

# Journal of the Senate

THURSDAY, MARCH 18, 2021

The Senate was called to order by the President.

## Devotional Exercises

A moment of silence was observed in lieu of devotions.

## Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Madam President:

I am directed by the Governor to inform the Senate that on the seventeenth day of March he approved and signed a bill originating in the Senate of the following title:

**S. 110.** An act relating to extending eligibility for Pandemic Emergency Unemployment Compensation.

## Message from the House No. 35

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

The House has considered a bill originating in the Senate of the following title:

**S. 117.** An act relating to extending health care regulatory flexibility during and after the COVID-19 pandemic and to coverage of health care services delivered by audio-only telephone.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

## Bills Referred to Committee on Appropriations

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

**S. 79.** An act relating to improving rental housing health and safety.

**S. 101.** An act relating to promoting housing choice and opportunity in smart growth areas.

**Bill Introduced**

Senate bill of the following title was introduced, read the first time and referred:

**S. 127.**

By Senator Sears,

An act relating to a pilot project for a Department of Corrections report to assist the court setting conditions of probation.

To the Committee on Judiciary.

**Bill Amended; Bill Passed**

**S. 15.**

Senate bill entitled:

An act relating to correcting defective ballots.

Was taken up.

Thereupon, pending third reading of the bill, Senator Parent moved to amend the bill by adding a new section to be numbered Sec. 21a to read as follows:

Sec. 21a. VOTING ACCESS; REPORT

On or before January 30, 2023, the Secretary of State's office shall submit a written report to the House and Senate Committees on Government Operations with its findings and any recommendations for legislative action on:

(a) issues related to implementing universal vote by mail for municipal and primary elections; and

(b) the impact expanding vote by mail would have on:

(A) access to voting among those who have historically been disenfranchised and populations that have historically had low voter turnout;

(B) public satisfaction with the voting process; and

(C) the administration of elections.

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 27, Nays 3.

Senator Clarkson having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Balint, Baruth, Benning, Bray, Brock, Champion, Chittenden, Clarkson, Cummings, Hardy, Hooker, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Parent, Pearson, Perchlik, Pollina, Ram, Sears, Sirotkin, Starr, Westman, White.

**Those Senators who voted in the negative were:** Collamore, Ingalls, \*Terenzini.

\*Senator Terenzini explained his vote as follows:

“Madam President,

“I offer an explanation to you, my senate colleagues, and my constituents as to why I voted NO against S.15, the universal mail-in voting bill.

“I, along with so many of my colleagues have had the pleasure of serving as ballot clerks, as Justices of the Peace, as members of a select board, and as people who have been champions for free and fair elections.

“I have spent time at countless events registering voters and encouraging others to participate in our elections, regardless of who they decide to vote for!

“Our right to vote in this country is a cornerstone of our democracy. It’s what sets us apart from other nations and makes America as special as it is.

“Everyone should have the ability to vote in an election if they choose. However, we already provide the opportunity for all Vermonters to vote by mail in they choose. If a registered voter cannot make it to the polls on election day, or decides that they wish to vote by mail, all that’s needed is a simple phone call to your clerk’s office to request a ballot. This fulfills your request as a voter, allows you to vote, and creates a record of your request.

“I also heard from several local town clerks who were not in favor of this bill. As they are the local election officers, their consideration was a deciding factor of mine.

“I want to make it clear that I did not vote against this measure because I believe that we saw wide-spread voter fraud in November. I simply don’t see that to be the case. However, voting is one of life’s great responsibilities and having a record of your request is simply a measure that protects the integrity of the election.

“Voting is everyone’s right, but with that right comes great responsibility.”

**Bill Amended; Third Reading Ordered****S. 30.**

Senator Baruth, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to prohibiting possession of firearms at childcare facilities, hospitals, and certain public buildings.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 4023 is added to read:

§ 4023. POSSESSION OF FIREARMS IN HOSPITAL BUILDINGS  
PROHIBITED

(a) A person shall not knowingly possess a firearm while within a hospital building.

(b) A person who violates this section shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both.

(c) This section shall not apply to a firearm possessed by a federal law enforcement officer or a law enforcement officer certified as a law enforcement officer by the Vermont Criminal Justice Training Council pursuant to 20 V.S.A. § 2358, for legitimate law enforcement purposes.

(d) Notice of the provisions of this section shall be posted conspicuously at each public entrance to each hospital.

(e) As used in this section:

(1) "Firearm" has the same meaning as in subsection 4017(d) of this title.

(2) "Hospital" has the same meaning as in 18 V.S.A. § 1902.

Sec. 2. **CAPITOL COMPLEX SECURITY ADVISORY COMMITTEE;  
REPORT ON FIREARMS IN STATE HOUSE**

On or before December 1, 2021, the Capitol Complex Security Advisory Committee shall report to the Joint Justice Oversight Committee on the regulation of firearms in the Capitol Complex as defined in 29 V.S.A. § 182. The report shall:

(1) summarize how the possession of firearms at the Capitol Complex is currently regulated, including pursuant to Rule 26 of the Joint Rules of the Senate and House of Representatives;

(2) describe situations when persons have impermissibly possessed firearms at the Capitol Complex in the past and how these situations are typically handled; and

(3) recommend whether and how the issue of firearms at the Capitol Complex should be addressed in legislation.

### 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 prohibiting possession of firearms within hospital buildings.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, Senator Benning requested that the question be divided and that Sec. 2 be voted on separately.

Thereupon, the bill was amended as recommended in Secs 1 and 3 on a roll call, Yeas 20, Nays 9.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Balint, Baruth, Bray, Campion, Chittenden, Clarkson, Hardy, Hooker, Kitchel, Lyons, MacDonald, McCormack, Nitka, Pearson, Perchlik, Pollina, Ram, Sears, Sirotkin, Westman.

**Those Senators who voted in the negative were:** Benning, Brock, Collamore, Ingalls, Mazza, Parent, Starr, Terenzini, \*White.

**The Senator absent and not voting was:** Cummings.

\*Senator White explained her vote as follows:

“As an original cosponsor of this bill I know many are surprised by my vote. On listening to the testimony this was the conclusion I came to. Our Defender General asks four questions when considering a new crime - these two are relevant to my vote: is there another law to deal with this situation and will it have the intended impact. Without going into detail about the no trespass statute I believe that in fact this is a law to address this issue. And to

the intended impact - I do not believe that this law will deter someone with ill intent.”

Thereupon, the bill was amended as recommended in Sec. 2 on a roll call, Yeas 19, Nays 10.

Senator Westman having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Balint, Baruth, Bray, Campion, Chittenden, Clarkson, Hardy, Hooker, Kitchel, Lyons, MacDonald, McCormack, Nitka, Pearson, Perchlik, Pollina, Ram, Sears, Sirotkin.

**Those Senators who voted in the negative were:** Benning, Brock, Collamore, Ingalls, Mazza, Parent, Starr, Terenzini, Westman, White.

**The Senator absent and not voting was:** Cummings.

Thereupon, third reading of the bill was ordered.

### **Bill Amended; Third Reading Ordered**

#### **S. 47.**

Senator Perchlik, for the Committee on Transportation, to which was referred Senate bill entitled:

An act relating to motor vehicle manufacturers and motor vehicle warranty or service facilities.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. § 4085(13) is amended to read:

(13) “New motor vehicle dealer” means any person ~~engaged in the business of~~ who holds, or held at the time a cause of action under this chapter accrued, a valid sales and service agreement, franchise, or contract granted by the manufacturer or distributor for the retail sale of said manufacturer’s or distributor’s new motor vehicles, is not affiliated by ownership or control with a franchisor, and is engaged in the business of any of the following with respect to new motor vehicles or the parts and accessories for those new motor vehicles:

(A) ~~selling;~~ or leasing;

(B) ~~offering to sell;~~ or lease;

(C) ~~soliciting;~~ or advertising the sale or lease; or

~~(D) of new motor vehicles and who holds, or held at the time a cause of action under this chapter accrued, a valid sales and service agreement, franchise, or contract, granted by the manufacturer or distributor for the retail sale of said manufacturer's or distributor's new motor vehicles offering through a subscription or like agreement.~~

Sec. 2. 9 V.S.A. § 4085(18) is added to read:

(18) "Non-franchised zero emissions vehicle manufacturer" means a manufacturer that:

(A) only manufacturers zero-emission vehicles, including plug-in electric vehicles as defined in 23 V.S.A. § 4(85);

(B) only sells or leases directly to consumers new or used zero-emission vehicles that it manufactures or vehicles that have been traded in in conjunction with a new zero-emission vehicle sale;

(C) does not currently sell or lease, and has never sold or leased, motor vehicles in Vermont through a franchisee;

(D) has not sold or transferred a combined direct or indirect ownership interest of greater than 30 percent in such non-franchised zero emissions vehicle manufacturer to a franchisor, subsidiary, or other entity controlled by a franchisor or has not acquired a combined direct or indirect ownership interest of greater than 30 percent in a franchisor, subsidiary, or other entity controlled by a franchisor; and

(E) is a dealer registered pursuant to 23 V.S.A. chapter 7, subchapter 4.

Sec. 3. 9 V.S.A. § 4086(i) is amended to read:

(i) It is unlawful for a franchisor, manufacturer, factory branch, distributor branch, or subsidiary to own, operate, or control, either directly or indirectly, a motor vehicle warranty or service facility located in the State except:

(1) on an emergency or interim basis or;

(2) if no qualified applicant has applied for appointment as a dealer in a market previously served by a new motor vehicle dealer of that manufacturer's line-make; or

(3) if the manufacturer is a non-franchised zero emissions vehicle manufacturer that directly owns, operates, and controls the warranty or service facility.

Sec. 4. 9 V.S.A. § 4097 is amended to read:

§ 4097. MANUFACTURER VIOLATIONS

It shall be a violation of this chapter for any manufacturer defined under this chapter:

\* \* \*

(8)(A) ~~To compete with a new motor vehicle dealer in the same line-make operating under an agreement or franchise from the aforementioned manufacturer in the relevant market area in the State.~~

(B) For purposes of this subdivision (8), any manufacturer that is not a non-franchised zero-emission vehicle manufacturer, competes with a new motor vehicle dealer if it engages in the business of any of the following with respect to new motor vehicles or the retail sale of parts and accessories for those new motor vehicles:

- (i) selling or leasing;
- (ii) offering to sell or lease;
- (iii) soliciting or advertising the sale or lease; or
- (iv) offering through a subscription or like agreement.

(C) A manufacturer shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a bona fide retail operation that is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions.

\* \* \*

Sec. 5. AMENDMENTS TO THE MOTOR VEHICLE  
MANUFACTURERS, DISTRIBUTORS, AND DEALERS  
FRANCHISING PRACTICES ACT; CREATION OF A DIRECT  
SHIPPER LICENSE; REPORT

(a) It is the intent of the General Assembly to amend the Motor Vehicle Manufacturers, Distributors, and Dealers Franchising Practices Act, 9 V.S.A. chapter 108, in the 2021 Adjourned Session. Amendments may address facility requirements as regulated under 9 V.S.A. § 4096, warranty and predelivery obligations under 9 V.S.A. § 4086, potentially unreasonable standards contained in franchise agreements, and the protection of consumer data.

(b) Any persons that are interested in proposing amendments to the Motor Vehicle Manufacturers, Distributors, and Dealers Franchising Practices Act, 9 V.S.A. chapter 108, shall provide them to the Department of Motor Vehicles not later than December 1, 2021 through an e-mail address to be posted on the website for the Department of Motor Vehicles. Persons may also file proposals on the establishment of a direct shipper license to be administered by the Department of Motor Vehicles with the Department of Motor Vehicles not later than December 1, 2021, through the same e-mail address that is posted on the website for the Department of Motor Vehicles. To the extent practicable, entities should cooperate and file joint proposals.

(c) The Department of Motor Vehicles shall file a written report containing any proposals it receives under subsections (a) and (b) of this section and its own proposal, if it so chooses, on the creation and implementation of a direct shipper license with the House and Senate Committees on Transportation, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs not later than January 15, 2022.

#### Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to motor vehicle manufacturers, dealers, and warranty or service facilities.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

#### **Bills Passed**

Senate bills of the following titles were severally read the third time and passed:

**S. 1.** An act relating to extending the baseload renewable power portfolio requirement.

**S. 16.** An act relating to the creation of the School Discipline Advisory Council.

**S. 115.** An act relating to making miscellaneous changes in education laws.

**Adjournment**

On motion of Senator Balint, the Senate adjourned until eleven o'clock in the morning.