

House Calendar

Wednesday, March 9, 2022

65th DAY OF THE ADJOURNED SESSION

House Convenes at 3:00 P.M.

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ACTION CALENDAR

Action Postponed Until March 9, 2022

Favorable

H. 517

An act relating to the Vermont National Guard Tuition Benefit Program

Rep. Hango of Berkshire, for the Committee on General, Housing, and Military Affairs, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

NEW BUSINESS

Third Reading

H. 680

An act relating to obtaining a marriage license in any town in Vermont

Senate Proposal of Amendment

H. 367

An act relating to the management of perpetual care funds by cemetery associations

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. 18 V.S.A. § 5384 is amended to read:

§ 5384. PAYMENT TO TREASURER; RECORD; INVESTMENT

(a) Unless otherwise directed by the donor, all monies received by a town for cemetery purposes shall be paid to the town treasurer, who shall give a receipt therefor, which shall be recorded in the office of the town clerk in a book kept for that purpose. ~~In such~~ The book shall also ~~be stated~~ state the amount received from each donor, the time when, and the specific purpose ~~to~~ for which the use thereof it is appropriated.

(b)(1) All monies so received by the town may be invested and reinvested by the treasurer, with the approval of the selectboard, by deposit in:

(A) ~~banks chartered by the State~~ certificates of deposit and other evidences of deposit at Vermont, national, or federal chartered banks, and

savings and loan associations that are guaranteed or insured by the Federal Deposit Insurance Corporation or its successor;

(B) national banks obligations of the United States, its agencies, and instrumentalities, which have a liquid market with readily determinable market value;

(C) bonds of the United States or of municipalities whose bonds are legal investment for banks chartered by the State investment-grade obligations of state or local governments, instrumentalities, and public authorities; and

(D) bonds or notes legally issued in anticipation of taxes by a town, village, or city in this State, or first mortgages on real estate in Vermont;

(E) the shares of an investment company or an investment trust, such as a mutual fund, closed-end fund, or unit investment trust, that is registered under the federal Investment Company Act of 1940, as amended, if such fund has been in operation for at least five years and has net assets of at least \$100,000,000.00; or

(F) shares of a savings and loan association of this State, or share accounts of a federal savings and loan association with its principal office in this State, when and to the extent to which the withdrawal or repurchase value of such shares or accounts are insured by the Federal Savings and Loan Insurance Corporation.

* * *

Sec. 2. 18 V.S.A. § 5437 is amended to read:

§ 5437. INVESTMENT

A cemetery association shall invest such trust funds and shall expend the income therefrom in accordance with the provisions of in the same manner as town cemeteries pursuant to section 5309 5384 of this title and may delegate the management and investment of cemetery association funds pursuant to subdivision (b)(3) of that section.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(For text see House Journal February 2, 2022)

Governor's Veto

H. 361

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

Text of Veto Message

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **House Bill No. H. 361** to the House is as follows:

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.361, *An Act Relating to Approval of Amendments to the Charter of the Town of Brattleboro*, without my signature.

While I applaud 16- and 17-year-old Vermonters who take an interest in the issues affecting their communities, their state and their country, I do not support lowering the voting age in Brattleboro.

First, given how inconsistent Vermont law already is on the age of adulthood, this proposal will only worsen the problem. For example, the Legislature has repeatedly raised the age of accountability to reduce the consequences when young adults commit criminal offenses. They have argued this approach is justified because these offenders are not mature enough to contemplate the full range of risks and impacts of their actions.

Testimony given by leaders from Columbia University's Justice Lab, who said Vermont should raise the upper age of juvenile jurisdiction for most crimes, (including some violent crimes) described adolescents and what they called "emerging adults" as more volatile; more susceptible to peer influence; greater risk-takers; and less future-oriented than adults. This view was cited by the Legislature as justification to expand the definition of "child" to those 18 to 22 for purposes of criminal accountability. "Youthful offenders" up to age 22 may now avoid criminal responsibility for their crimes.

Second, if the Legislature is interested in expanding voting access to school-aged children, they should debate this policy change on a statewide basis. I do not support creating a patchwork of core election laws and policies that are different from town to town. The fundamentals of voting should be universal and implemented statewide.

For these reasons, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

I understand this is a well-intended local issue. I urge the Legislature to take up a thorough and meaningful debate on Vermont's age of majority and come up with consistent, statewide policy for both voting and criminal justice.

Sincerely,
Philip B. Scott, Governor

NOTICE CALENDAR
Favorable with Amendment
H. 115

An act relating to household products containing hazardous substances

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

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Thousands of household products sold in the State contain substances designated as hazardous under State or federal law.

(2) Vermont's hazardous waste rules establish specific requirements for the management of hazardous waste, including a prohibition on disposal in landfills.

(3) Leftover household products, known as household hazardous waste (HHW), are regulated through a requirement that municipal solid waste management entities (SWMEs) include provisions in solid waste implementation plans for the management and diversion of unregulated hazardous waste. The State solid waste management plan also requires the SWMEs to each hold a minimum of two HHW collection events every year.

(4) Many SWMEs already offer more than two HHW collection events, and seven of the SWMEs have established permanent facilities for the regular collection of HHW.

(5) HHW collection events or permanent facilities are expensive to operate, and SWMEs spend approximately \$1.6 million a year to manage HHW, costs that are subsequently passed on to the residents of Vermont through taxes or disposal charges.

(6) As a result of the failure to divert HHW, it is estimated that 640 tons or more per year of HHW are being disposed of in landfills.

(7) There is general agreement among the SWMEs and the Agency of Natural Resources that additional collection sites and educational and informational activities are necessary to capture more of the HHW being disposed of in landfills.

(8) Funding constraints are a current barrier to new collection sites and educational and informational activities.

(9) HHW released into the environment can contaminate air, groundwater, and surface waters, thereby posing a significant threat to the environment and public health.

(10) To improve diversion of HHW from landfills, reduce the financial burden on SWMEs and taxpayers, reduce the cost of the overall system of managing HHW, and lessen the environmental and public health risk posed by improperly disposed of HHW, the State shall implement a program to require the manufacturers of household products containing a hazardous substance to implement a stewardship organization to collect household products containing a hazardous substance free of charge to the public.

Sec. 2. 10 V.S.A. chapter 164B is added to read:

CHAPTER 164B. COLLECTION AND MANAGEMENT OF
HOUSEHOLD HAZARDOUS PRODUCTS

§ 7181. DEFINITIONS

As used in this chapter:

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

(2) “Consumer product” means any product that is regularly used or purchased to be used for personal, family, or household purposes.

(3) “Covered entity” means any person who presents to a collection facility that is included in an approved collection plan any number of covered household hazardous products.

(4)(A) “Covered household hazardous product” means a consumer product offered for retail sale that is contained in the receptacle in which the product is offered for retail sale, if the product has any of the following characteristics:

(i) The product or a component of the product is a hazardous waste under the federal Resource Conservation and Recovery Act of 1976, Pub. L. No. 94-580, as amended, including due to characteristics of ignitability, corrosivity, reactivity, or toxicity as defined in 40 C.F.R. §§ 261.20–261.24, regardless of the status of the generator of the hazardous waste.

(ii) The physical properties of the product meet the criteria for designation as a class 2, 3, 4, 5, 6, or 8 hazardous material, as defined in 49 C.F.R. Part 173, by the U.S. Department of Transportation under the Hazardous Materials Transportation Act of 1975, 49 U.S.C. §§ 5101–5128, as amended.

(iii) The product is a marine pollutant as defined in 49 C.F.R. § 171.8.

(iv) The product meets the criteria for hazardous waste code VT02 or VT08 as set forth in section 7-211 of the Vermont Hazardous Waste Management Regulations.

(v) The product is a nonrefillable propane cannister.

(vi) The product is a pesticide registered with the Agency of Agriculture, Food and Markets as a Class C pesticide and identified by the Secretary of Natural Resources by rule as requiring regulation under this chapter.

(B) “Covered product” does not mean any of the following:

(i) a primary battery or rechargeable battery;

(ii) a lamp that contains mercury;

(iii) a thermostat that contains mercury;

(iv) architectural paint as that term is defined in section 6672 of this chapter;

(v) a covered electronic device as that term is defined in section 7551 of this title; or

(vi) a pharmaceutical drug.

(5)(A) “Manufacturer” means a person who:

(i) manufactures or manufactured a covered household hazardous product under its own brand or label for sale in the State;

(ii) sells in the State under its own brand or label a covered household hazardous product produced by another supplier;

(iii) owns a brand that it licenses or licensed to another person for use on a covered household hazardous product sold in the State;

(iv) imports into the United States for sale in the State a covered household hazardous product manufactured by a person without a presence in the United States;

(v) manufactures a covered household hazardous product for sale in the State without affixing a brand name; or

(vi) assumes the responsibilities, obligations, and liabilities of a manufacturer as defined under subdivisions (i) through (v) of this subdivision (5)(A), provided that the Secretary may enforce the requirements of this

chapter against a manufacturer defined under subdivisions (i) through (v) of this subdivision (5)(A) if a person who assumes the manufacturer's responsibilities fails to comply with the requirements of this chapter.

(B) "Manufacturer" shall not mean a person set forth under subdivisions (i) through (vi) of subdivision (5)(A) of this section if the person manufacturers, sells, licenses, or imports less than \$5,000.00 of covered products in a program year.

(6) "Program year" means the period from January 1 through December 31.

(7) "Retailer" means a person who sells a covered household hazardous product in the State through any means, including a sales outlet, a catalogue, the telephone, the Internet, or any electronic means.

(8) "Secretary" means the Secretary of Natural Resources.

(9) "Sell" or "sale" means any transfer for consideration of title or of the right to use by lease or sales contract a covered household hazardous product to a person in the State of Vermont. "Sell" or "sale" does not include the sale, resale, lease, or transfer of a used covered household hazardous product or a manufacturer's wholesale transaction with a distributor or a retailer.

(10) "Stewardship organization" means an organization, association, or entity that has developed a system, method, or other mechanism that assumes the responsibilities, obligations, and liabilities under this chapter of multiple manufacturers of covered household hazardous products.

§ 7182. SALE OF COVERED HOUSEHOLD HAZARDOUS PRODUCT;

STEWARDSHIP ORGANIZATION REGISTRATION

(a) Sale prohibited. Beginning on January 1, 2025, except as set forth under section 7188 of this title, a manufacturer of a covered household hazardous product shall not sell, offer for sale, or deliver to a retailer for subsequent sale a covered household hazardous product unless all the following have been met:

(1) The manufacturer is participating in a stewardship organization implementing an approved collection plan.

(2) The name of the manufacturer, the manufacturer's brand, and the name of the covered household hazardous product are submitted to the Agency of Natural Resources by a stewardship organization and listed on the stewardship organization's website as covered by an approved collection plan.

(3) The stewardship organization in which the manufacturer participates has submitted an annual report under section 7185 of this title.

(4) The stewardship organization in which the manufacturer participates has conducted a plan audit consistent with the requirements of subsection 7185(b) of this title.

(b) Stewardship organization registration requirements.

(1) Beginning on January 1, 2024 and annually thereafter, a stewardship organization shall file a registration form with the Secretary. The Secretary shall provide the registration form to a stewardship organization. The registration form shall include:

(A) a list of the manufacturers participating in the stewardship organization;

(B) a list of the brands of each manufacturer participating in the stewardship organization;

(C) a list of the covered household hazardous products of each manufacturer participating in the stewardship organization;

(D) the name, address, and contact information of a person responsible for ensuring the manufacturer's compliance with this chapter;

(E) a description of how the stewardship organization meets the requirements of subsection 7184(b) of this title, including any reasonable requirements for participation in the stewardship organization; and

(F) the name, address, and contact information of a person for a nonmember manufacturer to contact regarding how to participate in the stewardship organization to satisfy the requirements of this chapter.

(2) A renewal of a registration without changes may be accomplished through notifying the Agency of Natural Resources on a form provided by the Agency.

§ 7183. COLLECTION PLANS

(a) Collection plan required. Prior to July 1, 2024, a stewardship organization representing manufacturers of covered household hazardous products shall submit a collection plan to the Secretary for review.

(b) Collection plan; minimum requirements. Each collection plan shall include, at a minimum, all of the following requirements:

(1) A list of the manufacturers, brands, and products participating in the collection plan and a methodology for adding and removing manufacturers and notifying the Agency of new participants.

(2) Free collection of covered household hazardous products. The collection program shall provide for free collection from covered entities of covered household hazardous products statewide. A stewardship organization shall accept all covered household hazardous products collected from a covered entity and shall not refuse the collection of a covered household hazardous product based on the brand or manufacturer of the covered household hazardous product. The collection program shall also provide for the payment of collection, processing, and end-of-life management of the covered household hazardous product. Collection costs include facility and equipment costs, event contractor or facility set-up fees, facility maintenance, and labor.

(3) Convenient collection location. The stewardship organization shall develop a collection program that:

(A) allows all municipal collection programs and facilities to opt to be part of a collection plan; and

(B) maintains the current level of convenience, including hours and days available to the public, provided by programs in operation prior to July 1, 2024.

(4) Public education and outreach. The collection plan shall include an education and outreach program that will include a website and may include media advertising, retail displays, articles in trade and other journals and publications, and other public educational efforts. The education and outreach program and website shall notify the public of the following:

(A) that there is a free collection program for covered household hazardous products;

(B) the location and hours of operation of collection points and how a covered entity can access this collection program;

(C) the special handling considerations associated with covered household hazardous products; and

(D) source reduction information for consumers to reduce leftover covered household products.

(5) Compliance with appropriate environmental standards. In implementing a collection plan, a stewardship organization shall comply with all applicable laws related to the collection, transportation, and disposal of

hazardous waste. A stewardship organization shall comply with any special handling or disposal standards established by the Secretary for covered household hazardous products or for the collection plan of the manufacturer.

(6) Method of disposition. The collection plan shall describe how covered household hazardous products will be managed in the most environmentally and economically sound manner, including following the waste-management hierarchy. The management of covered household hazardous products under the collection plan shall use management activities in the following priority order: source reduction, reuse, recycling, energy recovery, and disposal. Collected covered household hazardous products shall be recycled when technically and economically feasible.

(7) Roles and responsibilities. A collection plan shall list all key participants in the covered household hazardous products collection chain, including:

(A) the name and location of the collection facilities accepting covered household hazardous products under the collection plan and the address and contact information for each facility;

(B) the name and contact information of the contractor responsible for transporting the covered household hazardous products; and

(C) the name and address of the recycling and disposal facilities where the covered household hazardous products collected are deposited.

(8) Participation rate. A collection plan shall include a collection participation rate as a performance goal for covered household hazardous products based on the participation rate determined by the number of total participants in the collection plan during a program year divided by the total number of households in the State. At a minimum, the collection participation rate shall be participation by five percent of the population of each county in the State. If a stewardship organization does not meet its participation rate, the Secretary may require the stewardship organization to revise the collection plan to provide for one or more of the following: additional public education and outreach, additional collection events, or additional hours of operation for collection sites.

(9) Collection plan funding. The collection plan shall describe how the stewardship organization will fund the implementation of the collection plan and collection activities under the plan, including the costs for education and outreach, collection, processing, and end-of-life management of the covered household hazardous product. Collection costs include facility and event costs including equipment costs, maintenance, and labor. The collection plan must

include how municipalities will be compensated for all costs associated with collection of covered household hazardous products.

(c) Term of collection plan. A collection plan approved by the Secretary under section 7187 of this title shall have a term not to exceed five years, provided that the manufacturer remains in compliance with the requirements of this chapter and the terms of the approved collection plan.

(d) Collection plan implementation. A stewardship organization shall implement a collection plan on or before January 1, 2025.

§ 7184. STEWARDSHIP ORGANIZATIONS

(a) Participation in a stewardship organization. A manufacturer shall meet the requirements of this chapter by participating in a stewardship organization that undertakes the responsibilities under sections 7182, 7183, and 7185 of this title.

(b) Qualifications for a stewardship organization. To qualify as a stewardship organization under this chapter, an organization shall:

(1) commit to assume the responsibilities, obligations, and liabilities of all manufacturers participating in the stewardship organization;

(2) not create unreasonable barriers for participation in the stewardship organization; and

(3) maintain a public website that lists all manufacturers and manufacturers' brands and products covered by the stewardship organization's approved collection plan.

§ 7185. ANNUAL REPORT; COLLECTION PLAN AUDIT

(a) Annual report. On or before March 1, 2026 and annually thereafter, a stewardship organization of manufacturers of covered household hazardous products shall submit a report to the Secretary that contains all of the following:

(1) A description of the collection program.

(2) The volume or weight by hazard category of covered household hazardous products collected, the disposition of the collected covered household hazardous products, and the number of covered entities participating at each collection facility or collection event from which the covered household hazardous products were collected.

(3) An estimate of the weight or volume by hazard category of covered household hazardous products sold in the State in the previous calendar year by manufacturer participating in stewardship organization's collection plan.

Sales data and other confidential business information provided under this section shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Confidential information shall be redacted from any final public report.

(4) A comparison of the collection plan's participation rate compared to actual participation rate and how the program will be improved if the participation rate goal was not met.

(5) A description of the methods used to reduce, reuse, collect, transport, recycle, and process the covered household hazardous products.

(6) The cost of implementing the collection plan, including the costs of administration, collection, transportation, recycling, disposal, and education and outreach.

(7) A description and evaluation of the success of the education and outreach materials.

(8) Recommendations for any changes to the program.

(b) Collection plan audit. On or before March 1, 2030 and every five years thereafter, a stewardship organization of manufacturers of covered household hazardous products shall hire an independent third party to audit the collection plan and the plan's operation. The auditor shall examine the effectiveness of the program in collecting and disposing of covered household hazardous products. The auditor shall examine the cost-effectiveness of the program and compare it to that of collection programs for covered household hazardous products in other jurisdictions. The auditor shall make recommendations to the Secretary on ways to increase the program's efficacy and cost-effectiveness.

(c) Public posting. A stewardship organization shall post a report or audit required under this section to the website of the stewardship organization.

§ 7186. ANTITRUST; CONDUCT AUTHORIZED

(a) Activity authorized. A manufacturer, group of manufacturers, or stewardship organization implementing or participating in an approved collection plan under this chapter for the collection, transport, processing, and end-of-life management of covered household hazardous products is individually or jointly immune from liability for conduct under State laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce under 9 V.S.A. chapter 63, subchapter 1, to the extent that the conduct is reasonably necessary to plan, implement, and comply with the stewardship organization's chosen system for managing discarded covered household hazardous products.

(b) Limitations on antitrust activity. Subsection (a) of this section shall not apply to an agreement among producers, groups of manufacturers, retailers, wholesalers, or stewardship organizations affecting the price of covered household hazardous products or any agreement restricting the geographic area in which or customers to whom covered household hazardous products shall be sold.

§ 7187. AGENCY RESPONSIBILITIES

(a) Review and approve collection plans. The Secretary shall review and approve or deny collection plans submitted under section 7183 of this title. The Secretary shall approve a collection plan if the Secretary finds that the collection plan:

(1) complies with the requirements of subsection 7183(b) of this title;

(2) provides adequate notice to the public of the collection opportunities available for covered household hazardous products;

(3) ensures that collection of covered household hazardous products will occur in an environmentally sound fashion that is consistent with the law or with any special handling requirements adopted by the Secretary; and

(4) promotes the collection and disposal of covered household hazardous products.

(b) Collection plan amendment. The Secretary, in his or her discretion or at the request of a manufacturer or a stewardship organization, may require a stewardship organization to amend an approved collection plan. Collection plan amendments shall be subject to the public input provisions of subsection (c) of this section.

(c) Public input. The Secretary shall establish a process under which a collection plan for covered household hazardous products is available for public review and comment for 30 days prior to collection plan approval or amendment. In establishing such a process, the Secretary shall consult with interested persons, including manufacturers, environmental groups, wholesalers, retailers, municipalities, and solid waste districts.

(d) Registrations. The Secretary shall accept, review, and approve or deny registrations required by this chapter. The Secretary may revoke a registration of a stewardship organization for actions that are unreasonable, unnecessary, or contrary to the requirements or the policy of this chapter.

(e) Supervisory capacity. The Secretary shall act in a supervisory capacity over the actions of a stewardship organization registered under this section. In acting in this capacity, the Secretary shall review the actions of the stewardship

organization to ensure that they are reasonable, necessary, and limited to carrying out requirements of and policy established by this chapter.

(f) Special handling requirements. The Secretary may adopt, by rule, special handling requirements for the collection, transport, and disposal of covered household hazardous products.

(g) Identification of regulated pesticides. The Secretary, annually, shall confer with the Secretary of Agriculture, Food and Markets for the purpose of identifying those pesticides that are subject to regulation under this chapter due to registration with the Agency of Agriculture, Food and Markets as Class C pesticides.

§ 7188. REIMBURSEMENT; AUTHORIZATION

(a) Reimbursement of stewardship organization.

(1) A manufacturer or stewardship organization operating an approved collection plan that collects covered household hazardous products that are not listed under its approved collection plan shall be entitled to reimbursement from the manufacturer of the covered household hazardous product of reimbursable costs per unit of weight incurred in collecting the covered household hazardous products.

(2) Reimbursement may be requested by a collecting manufacturer or stewardship organization only after the stewardship organization has achieved the collection rate performance goal approved by the Secretary under section 7183 of this title.

(b) Reimbursable costs. Reimbursement shall be allowed only for those costs incurred in collecting the covered household hazardous products subject to the reimbursement request. Reimbursable costs include:

(1) costs of collection, transport, recycling, and other methods of disposition identified in a collection plan approved under section 7187 of this title; and

(2) reasonable educational, promotional, or administrative costs.

(c) Reimbursement request.

(1) A manufacturer or stewardship organization that incurs reimbursable costs under this section shall submit a request to the manufacturer of the collected covered household hazardous product or the stewardship organization in which the manufacturer is participating.

(2) A manufacturer or stewardship organization that receives a request for reimbursement may, prior to payment and within 30 days of receipt of the

request for reimbursement, request an independent audit of submitted reimbursement costs.

(3) The independent auditor shall be responsible for verifying the reasonableness of the reimbursement request, including the costs sought for reimbursement, the amount of reimbursement, and the reimbursable costs assessed by each of the two programs.

(4) If the independent audit confirms the reasonableness of the reimbursement request, the manufacturer or stewardship organization requesting the audit shall pay the cost of the audit and the amount of the reimbursement calculated by the independent auditor. If the independent audit indicates the reimbursement request was not reasonable, the manufacturer or stewardship organization that initiated the reimbursement request shall pay the cost of the audit and the amount of the reimbursement calculated by the independent auditor.

(d) Role of Agency. The Agency shall not be required to provide assistance or otherwise participate in a reimbursement request, audit, or other action under this section, unless subject to subpoena before a court of jurisdiction.

§ 7189. PRIVATE RIGHT OF ACTION

(a) Action against manufacturer with no collection plan. A manufacturer or stewardship organization in compliance with the requirements of this chapter may bring a civil action against another manufacturer or stewardship organization when:

(1) the plaintiff manufacturer or stewardship organization incurs more than \$1,000.00 in actual reimbursable costs collecting, handling, recycling, or properly disposing of covered household hazardous products sold or offered for sale in the State by the other manufacturer; and

(2) the manufacturer from whom damages are sought:

(A) can be identified as the manufacturer of the collected covered household hazardous products from a brand or marking on the discarded covered household hazardous products or from other information available to the plaintiff manufacturer or stewardship organization; and

(B) does not operate or participate in an approved stewardship organization in the State or is not otherwise in compliance with the requirements of this chapter.

(b) Action against manufacturer participating in an approved stewardship organization. A manufacturer or stewardship organization in compliance with

the requirements of this chapter may bring a civil action for damages against a manufacturer or stewardship organization in the State that is in compliance with the requirements of this chapter, provided that the conditions of subsection (c) of this section have been met.

(c) Condition precedent to cause of action. Except as authorized under subsection (a) of this section, a cause of action under this section shall be allowed only if:

(1) a plaintiff manufacturer or stewardship organization submitted a reimbursement request to another manufacturer or stewardship organization under section 7188 of this title; and

(2) the manufacturer or stewardship organization does not receive reimbursement within:

(A) 90 days of the reimbursement request, if no independent audit is requested under section 7188 of this title; or

(B) 60 days after completion of an audit if an independent audit is requested under section 7188 of this title, and the audit confirms the validity of the reimbursement request.

(d) Action against individual manufacturer.

(1) A civil action under this section may be brought against an individual manufacturer only if the manufacturer is implementing its own collection plan and the manufacturer has failed to register to participate in a stewardship organization.

(2) A manufacturer participating in an approved stewardship organization covering multiple manufacturers shall not be sued individually for reimbursement.

(3) An action against a manufacturer participating in a stewardship organization covering multiple manufacturers shall be brought against the stewardship organization implementing the collection plan.

(e) Role of Agency. The Agency shall not be a party to or be required to provide assistance or otherwise participate in a civil action authorized under this section solely due to its regulatory requirements under this chapter, unless subject to subpoena before a court of jurisdiction.

(f) Damages; definition. As used in this section, “damages” means the actual, reimbursable costs a plaintiff manufacturer or stewardship organization incurs in collecting, handling, recycling, or properly disposing of covered household hazardous products identified as having originated from another manufacturer.

§ 7190. OTHER DISPOSAL PROGRAMS

A municipality or other public agency shall not require covered entities to use public facilities to dispose of covered household hazardous products to the exclusion of other lawful programs available. A municipality and other public agencies are encouraged to work with manufacturers to assist them in meeting their collection and disposal obligations under this chapter. Nothing in this chapter prohibits or restricts the operation of any program collecting and disposing of covered household hazardous products in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or disposing of covered household hazardous products, provided that all other applicable laws are met.

§ 7191. RULEMAKING

The Secretary of Natural Resources may adopt rules to implement the requirements of this chapter.

Sec. 3. AGENCY OF NATURAL RESOURCES RECOMMENDATION OF
REGISTRATION FEE FOR COVERED HOUSEHOLD
HAZARDOUS PRODUCTS

On or before January 15, 2025, the Secretary of Natural Resources shall submit to the House Committees on Ways and Means and on Natural Resources, Fish, and Wildlife and the Senate Committees on Finance and on Natural Resources and Energy a recommended fee for the registration of stewardship organizations under the covered household hazardous product program under 10 V.S.A. chapter 164B.

Sec. 4. 10 V.S.A. § 6621a(a) is amended to read:

(a) In accordance with the following schedule, no person shall knowingly dispose of the following materials in solid waste or in landfills:

* * *

(12) Covered household hazardous products after January 1, 2025.

Sec. 5. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(30) 3 V.S.A. § 2810, relating to interim environmental media standards; and

(31) 10 V.S.A. chapter 124, relating to the trade in covered animal parts or products; and

(32) 10 V.S.A. chapter 164B, relating to collection and management of covered household hazardous products.

* * *

Sec. 6. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(V) chapter 124 (trade in covered animal parts or products);

(W) chapter 164B (collection and management of covered household hazardous products).

(2) 29 V.S.A. chapter 11 (management of lakes and ponds).

(3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

(4) 3 V.S.A. § 2810 (interim environmental media standards).

* * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 9-0-2)

H. 244

An act relating to authorizing the natural organic reduction of human remains

Rep. Walz of Barre City, for the Committee on General, Housing, and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Deaths, Burials, and Autopsies * * *

Sec. 1. 18 V.S.A. § 5200 is added to read:

§ 5200. DEFINITIONS

As used in this chapter:

(1) “Cemetery” has the same meaning as in section 5302 of this title.

(2) “Cremation” has the same meaning as in section 5302 of this title.

(3) “Disposition facility” has the same meaning as in section 5302 of this title.

(4) “Natural organic reduction” has the same meaning as in section 5302 of this title.

Sec. 2. 18 V.S.A. § 5201 is amended to read:

§ 5201. PERMITS; REMOVAL OF BODIES; CREMATION;

WAITING PERIOD; INVESTIGATION INTO CIRCUMSTANCES
OF DEATH

(a) ~~Burial-transfer permit.~~ A dead body shall not be buried, entombed, or removed, or otherwise disposed of without a burial-transit permit issued and signed by a municipal clerk, a county clerk, or a deputy clerk for the municipality or unorganized town or gore in which the dead body is located; a funeral director licensed in Vermont; an owner or designated manager of a ~~erematorium~~ licensed disposition facility in Vermont who is registered to perform removals; or a law enforcement officer.

* * *

(3) A funeral director licensed in Vermont or an owner or designated manager of a ~~erematory~~ licensed disposition facility in Vermont who is registered to perform removals may issue a burial-transit permit for any municipality or unorganized town or gore at any time, including during the normal business hours of a municipal clerk.

* * *

(b) ~~No~~ An operator of a ~~erematory~~ disposition facility shall not cremate or process by means of natural organic reduction or allow the cremation or processing by means of natural organic reduction of a dead human body until the passage of at least 24 hours following the death of the decedent, as indicated on the death certificate, unless, if the decedent died from a virulent, communicable disease, a Department of Health rule or order requires the cremation to occur prior to the end of that period. If the Attorney General or a State’s Attorney requests the delay of a cremation or natural organic reduction

based upon a reasonable belief that the cause of death might have been due to other than accidental or natural causes, the cremation or natural organic reduction of a dead human body shall be delayed, based upon such request, a sufficient time to permit a civil or criminal investigation into the circumstances that caused or contributed to the death.

(c) The person in charge of the body shall not release for cremation or natural organic reduction the body of a person who died in Vermont until the person in charge has received a certificate from the chief, regional, or assistant medical examiner that the medical examiner has made personal inquiry into the cause and manner of death and is satisfied that no further examination or judicial inquiry concerning it is necessary. Upon request of a funeral director, the person in charge of the body, or the ~~crematory~~ operator of a disposition facility, the Chief Medical Examiner shall issue a ~~cremation~~ disposition certificate after the medical examiner has completed an autopsy. The certificate shall be retained by the ~~crematory~~ disposition facility for a period of three years. The person requesting cremation or natural organic reduction shall pay the ~~department~~ Department a fee of \$25.00.

(d)(1) For all cremations or natural organic reductions requested for the body of a person who died outside Vermont, the ~~crematory~~ operator of a disposition facility shall do the following before conducting the cremation or natural organic reduction:

(A) obtain a permit for transit ~~of~~, cremation, or natural organic reduction; and

(B) comply with the laws of the state in which the person died, including obtaining a copy of a medical examiner's permit if one is required.

(2) No additional approval from the Vermont medical examiner's office is required if compliance with the laws of the state in which the person died is achieved.

Sec. 3. 18 V.S.A. § 5207 is amended to read:

§ 5207. CERTIFICATE FURNISHED FAMILY; BURIAL-TRANSIT

PERMIT

Within 24 hours after death, the death certificate shall be made available upon request to the family of the deceased, if any, or the undertaker or person who has charge of the body. The certificate shall be filed with the person issuing the burial-transit permit obtained by the person who has charge of the body before ~~such dead body shall be buried, entombed, or removed~~ permanent disposition or removal from the town. When the death certificate is so filed,

the officer or person shall immediately issue a burial-transit permit under legal restrictions and safeguards.

Sec. 4. 18 V.S.A. § 5210 is amended to read:

§ 5210. FORM OF BURIAL OR REMOVAL PERMIT

If it is desired to bury, entomb, or otherwise dispose of a dead body within the limits of a town where the death occurred, the certificate of permission shall state plainly the time, place, and manner of such burial, entombment, or disposition. If it is desired to remove a dead body from the town where the death occurred, the certificate of permission shall contain the essential facts contained in the certificate of death on which it is issued, shall accompany the body to its destination, and may be accepted as a permit for ~~burial or entombment~~ permanent disposition by a sexton or other person having the care of a cemetery, burial ground, tomb, or receiving vault.

Sec. 5. 18 V.S.A. § 5213 is amended to read:

§ 5213. REMOVAL; FORM AND DISPOSITION OF PERMIT

Such permit shall state specifically ~~where such body is to be buried, cremated, or entombed~~ the location of the body's permanent disposition and the time and manner of its removal. A town clerk issuing such a permit shall make it in duplicate if the body is to be removed from the town, one copy of which shall be delivered to the person having charge of the cemetery or tomb from which the body is to be taken and the other shall be delivered to the person having charge of the cemetery or tomb wherein it is desired to place the body.

Sec. 6. 18 V.S.A. § 5224 is amended to read:

§ 5224. DISPOSITION OF REMAINS; PERMITS

(a) Fetal remains shall be disposed of by ~~burial, or cremation,~~ or natural organic reduction unless released to an educational institution for scientific purposes or disposed of by the hospital or as directed by the attending physician in a manner ~~which~~ that will not create a public health hazard. Permission shall be obtained from one of the parents, if competent, for disposition in all cases where a funeral director is not involved. One copy of the fetal death report shall be printed in such manner that completion and signing by the physician or medical examiner shall constitute permission to make ~~final~~ permanent disposition of the fetal remains.

(b) When a funeral director is involved or when the fetal remains are to be privately buried or disposed of by a ~~commercial crematory~~ disposition facility, the funeral director or other person taking charge of the remains shall obtain

from the hospital or physician the disposition permit portion of the report and shall deliver it to the sexton or other person having care of the cemetery, tomb, vault, or crematory disposition facility before burial or other disposition takes place. These permits shall be delivered each month to the clerk of the town in which burial or disposition took place, in the same manner as permits for burial of dead bodies; so also shall all other provisions of sections 5209-5216 of this title be applicable to fetal remains as are applicable to dead bodies.

* * *

Sec. 7. 18 V.S.A. chapter 107, subchapter 3 is amended to read:

Subchapter 3. Rights of Family Members, ~~and~~ Other Interested Persons, Funeral Directors, and Crematory Operators of Disposition Facilities

* * *

§ 5227. RIGHT TO DISPOSITION

(a) If there is no written directive of the decedent, in the following order of priority, one or more competent adults shall have the right to determine the disposition of the remains of a decedent, including the location, manner, and conditions of disposition and arrangements for funeral goods and services:

* * *

(9) the funeral director or crematory disposition facility operator with custody of the body, after attesting in writing that a good faith effort has been made to contact the individuals described in subdivisions (1) through (8) of this subsection; or

* * *

(c)(1) If the disposition of the remains of a decedent is determined under subdivision (a)(9) of this section and the funeral director or crematory disposition facility operator has cremated or processed the remains, as applicable, the funeral director or crematory disposition facility operator shall retain the remains for three years and, if no interested party as provided in subdivisions (a)(1) through (8) of this section claims the decedent's remains after three years, the funeral director or crematory disposition facility operator shall arrange for the ~~final~~ permanent disposition of the ~~cremated~~ remains consistent with any applicable law and standard funeral practices.

(2) Notwithstanding any provision of subdivision (1) of this subsection to the contrary, a funeral director or crematory disposition facility operator may determine that the unclaimed ~~cremated~~ remains of a deceased veteran shall be interred at the Vermont Veterans Memorial Cemetery pursuant to 20 V.S.A. § 1586 if:

(A) at least 180 days have passed since the funeral director or ~~erematory~~ disposition facility operator cremated or processed the remains;

(B) the funeral director or ~~erematory~~ disposition facility operator either:

(i) has actual knowledge that there is no interested party as provided in subdivisions (a)(1) through (8) of this section to claim the decedent's remains; or

(ii) after making reasonable efforts, has been unable to locate and contact any known interested party as provided in subdivisions (a)(1) through (8) of this section; and

(C) the funeral director or ~~erematory~~ disposition facility operator has confirmed with the Office of Veterans Affairs that the deceased veteran is eligible to be interred at the Vermont Veterans Memorial Cemetery.

(d)(1) If the disposition of the remains of a decedent is determined under subdivision (a)(10) of this section, the Office of the Chief Medical Examiner may contract with a funeral director or ~~erematory~~ disposition facility operator to cremate the remains of the decedent.

(2)(A) If the cremation of the decedent is arranged and paid for under 33 V.S.A. § 2301, the Department for Children and Families shall pay the cremation expenses to the funeral home, up to the maximum payment permitted by rule by the Department for Children and Families.

(B) If the cremation of the decedent is not arranged and paid for under 33 V.S.A. § 2301, the Department of Health shall pay the cremation expenses to the funeral home, up to the maximum payment permitted by rule by the Department for Children and Families.

(3) The cremated remains shall be returned to the Office of the Chief Medical Examiner. The Office shall retain the remains for three years, and if no interested party, as described in subdivisions (a)(1) through (8) of this section, claims the decedent's remains after three years, the Office shall arrange for the ~~final~~ permanent disposition of the cremated remains consistent with any applicable law and standard funeral practices.

(4) Notwithstanding any provision of subdivision (3) of this subsection to the contrary, the Office of the Chief Medical Examiner may determine that the unclaimed cremated remains of a deceased veteran shall be interred at the Vermont Veterans Memorial Cemetery pursuant to 20 V.S.A. § 1586 if:

(A) at least 180 days have passed since the remains were cremated;

(B) the Office of the Chief Medical Examiner either:

(i) has actual knowledge that there is no interested party as provided in subdivisions (a)(1) through (8) of this section to claim the decedent's remains; or

(ii) after making reasonable efforts, has been unable to locate and contact any known interested party as provided in subdivisions (a)(1) through (8) of this section; and

(C) the Office of the Chief Medical Examiner has confirmed with the Office of Veterans Affairs that the deceased veteran is eligible to be interred at the Vermont Veterans Memorial Cemetery.

§ 5228. FORFEITURE

An individual recognized under section 5227 of this title to have a right of disposition shall forfeit that right in the following circumstances:

(1) the individual is identified by a law enforcement agency as a person of interest and likely to be prosecuted or is under prosecution for first or second degree murder or voluntary manslaughter in connection with the decedent's death, if the status of the investigation or the prosecution is known to the funeral director or ~~crematory~~ disposition facility operator, except that if the prosecution is not pursued or the individual is acquitted of the alleged crime before the remains are disposed of, the individual shall regain the right;

* * *

§ 5229. COST OF DISPOSITION

The cost for the disposition of remains and funeral goods or services shall be borne by the decedent's estate, subject to the limits for insolvent estates imposed by 14 V.S.A. § 1205, or by any individual who agrees to pay the costs. Nothing in this subchapter shall be construed to require a funeral director or ~~crematory~~ disposition facility operator to provide goods or services for which there is no payment.

§ 5230. RIGHTS OF FUNERAL DIRECTOR OR ~~CREMATORY~~ OPERATOR OF A DISPOSITION FACILITY

A funeral director or ~~crematory~~ disposition facility operator may determine the ~~final~~ permanent disposition of remains and may file a civil action in Probate Division of the Superior Court against a person, estate, banking institution, governmental agency, or other entity ~~which~~ that may have liability for the ~~final~~ permanent disposition, either:

(1) to seek a declaratory judgment that the director's or operator's proposed action would be in compliance with the applicable provisions of law; or

(2) to seek a judgment that the director or operator's action is in compliance with the applicable provisions of law and to recover reasonable costs and fees for the ~~final~~ permanent disposition when:

(A) the funeral director or ~~erematory~~ disposition facility operator has actual knowledge that there is no surviving family member, guardian, or individual appointed to arrange for the disposition of decedent's remains pursuant to chapter 231 of this title;

(B) the funeral director or ~~erematory~~ disposition facility operator has made reasonable efforts to locate and contact any known family member, guardian, or agent; and

(C) the appropriate local or State authority, if any, fails to assume responsibility for disposition of the remains within 36 hours of written notice, which may be delivered by hand, U.S. mail, facsimile transmission, electronic means, or telegraph.

§ 5231. CIVIL ACTION

* * *

(c) Except as provided for under subdivision (b)(4) of this section, an individual who has paid or agreed to pay for all or part of the funeral arrangements or ~~final~~ permanent disposition does not have greater priority to the right to disposition than as set forth in section 5227 of this title.

(d)(1) A funeral director or ~~erematory~~ disposition facility operator may refuse to accept bodily remains, to inter or otherwise dispose of bodily remains, or to complete the arrangements for the ~~final~~ permanent disposition until such time as the court issues an order or the parties to the action submit a final stipulation approved by the court regarding the disposition of remains.

(2) If the funeral director or ~~erematory~~ disposition facility operator retains the remains for ~~final~~ permanent disposition while an action is pending, the funeral director or ~~erematory~~ disposition facility operator may refrigerate or shelter the remains while awaiting a preliminary or final order of the court. The cost of refrigeration or sheltering shall be the responsibility of the party or parties who contracted with the funeral director or ~~erematory~~ disposition facility operator, the person or entity who is otherwise liable for the costs of ~~final~~ permanent disposition, or the estate as ordered by the court, or any combination of these, and the court may include in the order a decision concerning which of these shall be responsible for paying these costs.

(e) If a funeral director or ~~erematory~~ disposition facility operator commences an action under this section, the funeral director or ~~erematory~~ disposition facility operator may ask the court to include an order against the estate or the parties for reasonable legal fees and costs. If the estate is insolvent and no other person should be responsible for the filing fee, the court may waive the filing fee. The court, in its discretion, may order a party or parties to pay the reasonable costs of ~~final~~ permanent disposition as a condition of the appointment to make disposition decisions. The court may order that a party, or parties, including the petitioner, pay reasonable legal fees and costs associated with the action.

(f) Any appeal from the ~~probate court~~ Probate Division shall be on the record to the Civil Division of the Superior Court. There shall be no appeal as a matter of right to the Supreme Court.

* * *

§ 5233. LIMITED LIABILITY

A funeral director or ~~erematory~~ disposition facility operator shall not be subject to civil liability or subject to disciplinary action for carrying out the disposition of the remains if he or she relied in good faith on a funeral service contract or authorization or for following the instructions of an individual ~~whom~~ who the funeral director or ~~erematory~~ disposition facility operator reasonably believes or believed holds the right of disposition.

* * *

* * * Cemeteries * * *

Sec. 8. 18 V.S.A. § 5302 is amended to read:

§ 5302. DEFINITIONS

As used in this chapter and unless otherwise required by the context:

(1) “Agencies” means town cemeteries, religious or ecclesiastical society cemeteries, cemetery associations, and any person, firm, corporation, or unincorporated association engaged in the business of a cemetery.

(2) “Cemetery” means any plot of ground used or intended to be used for the burial or permanent disposition ~~permanently~~ of the remains of the human dead in a grave, a mausoleum, a columbarium, a vault, or other receptacle.

(3) “Cemetery association” means any corporation now or hereafter organized ~~which~~ that is or shall be authorized by its articles to conduct the business of a cemetery.

(4) “Columbarium” means a structure or room or other space in a building or structure of durable and lasting fireproof construction, containing niches, used or intended to be used, to contain ~~cremated~~ the permanent disposition of human remains.

(5) “Community mausoleum” means a structure or building of durable and lasting construction used or intended to be used for the permanent disposition of the remains of deceased persons in crypts or spaces, provided such crypts or spaces are available to or may be obtained by individuals or the public for a price in money or its equivalent.

(6) “Cremated remains” means remains of a deceased person after incineration in a ~~crematory~~ disposition facility.

(7) “Cremation” means the reducing of the remains of deceased persons, by the use of retorts, to cremated remains and the disposal thereof in a columbarium, niche, mausoleum, grave, or in any other manner not contrary to law.

~~(8) “Crematory” means a building or structure containing one or more retorts, used or intended to be used, for the reducing of the bodies of deceased persons to cremated remains.~~

~~(9)~~(8) “Crypt” means the chamber in a mausoleum of sufficient size to contain the remains of deceased persons.

(9) “Disposition facility” means a building or structure for the reducing of human remains by means of cremation, alkaline hydrolysis, or natural organic reduction.

(10) “Ecological land management practices” means utilization of land stewardship decision-making processes that account for the best available understanding of ecosystem functions and biological diversity.

(11) “Natural burial ground” means a cemetery maintained using ecological land management practices and without the use of vaults for the burial of unembalmed human remains or human remains embalmed using nontoxic embalming fluids and that rest in either no burial container or in a nontoxic, nonhazardous, plant-derived burial container or shroud.

(12) “Natural organic reduction” means the contained, accelerated conversion of human remains to soil.

~~(12)~~(13) “Niche” means a recess in a columbarium used, or intended to be used, for the permanent disposition of ~~the cremated~~ human remains of one or more deceased persons.

~~(13)~~(14) “Temporary receiving vault” means a vault or crypt in a structure of durable and lasting construction, used, or intended to be used, for the temporary deposit of the remains of a deceased person for a period of time not exceeding one year.

Sec. 9. 18 V.S.A. § 5313 is amended to read:

§ 5313. RECORDS; BURIAL RECORDS OPEN TO PUBLIC

An agency engaged in the business of a cemetery, community mausoleum, or columbarium shall provide and maintain a suitable place of deposit for the records and files of such cemetery, community mausoleum, or columbarium, of such character as will safely keep and preserve such records and files from loss and destruction, and it shall make and file proper records in such place. The record of burials, interments, and cremations the permanent disposition of human remains shall at all reasonable times be open to the public.

Sec. 10. 18 V.S.A. § 5315 is amended to read:

§ 5315. SALE OF PROPERTY FOR OTHER THAN BURIAL PURPOSES;
DISPOSITION OF PROCEEDS

Either before or after the recording of the plat, as hereinbefore provided, whenever it is determined that such lands acquired for cemetery purposes, except those acquired by condemnation proceedings, are unsuitable for ~~burial purposes~~ the permanent disposition of human remains, such lands may be sold for purposes other than ~~interment~~ permanent disposition and conveyed in fee simple in such manner and upon such terms as may be provided by the agencies owning the same. The proceeds thereof shall be applied to the purchase of other lands or to general cemetery purposes. When such sales are made, the land so sold shall be returned by the agencies to the tax lists for taxation. In the case of land acquired by condemnation proceedings, it shall be disposed of under the law governing the disposal of land acquired by condemnation proceedings.

Sec. 11. 18 V.S.A. § 5319 is amended to read:

§ 5319. DISPOSITION OF REMAINS OF DEAD

(a)(1) The permanent disposition of human remains shall be by:

(A) interment in the earth ~~or~~;

(B) deposit in a chamber, vault, or tomb formed wholly or partly above the surface of the ground of a cemetery conducted and maintained pursuant to the laws of the State, ~~or by~~;

(C) deposit in a crypt of a mausoleum, ~~or by~~;

(D) cremation; or

(E) natural organic reduction.

(2) However, this shall not be construed to prevent a private individual from setting aside a portion of his or her premises owned in fee by him or her and using the premises as a burial space for the members of his or her immediate family, ~~so long as provided~~ his or her use for such purpose is not in violation of the health laws and regulations of the State and the town in which the land is situated.

* * *

(c) ~~No deposit of the remains of the human dead~~ With the exception of human remains processed by natural organic reduction, the permanent disposition of human remains shall not be made in a single chamber, vault, or tomb wholly or partly above the surface of the ground unless the part thereof below the natural surface of the ground be of a permanent character, constructed of materials capable of withstanding extreme climatic conditions, be waterproof and air tight, and can be sealed permanently so as to prevent all escape of effluvia. That portion of the same above the natural surface of the ground shall be constructed of natural stone of a standard not less than that required by the U.S. government for monuments erected in national cemeteries, of durability sufficient to withstand all conditions of weather, and of a character to ensure its permanence.

(d) The remains of a human body after cremation or natural organic reduction may be deposited in a niche of a columbarium, ~~in a or a~~ crypt of a mausoleum; ~~be buried;~~ or disposed of in any manner not contrary to law.

Sec. 12. 18 V.S.A. § 5361 is amended to read:

§ 5361. APPROPRIATIONS AND REGULATIONS BY TOWNS

A town may vote sums of money necessary for purchasing, holding, and keeping in repair suitable grounds and other conveniences for ~~burying~~ permanent disposition of the dead. The selectboard may make necessary regulations concerning public burial grounds and for fencing and keeping the same in proper order.

Sec. 13. 18 V.S.A. § 5376 is amended to read:

§ 5376. SALE OF LOTS; TAX EXEMPTION

The board of cemetery commissioners, by one of the commissioners appointed by it for that purpose, in the name of the town, by deed, may grant and convey lots in such burial grounds to be used for the ~~burial~~ permanent disposition of the dead and on which tombs, cenotaphs, and other monuments

are to be erected. Such lots shall be exempt from taxation. The deeds thereof shall be recorded in the office of the town clerk of the town wherein such lots lie.

Sec. 14. 18 V.S.A. § 5378 is amended to read:

§ 5378. BYLAWS AND REGULATIONS

The board of cemetery commissioners may make necessary bylaws and regulations in respect to such burial grounds, and ~~interment~~ permanent disposition of the dead not inconsistent with law, and may alter the same. Such bylaws and regulations shall be recorded in the office of the town clerk. A bylaw or regulation shall not be adopted to restrain a person in the free exercise of his or her religious sentiments as to the ~~burial~~ permanent disposition of the dead.

Sec. 15. 18 V.S.A. § 5434 is amended to read:

§ 5434. PENALTY FOR DOING BUSINESS AS A CEMETERY

ASSOCIATION WITHOUT AUTHORITY

A person, firm, corporation, or association, or a trust, trustee, or trustees of any person, firm, corporation, or association, who, without authority of this chapter so to do, shall exercise or attempt to exercise any powers, privileges, or franchises ~~which~~ that are specified or may be granted under this chapter to incorporated cemetery associations, or who shall by any device attempt to evade the provisions of this chapter applicable to cemetery associations in respect to the sale of ~~burial~~ lots or ~~burial~~ spaces for the permanent disposition of human remains and the disposition of the proceeds thereof, shall be fined not less than \$1,000.00 nor more than \$10,000.00, and may be enjoined from further doing of such acts at the suit of any taxpayer of the State. However, the provisions of this section shall not affect or impair the rights of a person, firm, corporation, or association or a trust, trustee, or trustees of such person, firm, corporation, or association under any existing contract or contracts between such parties and incorporated cemetery associations, nor shall the performance of the provisions of such contract or contracts subject parties thereto to the penalties imposed by this section.

Sec. 16. 18 V.S.A. § 5435 is amended to read:

§ 5435. SALES OF LOTS, CRYPTS, AND NICHES; HOW INCOME

APPLIED; RULES

(a) The income of a cemetery association, whether derived from the sale of lots, ~~burial~~ spaces, crypts, or niches for the permanent disposition of human remains, from donations, or otherwise, shall be exclusively applied to paying

for the land or other cemetery property; laying out, preserving, protecting, and embellishing the cemetery and avenues leading thereto; the erection of buildings necessary for cemetery purposes; the establishing of a fund to care permanently for the cemetery; the repair and upkeep of mausoleums, vaults, columbariums, crypts, and niches therein; and to paying the necessary expenses of the cemetery association. A debt shall not be contracted in anticipation of future receipts, except for the original purchase of the land, community mausoleum, or columbarium, laying out, enclosing, and embellishing the grounds and avenues therein and to a sum not exceeding \$50,000.00 in the whole, to be paid out of future income. ~~No part of the~~ The proceeds from the sale of lots, burial spaces, crypts, or niches for the permanent disposition of human remains, or other income of such association, shall ~~ever~~ not be divided among its members. All its income shall be used exclusively for the purposes of the association, as provided in this chapter, or invested in a fund the income of which shall be so used. Such association may adopt such reasonable rules and regulations as it deems expedient for disposing of and conveying ~~burial~~ lots, spaces, crypts, and niches for the permanent disposition of human remains.

* * *

Sec. 17. 18 V.S.A. § 5436 is amended to read:

§ 5436. PERPETUAL CARE FUND

A cemetery association established prior to June 1, 1933 may create a perpetual care fund out of surplus money on hand or ~~which that~~ that has been given to it by will, deed, or otherwise. A cemetery association established after such date shall create such a perpetual care fund by applying thereto from the initial proceeds received from the sale of lots or ~~burial~~ spaces for the permanent disposition of human remains a sum ~~which that~~ that shall be equivalent to and not less than 20 percent of the sale price of each lot or ~~burial~~ space so sold, and such association may at any time increase the same by the addition of surplus money or property received by it by will, deed, or otherwise.

Sec. 18. 18 V.S.A. § 5488 is amended to read:

§ 5488. ENLARGEMENT OF CEMETERIES BY ASSOCIATIONS-
PETITION TO SUPERIOR COURT TO ACQUIRE LAND

When an incorporated cemetery association wishes to enlarge the limits of its burial ground, and votes to purchase additional land for ~~burial~~ permanent disposition purposes and the owner of such land refuses to convey the same to ~~such~~ the cemetery association for a reasonable compensation, the trustees or president of such association, by a petition in writing, may apply to the

Superior Court in the county in which such burial ground is located for the appointment of commissioners.

* * * Funeral Services * * *

Sec. 19. 26 V.S.A. § 1211 is amended to read:

§ 1211. DEFINITIONS

(a) As used in this chapter, unless a contrary meaning is required by the context:

(1) ~~“Crematory establishment” means a business registered with the Office conducted at a specific street address or location devoted to the disposition of dead human bodies by means of cremation, alkaline hydrolysis, or any other type of human reduction acceptable to the Director as established by the Director by rule. [Repealed.]~~

(2) “Director” means the Director of the Office of Professional Regulation.

(3) “Funeral director” means a licensed person who is the owner, co-owner, employee, or manager of a licensed funeral establishment and who, for compensation, engages in the practice of funeral service.

(4) “Funeral establishment” means a business registered with the Office conducted at a specific street address or location devoted to the practice of funeral service, and includes a limited services establishment.

(5) “Office” means the Office of Professional Regulation.

(6) “Practice of funeral service” means arranging, directing, or providing for the care, preparation, or disposition of dead human bodies for a fee or other compensation. This includes:

(A) meeting with the public to select a method of disposition or funeral observance and merchandise;

(B) entering into contracts, either at-need or pre-need, for the provision of dispositions, funeral observances, and merchandise;

(C) arranging, directing, or performing the removal or transportation of a dead human body;

(D) securing or filing certificates, permits, forms, or other documents;

(E) supervising or arranging a funeral, memorial, viewing, or graveside observance; and

(F) holding oneself out to be a licensed funeral director by using the words or terms “funeral director,” “mortician,” “undertaker,” or any other words, terms, title, or picture that, when considered in context, would imply that such person is engaged in the practice of funeral service or is a licensed funeral director.

(7) “Removal” means the removal of dead human bodies from places of death, hospitals, institutions, or other locations, for a fee or other compensation.

(8) “Disposition facility” means a business registered with the Office conducted at a specific street address or location devoted to the disposition of human remains by means of cremation, alkaline hydrolysis, or natural organic reduction.

(9) “Natural organic reduction” has the same meaning as in 18 V.S.A. § 5302.

* * *

(c) Notwithstanding this section, ~~crematory~~ owners of a disposition facility, and their personnel may engage in the listed activities in ~~subsection~~ subdivision (a)(6) of this section only to the extent such functions are necessary to the performance of their duties. Specifically, ~~crematory~~ personnel at a disposition facility may:

(1) provide for the disposition of dead human bodies by cremation, alkaline hydrolysis, or natural organic reduction and meet with the public to arrange and provide for the disposition;

(2) enter into contracts, without taking prepaid funds, for the provision of dispositions by cremation, alkaline hydrolysis, or natural organic reduction;

(3) arrange, direct, or perform the removal or transportation of a dead human body, ~~so long as~~ provided that removals are performed by licensed removal personnel; and

(4) secure and file certificates, permits, forms, or other documents.

Sec. 20. 26 V.S.A. § 1212 is amended to read:

§ 1212. ADVISOR APPOINTEES; DIRECTOR DUTIES; RULES

(a)(1) The Secretary of State shall appoint four persons for five-year staggered terms to serve at the Secretary’s pleasure as advisors in matters relating to funeral service. Three of the initial appointments shall be for four-, three-, and two-year terms. Appointees shall include three licensed funeral directors, one of whom is a licensed embalmer and one of whom has training

or experience in the operation of ~~crematoria~~ a disposition facility. One appointee shall be a public member.

(2) The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

(b) The Director shall:

* * *

(6) adopt rules regarding:

(A) minimum standards for ~~crematory establishments~~ disposition facilities, including standards for permits and documentation, body handling, containers, infectious diseases, pacemakers, body storage, sanitation, equipment and maintenance, dealing with the public, and other measures necessary to protect the public; and

(B) the transaction of business as the Director deems necessary.

(7) [Repealed.]

(8) [Repealed.]

Sec. 21. 26 V.S.A. § 1213 is amended to read:

§ 1213. INSPECTION OF PREMISES

(a) The Director or his or her designee may, at any reasonable time, inspect funeral ~~and crematory establishments~~ and disposition facilities.

(b) Each funeral ~~and crematory establishment~~ and disposition facility shall be inspected at least once every two years. Copies of the inspector's report of inspections of establishments and facilities shall be provided to the Director.

Sec. 22. 26 V.S.A. § 1251 is amended to read:

§ 1251. LICENSE REQUIREMENTS

(a) A person, partnership, corporation, association, or other organization shall not open or maintain a funeral establishment unless the establishment is licensed by the Office to conduct the business and unless the owner, a co-owner, or manager is a licensed funeral director.

(b) A person, partnership, corporation, association, or other organization shall not open or maintain a ~~crematory establishment~~ disposition facility unless the establishment is licensed by the Office.

(c) A person shall not hold himself or herself out as performing the duties of a funeral director unless licensed by the Office.

(d) Except as otherwise permitted by law, a person employed by a funeral ~~or crematory establishment~~ or disposition facility shall not perform a removal unless registered with the Office.

Sec. 23. 26 V.S.A. § 1252 is amended to read:

§ 1252. APPLICATION; QUALIFICATIONS

* * *

(d) ~~Crematory establishment~~ Disposition facility.

(1) A person, partnership, corporation, association, or other organization desiring to operate a ~~crematory establishment~~ disposition facility shall apply, in writing, to the Director for a license. The applicant, if a partnership, corporation, association, or other organization, must have a designated manager or co-owner who is responsible for the operation of the ~~establishment~~ disposition facility and who is registered with the Office under subsection (e) of this section.

(2) The application for a license shall be sworn to by the individual, or a partner or a duly authorized officer of a corporation, shall be on the form prescribed and furnished by the Director, and the applicant shall furnish information, as required by rule. The application shall be accompanied by a licensing fee. However, the applicant shall not be required to pay the fee under this subsection if the applicant pays the fee under subsection (b) of this section.

(e) ~~Crematory~~ Disposition facility personnel.

(1) Any person who desires to engage in direct handling, processing, identification, ~~or cremation,~~ alkaline hydrolysis, or natural organic reduction of dead human remains within a licensed ~~crematory establishment~~ disposition facility shall register with the Office and pay the fee established in subsection 1256(d) of this chapter. The applicant shall have attained the age of majority and be directly employed by a licensed ~~crematory establishment~~ disposition facility.

(2) The Director may prescribe, by rule, the forms for applicants, which may include proof of completion of up to three hours of education and training in programs approved by the Director.

(f) Removal personnel.

(1) Any person who desires to engage in removals shall register with the Office and pay the fee established in subsection 1256(d) of this chapter. The applicant shall have attained the age of majority and be directly employed by a licensed funeral ~~or crematory establishment~~ or disposition facility, or the

University of Vermont for removals related to the University's anatomical gift program.

(2) The Director may prescribe, by rule, the forms for applicants, which may include proof of completion of up to three hours of education and training in infectious diseases in programs approved by the Director.

(3) Registrants under this subsection are authorized to perform removals only, as defined by this chapter. Unregistered personnel may accompany registered personnel to assist in removals ~~so long as~~ provided they have been instructed in handling and precautionary procedures prior to the call.

(g) Limited services establishment.

(1) The Director may adopt rules for the issuance of limited service establishment licenses in accordance with this chapter. Limited service establishment licensees are authorized to perform only disposition services without arranging, directing, or performing embalming, public viewings, gatherings, memorials, funerals, or related ceremonies. Disposition services under this subsection include direct cremation, direct alkaline hydrolysis, direct natural organic reduction, immediate burial, or direct ~~green~~ natural burial.

(2) Limited services shall be overseen by a funeral director licensed under this chapter who is employed by the limited service establishment.

(3) Each limited service arrangement shall include a mandatory written disclosure providing notice to the purchaser that limited services do not include embalming, public viewings, gatherings, memorials, funerals, or related ceremonies.

(4) A funeral director associated with a funeral establishment licensed under subsection (c) of this section may provide limited services ~~so long as~~, provided the mandatory disclosure described under subdivision (3) of this subsection is provided to the purchaser.

Sec. 24. 26 V.S.A. § 1254 is amended to read:

§ 1254. ISSUANCE OR DENIAL OF LICENSE

If, upon review, it is found that the applicant possesses sufficient skill and knowledge of the business and has met the application and qualification requirements set forth in this chapter, the Director shall issue to him or her a license to engage in the business of funeral director, embalmer, funeral establishment, ~~erematory establishment~~ disposition facility, or removal personnel.

Sec. 25. 26 V.S.A. § 1256 is amended to read:

§ 1256. RENEWAL OF REGISTRATION OR LICENSE

* * *

(d) Applicants and persons regulated under this chapter shall pay the following fees:

- (1) Application for license \$ 70.00
- (2) Biennial renewal of license
 - (A) Funeral director \$ 350.00
 - (B) Embalmer \$ 350.00
 - (C) Funeral establishment \$ 800.00
 - (D) ~~Crematory establishment~~ Disposition facility \$ 800.00
 - (E) ~~Crematory~~ Disposition facility personnel \$ 125.00
 - (F) Removal personnel \$ 125.00
 - (G) Limited services establishment license \$ 800.00

* * *

Sec. 26. 26 V.S.A. § 1272 is amended to read:

§ 1272. RULES; PREPAID FUNERAL FUNDS

* * *

(9) Establishment of a funeral services trust account.

(A) For purposes of funding the Funeral Services Trust Account, the Office shall assess each funeral ~~or crematory~~ establishment or disposition facility a per funeral, burial, or disposition fee of \$6.00.

(B) The Account shall be administered by the Secretary of State and shall be used for the sole purpose of protecting prepaid funeral contract holders in the event a funeral establishment or disposition facility defaults on its obligations under the contract.

(C) The Account shall consist of all fees collected under this subdivision (9) and any assessments authorized by the General Assembly. The principal and interest remaining in the Account at the close of any fiscal year shall not revert but shall remain in the Account for use in succeeding fiscal years.

(D) Notwithstanding the provisions of this subdivision (9) to the contrary, if the fund balance at the beginning of a fiscal year is at least \$200,000.00, no fees shall be imposed during that fiscal year.

(E) Payments on consumer claims from the fund shall be made on warrants by the Commissioner of Finance and Management, at the direction of the Director.

(F) When an investigation reveals financial discrepancies within a licensed establishment or facility, the Director may order an audit to determine the existence of possible claims on the Funeral Services Trust Account. In cases where both a funeral ~~and crematory~~ establishment or disposition facility are involved in a disposition, the party receiving the burial permit shall be responsible for the disposition fee.

* * * Fee Structure as of June 1, 2023 * * *

Sec. 27. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

* * *

(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:

(1) Application for registration, \$75.00, except application for:

(A) Private investigator and security services employees, unarmed registrants, \$60.00.

(B) Private investigator and security service employees, transitory permits, \$60.00.

(C) Private investigator and security service employees, armed registrants, \$120.00.

(2) Application for licensure or certification, \$100.00, except application for:

(A) Barbering or cosmetology schools and shops, \$300.00.

(B) Funeral directors, embalmers, ~~crematory~~ disposition facility personnel, removal personnel, funeral establishments, ~~crematory establishments~~ disposition facilities, and limited services establishments, \$70.00.

(C) Application for real estate appraisers, \$275.00.

(D) Temporary real estate appraiser license, \$150.00.

- (E) Appraisal management company registration, \$600.00.
 - (F) Private investigator or security services agency, \$340.00.
 - (G) Private investigator and security services agency, \$400.00.
 - (H) Private investigator or security services sole proprietor, \$250.00.
 - (I) Private investigator or security services unarmed licensee, \$150.00.
 - (J) Private investigator or security services armed licensee, \$200.00.
 - (K) Private investigator and security services instructor, \$120.00.
- (3) Optician trainee registration, \$50.00.
- (4) Biennial renewal, \$240.00, except biennial renewal for:
- (A) Independent clinical social workers and master's social workers, \$150.00.
 - (B) Occupational therapists and assistants, \$150.00.
 - (C) Physical therapists and assistants, \$150.00.
 - (D) Optician trainees, \$100.00.
 - (E) Barbers, cosmetologists, nail technicians, and estheticians, \$130.00.
 - (F) Schools of barbering or cosmetology, \$300.00.
 - (G) Funeral directors and embalmers, \$280.00.
 - (H) ~~Crematory~~ Disposition facility personnel and removal personnel, \$100.00.
 - (I) Funeral establishments, ~~crematory establishments~~ disposition facilities, and limited services establishments, \$640.00.
 - (J) [Repealed.]
 - (K) Radiologic therapist, radiologic technologist, nuclear medicine technologist, \$150.00.
 - (L) Certified alcohol and drug abuse counselor, certified apprentice addiction professional, and licensed alcohol and drug abuse counselor, \$225.00.
 - (M) Private investigator or security services agency, or both, \$300.00.

(N) Private investigator or security services unarmed licensee, \$120.00.

(O) Private investigator or security services armed licensee, \$180.00.

(P) Private investigator or security services unarmed registrant, \$80.00.

(Q) Private investigator or security services armed registrant, \$130.00.

(R) Private investigator or security services sole proprietor, \$250.00.

(S) Private investigator or security services instructor, \$180.00.

(5) Limited temporary license or work permit, \$50.00.

* * *

* * * Effective Dates and Transitional Rulemaking Provision * * *

Sec. 28. EFFECTIVE DATES

Sec. 27 (fees) shall take effect on June 1, 2023. All other sections shall take effect on January 1, 2023, except that the Director of the Office of Professional Regulation shall adopt any rules necessary prior to that date in order to perform the Director's duties under this act.

(Committee Vote: 10-0-1)

Action Postponed Until April 20, 2022

Governor's Veto

H. 157

An act relating to registration of construction contractors.

For Text of Veto Message, please see House Journal of February 10, 2022

For Informational Purposes

Crossover Deadline

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and on Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 11, 2022**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 11, 2022**.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and on Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 18, 2022**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation capital bill, the Capital Construction bill, and the Fee/Revenue bills).

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)(D):

JFO #3087 – \$663,538 to the VT Department of Financial Regulation from the Centers for Medicare and Medicaid Services. Funds will be used to analyze Vermont’s current health insurance options to ensure coverage is accessible to all Vermonters, and to develop an action plan if necessary. Includes one (1) limited-service position, Grant Manager and Health Policy Analyst, funded through 9/14/2023.

[NOTE: The Department of Financial Regulation signed an RFP with an actuarial firm to start looking at the benchmark in September 2021. The work being performed now is planned on being paid for with grant funds.]

[Received February 10, 2022]

JFO #3088 – \$896,945 to the VT Judiciary from the U.S. Office of Justice Programs. Funds will be used to support The Chittenden County Family Treatment Docket which opened for referrals in March 2021. The initial limited launch was intended to capture what areas require additional technical assistance from our national best practice standards partner, Children and Family Futures. Funding is needed to sustain operation and expand service to a larger number of at-risk families. Includes one (1) limited-service position, Treatment Court Coordinator, funded through 09/2024.

[Received February 10, 2022]

JFO #3089 - \$6,589,481 to the VT Agency of Human Services, Dept of Disabilities, Aging and Independent Living from U.S. Dept of Education. Funds to establish a system and to provide support for 500 Vermonters with disabilities to achieve credentials leading to high-wage employment. Includes eight (8) limited-service positions: one (1) Project Director; six (6) VR

Counselor/Career Navigator; one (1) Assistive Technology Specialist funded through 9/30/2026.

[Received 2/17/2022, expedited review requested 2/17/2022]

JFO #3090 –Three (3) limited-service positions: Military Project Manager. Positions needed to replace Federal personnel reductions in project management and program management staffing levels. VT Military confirms the positions are fully funded through the Master Cooperative Agreement through 9/30/24. *[Received February 17, 2022]*

JFO #3091 - \$60,528 to the VT Department of Public Safety from the National Governor’s Association to fund the Agency of Digital Services staff to assist the Department of Public Safety with IT concerns specific to improving multi-agency information sharing and governance. *[Received February 17, 2022]*