

House Calendar

Thursday, April 29, 2021

114th DAY OF THE BIENNIAL SESSION

House Convenes at 1:15 P.M.

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ACTION CALENDAR

Action Postponed Until April 29, 2021

Action Under Rule 33

J.R.S. 24

Joint resolution relating to amending temporary Joint Rule 22A

(For text see House Journal April 21, 2021)

NEW BUSINESS

Favorable with Amendment

H. 140

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

Rep. Hooper of Burlington, 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. CHARTER AMENDMENT APPROVAL

The General Assembly approves the amendments to the charter of the Town of Williston as set forth in this act. The voters approved proposals of amendment on March 3, 2020.

Sec. 2. 24 App. V.S.A. chapter 156 is amended to read:

CHAPTER 156. TOWN OF WILLISTON

* * *

§ 16. THE TOWN MANAGER

* * *

(h) Responsibilities of the Town Manager and authority:

* * *

(3) Authority and duties in particular. The Manager shall be charged with full authority, and be responsible for the following:

* * *

(J) To appoint, upon merit and fitness alone, and, when the Manager deems necessary for the good of the service, suspend or remove any

subordinate official, employee, or agent, including the Town Treasurer, Assistant Town Treasurer, and administrative officer (Zoning Administrator), under the Manager's supervision as provided for in this charter. The Library Director shall be appointed or removed by the Manager with the advice and consent of a majority of the Library Board of Trustees. All ~~such~~ appointments may be without definite terms, except as provided in section 19 of this charter, unless for provisional, temporary, or emergency service, in which case, terms shall not exceed the maximum periods prescribed by the personnel rules and regulations. The Manager may authorize the head of a department or of an office responsible to the Manager to appoint and remove subordinates in such office or department.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

H. 361

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

Rep. Anthony of Barre City, for the Committee on Government Operations, recommends the bill be amended as follows:

In Sec. 2, 24 App. V.S.A. chapter 107, in § 2.3a, early voting, by striking out subdivision (4) in its entirety and inserting in lieu thereof a new subdivision (4) to read as follows::

(4) As authorized for certain Town elections pursuant to this charter, a youth voter who will be at least 16 years of age on the day of the Town election and chooses to vote early shall vote in the same manner as a youth voter on election day, provided that the youth voter completes an early voting form required by the Town Clerk.

(Committee Vote: 8-3-0)

S. 1

An act relating to extending the baseload renewable power portfolio requirement

Rep. Patt of Worcester, for the Committee on Energy and Technology, recommends that the House propose to the Senate that the bill be amended as follows:

In Sec. 4, plant closure contingency plan, by striking it in its entirety and inserting in lieu thereof a new Sec. 4 to read:

Sec. 4. PLANT CLOSURE CONTINGENCY PLAN

On or before March 1, 2022, the Secretary of Commerce and Community Development in consultation with the Commissioner of Forests, Parks, and Recreation shall report to the Senate Committees on Agriculture, Economic Development, Housing, and General Affairs, and Finance and the House Committees on Agriculture and Forestry, Commerce and Economic Development, and Energy and Technology a contingency plan to address how to reduce the economic impacts that may occur if the baseload renewable power plant closes. The plan shall address how to remediate harm to the workforce impacted by the closure of the plant, the forestry industry, and forest health. The contingency plan shall be developed in consultation with the Northern Vermont Development Association, a Vermont resident selected by the Commissioner of Forests, Parks and Recreation who works in the forestry industry from the Ryegate lumber catchment area, and the owners of the Ryegate Plant. On or before July 1, 2021, the Department of Forests, Parks and Recreation shall render to the owners of the Ryegate Plant a statement for \$10,000.00 to be used on the creation of the contingency plan, which the owners of the Ryegate Plant shall pay within 30 days. The group of stakeholders developing the plan shall hold at least one evening public hearing on the plan in the lumber catchment area.

(Committee vote: 9-0-0)

(For text see Senate Journal March 17, 2021)

Rep. Masland of Thetford, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Energy and Technology and with further proposal of amendment as follows:

In Sec. 1, 30 V.S.A. § 8009(b), following “Vermont retail electricity” by striking out the word “~~provider~~” and inserting in lieu thereof the word “provider”

(Committee Vote: 9-0-2)

S. 86

An act relating to miscellaneous changes to laws related to vehicles and vessels

Rep. Lanpher of Vergennes, for the Committee on Transportation, 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:

* * * Temporary Plates * * *

Sec. 1. 23 V.S.A. § 511 is amended to read:

§ 511. MANNER OF DISPLAY

(a) Number plates. A motor vehicle operated on any highway shall have displayed in a conspicuous place either one or two number plates as the Commissioner may require. Such number plates shall be furnished by the Commissioner and shall show the number assigned to such vehicle by the Commissioner. If only one number plate is furnished, the same shall be securely attached to the rear of the vehicle. If two are furnished, one shall be securely attached to the rear and one to the front of the vehicle. The number plates shall be kept entirely unobscured, and the numerals and ~~the~~ letters thereon shall be plainly legible at all times. They shall be kept horizontal, shall be so fastened as not to swing, excepting however, there may be installed on a motor truck or truck tractor a device that would, upon contact with a substantial object, permit the rear number plate to swing toward the front of the vehicle, provided such device automatically returns the number plate to its original rigid position after contact is released, and the ground clearance of the lower edges thereof shall be established by the Commissioner pursuant to the provisions of 3 V.S.A. chapter 25.

(b) Validation sticker. A registration validation sticker shall be unobstructed and shall be affixed as follows:

(1) for vehicles issued registration plates with dimensions of approximately 12 x 6 inches, in the lower right corner of the rear registration plate; and

(2) for vehicles issued a registration plate with a dimension of approximately 7 x 4 inches, in the upper right corner of the rear registration plate.

(c) Violation. A person shall not operate a motor vehicle unless number plates and a validation sticker are displayed as provided in this section.

(d) Failure to display a validation sticker. An operator cited for violating subsection (c) of this section with respect to failure to display a validation

sticker on a pleasure car, motorcycle, or truck that could be registered for less than 26,001 pounds shall be subject to a civil penalty of not more than \$5.00, which penalty shall be exempt from surcharges under 13 V.S.A. § 7282(a), if he or she is cited within the 14 days following the expiration of the motor vehicle's registration.

(e) Temporary and in-transit registration plates. A motor vehicle issued a temporary or in-transit registration plate under sections 312, 458, 463, and 516–518 of this title operated on any highway shall have the temporary or in-transit registration plate displayed horizontally in a conspicuous place on the rear of the vehicle, including in the rear window. The temporary or in-transit registration plate shall be kept entirely unobscured, and the numerals and letters thereon shall be plainly legible at all times.

Sec. 2. 23 V.S.A. § 518 is amended to read:

§ 518. ELECTRONIC IN-TRANSIT PERMIT ELECTRONIC ISSUANCE
OF TEMPORARY PLATE AND TEMPORARY REGISTRATION

(a) ~~Issuance of permit plate and registration; length. The Commissioner is authorized to electronically issue electronic in-transit registration permits a temporary plate and temporary registration to be printed by the owner of a motor vehicle for the purpose of movement over the highways of certain motor vehicles otherwise required to be registered when the vehicles are sold by a person, other than a registered motor vehicle dealer, to a resident to be transported to or within and registered in this State. The electronic in-transit temporary plate and temporary registration permit issued pursuant to this section shall be valid for a period of 10 60 days from issuance and shall be in the form and design prescribed by the Commissioner.~~

(b) ~~Form of application; fee. The temporary plate and temporary registration may be obtained by submitting an application under oath on a form prescribed and furnished by the Commissioner, which shall require the applicant to attest to compliance with the provisions of section 800 of this title and provide any other proof of the identity of the vehicle the Commissioner reasonably requires. The Commissioner is authorized to charge a fee of \$6.00 for the processing of the application and the issuance of the electronic permit temporary plate and temporary registration.~~

(c) ~~Proof to be carried by operator. It shall be unlawful for any individual to drive a vehicle registered pursuant to this section unless the operator has in his or her possession a valid bill of sale for the vehicle and proof of compliance with the provisions of section 800 of this title. Notwithstanding section 511 of this title, a motor vehicle may be operated without having~~

~~displayed one or two number plates if the operator has an electronic in-transit registration permit. An operator may prove that he or she is in possession of an electronic in-transit registration permit for the vehicle he or she is operating using a portable electronic device; however, use of a device for this purpose does not in itself constitute consent for an enforcement officer to access other contents of the device. [Repealed.]~~

* * * Duty to Report Blood Tests; Health Care Education * * *

Sec. 3. 23 V.S.A. § 1203b is amended to read:

§ 1203b. DUTY TO REPORT BLOOD TEST RESULTS

(a) Notwithstanding any law or court rule to the contrary, if a health care provider who is providing health services to a person in the emergency room of a health care facility as a result of a motor vehicle ~~accident~~ crash becomes aware as a result of any blood test performed in the health care facility that the person's blood alcohol level meets or exceeds the level prohibited by law, the health care provider shall report that fact, as soon as is reasonably possible, to a law enforcement agency having jurisdiction over the location where the ~~accident~~ crash occurred.

* * *

(g) Health care facilities have a responsibility to ensure that all health care providers who work in the health care facility and may provide health care to a person injured as a result of a motor vehicle ~~accident~~ crash are aware of their responsibilities under this section. Every health care facility that provides health care to persons injured as a result of motor vehicle ~~accidents~~ crashes shall:

(1) adopt a policy that implements this section;

(2) provide a copy of the policy to all health care providers who work in the health care facility who may provide health care to a person as a result of a motor vehicle ~~accident~~ crash; and

(3) ~~conduct an educational and training program within one month of July 1, 1998~~ employment for all ~~such~~ health care providers ~~currently working who work~~ at the health care facility and, ~~for all such health care providers hired thereafter, within one month of their employment~~ who may provide health care to an individual as a result of a motor vehicle crash.

* * * Powers of Enforcement Officers; Investigation of Accidents * * *

Sec. 4. 23 V.S.A. § 1603 is amended to read:

§ 1603. INVESTIGATION OF ~~ACCIDENTS~~ CRASHES

The Commissioner of Public Safety shall ~~forthwith~~ immediately after receiving notice of an ~~accident~~ a crash where a personal injury occurs, and, in case of notice of an ~~accident~~ a crash where an injury occurs to property, may cause such ~~accident~~ crash to be investigated by an enforcement officer, and where such investigation reveals facts tending to show culpability on the part of any motor vehicle owner or operator, he or she shall cause such facts to be reported to the State's Attorney of the county where the ~~accident~~ crash occurred. The State's Attorney shall further investigate the ~~accident~~ crash and may hold an inquest as provided by 13 V.S.A. §§ 5131-5137. After such investigation or inquest, he or she shall immediately report ~~forthwith~~ to the Commissioner of Motor Vehicles the result thereof together with his or her recommendation as to the suspension of the license of the operator of any motor vehicle involved in the ~~accident~~ crash.

* * * Certificate of Title * * *

Sec. 5. 23 V.S.A. § 2015(c) is amended to read:

(c) If the application refers to a vehicle last previously registered in another state or country, the application shall contain or be accompanied by:

* * *

(3) ~~the certificate of a person authorized by the Commissioner that the identification number of the vehicle has been inspected and found to conform to the description given in the application, or any other proof of the identity of the vehicle the Commissioner reasonably requires.~~

* * * Gasoline Tax * * *

* * * Calibration of Tank Vehicles * * *

Sec. 6. 23 V.S.A. § 3104 is amended to read:

§ 3104. CALIBRATION OF TANK VEHICLES

A distributor shall cause all tank vehicles used by him or her in the delivery of motor fuel to be calibrated under the supervision of the ~~director of weights and measures~~ Secretary of Agriculture, Food and Markets and under rules as he or she may prescribe, so as to show the number of gallons of motor fuel contained in these vehicles. The distributor shall make application in writing to the ~~director~~ Secretary for calibration stating the number of tank vehicles to be calibrated.

* * * Lien Filing Fees * * *

Sec. 7. 23 V.S.A. § 3121 is amended to read:

§ 3121. LIEN FILING FEES

Notwithstanding 32 V.S.A. § 502, the Commissioner may charge against any collection of liability any related lien filing fees specified in ~~subdivision 32 V.S.A. § 1671(a)(6) or subsection 1671(c) of this title~~ paid by the Commissioner. Fees collected under this section shall be credited to a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available as payment for the fees of the clerk of the municipality.

* * * Snowmobiles; Exhaust Systems * * *

Sec. 8. 23 V.S.A. § 3205 is amended to read:

§ 3205. SNOWMOBILE EQUIPMENT; WINDSHIELD; USE OF
HEADLIGHT; ILLEGAL NOISE LEVEL; EXEMPTION FROM
EQUIPMENT REQUIREMENT

(a) Snowmobile; required equipment. All snowmobiles shall be equipped with one or more operational:

* * *

(5) such other equipment and devices as may be required to meet the noise level specifications of subsection (d) of this section.

* * *

~~(d) Muffler devices; Exhaust system; noise levels emissions. Any snowmobile manufactured on or after the following dates shall be equipped with a muffler system and such other equipment or devices that reduce maximum machine operating noise to a noise level of not more than: An individual shall not operate the following on the State Snowmobile Trail System:~~

~~(1) as of September 1, 1972, 82 decibels on the A scale at 50 feet, in a normal operating environment; a snowmobile manufactured after February 1, 2007 that does not display a visible and unaltered marking of "SSCC Certified" issued by the Snowmobile Safety and Certification Committee (SSCC) on all critical components of the exhaust system; or~~

~~(2) as of September 1, 1973, at such level as established by the Commissioner by rule except that the level may not exceed the level established in subdivision (1) of this subsection. a snowmobile, regardless of the date of manufacture, with an exhaust system that has been modified in a manner that amplifies or otherwise increases total noise emission above that of the snowmobile as originally constructed.~~

(e) Prohibited sale; illegal noise level; notice to consumer.

(1) No person shall sell for operation, or offer to sell for operation, within the State of Vermont,

~~(1) A a snowmobile manufactured after the dates specified in subsection (d) of this section unless it complies that does not comply~~ with the sound exhaust system requirements specified in subsection (d) of this section.

(2) No snowmobile shall be equipped in any manner that permits the operator thereof to bypass the muffler system.

~~(3) Replacement exhaust muffler.~~ No person shall sell or offer to sell a replacement exhaust ~~muffler~~ system or component of an exhaust system that will not meet or exceed the exhaust noise reduction capabilities of the snowmobile manufacturer's original equipment specifications for the snowmobile.

~~(4) Consumer information on noise levels.~~ Any person selling or offering to sell a snowmobile or replacement ~~muffler~~ exhaust system shall include in the specifications thereof precise information concerning the designed maximum sound levels of the snowmobile or replacement ~~muffler~~ exhaust system as outlined by the SSCC.

* * *

* * * Vessels * * *

Sec. 9. 23 V.S.A. chapter 29 is redesignated to read:

CHAPTER 29. SNOWMOBILES, ~~MOTORBOATS~~ VESSELS, AND WATER SPORTS

Sec. 10. 23 V.S.A. chapter 29, subchapter 2 is redesignated to read:

Subchapter 2. ~~Motorboats~~ Vessels

Sec. 11. 23 V.S.A. § 3302 is amended to read:

§ 3302. DEFINITIONS

As used in this chapter, unless the context clearly requires a different meaning:

(1) “All-round light” means a light showing an unbroken light over an arc of the horizon of 360 degrees.

(2) “Holding tank” means a container or device designed to provide for the retention of wastes on board a vessel and to prevent the discharge of wastes into the waters of this State.

(2)(3) “Law enforcement officer” ~~shall mean~~ means a person designated in subdivision 4(11) of this title and ~~shall include~~ includes deputy State game wardens and auxiliary State Police officers.

(3)(4) “Marine toilet” means any toilet on or within any vessel except those that have been permanently sealed and made inoperative.

(5) “Masthead light” means a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel, except that on a vessel of less than 12 meters in length, the masthead light shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(4)(6) “Motorboat” means any vessel ~~propelled by~~ equipped with machinery capable of propelling the vessel, whether or not such machinery is the principal source of propulsion, ~~but shall not include a vessel that has a valid marine document issued by U.S. Customs and Border Protection or any successor federal agency.~~

(5)(7) “Operate” means to navigate or otherwise use a ~~motorboat or~~ vessel.

(6)(8) “Owner” means a person, other than a lienholder, having the property in or title to a ~~motorboat vessel~~. The term includes a person entitled to the use or possession of a ~~motorboat vessel~~ subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

(7)(9) “Person” means an individual, partnership, firm, corporation, association, or other entity.

(8)(10) “Personal watercraft” means a class A vessel that uses an inboard engine powering a water jet pump as its primary source of motive power and that is designed to be operated by ~~a person or persons~~ an individual or individuals sitting, standing, or kneeling on, or being towed behind the ~~vessel motorboat~~ rather than in the conventional manner of sitting or standing inside the vessel.

(9)(11) “Public waters of the State” means navigable waters as defined in 10 V.S.A. chapter 49, excepting those waters in private ponds and private preserves as set forth in 10 V.S.A. §§ 5204, 5205, 5206, and 5210.

(10)(12) “Racing shell or rowing scull” means a manually propelled vessel that is recognized by national or international racing associations for use in competitive racing, and one in which all occupants row or scull, with the

exception of a coxswain, if one is provided, and is not designed to carry and does not carry any equipment not solely for competitive racing.

~~(11)~~(13) “Sailboard” means a sailboat whose unsupported mast is attached to a surfboard-like hull by a flexible joint.

(14) “Sailing vessel” means any vessel under sail provided that propelling machinery, if fitted, is not being used.

(15) “Sidelights” mean a green light on the starboard side and a red light on the port side, each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. On a vessel of less than 20 meters in length the side lights may be combined in one lantern carried on the fore and aft centerline of the vessel, except that on a vessel of less than 12 meter in length the sidelights, when combined in one lantern, shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(16) “Sternlight” means a white light placed as nearly as practicable at the stern, showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel.

~~(12)~~(17) “Vessel” means every description of watercraft, other than a seaplane on the water or a racing shell or rowing scull occupied exclusively by persons over 12 years of age, used or capable of being used as a means of transportation on water.

~~(13)~~(18) “Waste” means effluent, sewage, or any substance or material, liquid, gaseous, solid, or radioactive, including heated liquids, whether or not harmful or deleterious to waters of this State.

~~(14)~~(19) “Waters of this State” means any waters within the territorial limits of this State.

Sec. 12. 23 V.S.A. § 3303 is amended to read:

§ 3303. OPERATION OF UNNUMBERED MOTORBOATS PROHIBITED

Except for motorboats exempt from numbering under subdivisions ~~3307(a)(2)-(4)~~ 3307(a)(2)-(6) of this title, every motorboat on the waters of this State shall be numbered. A person shall not operate or give permission for the operation of any motorboat on such waters unless the motorboat is numbered in accordance with this subchapter, or in accordance with applicable federal law, or in accordance with a federally approved numbering system of another state, and unless:

* * *

Sec. 13. 23 V.S.A. §§ 3305, 3305a, 3305b, and 3306 are amended to read:

§ 3305. FEES

(a) ~~A person~~ An individual shall not operate a motorboat on the public waters of this State unless the motorboat has a valid marine document issued by U.S. Customs and Border Protection or any successor federal agency or is registered in accordance with this chapter.

(b) Annually or biennially, the owner of each motorboat required to be registered by this State shall file an application for a number with the Commissioner of Motor Vehicles on forms approved by him or her. The application shall be signed by the owner of the motorboat and shall be accompanied by an annual fee of \$31.00, or a biennial fee of \$57.00, for a motorboat in class A; by an annual fee of \$49.00, or a biennial fee of \$93.00, for a motorboat in class 1; by an annual fee of \$80.00, or a biennial fee of \$155.00, for a motorboat in class 2; by an annual fee of \$153.00, or a biennial fee of \$303.00, for a motorboat in class 3. Upon receipt of the application in approved form, the Commissioner shall enter the application upon the records of the Department of Motor Vehicles and issue to the applicant a registration certificate stating the number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules of the Commissioner in order that it may be clearly visible. The registration shall be void one year from the first day of the month following the month of issue in the case of annual registrations, or void two years from the first day of the month following the month of issue in the case of biennial registrations. A ~~vessel~~ motorboat of less than 10 horsepower used as a tender to a registered ~~vessel~~ motorboat shall be deemed registered, at no additional cost, and shall have painted or attached to both sides of the bow, the same registration number as the registered ~~vessel~~ motorboat with the number "1" after the number. The number shall be maintained in legible condition. The registration certificate shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever the motorboat is in operation. A duplicate registration may be obtained upon payment of a fee of \$3.00 to the Commissioner. Registration fees shall be allocated in accordance with section 3319 of this title.

(c) A person engaged in the business of selling or exchanging motorboats, as defined in subdivision 4(8) of this title, of a type otherwise required to be registered by this subchapter shall register and obtain registration certificates for use as described under subdivision (1) of this subsection, subject to the requirements of chapter 7 of this title. A manufacturer of motorboats may register and obtain registration certificates under this section.

* * *

(4) The Commissioner shall issue a registration certificate of number for each identifying number awarded to the dealer in the manner described in subsection (a) of this section, except that a ~~boat~~ motorboat shall not be described in the certificate. A dealer's registration certificate expires one year from the first day of the month of issuance.

* * *

§ 3305a. PRIVILEGE TO OPERATE A VESSEL; SUSPENSION OF
PRIVILEGE; MINIMUM AGE FOR OPERATION OF A
MOTORBOAT

(a) ~~A person~~ An individual who meets the applicable requirements of this subchapter shall have the privilege to operate a vessel on the public waters of this State, as those waters are defined in 10 V.S.A. § 1422.

(b) ~~A person~~ An individual whose privilege to operate a vessel has been suspended shall not operate, attempt to operate, or be in actual physical control of a vessel on the public waters of this State until the privilege to operate a vessel has been reinstated by the Commissioner of Motor Vehicles.

(c) ~~A person~~ An individual ~~under the age of 12 years of age~~ shall not operate a motorboat powered by more than six horsepower on the public waters of this State.

§ 3305b. BOATING SAFETY EDUCATION; RULES

(a) When required. ~~A person~~ An individual born after January 1, 1974 shall not operate a motorboat on the public waters of this State without first obtaining a certificate of boating education.

(b) Possession of certificate. ~~A person~~ An individual who is required to have a certificate of boating education shall:

(1) Possess the certificate when operating a motorboat on the public waters of the State.

(2) Show the certificate on the demand of an enforcement officer wearing insignia identifying him or her as such or operating a law enforcement ~~motorboat or vessel~~. However, ~~no person~~ an individual charged with violating this subsection shall not be convicted if the ~~person~~ individual produces a certificate that was valid at the time the violation occurred in court; to the officer; or to a State's Attorney ~~a certificate that was valid at the time the violation occurred~~.

(c) Exemptions. The following ~~persons~~ individuals are exempt from the requirements of this section:

(1) ~~a person~~ an individual who is licensed by the U.S. Coast Guard to operate a vessel for commercial purposes;

(2) ~~a person~~ an individual operating a vessel motorboat on a body of water located on private property; and

(3) any other ~~person~~ individual exempted by rules of the Department of Public Safety.

* * *

(f) Persons offering courses. The following persons may offer the course of instruction in boating safety education if approved by the Department of Public Safety:

(1) the Department of Public Safety;

(2) the U.S. Coast Guard Auxiliary;

(3) the U.S. Power Squadrons;

(4) a political subdivision;

(5) a municipal corporation;

(6) a State agency;

(7) a public or nonpublic school; and

(8) any group, firm, association, or person.

(g) Issuance of certificate. The Department of Public Safety or its designee shall issue a certificate of boating safety education to ~~a person~~ an individual who:

* * *

(h) Education materials. Upon request, the Department of Public Safety shall provide, without charge, boating safety education materials to ~~persons~~ individuals who plan to take the boating safety equivalency examination.

(i) Lifetime issuance. Once issued, the certificate of boating safety education is valid for the lifetime of the ~~person~~ individual to whom it was issued and may not be revoked by the Department of Public Safety or a court of law.

* * *

§ 3306. LIGHTS AND EQUIPMENT

(a) Every vessel shall carry and show the following lights, in the intensity prescribed under 33 C.F.R. § 83.22, as amended, when underway between sunset and sunrise and during other periods of restricted visibility:

~~(1) manually propelled boats, a lantern capable of showing a white light which shall be temporarily displayed in sufficient time to prevent collision;~~

~~(2) motorboats less than 26 feet in length, a white light aft showing all around, visible for at least two miles, a light in the forepart of the boat, lower than the white light aft, showing green to starboard and red to port, visible for at least one mile;~~

~~(3) motorboats 26 feet or longer, a white light aft showing all around, visible for at least two miles, and a light in the forepart of the boat showing red to port and green to starboard, visible at least one mile;~~

~~(4) boats propelled by sail, a white light showing all around visible for at least two miles, and a white light in the forepart of the boat, lower than the white light aft, showing red to port and green to starboard;~~

~~(5) any Unpowered vessels.~~

(A) A sailing vessel shall exhibit:

(i) sidelights; and

(ii) a sternlight.

(B) A sailing vessel may, in addition to the lights prescribed in subdivision (A) of this subdivision (1), exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower being green.

(C) Notwithstanding subdivision (A) of this subdivision (1), on a sailing vessel of less than 20 meters in length, the lights prescribed in subdivision (A) of this subdivision (1) may be combined in a single light and exhibited at or near the top of the mast, where it can best be seen, but may not also have exhibited two all-round lights in a vertical line, as permitted in subdivision (B) of this subdivision (1).

(D) Notwithstanding subdivision (A) of this subdivision (1), a sailing vessel of less than seven meters in length shall, if practicable, exhibit the lights prescribed in subdivision (1) of this subsection (a) but, if not practicable, shall exhibit or have onboard an all-round white light that shall be exhibited in sufficient time to prevent collision.

(E) A vessel under oars or one or more paddles may exhibit the lights prescribed in subdivision (1) of this subsection (a), but, if such lights are not

exhibited, the vessel shall exhibit or have onboard an all-round white light that shall be exhibited in sufficient time to prevent collision.

(2) Motorboats.

(A) A motorboat, including one that is also proceeding under sail, shall exhibit:

(i) a masthead light forward;

(ii) a second masthead light abaft of and higher than the light required under subdivision (i) of this subdivision (A) if the vessel is 50 meters or more in length;

(iii) sidelights; and

(iv) a sternlight.

(B) A motorboat that is also proceeding under sail shall exhibit forward, where it can best be seen, a conical shape, apex downward.

(3) Lights approved by the U.S. Coast Guard. Any light or combination of lights approved by the U.S. Coast Guard for inland waters shall be considered legal for Vermont waters.

(b)(1) Personal flotation devices. Each vessel, except sailboards, shall, consistent with federal regulations, carry for each individual aboard at least one wearable U.S. Coast Guard-approved personal flotation device consistent with federal regulations that is in good and serviceable condition for each individual aboard and capable of being used in accordance with the U.S. Coast Guard approval label.

(2) Vessels; individuals less than 12 years of age. In addition to the provisions of this subsection, a ~~person~~ an individual under 12 years of age aboard a vessel, while under way and the individual is on an open deck, shall wear a ~~Type I, II, or III~~ properly secured wearable U.S. Coast Guard-approved personal flotation device as intended by the manufacturer.

(3) Sailboards; individuals less than 16 years of age. An individual under 16 years of age aboard a sailboard shall wear a ~~Type I, II, or III~~ properly secured wearable U.S. Coast Guard-approved personal flotation device as intended by the manufacturer.

(4) Inspected commercial vessels. U.S. Coast Guard-inspected commercial vessels shall be exempt from the provisions of this subsection.

(c) Every motorboat ~~and auxiliary powered sailboats~~, except a motorboat that is less than 26 feet in length, that has an outboard ~~motorboats less than 26 feet in length~~ motor and of an open construction, and is not carrying

passengers for hire shall carry on board, fully charged and in good condition, U.S. Coast Guard-approved hand portable fire extinguishers as follows:

(1) ~~Motorboats and auxiliary powered sailboats~~ with no fixed fire extinguisher system in the machinery space and that are:

- (A) less than 26 feet in length, one extinguisher;
- (B) 26 feet or longer, but less than 40 feet, two extinguishers;
- (C) 40 feet or longer, three extinguishers.

(2) ~~Motorboats and auxiliary powered sailboats~~ with a fixed fire extinguisher system in the machinery space and that are:

- (A) 26 feet or longer but less than 40 feet, one extinguisher;
- (B) 40 feet or longer, two extinguishers.

(d) The extinguishers referred to by this section are class B-I or 5-B extinguishers ~~described in 46 C.F.R. § 25.30~~, but one class B-II or 20-B extinguisher ~~described in that regulation~~ may be substituted for two class B-I or 5-B extinguishers.

(e) Every marine toilet on board any vessel operated on the waters of the State shall also incorporate or be equipped with a holding tank. Any holding tank or marine toilet designed so as to provide for an optional means of discharge to the waters on which the vessel is operating shall have the discharge openings sealed shut and any discharge lines, pipes, or hoses shall be disconnected and stored while the vessel is in the waters of this State.

* * *

Sec. 14. 23 V.S.A. § 3307(a) is amended to read:

(a) A motorboat is not required to have a Vermont number under this chapter if it is:

* * *

(3) A motorboat owned by ~~the United States~~, a state or subdivision of ~~the United States~~, or a state and ~~not rented, leased, or used by any person other than an employee of the government~~ used principally for governmental purposes and that is clearly identifiable as such, provided that the state or subdivision has jurisdiction over the motorboat and follows the guidance of 33 C.F.R. § 173.19. ~~However, the boat shall have the name of the government or department of the government owning it printed on each side of the bow.~~

(4) A ~~ship's~~ vessel's lifeboat.

* * *

(6) A motorboat that has a valid marine document issued by U.S. Customs and Border Protection or any successor federal agency.

Sec. 15. 23 V.S.A. § 3307a is amended to read:

§ 3307a. DOCUMENTED ~~BOAT~~ MOTORBOAT VALIDATION STICKER

(a) Annual validation required.

(1) An owner of a vessel, ~~as defined in subdivision 3302(6) of this title,~~ motorboat that has been registered in another state under a federally approved numbering system, or that has a valid document issued by the U.S. Coast Guard, U.S. Customs and Border Protection, or any other federal agency, and that is used in the waters of the State for at least ~~30~~ 60 days in any calendar year shall apply annually to the Commissioner of Motor Vehicles for validation of the out-of-state or federal registration of that vessel motorboat.

(2) The Commissioner shall issue a validation sticker to any ~~person~~ owner who submits an application and pays a fee as required by subsection (b) of this section provided that the out-of-state or federal registration is valid and that the requirements of section 3322 of this title are met.

(3) A validation sticker issued under this section shall be valid through December 31 of the year in which it is issued.

(b) Application; fee. The owner of the vessel motorboat shall:

(1) submit an application, on a form that the Commissioner requires, ~~signed by every owner of the motorboat to the Commissioner on the form that the Commissioner requires and be signed by every owner of the vessel;~~ and

(2) pay to the Commissioner an application fee in the same amount as would be paid if the vessel motorboat was being registered under subsection 3305(b) of this title.

(c) Sale of vessel motorboat. Within 30 days after the sale or other transfer of a vessel motorboat that is or should be validated under this section:

(1) the transferor shall give notice of the transfer to the Commissioner on a form that the Commissioner requires; and

(2) if the transferee intends to continue to use the vessel motorboat on the waters of the State for at least 30 days in any calendar year, he or she shall submit an application for validation and pay the fee as required by subsection (b) of this section.

(d) Display of sticker. The validation sticker shall be displayed on or about the forward half of the vessel motorboat.

(e) Operation without sticker prohibited. Unless the vessel motorboat that is subject to the validation requirement of this section displays a current validation sticker:

(1) ~~a person~~ an individual may not operate the vessel motorboat on the waters of the State; and

(2) the owner may not knowingly permit the vessel motorboat to be operated on the waters of the State.

Sec. 16. 23 V.S.A. § 3310(a) is amended to read:

(a) The Commissioner of Forests, Parks and Recreation or a municipality in administering a swimming beach or waterfront program may designate a swimming area in front of the beach or land that the State or a municipality owns or controls and may make rules pertaining to the area. The rules may provide that no ~~person~~ individual, except a lifeguard on duty and other authorized personnel, may operate ~~any boat, canoe, or water vehicle~~ a vessel, seaplane, racing shell, or rowing scull of any sort within the designated swimming area.

Sec. 17. 23 V.S.A. § 3311(c) is amended to read:

(c) Distance requirements.

(1) An individual shall not operate any vessel, seaplane, racing shell, or rowing scull, except a sailboard or a police or emergency vessel, within 200 feet of the shoreline, ~~a person~~ an individual in the water, a canoe, rowboat, or other vessel, an anchored or moored vessel containing any individual, or anchorages or docks, except at a speed of less than five miles per hour that does not create a wake.

(2) An individual shall not operate any vessel, seaplane, racing shell, or rowing scull, except a nonmotorized canoe, a nonmotorized rowboat, or a police or emergency vessel, within 200 feet of a divers-down flag.

(3) Nothing in this subsection shall prohibit rendering assistance to another ~~person~~ individual, picking up ~~a person~~ an individual in the water, necessary mooring or landing, or leaving shore, or operating in any other place where obstruction, other than the shoreline, would prevent abiding by this statute.

(4) An individual shall not operate a vessel, except at speeds of less than five miles per hour, within 200 feet of a designated swimming area.

Sec. 18. 23 V.S.A. § 3311(h) is amended to read:

(h) Power of law enforcement officers; authority to stop and board. A law enforcement officer may stop and board any ~~motorized vessel~~ motorboat afloat on public waters of the State at any time to:

(1) inspect its documents;

(2) inspect the licenses and permits of the operator of the ~~vessel~~ motorboat; or

(3) conduct a safety inspection for required equipment.

Sec. 19. 23 V.S.A. §§ 3312, 3312a, and 3313 are amended to read:

§ 3312. OPERATIONS RULES AS BETWEEN VESSELS

(a) When two ~~boats~~ motorboats are approaching each other “head on” or in a manner so as to involve risk of collision, each ~~boat~~ motorboat shall bear to the right and pass the other ~~boat~~ motorboat on its left side.

(b) When ~~boats~~ two vessels approach each other obliquely or at right angles, the ~~boat~~ vessel approaching on the right side ~~has the right of way~~ should maintain its course and speed.

(c) ~~One boat~~ A vessel may overtake another vessel on either side but shall ~~grant the right of way to the overtaken boat~~ must be prepared to take early and substantial action to avoid collision. The vessel being overtaken should maintain its course and speed.

* * *

§ 3312a. OPERATION OF PERSONAL WATERCRAFT

(a) ~~A person under the age of 16~~ An individual less than 16 years of age shall not operate a personal watercraft.

(b) All ~~persons~~ individuals operating or riding on a personal watercraft shall wear a ~~Type I, II, or III~~ properly secured wearable U.S. Coast Guard-approved personal flotation device as intended by the manufacturer.

(c) Personal watercraft shall not be operated at any time between sunset and sunrise.

(d) Every ~~person~~ individual operating a personal watercraft equipped by the manufacturer with a lanyard type engine cut-off switch shall attach the lanyard to his or her wrist, clothing, or personal flotation device as appropriate for the specific craft.

§ 3313. COLLISIONS, ~~ACCIDENTS~~ CRASHES, AND CASUALTIES

(a) The operator of a vessel involved in a collision, ~~accident~~ crash, or other casualty, so far as he or she can do so without serious danger to his or her own

vessel, crew, and passengers, shall render to other ~~persons~~ individuals affected by the collision, ~~accident~~ crash, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, ~~accident~~ crash, or other casualty. Also, he or she shall give his or her name, address, and identification of his or her vessel in writing to any ~~person~~ individual injured and to the owner of any property damaged in the collision, ~~accident~~ crash, or other casualty.

(b) If a collision, ~~accident~~ crash, or other casualty involving a vessel results in death or injury to a ~~person~~ an individual or damage to property in excess of ~~\$100.00~~ \$2,000.00, the operator shall file with the Commissioner of Motor Vehicles within 36 hours a full description of the collision, ~~accident~~ crash, or other casualty, including such information as the Commissioner may, by rule, require.

Sec. 20. 23 V.S.A. § 3316(a) is amended to read:

(a) The Commissioner of Public Safety may authorize the holding of public regattas, motorboat or other ~~boat~~ vessel races, marine parades, tournaments, water skiing events, exhibitions, or triathlons on any waters of this State and any associated public roads. He or she shall adopt and may, from time to time, amend rules concerning the safety of motorboats and other vessels and ~~persons~~ individuals on these vessels, either observers or participants, and of ~~persons~~ individuals swimming, cycling, or running in or observing an event. Whenever a public regatta, motorboat or other ~~boat~~ vessel race, marine parade, tournament, water skiing event, exhibition, or triathlon is proposed to be held, the person in charge shall, at least 15 days prior to the event, file an application with the Department of Public Safety for permission to hold the regatta, motorboat or other ~~boat~~ vessel race, marine parade, tournament, water skiing event, exhibition, or triathlon. A copy of such application shall be sent to the municipality and organized lake association where the event is to be held 15 days in advance of the event to allow for comment. The application shall set forth the date, time, and location where it is proposed to hold the regatta, motorboat or other ~~boat~~ vessel race, marine parade, tournament, water skiing event, exhibition, or triathlon and it shall not be conducted without authorization of the Department of Public Safety in writing, except that this provision shall not apply to unscheduled ~~boat~~ vessel races to which the public has not been invited.

Sec. 21. 23 V.S.A. §§ 3320 and 3321 are amended to read:

§ 3320. ~~MOTOR PROPELLED BOATS~~ MOTORBOATS ON DUFRESNE
DAM WATERS PROHIBITED

(a) The use and operation of ~~motor propelled boats~~ motorboats on the waters impounded by the Dufresne Dam, so-called, on the Battenkill River in the town of Manchester is prohibited.

* * *

§ 3321. ~~MOTOR PROPELLED BOATS~~ MOTORBOATS IN SOUTH POND
PROHIBITED

(a) The use and operation of ~~motor propelled boats~~ motorboats on the waters of South Pond in the town of Marlboro is prohibited.

* * *

Sec. 22. 23 V.S.A. § 3801 is amended to read:

§ 3801. DEFINITIONS

* * *

(8) ~~“Motorboat” means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion, but shall not include a vessel that has a valid marine document issued by U.S. Customs and Border Protection or any successor federal agency. [Repealed.]~~

* * *

(11) “Owner” means a person, other than a lienholder, having property in or title to a vessel, snowmobile, or all-terrain vehicle. The term includes a person entitled to use or possess a vessel, snowmobile, or all-terrain vehicle subject to an interest in another person, which is reserved or created by agreement and securing payment of performance of an obligation, but it does not include a lessee under a lease not intended as security.

* * *

(19) “Vessel” means every description of ~~motorboat~~ watercraft capable of being used as a means of transportation on water that is equipped with machinery capable of propelling the watercraft, whether or not such machinery is the principal source of propulsion, but shall not include a watercraft that has a valid marine document issued by U.S. Customs and Border Protection or any successor federal agency.

* * *

* * * Replacing Accident with Crash Throughout Title 23 * * *

Sec. 23. REPLACEMENTS

When preparing the Vermont Statutes Annotated for publication in 2021, the Office of Legislative Counsel shall replace the words “accident” with “crash” and “accidents” with “crashes” and the phrase “an accident” with “a crash” in the following statutory sections: 23 V.S.A. §§ 102(a)(3) and (4), 108, 326, 364a(b), 454(a)(4), 603(a)(2), 607a(a), 704(3), 731(a), 750(b)(8) and (d)(8), 802(c) and (i), 804(d)(1), 809(a), 810, 843, 921, 941(f) and (g), 1001(a)(4), 1046(b)(2), 1128(b) and (c), 1201(c), 1202(d)(6)(B) and (f), 1203(g), 1603a, 1603b, 2502(a)(5)(D) and (b), 3206(b)(19), 3207(f), 3211, 3305(c)(1)(D), 3317(c), 3506(b)(13), 3511, 4102, and 4103(16)(E).

Sec. 24. 23 V.S.A. § 114(a)(7) and (8) are amended to read:

- | | |
|----------------------------------------------------------------|---------|
| (7) Certified copy individual accident crash report | \$12.00 |
| (8) Certified copy police accident crash report | \$18.00 |

Sec. 25. 23 V.S.A. § 4108(d)(1)(E) is amended to read:

(E) has not had any conviction for a violation, other than a parking violation, of military, state, or local law relating to motor vehicle traffic control arising in connection with any ~~traffic-accident~~ crash, and has no record of ~~an accident~~ a crash in which he or she was at fault; and

Sec. 26. 23 V.S.A. § 4121(b)(2)(E) and (F) are amended to read:

(E) has not had any conviction for a violation of state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any ~~traffic-accident~~ crash;

(F) has not been convicted of any motor vehicle traffic violation that resulted in ~~an accident~~ a crash; and

* * * Incorrect Capitalization * * *

Sec. 27. 23 V.S.A. § 4103(16)(E) is amended to read:

(E) A violation of any ~~State~~ state law or local ordinance relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any individual.

Sec. 28. 23 V.S.A. § 4116(a)(3) is amended to read:

(3) using a motor vehicle in the commission of any offense under ~~State~~ state or federal law that is punishable by imprisonment for a term exceeding one year;

Sec. 29. 23 V.S.A. § 4116(c)(2) is amended to read:

(2) any offense under ~~State~~ state or federal law that is punishable by imprisonment for a term exceeding one year involving the manufacture,

distribution, or dispensing of a regulated drug, or possession with intent to manufacture, distribute, or dispense a regulated drug where the person used a motor vehicle in the commission of the offense; or

Sec. 30. 23 V.S.A. § 4116a(e) is amended to read:

(e) An individual's privilege to operate a commercial motor vehicle in the State of Vermont shall be suspended for life if the individual uses a commercial motor vehicle in the commission of any offense under ~~State~~ state or federal law that is punishable by imprisonment for a term exceeding one year, involving the manufacture, distribution, or dispensing of a regulated drug, or possession with intent to manufacture, distribute, or dispense a regulated drug, and for which the individual was convicted.

* * * Commercial Driver's Licenses * * *

Sec. 31. 23 V.S.A. § 4108(b) is amended to read:

(b) The Commissioner shall not issue a commercial driver's license or commercial learner's permit to any individual:

* * *

(3) Unless Vermont is the state of domicile of the individual and the individual has passed a knowledge and skills test for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. Part 383, subparts F, G, and H, as may be amended, and has satisfied all other requirements of 49 C.F.R. Part 380 and 49 U.S.C. ch. Chapter 313, as may be amended, and the ~~Commercial Motor Vehicle Safety~~ Anti-Drug Abuse Act of 1986, Title XII of Pub. L. No. 99-570, Title XII (Commercial Motor Vehicle Safety Act of 1986), as may be amended, in addition to other requirements imposed by ~~state~~ State law or federal regulation. The tests shall be prescribed and conducted by the Commissioner.

* * * Records Inspection * * *

Sec. 32. 23 V.S.A. § 3836(a) is amended to read:

(a) Each person who purchases or in any manner acquires a vessel, snowmobile, or all-terrain vehicle as salvage shall keep and maintain for a period of not less than five years such records as may be prescribed by the Commissioner that are reasonably necessary to substantiate the information contained in the application required by sections ~~3840~~ 3833 and ~~3842~~ 3835 of this title. These records shall include parts and accessories obtained and used for the repair or rebuilding, or both, of a vessel, snowmobile, or all-terrain vehicle, and such financial records that will allow the Commissioner to

determine if the person qualifies to become or remain licensed as a “salvage dealer.”

* * * Enforcement in 1998 * * *

Sec. 33. REPEAL

23 V.S.A. § 1220 (drunken driving enforcement in fiscal year 1998) is repealed.

* * * Signal Lamps * * *

Sec. 34. 23 V.S.A. § 1252 is amended to read:

§ 1252. ISSUANCE OF PERMITS FOR SIRENS OR COLORED LAMPS,
OR BOTH; USE OF AMBER LAMPS

(a) When satisfied as to the condition and use of the vehicle, the Commissioner shall issue and may revoke, for cause, permits for sirens ~~or~~ and colored signal lamps in the following manner:

(1)(A) Sirens ~~or~~, blue signal lamps, or blue and white signal lamps, or a combination ~~of these thereof~~, may be authorized for all law enforcement vehicles owned or leased by a law enforcement agency, a certified law enforcement officer, or the Vermont Criminal Justice Council.

(B) A red signal lamp or an amber signal lamp, or a combination thereof, may be authorized for all law enforcement vehicles owned or leased by a law enforcement agency, a certified law enforcement officer, or the Vermont Criminal Justice Council, provided that the Commissioner shall require the lamp or lamps be mounted so as to be visible primarily from the rear of the vehicle.

(C) If the applicant is a constable, the application shall be accompanied by a certification by the town clerk that the applicant is the duly elected or appointed constable and attesting that the town has not voted to limit the constable’s authority to engage in enforcement activities under 24 V.S.A. § 1936a.

(2)(A) Sirens and red or red and white signal lamps may be authorized for all ambulances, ~~fire apparatus and other emergency medical service (EMS) vehicles, vehicles owned or leased by a fire department, vehicles used solely in rescue operations, or vehicles owned or leased by, or provided to, volunteer firefighters and voluntary rescue squad members, including a vehicle owned by a volunteer’s employer when the volunteer has the written authorization of the employer to use the vehicle for emergency fire or rescue activities.~~

(B) A blue signal lamp or an amber signal lamp, or a combination

thereof, may be authorized for all EMS vehicles or vehicles owned or leased by a fire department, provided that the Commissioner shall require the lamp or lamps be mounted so as to be visible primarily from the rear of the vehicle.

~~(3) No vehicle may be authorized a permit for more than one of the combinations described in subdivisions (1) and (2) of this subsection. [Repealed.]~~

(4) No motor vehicle, other than one owned by the applicant, shall be issued a permit until the Commissioner has recorded the information regarding both the owner of the vehicle and the applicant for the permit.

(5) Upon application to the Commissioner, the Commissioner may issue a single permit for all the vehicles owned or leased by the applicant.

(6) Sirens and red or red and white signal lamps, or sirens and blue or blue and white signal lamps, may be authorized for restored emergency or enforcement vehicles used for exhibition purposes. Sirens and lamps authorized under this subdivision may only be activated during an exhibition, such as a car show or parade.

~~(b) Amber signal lamps shall be used on road maintenance vehicles, service vehicles, and wreckers and shall be used on all registered snow removal equipment when in use removing snow on public highways, and the amber lamps shall be mounted so as to be visible from all sides of the motor vehicle. A vehicle equipped with an amber signal lamp may not be issued a permit for the installation and use of a siren.~~

Sec. 35. 23 V.S.A. § 1255 is amended to read:

§ 1255. EXCEPTIONS

(a) The provisions of section 1251 of this title shall not apply to directional signal lamps of a type approved by the Commissioner ~~of Motor Vehicles~~.

(b) All persons with motor vehicles equipped as provided in subdivisions 1252(a)(1) and (2) of this title shall use the sirens or colored signal lamps, or both, only in the direct performance of their official duties. When any person other than a law enforcement officer is operating a motor vehicle equipped as provided in subdivision 1252(a)(1) of this title, the colored signal ~~lamp~~ lamps shall be either removed, covered, or hooded. When any person other than an authorized ~~ambulance~~ emergency medical service vehicle operator, firefighter, or authorized operator of vehicles used in rescue ~~operation~~ operations is operating a motor vehicle equipped as provided in subdivision 1252(a)(2) of this title, the colored signal lamps shall be either removed, covered, or hooded unless the operator holds a senior operator license.

* * * All-Terrain Vehicles * * *

Sec. 36. 23 V.S.A. § 3502(a) is amended to read:

(a)(1) Except as otherwise provided in this section, an individual shall not operate an ATV on the VASA Trail System, on State land designated by the Secretary pursuant to subdivision 3506(b)(4) of this title, or along any highway that is not adjacent to the property of the operator unless the ATV:

(A) is registered pursuant to this title or in accordance with subsection (e) of this section; and

(B) displays a valid VASA Trail Access Decal (TAD).

(2) Notwithstanding subdivision (1) of this subsection, neither registration nor display of a TAD is required to operate an ATV:

* * *

~~(E) On frozen bodies of water as designated by the Agency of Natural Resources under the provisions of 10 V.S.A. § 2607. Notwithstanding subdivision 3506(b)(16) of this title, protective headgear is not required when an ATV is operated on a frozen body of water pursuant to this subdivision. [Repealed.]~~

* * *

(4) Notwithstanding subdivision (1) of this subsection and subdivision 3506(b)(16) of this title, neither the display of a TAD nor the use of protective headgear is required to operate an ATV on frozen bodies of water as designated by the Agency of Natural Resources under the provisions of 10 V.S.A. § 2607.

Sec. 37. 23 V.S.A. § 3506(b) is amended to read:

(b) An ATV shall not be operated:

* * *

(16) Unless At locations where the ATV must be registered in order to be lawfully operated under section 3502 of this title unless the operator and all passengers wear:

(A) properly secured protective headgear, of a type approved by the Commissioner and as intended by the manufacturer, if the ATV is operated at locations where the ATV must be registered in order to be lawfully operated under section 3502 of this title that is used as intended by the manufacturer of the headgear and conforms to the Federal Motor Vehicle Safety Standards

contained in 49 C.F.R. § 571.218, as amended, and any applicable regulations promulgated by the U.S. Secretary of Transportation; or

(B) properly secured protective headgear that is used as intended by the manufacturer of the headgear and conforms to ASTM International or National Operating Committee on Standards for Athletic Equipment safety standards, provided that the ATV is equipped with manufacturer-installed rollover protection and safety belts that have not been removed or modified in a way that reduces their effectiveness.

* * * Effective Dates * * *

Sec. 38. EFFECTIVE DATES

(a) This section (effective dates) shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214, Sec. 5 (certificate of title; 23 V.S.A. § 2015(c)) shall take effective retroactively on April 1, 2020.

(c) Notwithstanding 1 V.S.A. § 214, Secs. 1 (display of number plates; 23 V.S.A. § 511) and 2 (temporary plate; 23 V.S.A. § 518) shall take effect retroactively on September 8, 2020.

(d) All other sections shall take effect on July 1, 2021.

(Committee vote: 11-0-0)

(For text see Senate Journal February 26, 2021)

Rep. Brennan of Colchester, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Transportation.

(Committee Vote: 9-0-2)

S. 102

An act relating to the regulation of agricultural inputs for farming

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

* * * Compost Foraging; Farming * * *

Sec. 1. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

As used in this chapter:

* * *

(3)(A) “Development” means each of the following:

* * *

(D) The word “development” does not include:

(i) The construction of improvements for farming, logging, or forestry purposes below the elevation of 2,500 feet.

* * *

(vii) The construction of improvements below the elevation of 2,500 feet for the on-site storage, preparation, and sale of compost, provided that one of the following applies:

* * *

(III) The compost is principally used on the farm where it was produced.

* * *

(22) “Farming” means:

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

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

(C) the operation of greenhouses; or

(D) the production of maple syrup; or

(E) the on-site storage, preparation, and sale of agricultural products principally produced on the farm; or

(F) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or

(G) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines; or

(H) the importation of 2,000 cubic yards per year or less of food residuals or food processing residuals onto a farm for the production of compost, provided that:

(i) the compost is principally used on the farm where it is produced; or

(ii) the compost is produced on a small farm that raises or manages poultry.

* * *

(38) “Farm” means, for the purposes of subdivision (22)(H) of this section, a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming that meets the threshold criteria as established under the Required Agricultural Practices.

(39) “Food processing residuals” means the remaining organic material from a food processing plant and may include whey and other dairy, cheese making, and ice cream residuals or residuals from any food manufacturing process excluding livestock or poultry slaughtering and rendering operations. “Food processing residuals” does not include food residuals from markets, groceries, or restaurants.

(40) “Food residuals” has the same meaning as in section 6602 of this title.

(41) “Principally used” means, for the purposes of subdivision (3)(D)(vii)(III) and (22)(H) of this section, that more than 50 percent, either by volume or weight, of the compost produced on the farm is physically and permanently incorporated into the native soils on the farm as a soil enhancement and is not removed or sold at any time thereafter.

(42) “Small farm” has the same meaning as in 6 V.S.A. § 4871.

Sec. 2. Section 2 of the Agency of Agriculture, Food and Markets,

Vermont Required Agricultural Practices Rule for the Agricultural

Nonpoint Source Pollution Control Program is amended to read:

Section 2. Definitions

* * *

2.16 Farming means:

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

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

(c) the operation of greenhouses; or

- (d) the production of maple syrup; or
- (e) the on-site storage, preparation, and sale of agricultural products principally produced on the farm; or
- (f) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or
- (g) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines; or
- (h) the importation of 2,000 cubic yards per year or less of food residuals or food processing residuals onto a farm for the production of compost, provided that:
 - (1) the compost is principally used on the farm where it is produced; or
 - (2) the compost is produced on a small farm that raises or manages poultry.

* * *

2.44 “Food residual” means source separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable, in a manner consistent with 10 V.S.A. § 6605k. Food residual may include preconsumer and postconsumer food scraps. “Food residual” does not mean meat and meat-related products when the food residuals are composted by a resident on site.

2.45 “Principally used” means that more than 50 percent, either by volume or weight, of the compost produced on the farm is physically and permanently incorporated into the native soils on the farm as a soil enhancement and is not removed or sold at any time thereafter.

Sec. 3. 6 V.S.A. chapter 218 is added to read:

CHAPTER 218. AGRICULTURAL RESIDUALS MANAGEMENT

§ 5131. PURPOSE

The purpose of this chapter is to establish a program for the management of residual wastes generated, imported to, or managed on a farm for farming in Vermont.

§ 5132. DEFINITIONS

As used in this chapter:

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

(2) “Compost” means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management but shall not mean sewage, septage, or materials derived from sewage or septage.

(3) “Farm” means a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming that meets the threshold criteria for regulation under the Required Agricultural Practices.

(4) “Farming” has the same meaning as in 10 V.S.A. § 6001(22).

(5) “Food processing residuals” means the remaining organic material from a food processing plant and may include whey and other dairy, cheese making, and ice cream residuals or residuals from any food manufacturing process excluding livestock or poultry slaughtering and rendering operations. “Food processing residuals” do not include food residuals from markets, groceries, or restaurants.

(6) “Food residuals” means source separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable or compostable. “Food residuals” may include preconsumer and postconsumer food scraps. “Food residuals” include meat and meat-related products when the disposition of the products is managed on a farm.

(7) “Secretary” means the Secretary of Agriculture, Food and Markets.

(8) “Source separation” has the same meaning as in 10 V.S.A. § 6602.

§ 5133. FOOD RESIDUALS; RULEMAKING

(a) The Secretary shall regulate the importation of food residuals or food processing residuals onto a farm.

(b)(1) The Secretary shall adopt by rule requirements for the management of food residuals and food processing residuals on a farm. The rules may include requirements regarding:

(A) the proper composting of food residuals or food processing residuals;

(B) destruction of pathogens in food residuals, food processing residuals, or compost;

(C) prevention of public health threat from food residuals, food processing residuals, or compost;

(D) protection of natural resources or the environment; and

(E) prevention of objectionable odors, noise, vectors, or other nuisance conditions.

(2) The Secretary may adopt the rules required by this section as part of the Required Agricultural Practices or as independent rules under this chapter.

(3) The rules shall prohibit a farm from initiating the production of compost from food residuals or food processing residuals imported onto the farm on or after July 1, 2021 within a downtown, village center, new town center, neighborhood development area, or growth center designated under 24 V.S.A. chapter 76a, unless the municipality has expressly allowed composting in the designated area under the municipal zoning or subdivision bylaws or in an approved municipal plan.

(4) The rules adopted under this section shall be designed to reduce odor, noise, vectors, and other nuisance conditions on farms and to protect the public health and the environment in a manner that is equal to or better than the rules for compost facilities in the Agency of Natural Resources' Vermont Solid Waste Management Rules, as amended.

(c) A farm producing compost under 10 V.S.A. § 6001(22)(H) shall be regulated under this chapter and shall not require a certification or other approval from the Agency of Natural Resources under 10 V.S.A. chapter 159.

Sec. 4. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

(a)(1) No person shall construct, substantially alter, or operate any solid waste management facility without first obtaining certification from the Secretary for such facility, site, or activity, except for sludge or septage treatment or storage facilities located within the fenced area of a domestic wastewater treatment plant permitted under chapter 47 of this title. This exemption for sludge or septage treatment or storage facilities shall exist only if:

* * *

(2) Certification shall be valid for a period not to exceed 10 years.

* * *

(n) A farm producing compost under subdivision 6001(22)(H) is exempt from the requirements of this section.

Sec. 5. 10 V.S.A. § 6605h is amended to read:

§ 6605h. COMPOSTING REGISTRATION

Notwithstanding sections 6605, 6605f, and 6611 of this title, the Secretary may, by rule, authorize a person engaged in the production or management of compost at a small scale composting facility to register with the Secretary instead of obtaining a facility certification under section 6605 or 6605c of this title. This section shall not apply to a farm producing compost under subdivision 6001(22)(H) of this title.

Sec. 6. 10 V.S.A. § 6605j is amended to read:

§ 6605j. ACCEPTED COMPOSTING PRACTICES

(a) The Secretary, in consultation with the Secretary of Agriculture, Food and Markets, shall adopt by rule, pursuant to 3 V.S.A. chapter 25, and shall implement and enforce accepted composting practices for the management of composting in the State. These accepted composting practices shall address:

(1) standards for the construction, alteration, or operation of a composting facility;

(2) standards for facility operation, including acceptable quantities of product or inputs, vector management, odors, noise, traffic, litter control, contaminant management, operator training and qualifications, recordkeeping, and reporting;

(3) standards for siting of composting facilities, including siting and operation of compost storage areas, compost bagging areas, and roads and parking areas;

(4) standards for the composting process, including rotation, management of compost piles, compost pile size, and monitoring of compost operations;

(5) standards for management of runoff from compost facilities, including liquids management from the feedstock area, active composting areas, curing area, and compost storage area; the use of swales or stormwater management around or within a compost facility; vegetative buffer requirements; and run-off management from tipping areas;

(6) specified areas of the State unsuitable for the siting of commercial composting that utilizes post-consumer food residuals or animal mortalities, such as designated downtowns, village centers, village growth areas, or areas of existing residential density; and

(7) definitions of “small-scale composting facility,” “medium-scale composting facility,” and “de minimis composting exempt from regulation.”

(b) A person operating a small scale composting facility ~~or operating a composting facility on a farm~~ who follows the accepted composting practices

shall not be required to obtain a discharge permit under section 1263 or 1264 of this title, a solid waste facility certification under chapter 159 of this title, or an air emissions permit under chapter 23 of this title unless a permit is required by federal law or the Secretary of Natural Resources determines that a permit is necessary to protect public health or the environment.

~~(c) The Secretary of Natural Resources shall coordinate with the Secretary of Agriculture, Food and Markets in implementing and enforcing the accepted composting practices. The Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources may, after opportunity for public review and comment, develop a memorandum of understanding for implementation and enforcement of the accepted composting practices. [Repealed.]~~

~~(d) The Secretary shall not regulate under this section a farm producing compost under subdivision 6001(22)(H) of this title.~~

Sec. 7. APPLICATION OF SOLID WASTE MANAGEMENT RULES

Prior to adoption of rules under 6 V.S.A. § 5133, the Secretary of Agriculture, Food and Markets shall require a person producing compost on a farm under 10 V.S.A. § 6001(22)(H) to comply with Sections 6-1101 through 6-1111 of the Agency of Natural Resources' Vermont Solid Waste Management Rules. After adoption of rules under 6 V.S.A. § 5133, Sections 6-1101 through 6-1111 of the Agency of Natural Resources' Vermont Solid Waste Management Rules shall not apply to a person producing compost on a farm under 10 V.S.A. § 6001(22)(H).

Sec. 8. REPORT ON IMPORTATION OF FOOD RESIDUALS FOR FARMING

On or before January 15, 2022 and annually thereafter, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committees on Agriculture and on Natural Resources and Energy and the House Committees on Agriculture and Forestry and on Natural Resources, Fish, and Wildlife a report regarding importation of food residuals for composting under 10 V.S.A. § 6001(22)(H). The report shall include:

(1) an inventory of the operators of farms that are producing compost under 10 V.S.A. § 6001(22)(H), including the estimated volume of food residuals imported onto farms;

(2) a status report on the rulemaking required under 6 V.S.A. § 5133 and any subsequent amendment to those rules;

(3) an accounting of any complaints regarding or enforcement actions brought against a farm producing compost under 10 V.S.A. § 6001(22)(H); and

(4) any additional information that the Secretary determines is relevant to the administration of compost production under 10 V.S.A. § 6001(22)(H).

Sec. 8a. RULEMAKING; IMPLEMENTATION

The Secretary of Agriculture, Food and Markets shall initiate the rulemaking required under 6 V.S.A. § 5133 on or before January 1, 2022. The Secretary of Agriculture, Food and Markets shall file under 3 V.S.A. § 841 a final proposal of the rules required under 6 V.S.A. § 5133 on or before January 1, 2023.

* * * Dosage Form Animal Health Products; Feed Supplements * * *

Sec. 9. 6 V.S.A. chapter 26 is amended to read:

CHAPTER 26. COMMERCIAL FEEDS

* * *

§ 323. DEFINITIONS

~~When~~ As used in this chapter:

(1) “Dosage form animal health product” means any product intended to affect the structure or function of the animal’s body or enhance or support the health or well-being of livestock, poultry, dogs, cats, or other domestic animals that does not provide nutritional benefit, does not require a prescription from a licensed veterinarian, is not intended for cosmetic purposes, or is exempted by the Secretary by rule. “Dosage form animal health product” shall not include a product regulated by the U.S. Food and Drug Administration as a drug.

(2) “Brand name” means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed, feed supplement, dosage form animal health product, or a distributor or registrant and distinguishing it from that of others.

~~(2)~~(3) “Commercial feed” means all materials except whole seeds unmixed or physically altered entire unmixed seeds, when not adulterated within the meaning of subsection 327(a) of this title, which ~~that~~ are distributed for use as feed or for mixing in feed. The Secretary by regulation may exempt from this definition, or from specific provisions of this chapter, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds, or substances

are not intermixed or mixed with other materials; and are not adulterated within the meaning of subsection 327(a) of this title.

~~(3)~~(4) “Customer-formula feed” means commercial feed that consists of a mixture of commercial feeds or feed ingredients each batch of which is manufactured according to the specific instructions of the final purchaser.

~~(4)~~(5) “Distribute” means to offer for sale, sell, exchange, or barter commercial feed, feed supplements, or dosage form animal health products or to supply, furnish, or otherwise provide commercial feed, feed supplements, or dosage form animal health products through any means, including sales outlets, catalogues, the telephone, the Internet, or any electronic means.

~~(5)~~(6) “Distributor” means any person who distributes commercial feeds, feed supplements, or dosage form animal health products.

~~(6)~~(7) “Drug” means any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in domestic animals other than humans and substances other than feed intended to affect the structure or any function of the animal body.

~~(7)~~(8) “Feed ingredient” means each of the constituent materials making up a commercial feed.

(9) “Feed supplement” means a material used with another to improve the nutritive balance or performance of the total and intended to be fed undiluted as a supplement to other feeds or offered free choice with other parts of the ration separately available or further diluted and mixed to produce a complete feed.

~~(8)~~(10) “Label” means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed, feed supplement, or dosage form animal health product is distributed, or on the invoice or delivery slip with which a commercial feed, feed supplement, or dosage form animal health product is distributed.

~~(9)~~(11) “Labeling” means all labels and other written, printed, or graphic matter upon a commercial feed, feed supplement, or dosage form animal health product or any of its containers, or the wrapper accompanying the commercial feed, feed supplement, or dosage form animal health product or advertisements, brochures, posters, electronic media, the Internet, and television and radio announcements used in promoting the sale of the commercial feed, feed supplement, or dosage form animal health product.

~~(10)~~(12) “Manufacture” means to produce, grind, mix, or blend, or further process a commercial feed, feed supplement, or dosage form animal health product for distribution.

(11)(13) “Mineral feed” means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

(12)(14) “Official sample” means a sample of feed taken by the Secretary in accordance with the provisions of subdivision 330(3) of this title.

(13)(15) “Percent” or “percentages” means percentages by weights.

(14)(16) “Permitted analytical variances” means those allowances for the inherent variability in sampling and laboratory analysis.

(15)(17) “Pet” means any domesticated animal normally maintained in or near the household of the owner.

(16)(18) “Pet food” means any commercial feed prepared and distributed for consumption by pets.

(17)(19) “Product” means the name of the commercial feed ~~which, feed supplement, or dosage form animal health product~~ that identifies it as to kind, class, or specific use.

(18)(20) “Specialty pet” means any domesticated animal pet normally maintained in a cage or tank.

(19)(21) “Specialty pet food” means any commercial feed prepared and distributed for consumption by specialty pets.

(20)(22) “Ton” means a net weight of 2,000 pounds avoirdupois.

§ 324. REGISTRATION AND FEES

(a) No person shall manufacture or distribute a commercial feed, feed supplement, or dosage form animal health product in this State unless that person has first filed with the ~~Vermont~~ Agency of Agriculture, Food and Markets, in a form and manner to be prescribed by rules by the Secretary:

- (1) the name of the manufacturer or distributor;
- (2) the manufacturer’s or distributor’s place of business;
- (3) the location of each manufacturing or distribution facility; and
- (4) any other information that the Secretary considers to be necessary.

(b) A person shall not distribute in this State a commercial feed, feed supplement, or dosage form animal health product that has not been registered pursuant to the provisions of this chapter. Application shall be in a form and manner to be prescribed by rule of the Secretary. The Secretary shall have the authority to determine whether a product subject to an application shall be registered as a commercial feed, feed supplement, or dosage form animal health product.

(c)(1) The application for registration of a commercial feed or feed supplement shall be accompanied by a registration fee of \$105.00 per product. The registration fees, along with any surcharges collected under subsection (e)(d) of this section, shall be deposited in the special fund created by subsection 364(e) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to fertilizer, lime, or seeds. If the Secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

(2) The application for registration of a dosage form animal health product shall be accompanied by a registration fee of \$50.00 per product. The registration fees, along with any surcharges collected under subsection (d) of this section, shall be deposited in the special fund created by subsection 364(e) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to items registered under this chapter. If the Secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

(e)(d) No person shall distribute in this State any commercial feed, feed supplement, or dosage form animal health product required to be registered under this chapter upon which the Secretary has placed a withdrawal from distribution order because of nonregistration. A surcharge of \$10.00, in addition to the registration fee required by subsection (b)(c) of this section, shall accompany the application for registration of each product upon which a withdrawal from distribution order has been placed for reason of nonregistration, and must be received before removal of the withdrawal from distribution order.

(d)(e) No person shall distribute a commercial feed product in the State that is labeled as bait or feed for white-tailed deer.

§ 325. LABELING

(a) A commercial feed or feed supplement, except a customer-formula feed, shall be accompanied by a label bearing the following information:

- (1) the net weight;
- (2) the product name and the brand name, if any, under which the commercial feed or feed supplement is distributed;
- (3) the guaranteed analysis as required by rule in section 329 of this title;

(4) the common, usual name or collective term of each ingredient used in the manufacture of the commercial feed or feed supplement in descending order;

(5) the name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed or feed supplement;

(6) adequate directions for use for all commercial feeds or feed supplements containing drugs and for such other feeds as the Secretary may require by rule as necessary for their safe and effective use; and

(7) precautionary statements required to ~~assure~~ ensure the safe and effective use of the commercial feed or feed supplement.

(b) A dosage form animal health product shall be accompanied by a label bearing the following information:

(1) the net weight or count;

(2) the product name and the brand name, if any, under which the dosage form animal health product is distributed;

(3) the established name of each active ingredient and the amount of active ingredient per serving in descending order;

(4) the established name of each inactive ingredient in alphabetical order or in descending order by predominance of the ingredient;

(5) the name, city, and town of the manufacturer or the person responsible for distributing the dosage form animal health product or an e-mail address for the manufacturer or distributor;

(6) adequate directions for use of the dosage form animal health product;

(7) precautionary statements and warnings required to ensure the safe and effective use of the dosage form animal health product; and

(8) structure-function claim stating the intended use of the dosage form animal health product.

(c) Customer-formula feed shall be accompanied by a label, invoice, delivery slip, or other shipping document, bearing the following information:

(1) name and address of the manufacturer;

(2) name and address of the purchaser;

(3) date of delivery;

(4) the name of each commercial feed and each other ingredient used in the mixture;

(5) adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the Secretary may require by rule to ~~assure~~ ensure their safe and effective use;

(6) the direction for use and precautionary statements;

(7) when a drug-containing product is used:

(A) the purpose of the medication or a claim statement; and

(B) the established name of each active drug ingredient and the level of each drug used in the final mixture; and

(8) the guaranteed analysis as required by rule pursuant to section 329 of this title.

~~(e)~~(d) For purposes of labeling customer-formula feeds, the guaranteed analysis is not required when:

(1) one or more of the ingredients are provided to the manufacturer by the final purchaser; or

(2) the manufacturer uses a guaranteed analysis provided by the final purchaser as part of the specific instructions for blending a customer-formula feed.

§ 326. MISBRANDING

A commercial feed, feed supplement, or dosage form animal health product shall be deemed to be misbranded if:

(1) its labeling is false or misleading in any particular;

(2) it is distributed under the name of another commercial feed, feed supplement, or dosage form animal health product;

(3) it is not labeled as required in section 325 of this title;

(4) it purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless the commercial feed or feed ingredient conforms to the definition, if any, prescribed by rule of the Commissioner; or

(5) information required to appear on the label in a conspicuous manner cannot be easily identified or understood under customary conditions of purchase and use.

§ 327. ADULTERATION

(a) A commercial feed including whole seeds shall be deemed to be adulterated if it bears or contains any poisonous or deleterious substance ~~which~~ that may render it injurious to human or animal health, but in case the substance is not an added substance, the commercial feed shall not be considered adulterated under this subsection if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health.

(b) Any other commercial feed, feed supplement, or dosage form animal health product shall be deemed to be adulterated if:

(1) any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor;

(2) its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;

(3) if use of the product may result in contamination of a raw agricultural product;

(4) it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice and rules promulgated by the Secretary to assure that the drug meets the requirement of this chapter as to safety and has the identity and strength and meets the quality and purity characteristics ~~which~~ that it purports or is represented to possess; or

~~(4)~~(5) it contains viable weed seeds in amounts exceeding the limits that the Secretary shall establish by rule.

§ 328. TONNAGE REPORTING

~~(a) Every person who registers a commercial feed pursuant to the provisions of this chapter shall report to the Agency of Agriculture, Food and Markets annually the total amount of combined feed is distributed within the State and which is intended for use within the State. The report shall be made on forms and in a manner to be prescribed by the Secretary for calendar years 2016 and 2017.~~

~~(b) This reporting requirement shall not apply to pet foods, within the meaning of subdivisions 323(16) and (19) of this title, and shall not apply to feeds intended for use outside the State. [Repealed.]~~

§ 329. RULES

(a) The Secretary is authorized to adopt rules establishing procedures or standards, or both, for product registration, labeling, adulteration, reporting,

inspection, sampling, guarantees, product analysis, or other conditions necessary for the implementation and enforcement of this chapter. Where appropriate, the rules shall be consistent with the model rules developed by the Association of American Feed Control Officials and regulations adopted by the federal Food, Drug and Cosmetic Act, 21 U.S.C. § 301 et seq.

(b) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization, together with any regulation promulgated pursuant to the authority of the federal Food, Drug and Cosmetic Act, 21 U.S.C. § 301 et seq., relevant to the subject matter of this chapter, are hereby adopted as rules under this chapter, together with all subsequent amendments. The Secretary may, by rule, amend or repeal any rule adopted under this subsection.

(c) A person shall not manufacture or distribute raw milk as a commercial feed, feed supplement, or dosage form animal health product in the State for any species unless all of the following conditions are satisfied:

(1) the raw milk shall be decharacterized using a sufficient method to render it distinguishable from products packaged for human consumption;

(2) raw animal feed, feed supplements, dosage form animal health products, or pet food products shall be packaged in containers that are labeled “not for human consumption”;

(3) raw animal feed, feed supplements, dosage form animal health products, or pet food products shall not be stored or placed for retail sale with, or in the vicinity of, milk or milk products intended for human consumption; and

(4) notwithstanding any rule adopted under subsection (b) of this section to the contrary of the provisions of this subsection, the manufacture and distribution of raw animal feed, feed supplements, dosage form animal health products, or pet food products shall comply with the requirements of this chapter.

§ 330. INSPECTION; SAMPLING; ANALYSIS

(a) For the purpose of enforcing this chapter and determining whether or not an operation may be subject to these provisions, the Secretary upon presenting appropriate credentials is authorized:

(1) to enter any premises during normal business hours where commercial feeds, feed supplements, or dosage form animal health products are manufactured, processed, packed, or held for distribution and to stop and enter any vehicle being used to transport or hold feeds;

(2) to inspect factories, warehouses, establishments, vehicles, equipment, finished and unfinished materials, containers, and labeling;

(3) to sample commercial feed ~~and~~, feed ingredients, feed supplements, or dosage form animal health products.

(b) Sampling and analysis shall be conducted in accordance with methods published by the Association of Official Analytical Chemists or in accordance with other generally recognized methods. The results of all analyses of official samples shall be forwarded by the Secretary to the correspondent named in the registration form and to the purchaser. When the inspection and analysis of an official sample indicates that a commercial feed, feed supplement, or dosage form animal health product has been adulterated or misbranded and upon request within 30 days following receipt of the analysis, the Secretary shall furnish to the registrant a portion of the sample concerned.

§ 331. PRODUCT DEFICIENCY; SHORT WEIGHT

(a) No registrant may produce, package, distribute, or possess any commercial feed, feed supplement, or dosage form animal health product that is short weight or deficient in either guaranteed ingredients or guaranteed analysis. The Secretary by rule shall establish permitted analytical variances that shall be used to determine whether a commercial feed, feed supplement, or dosage form animal health product is deficient.

(b) The Secretary is authorized to assess administrative penalties for any product found to be short weight or deficient in guaranteed analysis. In assessing these penalties, the Secretary shall give consideration to the appropriateness of the penalty with respect to the size of the business being assessed, the gravity of the violation, the good faith of the registrant, and the overall history of prior violations. Administrative penalties shall be paid to the Secretary for deposit and use in the revolving account established by subsection 364(e) of this title. Penalties shall be assessed in the following manner:

(1) any registrant who is found to have violated this section for a particular product for the first time during any calendar year shall receive an administrative penalty of not more than \$150.00;

(2) any registrant who is found to have violated this section with regard to the same product for the second time during the same calendar year shall receive an administrative penalty of not more than \$300.00; and

(3) any registrant who is found to have violated this section with regard to the same product on three or more occasions during the same calendar year shall receive an administrative penalty of not more than \$500.00.

(c) In assessing a penalty under this section, the Secretary shall issue a written notice of penalty to the registrant setting forth in a short and plain statement the alleged violation and the proposed fine. The notice shall state that the penalty will become final 14 days from the date the notice of penalty is issued unless the registrant requests a hearing before the Secretary.

(d) Any registrant aggrieved by a decision of the Secretary may appeal questions of law to a Superior Court within 30 days of the final decision of the Secretary. The Secretary may enforce a final administrative penalty by filing an action in any District or Superior Court.

§ 332. DETAINED COMMERCIAL FEEDS, FEED SUPPLEMENTS, OR
DOSAGE FORM ANIMAL HEALTH PRODUCTS

(a) ~~“Withdrawal from distribution”~~ Withdrawal from distribution orders. When the Secretary has reasonable cause to believe any lot of commercial feed, feed supplement, or dosage form animal health product is being distributed in violation of any of the provisions of this chapter or any of the rules under this chapter, he or she may issue and enforce a written or printed “~~withdrawal from distribution~~” order, warning the distributor not to dispose of the lot of commercial feed, feed supplement, or dosage form animal health product in any manner until written permission is given by the Secretary or the court. The Secretary shall release the lot of commercial feed, feed supplement, or dosage animal health product withdrawn when this chapter and rules have been complied with. If compliance is not obtained within 30 days, the Secretary may begin, or upon request of the distributor or registrant shall begin, proceedings for condemnation.

(b) ~~“Condemnation and confiscation.”~~ Any lot of commercial feed, feed supplement, or dosage form animal health product not in compliance with this chapter and rules shall be subject to seizure on complaint of the Secretary to a court of competent jurisdiction in the area in which the commercial feed is located. In the event the court finds the commercial feed, feed supplement, or dosage form animal health product to be in violation of this chapter and orders the condemnation of the commercial feed, feed supplement, or dosage form animal health product, it shall be disposed of in any manner consistent with the quality of the commercial feed, feed supplement, or dosage form animal health product and the laws of the State, provided that in no instance shall the disposition of the commercial feed, feed supplement, or dosage form animal health product be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial feed, feed supplement, or dosage form animal health product or for permission to process

or relabel the commercial feed, feed supplement, or dosage form animal health product to bring it into compliance with this chapter.

* * *

§ 336. ADMINISTRATIVE PENALTY

Consistent with chapter 1 of this title, the Secretary may assess an administrative penalty upon determining that a person has violated a rule issued under this chapter or has violated this chapter in the following manner:

(1) Distributed a feed, feed supplement, or dosage form animal health product without first obtaining the appropriate product registration.

(2) Distributed a commercial feed, feed supplement, or dosage form animal health product without appropriate labeling.

(3) Violated a cease and desist order.

(4) Failed to meet the product guarantee on the label or for the custom formula feed.

(5) Distributed a commercial feed which, feed supplement, or dosage form animal health product that is adulterated as defined in section 327 of this chapter.

* * * Plant Amendments; Plant Biostimulants; Soil Amendments * * *

Sec. 10. 6 V.S.A. chapter 28 is amended to read:

CHAPTER 28. FERTILIZER AND LIME

§ 361. TITLE

This chapter shall be known as the “Fertilizer and Lime Law of 1986.”

§ 362. ENFORCING OFFICIAL

This chapter shall be administered by the Secretary of Agriculture, Food and Markets, or his or her designee, hereafter referred to as the Secretary.

§ 363. DEFINITIONS

As used in this chapter:

(1) “Agricultural lime” or “agricultural liming material” or “lime” means ~~and includes~~:

(A) all products ~~whose~~ with calcium and magnesium compounds that are capable of neutralizing soil acidity and ~~which~~ that are intended, sold, or offered for sale for agricultural or plant propagation purposes;

(B) limestone consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity; or

(C) industrial waste or industrial by-products ~~which~~ that contain calcium, calcium and magnesium, or calcium, magnesium, and potassium in forms that are capable of neutralizing soil acidity and which are intended, sold, or offered for sale for agricultural purposes. For the purposes of this chapter, the terms “agricultural lime,” “lime,” and “agricultural liming material” shall have the same meaning.

(2) “Brand” means a term, design, or trademark used in connection with one or more grades or formulas of fertilizer, plant amendment, plant biostimulant, soil amendment, or lime.

(3) “Distribute” means to import, consign, manufacture, produce, compound, mix, or blend fertilizer or to offer for sale, sell, barter, or otherwise supply ~~or apply~~ a fertilizer, a plant amendment, a plant biostimulant, a soil amendment, or lime in this State. “Distribute” shall include online sales.

(4) “Distributor” means any person who distributes fertilizer, plant amendments, plant biostimulants, soil amendments, or lime.

(5) “Exceptional quality biosolid” means a product derived in whole or in part from domestic wastes that have been subjected to and meet the requirements of the following:

(A) a pathogen reduction process established in 40 C.F.R. § 503.32(a)(3), (4), (7), or (8);

(B) one of the vector attraction reduction standards established in 40 C.F.R. part 503.33;

(C) the contaminant concentration limits in Vermont Solid Waste Rules § 6-1303(a)(1); and

(D) if derived from a composting process, Vermont Solid Waste Rules § 6-1303(a)(4).

~~(5)~~(6) “Fertilizer” means any substance containing one or more recognized plant nutrients that is used for its plant nutrient content and that is designed for use or claimed to have value in promoting plant growth or health, except unprocessed animal or vegetable manures and other products exempted by the Secretary.

(A) A fertilizer material is a substance that either:

(i) contains important quantities of at least one of the primary plant nutrients: nitrogen, phosphorus, or potassium;

(ii) has 85 percent or more of its plant nutrient content present in the form of a single chemical compound; or

(iii) is derived from a plant or chemical residue or by-product or natural material deposit ~~which~~ that has been processed in such a way that its content of plant nutrients has not been materially changed except by purification and concentration.

(B) A mixed fertilizer is a fertilizer containing any combination or mixture of fertilizer materials.

(C) A specialty fertilizer is a fertilizer distributed for nonfarm use.

(D) A bulk fertilizer is a fertilizer distributed in a nonpackaged form.

(7) “Formulation” means a material or mixture of materials prepared according to a particular formula.

~~(6)~~(8) “Grade” means the percentage of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or potash stated in whole numbers in the same terms, order, or percentages as in the guaranteed analysis. Specialty fertilizers and fertilizer materials may be guaranteed in fractional terms. Any grade expressed in fractional terms ~~which~~ that is not preceded by a whole number shall be preceded by zero.

~~(7)~~(9) “Guaranteed analysis” means:

(A) in reference to fertilizer, the minimum percentages of plant nutrients claimed by the manufacturer or producer of the product in the following order and form: nitrogen, phosphorus, and potash; and

(B) in reference to agricultural lime or agricultural liming material, the minimum percentages of calcium oxide and magnesium oxide or calcium carbonate and the calcium carbonate equivalent, or both, as claimed by the manufacturer or producer of the product.

~~(8)~~(10) “Label” means the display of all written, printed, or graphic matter upon the immediate container, or a statement accompanying a fertilizer, plant amendment, plant biostimulant, soil amendment, or lime.

~~(9)~~(11) “Labeling” means all written, printed, or graphic material upon or accompanying any ~~lime or~~ fertilizer, plant amendment, plant biostimulant, soil amendment, or lime including advertisements, brochures, posters, and television and radio announcements used in promoting the sale of the ~~lime or~~ fertilizer, plant amendment, plant biostimulant, soil amendment, or lime.

~~(10)~~(12) “Official sample” means any sample of fertilizer, plant amendment, plant biostimulant, soil amendment, or lime taken by the Secretary.

(13) “Plant amendment” means any substance applied to plants or seeds that is intended to improve growth, yield, product quality, reproduction, flavor or other favorable characteristics of plants, except for fertilizer, soil amendments, agricultural liming materials, animal and vegetable manures, pesticides, plant regulators, and other materials exempted by rule adopted under this chapter.

(14) “Plant biostimulant” means a substance or microorganism that, when applied to seeds, plants, or the rhizosphere, stimulates natural processes to enhance or benefit nutrient uptake, nutrient efficiency, tolerance to abiotic stress, or crop quality and yield except for fertilizers, soil amendments, plant amendments, or pesticides. The Secretary may modify the definition of “plant biostimulant” by rule or procedure in order to maintain consistency with U.S. Department of Agriculture requirements.

~~(11)~~(15) “Percent” or “percentage” means the percentage by weight.

~~(12)~~(16) “Primary nutrient” includes nitrogen, available phosphoric acid or phosphorus, and soluble potash or potassium.

~~(13)~~(17) “Product” means the name of the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime ~~which~~ that identifies it as to kind, class, or specific use.

~~(14)~~(18) “Registrant” means the person who registers ~~fertilizers a~~ fertilizer, plant amendment, plant biostimulant, soil amendment, or lime under the provisions of this chapter.

(19) “Soil amendment” means a substance or mixture of substance that is intended to improve the physical, chemical, biological, or other characteristics of the soil, except fertilizers, agricultural liming materials, unprocessed animal manures, unprocessed vegetable manures, pesticides, plant biostimulants, and other materials exempted by rule. A compost product from a facility under the jurisdiction of the Agency of Natural Resources’ Solid Waste Management Rules or exceptional quality biosolids shall not be regulated as a soil amendment under this chapter, unless marketed and distributed for the use in the production of an agricultural commodity.

~~(15)~~(20) “Ton” means a net weight of 2,000 pounds avoirdupois.

~~(16)~~(21) “Use” includes all purposes for which a fertilizer, plant amendment, plant biostimulant, soil amendment, or lime is applied.

(17)(22) “Weight” means the weight of undried material as offered for sale.

§ 364. REGISTRATION

(a) Each brand or grade or formula of fertilizer, plant amendment, plant biostimulant, or soil amendment shall be registered in the name of the person whose name appears upon the label before being distributed in this State. The application for registration shall be submitted to the Secretary on a form furnished by the Agency of Agriculture, Food and Markets and shall be accompanied by a fee of ~~\$20.00 per nutrient or recognized plant food element to a maximum of \$140.00 per brand or grade~~ \$85.00 per grade or formulation registered. Upon approval by the Secretary, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31 of each year. The application shall include the following information:

- (1) the brand and grade or formulation;
- (2) the guaranteed analysis if applicable; and
- (3) the name and address of the registrant.

(b) A distributor shall not be required to register any fertilizer ~~which, plant amendment, plant biostimulant, or soil amendment that~~ is already registered under this chapter by another person, provided there is no change in the label for the fertilizer, plant amendment, plant biostimulant, or soil amendment.

(c) A distributor shall not be required to register each grade of fertilizer formulated or each formulation of soil amendment according to specifications ~~which that~~ are furnished by a consumer prior to mixing, but shall be required to label the fertilizer or soil amendment as provided in subsection 365(b) of this title.

(d) The Secretary may request additional proof of testing of products prior to registration for guaranteed analyses or adulterants.

(e) Each separately identified agricultural lime product shall be registered before being distributed in this State. Registration shall be performed in the same manner as fertilizer registration except that each application shall be accompanied by a fee of \$50.00 per product.

(e) (f) The registration and tonnage fees, along with any deficiency penalties collected pursuant to sections 331 and 372 of this title, shall be deposited in a special fund. Funds deposited in this fund shall be restricted to implementing and administering the provisions of this title and any other provisions of law relating to feeds and seeds.

§ 365. LABELS

(a)(1) Any fertilizer or agricultural lime distributed in this State in containers shall have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

(A) net weight;

(B) brand and grade, provided that grade shall not be required when no primary nutrients are claimed;

(C) guaranteed analysis; and

(D) name and address of the registrant.

(2) For bulk shipments, this information in written or printed form shall accompany delivery and be supplied to the purchaser at the time of delivery.

(b) A fertilizer or lime formulated according to specifications furnished by a consumer prior to mixing shall be labeled to show: the net weight, the guaranteed analysis or name, analysis and weight of each ingredient used in the mixture, and the name and address of the distributor and purchaser.

(c)(1) If the Secretary finds that a requirement for expressing calcium and magnesium in elemental form would not impose an economic hardship on distributors and users of agricultural liming materials by reason of conflicting label requirements among states, he or she may require by rule that the minimum percent of calcium oxide and magnesium oxide or calcium carbonate and magnesium carbonate, or both, shall be expressed in the following terms:

Total Calcium (Ca) percent

Total Magnesium (Mg) percent

~~(2) Under this rule, an affected person shall be given a reasonable time to come into compliance.~~

(d)(1) Any plant amendment, plant biostimulant, or soil amendment distributed in this State in containers shall have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

(A) net weight or volume;

(B) brand name;

(C) purpose of product;

(D) directions for application;

(E) guaranteed analysis; and

(F) name and address of the registrant.

(2) For bulk shipments of fertilizer, plant amendments, plant biostimulants, soil amendments, or lime, the information required under this subsection shall accompany delivery in written or printed form and shall be supplied to the purchaser at the time of delivery.

(4) Under ~~this a rule adopted under this subsection~~, an affected person shall be given a reasonable time to come into compliance.

§ 366. TONNAGE FEES

(a) A person distributing fertilizer to a nonregistrant consumer in the State annually shall pay the following fees to the Secretary:

- (1) a \$150.00 minimum tonnage fee;
- (2) \$0.50 per ton of agricultural fertilizer distributed; and
- (3) \$30.00 per ton of nonagricultural fertilizer distributed.

(b) Persons distributing fertilizer shall report annually on or before January 15 for the previous year ending December 31 to the Secretary revealing the amounts of each grade of fertilizer and the form in which the fertilizer was distributed within this State. Each report shall be accompanied with payment and written permission allowing the Secretary to examine the person's books for the purpose of verifying tonnage reports.

(c) No information concerning tonnage sales furnished to the Secretary under this section shall be disclosed in such a way as to divulge the details of the business operation to any person unless it is necessary for the enforcement of the provisions of this chapter.

(d) Persons distributing a plant amendment, plant biostimulant, or soil amendment in the State shall report annually on or before January 15 for the previous year ending December 31 to the Secretary revealing the amounts of each formulation of plant amendment, plant biostimulant, or soil amendment and the form in which the plant amendment, plant biostimulant, or soil amendment was distributed within this State. Each report shall include a written authorization allowing the Secretary to examine the person's books for the purpose of verifying tonnage reports. Plant amendments, plant biostimulants, and soil amendments are exempt from tonnage fees.

(e) Agricultural limes, including agricultural lime mixed with wood ash, are exempt from the tonnage fees required in this section.

(f) Lime and wood ash mixtures may be registered as agricultural liming materials and guaranteed for potassium or potash, provided that the wood ash totals less than 50 percent of the mixture.

(g)(1) All fees collected under subdivisions (a)(1) and (2) of this section shall be deposited in the special fund created by subsection 364(e) of this title and used in accordance with its provisions.

(2) All fees collected under subdivision (a)(3) of this section shall be deposited in the Agricultural Water Quality Special Fund created under section 4803 of this title.

(h) [Repealed.]

§ 367. INSPECTION; SAMPLING; ANALYSIS

For the purpose of enforcing this chapter and determining whether or not fertilizers, plant amendments, plant biostimulants, soil amendments, and limes lime distributed in this State endanger the health and safety of Vermont citizens, the Secretary upon presenting appropriate credentials is authorized:

(1) To enter any public or private premises except domiciles during regular business hours and stop and enter any vehicle being used to transport or hold fertilizer, a plant amendment, a plant biostimulant, a soil amendment, or lime.

(2) To inspect blending plants, warehouses, establishments, vehicles, equipment, finished or unfinished materials, containers, labeling, and records relating to distribution, storage, or use.

(3) To sample and analyze any fertilizer, plant amendment, plant biostimulant, soil amendment, or lime. The methods of sampling and analysis shall be those adopted by the Association of Official Analytical Chemists. In cases not covered by this method or in cases where methods are available in which improved applicability has been demonstrated, the Secretary may authorize and adopt methods which reflect sound analytical procedures.

(4) To develop any reasonable means necessary to monitor and adopt rules for the use of fertilizers and agricultural limes, plant amendments, plant biostimulants, soil amendments, and lime on Vermont soils where monitoring indicates environmental or health problems. In addition, the Secretary may develop and adopt rules for the proper storage of fertilizers and limes, plant amendments, plant biostimulants, soil amendments, and lime held for distribution or sale.

§ 368. MISBRANDING

(a) No person shall distribute a misbranded fertilizer, plant amendment, plant biostimulant, soil amendment, or agricultural lime. A fertilizer, plant amendment, plant biostimulant, or soil amendment shall be deemed to be misbranded if:

- (1) its labeling is false or misleading in any particular;
- (2) it is distributed under the name of another fertilizer product, plant amendment, plant biostimulant, or soil amendment;
- (3) it contains unsubstantiated claims;
- (4) it is not labeled as required in section 365 of this title and in accordance with rules adopted under this chapter; or

~~(4)~~(5) it is labeled, or represented, to contain a plant nutrient ~~which~~ that does not conform to the standard of identity established by rule. In adopting ~~these~~ rules under this chapter, the Secretary shall give consideration to definitions recommended by the Association of American Plant Food Control Officials.

(b) An agricultural lime shall be deemed to be misbranded if:

- (1) its labeling is false or misleading in any particular; or
- (2) it is not labeled as required by section 365 of this title and in accordance with rules adopted under this chapter.

§ 369. ADULTERATION

No person shall distribute an adulterated lime, plant amendment, plant biostimulant, soil amendment, or fertilizer product. A fertilizer, plant amendment, plant biostimulant, soil amendment, or lime shall be deemed to be adulterated if:

(1) it contains any deleterious or harmful ingredient in an amount sufficient to render it injurious to beneficial plant life when applied in accordance with directions for use on the label, or if uses of the product may result in contamination or condemnation of a raw agricultural commodity by use, or if adequate warning statements or directions for use ~~which~~ that may be necessary to protect plant life are not shown on the label;

(2) its composition falls below or differs from that which it is purported to possess by its labeling;

(3) it contains crop seed or weed seed; or

(4) it contains heavy metals, radioactive substances, or synthetic organics in amounts sufficient to render it injurious to livestock or human health when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use ~~which~~ that may be necessary to protect livestock or human health are not shown on the label.

§ 370. PUBLICATION; CONSUMER INFORMATION REGARDING

FERTILIZER USE ON NONAGRICULTURAL TURF OF
FERTILIZER, PLANT AMENDMENTS, PLANT
BIOSTIMULANTS, AND SOIL AMENDMENTS

(a) The Secretary shall publish on an annual basis:

(1) information concerning the distribution of fertilizers, plant amendments, plant biostimulants, soil amendments, and limes; and

(2) results of analyses based on official samples of fertilizers, plant amendments, plant biostimulants, soil amendments, and lime distributed within the State as compared with guaranteed analyses required pursuant to the terms of this chapter.

(b)(1) The Secretary, in consultation with the University of Vermont Extension, fertilizer industry representatives, lake groups, and other interested or affected parties, shall produce information for distribution to the general public with respect to the following:

(A) problems faced by the waters of the State because of discharges of phosphorus;

(B) an explanation of the extent to which phosphorus exists naturally in the soil;

(C) voluntary best management practices for the use of fertilizers containing phosphorus on nonagricultural turf; and

(D) best management practices for residential sources of phosphorus.

(2) The Secretary shall develop the information required under this subsection and make it available to the general public in the manner deemed most effective, which may include:

(A) conspicuous posting at the point of retail sale of fertilizer containing phosphorus, according to recommendations for how that conspicuous posting may best take place;

(B) public service announcements by means of electronic media;

(C) other methods deemed by the Secretary to be likely to be effective.

~~(3) The Secretary shall develop proposed criteria for evaluating the effectiveness of the information program and shall present them to legislative committees on natural resources and energy and on agriculture by no later than January 1, 2007. By no later than July 1, 2007, the Secretary shall hold one or more public information meetings to obtain the input of the public on a draft~~

~~assessment of the effectiveness of this section in increasing the use of best management practices in the use of fertilizers on nonagricultural turf. By no later than December 1, 2008, the Secretary shall provide those legislative committees with a final assessment of the effectiveness of this subsection, which shall include an analysis of the extent to which the information developed under this subsection has been effectively provided to and relied upon by retail customers who purchase fertilizers containing phosphorus and shall include any recommendations for making the program more effective. [Repealed.]~~

§ 371. RULES; ENFORCEMENT

The Secretary is authorized to adopt rules pursuant to 3 V.S.A. chapter 25 as may be necessary to implement the intent of this chapter and to enforce those rules.

* * *

§ 374. SHORT WEIGHT

(a) ~~If any fertilizer, plant amendment, plant biostimulant, soil amendment, or agricultural liming material is found to be short in net weight, the registrant of the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime shall pay a penalty of three times the value of the actual shortage to the affected party.~~

(b) Each registrant shall be offered an opportunity for a hearing before the Secretary. Penalty payments shall be made within 30 days after notice of the Secretary's decision to assess a penalty. Proof of payment to the consumer shall be promptly forwarded to the Secretary by the registrant.

(c) If the consumer cannot be found, the amount of the penalty payments shall be paid to the Secretary who shall deposit the payment into the revolving account established by subsection 364(e) of this title.

(d) This section is not an exclusive cause of action and persons affected may utilize any other right of action available under law.

§ 375. CANCELLATION OF REGISTRATION

The Secretary is authorized to cancel or suspend the registration of any ~~fertilizer, plant amendment, plant biostimulant, soil amendment, or liming material~~ lime or refuse a registration application if he or she finds that the provisions of this chapter or the rules adopted under this chapter have been violated, provided that no registration shall be revoked or refused without a hearing before the Secretary.

§ 376. DETAINED FERTILIZER AND LIME

(a) “Withdrawal from distribution” orders. When the Secretary has reasonable cause to believe any lot of fertilizer, plant amendment, plant biostimulant, soil amendment, or lime is being distributed in violation of any of the provisions of this chapter or any of the rules under this chapter, he or she may issue and enforce a written or printed “withdrawal from distribution” order, warning the distributor not to dispose of the lot of fertilizer, plant amendment, plant biostimulant, soil amendment, or lime in any manner until written permission is given by the Secretary or the court. The Secretary shall release the lot of fertilizer, plant amendment, plant biostimulant, soil amendment, or lime withdrawn when this chapter and rules have been complied with. If compliance is not obtained within 30 days, the Secretary may begin, or upon request of the distributor or registrant shall begin, proceedings for condemnation.

(b) “Condemnation and confiscation.” Any lot of fertilizer, plant amendment, plant biostimulant, soil amendment, or lime not in compliance with this chapter and rules shall be subject to seizure on complaint of the Secretary to a court of competent jurisdiction in the area in which the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime is located. In the event the court finds the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime to be in violation of this chapter and orders the condemnation of the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime, it shall be disposed of in any manner consistent with the quality of the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime and the laws of the State, provided that in no instance shall disposition of the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime or for permission to process or relabel the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime to bring it into compliance with this chapter.

* * *

§ 379. EXCHANGES BETWEEN MANUFACTURERS

Nothing in this chapter shall be construed to restrict or impair sales or exchanges of fertilizers, plant amendments, plant biostimulants, or soil amendments to each other by importers, manufacturers, or manipulators who mix fertilizer materials, plant amendments, plant biostimulants, or soil amendments for sale, or to prevent the free and unrestricted shipments of fertilizer, plant amendments, plant biostimulants, or soil amendments to manufacturers or manipulators who have registered their brands as required by provisions of this chapter.

§ 380. ADMINISTRATIVE PENALTY

Consistent with chapter 1 of this title, the Secretary may assess an administrative penalty upon determining that a person has violated a rule issued under this chapter or has violated this chapter in the following manner:

(1) distributed a specialty fertilizer, plant amendment, plant biostimulant, soil amendment, or lime without first obtaining the appropriate product registration;

(2) distributed a fertilizer, plant amendment, plant biostimulant, soil amendment, or lime without appropriate labeling;

(3) failed to report or to accurately report the amount and form of each grade of fertilizer distributed in Vermont on an annual basis;

(4) failed to report or to accurately report the amount and form of each formulation of plant amendment, plant biostimulant, or soil amendment;

(5) failed to pay the appropriate tonnage fee; or

(5)(6) violated a cease and desist order.

§ 381. GOLF COURSES; NUTRIENT MANAGEMENT PLAN

~~Beginning July 1, 2012, as~~ As a condition of the permit issued to golf courses under chapter 87 of this title and ~~regulations~~ rules adopted thereunder, a golf course shall be required to submit to the Secretary of Agriculture, Food and Markets a nutrient management plan for the use and application of fertilizer to grasses or other lands owned or controlled by the golf course. The nutrient management plan shall ensure that the golf course applies fertilizer according to the agronomic rates for the site-specific conditions of the golf course.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

(a) This section and Secs. 1–8a (compost foraging; farming) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2021.

(Committee vote: 8-0-0)

(For text see Senate Journal March 24, 2021)

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

In Sec. 9, 6 V.S.A. chapter 26, in section 324, in subsection (c), in subdivision (2), by striking out “\$50.00” and inserting in lieu thereof “\$35.00”

(Committee Vote: 9-0-2)

Rep. Toleno of Brattleboro, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the CommitteeS on **Agriculture and Forestry and Ways and Means**.

(Committee Vote: 10-0-1)

S. 107

An act relating to confidential information concerning the initial arrest and charge of a juvenile

Rep. Colston of Winooski, for the Committee on Government Operations, recommends that the House propose to the Senate that the bill be amended as follows:

In Sec. 2, 1 V.S.A. § 317, in subsection (c), in subdivision (5)(B), by striking out subdivision (ii) in its entirety and inserting in lieu thereof a new subdivision (ii) to read:

(ii) A public agency shall not release any information within a record reflecting the initial arrest or charge of a person under ~~19~~ 20 years of age that would reveal the identity of the person. However, a public agency may disclose identifying information relating to the initial arrest of a person under ~~19~~ 20 years of age in order to protect the health and safety of any person.

(Committee vote: 10-1-0)

(For text see Senate Journal March 17, 2021)

Favorable

S. 99

An act relating to repealing the statute of limitations for civil actions based on childhood physical abuse

Rep. Leffler of Enosburgh, for the Committee on Judiciary, recommends that the bill ought to pass in concurrence.

(Committee Vote: 11-0-0)

(For text see Senate Journal April 20, 2021)

Senate Proposal of Amendment

H. 145

An act relating to amending the standards for law enforcement use of force

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 4, 13 V.S.A. § 2305, in its entirety and inserting in lieu thereof the following:

Sec. 4. 13 V.S.A. § 2305 is amended to read:

§ 2305. JUSTIFIABLE HOMICIDE

If a person kills or wounds another under any of the circumstances enumerated below, he or she shall be guiltless:

(1) in the just and necessary defense of ~~his or her~~ the person's own life or the life of ~~his or her husband, wife~~ the person's spouse, parent, child, brother, sister, master, mistress, servant sibling, guardian, or ward; or

(2) if the person reasonably believed that he or she was in imminent peril and that it was necessary to repel that peril with deadly force, in the forceful or violent suppression of a person attempting to commit murder, sexual assault, aggravated sexual assault, burglary, or robbery, ~~with force or violence~~; or

(3) in the case of a ~~civil officer; or a military officer or private soldier when lawfully called out to suppress riot or rebellion, or to prevent or suppress invasion, or to assist in serving legal process, in suppressing opposition against him or her in the just and necessary discharge of his or her duty~~ law enforcement officer as defined in 20 V.S.A. § 2351(a) using force in compliance with 20 V.S.A. § 2368(b)(1)–(2), and (5) or deadly force in compliance with 20 V.S.A. § 2368(c)(1)–(4) and (6).

Second: In Sec. 8, effective dates, in subsection (b), by striking out the word “September” and inserting in lieu thereof the word October

(For text see House Journal March 17, 2021)

NOTICE CALENDAR

Favorable

S. 39

An act relating to the Judicial Branch fee report and electronic filing fees

Rep. Lefebvre of Orange, for the Committee on Government Operations, recommends that the bill ought to pass in concurrence.

(Committee Vote: 11-0-0)

(For text see Senate Journal March 10, 2021)

Rep. Mattos of Milton, for the Committee on Ways and Means, recommends that the bill ought to pass in concurrence.

(Committee Vote: 9-0-2)

Senate Proposal of Amendment

H. 18

An act relating to sexual exploitation of children

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

Sec. 1. 13 V.S.A. § 2821 is amended to read:

§ 2821. DEFINITIONS

As used in this chapter:

(1) “Child” means any person under 16 years of age.

(2) “Sexual conduct” means any of the following:

(A) any conduct involving contact between the penis and the vulva, the penis and the penis, the penis and the anus, the mouth and the penis, the mouth and the anus, the vulva and the vulva, or the mouth and the vulva;

(B) any intrusion, however slight, by any part of a person’s body or any object into the genital or anal opening of another with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of any person;

(C) any intentional touching, not through the clothing, of the genitals, anus, or breasts of another with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of any person;

(D) masturbation;

(E) bestiality; ~~or~~

(F) sadomasochistic abuse for sexual purposes; or

(G) any simulation of the conduct described in subdivisions (2)(A)–(F) of this section.

* * *

(7)(A) “Simulation” means the explicit depiction of any conduct described in subdivisions (2)(A)–(F) of this section that:

- (i) involves a child as defined in subdivision (1) of this section;
- (ii) creates the appearance of such conduct; and
- (iii) exhibits naked genitals, buttocks, or breasts below the top of the areola.

(B) “Simulation” does not include paintings, drawings, or nonvisual or written descriptions of sexual conduct.

(C) “Simulation” applies only to conduct.

Sec. 2. 13 V.S.A. § 2638 is added to read:

§ 2638. IMMUNITY FROM LIABILITY

(a) As used in this section:

(1) “Human trafficking” has the same meaning as in section 2651 of this title.

(2) “Prostitution” has the same meaning as in section 2631 of this title.

(b) A person who, in good faith and in a timely manner, reports to law enforcement that the person is a victim of or a witness to a crime that arose from the person’s involvement in prostitution or human trafficking shall not be cited, arrested, or prosecuted for a violation of the following offenses:

- (1) section 2632 of this title (prostitution);
- (2) section 2601a of this title (prohibited conduct);
- (3) 18 V.S.A. § 4230(a)(1)–(3) (cannabis possession);
- (4) 18 V.S.A. § 4231(a)(1) and (2) (cocaine possession);
- (5) 18 V.S.A. § 4232(a)(1) and (2) (LSD possession);
- (6) 18 V.S.A. § 4233(a)(1) and (2) (heroin possession);
- (7) 18 V.S.A. § 4234(a)(1) and (2) (depressant, stimulant, and narcotic drugs possession);
- (8) 18 V.S.A. § 4234a(a)(1) and (2) (methamphetamine possession);
- (9) 18 V.S.A. § 4235(b)(1) (hallucinogenic drugs possession); and
- (10) 18 V.S.A. § 4235a(a)(1) (Ecstasy possession).

(c) The immunity provisions of this section apply only to the use and derivative use of evidence gained as a proximate result of the person reporting

to law enforcement that the person is a victim of or a witness to a crime that arose from the person's involvement in prostitution or human trafficking and do not preclude prosecution of the person on the basis of evidence obtained from an independent source.

(d) A person who qualifies for immunity pursuant to subsection (b) or (c) of this section shall not be subject to the provisions of 18 V.S.A. chapter 84, subchapter 2 concerning property subject to forfeiture, except that prima facie contraband shall be subject to forfeiture.

(e) Except in cases of reckless or intentional misconduct, law enforcement shall be immune from liability for citing or arresting a person who is later determined to qualify for immunity under this section.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

And that after passage the title of the bill be amended to read:

An act relating to sexual exploitation of children and limited immunity from liability for a person reporting a crime.

(For text see House Journal February 4, 2021)

S. 88

An act relating to insurance, banking, and securities

The Senate concurs in the House proposal of amendment thereto as follows::

First: By striking out Sec. 33 in its entirety and inserting in lieu thereof a new Sec. 33 to read as follows:

Sec. 33. REPORT; MINIMUM NONFORFEITURE INTEREST RATE

On or before January 15, 2022, the Commissioner of Financial Regulation shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Finance a report containing his or her findings and recommendations on whether to decrease the statutory minimum nonforfeiture interest rate applicable to individual deferred annuities under 8 V.S.A. § 3750(d)(1)(C)(iii) from one percent to 0.15 percent.

Second: By striking out Sec. 33a in its entirety and inserting the following:

Sec. 33a. [Deleted]

Third: By striking out Sec. 35 in its entirety and inserting in lieu thereof a new section Sec. 35 to read as follows:

Sec. 35. EFFECTIVE DATES; APPLICATION

This act shall take effect on passage, except that:

(1) Sec. 31 (8 V.S.A. chapter 110; dental insurance) shall take effect on January 1, 2022 and shall apply to all contracts and participating provider agreements between a dental insurer or third-party administrator and a dentist that are entered into on or after that date and to all dental insurance plans issued on and after January 1, 2022 on such date as a dental insurer offers, issues, or renews the plan, but in no event later than January 1, 2023; and

(2) Sec. 32 (18 V.S.A. § 9422; credit card payments optional for providers) shall take effect on January 1, 2022.

(For House Proposal of Amendment see House Journal April 16, 2021)

Consent Calendar

Concurrent Resolutions

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

H.C.R. 52

House concurrent resolution congratulating the Champlain Valley Union High School Redhawks girls' cross-country team on winning a 12th consecutive Division 1 championship

H.C.R. 53

House concurrent resolution congratulating the 2020 Champlain Valley Union High School Redhawks boys' golf team on winning its third consecutive Division I championship

H.C.R. 54

House concurrent resolution congratulating the 2020 Champlain Valley Union High School Redhawks Division I boys' cross-country championship team

H.C.R. 55

House concurrent resolution honoring the Cystic Fibrosis Lifestyle Foundation for its achievements on behalf of persons with cystic fibrosis

H.C.R. 56

House concurrent resolution honoring Elaine Pinckney for her illustrious career in public education

H.C.R. 57

House concurrent resolution honoring former Arlington Selectboard Chair Keith Squires and former Arlington School Board Chair Donna Squires for their dedicated municipal civic service

S.C.R. 5

Senate concurrent resolution designating May 2021 as Mental Health Awareness Month in Vermont

Public Hearings

Joint public hearing to hear Vermont's unemployment insurance issues for employees and employers during the COVID pandemic

On Tuesday, May 4, 2021 from 5:00 p.m. to 7:00 p.m. the House Committee on Commerce and Economic Development and the House Committee on Government Operations will hold a joint public hearing to listen to employees and employers in Vermont about the issues faced with unemployment insurance during the COVID pandemic. The public is invited to register to speak at the hearing or submit written testimony.

To register as a speaker at the hearing, please sign up here:

<https://legislature.vermont.gov/links/public-hearing-unemployment>

Registrations will be accepted on a first-come, first-served basis, and testimony time will be limited to two minutes per person.

Registrations will be accepted on a first-come, first-served basis, and testimony time will be limited to two minutes per person.

To submit written testimony, please email an MS Word or PDF file to testimony@leg.state.vt.us

The hearing will be live streamed on the Legislature's Joint Committees YouTube channel here:

<https://legislature.vermont.gov/committee/streaming/shared-joint-committees>

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 #3043 - \$4,284,369 from the US Dept of Education to the VT Agency of Education for assistance to VT's approved and recognized non-profit independent schools to address educational disruptions caused by COVID-19. Funds will be managed by the VT Agency of Education. *[NOTE: Funds will be used with the GEER EANS program: Governor's Emergency Education Relief (GEER) Emergency Assistance to Non-public Schools (EANS). This program is replacing Equitable Services in ESSER II and III. Please see this [overview](#) of how the funds will be used by the AOE to support independent schools.]* [JFO received 4/5/2021]

JFO #3044 – One (1) limited service position to the VT Dept. of Disabilities, Aging and Independent Living to develop a Northeast Network of mental health counselors familiar with farmer related stressors. Total first year amount of \$146,766 from the U.S. Department of Agriculture. Position has been approved for 1 year and is expected to be approved for 2 additional years. [JFO received 4/05/2021]

JFO #3045 - 48 (forty-eight) limited-service positions to carry out the ongoing work for an effective public health response to COVID-19. *[NOTE: Positions to be funded through ongoing CDC grants #2254 (Immunization) and #2478 (Epidemiology and Laboratory Capacity) previously approved in 2006 and 2010, respectively.]* [JFO received 4/13/2021]

JFO #3046 – One (1) limited service position, Grants Program Manager, to the VT Dept. of Economic Development to provide management, oversight and technical assistance to grantees. This position is funded through the Norther Border Regional Commission Capacity Grants through previously approved JFO Grant #2971. Position is for one year with expected approval for a second year. [JFO received 4/21/2021]

JFO #3047 – \$1,000,000 to the VT Department of Public Service from the Norther Border Regional Commission. Funds will be used to build out infrastructure and expand broadband throughout Vermont. This grant includes

a \$1.75M match as follows: \$1.5M from Act 154 (2020), \$60,000K from Act 79 (2019) and the rest from an existing position – Rural Broadband Technical Assistant. *[JFO received 4/21/2021]*