to any person who inquires, provided that the information is limited to whether a person is registered to collect Vermont income withholding, sales and use, ~~or meals and rooms~~, or cannabis excise tax; whether a person is in good standing with respect to the payment of these taxes; whether a person is authorized to buy or sell property free of tax; or whether a person holds a valid license under chapter 205 or 239 of this title or 10 V.S.A. § 1942;

* * * Sales Tax Exemption * * *

Sec. 15. 32 V.S.A. § 9701(31) is amended to read:

(31) “Food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages, tobacco, cannabis and cannabis products as defined under 7 V.S.A. § 831, or soft drinks.

Sec. 16. 32 V.S.A. § 9741(53) is added to read:

(53) Cannabis and cannabis products as defined under 7 V.S.A. § 831 sold by any dispensary as authorized under 18 V.S.A. chapter 86, provided that the cannabis or cannabis product is sold only to registered qualifying patients directly or through their registered caregivers.

* * * Tax Expenditure; Statutory Purpose * * *

Sec. 17. 32 V.S.A. § 9706(mm) is added to read:

(mm) The statutory purpose of the exemption for cannabis and cannabis products as defined under 7 V.S.A. § 831 in subdivision 9741(53) of this title is to lower the cost of medical products sold by any dispensary as authorized under 18 V.S.A. chapter 86 in order to support the health and welfare of Vermont residents.

* * * Meals and Rooms Tax * * *

Sec. 17a. 32 V.S.A. § 9202(10) is amended to read:

(10) “Taxable meal” means:

* * *

(D) “Taxable meal” shall not include:

(i) Food or beverage, other than that taxable under subdivision (10)(C) of this section, that is a grocery-type item furnished for take-out: whole pies or cakes, loaves of bread; single-serving bakery items sold in quantities of three or more; delicatessen and nonprepackaged candy sales by

weight or measure, except party platters; whole uncooked pizzas; pint or larger closed containers of ice cream or frozen confection; eight ounce or larger containers of salad dressings or sauces; maple syrup; quart or larger containers of cider or milk.

* * *

(iii) Cannabis or cannabis products as defined under 7 V.S.A. § 831.

Sec. 17b. 32 V.S.A. § 9201(n) is added to read:

(n) The statutory purpose for the exemption for cannabis and cannabis products as defined under 7 V.S.A. § 831 in subdivision 9202(10)(D)(iii) of this title is to avoid having both the meals and rooms tax and the cannabis excise tax apply to edible cannabis products.

* * * Income Tax Deduction * * *

Sec. 18. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

* * *

(18) “Vermont net income” means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

* * *

(ii) decreased by:

(I) the “gross-up of dividends” required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the foreign tax credit; ~~and~~

(II) the amount of income ~~which~~ that results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction or credit that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under 7 V.S.A. chapter 33 or 18 V.S.A.

chapter 86, but for 26 U.S.C. § 280E.

* * *

(21) “Taxable income” means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

* * *

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

* * *

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; ~~and~~

(iv) the portion of federally taxable benefits received under the federal Social Security Act that is required to be excluded under section 5830e of this chapter; and

(v) the amount of any federal deduction or credit that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under 7 V.S.A. chapter 33 or 18 V.S.A. chapter 86, but for 26 U.S.C. § 280E; and

* * *

Fourth: In Sec. 18b (Substance Misuse Prevention Fund) by striking out “, but not more than \$6 million per fiscal year” after “32 V.S.A. § 7901” in subdivision (b)(1) of 18 V.S.A. § 4810.

Fifth: In Sec. 22 (effective dates), in subsection (c), by striking out “(creation of excise and local option tax)” and inserting in lieu thereof “(creation of excise tax)”

(Committee Vote: 10-1-0)

Rep. Lanpher of Vergennes, for the Committee on Appropriations, recommends that the House propose to the Senate to amend the bill as recommended by the Committee on Government Operations and by the Committee on Ways and Means and when further amended as follows:

First: In Sec. 2, in 7 V.S.A. § 843(c)(1), by striking out “four” and inserting lieu thereof “two”

Second: In Sec. 3, implementation of the Cannabis Control Board, in subdivision (c)(1)(B) by striking out “two members” and inserting in lieu thereof “one member” and in subdivision (c)(1)(C) by striking out “two members” and inserting in lieu thereof “one member”

Third: In Sec. 5, Cannabis Control Board report, by striking out subdivision (a)(2) in its entirety and inserting in lieu thereof the following:

(2) Fees to be charged and collected in accordance with the Board's authority pursuant to 7 V.S.A. § 847. The recommendations shall be accompanied by information justifying the recommended rate as required by 32 V.S.A. § 605(d). The fees submitted in accordance with this subdivision are projected to be sufficient to fund the duties of the Cannabis Control Board as provided in 7 V.S.A. § 843. To the extent possible, the recommend fees shall include an amount to repay over a period, not greater than 10 years, to the General Fund any application of excise taxes to the Cannabis Regulation Fund made pursuant to Sec. 6c of this act.

(A) Application fees, initial annual license fees, and annual license renewal fees for each type of cannabis establishment license as provided in 7 V.S.A. § 910: cultivator, product manufacturer, wholesaler, retailer, testing laboratory, and integrated. If the Board establishes tiers within a licensing category, it shall provide a fee recommendation for each tier.

(B) Fee for a cannabis establishment identification card as provided in 7 V.S.A. § 884.

(C) Fee for advertisement review for a cannabis establishment licensee as provided in 7 V.S.A. § 865.

Fourth: In Sec. 6, Cannabis Control Board; positions, in subdivision (1), by striking out “five” and inserting in lieu thereof “three”

Fifth: In Sec. 6b (appropriation) by striking out “\$810,000.00” and inserting in lieu thereof “\$860,000.00”

Sixth: By striking out Sec. 6c in its entirety and inserting in lieu thereof the following:

Sec. 6c. CONTINGENT CANNABIS REGULATION FUND DEFICIT

OFFSET; REPAYMENT

(a) To the extent that the Cannabis Regulation Fund has a negative balance at the close of the fiscal year 2022, proceeds in that amount from the tax established in 32 V.S.A. § 7901 in fiscal year 2023 shall be deposited into the Cannabis Regulation Fund.

(b) To the extent that a positive balance exists in the Cannabis Regulation Fund at the close of any fiscal year and any application of excise taxes to the Cannabis Regulation Fund made pursuant to subsection (a) of this section has not been fully repaid to the General Fund, the positive Cannabis Regulation Fund balance shall be transferred to the General Fund.

(c) Thirty percent of any transfers made to the General Fund pursuant to subsection (b) of this section or subdivision 5(a)(2) of Sec. 5 of this act shall be allocated to substance misuse prevention activities consistent with Sec. 18a of this act.

Seventh: By adding a Sec. 6e to read as follows:

Sec. 6e. REPEAL OF CANNABIS CONTROL BOARD

The following are repealed on July 1, 2024:

(1) 7 V.S.A. § 841 (Cannabis Control Board; appointment);

(2) 7 V.S.A. § 842 (Cannabis Control Board Nominating Committee);

and

(3) 7 V.S.A. § 843 (Cannabis Control Board; members; duties).

Eighth: By adding Secs. 17c and 17d and a corresponding reader assistance heading to read as follows:

* * * Use of Sales and Use Tax Revenue * * *

Sec. 17c. DEDICATED USE OF SALES AND USE TAX ON CANNABIS

Notwithstanding 16 V.S.A. § 4025(b), revenue from the sales and use tax imposed by 32 V.S.A. chapter 233 on retail sales of cannabis or cannabis products in this State shall be used to fund a grant program to start or expand afterschool and summer learning programs, with a focus on increasing access in underserved areas of the State.

Sec. 17d. ANNUAL BUDGETING OF SALES AND USE TAX REVENUE

On or before November 15, 2021 and on or before each subsequent November 15, the Agency of Education shall submit to the General Assembly a plan to fund grants in furtherance of the purposes of Sec. 17c of this act. The grants shall be in an amount equal to the official forecasted revenues to be raised from the sales and use tax imposed by 32 V.S.A. chapter 233 on cannabis or cannabis products in this State. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the plan to be made under this subsection.

Ninth: By striking out Secs. 18a and 18b in their entirety and inserting in lieu thereof the following:

Sec. 18a. SUBSTANCE MISUSE PREVENTION FUNDING

Thirty percent of the revenues raised by the cannabis excise tax imposed by 32 V.S.A. § 7901 shall be used for the purpose of funding substance misuse prevention programming as recommended by the Substance Misuse Prevention

Oversight and Advisory Council.

Sec. 18b. ANNUAL PREVENTION FUNDING RECOMMENDATION

On or before November 1, 2021, and annually thereafter, the Substance Misuse Prevention Oversight and Advisory Council shall make recommendations to the General Assembly for the use of monies in the amount consistent with the official State estimate as required under 32 V.S.A. § 305a for the revenues raised by the cannabis excise tax imposed by 32 V.S.A. § 7901 and dedicated to funding substance misuse prevention programming as provided in Sec. 18a of this act.

Tenth: In Sec. 22 (effective dates), in subsection (a), after “3 (implementation of the Cannabis Control Board),” by inserting “17d (annual budgeting of sales and use tax revenue),”

Eleventh: In Sec. 22 (effective dates), in subsection (c), after “17b (meals and rooms tax expenditure),” by inserting “17c (dedicated use of sales and use tax revenue),”

Twelfth: In Sec. 22 (effective dates), in subsection (d), by striking out “Secs. 6c and 6d” and inserting in lieu thereof “Sec. 6d” and by adding subsections (e) and (f) to read as follows:

(e) Sec. 6e (repeal of Cannabis Control Board) shall take effect on January 1, 2024.

(f) Sec. 6c (contingent Cannabis Regulation Fund deficit offset) shall take effect on July 1, 2024.

(Committee Vote: 11-0-0)

Amendment to be offered by Reps. Young of Greensboro, Ancel of Calais, Anthony of Barre City, Beck of St. Johnsbury, Brennan of Colchester, Browning of Arlington, Canfield of Fair Haven, Donovan of Burlington, Masland of Thetford, Scheu of Middlebury and Till of Jericho to the recommendation of amendment of the Committee on Government Operations as amended by the Committee on Ways and Means to S. 54

First: In Sec. 2, 7 V.S.A. § 845 (Cannabis Regulation Fund) by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) The Fund shall be composed of all State application fees, annual license fees, renewal fees, identification card fees, advertising review fees, and civil penalties collected by the Board pursuant to this chapter and chapter 33 of this title.

Second: In Sec. 2, by striking out 7 V.S.A. § 846 (fees) in its entirety and inserting in lieu thereof a new 7 V.S.A. § 846 to read as follows:

§ 846. FEES

(a) The Board shall have the authority to charge and collect State and local fees as provided under this chapter and chapter 33 of this title. State and local fees shall be due and payable at the time of application or renewal.

(b) The Board shall deposit State fees into the Cannabis Regulation Fund.

(c) After reduction for costs of administration and collection, the Board shall pay local fees on a quarterly basis to the municipality in which the fees were collected.

Third: In Sec. 5 (Cannabis Control Board report), by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) On or before January 15, 2021, the Executive Director of the Cannabis Control Board shall provide recommendations to the General Assembly on the following:

(1) Resources necessary for implementation of this act for fiscal years 2022 and 2023, including positions and funding. The Board shall consider utilization of current expertise and resources within State government and cooperation with other State departments and agencies where there may be an overlap in duties.

(2) State fees to be charged and collected in accordance with the Board's authority pursuant to 7 V.S.A. § 846. The recommendations shall be accompanied by information justifying the recommended rate as required by 32 V.S.A. § 605(d). The State fees submitted in accordance with this subdivision shall be projected to be sufficient to fund the duties of the Cannabis Control Board as provided in 7 V.S.A. § 843. To the extent possible, the recommend fees shall include an amount to repay over a period, not greater than 10 years, to the General Fund any application of excise taxes to the Cannabis Regulation Fund made pursuant to Sec. 6c of this act.

(A) Application fees, initial annual license fees, and annual license renewal fees for each type of cannabis establishment license as provided in 7 V.S.A. § 846: cultivator, product manufacturer, wholesaler, retailer, testing laboratory, and integrated. If the Board establishes tiers within a licensing category, it shall provide a fee recommendation for each tier.

(B) Fee for a cannabis establishment identification card as provided in 7 V.S.A. § 884.

(C) Fee for advertisement review for a cannabis establishment licensee as provided in 7 V.S.A. § 845.

(3) Whether monies expected to be generated by State fees identified in subdivision (2) of this subsection are sufficient to support the statutory duties of the Board and whether any portion of the tax established pursuant to 32 V.S.A. § 7902 should be allocated to the Cannabis Regulation Fund to ensure these duties are met.

(4) Local fees to be charged and collected in accordance with the Board's authority pursuant to 7 V.S.A. § 846. The recommendations shall be accompanied by information justifying the recommended rate as required by 32 V.S.A. § 605(d). The Board shall recommend local fees that are designed to help defray the costs incurred by municipalities in which cannabis establishments are located.

Fourth: In Sec. 7, by striking out 7 V.S.A. § 910 (fees) in its entirety

Amendment to be offered by Reps. Beck of St. Johnsbury and Browning of Arlington that the House propose to the Senate to amend the bill as recommended by the Committee on Government Operations and by the Committee on Appropriations and when further amended by striking out Secs. 17c (dedicated use of sales and use tax on cannabis) and 17d (annual budgeting of sales and use tax revenue) in their entireties and inserting in lieu thereof:

Sec. 17c. [Deleted.]

Sec. 17d. [Deleted.]

Amendment to be offered by Rep. Gannon of Wilmington to S. 54

Representative Gannon of Wilmington moves that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 2, 7 V.S.A. chapter 31, in subsection 841(a), by striking out "10 names of potential nominees" and inserting in lieu thereof "five names of potential candidates per vacancy"

Second: In Sec. 5, Cannabis Control Board report, in subsection (b), in the second sentence, after "groundwater quality requirements" and before "are required for" by striking out "or regulations"

Third: In Sec. 7, 7 V.S.A. chapter 33, in subdivision 861(26), by striking out "500" and inserting in lieu thereof "1,000"

Fourth: In Sec. 7, 7 V.S.A. chapter 33, in section 869, after "unless otherwise provided under this chapter" and before the period, by striking out "or rules adopted under this chapter"

and by inserting a subsection (e) to read:

(e) Persons cultivating cannabis or handling pesticides for the purposes of the manufacture of cannabis products shall comply with the worker protection standard of 40 C.F.R. part 170.

Fifth: In Sec. 7, 7 V.S.A. chapter 33, in section 864, by striking subsection (d) in its entirety and inserting in lieu thereof the following:

(d) All advertisements shall contain health warnings developed by the Department of Health and adopted by rule by the Board.

Sixth: In Sec. 7, 7 V.S.A. chapter 33, in section 881, by striking out subdivision (a)(2)(A)(ii) in its entirety and inserting in lieu thereof the following:

(ii) pesticides or classes of pesticides that may be used by cultivators, provided that any rules adopted under this subdivision shall comply with and shall be at least as stringent as the Agency of Agriculture, Food and Markets' Vermont Pesticide Control Regulations;

Seventh: In Sec. 7, 7 V.S.A. chapter 33, in section 881, by striking out subdivision (a)(2)(A)(v) in its entirety and inserting in lieu thereof the following:

(v) labeling requirements for cannabis sold to retailers and integrated licensees, including health warnings developed by the Department of Health;

Eighth: In Sec. 7, 7 V.S.A. chapter 33, in section 881, in subdivision (a)(3)(A), by striking out “100” and inserting in lieu thereof “50”

Ninth: In Sec. 7, 7 V.S.A. chapter 33, in section 881, by striking out subdivision (a)(3)(C) in its entirety and inserting in lieu thereof the following:

(C) requirements that cannabis products are labeled with the date the product was manufactured, the date the product is best used by, the ingredients contained in the product, information on the length of time it typically takes for products to take effect, and appropriate warnings developed by the Department of Health;

Tenth: In Sec. 7, 7 V.S.A. chapter 33, in section 904a, in subsection (c), after “exception or accommodation to such rules for cultivators of this size where appropriate” and before the period, by inserting “, provided that the rules shall not provide for an exception or accommodation to the requirements of section 869 of this title”

Eleventh: In Sec. 18k, in the title, by striking out “NATIONAL HIGHWAY

TRAFFIC SAFETY ADMINISTRATION APPROVED” and in the body by striking out “the National Traffic Highway Safety Association”

Senate Proposal of Amendment

H. 550

An act relating to unclaimed property

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 2. 27 V.S.A. § 1461(5) after the word “a” by inserting payroll card or and by striking out “other than amounts held on a payroll card, but”

Second: In Sec. 2. 27 V.S.A. § 1461(11) by striking out “including” and inserting in lieu thereof other than and by striking out the word “on” and inserting in lieu thereof the word in

Third: In Sec. 2. 27 V.S.A. § 1462(a) after “years after” by inserting the later of

Fourth: In Sec. 2. 27 V.S.A. § 1462(a)(1) by striking out “the later of”

Fifth: In Sec. 2. 27 V.S.A. § 1462(a)(2)(A) by striking out “70.5” and inserting in lieu thereof 72

Sixth: In Sec. 2. 27 V.S.A. § 1469(b)(4) after “is held,” by inserting or in another account of the owner’s held by the same business association or financial organization,

Seventh: By striking out Sec. 3, effective date, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2021.

(For text see House Journal February 21, 2020, page 220)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 932

An act relating to vital records, mausoleums and columbaria, and the licensure of ambulances.

(Rep. LaClair of Barre Town will speak for the Committee on Government Operations.)

H. 933

An act relating to technical corrections to municipal charters.

(**Rep. Kitzmiller of Montpelier** will speak for the Committee on Government Operations.)

H. 934

An act relating to renter rebate reform.

(**Rep. Donovan of Burlington** will speak for the Committee on Ways and Means.)

Favorable with Amendment

H. 580

An act relating to establishing a classification system for criminal offenses

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

Sec. 1. 13 V.S.A. chapter 2 is added to read:

CHAPTER 2. CLASSIFICATION OF CRIMINAL OFFENSES

§ 51. CLASSIFICATION OF OFFENSES

(a) All felonies shall be classified as follows: Class A, Class B, Class C, Class D, and Class E.

(b) All misdemeanors shall be classified as follows: Class A, Class B, Class C, Class D, and Class E.

(c) Except as otherwise provided by law, for all offenses the court may impose a sentence of imprisonment or a fine, or both.

§ 52. SENTENCES OF IMPRISONMENT

(a) The maximum term of imprisonment for a felony shall be as follows:

(1) Class A: life imprisonment.

(2) Class B: imprisonment for 20 years.

(3) Class C: imprisonment for 10 years.

(4) Class D: imprisonment for five years.

(5) Class E: imprisonment for three years.

(b) The maximum term of imprisonment for a misdemeanor shall be as follows:

(1) Class A: imprisonment for two years.

- (2) Class B: imprisonment for one year.
- (3) Class C: imprisonment for six months.
- (4) Class D: imprisonment for 30 days.
- (5) Class E: no term of imprisonment.

(c) The minimum term of imprisonment for a felony or a misdemeanor shall be as provided by law.

(d) Any statutory or mandatory minimum or maximum term of imprisonment for a felony or a misdemeanor shall be as provided by law.

§ 53. FINES

(a) Unless otherwise provided by law, the maximum fine for a felony shall be as follows:

- (1) Class A: \$500,000.00.
- (2) Class B: \$250,000.00.
- (3) Class C: \$50,000.00.
- (4) Class D: \$25,000.00.
- (5) Class E: \$15,000.00.

(b) Unless otherwise provided by law, the maximum fine for a misdemeanor shall be as follows:

- (1) Class A: \$10,000.00.
- (2) Class B: \$5,000.00.
- (3) Class C: \$2,500.00.
- (4) Class D: \$500.00.
- (5) Class E: \$250.00.

§ 54. TRANSITIONAL PROVISIONS

Unless otherwise provided by law, criminal offenses shall be classified according to each offense's statutory maximum penalty. Criminal offenses shall be classified as follows:

(1) Felonies.

(A) All felonies punishable by a maximum term of life imprisonment shall be Class A felonies.

(B) All felonies punishable by a maximum term of 20 years or more but less than life shall be Class B felonies.

(C) All felonies punishable by a maximum term of 10 years or more but less than 20 years shall be Class C felonies.

(D) All felonies punishable by a maximum term of five years or more but less than ten years shall be Class D felonies.

(E) All felonies punishable by a maximum term of less than five years shall be Class E felonies.

(2) Misdemeanors.

(A) All misdemeanors punishable by a maximum term of imprisonment of two years shall be Class A misdemeanors.

(B) All misdemeanors punishable by a maximum term of imprisonment of one year or more but less than two years shall be Class B misdemeanors.

(C) All misdemeanors punishable by a maximum term of imprisonment of six months or more but less than one year shall be Class C misdemeanors.

(D) All misdemeanors punishable by a maximum term of imprisonment of 30 days or more but less than six months shall be Class D misdemeanors.

(E) All misdemeanors punishable by a fine and no term of imprisonment or a maximum term of imprisonment of less than 30 days shall be Class E misdemeanors.

§ 55. CLASSIFICATION OF PROPERTY OFFENSES

All criminal property offenses to which this section applies shall be classified as follows:

(1) If the value of the property that is at issue in the offense is less than \$100.00, the offense shall be a Class D misdemeanor.

(2) If the value of the property that is at issue in the offense is less than \$1,000.00 and equal to or greater than \$100.00, the offense shall be a Class C misdemeanor.

(3) If the value of the property that is at issue in the offense is less than \$3,000.00 and equal to or greater than \$1,000.00, the offense shall be a Class A misdemeanor.

(4) If the value of the property that is at issue in the offense is less than \$100,000.00 and equal to or greater than \$3,000.00, the offense shall be a Class E felony.

(5) If the value of the property that is at issue in the offense is equal to or greater than \$100,000.00, the offense shall be a Class D felony.

Sec. 2. 13 V.S.A. § 9 is amended to read:

§ 9. ATTEMPTS

(a) A person who attempts to commit an offense and does an act toward the commission thereof, but by reason of being interrupted or prevented fails in the execution of the same, shall be punished as herein provided unless other express provision is made by law for the punishment of the attempt. If the offense attempted to be committed is murder, aggravated murder, kidnapping, arson causing death, human trafficking, aggravated human trafficking, aggravated sexual assault, or sexual assault, a person shall be punished as the offense attempted to be committed is by law punishable.

(b) If the offense attempted to be committed is a felony other than those set forth in subsection (a) of this section, a person shall be punished by the less severe of the following punishments:

(1) ~~imprisonment for not more than 10 years or fined not more than \$10,000.00, or both~~ as a Class C felony; or

(2) as the offense attempted to be committed is by law punishable.

(c) If the offense attempted to be committed is a misdemeanor, a person shall be ~~imprisoned or fined, or both, in an amount not to exceed one-half the maximum penalty for which~~ subject to the punishment applicable to the misdemeanor that is one class level lower than the offense so attempted to be committed is by law punishable.

Sec. 3. 9 V.S.A. § 4043 is amended to read:

§ 4043. FRAUDULENT USE

(a) A person shall not with intent to defraud, obtain, or attempt to obtain money, property, services, or any other thing of value, by the use of a credit card which he or she knows, or reasonably shall have known, to have been stolen, forged, revoked, cancelled, unauthorized, or invalid for use by him or her for such purpose.

(b) A person who violates this section shall be sentenced pursuant to 13 V.S.A. §§ 52, 53, and 55.

Sec. 4. 9 V.S.A. § 4044 is amended to read:

§ 4044. ~~PENALTY~~

~~(a) A person who violates section 4043 of this title shall be fined not more~~

~~than \$500.00 or be imprisoned not more than six months, or both, if the aggregate value of the money, property, services, or other things of value so obtained is \$50.00 or less.~~

~~(b) A person who violates section 4043 of this title shall be fined not more than \$1,000.00 or be imprisoned not more than one year, or both, if the aggregate value of the money, property, services, or other things of value so obtained exceeds \$50.00. [Repealed.]~~

Sec. 5. 13 V.S.A. § 1801 is amended to read:

§ 1801. FORGERY AND COUNTERFEITING OF PAPERS,
DOCUMENTS, ETC.

A person who wittingly, falsely, and deceitfully makes, alters, forges, or counterfeits, or wittingly, falsely, or deceitfully causes to be made, altered, forged, or counterfeited, or procures, aids, or counsels the making, altering, forging, or counterfeiting, of a writ, process, public record, or any certificate, return, or attestation of a clerk of a court, public register, notary public, justice, or other public officer, in relation to a matter wherein such certificate, return, or attestation may be received as legal proof, or a charter, deed, or any evidence or muniment of title to property, will, terminal care document, testament, bond, or writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, or an order drawn on a person or corporation, or on a State, county, or town or school district treasurer, for money or other property, or an acquittance or discharge for money or other property, or an acceptance of a bill of exchange, or indorsement or assignment of a bill of exchange or promissory note, for the payment of money, or any accountable receipt for money, goods, or other property, or certificate of stock, with intent to injure, or defraud a person, shall be ~~imprisoned not more than 10 years and fined not more than \$1,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 6. 13 V.S.A. § 1802 is amended to read:

§ 1802. UTTERING FORGED OR COUNTERFEITED INSTRUMENT

A person who utters and publishes as true a forged, altered, or counterfeited record, deed, instrument, or other writing mentioned in section 1801 of this title, knowing the same to be false, altered, forged, or counterfeited, with intent to injure or defraud a person, shall be ~~imprisoned not more than 10 years and fined not more than \$1,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 7. 13 V.S.A. § 1804 is amended to read:

§ 1804. COUNTERFEITING PAPER MONEY

A person who falsely makes, alters, forges, or counterfeits, or procures to be made, altered, forged, or counterfeited, or aids or assists in making, altering, forging, or counterfeiting, a note, or imitation of, or purporting to be a note issued by the United States, used as currency, or a bank bill or promissory note, or imitation of, or purporting to be a bank bill or promissory note, issued by a banking company incorporated by the Congress of the United States or by the legislature of a state of the United States or of another country, with intent to injure or defraud a person; and a person who utters, passes, or gives in payment, or offers to pass or give in payment, or procures to be offered, passed, or given in payment, or has in his or her possession with intent to offer, pass, or give in payment, such altered, forged, counterfeited, or imitated note, bank bill, or promissory note, knowing the same to be altered, forged, counterfeited, or imitated, shall be ~~imprisoned not more than 14 years and fined not more than \$1,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 8. 13 V.S.A. § 1816 is amended to read:

§ 1816. POSSESSION OR USE OF CREDIT CARD SKIMMING DEVICES AND RE-ENCODERS

(a) A person who knowingly, wittingly, and with the intent to defraud possesses a scanning device, or who knowingly, wittingly, and with intent to defraud uses a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the computer chip or magnetic strip of a payment card without the permission of the authorized user of the payment card ~~shall be imprisoned not more than 10 years or fined not more than \$10,000.00, or both~~ commits a Class C felony.

(b) A person who knowingly, wittingly, and with the intent to defraud possesses a re-encoder, or who knowingly, wittingly, and with the intent to defraud uses a re-encoder to place encoded information on the computer chip or magnetic strip or stripe of a payment card or any electronic medium that allows an authorized transaction to occur without the permission of the authorized user of the payment card from which the information is being re-encoded ~~shall be imprisoned not more than 10 years or fined not more than \$10,000.00, or both~~ commits a Class C felony.

* * *

Sec. 9. 13 V.S.A. § 2001 is amended to read:

§ 2001. FALSE PERSONATION

A person who falsely personates or represents another, and in such assumed character receives money or other property intended to be delivered to the party so personated, with intent to convert the same to the person's own use, shall be ~~imprisoned not more than 10 years or fined not more than \$2,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 10. 13 V.S.A. § 2002 is amended to read:

§ 2002. FALSE PRETENSES OR TOKENS

A person who designedly by false pretenses or by privy or false token and with intent to defraud, obtains from another person money or other property, or a release or discharge of a debt or obligation, or the signature of a person to a written instrument, the false making whereof would be punishable as forgery, shall be ~~imprisoned not more than 10 years or fined not more than \$2,000.00, or both, if the money or property so obtained exceeds \$900.00 in value. A person who violates this section shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both, if the money or property obtained in violation of this section is valued at \$900.00 or less~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 11. 13 V.S.A. § 2029 is amended to read:

§ 2029. HOME IMPROVEMENT FRAUD

* * *

(d)(1) A person who violates subsection (b) of this section ~~shall be imprisoned not more than two years or fined not more than \$1,000.00, or both, if the loss to a single consumer is less than \$1,000.00~~ commits a Class A misdemeanor.

(2) A person who is convicted of a second or subsequent violation of subdivision (1) of this subsection ~~shall be imprisoned not more than three years or fined not more than \$5,000.00, or both~~ commits a Class E felony.

(3) A person who violates subsection (b) of this section ~~shall be imprisoned not more than three years or fined not more than \$5,000.00, or both,~~ commits a Class E felony if:

(A) the loss to a single consumer is \$1,000.00 or more; or

(B) the loss to more than one consumer is \$2,500.00 or more in the aggregate.

(4) A person who is convicted of a second or subsequent violation of subdivision (3) of this subsection ~~shall be imprisoned not more than five years or fined not more than \$10,000.00, or both~~ commits a Class D felony.

(5) A person who violates subsection (c) or (e) of this section ~~shall be imprisoned for not more than two years or fined not more than \$1,000.00, or both~~ commits a Class A misdemeanor.

* * *

Sec. 12. 13 V.S.A. § 2030 is amended to read:

§ 2030. IDENTITY THEFT

* * *

(f) A person who violates this section ~~shall be imprisoned for not more than three years or fined not more than \$5,000.00, or both~~ commits a Class E felony. A person who is convicted of a second or subsequent violation of this section involving a separate scheme ~~shall be imprisoned for not more than 10 years or fined not more than \$10,000.00, or both~~ commits a Class C felony.

Sec. 13. 13 V.S.A. § 2031 is amended to read:

* * *

(c) Penalties. A person who violates subsection (b) of this section shall:

(1) ~~if the benefit wrongfully obtained or the loss suffered by any person as a result of the violation has a value of less than \$900.00, be imprisoned for not more than six months or fined not more than \$5,000.00, or both; or~~

(2) ~~if the benefit wrongfully obtained or the loss suffered by any person as a result of the violation has a value of more than \$900.00, be imprisoned for not more than five years or fined not more than \$10,000.00, or both; or~~

(3) ~~for a second or subsequent offense, regardless of the value of the benefit wrongfully obtained, be imprisoned not more than five years or fined not more than \$20,000.00, or both~~ be sentenced pursuant to sections 52, 53, and 55 of this title.

* * *

Sec. 14. 13 V.S.A. § 2501 is amended to read:

§ 2501. GRAND AND PETIT LARCENY

A person who steals from the actual or constructive possession of another, other than from his or her person, money, goods, chattels, bank notes, bonds, promissory notes, bills of exchange or other bills, orders, or certificates, or a book of accounts for or concerning money, or goods due or to become due or to be delivered, or a deed or writing containing a conveyance of land, or any other valuable contract in force, or a receipt, release or defeasance, writ, process, or public record, ~~shall be imprisoned not more than 10 years or fined~~

~~not more than \$5,000.00, or both, if the money or other property stolen exceeds \$900.00 in value sentenced pursuant to sections 52, 53, and 55 of this title.~~

Sec. 15. 13 V.S.A. § 2502 is amended to read:

§ 2502. ~~PETIT LARCENY~~

~~For offenses mentioned in section 2501 of this title where the money or other property stolen does not exceed \$900.00 in value, the court may sentence the person convicted to imprisonment for not more than one year or to pay a fine of not more than \$1,000.00, or both. [Repealed.]~~

Sec. 16. 13 V.S.A. § 2503 is amended to read:

§ 2503. LARCENY FROM THE PERSON

A person who steals or attempts to steal from the person and custody of another, property, the subject of larceny, ~~shall be imprisoned not more than 10 years or fined not more than \$500.00, or both~~ commits a Class C felony.

Sec. 17. 13 V.S.A. § 2531 is amended to read:

§ 2531. EMBEZZLEMENT GENERALLY

(a) An officer, agent, bailee for hire, clerk, or servant of a banking association or an incorporated company, or a clerk, agent, bailee for hire, officer, or servant of a private person, partnership, trades union, joint stock company, unincorporated association, fraternal or benevolent association, except apprentices and other persons under ~~the age of 16 years~~ of age, who embezzles or fraudulently converts to his or her own use, or takes or secretes with intent to embezzle or fraudulently convert to his or her own use, money or other property that comes into his or her possession or is under his or her care by virtue of such employment, notwithstanding he or she may have an interest in such money or property, shall be guilty of embezzlement and sentenced pursuant to sections 52, 53, and 55 of this title.

(b) ~~If the money or property embezzled does not exceed \$100.00 in value, the person shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. If the money or property embezzled exceeds \$100.00 in value, the person shall be imprisoned not more than 10 years or fined not more than \$10,000.00, or both.~~

Sec. 18. 13 V.S.A. § 2532 is amended to read:

§ 2532. OFFICER OR SERVANT OF INCORPORATED BANK

A cashier or other officer, agent, or servant of an incorporated bank who embezzles or fraudulently converts to his or her own use bullion, money,

notes, bills, obligations, or securities or other effects or property belonging to and in the possession of such bank or belonging to any person and deposited therein, shall be guilty of larceny and shall be ~~imprisoned not more than 10 years or fined not more than \$1,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 19. 13 V.S.A. § 2533 is amended to read:

§ 2533. RECEIVER OR TRUSTEE

A receiver or trustee appointed by the court in any litigation in this State, who embezzles or fraudulently converts to his or her own use any money or other property in his or her hands as such receiver or trustee, shall be guilty of larceny and shall be ~~imprisoned not more than 10 years or fined not more than \$1,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 20. 13 V.S.A. § 2537 is amended to read:

§ 2537. PERSON HOLDING PROPERTY IN OFFICIAL CAPACITY OR
BELONGING TO THE STATE OR A MUNICIPALITY

A State, county, town, or municipal officer or other person who in his or her official capacity receives, collects, controls, or holds money, obligations, securities, or other property, who embezzles or fraudulently converts to his or her own use any of such money, obligations, securities, or other property, or a person who embezzles or fraudulently converts to his or her own use money or other property belonging to the State or to a county or municipality, or a municipal corporation, or a special purpose district, shall be guilty of larceny and shall be ~~imprisoned not more than 10 years or fined not more than \$1,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 21. 13 V.S.A. § 2561 is amended to read:

§ 2561. PENALTY FOR RECEIVING STOLEN PROPERTY; VENUE

(a) A person who is a dealer in property who buys, receives, sells, possesses unless with the intent to restore to the owner, or aids in the concealment of property, knowing or believing the property to be stolen, shall be ~~punished the same as for the stealing of such property~~ sentenced pursuant to sections 52, 53, and 55 of this title.

(b) A person who buys, receives, sells, possesses unless with the intent to restore to the owner, or aids in the concealment of stolen property, knowing the same to be stolen, shall be ~~punished the same as for the stealing of such property~~ sentenced pursuant to sections 52, 53, and 55 of this title.

* * *

Sec. 22. 13 V.S.A. § 2575a is added to read:

§ 2575a. ORGANIZED RETAIL THEFT

(a) A person commits the offense of organized retail theft when he or she commits the offense of retail theft pursuant to section 2575 of this title and acts in concert with one or more persons on one or more occasions within a period of 180 days.

(b) A person who violates subsection (a) of this section shall be sentenced pursuant to sections 52, 53, and 55 of this title. The aggregate retail value of the merchandise obtained shall be used to determine the classification of the offense under section 55 of this title.

Sec. 23. 13 V.S.A. § 2577 is amended to read:

§ 2577. PENALTY

~~(a) A person convicted of the offense of retail theft of merchandise having a retail value not in excess of \$900.00 shall be punished by a fine of not more than \$500.00 or imprisonment for not more than six months, or both.~~

~~(b) A person convicted of the offense of retail theft of merchandise having a retail value in excess of \$900.00 shall be punished by a fine of not more than \$1,000.00 or imprisonment for not more than 10 years, or both.~~

~~(c) Notwithstanding the provisions of subsections (a) and (b) of this section, a person convicted of retail theft pursuant to:~~

~~(1) Subdivision 2575(4) of this title shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.~~

~~(2) Subdivision 2575(5), (6), or (7) of this title shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both shall be sentenced pursuant to sections 52, 53, and 55 of this title.~~

Sec. 24. 13 V.S.A. § 2582 is amended to read:

§ 2582. THEFT OF SERVICES

(a) A person who purposely obtains services that he or she knows are available only for compensation, by deception or threat, or by false token or other means to avoid payment for the service shall if the services exceed \$900.00 in value be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both. Otherwise, a person who violates a provision of this subsection shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both be sentenced pursuant to sections 52, 53, and 55 of this title. Where compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of hotels, restaurants, and

transportation, refusal to pay or absconding without payment or offer to pay gives rise to a rebuttable presumption that the service was obtained by deception as to intention to pay.

(b) A person who, having control over the disposition of services of others, to which he or she is not entitled, knowingly diverts such services to the person's own benefit or to the benefit of another not entitled thereto shall ~~if the services exceed \$900.00 in value be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both. Otherwise a person who violates a provision of this subsection shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both~~ be sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 25. 13 V.S.A. § 2591 is amended to read:

§ 2591. THEFT OF RENTED PROPERTY

(a) A person who converts to his or her own use any personal property, other than a motor vehicle leased or rented pursuant to a written agreement that has been entrusted to the person under an agreement in writing that provides for the delivery of that personal property to a particular person or place or at a particular time, abandons it, or refuses or neglects to deliver it to the person or place and at the time specified in the written agreement, or who destroys, secretes, appropriates, converts, sells, or attempts to sell all or any part of it, or who removes or permits or causes it to be removed from this State, without the consent of its owner, shall be:

(1) ~~if the value of the property involved is \$900.00 or less, imprisoned not more than six months or fined not more than \$500.00, or both; for a first offense, sentenced pursuant to sections 52, 53, and 55 of this title, provided that the sentence shall not exceed the penalty for a Class C misdemeanor; or~~

(2) ~~if the property involved exceeds \$900.00 in value:~~

(A) ~~imprisoned for not more than two years or fined not more than \$1,000.00, or both; or~~

(B) ~~imprisoned for not more than five years or fined not more than \$5,000.00 if the person has been previously convicted of a violation of this subdivision (a)(2) of this section for a second or subsequent offense, sentenced pursuant to sections 52, 53, and 55 of this title, provided that the sentence shall not exceed the penalty for a Class D felony.~~

* * *

Sec. 26. 13 V.S.A. § 2592 is amended to read:

§ 2592. FAILURE TO RETURN A RENTED OR LEASED MOTOR

VEHICLE

* * *

(b) A person who violates this section ~~shall be imprisoned for not more than three years or fined not more than \$3,000.00, or both~~ commits a Class E felony. If the person has been previously convicted of a violation of this section, the person ~~shall be imprisoned not more than five years or fined not more than \$5,000.00, or both~~ commits a Class D felony.

Sec. 27. 13 V.S.A. § 3016 is amended to read:

§ 3016. FALSE CLAIM

* * *

(b) A person who violates this section ~~shall, if the prohibited act results in no loss to a governmental entity or benefit to the person or results in a loss to a governmental entity or benefit to the person of less than \$500.00 in value, be imprisoned not more than two years or fined not more than \$5,000.00, or both. A person who violates this section shall, if the prohibited act results in a loss to any governmental entity or a benefit to the person of \$500.00 or more in value, whether by a single act or by a common scheme or course of conduct involving one or more transactions, be imprisoned not more than five years or fined not more than \$10,000.00, or both~~ be sentenced pursuant to sections 52, 53, and 55 of this title.

* * *

Sec. 28. 13 V.S.A. § 3606a is amended to read:

§ 3606a. TRESPASS; CRIMINAL PENALTY

(a) No person shall knowingly or recklessly:

(1) cut down, fell, destroy, remove, injure, damage, or carry away any timber or forest product placed or growing for any use or purpose whatsoever, or timber or forest product lying or growing belonging to another person, without permission from the owner of the timber or forest product; or

(2) deface the mark of a log, forest product, or other valuable timber in a river or other place.

(b) Any person who violates subsection (a) of this section ~~shall~~:

(1) for a first offense, ~~be imprisoned not more than one year or fined not more than \$20,000.00, or both~~ commits a Class B misdemeanor; or

(2) for a second or subsequent offense, ~~be imprisoned not more than two years or fined not more than \$50,000.00, or both~~ commits a Class A

misdemeanor.

Sec. 29. 13 V.S.A. § 3701 is amended to read:

§ 3701. UNLAWFUL MISCHIEF

(a) A person who, with intent to damage property, and having no right to do so or any reasonable ground to believe that he or she has such a right, does any damage to any property ~~which is valued in an amount exceeding \$1,000.00~~ shall be imprisoned for not more than five years or fined not more than \$5,000.00, or both shall be sentenced pursuant to sections 52, 53, and 55 of this title.

~~(b) A person who, with intent to damage property, and having no right to do so or any reasonable ground to believe that he or she has such a right, does any damage to any property which is valued in an amount exceeding \$250.00 shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both.~~

~~(c) A person who, having no right to do so or any reasonable ground to believe that he or she has such a right, intentionally does any damage to property of any value not exceeding \$250.00 shall be imprisoned for not more than six months or fined not more than \$500.00, or both.~~

(d) A person who, with intent to damage property, and having no right to do so or any reasonable ground to believe that he or she has such a right, does any damage to any property by means of an explosive ~~shall be imprisoned for not more than five years or fined not more than \$5,000.00, or both~~ commits a Class D felony.

~~(e)(c)~~ For the purposes of As used in this section “property” means real or personal property.

~~(f)(d)~~ A person who suffers damages as a result of a violation of this section may recover those damages together with reasonable attorney’s fees in a civil action under this section.

Sec. 30. 13 V.S.A. § 3705 is amended to read:

§ 3705. UNLAWFUL TRESPASS

(a)(1) A person ~~shall be imprisoned for not more than three months or fined not more than \$500.00, or both,~~ commits a Class D misdemeanor if, without legal authority or the consent of the person in lawful possession, he or she enters or remains on any land or in any place as to which notice against trespass is given by:

(A) actual communication by the person in lawful possession or his

or her agent or by a law enforcement officer acting on behalf of such person or his or her agent;

(B) signs or placards so designed and situated as to give reasonable notice; or

(C) in the case of abandoned property:

(i) signs or placards, posted by the owner, the owner's agent, or a law enforcement officer, and so designed and situated as to give reasonable notice; or

(ii) actual communication by a law enforcement officer.

* * *

(c) A person who enters a building other than a residence, whose access is normally locked, whether or not the access is actually locked, or a residence in violation of an order of any court of competent jurisdiction in this State ~~shall be imprisoned for not more than one year or fined not more than \$500.00, or both~~ commits a Class B misdemeanor.

(d) A person who enters a dwelling house, whether or not a person is actually present, knowing that he or she is not licensed or privileged to do so ~~shall be imprisoned for not more than three years or fined not more than \$2,000.00, or both~~ commits a Class E felony.

* * *

Sec. 31. 13 V.S.A. § 3732 is amended to read:

§ 3732. UNAUTHORIZED REMOVAL OF BOOKS FROM LIBRARY

A person who removes from a free public library, or a free town, village, or traveling library, a book, paper, magazine, document, or other reading matter, or an art book, picture, print, plate, or other art work, kept in such library for public use or circulation, without the consent of the librarian or other person in charge of such library, ~~shall be fined not more than \$50.00 for each offense, half to the use of~~ commits a Class E misdemeanor. One-half of the criminal fine shall be paid to the library from which the same was so removed, and the other half to the use of one-half shall be paid to the treasury liable for the costs of prosecution.

Sec. 32. 13 V.S.A. § 3733 is amended to read:

§ 3733. MILLS, DAMS OR BRIDGES

A person who willfully and maliciously injures, removes, or opens a dam, reservoir, gate, or flume; or injures or removes the wheels, mill gear, or

machinery of a water mill;² or injures, removes, or destroys a public or toll bridge, ~~shall be imprisoned not more than five years or fined not more than \$500.00, or both~~ commits a Class D felony.

Sec. 33. 13 V.S.A. § 3738 is amended to read:

§ 3738. OBSTRUCTION AND USE OF PRIVATE ROADS AND LANDS
BY MOTOR VEHICLE

(a) A person who shall not, without the permission of the owner or occupant and by use of a motor vehicle as defined in 23 V.S.A. § 4:

(1) ~~obstructs~~ obstruct a private driveway, barway, or gateway; ~~or~~

(2) ~~travels~~ travel over a private road that is so marked, ~~or travels~~ travel over other private lands; or

(3) ~~enters~~ enter on private lands for the purpose of camping; ~~without the permission of the owner or occupant shall be fined not more than \$500.00.~~

(b) A person who violates this section commits a Class E misdemeanor.

Sec. 34. 13 V.S.A. § 3739 is amended to read:

§ 3739. OPERATION OF VEHICLES ON STATE OWNED LAND

(a) ~~A person who operates~~ shall not operate a motor vehicle, as defined in 23 V.S.A. § 4, on any land that is owned or held by the State:

(1) ~~except in places or on trails specifically designated and marked by the Secretary of Natural Resources; or~~

(2) ~~contrary to any rule governing the use of the place or trail shall be fined not more than \$500.00.~~

(3) For the purposes of this section “land owned or held by the State” does not include a highway as defined in 23 V.S.A. § 4.

* * *

(c) A person who violates this section commits a Class E misdemeanor.

Sec. 35. 13 V.S.A. § 3740 is amended to read:

§ 3740. DAMAGE TO STATE LAND

A person who operates a motor vehicle, as defined in 23 V.S.A. § 4, on any land, that is owned or held by the State, in such a manner as to purposely and maliciously cause injury, damage, erosion, or waste to the land shall be fined not more than \$500.00 commits a Class E misdemeanor. For the purposes of this section “land” does not include a highway as defined in 23 V.S.A. § 4.

Sec. 36. 13 V.S.A. § 3761 is amended to read:

§ 3761. UNAUTHORIZED REMOVAL OF HUMAN REMAINS

A person who, not being authorized by law, intentionally excavates, disinters, removes, or carries away a human body, or the remains thereof, interred or entombed in this State or intentionally excavates, disinters, removes, or carries away an object interred or entombed with a human body in this State, or knowingly aids in such excavation, disinterment, removal, or carrying away, or is accessory thereto, ~~shall be imprisoned not more than 15 years or fined not more than \$10,000.00, or both~~ commits a Class C felony.

Sec. 37. 13 V.S.A. § 3767 is amended to read:

§ 3767. PENALTIES

(a) A person who violates a provision of sections 3764–3766 of this title shall, except as provided in subsection (b) of this section, ~~be imprisoned not more than five years or fined not more than \$5,000.00, or both~~ commits a Class D felony.

(b) A person who violates subsection 3766(c) of this title ~~shall be imprisoned not more than one year or fined not more than \$500.00, or both~~ commits a Class B misdemeanor.

Sec. 38. 13 V.S.A. § 3771 is amended to read:

§ 3771. DISTURBING A FUNERAL SERVICE

* * *

(b) No person shall disturb or attempt to disturb a funeral service by engaging in picketing within 100 feet of the service within one hour prior to and two hours following the publicly announced time of the commencement of the service.

(c) A person who violates this section ~~shall be imprisoned not more than 30 days or fined not more than \$500.00, or both~~ commits a Class D misdemeanor.

Sec. 39. 13 V.S.A. § 3781 is amended to read:

§ 3781. TAPPING GAS PIPES WITH INTENT TO DEFRAUD

A person who taps gas pipes with intent to take gas therefrom, or who connects pipes with such gas pipes so that gas may be used without passing through the meters for measurement, or who knowingly burns gas without measurement by gas meters, without the consent of the owner, ~~shall be imprisoned not more than one year or fined not more than \$100.00, or both~~ commits a Class A misdemeanor. The owner of the gas may recover of the

person so unlawfully tapping or connecting such pipes or using gas, the actual damages, with costs, in a civil action on this statute.

Sec. 40. 13 V.S.A. § 3782 is amended to read:

§ 3782. TAPPING ELECTRIC LINES; INJURIES TO ELECTRIC PLANTS

A person who willfully commits or causes to be committed an act with intent to injure a machine, apparatus, or structure appertaining to the works of a person, firm, association, or corporation engaged in manufacturing, selling, or distributing electrical energy in this State, or whereby such works may be stopped, obstructed, or injured, or who taps an electrical line of a person, firm, association, or corporation so that electricity can be taken therefrom, or knowingly uses electricity taken from such line without the consent of such person, firm, association, or corporation, ~~shall be imprisoned not more than two years or fined not more than \$300.00, or both~~ commits a Class A misdemeanor. Such person shall also be liable to such person, firm, association, or corporation or to anyone injured for actual damages, with full costs, in a civil action on this statute.

Sec. 41. 13 V.S.A. § 3784 is amended to read:

§ 3784. INTERFERING WITH METERS

A person, other than an authorized agent or employee acting for the owner, manufacturer, or operator thereof, who maliciously opens, closes, breaks into, or in any manner adjusts or interferes with a meter, or other regulating or measuring device or appliance attached to or connected with wires, pipe lines, mains, service pipes, or house pipes owned or used by a manufacturer or furnisher of electricity, gas, or water ~~shall be imprisoned not more than three months or fined not more than \$100.00, or both~~ commits a Class D misdemeanor.

Sec. 42. 13 V.S.A. § 3785 is amended to read:

§ 3785. INJURING LIGHTS IN STREETS AND PUBLIC BUILDINGS

A person who willfully and maliciously breaks the glass about a street lamp or gaslight, or a lamp or gaslight in the grounds about a public building, or, without authority, lights such a lamp or gaslight or extinguishes the same when lighted, or in any manner interferes therewith, or injures any part of the fixtures supporting such lamp or gaslight, or defaces the same by painting or posting notices thereon, or fastens a horse or animal thereto, ~~shall be imprisoned not more than three months or fined not more than \$50.00, or both~~ commits a Class D misdemeanor.

Sec. 43. 13 V.S.A. § 3786 is amended to read:

§ 3786. TAPPING CABLE TELEVISION SYSTEMS; DAMAGE TO
EQUIPMENT

A person who willfully or maliciously damages, or causes to be damaged, any wire, cable, conduit, apparatus, or equipment of a company operating a cable television system, as defined in 30 V.S.A. § 501, or who commits any act with intent to cause damage to any wire, cable, conduit, apparatus, or equipment of a company operating such a system, or who taps, tampers with, or connects any wire or device to the equipment of the cable television company that would degrade the service rendered without authorization of the company ~~may be fined not more than \$100.00~~ commits a Class E misdemeanor and shall be liable in a civil action for three times the actual amount of damages sustained thereby.

Sec. 44. 13 V.S.A. § 3831 is amended to read:

§ 3831. CUTTING ICE AND NOT FENCING HOLE

A person who takes ice from water over which people are accustomed to pass and does not place around the opening thereby made in the ice suitable guards to prevent a person, team, or vehicle from falling into such hole or opening ~~shall be fined not more than \$50.00~~ commits a Class E misdemeanor.

Sec. 45. 13 V.S.A. § 3833 is amended to read:

§ 3833. UNLAWFUL TAKING OF TANGIBLE PERSONAL PROPERTY;
PENALTY

A person who, without the consent of the owner, takes and carries away or causes to be taken and carried away any tangible personal property with the intent of depriving the owner temporarily of the lawful possession of his or her property ~~shall be fined not more than \$100.00~~ commits a Class E misdemeanor. This section shall not be construed to limit or restrict prosecutions for larceny or theft.

Sec. 46. 13 V.S.A. § 3834 is amended to read:

§ 3834. REMOVAL OF SURVEYING MONUMENTS

A person who knowingly removes or alters monuments marking the boundary of lands or knowingly defaces, alters, or removes marks upon any tree, post, or stake that is a monument designating a point, course, or line in the boundary of a parcel of land ~~shall be fined \$100.00~~ commits a Class E misdemeanor and shall be civilly liable for the replacement cost and any consequential damages. However, land surveyors in their professional practice may perpetuate such monumentation by adding additional marks, or by

remonumenting nonsubstantial monuments or by the placing of new monuments to preserve monuments to be destroyed or made inaccessible.

Sec. 47. 13 V.S.A. § 4102 is amended to read:

§ 4102. UNAUTHORIZED ACCESS

A person who knowingly and intentionally and without lawful authority, accesses any computer, computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network ~~shall be imprisoned not more than six months or fined not more than \$500.00, or both~~ commits a Class C misdemeanor.

Sec. 48. 13 V.S.A. § 4103 is amended to read:

§ 4103. ACCESS TO COMPUTER FOR FRAUDULENT PURPOSES

* * *

(b) Penalties. A person convicted of the crime of access to computer for fraudulent purposes shall be:

~~(1) if the value of the matter involved does not exceed \$500.00, imprisoned not more than one year or fined not more than \$500.00, or both;~~

~~(2) if the value of the matter involved does not exceed \$500.00, for a second or subsequent offense, imprisoned not more than two years or fined not more than \$1,000.00, or both; or~~

~~(3) if the value of the matter involved exceeds \$500.00, imprisoned not more than 10 years or fined not more than \$10,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 49. 13 V.S.A. § 4104 is amended to read:

§ 4104. ALTERATION, DAMAGE, OR INTERFERENCE

(a) A person shall not intentionally and without lawful authority, alter, damage, or interfere with the operation of any computer, computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network.

(b) Penalties. A person convicted of violating this section shall be:

~~(1) if the damage or loss does not exceed \$500.00 for a first offense, imprisoned not more than one year or fined not more than \$5,000.00, or both;~~

~~(2) if the damage or loss does not exceed \$500.00 for a second or subsequent offense, imprisoned not more than two years or fined not more than \$10,000.00, or both; or~~

~~(3) if the damage or loss exceeds \$500.00, imprisoned not more than 10 years or fined not more than \$25,000.00, or both sentenced pursuant to sections 52, 53, and 55 of this title.~~

Sec. 50. 13 V.S.A. § 4105 is amended to read:

§ 4105. THEFT OR DESTRUCTION

(a)(1) A person shall not intentionally and without claim of right deprive the owner of possession, take, transfer, copy, conceal, or retain possession of, or intentionally and without lawful authority, destroy any computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network.

(2) Copying a commercially available computer program or computer software is not a crime under this section, provided that the computer program and computer software has a retail value of \$500.00 or less and is not copied for resale.

(b) Penalties. A person convicted of violating this section shall be:

~~(1) if the damage or loss does not exceed \$500.00 for a first offense, imprisoned not more than one year or fined not more than \$5,000.00, or both;~~

~~(2) if the damage or loss does not exceed \$500.00 for a second or subsequent offense, imprisoned not more than two years or fined not more than \$10,000.00, or both; or~~

~~(3) if the damage or loss exceeds \$500.00, imprisoned not more than 10 years or fined not more than \$25,000.00, or both sentenced pursuant to sections 52, 53, and 55 of this title.~~

Sec. 51. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee Vote: 10-0-0)

H. 740

An act relating to changes to the Nuclear Decommissioning Citizens Advisory Panel

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

Sec. 1. 18 V.S.A. § 1700 is amended to read:

§ 1700. CREATION; MEMBERSHIP; OFFICERS; QUORUM

(a) There is created the Nuclear Decommissioning Citizens Advisory Panel that shall consist of the following:

- (1) The Secretary of Human Services, ex officio, or designee.
 - (2) The Secretary of Natural Resources, ex officio, or designee.
 - (3) The Commissioner of Public Service, ex officio, or designee.
 - (4) The Secretary of Commerce and Community Development, ex officio, or designee.
 - (5) One member of the House Committee on Energy and Technology, chosen by the Speaker of the House.
 - (6) One member of the Senate Committee on Natural Resources and Energy, chosen by the Committee on Committees.
 - (7) One representative of the Windham Regional Commission or designee, selected by the Regional Commission.
 - (8) ~~One representative~~ Two representatives of the Town of Vernon or ~~designee~~ designees, selected by the legislative body of that town.
 - (9) Six members of the public, two each selected by the Governor, the Speaker of the House, and the President Pro Tempore of the Senate. Under this subdivision, each appointing authority initially shall appoint a member for a three-year term and a member for a four-year term. Subsequent appointments under this subdivision shall be for terms of four years.
 - (10) Two representatives of the owners of the Vermont Yankee Nuclear Power Station (VYNPS or Station) ~~selected by the owner of the Station site.~~
 - (11) ~~A representative of the International Brotherhood of Electric Workers (IBEW) selected by the IBEW who shall be a present or former employee at the VYNPS.~~
 - ~~(12)~~ One optional member who will represent collectively the Towns of Chesterfield, Hinsdale, Richmond, Swanzey, and Winchester, New Hampshire, when selected by the Governor of New Hampshire at the invitation of the Commissioner of Public Service.
 - ~~(13)~~(12) One optional member who will represent collectively the Towns of Bernardston, Colrain, Gill, Greenfield, Leyden, Northfield, and Warwick, Massachusetts, when selected by the Governor of Massachusetts at the invitation of the Commissioner of Public Service.
- (b) Ex officio members shall serve for the duration of their time in office or until a successor has been appointed. Members of the General Assembly

shall be appointed for two years or until their successors are appointed, beginning on or before January 15 in the first year of the biennium. Representatives designated by ex officio members shall serve at the direction of the designating authority.

* * *

(f) Members of the panel who are not ex officio members, employees of the State of Vermont, representatives of the ~~VYNPS~~ owners of the Vermont Yankee site, or members representing towns outside Vermont, and who are not otherwise compensated or reimbursed for their attendance, shall be entitled to \$50.00 per diem and their necessary and actual expenses. Funds for this purpose shall come from the monies collected under 30 V.S.A. § 22 for the purpose of maintaining the Department of Public Service. Legislative members shall not be entitled to a per diem under this section for meetings while the General Assembly is in session.

(g) The Commissioner of Public Service shall:

* * *

(6) hire experts, contract for services, and provide for materials and other reasonable and necessary expenses of the Panel as the Commissioner may consider appropriate on request of the Panel from time to time. Funds for this purpose shall come from the ~~monies collected under 30 V.S.A. § 22 for the purpose of maintaining the Department of Public Service and such other sources as may be or become available~~ owners of the Vermont Yankee site as the Commissioner of Public Service may consider appropriate, not to exceed \$35,000 annually. The obligation to support the Panel's activities shall cease upon the submission of the application for Partial License Termination by the owners of the Vermont Yankee site to the Nuclear Regulatory Commission. On or before June 30 annually, the Commissioner of Public Service shall render to the owners of the Vermont Yankee site a statement detailing the amount of money expended or contracted for under this subdivision (6), which shall be paid within 30 days by the owners of the Vermont Yankee site into the special fund established pursuant to 30 V.S.A. § 22 for the purpose of maintaining the Department of Public Service and Public Utility Commission. The funds paid into the special fund by the owners of the Vermont Yankee site shall be paid solely to the Department. Within 30 days of receiving the statement of funds due, the owners of the Vermont Yankee site may petition the Public Utility Commission for a hearing to review and determine the necessity and reasonableness of such expenses. Following the review, the Public Utility Commission may amend or revise the cost assessments as it deems appropriate.

Sec. 2. 18 V.S.A. § 1701 is amended to read:

§ 1701. DUTIES

The Panel shall serve in an advisory capacity only and shall not have authority to direct decommissioning of the ~~VYNPS~~ Vermont Yankee site. The duties of the Panel shall be:

(1) To hold a minimum of ~~four~~ three public meetings each year for the purpose of discussing issues relating to the decommissioning of ~~the VYNPS~~ Vermont Yankee. The Panel may hold additional meetings.

(2) To advise the Governor, the General Assembly, the agencies of the State, and the public on issues related to the decommissioning of ~~the VYNPS~~ Vermont Yankee, with a written report being provided annually to the Governor and to the energy committees of the General Assembly. The provisions of 2 V.S.A. § 20(d) (expiration of reports) shall not apply to this report.

(3) To serve as a conduit for public information and education on and to encourage community involvement in matters related to the decommissioning of ~~the VYNPS~~ Vermont Yankee and to receive written reports and presentations on the decommissioning of the ~~Station~~ site at its regular meetings.

(4) To periodically receive reports, including those required by the Public Utility Commission Docket No. 8880 Order, on the Decommissioning Trust Fund and other funds associated with decommissioning of or site restoration at ~~the VYNPS~~ Vermont Yankee, including fund balances, expenditures made, and reimbursements received.

(5) To receive reports and presentations at regular meetings regarding the decommissioning progress and plans for the VYNPS Vermont Yankee, including any site assessments and post-shutdown decommissioning assessment reports; provide a forum for receiving public comment on these plans and reports; and ~~to~~ provide comment on these plans and reports as the Panel may consider appropriate to State agencies and the owner of ~~the VYNPS~~ Vermont Yankee and in the annual report described in subdivision (2) of this subsection.

Sec. 3. 18 V.S.A. § 1702 is amended to read:

§ 1702. ASSISTANCE

The Department of Public Service, the Agency of Human Services, and the Agency of Natural Resources shall furnish administrative support to the Panel, with assistance from the owners of the ~~VYNPS~~ Vermont Yankee site as the

Commissioner of Public Service may consider appropriate.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 9-0-0)

H. 837

An act relating to enhanced life estate deeds

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

Sec. 1. 27 V.S.A. chapter 6 is added to read:

CHAPTER 6. ENHANCED LIFE ESTATE DEEDS

§ 651. SHORT TITLE

This chapter shall be known as the “Enhanced Life Estate Deed Act” or the “ELED Act”.

§ 652. APPLICATION OF CHAPTER

This chapter applies to deeds in which a grantor reserves a common law life estate interest in real property while expressly reserving rights such that the deed creates a contingent remainder interest in the grantee.

§ 653. DEFINITIONS

In this chapter, unless a deed indicates an intention to the contrary:

(1) “Convey” means to grant, sell, gift, lease, transfer, or encumber real property, with or without consideration, including the ability to revise or revoke a deed.

(2) “Enhanced life estate deed” or “ELE Deed” means a deed in which:

(A) the grantor expressly reserves a common law life estate;

(B) the grantor expressly reserves the right to convey the property during the grantor’s lifetime;

(C) the grantee acquires a contingent remainder interest such that, prior to the death of the grantor, the grantee has no vested rights in the property; and

(D) upon the death of the grantor, title vests in the surviving grantee or, for a deceased grantee, title passes pursuant to section 658 of this title,

subject to encumbrances of record.

(3) “Grantee” means one or more grantees and the grantee’s heirs and assigns.

(4) “Grantor” means one or more grantors, each of whom shall be a natural person, and the grantor’s heirs and assigns.

(5) “Revoke” means to negate an ELE deed and is accomplished when the grantor records a deed from the grantor to himself or herself.

(6) “Revise” means to change the grantee on an ELE deed and is accomplished when the grantor records a new ELE deed to a grantee other than, or in addition to, the grantee named in the prior ELE deed. A revised deed supercedes and replaces a prior ELE deed. To add an additional grantee to an existing ELE deed, the new ELE deed must name all grantees.

§ 654. EXECUTION AND RECORDING OF AN ENHANCED LIFE

ESTATE DEED

(a) Subject to the rights expressly reserved in the deed, a validly executed and recorded ELE deed does not:

(1) affect the ownership rights of the grantor or the grantor’s creditors;

(2) transfer or convey any present right, title, or interest in the property or create any present legal or equitable interest in the grantee; or

(3) subject the grantor’s property to process from the grantee’s creditors.

(b) The grantor may convey the property described in an ELE deed, or any portion thereof, without the need for joinder by, consent from, agreement of, or

notice to the grantee.

(c) If not previously conveyed during the lifetime of the grantor, upon the death of the grantor, subject to encumbrances of record, the interest stated in an ELE deed vests in the grantee or, for a deceased grantee, the interest passes pursuant to section 658 of this title.

§ 655. ACCEPTANCE OR CONSIDERATION NOT REQUIRED;

CONVEYANCE NOT PERMITTED

(a) An enhanced life estate deed is effective without:

(1) acceptance by the designated grantee during the grantor’s life; or

(2) consideration.

(b) A grantee named in an ELE deed shall not convey the grantee's contingent remainder interest during the grantor's lifetime, and any conveyance which attempts to do so is void.

§ 656. REVOCATION, REVISION, MORTGAGES

(a) A grantor may revoke or revise an ELE deed.

(b) Joinder by, consent to, agreement of, or notice to the grantee of an ELE deed shall not be required for revocation or revision.

(c) The granting of a mortgage shall not operate to revoke or revise an ELE deed, but the property interests conveyed and reserved in an ELE deed shall be encumbered by the mortgage and by any future advances made pursuant to it.

§ 657. EXECUTION BY GUARDIAN; USE OF POWER OF ATTORNEY

(a) With the approval of the Probate Division, a guardian may convey the real property of a person under guardianship by an ELE deed.

(b) An ELE deed may be executed by an agent under a power of attorney if the power of attorney complies with the requirements of 14 V.S.A. chapter 123, including any applicable gifting and self-dealing provisions.

§658. DEATH OF GRANTEE PRIOR TO DEATH OF GRANTOR

Unless the ELE deed provides otherwise:

(1) If an ELE deed conveys title to a single grantee and the grantee predeceases the grantor, upon the death of the grantor, title to the property vests in the heirs of an intestate grantee or the interest shall be distributed or conveyed to a grantee's heirs or beneficiaries, as directed by the Probate Division.

(2) If an ELE deed conveys title to multiple grantees as tenants in common and one or more grantees predecease the grantor, upon the death of the grantor, title to the property vests in the heirs of any intestate grantee or the interest shall be distributed or conveyed to a grantee's heirs or beneficiaries, as directed by the probate court.

(3) If an ELE deed conveys title to multiple grantees as joint tenants and one or more grantees predecease the grantor, upon the death of the grantor, title to the property vests in any grantee who survives the grantor.

§ 659. PREVIOUSLY EXECUTED AND RECORDED ENHANCED LIFE ESTATE DEEDS

Nothing in this chapter shall be construed to affect the validity of an enhanced life estate deed, a "Life Estate Deed with Reserved Powers," a "Lady Bird Deed," a "Medicaid Deed," an "Italian Deed," or similar deed executed and recorded prior to the effective date of this act.

§ 660. OPTIONAL FORM FOR ENHANCED LIFE ESTATE DEED

The following form may be used to create an enhanced life estate deed:

ENHANCED LIFE ESTATE DEED

(Vermont statutory form deed)

KNOW ALL PERSONS BY THESE PRESENTS, that

I/We, _____ and _____ of _____, in the
County of _____ and State of Vermont, Grantors, without
consideration, by these presents, do freely GIVE, GRANT, SELL, CONVEY,
AND CONFIRM unto the Grantees, _____ and
_____, of _____, in the County of _____ and
State of Vermont and their heirs and assigns forever as _____ [insert
nature of tenancy] a certain piece of land in _____, in the County of
_____, and State of Vermont, described as follows:

PROPERTY DESCRIPTION:

[Insert property description or attach schedule]

GRANTORS RESERVED RIGHTS:

This is an enhanced life estate deed executed pursuant to, and with the
rights and privileges set forth in, 27 V.S.A. chapter 6, the Enhanced Life Estate
Deed Act (the "ELED Act"). The Grantors, or the survivor of them, hereby
reserve unto themselves: (a) a common law life estate, with the exclusive use,
possession, and enjoyment of the property; and (b) the right to convey the
property. Reference is hereby made to the aforementioned deeds and records
and to the deeds and records contained in those documents, in further aid of
this description.

TO HAVE AND TO HOLD said granted premises, with all the privileges
and appurtenances thereof, to the said Grantees, _____, and their
heirs and assigns, to their own use and behoof forever, as _____ [insert
nature of tenancy] . I/We, the said Grantors, for ourselves and our heirs,
executors, administrators, and assigns do covenant with the said Grantees,
_____, and _____, and their heirs and assigns,
that until the ensembling of these presents we are the sole owners of the premises
and have good right and title to convey the same in the manner aforesaid, that

they are FREE FROM EVERY ECUMBERANCE, except as aforesaid, and the Grantors hereby engage to WARRANT AND DEFEND the same against all lawful claims whatsoever, except as otherwise provided in this deed. I/WE HAVE HERUNTO set our hands this _____, of _____, 20____.

[INSERT NOTARY CLAUSE]

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 10-0-0)

H. 926

An act relating to changes to Act 250.

(Rep. Dolan of Waitsfield will speak for the Committee on Natural Resources; Fish; and Wildlife.)

Rep. Ancel of Calais, for the Committee on Ways and Means, recommends the bill be amended as follows:

First: In Sec. 3, 10 V.S.A. § 6083a(a)(1), by striking out “~~\$6.65~~ \$9.65” and inserting in lieu thereof “\$6.65”

Second: In Sec. 3, 10 V.S.A. § 6083a(a)(4), by striking out “~~\$0.02~~ \$0.03” and inserting in lieu thereof “\$0.02”

Third: In Sec. 3, by striking out 10 V.S.A. § 6094, assessment of costs, in its entirety.

(Committee Vote: 6-5-0)

Rep. Conquest of Newbury, for the Committee on Appropriations, recommends that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following::

* * * Revisions to Capability and Development Plan * * *

Sec. 1. 1973 Acts and Resolves No. 85, Sec. 7(a)(20) is added to read:

(20) GREENHOUSE GAS EMISSIONS AND CLIMATE CHANGE

Climate change poses serious risks to human health and safety, functioning ecosystems that support a diversity of species and economic growth, and Vermont’s tourist, forestry, and agricultural industries. The primary driver of climate change in Vermont and elsewhere is the increase of atmospheric carbon dioxide from the burning of fossil fuels, which has a warming effect

that is amplified because atmospheric water vapor, another greenhouse gas, increases as temperature rises. Vermont should minimize its emission of greenhouse gases and, because the climate is changing, ensure that the design and materials used in development enable projects to withstand an increase in extreme weather events and adapt to other changes in the weather and environment.

Sec. 2. 1973 Acts and Resolves No. 85, Sec. 7(a)(2) is amended to read:

(2) ECOSYSTEM PROTECTION AND UTILIZATION OF NATURAL RESOURCES

(A) Healthy ecosystems clean water, purify air, maintain soil, regulate the climate, recycle nutrients, and provide food. They provide raw materials and resources for medicines and other purposes. They are at the foundation of civilization and sustain the economy. These ecosystem services are the state's natural capital.

(B) Biodiversity is the key indicator of an ecosystem's health. A wide variety of species copes better with threats than a limited number of species in large populations.

(C) Products of the land and the stone and minerals under the land, as well as the beauty of our landscape are principal natural resources of the state.

(D) Preservation Protection of healthy ecosystems in Vermont, preservation of the agricultural and forest productivity of the land, and the economic viability of agricultural units, conservation of the recreational opportunity afforded by the state's hills, forests, streams and lakes, wise use of the state's non-renewable earth and mineral reserves, and protection of the beauty of the landscape are matters of public good. Uses which threaten or significantly inhibit these healthy ecosystems and the state's natural and scenic resources should be permitted only when the public interest is clearly benefited thereby.

* * * Revisions to State Land Use Law * * *

Sec. 3. 10 V.S.A. chapter 151 is amended to read:

CHAPTER 151. STATE LAND USE AND DEVELOPMENT PLANS

Subchapter 1. General Provisions

§ 6000. PURPOSE; CONSTRUCTION

The purposes of this chapter are to protect and conserve the environment of the State and to support the achievement of the goals of the Capability and Development Plan and of 24 V.S.A. § 4302(c). The chapter shall be construed

broadly to effect these purposes.

§ 6001. DEFINITIONS

In As used in this chapter:

(1) “Board” means the Natural Resources Board.

(2) “Capability and Development Plan” means the Plan prepared pursuant to section 6042 of this title and adopted pursuant to 1973 Acts and Resolves No. 85, Secs. 6 and 7, as amended by this act.

(3)(A) “Development” means each of the following:

* * *

(vi) The construction of improvements for commercial, industrial, or residential use at or above the elevation of 2,500 2,000 feet.

* * *

(xi) The construction of improvements for commercial or industrial use within 2,000 feet of a point of access to or exit from the interstate highway system as measured from the midpoint of the interconnecting roadways, unless a regional planning commission has determined, at the request of the municipality where the interchange is located or any municipality with land in the 2,000-foot radius, that municipal ordinances or bylaws applicable to properties around the interchange:

(I) Ensure that planned development patterns will maintain the safety and function of the interchange area for all road users, including nonmotorized, for example, by limiting curb cuts, and by sharing parking and access points and parcels will be interconnected to adjoining parcels wherever physically possible.

(II) Ensure that development will be undertaken in a way that preserves scenic characteristics both at and beyond the project site. This shall include a determination that site and building design fit the context of the area.

(III) Ensure that development does not destroy or compromise necessary wildlife habitat or endangered species.

(IV) Ensure that uses allowed in the area will not impose a burden on the financial capacity of a town or the State.

(V) Ensure that allowed uses be of a type, scale, and design that complement rather than compete with uses that exist in designated downtowns, village centers, growth centers, or other regional growth areas. Principle retail should be discouraged or prohibited in highway interchange

areas.

(VI) Ensure that development in this area not establish or contribute to a pattern of strip development. Where strip development already exists, development in this area must be infill that minimizes the characteristics of strip development.

(VII) Require site design to use space efficiently by siting buildings close together; minimizing paved surfaces; locating parking to consider aesthetics, neighborhoods, and view sheds; and minimizing the use of one-story buildings.

(VIII) Require the permitted uses, patterns of development, and aesthetics of development in these areas to conform with the regional plan and be consistent with the goals of 24 V.S.A. § 4302.

(xii) The construction of a road or roads and any associated driveways to provide access to or within a tract of land of more than one acre owned or controlled by a person. For the purposes of determining jurisdiction under this subdivision, any new development or subdivision on a parcel of land that will be provided access by the road and associated driveways is land involved in the construction of the road. Jurisdiction under this subdivision shall not apply unless the length of the road and any associated driveways in combination is greater than 2,000 feet. As used in this subdivision, "roads" shall include any new road or improvement to a Class IV road by a private person, including roads that will be transferred to or maintained by a municipality after their construction or improvement. For the purpose of determining the length of any road and associated driveways, the length of all other roads and driveways within the tract of land constructed within any continuous period of 10 years commencing after July 1, 2020 shall be included. This subdivision shall not apply to a State or municipal road, a utility corridor of an electric transmission or distribution company, or a road used primarily for farming or forestry purposes. The conversion of a road used for farming or forestry purposes that also meets the requirements of this subdivision shall constitute development.

* * *

(6) "Floodway" means the channel of a watercourse which is expected to flood on an average of at least once every 100 years and the adjacent land areas which are required to carry and discharge the flood of the watercourse, as determined by the Secretary of Natural Resources with full consideration given to upstream impoundments and flood control projects. "Flood hazard area" has the same meaning as under section 752 of this title.

(7) ~~“Floodway fringe” means an area which is outside a floodway and is flooded with an average frequency of once or more in each 100 years as determined by the Secretary of Natural Resources with full consideration given to upstream impoundments and flood control projects.~~ “River corridor” has the same meaning as under section 752 of this title.

* * *

(12) “Necessary wildlife habitat” means concentrated habitat ~~which~~ that is identifiable and is demonstrated as being decisive to the survival of a species of wildlife at any period in its life, including breeding and migratory periods.

* * *

(19)(A) “Subdivision” means each of the following:

(i) A tract or tracts of land, owned or controlled by a person, ~~which~~ located outside of a designated downtown or neighborhood development area, that the person has partitioned or divided for the purpose of resale into 10 or more lots within a radius of five miles of any point on any lot, or within the jurisdictional area of the same District Commission, within any continuous period of five years. In determining the number of lots, a lot shall be counted if any portion is outside such an area and within five miles or within the jurisdictional area of the same District Commission.

(ii) A tract or tracts of land, owned or controlled by a person, ~~which~~ that the person has partitioned or divided for the purpose of resale into six or more lots, within a continuous period of five years, in a municipality ~~which~~ that does not have duly adopted permanent zoning and subdivision bylaws.

(iii) A tract or tracts of land, owned or controlled by a person, ~~which~~ that have been partitioned or divided for the purpose of resale into five or more separate parcels of any size within a radius of five miles of any point on any such parcel, and within any period of ten years, by public auction.

(I) ~~In~~ As used in this subdivision (iii), “public auction” means any auction advertised or publicized in any manner, or to which more than ten persons have been invited.

* * *

(38) “Connecting habitat” refers to land or water, or both, that links patches of habitat within a landscape, allowing the movement, migration, and dispersal of wildlife and plants and the functioning of ecological processes. A connecting habitat may include recreational trails and improvements constructed for farming, logging, or forestry purposes.

(39) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover and improvements constructed for farming, logging, or forestry purposes.

(40) “Fragmentation” means the division or conversion of a forest block or connecting habitat by the separation of a parcel into two or more parcels; the construction, conversion, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill; and any change in the use of any building or other structure, or land, or extension of use of land. However, fragmentation does not include the division or conversion of a forest block or connecting habitat by a recreational trail or by improvements constructed for farming, logging, or forestry purposes below the elevation of 2,500 feet.

(41) “Habitat” means the physical and biological environment in which a particular species of plant or wildlife lives.

(42) As used in subdivisions (38), (39), and (40) of this section, “recreational trail” means a corridor that is not paved and that is used for recreational purposes, including hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, and horseback riding.

(43) “Air contaminant” has the same meaning as under section 552 of this title.

(44) “Commercial purpose” means the provision of facilities, goods, or services by a person other than for a municipal or State purpose to others in exchange for payment of a purchase price, fee, contribution, donation, or other object or service having value, regardless of whether the payment is essential to sustain the provision of the facilities, goods, or services.

(45) “Greenhouse gas” means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other chemical or physical substance that is emitted into the air and that the Secretary of Natural Resources or District Commission reasonably anticipates to cause or contribute to climate change.

(46) “Technical determination” means a decision that results from the application of scientific, engineering, or other similar expertise to the facts to determine whether activity for which a permit is requested meets the standards for issuing the permit under statute and rule. The term does not include an interpretation of a statute or rule.

(47) “Forest-based enterprise” means an enterprise that aggregates forest

products from forestry operations and adds value through processing or marketing in the forest products supply chain or directly to consumers through retail sales. “Forest-based enterprise” includes sawmills; veneer mills; pulp mills; pellet mills; producers of firewood, woodchips, mulch and fuel wood; and log and pulp concentration yards. “Forest-based enterprise” does not include facilities that purchase, market, and resell finished goods, such as wood furniture, wood pellets, and milled lumber, without first receiving forest products from forestry operations.

(48) “Forest product” means logs, pulpwood, veneer wood, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, maple sap, and bark.

(49) “Environmental justice” means that all people and communities have the right to equal environmental protection under the law and the right to live, work, and play in communities that are safe, healthy, and free of life-threatening conditions.

* * *

Subchapter 2. Administration

* * *

§ 6022. PERSONNEL

(a) Regular personnel. The Board may ~~appoint~~ retain legal counsel, scientists, engineers, experts, investigators, temporary employees, and administrative personnel, as it finds necessary in carrying out its duties, ~~unless the Governor shall otherwise provide and may authorize the District Commissions to retain personnel to assist on matters within its jurisdiction, including oversight and monitoring of permit compliance. The Board shall ensure that District Commissions and district coordinators have the resources necessary to perform their duties, including access to legal resources and training.~~

(b) Personnel for particular proceedings.

(1) The Board may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research services:

(A) to assist the Board in any proceeding before it under this chapter; and

(B) to monitor compliance with any formal opinion of the Board or a District Commission.

(2) The personnel authorized by this section shall be in addition to the regular personnel of the Board. The Board shall fix the amount of compensation and expenses to be paid to such additional personnel.

* * *

§ 6031. ETHICAL STANDARDS

(a) The Chair and members of the Board and the Chair and members of each District Commission shall comply with the following ethical standards:

(1) The provisions of 12 V.S.A. § 61 (disqualification for interest).

(2) The Chair and each member shall conduct the affairs of his or her office in such a manner as to instill public trust and confidence and shall take all reasonable steps to avoid any action or circumstance that might result in any one of the following:

(A) undermining his or her independence or impartiality of action;

(B) taking official action on the basis of unfair considerations;

(C) giving preferential treatment to any private interest on the basis of unfair considerations;

(D) giving preferential treatment to any family member or member of his or her household;

(E) using his or her office for the advancement of personal interest or to secure special privileges or exemptions; or

(F) adversely affecting the confidence of the public in the integrity of the District Commission.

(4) The District Commission shall not initiate, permit, or consider ex parte communications or consider other communications made to the District Commission outside the presence of the parties concerning a pending or impending proceeding, except that:

(A) Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized, provided:

(i) the District Commission reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and

(ii) the District Commission makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

(B) The District Commission may obtain the advice of a disinterested expert on the law applicable to a proceeding if the District Commission gives notice to the parties of the person consulted and the substance of the advice and affords the parties reasonable opportunity to respond.

(C) The District Commission may consult with personnel whose function is to aid the District Commission in carrying out its adjudicative responsibilities.

(D) The District Commission may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the District Commission.

(E) The District Commission may initiate or consider any ex parte communications when expressly authorized by law to do so.

* * *

Subchapter 4. Permits

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(l)(1) By no later than January 1, 1997, any owner of land or mineral rights or any owner of slate quarry leasehold rights on a parcel of land on which a slate quarry was located as of June 1, 1970, may register the existence of the slate quarry with the District Commission and with the clerk of the municipality in which the slate quarry is located, while also providing each with a map which indicates the boundaries of the parcel which contains the slate quarry.

* * *

(6) Registered slate quarries shall be added to the Agency of Natural Resources Natural Resource Atlas.

* * *

(o) If a designation pursuant to 24 V.S.A. chapter 76A is removed, subsection (a) of this section shall apply to any subsequent substantial change to a ~~priority housing project~~ development or subdivision that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title or subsection (p) of this section on the basis of that designation.

(p)(1) No permit or permit amendment is required for any subdivision, development, or change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793 ~~if the change consists exclusively of any combination of mixed use and mixed income~~

~~housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title or a neighborhood development area designated pursuant to 24 V.S.A. § 2793e. Upon receiving notice and a copy of the permit issued by the appropriate municipal panel pursuant to 24 V.S.A. § 4460(f) a previously issued permit for a development or subdivision located in a downtown development area or a new neighborhood area shall be extinguished.~~

~~* * *~~

~~(v) A permit or permit amendment shall not be required for a development or subdivision in a designated downtown development district for which the District Commission has issued positive findings and conclusions under section 6086b of this title on all the criteria listed in that section. A person shall obtain new or amended findings and conclusions from the District Commission under section 6086b of this title prior to commencement of a material change, as defined in the rules of the Board, to a development or subdivision for which the District Commission has issued such findings and conclusions. A person may seek a jurisdictional opinion under section 6007 of this title concerning whether such a change is a material change. [Repealed.]~~

~~* * *~~

§ 6083a. ACT 250 FEES

~~* * *~~

~~(5) For projects involving the review of a master plan, the fee established in subdivision (1) of this section shall be due for any portion of the proposed project for which construction approval is sought and a fee equivalent to \$0.10 per \$1,000.00 of total estimated construction costs in current dollars in addition to the fee established in subdivision (1) of this subsection for any portion of the project seeking construction approval shall be due for all other portions of the proposed project. If construction approval is sought in future permit applications, the fee established in subdivision (1) of this subsection shall be due, except to the extent that it is waived pursuant to subsection (f) of this section.~~

~~(6) In no event shall a permit application fee exceed \$165,000.00.~~

~~(b) Notwithstanding the provisions of subsection (a) of this section, there shall be a minimum fee of \$187.50 for original applications and \$62.50 for amendment applications, in addition to publication and recording costs. These costs shall be in addition to any other fee established by statute, unless~~

otherwise expressly stated.

(c) Fees shall not be required for projects undertaken by municipal agencies or by State governmental agencies, except for publication and recording costs.

~~(d) Neighborhood development area fees. Fees for residential development in a Vermont neighborhood or neighborhood development area designated according to 24 V.S.A. § 2793e shall be no more than 50 percent of the fee otherwise charged under this section. The fee shall be paid within 30 days after the permit is issued or denied. [Repealed.]~~

(e) A written request for an application fee refund shall be submitted to the District Commission to which the fee was paid within 90 days of the withdrawal of the application.

* * *

(4) District Commission decisions regarding application fee refunds may be appealed to the Natural Resources Board in accordance with Board rules.

* * *

~~(f) In the event that an application involves a project or project impacts that previously have been reviewed, the An applicant may petition the Chair of the District Commission to waive all or part of the application fee. If an application fee was paid previously in accordance with subdivisions (a)(1) through (4) of this section, the Chair may waive all or part of the fee for a new or revised project if the Chair finds that the impacts of the project have been reviewed in an applicable master permit application, or that the project is not significantly altered from a project previously reviewed, or that there will be substantial savings in the review process due to the scope of review of the previous applications.~~

(1) In reviewing this petition, the District Commission shall consider the following:

(A) Whether a portion of the project's impacts have been reviewed in a previous permit.

(B) Whether the project is being reviewed as a major application, minor application, or administrative amendment.

(C) Whether the applicant relies on any presumptions permitted under subsection 6086(d) of this title and has, at the time of the permit application, already obtained the permits necessary to trigger the presumptions. If a presumption is rebutted, the District Commission may

require the applicant to pay the previously waived fee.

(D) Whether the applicant has engaged in any preapplication planning that will result in a decrease in the amount of time the District Commission will have to consider the application.

(2) The District Commission shall issue a written decision in response to any application for a fee waiver. The written decision shall address each of the factors in subdivision (1) of this subsection.

(3) If the classification of an application is changed from an administrative amendment or minor application to a major application, the Board may require the applicant to pay the previously waived fee.

(g) A Commission or the Natural Resources Board may require any permittee to file a certification of actual construction costs and may direct the payment of a supplemental fee in the event that an application understated a project's construction costs. Failure to file a certification or to pay a supplemental fee shall be grounds for permit revocation.

* * *

§ 6084. NOTICE OF APPLICATION; PREAPPLICATION PROCESS;

HEARINGS; COMMENCEMENT OF REVIEW

(a) The plans for the construction of any development or subdivision subject to the permitting requirements of this chapter must be submitted by the applicant to the District Commission, municipal and regional planning commissions, affected State agencies, and adjoining landowners not less than 30 days prior to filing an application under this chapter, unless the municipal and regional planning commissions and affected State agencies waive this requirement.

(1) The District Commission may hold a meeting on the proposed plans and the municipal or regional planning commission may take one or more of the following actions:

(A) make recommendations to the applicant within 30 days;

(B) once the application is filed with the District Commission, make recommendations to the District Commission by the deadline established in the applicable provision of this section, Board rule, or scheduling order issued by the District Commission.

(2) The application shall address the substantive written comments and recommendations made by the planning commissions related to the criteria of subsection 6086(a) of this title received by the applicant and the substantive

oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

(3) This subsection shall not apply to a project that has been designated as using simplified procedures pursuant to subdivision 6025(b)(1) of this title or an administrative amendment.

~~(b) On or before the date of~~ Upon the filing of an application with the District Commission, the ~~applicant~~ District Commission shall send, by electronic means, notice ~~and a copy~~ of the ~~initial~~ application to the owner of the land if the applicant is not the owner; the municipality in which the land is located; the municipal and regional planning commissions for the municipality in which the land is located; the Vermont Agency of Natural Resources; and any adjacent Vermont municipality and municipal and regional planning commission if the land is located on a municipal or regional boundary. The ~~applicant shall furnish to the District Commission the names of those furnished notice by affidavit, and shall post,~~ send by electronic means a copy of the notice ~~in~~ to the town clerk's office of the town or towns in which the project lies. The town clerk shall post the notice in the town office. The applicant shall also provide a list of adjoining landowners to the District Commission. Upon request and for good cause, the District Commission may authorize the applicant to provide a partial list of adjoining landowners in accordance with Board rules.

~~(b)(c)~~ Upon an application being ruled complete, the District Commission shall determine whether to process the application as a major application with a required public hearing or process the application as a minor application with the potential for a public hearing in accordance with Board rules.

* * *

~~(e)(d)~~ Anyone required to receive notice of commencement of minor application review pursuant to subsection ~~(b)(c)~~ of this section may request a hearing by filing a request within the public comment period specified in the notice pursuant to Board rules. The District Commission, on its own motion, may order a hearing within 20 days of notice of commencement of minor application review.

~~(d)(e)~~ Any hearing or prehearing conference for a major application shall be held within 40 days of receipt of a complete application; or within 20 days of the end of the public comment period specified in the notice of minor application review if the District Commission determines that it is appropriate to hold a hearing for a minor.

~~(e)(f)~~ Any notice for a major or minor application, as required by this

section, shall also be published by the District Commission in a local newspaper generally circulating in the area where the development or subdivision is located and on the Board's website not more than ten days after receipt of a complete application.

* * *

~~(f)~~(g) This subsection concerns an application for a new permit amendment to change the conditions of an existing permit or existing permit amendment in order to authorize the construction of a priority housing project described in subdivision 6081(p)(2) of this title.

* * *

~~(g)~~(h) When an application concerns the construction of improvements for one of the following, the application shall be processed as a minor application in accordance with subsections ~~(b)~~(c) through ~~(e)~~(f) of this section:

* * *

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

(a) Criteria. Before granting a permit, the District Commission shall find that the subdivision or development:

(1) Air pollution. Will not result in undue ~~water or~~ air pollution. In making this determination, the District Commission shall at least consider: the air contaminants, greenhouse gas emissions, and noise to be emitted by the development or subdivision, if any; the proximity of the emission source to residences, population centers, and other sensitive receptors; and emission dispersion characteristics at or near the source.

(A) Air contaminants. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the emission, if any, of air contaminants by the development or subdivision will meet any applicable requirement under the Clean Air Act, 42 U.S.C. chapter 85, and the air pollution control regulations of the Department of Environmental Conservation.

(2) Water pollution. Will not result in undue water pollution. In making this determination it, the District Commission shall at least consider: the elevation of land above sea level; and in relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable Health and Environmental Conservation Department regulations.

(A) Headwaters. A permit will be granted whenever it is

demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision will meet any applicable Health and Environmental Conservation Department regulation regarding reduction of the quality of the ground or surface waters flowing through or upon lands ~~which~~ that are not devoted to intensive development, and which lands are:

- (i) headwaters of watersheds characterized by steep slopes and shallow soils; or
- (ii) drainage areas of 20 square miles or less; or
- (iii) above 1,500 feet elevation; or
- (iv) watersheds of public water supplies designated by the Agency of Natural Resources; or
- (v) areas supplying significant amounts of recharge waters to aquifers.

(B) Waste disposal. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision will meet any applicable Health and Environmental Conservation Department regulations regarding the disposal of wastes, and will not involve the injection of waste materials or any harmful or toxic substances into ground water or wells.

(C) Water conservation. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the design has considered water conservation, incorporates multiple use or recycling where technically and economically practical, utilizes the best available technology for such applications, and provides for continued efficient operation of these systems.

(D) ~~Floodways~~ Flood hazard areas; river corridors. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria,

~~(i) the development or subdivision of lands within a floodway flood hazard area or river corridor will not restrict or divert the flow of flood waters, cause or contribute to fluvial erosion, and endanger the health, safety, and welfare of the public or of riparian owners during flooding; and~~

~~(ii) the development or subdivision of lands within a floodway fringe will not significantly increase the peak discharge of the river or stream within or downstream from the area of development and endanger the health, safety, or welfare of the public or riparian owners during flooding.~~

(E) Streams. A permit will be granted whenever it is demonstrated

by the applicant that, in addition to all other applicable criteria, the development or subdivision of lands on or adjacent to the banks of a stream will, whenever feasible, maintain the natural condition of the stream, and will not endanger the health, safety, or welfare of the public or of adjoining landowners.

(F) Shorelines. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other criteria, the development or subdivision of shorelines must of necessity be located on a shoreline in order to fulfill the purpose of the development or subdivision, and the development or subdivision will, insofar as possible and reasonable in light of its purpose:

- (i) retain the shoreline and the waters in their natural condition;
- (ii) allow continued access to the waters and the recreational opportunities provided by the waters;
- (iii) retain or provide vegetation ~~which~~ that screen the development or subdivision from the waters; and
- (iv) stabilize the bank from erosion, as necessary, with vegetation cover.

(G) Wetlands. A permit will be granted whenever it is demonstrated by the applicant, in addition to other criteria, that the development or subdivision will not violate the rules of the Secretary of Natural Resources, as adopted under chapter 37 of this title, relating to significant wetlands.

~~(2)~~(3) Water supply.

(A) Does have sufficient water available for the reasonably foreseeable needs of the subdivision or development.

~~(3)~~(B) Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.

* * *

(5)(A) Transportation. Will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports and airways, bicycle, pedestrian, and other transit infrastructure; and other means of transportation existing or proposed.

(B) ~~As appropriate, will~~ Will incorporate transportation demand management strategies and provide safe use, access, and connections to adjacent lands and facilities and to existing and planned pedestrian, bicycle, and transit networks and services. ~~In determining appropriateness under this subdivision (B) However,~~ the District Commission ~~shall consider whether~~ may

decline to require such a strategy, access, or connection ~~constitutes a measure if it finds~~ that a reasonable person would take not undertake the measure given the type, scale, and transportation impacts of the proposed development or subdivision.

* * *

(8) Ecosystem protection; scenic beauty; historic sites.

(A) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, or historic sites ~~or rare and irreplaceable natural areas.~~

(A)(B) Necessary wildlife habitat and endangered species. A permit will not be granted if unless it is demonstrated by ~~any party opposing~~ the applicant that a development or subdivision will not destroy or significantly imperil necessary wildlife habitat or any endangered species; ~~and or, if such destruction or imperilment will occur:~~

(i) the economic, social, cultural, recreational, or other benefit to the public from the development or subdivision will ~~not~~ outweigh the economic, environmental, or recreational loss to the public from the destruction or imperilment of the habitat or species; ~~or~~

(ii) all feasible and reasonable means of preventing or lessening the destruction, diminution, or imperilment of the habitat or species have ~~not~~ been or will ~~not~~ continue to be applied; or

(iii) a reasonably acceptable alternative site is not owned or controlled by the applicant ~~which that~~ would allow the development or subdivision to fulfill its intended purpose.

(C) Will not result in an undue adverse impact on forest blocks, connecting habitat, or rare and irreplaceable natural areas. If a project as proposed would result in an undue adverse impact, a permit may only be granted if effects are avoided, minimized, and mitigated in accordance with rules adopted by the Board.

(9) Capability and development plan. Is in conformance with a duly adopted capability and development plan, and land use plan when adopted. However, the legislative findings of subdivisions 7(a)(1) through (19) of Act 85 of 1973 shall not be used as criteria in the consideration of applications by a District Commission.

* * *

(F) Energy conservation and efficiency. A permit will be granted when it has been demonstrated by the applicant that, in addition to all other

applicable criteria, the planning and design of the subdivision or development reflect the principles of energy conservation and energy efficiency, including reduction of greenhouse gas emissions from the use of energy, and incorporate the best available technology for efficient use or recovery of energy. An applicant seeking an affirmative finding under this criterion shall provide evidence, by certification and established through inspection, that the subdivision or development complies with the applicable building energy standards and stretch codes under 30 V.S.A. § 51 or 53.

* * *

(K) Development affecting public investments. A permit will be granted for the development or subdivision of lands adjacent to governmental and public utility facilities, services, and lands, including highways, airports, waste disposal facilities, office and maintenance buildings, fire and police stations, universities, schools, hospitals, prisons, jails, electric generating and transmission facilities, oil and gas pipe lines, parks, hiking trails and, forest and game lands, lands conserved under chapter 155 of this title, and facilities or lands protected in perpetuity and funded by the Vermont Housing and Conservation Board under chapter 15 of this title, when it is demonstrated that, in addition to all other applicable criteria, the development or subdivision will not unnecessarily or unreasonably endanger the public or quasi-public investment in the facility, service, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of or access to the facility, service, or lands.

* * *

(M) Climate adaptation. A permit will be granted for the development or subdivision when it has been demonstrated that, in addition to all other applicable criteria, the development or subdivision will employ building orientation, site and landscape design, and building design that are sufficient to enable the improvements to be sited and constructed, including buildings, roads, and other infrastructure, to withstand and adapt to the effects of climate change, including extreme temperature events, wind, and precipitation reasonably projected at the time of application.

(N) Environmental justice. A permit will be granted for the development or subdivision when it has been demonstrated by the applicant that, in addition to all other applicable criteria, no group of people or municipality will bear a disproportionate share of the negative environmental consequences of the development or subdivision.

(10) Local and regional plans. Is in conformance with any duly adopted local ~~or~~ plan that has been approved under 24 V.S.A. § 4350, regional plan that

has been approved by the Board under 24 V.S.A. § 4348, or capital program under 24 V.S.A. ~~chapter 117~~ § 4430. In making this finding, if:

(A) The District Commission shall require conformance with the future land use maps contained in the local and regional plans and with the written provisions of those plans.

(B) The District Commission shall decline to apply a provision of a local or regional plan only if it is persuaded that the provision does not afford a person of ordinary intelligence with a reasonable opportunity to understand what the provision directs, requires, or proscribes.

(C) If the District Commission finds applicable provisions of the town plan to be ambiguous, the District Commission, for interpretive purposes, shall consider bylaws, but only to the extent that they implement and are consistent with those provisions, and need not consider any other evidence.

* * *

(c) Permit Conditions.

(1) A permit may contain such requirements and conditions as are allowable proper exercise of the police power and ~~which~~ that are appropriate within the respect to subdivisions (a)(1) through (10) of this section, including those set forth in 24 V.S.A. §§ 4414(4), 4424(a)(2), 4414(1)(D)(i), 4463(b), and 4464, the dedication of lands for public use, and the filing of bonds to ~~insure~~ ensure compliance. The requirements and conditions incorporated from Title 24 may be applied whether or not a local plan has been adopted. General requirements and conditions may be established by rule of the Natural Resources Board.

(2) Permit conditions on a forest-based enterprise.

(A) A permit condition that sets hours of operation for a forest-based enterprise shall only be imposed to mitigate an impact under subdivision (a)(1), (5), or (8) of this section.

(B) Unless an impact under subdivision (a)(1) or (5) of this section would result, a permit issued to a forest-based enterprise shall allow the enterprise to ship and receive forest products outside regular hours of operation. These permits shall allow for deliveries of forest products from forestry operations to the enterprise outside of permitted hours of operation, including nights, weekends, and holidays, for a minimum of 60 days per year.

(C) In making a determination under this subdivision (2) as to whether an impact exists, the District Commission shall consider the enterprise's role in sustaining forestland use and the impact of the permit

condition on the forest-based enterprise. Conditions shall impose the minimum restriction necessary to address the undue adverse impact.

(3) Permit conditions on the delivery of wood heat fuels. A permit issued to a forest-based enterprise that produces wood chips, pellets, cord wood, or other fuel wood used for heat shall allow shipment of that fuel wood from the enterprise to the end user outside permitted hours of operation, including nights, weekends, and holidays, from October 1 through April 30 of each year.

(4) Forest-based enterprises holding a permit may request an amendment to existing permit conditions related to hours of operation and seasonal restrictions to be consistent with subdivisions (2) and (3) of this subsection. Requests for condition amendments under this subsection shall not be subject to Act 250 Rule 34E.

(d) Other permits and approvals; presumptions. The Natural Resources Board may by rule shall allow the acceptance of a permit or permits or approval of any State agency with respect to subdivisions (a)(1) through (5) of this section or a permit or permits of a specified municipal government with respect to subdivisions (a)(1) through (7) and (9) and (10) of this section, or a combination of such permits or approvals, in lieu of evidence by the applicant. A District Commission, in accordance with rules adopted by the Board, shall accept determinations issued by a development review board under the provisions of 24 V.S.A. § 4420, with respect to local Act 250 review of municipal impacts. The acceptance of such approval, positive determinations, permit, or permits shall create a presumption that the application is not detrimental to the public health and welfare with respect to the specific requirement for which it is accepted. In the case of approvals and permits issued by the Agency of Natural Resources, technical determinations of the Agency shall be accorded substantial deference by the Commissions. The acceptance of negative determinations issued by a development review board under the provisions of 24 V.S.A. § 4420, with respect to local Act 250 review of municipal impacts shall create a presumption that the application is detrimental to the public health and welfare with respect to the specific requirement for which it is accepted. Any determinations, positive or negative, under the provisions of 24 V.S.A. § 4420 shall create presumptions only to the extent that the impacts under the criteria are limited to the municipality issuing the decision. Such a rule may be revoked or amended pursuant to the procedures set forth in 3 V.S.A., chapter 25, the Vermont Administrative Procedure Act.

(1) The rules adopted by the Board shall not approve the acceptance of a permit or approval of such an agency or a permit of a municipal government

unless it satisfies the appropriate requirements of subsection (a) of this section.

(2) A presumption created under this subsection may be rebutted by the introduction of evidence contrary to the presumed fact.

(3) The District Commission, in accordance with rules adopted by the Board, shall accept determinations issued by a development review board under the provisions of 24 V.S.A. § 4420, with respect to local review of municipal impacts under criteria of this section. The acceptance of such a determination, if positive, shall create a presumption that the application is not detrimental to the public health and welfare with respect to the specific requirement for which it is accepted and, if negative, shall create a presumption that the application is so detrimental. Any determinations, positive or negative, under the provisions of 24 V.S.A. § 4420 shall create presumptions only to the extent that the impacts under the criteria are limited to the municipality issuing the decision. If a municipality fails to respond to a request by the applicant within 90 days as to the impacts related to subdivision (a)(6) or (7), the application will be presumed not to have an unreasonable burden on educational, municipal, or governmental services.

* * *

§ 6087. DENIAL OF APPLICATION

(a) No application shall be denied by the District Commission unless it finds the proposed subdivision or development detrimental to the public health, safety, or general welfare.

* * *

(d) The District Commission may deny an application without prejudice if the applicant fails to respond to an incomplete determination or recess order within six months of its issuance.

§ 6088. BURDEN OF PROOF; PRODUCTION AND PERSUASION

(a) The initial burden of production, to produce sufficient evidence for the District Commission to make a factual determination, shall be on the applicant with respect to subdivisions 6086(a)(1) through (10) of this title.

(b) The burden of persuasion, to show that the application meets the relevant standard, shall be on the applicant with respect to subdivisions 6086(a)(1), (2), (3), (4), (8)(A) through (C), (9), and (10) of this title.

~~(b)(c)~~ The burden shall be on any party opposing the applicant application with respect to subdivisions 6086(a)(5) through ~~(8)~~ , (6), (7), and (8), not including (8)(A) through (8)(C), of this title to show ~~an unreasonable or adverse effect~~ that the application does not meet the relevant standard.

* * *

§ 6090. RECORDING; DURATION AND REVOCATION OF PERMITS

(a) Recording. In order to afford adequate notice of the terms and conditions of land use permits, permit amendments, and revocations of permits, they shall be recorded in local land records. Recordings under this chapter shall be indexed as though the permittee were the grantor of a deed.

(b) Permits for specified period.

(1) Any permit granted under this chapter for extraction of mineral resources, operation of solid waste disposal facilities, or logging above 2,500 feet, shall be for a specified period determined by the Board in accordance with the rules adopted under this chapter as a reasonable projection of the time during which the land will remain suitable for use if developed or subdivided as contemplated in the application, and with due regard for the economic considerations attending the proposed development or subdivision. Other permits issued under this chapter shall be for an indefinite term, ~~as long as~~ provided there is compliance with the conditions of the permit.

(2) Expiration dates contained in permits issued before July 1, 1994 (involving developments that are not for extraction of mineral resources, operation of solid waste disposal facilities, or logging above 2,500 feet) are extended for an indefinite term, ~~as long as~~ provided there is compliance with the conditions of the permits.

(c) Change to nonjurisdictional use; release from permit.

(1) On an application signed by each permittee, the Board may release land subject to a permit under this chapter from the obligations of that permit and the obligation to obtain amendments to the permit, on finding each of the following:

(A) The use of the land as of the date of the application is not the same as the use of the land that caused the obligation to obtain a permit under this chapter or the municipality where the land is located has adopted permanent zoning and subdivision bylaws, but had not when the permit was issued.

(B) The use of the land as of the date of the application does not constitute development or subdivision as defined in section 6001 of this title and would not require a permit or permit amendment but for the fact that the land is already subject to a permit under this chapter.

(C) The permittee or permittees are in compliance with the permit and their obligations under this chapter.

(2) It shall be a condition of each affirmative decision under this subsection that a subsequent proposal of a development or subdivision on the land to which the decision applies shall be subject to this chapter as if the land had never previously received a permit under the chapter.

(3) An application for a decision under this subsection shall be made on a form prescribed by the Board. The form shall require evidence demonstrating that the application complies with subdivisions (1)(A) through (C) of this subsection. The application shall be processed in the manner described in section 6084 of this title and may be treated as a minor application under that section. In determining whether to treat as minor an application under this subsection, the Board shall apply the criteria of this subsection and not of subsection 6086(a) of this title.

* * *

§ 6093. MITIGATION OF PRIMARY AGRICULTURAL SOILS

* * *

(c) Mitigation and offsets for forest-based enterprises. Notwithstanding any provision of this chapter to the contrary, a conversion of primary agricultural soils by a forest-based enterprise permitted under this chapter shall be entitled to a ratio of 1:1 protected acres to acres of affected primary agricultural soil.

* * *

* * * Resource Mapping; Forest Blocks * * *

Sec. 4. 10 V.S.A. § 127 is amended to read:

§ 127. RESOURCE MAPPING

(a) ~~On or before January 15, 2013, the~~ The Secretary of Natural Resources ~~(the Secretary)~~ shall complete and maintain resource mapping based on the Geographic Information System (GIS) ~~or other technology~~. The mapping shall identify natural resources throughout the State, ~~including forest blocks,~~ that may be relevant to the consideration of energy projects ~~and projects subject to chapter 151 of this title~~. The Center for Geographic Information shall be available to provide assistance to the Secretary in carrying out the ~~GIS-based~~ resource mapping.

(b) The Secretary of ~~Natural Resources~~ shall consider the ~~GIS-based~~ resource maps developed under subsection (a) of this section when providing evidence and recommendations to the Public Utility Commission under 30 V.S.A. § 248(b)(5) and when commenting on or providing recommendations under chapter 151 of this title to District Commissions on

other projects.

(c) The Secretary shall establish and maintain written procedures that include a process and science-based criteria for updating resource maps developed under subsection (a) of this section. Before establishing or revising these procedures, the Secretary shall provide opportunities for affected parties and the public to submit relevant information and recommendations.

* * * Designated Center Appeal * * *

Sec. 5. 24 V.S.A. § 2798 is amended to read:

§ 2798. DESIGNATION DECISIONS; ~~NONAPPEAL~~ APPEAL

(a) The A person aggrieved by a designation decisions decision of the State Board under this chapter are not subject to appeal section 2793 or 2793e of this title may appeal to the Natural Resources Board established under 10 V.S.A. chapter 151 within 30 days of the decision.

(b) The Natural Resources Board shall conduct a de novo hearing on the decision under appeal and shall proceed in accordance with the contested case requirements of the Vermont Administrative Procedure Act. The Natural Resources Board shall issue a final decision within 90 days of the filing of the appeal. The provisions of 10 V.S.A. § 6024 regarding assistance to the Natural Resources Board from other departments and agencies of the State shall apply to appeals under this section.

* * * Regional and Municipal Planning * * *

Sec. 6. 24 V.S.A. § 4348(f) is amended to read:

(f) A regional plan or amendment shall be adopted by not less than a 60 percent vote of the commissioners representing municipalities, in accordance with the bylaws of the regional planning commission, and immediately submitted to the legislative bodies of the municipalities that comprise the region.

(1) The plan or amendment shall be considered duly adopted and shall take effect 35 days after the date of adoption, unless, within 35 days of the date of adoption, the regional planning commission receives certification from the legislative bodies of a majority of the municipalities in the region vetoing the proposed plan or amendment. In case of such a veto, the plan or amendment shall be deemed rejected.

(2) Upon adoption, the regional planning commission shall submit the plan or amendment to the Natural Resources Board established under 10 V.S.A. chapter 151, which shall approve the plan or amendment if it determines that the plan or amendment is consistent with the goals of section

4302 of this title. The plan or amendment shall take effect on the issuance of such approval. The Board shall issue its decision within 30 days after receiving the plan or amendment.

* * *

Sec. 7. 24 V.S.A. § 4382 is amended to read:

§ 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality ~~may~~ shall be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

* * *

Sec. 8. 24 V.S.A. § 4460 is amended to read:

§ 4460. APPROPRIATE MUNICIPAL PANELS

* * *

(f)(1) This subsection shall apply to a subdivision or development that:

(A) was previously permitted pursuant to 10 V.S.A. chapter 151;

(B) is located in a downtown development district or neighborhood development area designated pursuant to chapter 76A of this title; and

(C) has applied for a permit or permit amendment required by zoning regulations or bylaws adopted pursuant to this subchapter.

(2) The appropriate municipal panel reviewing an application for a municipal permit or permit amendment pursuant to this subsection shall include conditions contained within a permit previously issued pursuant to 10 V.S.A. chapter 151 unless the panel determines that the permit condition pertains to any of the following:

(A) the construction phase of the project that has already been completed;

(B) compliance with another State permit that has independent jurisdiction that addresses the condition in the previously issued permit;

(C) federal or State law that is no longer in effect or applicable;

(D) an issue that is addressed by municipal regulation, and the project will meet the municipal standards; and

(E) a physical or use condition that is no longer in effect or applicable, or that will no longer be in effect or applicable once the new

project is approved.

(3) After issuing or amending a permit containing conditions pursuant to this subsection, the appropriate municipal panel shall provide notice and a copy of the permit to the Natural Resources Board.

(4) The appropriate municipal panel's determinations shall be made following notice and a public hearing as provided in subdivision 4464(a)(1) of this title and to those persons requiring notice pursuant to 10 V.S.A. § 6084(b). The notice shall explicitly reference the existing Act 250 permit.

(5) The appropriate municipal panel's decision shall be issued in accord with subsection 4464(b) of this title and shall include specific findings with respect to its determinations pursuant to subdivision (f)(2) of this section.

(6) Any final action by the appropriate municipal panel affecting a condition of a permit previously issued pursuant to 10 V.S.A. chapter 151 shall be recorded in the municipal land records.

Sec. 9. REPEAL

10 V.S.A. § 6086b (downtown development; findings) is repealed.

* * * River Permits * * *

Sec. 10. 10 V.S.A. § 754 is amended to read:

§ 754. FLOOD HAZARD AREA RULES; USES EXEMPT FROM MUNICIPAL REGULATION

(a) Rulemaking authority.

(1) On or before November 1, 2014, the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish requirements for the issuance and enforcement of permits applicable to:

~~(i)(A)~~ uses exempt from municipal regulation that are located within a flood hazard area or river corridor of a municipality that has adopted a flood hazard bylaw or ordinance under 24 V.S.A. chapter 117; and

~~(ii)(B)~~ State-owned and State-operated institutions and facilities that are located within a flood hazard area or river corridor.

(2) On or before November 1, 2022, the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that designate highest priority river corridors and establish requirements for the issuance and enforcement of permits applicable to uses located in highest priority river corridors. Highest priority river corridors are those that provide or have the potential to provide critical floodwater storage or flood energy dissipation thereby protecting adjacent and

downstream lands and property that are highly vulnerable to flood-related inundation and erosion.

(3) The Secretary shall not adopt rules under this subsection that regulate agricultural activities without the consent of the Secretary of Agriculture, Food and Markets, provided that the Secretary of Agriculture, Food and Markets shall not withhold consent under this subdivision when lack of such consent would result in the State's noncompliance with the National Flood Insurance Program.

(3)(4) The Secretary shall seek the guidance of the Federal Emergency Management Agency in developing and drafting the rules required by this section in order to ensure that the rules are sufficient to meet eligibility requirements for the National Flood Insurance Program.

* * *

(d) General permit. The rules authorized by this section may establish requirements for a general permit to implement the requirements of this section, including authorization under the general permit to conduct a specified use ~~exempt from municipal regulation~~ subject to regulation under this section without notifying or reporting to the Secretary or an agency delegated under subsection (g) of this section.

* * *

(f)(1) Permit requirement.

(A) A person shall not commence or conduct a use exempt from municipal regulation in a flood hazard area or river corridor in a municipality that has adopted a flood hazard area bylaw or ordinance under 24 V.S.A. chapter 117 or commence construction of a State-owned and State-operated institution or facility located within a flood hazard area or river corridor, without a permit issued under the rules required under subsection (a) of this section by the Secretary or by a State agency delegated permitting authority under subsection (g) of this section. When an application is filed under this section, the Secretary or delegated State agency shall proceed in accordance with chapter 170 of this title.

(B) Beginning on November 1, 2021, a person shall not commence construction of a development or subdivision that is subject to a permit under chapter 151 of this title without a permit issued pursuant under the rules required under subsection (a) of this section by the Secretary or by a State agency delegated permitting authority under subsection (g) of this section.

(C) Beginning on November 1, 2023, a person shall not commence or conduct a use located in a highest priority river corridor without a permit

issued pursuant under the rules required under subsection (a) of this section by the Secretary or by a State agency delegated permitting authority under subsection (g) of this section.

* * * Racial Equity Review * * *

Sec. 11. IMPACTS ON RACIAL EQUITY AND DIVERSITY; REVIEW

(a) Pursuant to the duties and powers established under 3 V.S.A. chapter 68, the Executive Director of Racial Equity, in cooperation with the Racial Equity Advisory Panel and the Human Rights Commission, shall conduct a comprehensive review of the processes, procedures, and language of 10 V.S.A. chapter 151 (Act 250) to assess the extent to which Act 250 has contributed to adverse impacts on racial equity and diversity within the State. The review shall:

(1) identify the impacts of acts or decisions made pursuant to Act 250 on inequities in home ownership, land ownership, and land distribution within the State;

(2) measure the extent to which minority populations in the State have incurred disproportional environmental impacts due to acts or decisions of the State pursuant to Act 250;

(3) assess the capability of the current public participation processes, notice requirements, and appointment processes under Act 250 to fairly represent the interests of minority populations within the State; and

(4) recommend legislative changes to Act 250 necessary to achieve the goals of racial equity and diversity representation for minority population.

(b) On or before October 15, 2021, the Executive Director of Racial Equity shall report to the General Assembly with its findings and any recommendations for legislative action.

* * * Planning Review * * *

Sec. 12. VERMONT REGIONAL AND MUNICIPAL PLANNING REVIEW

(a) On or before December 15, 2020, the Natural Resources Board, in consultation with the Agency of Commerce and Community Development, shall submit a draft report, with recommendations, that addresses:

(1) How Sec. 7 of 1973 Acts and Resolves No. 85 (Capability and Development Plan Findings) should be incorporated into 10 V.S.A. chapter 151 and what changes should be made, if any, to the Capability and Development Plan Findings.

(2) How the State should update the Capability and Development Plan

authorized by 10 V.S.A. chapter 151, subchapter 3. If the recommendation is to update the Capabilities and Development Plan, the report shall provide a schedule and budget for the proposed update.

(3) How 10 V.S.A. chapter 151 should require the creation of Capability and Development maps. If the recommendation is to require the creation of Capability and Development maps, the report shall identify the resources and land uses to be mapped and provide a schedule and budget for the proposed update.

(4) How Capability and Development Plan Findings, the Capability and Development Plan, and Capability and Development maps would be used in permitting under 10 V.S.A. chapter 151 and how these would relate to the criteria considered under 10 V.S.A. § 6086(a).

(5) Whether designations of village centers, growth centers, and new town centers should be appealable. If these designations are appealable, which tribunal should hear the appeal.

(b) The Natural Resources Board shall have a public comment period of at least 30 days on the draft report required by subsection (a) of this section. The Board shall hold at least one public informational meeting on the draft report. Notice provided by the Board shall include affected State agencies, municipalities, regional planning commissions, the Vermont Planners Association, the Vermont Planning and Development Association, and other interested persons.

(c) On or before March 1, 2021, the Natural Resources Board shall provide a final report to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy. The final report shall incorporate recommendations from the public engagement process under subsection (b) of this section and shall contain a response to stakeholder comments as a part of the final report.

* * * Permit Fee Review * * *

Sec. 13. ACT 250 PERMIT FEE REVIEW

On or before December 15, 2020, the Secretary of Administration shall submit to the House Committees on Appropriations, on Natural Resources, Fish, and Wildlife, and on Ways and Means and the Senate Committees on Appropriations, on Natural Resources and Energy, and on Finance a review of the Act 250 permit program and fees. The review shall include the following:

(1) the workload of the Natural Resources Board, including the District Commissions,

(2) whether the Natural Resources Board, including the District Commissions, has sufficient staff to administer the Act 250 program,

(3) the sufficiency of the current Act 250 permit fee structure to cover agency work done on Act 250 permit applications;

(4) the possibility of allocating Act 250 permit fees to other State agencies; and

(5) the possibility of State agencies directly charging applicants for work done on Act 250 permit applications.

* * * Revision Authority; Rulemaking; Effective Dates * * *

Sec. 14. REFERENCES; REVISION AUTHORITY

(a) In 10 V.S.A. § 6001 as amended by Sec. 3 of this act, the Office of Legislative Council shall:

(1) in subdivision (2), replace the reference to “this act” with the specific citation to this act as enacted; and

(2) reorganize and renumber the definitions so that they are in alphabetical order and, in the Vermont Statutes Annotated, shall revise all cross-references to those definitions accordingly.

(b) In 10 V.S.A. § 6086, the Office of Legislative Council shall insert the following subsection and subdivision headings:

(1) in subdivision (a)(4): Soil erosion; capacity of land to hold water.

(2) in subdivision (a)(6): Educational services.

(3) in subdivision (a)(7): Local governmental services.

(4) in subsection (b): Partial findings.

(5) in subsection (e): Temporary improvements; film or TV.

(6) in subsection (f): Stay of construction.

Sec. 15. CRITERION 8(C) RULEMAKING

(a) The Natural Resources Board (Board), in consultation with the Agency of Natural Resources shall adopt rules to implement the requirements for the administration of 10 V.S.A. § 6086(a)(8)(C). Rules adopted by the Board shall include:

(1) How forest blocks and connecting habitat are further defined, including their size, location, and function, which may include:

(A) information that will be available to the public to determine

where forest blocks and connecting habitat are located; or

(B) advisory mapping resources, how they will be made available, how they will be used, and how they will be updated.

(2) Standards establishing how fragmentation of forest block or connecting habitat is avoided or minimized, which may include steps to promote proactive site design of buildings, roadways and driveways, utility location, and location relative to existing features such as roads, tree lines and fence lines.

(3) Criteria to identify when a forest block or connecting habitat is eligible for mitigation.

(4) Standards for how impacts to a forest block or connecting habitat may be mitigated. Standards may include:

(A) appropriate ratios for compensation;

(B) appropriate forms of compensation such as conservation easements, fee interests in land, and other forms of compensation; and

(C) appropriate uses of on-site and off-site mitigation.

(b) The Board shall convene a working group to provide input to the rule prior to prefilings with the Interagency Committee on Administrative Rules. The Board shall convene the working group on or before September 1, 2020.

(c) The Board shall file a final proposed rule with the Secretary of State and Legislative Committee on Administrative Rules on or before September 1, 2021.

Sec. 16. EFFECTIVE DATES

This act shall take effect on passage, except that 10 V.S.A. § 6086(a)(8) (Ecosystem protection; scenic beauty; historic sites) shall take effect on September 1, 2021.

(Committee Vote: 11-0-0)

Amendment to be offered by Reps. Dolan of Waitsfield and McCullough of Williston to H. 926

Representatives Dolan of Waitsfield and McCullough of Williston move to amend the bill as follows:

First: A Sec. 3a be added to read:

Sec. 3a. 10 V.S.A. § 442(3) is amended to read:

(3) "Trails" means land used for hiking, walking, bicycling, cross-country

skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar activities. Trails may be used for recreation, transportation, and other compatible purposes. “Trails” does not include land primarily used for the operation of a motor vehicle. For purposes of this definition, “motor vehicle” shall not include all-terrain vehicles or snowmobiles.

Second: In Sec. 3, 10 V.S.A. § 6001 be amended to add subdivisions (50) and (51) to read:

(50) “Recreational trail” shall have the same meaning as “trails” in subdivision 442(3) of this title.

(51) “Vermont trails system trail” means a recreational trail recognized by the Agency of Natural Resources pursuant to section 443 of this title. The construction, operation, and maintenance of a Vermont trails system trail shall be for a municipal or State purpose under this chapter.

Third: In Sec. 3, 10 V.S.A. § 6001 is amended to add subdivision (3)(A)(xiii) to read:

(xiii) The construction of improvements for a Vermont trails system trail on a tract or tracts of land involving more than 10 acres.

(I) This subdivision shall be the exclusive mechanism for determining jurisdiction over a new or proposed recreational trail that is or will be a part of the Vermont trails system.

(II) This subdivision shall apply to the construction of improvements made on or after July 1, 2020.

(III) For purposes of this subdivision, involved land includes infrastructure that is necessary for the operation of the trail, including restrooms, parking areas, shelters, picnic areas, kiosks, and interpretive and directional signage. Involved land does not include any recreational trail constructed before July 1, 2020.

(IV) The total acreage of involved land shall include any ground disturbance and clearing that will occur. Area where no ground will be disturbed or cleared shall not be considered involved land.

(V) Development and subdivisions requiring a permit under another provision of this chapter shall include recreational trails for determining the amount of involved land that relates to that development but shall not consider the construction of improvements related to the trail as a part of the review of that permit application.

Fourth: In Sec. 3, 10 V.S.A. § 6001 is amended to add subdivision (3)(C)(vi) to read:

(vi) Recreational trails. Jurisdiction over a recreational trail shall extend only to the recreational trail and infrastructure that is necessary for the operation of the trail. Jurisdiction shall not extend to the rest of a parcel or parcels where a recreational trail is located.

Fifth: In Sec. 3, 10 V.S.A. § 6081, subdivision (y) is added to read:

(y) No permit or permit amendment shall be required for the construction of improvements on a tract of land that would provide access across a trail provided that the access is not related to the use of the permitted recreational trail and would not establish jurisdiction under 10 V.S.A, chapter 151 on its own.

Sixth: A Sec. 14a is added to read:

Sec. 14a. RECREATIONAL TRAILS RECOMMENDATIONS AND
REPORT

On or before December 15, 2020, the Agency of Natural Resources shall report to the House Committee on Natural Resources, Fish, and Wildlife and to the Senate Committee on Natural Resource and Energy with legislative recommendations for a best management practices driven program for Vermont trails system trails that includes technical assistance, education, and oversight from the Agency of Natural Resources. The report shall include recommendations for a strategic plan and comprehensive mapping, legislative authority to administer the program, and potential funding sources. The Agency of Natural Resources shall consult with stakeholders on the proposed program, including the Vermont Trail Alliance, the Forest Partnership, and the Vermont Agency of Transportation.

Seventh: In Sec. 21, by striking in its entirety and adding in lieu thereof the following:

Sec. 21. EFFECTIVE DATES AND SUNSET

(a) This act shall take effect on passage, except that 10 V.S.A. § 6086(a)(8) (Ecosystem protection; scenic beauty; historic sites) shall take effect on September 1, 2021.

(b) 10 V.S.A. § 6001(3)(A)(xiii) shall be repealed on January 1, 2022.

Amendment to be offered by Rep. Dolan of Waitsfield to H. 926

Rep. Dolan of Waitsfield moves to amend the bill as follows:

First: By adding a Sec.5a to read:

Sec. 5a. 24 V.S.A. § 2793a is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

* * *

(e)(1) A village center designated by the State Board pursuant to subsection (a) of this section is eligible to apply to the State Board to receive an enhanced designation. This enhanced designation shall allow the village center to be exempt from 10 V.S.A. chapter 151.

(2) To receive enhanced designation under this subdivision, village center shall have:

(A) a duly adopted and regionally approved municipal plan; and

(B) duly adopted permanent zoning and subdivision bylaws that include flood hazard and river corridor bylaws.

Second: In Sec. 3, 10 V.S.A. chapter 151, in subdivision 6081(p)(1), before “or a neighborhood development area designated pursuant to 24 V.S.A. § 2793e.”, by inserting “, village center that has received enhanced designation under 24 V.S.A. § 2793a(e),” and, immediately before “or a new neighborhood area shall be extinguished.”, by inserting “village center that has received an enhanced designation”

Third: In Sec. 5, 24 V.S.A. § 2798, in subsection (a), immediately following “section 2793”, by inserting “, 2793a,”

Fourth: In Sec. 8, 24 V.S.A. § 4460, in subdivision (f)(1)(B) after “located in a downtown development district”, by inserting “, village center that has received enhanced designation,”

Fifth: By striking out Sec. 9 in its entirety and inserting in lieu thereof following:

Sec. 9. REPEALS

10 V.S.A. § 6086b (downtown development; findings) and 24 V.S.A. § 2798 (designation decisions; nonappeal) are repealed.

Amendment to be offered by Rep. Sheldon of Middlebury to H. 926

Representative Sheldon moves that the bill be amended as follows:

First: In Sec. 3, 10 V.S.A. chapter 151, in subdivision 6001(3)(A)(xi), after the “the midpoint of the interconnecting roadways,” by inserting the words “unless it is in a designated center or”

Second: In Sec. 3, 10 V.S.A. chapter 151, following “Subchapter 2. Administration” by striking out “* * *” and inserting in lieu thereof the following:

§ 6021. BOARD; VACANCY, REMOVAL

(a) A Natural Resources Board is created.

(1) The Board shall consist of five members appointed by the Governor, with the advice and consent of the Senate, so that one appointment expires in each year. In making these appointments, the Governor and the Senate shall give consideration to experience, expertise, or skills relating to the environment or land use environmental science, natural resources law and policy, land use planning, community planning, environmental justice, or racial equity.

(A) The Governor shall appoint a chair of the Board, a position that shall be a full-time position. The Governor shall ensure, to the extent possible, that the Board membership reflects the racial, ethnic, gender, and geographic diversity of the State.

* * *

Third: In Sec. 3, 10 V.S.A. chapter 151, after “* * *” and before § 6031. ETHICAL STANDARDS” by inserting the following:

§ 6026. DISTRICT COMMISSIONERS

(a) For the purposes of the administration of this chapter, the State is divided into nine districts.

* * *

(b) A District Environmental Commission is created for each district. Each District Commission shall consist of three members from that district appointed in the month of February by the Governor so that two appointments expire in each odd-numbered year. Two of the members shall be appointed for a term of four years, and the Chair (third member) of each District shall be appointed for a ~~two-year~~ four-year term. In any district, the Governor may appoint ~~not more than four~~ up to two alternate members from that district whose terms shall not exceed two years, who may hear any case when a regular member is disqualified or otherwise unable to serve. The Governor shall ensure, to the extent possible, that appointments are made in a timely manner and that each District Commission reflects the racial, ethnic, gender, and geographic diversity of the State.

(c) Members shall be removable for cause only, except the Chair, who shall serve at the pleasure of the Governor.

(d) Any vacancy shall be filled by the Governor for the unexpired period of the term.

§ 6027. POWERS

(a) The Board and District Commissions shall have supervisory authority in environmental matters respecting projects within their jurisdiction and shall apply their independent judgment in determining facts and interpreting law. They each shall have the power, with respect to any matter within its jurisdiction, to:

(1) administer oaths, take depositions, subpoena and compel the attendance of witnesses, and require the production of evidence;

(2) allow parties to enter upon lands of other parties for the purposes of inspecting and investigating conditions related to the matter before the Board or Commission;

(3) enter upon lands for the purpose of conducting inspections, investigations, examinations, tests, and site evaluations as it deems necessary to verify information presented in any matter within its jurisdiction; and

(4) apply for and receive grants from the federal government and from other sources.

(b) The powers granted under this chapter are additional to any other powers ~~which~~ that may be granted by other legislation.

* * *

(n) The Board shall have the authority to:

(1) hear appeals of a determination by a regional planning commission as to the sufficiency of municipal bylaws pursuant to subdivision 6001(3)(A)(xi) of this title;

(2) hear appeals of a determination by the Downtown Development Board designating a downtown development district or neighborhood development area pursuant to 24 V.S.A. chapter 76A; and

(3) approve regional plans pursuant to 24 V.S.A. § 4348.

* * *

Fourth: In Sec. 3, 10 V.S.A. chapter 151, in subdivision 6086(a)(9)(F), after “by certification”, by striking out “and established through inspection”

For Informational Purposes

CROSSOVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All Senate/House bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or

before Friday, March 13, 2020, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by Friday March 13, 2020.

(2) All Senate/House bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before Friday, March 20, 2020, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills.

Public Hearings

PUBLIC HEARING

Held by the Senate Education Committee on the subject of a **Pupil Weighting Study, Wednesday, March 11, 2020, 4-6 P.M. in Room 11.** Clerk of the Committee: Senator Debbie Ingram; Committee Assistant: Jeannie Lowell.