

House Calendar

Tuesday, March 9, 2021

63rd DAY OF THE BIENNIAL SESSION

House Convenes at 10:00 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

Favorable with Amendment

H. 88 Certification of agricultural use for purposes of the use value appraisal program.....	220
Rep. Pearl for Agriculture and Forestry	
Rep. Canfield for Ways and Means.....	220
H. 108 Vermont standards for issuing a Clean Water Act section 401 certification.....	220
Rep. Dolan of Waitsfield for Natural Resources, Fish, and Wildlife	

Favorable

H. 127 Approval of amendments to the charter of the Town of Barre.....	223
Rep. LaClair for Government Operations	

NOTICE CALENDAR

Favorable with Amendment

H. 128 Limiting criminal defenses based on victim identity.....	223
Rep. Colburn for Judiciary	
H. 175 The beverage container redemption system.....	224
Rep. Morris for Natural Resources, Fish, and Wildlife	
H. 195 Use of facial recognition technology by law enforcement in cases involving sexual exploitation of children, sexual assault, homicide, or kidnapping.....	224
Rep. Rachelson for Judiciary	
H. 196 Supporting the work of the Executive Director of Racial Equity.....	225
Rep. Colston for Government Operations	

Favorable

H. 177 Approval of an amendment to the charter of the City of Montpelier [226](#)
Rep. Gannon for Government Operations

H. 289 Professions and occupations regulated by the Office of Professional
Regulation..... [226](#)
Rep. Colston for Government Operations
Rep. Durfee for Ways and Means..... [226](#)
Rep. Townsend for Appropriations..... [226](#)

ORDERS OF THE DAY

ACTION CALENDAR

Favorable with Amendment

H. 88

An act relating to certification of agricultural use for purposes of the use value appraisal program

Rep. Pearl of Danville, 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. 32 V.S.A. § 3755(f) is amended to read:

(f) On or before November 1 of each year, the owner of agricultural land or buildings enrolled in the use value program as agricultural land or buildings shall certify in writing under oath to the Commissioner that the agricultural land or buildings enrolled by that owner continue to meet the requirements for enrollment in the use value program at the time of the certification. The Commissioner may waive the eligibility requirement under this subsection, provided the Commissioner obtains through other means satisfactory information that the enrolled agricultural land continues or enrolled agricultural buildings continue to meet the requirements for enrollment. The form of the certification shall be made on a form specified by the Director of Property Valuation and Review.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

(Committee Vote: 8-0-0)

Rep. Canfield of Fair Haven, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Agriculture and Forestry.

(Committee Vote: 11-0-0)

H. 108

An act relating to Vermont standards for issuing a Clean Water Act section 401 certification

Rep. Dolan of Waitsfield, for the Committee on Natural Resources; Fish; and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1253(h) is added to read:

(h)(1) The Secretary shall administer a Clean Water Act Section 401 certification program to review activities that require a federal license or permit to ensure that a proposed activity complies with the Vermont Water Quality Standards, as well as with any other appropriate requirement of State law, including:

(A) 10 V.S.A. chapter 37 (wetlands protection and water quality management);

(B) 10 V.S.A. chapter 41 (regulation of streamflow);

(C) 10 V.S.A. chapter 49A (lakeshore protection standards);

(D) 10 V.S.A. § 1264 (stormwater management);

(E) 29 V.S.A. chapter 11 (management of lakes and ponds); and

(F) The Agency of Natural Resources Rules for Water Withdrawals for Snowmaking.

(2) The Secretary of Natural Resources shall deny any application for certification under Section 401 of the Clean Water Act, unless the applicant demonstrates all of the following:

(A) there is no practicable alternative to the proposed activity that would have a less adverse impact on waters and wetlands of the State, and provided that any proposed alternative shall not have other significant adverse human health, safety, or environmental consequences;

(B) the proposed activity will not result in the violation of any applicable water quality criteria established in the Vermont Water Quality Standards; and

(C) the proposed activity will not result in a violation of the State's antidegradation policy.

(3)(A) An alternative is considered practicable under subdivision (2)(A) of this subsection (h) if it is available and capable of being completed after taking into consideration cost, existing technology, and logistics in light of overall purposes of the proposed activity.

(B) Failure to comply with the requirements of subdivision (2)(A) of this subsection (h) shall not be the basis for denial of an application for a certification under Section 401 of the Clean Water Act if the proposed activity is exempt from those requirements under a rule adopted by the Secretary.

(4) The Secretary may issue a certification required by this subsection to any general permit or authorization issued by a federal agency. An applicant's compliance with that federal permit or authorization shall be presumed to be in compliance with the certification, unless the Secretary determines that an individual review of the applicant's activity is necessary to assure compliance with the Vermont Water Quality Standards and other applicable State laws.

Sec. 2. AGENCY OF NATURAL RESOURCES; VERMONT WATER
QUALITY STANDARDS; RULEMAKING

The Secretary of Natural Resources shall amend the Vermont Water Quality Standards (VWQS) to include the following:

(1) An amendment to the Classification of State Waters to clarify that with regard to all Class I and II wetlands, as defined in 10 V.S.A. § 902, the uses to be protected include the functions and values of the wetland as described in Section 5 of the Vermont Wetland Rules.

(2) An amendment to the antidegradation policy to clarify that wetlands and their functions and values shall be protected as described by the Vermont Wetland Rules.

(3) Any additional provisions that the Secretary of Natural Resources determines are necessary to implement the requirements of 10 V.S.A. § 1253(h), including any exemptions to the requirements of 10 V.S.A. § 1253(h)(2)(A) for projects that are not likely to have significant impacts on water quality or wetland functions or values. State or municipal road or highway projects that require a certification under Section 401 of the Clean Water Act shall be exempt from the requirements of 10 V.S.A. § 1253(h)(2)(A) when a separate alternatives analysis is otherwise required under State or federal law.

Sec. 3. RULEMAKING IMPLEMENTATION; TIMING

(a) The Secretary of Natural Resources shall file with the Secretary of State under 3 V.S.A. § 838 a copy of the proposed rules required by Sec. 2 of this act within 90 days from the effective date of this act.

(b) On or before January 15, 2022, the Secretary of Natural Resources shall submit to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy a report regarding the status of the rulemaking required by Sec. 2 of this act. The report shall include a draft of the rules.

(c) On or before March 1, 2022, the Secretary of Natural Resources shall file with the Secretary of State under 3 V.S.A. § 841 a final proposal of the rules required by Sec. 2 of this act.

Sec. 4. EFFECTIVE DATES

(a) This section and Secs. 2 and 3, VWQS rulemaking, shall take effect on passage.

(b) Sec. 1, certification program, shall take effect on the effective date of the rules required to be adopted under Sec. 2.

(Committee Vote: 11-0-0)

Favorable

H. 127

An act relating to approval of amendments to the charter of the Town of Barre

Rep. LaClair of Barre Town, for the Committee on Government Operations, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

NOTICE CALENDAR

Favorable with Amendment

H. 128

An act relating to limiting criminal defenses based on victim identity

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

Sec. 1. 13 V.S.A. § 6566 is added to read:

§ 6566. DEFENSE BASED ON VICTIM IDENTITY PROHIBITED

(a) In a prosecution for any criminal offense, evidence of the defendant's discovery of, knowledge about, or the potential disclosure of the crime victim's actual or perceived sexual orientation or gender identity shall not be used:

(1) as a defense to defendant's criminal conduct;

(2) to establish a finding that defendant suffered from diminished capacity; or

(3) to justify defendant's use of force against another.

(b) The following shall not be used to mitigate the severity of an offense:

(1) evidence of a nonviolent romantic or sexual advance by a crime victim towards the defendant; or

(2) evidence of defendant's perception or belief, even if inaccurate, of the gender, gender identity, or sexual orientation of a crime victim.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

H. 175

An act relating to the beverage container redemption system

Rep. Morris of Springfield, for the Committee on Natural Resources; Fish; and Wildlife, recommends the bill be amended as follows:

In Sec. 3, effective date, by striking out "2021" and inserting in lieu thereof "2022"

(Committee Vote: 8-3-0)

H. 195

An act relating to use of facial recognition technology by law enforcement in cases involving sexual exploitation of children, sexual assault, homicide, or kidnapping

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

Sec. 1. USE OF FACIAL RECOGNITION TECHNOLOGY BY LAW
ENFORCEMENT IN CASES INVOLVING SEXUAL
EXPLOITATION OF CHILDREN, SEXUAL ASSAULT,
HOMICIDE, OR KIDNAPPING

(a) Notwithstanding 2020 Acts and Resolves No. 166, Sec. 14, the General Assembly authorizes the use of facial recognition technology by law enforcement during a criminal investigation into sexual exploitation of children under 13 V.S.A. chapter 64.

(b) Use of facial recognition technology authorized by subsection (a) of this section shall be utilized only where law enforcement is in possession of an image of an individual they believe to be a victim, potential victim, or

identified suspect in the investigation, and the search is solely confined to locating images, including videos, of that individual within electronic media legally seized by law enforcement in relation to the specific investigation.

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 use of facial recognition technology by law enforcement in cases related to sexual exploitation of children”

(Committee Vote: 11-0-0)

H. 196

An act relating to supporting the work of the Executive Director of Racial Equity

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

Sec. 1. AGENCY OF ADMINISTRATION; EXECUTIVE DIRECTOR OF RACIAL EQUITY; POSITIONS

(a) Establishment of the following new permanent classified positions is authorized in the Agency of Administration in fiscal year 2022:

(1) one Policy and Research Analyst; and

(2) one Outreach and Education Coordinator.

(b) The positions established in this section shall be transferred and converted from existing vacant positions in the Executive Branch of State government to support the work of the Executive Director of Racial Equity.

(c) There is appropriated to the Agency of Administration from the General Fund in fiscal year 2022 the sum of \$250,000.00 to fund the positions described in this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

Favorable

H. 177

An act relating to approval of an amendment to the charter of the City of Montpelier

Rep. Gannon of Wilmington, for the Committee on Government Operations, recommends the bill ought to pass.

(Committee Vote: 8-3-0)

H. 289

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

(Rep. Colston of Winooski will speak for the Committee on Government Operations.)

Rep. Durfee of Shaftsbury, for the Committee on Ways and Means, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Rep. Townsend of South Burlington, for the Committee on Appropriations, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Information Notice

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)

JFO #3036 - \$3,800,000 to the VT Dept of Health from the Center for Disease Control and Prevention to increase and sustain the public health approach to suicide prevention. This grant includes funding for three (3) limited service positions. Two (2) positions in the Dept of Health: Public Health Programs Administrator and Public Health Analyst II. One (1) position in the Dept of Mental Health: Marketing and Outreach Coordinator. Grant amount is \$760,000 per year for 5 years. *[JFO received 2/16/2021]*

JFO #3037 - \$135,000 to the VT Dept of Mental Health from Vibrant Emotional Health for the development of the 988-implementation plan to ensure compliance with the federal mandate for universal access to suicide and prevention services by July 16, 2022. ***[Note: One (1) limited service position is included within JFO #3036].*** *[JFO received 2/16/2021]*

CROSSOVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2)) on or before **Friday, March 12, 2021**, and filed with the Secretary/Clerk so that they may be placed on the Calendar for Notice the next legislative day- Committee bills must be voted out of Committee by Friday, March 12, 2021.

(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 19, 2021**, and filed with the Secretary/Clerk so that they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

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.