

Journal of the Senate

TUESDAY, MAY 11, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Message from the House No. 67

A message was received from the House of Representatives by Ms. Melissa Kucserik, its First Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

The House has considered Senate proposal of amendment to the following House bill:

H. 421. An act relating to animal cruelty investigation response and training.

And has severally concurred therein.

The House has considered Senate proposal of amendment to House bill:

H. 434. An act relating to establishing the Agricultural Innovation Board.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

Bills Referred to Committee on Appropriations

House 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 Appropriations:

H. 122. An act relating to boards and commissions.

H. 135. An act relating to the State Ethics Commission.

H. 337. An act relating to the printing and distribution of State publications.

H. 436. An act relating to miscellaneous changes to Vermont's tax laws.

Bill Referred

Pursuant to Temporary Rule 44A the following bill having failed to meet cross-over and being released by the Committee on Rules was referred to its respective committee of jurisdiction:

H. 443.

An act relating to approval of the merger of the Wilmington Water District with the Town of Wilmington.

To the Committee on Government Operations.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 28.

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Balint,

J.R.S. 28. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, May 14, 2021, it be to meet again no later than Tuesday, May 18, 2021.

House Proposal of Amendment Concurred In

S. 86.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

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

* * * Temporary Plates * * *

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

§ 511. MANNER OF DISPLAY

(a) Number plates. A motor vehicle operated on any highway shall have displayed in a conspicuous place either one or two number plates as the Commissioner may require. Such number plates shall be furnished by the Commissioner and shall show the number assigned to such vehicle by the

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

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

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

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

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

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

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

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

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

(a) Issuance of ~~permit plate and registration~~; length. The Commissioner is authorized to electronically issue electronic in-transit registration permits a temporary plate and temporary registration to be printed by the owner of a motor vehicle for the purpose of movement over the highways of certain motor vehicles otherwise required to be registered when the vehicles are sold by a person, other than a registered motor vehicle dealer, ~~to a resident to be transported to or within and registered in this State.~~ The electronic in-transit temporary plate and temporary registration permit issued pursuant to this section shall be valid for a period of ~~40~~ 60 days from issuance and shall be in the form and design prescribed by the Commissioner.

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

(c) ~~Proof to be carried by operator. It shall be unlawful for any individual to drive a vehicle registered pursuant to this section unless the operator has in his or her possession a valid bill of sale for the vehicle and proof of compliance with the provisions of section 800 of this title. Notwithstanding section 511 of this title, a motor vehicle may be operated without having displayed one or two number plates if the operator has an electronic in-transit registration permit. An operator may prove that he or she is in possession of an electronic in-transit registration permit for the vehicle he or she is operating using a portable electronic device; however, use of a device for this purpose does not in itself constitute consent for an enforcement officer to access other contents of the device. [Repealed.]~~

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

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

§ 1203b. DUTY TO REPORT BLOOD TEST RESULTS

(a) Notwithstanding any law or court rule to the contrary, if a health care provider who is providing health services to a person in the emergency room of a health care facility as a result of a motor vehicle ~~accident~~ crash becomes aware as a result of any blood test performed in the health care facility that the

person's blood alcohol level meets or exceeds the level prohibited by law, the health care provider shall report that fact, as soon as is reasonably possible, to a law enforcement agency having jurisdiction over the location where the ~~accident~~ crash occurred.

* * *

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

(1) adopt a policy that implements this section;

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

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

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

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

§ 1603. INVESTIGATION OF ~~ACCIDENTS~~ CRASHES

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

* * * Certificate of Title * * *

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

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

* * *

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

* * * Gasoline Tax * * *

* * * Calibration of Tank Vehicles * * *

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

§ 3104. CALIBRATION OF TANK VEHICLES

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

* * * Lien Filing Fees * * *

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

§ 3121. LIEN FILING FEES

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

* * * Snowmobiles; Exhaust Systems * * *

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

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

(a) Snowmobile; required equipment. All snowmobiles shall be equipped

with one or more operational:

* * *

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

* * *

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

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

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

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

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

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

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

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

(4) ~~Consumer information on noise levels.~~ Any person selling or offering to sell a snowmobile or replacement ~~muffler~~ exhaust system shall

include in the specifications thereof precise information concerning the designed maximum sound levels of the snowmobile or replacement muffler exhaust system as outlined by the SSCC.

* * *

* * * Vessels * * *

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

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

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

Subchapter 2. ~~Motorboats~~ Vessels

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

§ 3302. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

(10)(12) “Racing shell or rowing scull” means a manually propelled vessel that is recognized by national or international racing associations for use in competitive racing, and one in which all occupants row or scull, with the exception of a coxswain, if one is provided, and is not designed to carry and does not carry any equipment not solely for competitive racing.

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

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

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

(16) “Sternlight” means a white light placed as nearly as practicable at the stern, showing an unbroken light over an arc of the horizon of 135 degrees

and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel.

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

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

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

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

§ 3303. OPERATION OF UNNUMBERED MOTORBOATS PROHIBITED

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

* * *

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

§ 3305. FEES

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

(b) Annually or biennially, the owner of each motorboat required to be registered by this State shall file an application for a number with the Commissioner of Motor Vehicles on forms approved by him or her. The application shall be signed by the owner of the motorboat and shall be accompanied by an annual fee of \$31.00, or a biennial fee of \$57.00, for a motorboat in class A; by an annual fee of \$49.00, or a biennial fee of \$93.00, for a motorboat in class 1; by an annual fee of \$80.00, or a biennial fee of \$155.00, for a motorboat in class 2; by an annual fee of \$153.00, or a biennial fee of \$303.00, for a motorboat in class 3. Upon receipt of the application in approved form, the Commissioner shall enter the application upon the records

of the Department of Motor Vehicles and issue to the applicant a registration certificate stating the number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules of the Commissioner in order that it may be clearly visible. The registration shall be void one year from the first day of the month following the month of issue in the case of annual registrations, or void two years from the first day of the month following the month of issue in the case of biennial registrations. A ~~vessel~~ motorboat of less than 10 horsepower used as a tender to a registered ~~vessel~~ motorboat shall be deemed registered, at no additional cost, and shall have painted or attached to both sides of the bow, the same registration number as the registered ~~vessel~~ motorboat with the number "1" after the number. The number shall be maintained in legible condition. The registration certificate shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever the motorboat is in operation. A duplicate registration may be obtained upon payment of a fee of \$3.00 to the Commissioner. Registration fees shall be allocated in accordance with section 3319 of this title.

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

* * *

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

* * *

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

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

(b) ~~A person~~ An individual whose privilege to operate a vessel has been suspended shall not operate, attempt to operate, or be in actual physical control

of a vessel on the public waters of this State until the privilege to operate a vessel has been reinstated by the Commissioner of Motor Vehicles.

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

§ 3305b. BOATING SAFETY EDUCATION; RULES

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

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

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

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

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

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

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

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

* * *

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

(1) the Department of Public Safety;

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

(3) the U.S. Power Squadrons;

- (4) a political subdivision;
- (5) a municipal corporation;
- (6) a State agency;
- (7) a public or nonpublic school; and
- (8) any group, firm, association, or person.

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

* * *

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

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

* * *

§ 3306. LIGHTS AND EQUIPMENT

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

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

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

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

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

(5) any Unpowered vessels.

(A) A sailing vessel shall exhibit:

(i) sidelights; and

(ii) a sternlight.

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

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

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

(E) A vessel under oars or one or more paddles may exhibit the lights prescribed in subdivision (1) of this subsection (a), but, if such lights are not exhibited, the vessel shall exhibit or have onboard an all-round white light that shall be exhibited in sufficient time to prevent collision.

(2) Motorboats.

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

(i) a masthead light forward;

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

(iii) sidelights; and

(iv) a sternlight.

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

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

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

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

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

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

(c) ~~Every motorboat and auxiliary powered sailboats, except a motorboat that is less than 26 feet in length, that has an outboard motorboats less than 26 feet in length motor and of an open construction, and is not carrying passengers for hire shall carry on board, fully charged and in good condition, U.S. Coast Guard-approved hand portable fire extinguishers as follows:~~

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

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

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

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

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

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

* * *

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

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

* * *

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

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

* * *

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

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

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

(a) Annual validation required.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Distance requirements.

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

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

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

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

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

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

(1) inspect its documents;

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

(3) conduct a safety inspection for required equipment.

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

§ 3312. OPERATIONS RULES AS BETWEEN VESSELS

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

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

(c) ~~One boat~~ A vessel may overtake another vessel on either side but ~~shall grant the right of way to the overtaken boat~~ must be prepared to take early and

substantial action to avoid collision. The vessel being overtaken should maintain its course and speed.

* * *

§ 3312a. OPERATION OF PERSONAL WATERCRAFT

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

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

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

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

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

(a) The operator of a vessel involved in a collision, ~~accident~~ crash, or other casualty, so far as he or she can do so without serious danger to his or her own vessel, crew, and passengers, shall render to other ~~persons~~ individuals affected by the collision, ~~accident~~ crash, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, ~~accident~~ crash, or other casualty. Also, he or she shall give his or her name, address, and identification of his or her vessel in writing to any ~~person~~ individual injured and to the owner of any property damaged in the collision, ~~accident~~ crash, or other casualty.

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

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

(a) The Commissioner of Public Safety may authorize the holding of public regattas, motorboat or other ~~boat~~ vessel races, marine parades, tournaments, water skiing events, exhibitions, or triathlons on any waters of this State and any associated public roads. He or she shall adopt and may, from time to time, amend rules concerning the safety of motorboats and other

vessels and ~~persons~~ individuals on these vessels, either observers or participants, and of ~~persons~~ individuals swimming, cycling, or running in or observing an event. Whenever a public regatta, motorboat or other ~~boat~~ vessel race, marine parade, tournament, water skiing event, exhibition, or triathlon is proposed to be held, the person in charge shall, at least 15 days prior to the event, file an application with the Department of Public Safety for permission to hold the regatta, motorboat or other ~~boat~~ vessel race, marine parade, tournament, water skiing event, exhibition, or triathlon. A copy of such application shall be sent to the municipality and organized lake association where the event is to be held 15 days in advance of the event to allow for comment. The application shall set forth the date, time, and location where it is proposed to hold the regatta, motorboat or other ~~boat~~ vessel race, marine parade, tournament, water skiing event, exhibition, or triathlon and it shall not be conducted without authorization of the Department of Public Safety in writing, except that this provision shall not apply to unscheduled ~~boat~~ vessel races to which the public has not been invited.

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

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

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

* * *

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

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

* * *

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

§ 3801. DEFINITIONS

* * *

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

* * *

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

* * *

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

* * *

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

Sec. 23. REPLACEMENTS

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

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

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

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

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

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

(E) has not had any conviction for a violation of state or local law relating to motor vehicle traffic control, other than a parking violation, arising

in connection with any ~~traffic accident~~ crash;

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

* * * Incorrect Capitalization * * *

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

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

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

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

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

(2) any offense under ~~State~~ state or federal law that is punishable by imprisonment for a term exceeding one year involving the manufacture, distribution, or dispensing of a regulated drug, or possession with intent to manufacture, distribute, or dispense a regulated drug where the person used a motor vehicle in the commission of the offense; or

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

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

* * * Commercial Driver's Licenses * * *

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

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

* * *

(3) Unless Vermont is the state of domicile of the individual and the individual has passed a knowledge and skills test for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. Part 383, subparts F, G, and H, as may be amended, and has satisfied all other requirements of 49 C.F.R. Part 380

~~and 49 U.S.C. ch. Chapter 313, as may be amended, and the Commercial Motor Vehicle Safety Anti-Drug Abuse Act of 1986, Title XII of Pub. L. No. 99-570, Title XII (Commercial Motor Vehicle Safety Act of 1986), as may be amended, in addition to other requirements imposed by state State law or federal regulation. The tests shall be prescribed and conducted by the Commissioner.~~

* * * Records Inspection * * *

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

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

* * * Enforcement in 1998 * * *

Sec. 33. REPEAL

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

* * * Signal Lamps * * *

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

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

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

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

(B) A red signal lamp or an amber signal lamp, or a combination thereof, may be authorized for all law enforcement vehicles owned or leased by a law enforcement agency, a certified law enforcement officer, or the Vermont Criminal Justice Council, provided that the Commissioner shall

require the lamp or lamps be mounted so as to be visible primarily from the rear of the vehicle.

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

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

(B) A blue signal lamp or an amber signal lamp, or a combination thereof, may be authorized for all EMS vehicles or vehicles owned or leased by a fire department, provided that the Commissioner shall require the lamp or lamps be mounted so as to be visible primarily from the rear of the vehicle.

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

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

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

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

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

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

§ 1255. EXCEPTIONS

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

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

* * * All-Terrain Vehicles * * *

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

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

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

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

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

* * *

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

* * *

(4) Notwithstanding subdivision (1) of this subsection and subdivision 3506(b)(16) of this title, neither the display of a TAD nor the use of protective headgear is required to operate an ATV on frozen bodies of water as

designated by the Agency of Natural Resources under the provisions of 10 V.S.A. § 2607.

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

(b) An ATV shall not be operated:

* * *

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

(A) properly secured protective headgear, of a type approved by the Commissioner and as intended by the manufacturer, if the ATV is operated at locations where the ATV must be registered in order to be lawfully operated under section 3502 of this title that is used as intended by the manufacturer of the headgear and conforms to the Federal Motor Vehicle Safety Standards contained in 49 C.F.R. § 571.218, as amended, and any applicable regulations promulgated by the U.S. Secretary of Transportation; or

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

* * * Effective Dates * * *

Sec. 38. EFFECTIVE DATES

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

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

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

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

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Bill Passed in Concurrence**H. 227.**

House bill of the following title was read the third time and passed in concurrence:

An act relating to approval of amendments to the charter of the City of Winooski.

Bill Passed in Concurrence with Proposal of Amendment**H. 420.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to miscellaneous agricultural subjects.

Proposal of Amendment; Third Reading Ordered**H. 360.**

Senator Cummings, for the Committee on Finance, to which was referred House bill entitled:

An act relating to accelerated community broadband deployment.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Legislative Findings and Intent * * *

Sec. 1. FINDINGS AND INTENT**(a) The General Assembly finds that:**

(1) For over a decade, Vermont has pursued many approaches and strategies designed to ensure that every Vermonter has access to reliable, affordable, high-speed broadband.

(2) In 2018, through Acts and Resolves No. 169, the General Assembly found that broadband is essential for supporting economic and educational opportunities, strengthening health and public safety networks, and reinforcing freedom of expression and democratic, social, and civic engagement.

(3) We further found in Act No. 169 that the lack of a thriving competitive market in Vermont, particularly in isolated locations, disadvantages the ability of consumers and businesses to protect their interests sufficiently, and we recognized that the State may exercise its traditional role in protecting consumers.

(4) In 2019, through Acts and Resolves No. 79, the General Assembly found that despite the FCC’s “light-touch” regulatory approach under Title I of the Communications Act of 1934, rather than “utility-style” regulation under Title II, existing broadband providers are not providing adequate service to many rural areas where fewer potential customers reduce the profitability necessary to justify network expansion.

(5) Accordingly, reaching the last mile will require a grassroots approach founded on input from and support of local communities. Existing broadband grant programs do not offer the scale to solve this problem, and traditional capital sources typically shy away from businesses with limited revenue history and little equity or collateral.

(6) To this end, public investment in programs and personnel that provide local communities with much-needed resources and technical assistance is required.

(7) In 2020, the COVID-19 public health emergency served as an accelerant to the socioeconomic disparities between the connected and the unconnected in our State. Vermonters who cannot access or cannot afford broadband, many of whom are geographically isolated, face challenges with respect to distance learning; remote working; accessing telehealth services; and accessing government programs and services, including our institutions of democracy, such as the court system.

(8) Indeed, the ongoing public health emergency has highlighted the extent to which robust and resilient broadband networks are critical to our economic future as a whole and provide a foundation for our educational, health care, public health and safety, and democratic institutions.

(9) Broadband infrastructure is critical infrastructure fundamental to accessing other critical services in sectors such as energy, public safety, government, healthcare, education, and commerce.

(10) The goal of universal broadband needs to be elevated as a top priority of the State to meet the economic, health, safety, educational, and social needs of Vermonters.

(11) While private broadband providers have brought broadband services to many households, businesses, and locations in Vermont, significant gaps remain.

(12) When existing broadband providers fail to achieve the goal of providing reliable, high-quality, universal broadband, it is imperative for the State to support and facilitate the construction of broadband infrastructure through financial and other means.

(13) Communications union districts (CUDs) were created by the State to coordinate and implement creative and innovative solutions in their respective territories, particularly where existing providers are not providing adequate service that meets the needs of their residents and businesses while ensuring public accountability.

(14) CUDs are thus positioned to be the unofficial “provider of last resort” for broadband and ensure public accountability for serving all Vermonters within their respective service territories. Yet CUDs have limited access to financial capital necessary for expansion of broadband to unserved and underserved areas of the State.

(15) All Vermont electric ratepayers are supporting the rollout of clean energy technologies, however not all ratepayers are able to access those technologies because they do not have access to adequate broadband. Equity in the energy sector requires universal broadband.

(16) The Department of Public Service simultaneously plays a regulatory role in the telecommunications market while also supporting the development of CUDs in an unregulated competitive broadband market.

(17) To ensure universal broadband in Vermont, there is a need for greater coordination of grassroots broadband solutions both among the CUDs themselves and also with respect to their other potential partners, such as electric distribution utilities, nonprofit organizations, the federal government, and private broadband providers.

(18) In addition to broadband access, it is imperative for the State to address the critical issues of broadband affordability and adoption.

(19) The Department of Public Service estimates that 82 percent of Vermont addresses (254,000 locations) lack access to 100 Mbps symmetrical service. The total cost to provide 100 Mbps symmetrical service to each of these locations is approximately \$1,000,000,000.00. This figure is based on estimates in the Magellan Advisors’ report commissioned by the Department, and it includes estimates of both fixed and variable capital costs for fiber to the premise infrastructure (Feasibility Study of Electric Companies Offering Broadband in Vermont, dated December 31, 2019).

(b) Therefore, this act is intended to protect the public interest by:

(1) ensuring broadband availability to all Vermonters and Vermont addresses;

(2) ensuring public accountability for maintaining and upgrading critical broadband infrastructure;

(3) increasing the reliability of the electric grid and ensuring equal access to clean energy services among all electric ratepayers;

(4) protecting Vermonters' privacy and unrestricted access to the Internet;

(5) alleviating the inherent tension the Department of Public Service currently experiences as a result of its dual roles as both regulator and community project developer;

(6) directing public resources to the development of public broadband assets intended to provide universal access;

(7) developing favorable taxing, financing, and regulatory mechanisms to support communications union districts; and

(8) providing time-limited leadership for coordinating the buildout of Vermont's communications union districts and their partners and for developing financing mechanisms to fully support that buildout through a newly created State entity, the Vermont Community Broadband Authority, designed specifically to effectuate these purposes.

* * * Vermont Community Broadband Board * * *

Sec. 2. 30 V.S.A. chapter 91A is added to read:

CHAPTER 91A: VERMONT COMMUNITY BROADBAND BOARD

§ 8081. PURPOSE

In recognition of the historic level of broadband funding currently available to the State and the critical need for broadband access and adoption, it is the purpose of this chapter to establish the Vermont Community Broadband Fund to support policies and programs designed to accelerate community efforts that advance the State's goal of achieving universal access to reliable, high-quality, affordable, fixed broadband and to establish the Vermont Community Broadband Board to coordinate, facilitate, support, and accelerate the development and implementation of universal community broadband solutions.

§ 8082. DEFINITIONS

As used in this chapter:

(1) "Board" means the Vermont Community Broadband Board.

(2) "Broadband service" or "broadband" means a mass-market retail service by wire or radio in Vermont that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the

communications service, but excluding dial-up Internet access service.

(3) “Community” means a contiguous geographic area of the State, without regard to municipal boundaries or size of geographic area, that contains unserved and underserved locations.

(4) “Department” means the Department of Public Service.

(5) “Eligible provider” means a:

(A) communications union district; or

(B) small communications carrier.

(6) “Fund” means the Vermont Community Broadband Fund established by this chapter.

(7) “Internet service provider” means a business that provides broadband Internet access service to any person in Vermont.

(8) “Location” means an E-911 business or residential address connected to the electric power grid.

(9) “Served” means a location that has access to broadband service capable of speeds of at least 25 Mbps download and 3 Mbps upload.

(10) “Small communications carrier” means a carrier:

(A) a carrier that has elected to be regulated under subsection 227d(a) of this title; or

(B) an Internet service provider that operates in not more than three counties.

(11) “Underserved” means a location that only has access to broadband service capable of speeds of at least 4 Mbps download and 1 Mbps upload but less than 25 Mbps download and 3 Mbps upload.

(12) “Universal service plan” means a plan for providing each unserved and underserved location in a community, communications union district, or service territory of a small telecommunications carrier access to broadband service capable of speeds of at least 100 Mbps download and 100 Mbps upload.

(13) “Unserved” means a location that only has access to broadband capable of speeds of less than 4 Mbps download and 1 Mbps upload.

§ 8083. VERMONT COMMUNITY BROADBAND FUND

(a) There is created a special fund in the State Treasury to be known as the “Vermont Community Broadband Fund.” Expenditures from the Fund shall be made only to implement and effectuate the policies, purposes, and programs

established in this chapter. The Fund shall be composed of any monies from time to time appropriated to the Fund by the General Assembly or received from any other source, private or public, subject to the provisions of 32 V.S.A. § 5. Unexpended balances and any earnings shall remain in the Fund for use in accord with the purposes of this chapter.

(b) Authorized expenditures from the Fund include:

(1) grants pursuant to the Broadband Preconstruction Grant Program established in section 8085 of this chapter;

(2) grants pursuant to the Broadband Construction Grant Program established in section 8086 of this chapter;

(3) funding for communications workforce training and development, in consultation with the Commissioner of Labor, to the extent such funds are not available from other funding sources;

(4) administrative expenses of grant recipients in an amount determined by the Board, subject to applicable federal law and guidance; and

(5) Up to \$1,500,000.00 to fund the operational expenses of the Board and the Department to the extent the Department's expenses are not reimbursable under its annual budget funded by the gross receipts tax.

§ 8084. MANAGEMENT OF THE FUND

(a) Vermont Community Broadband Board. (1) There is created within the Department of Public Service the Vermont Community Broadband Board. The Board shall have approval authority with respect to budget development, program design, grant awards, and all other funding allocations pursuant to this chapter.

(2) The Board shall consist of three members as follows:

(A) one member appointed by the Governor who shall not be an employee or officer of the State at the time of the appointment and who shall have expertise in the area of finance and who shall serve as the Chair;

(B) one member appointed by the Speaker of the House who shall not be a member of the General Assembly at the time of the appointment and who shall have expertise in the area of broadband deployment in rural, high-cost areas; and

(C) one member appointed by the Senate Committee on Committees who shall not be a member of the General Assembly at the time of the appointment and who shall have expertise in the area of communications and electric utility law and policy.

(3) The members may not be persons with a financial interest in or owners, employees, or members of a governing board of an Internet service provider or a communications union district; however, this provision shall not be construed to disqualify a member who has ownership in a mutual fund, exchange-traded fund, pension plan, or similar entity that owns shares in such enterprises as part of a broadly diversified portfolio. Members shall serve terms of three years beginning on February 1 of the year of appointment; however, the member first appointed by the Governor shall serve an initial term of four years, the member first appointed by the Speaker of the House shall serve an initial term of three years, and the member first appointed by the Committee on Committees shall serve an initial term of two years. A vacancy shall be filled by the respective appointing authority for the balance of the unexpired term. A member may be reappointed. A member may be removed for cause only.

(4) At its initial organizational meeting, and annually thereafter at the first meeting following February 1, the Board shall elect from among its members a vice chair. The Board may elect officers as it may determine. Meetings shall be held at the call of the Chair or at the request of two members. A majority of sitting members shall constitute a quorum, and action taken by the Board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting.

(5) Members are entitled to a per diem in the amount of \$250.00 for each day spent in the performance of their duties and each member shall be reimbursed for his or her reasonable expenses incurred in carrying out his or her duties under this chapter.

(6) The Board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including the power to:

(A) coordinate and facilitate community broadband efforts;

(B) provide resources to communications union districts in the form of administrative and technical support;

(C) provide grants for the preconstruction and construction costs of broadband projects;

(D) facilitate partnerships between communications union districts and their potential partners;

(E) develop policies or recommend to the General Assembly programs that promote a strong communications workforce in Vermont;

(F) develop policies or recommend to the General Assembly programs that promote access to affordable broadband service plans;

(G) consult with the Vermont Economic Development Board and the Vermont Municipal Bond Bank with regard to financing community broadband projects;

(H) identify and publish State, federal, nonprofit, and any other broadband funding opportunities;

(I) provide input to the Department of Public Service on the development of the State's Telecommunications Plan; and

(J) do any and all things necessary or convenient to effectuate the purposes and provisions of this chapter and to carry out its purposes and exercise the powers given and granted in this chapter.

(7) The Department shall provide the Board with administrative services.

(8) All meetings of the Board shall be open to the public and conducted in accordance with the Vermont Open Meeting Law. All records of the Board are subject to the Vermont Public Records Act. Any records or information produced or acquired by the Board that are trade secrets or confidential business information shall be exempt from public inspection and copying pursuant to 1 V.S.A. § 317(c)(9).

(b) Executive Director. (1) The Vermont Community Broadband Fund shall have an Executive Director who shall be appointed by the Governor with the advice and consent of the Senate. The Executive Director shall be an employee of the Department of Public Service. The Executive Director shall be overseen and managed by the Board and shall serve as its chief administrative officer. The Executive Director shall direct and supervise the Board's administrative affairs and technical activities in accordance with Board policies. In addition to any other duties necessary for carrying out the purposes of this chapter, the Executive Director shall:

(A) work with the Board in developing and implementing the programs established by this chapter;

(B) approve all accounts of the Board, including accounts for salaries, per diems, and allowable expenses of any employee or consultant thereof and expenses incidental to the operation of the Board;

(C) make recommendations to the Board for grant awards or other forms of financial or technical assistance authorized by this chapter;

(D) make an annual report to the Board documenting the actions of the Board and such other reports as the Board may request; and

(E) perform such other duties as may be directed by the Board in the carrying out of the purposes and provisions of this chapter.

(2) The Executive Director may retain or employ technical experts and other officers, agents, employees, and contractors as are necessary to give effect to the purposes of this chapter, including in the areas of finance, network planning, engineering and technical design, and grant writing, and may fix their qualifications, duties, and compensation. The Executive Director shall oversee and manage the Rural Broadband Technical Assistance Specialist. The Executive Director is authorized to hire up to three additional full-time employees pursuant to this subdivision who shall be part of the classified service created in 3 V.S.A. chapter 13.

(c) Administration. The Fund shall be administered by the Department. The Department is authorized to expend monies from the Fund in accordance with this chapter. The Commissioner shall make all decisions necessary to implement this chapter and administer the Fund except those decisions committed to the Board under this section. The Department shall ensure an open public process in the administration of the Fund for the purposes established in this chapter.

(d) Grant administration redesignation. The Board shall be redesignated as the responsible entity for administering the \$1,000,000.00 grant award to the Department of Public Service by the Northern Border Regional Commission for the purpose of supporting communications union districts. Any position funded by the grant shall be overseen and managed by the Board in a manner that is consistent with grant terms and conditions.

§ 8085. BROADBAND PRECONSTRUCTION GRANT PROGRAM

(a) There is established the Community Broadband Preconstruction Grant Program to be administered by the Board. The purpose of the Program is to provide grants to communications union districts for preconstruction costs related to broadband projects that are part of a universal service plan.

(b) As used in this section, “preconstruction costs” include expenses for feasibility studies, business planning, pole data surveys, engineering and design, and make-ready work associated with the construction of broadband networks, including consultant, legal, and administrative expenses, and any other costs deemed appropriate by the Board.

(c) To ensure an equitable distribution of funds under this Program and to encourage collaborative work among communications union districts, grant awards shall be scalable and shall be commensurate with the size of a

broadband project as determined by the project's service area, road mileage, the number of unserved or underserved locations, or any other metric deemed appropriate by the Board. In addition, the Board may develop standards for the disbursement of grant funds in a manner that both supports the efficient and timely use of funds and also ensures accountability.

§ 8086. BROADBAND CONSTRUCTION GRANT PROGRAM

(a) There is established the Broadband Construction Grant Program to finance the broadband projects of eligible providers that are part of a universal service plan.

(b) In evaluating grant proposals under this chapter, the Board shall give priority to broadband projects that:

(1) leverage existing private resources and assets, with a high priority given to partnerships between a communications union district and a distribution utility;

(2) demonstrate project readiness;

(3) provide broadband service that complies with the consumer protection and net neutrality standards established in 3 V.S.A. § 348;

(4) support low-income or disadvantaged communities;

(5) promote geographic diversity of fund allocations;

(6) provide consumers with affordable service options; and

(7) include public broadband assets that can be shared by multiple service providers and that can support a variety of public purposes.

(c) The Board shall establish policies and standard grant terms and conditions that:

(1) reflect payment schedules that ensure maximum accountability;

(2) adopt an industry-accepted engineering standard that promotes network reliability, resiliency, and interoperability;

(3) establish standards for recouping grant funds and transferring ownership of grant-funded network assets to the State if a grantee materially fails to comply with the terms and conditions of a grant;

(4) prohibit the sale or transfer of grant-funded network assets without the prior written approval of the Board;

(5) ensure project completion within a reasonable period of time and consistent with applicable federal law and guidance; and

(6) comply with Administrative Bulletin No. 5, the Agency of Administration's policy for grant issuance and monitoring and Administrative Bulletin 3.5 the Agency of Administration's policy for procurement and contracting procedures, as appropriate, and any other requirements of federal law and guidance, if applicable.

(d) Before the Board awards a grant under this section, it shall determine that the applicant has produced a viable business plan for its proposed broadband project, which takes into consideration network engineering and design, labor needs and availability, supply-chain contingencies for equipment and materials, make-ready work, and any other relevant capital and operational expenses.

(e) Before the Board awards a grant under this Program to a provider who is not a communications union district, the Board shall make a reasonable effort to determine that the carrier's universal service plan does not conflict with or undermine the deployment plans of an existing communications union district.

(f) The Board may provide a grant to a project that enables the provision of broadband service in a geographic area currently served, provided that:

(1) the project is the most cost-effective method for providing broadband service to nearby unserved and underserved locations; and

(2) before awarding the grant, the Board makes a reasonable effort to distinguish served and unserved or underserved locations within the geographic area, including recognition and consideration of known or probable service extensions or upgrades.

(g) The Board may award a grant to an Internet service provider to finance a broadband project, such as a line extension or upgrade, that is not part of a universal service plan if it finds that the project will provide unserved and underserved locations with broadband service capable of speeds of at least 25 Mbps download and 3 Mbps upload on or before December 31, 2021 and is in a geographic area that is not part of a communications union district.

(h) It is the intent of the General Assembly that a broadband project financed under this Program demonstrates an economically sustainable business model that ultimately will be eligible for financing in the private or municipal bond market.

§ 8087. CENTRALIZED RESOURCES FOR COMMUNICATIONS UNION DISTRICTS

(a) The Board shall provide centralized resources and technical and administrative support to communications union districts with respect to the

planning, development, and implementation of broadband projects.

(b) In carrying out the purpose of this section, the Board shall:

(1) develop standardized forms, contracts, network business and design models, and templates for use by any communications union district;

(2) assist communications union districts with identifying and negotiating with potential partners, including with respect to the development of a memorandum of understanding or other form of legally-binding commitment pertaining to a broadband project;

(3) when authorized by one or more communications union districts, apply for grants, loans, permits, licenses, certificates, or approvals, or enter into contractual arrangements for goods or services on behalf of or jointly with a communications union district or districts;

(4) assist communications union districts with pursuing route identification for fiber-optic infrastructure and with obtaining pole surveys and negotiating pole attachments;

(5) assist communications union districts with completing grant and loan applications for funding opportunities that exist outside this chapter; and

(6) assist communications union districts with obtaining access to fiber-optic networks owned by the State or by an electric transmission or distribution utility, where appropriate.

§ 8088. INTERAGENCY COOPERATION AND ASSISTANCE

Other departments and agencies of the State government, including the E-911 Board, shall assist and cooperate with the Board and shall make available to it information and data as needed to assist the Board in carrying out its duties. The Secretary of Administration shall establish protocols and agreements among the Board and departments and agencies of the State for this purpose. Nothing in this section shall be construed to waive any privilege or protection otherwise afforded to the data and information under exemption to the Public Records Act or under other laws due solely to the fact that the information or data is shared with the Board pursuant to this section.

§ 8089. ANNUAL REPORT

(a) Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the Board shall submit a report of its activities pursuant to this chapter for the preceding year to the Senate Committees on Finance and on Natural Resources and Energy, the House Committee on Energy and Technology, and the Joint Information Technology Oversight Committee. The report shall include an operating and financial statement covering the Board's operations

during the year, including a summary of all grant awards and contracts and agreements entered into by the Board. In addition, the report shall include a description of the progress each start-up communications union district has made in achieving long-term financial sustainability that is not dependent upon public funding, an update on its efforts to secure additional federal funds for broadband deployment, and progress made towards meeting the State's goal of ensuring every E-911 location has access to broadband capable of delivering a minimum of 100 Mbps symmetrical service as required in subdivision 202c(b)(10) of this title.

(b) As part of its first annual report, the Board shall include recommended legislation for policies and programs not authorized under this chapter but consistent with its purpose or for any other policies and programs it deems appropriate. The report shall include recommendations concerning increased access to and use of fiber-optic networks owned by the State or by an electric transmission or distribution utility in furtherance of the goals of this chapter. In addition, and with input from relevant stakeholders, the Board shall make recommendations on whether and to what extent authorized expenditures under the Fund should be expanded to include:

(1) funding for equipment replacement in the Department of Libraries' FiberConnect Network;

(2) funding for building-wide Wi-Fi installations at multi-unit affordable housing owned by nonprofits and housing authorities for the purpose of providing free broadband service to the residents thereof;

(3) funding for digital inclusion efforts, such as subsidized customer equipment installations and broadband service, grants for long-term affordability planning; and outreach and digital literacy training;

(4) funding for co-worker spaces;

(5) additional funding for communications workforce development initiatives; and

(6) funding for any other broadband programs or initiatives.

§ 8089a. SUNSET; TRANSFER PLAN

(a) The Fund and Board shall cease to exist on July 1, 2029.

(b) As part of its annual report submitted on or before January 15, 2029, the Board shall develop a plan for transferring its assets, liabilities, and legal and contractual obligations to another appropriate State entity. The Board may include in its report a recommendation regarding the continued existence of the Board beyond its statutory sunset date.

Sec. 3. ORGANIZATIONAL MEETING; SPACE ALLOCATION

(a) Within 60 days following the effective date of this act, the Vermont Community Broadband Board shall hold its initial organizational meeting and the Governor shall appoint an Executive Director.

(b) Within 60 days following the effective date of this act, the Commissioner of Buildings and General Services shall allocate space for the Vermont Community Broadband Board.

Sec. 4. REPEALS

The following provisions of law are repealed:

(1) 2019 Acts and Resolves No. 79, Sec. 10 (Broadband Innovation Grant Program); and

(2) 2020 Acts and Resolves No. 154, Sec. B1105.2 (amending the Broadband Innovation Grant Program).

Sec. 5. POSITIONS

(a) The position of Rural Broadband Technical Assistance Specialist shall be subject to the oversight and management of the Executive Director of the Vermont Community Broadband Board upon his or her appointment. The position shall remain in the classified service created in 3 V.S.A. chapter 13.

(b) The Commissioner is authorized to hire one full-time employee to provide administrative services for the Board. This position shall be part of the classified service created in 3 V.S.A. Chapter 13. The Commissioner is authorized to hire one full-time attorney to provide legal services for the Board. This position shall be an exempt position and shall be subject to the oversight and management of the Executive Director of the Vermont Community Broadband Board upon his or her appointment. The salaries and benefits for these two positions shall constitute expenses that are to be reimbursed to the Department from the Fund pursuant to 30 V.S.A. § 8083(b)(10).

Sec. 6. INTERIM GRANTS; DEPARTMENT OF PUBLIC SERVICE

Notwithstanding any other provision of law to the contrary, to ensure the expeditious disbursement of available funds prior to the organization of the Vermont Community Broadband Board, the Department is authorized to allocate and disburse up to a total of \$20,000,000.00, or up to \$25,000,000.00 if an additional \$5,000,000.00 is approved by the Joint Fiscal Committee, under the Broadband Preconstruction Grant Program and the Broadband Construction Grant Program on or before December 31, 2021 or until the Board is operational, whichever occurs first.

* * * Transfer of Fiber-optic Assets * * *

Sec. 7. TRANSFER OF FIBER-OPTIC ASSETS

On or before September 30, 2021, the Department of Public Service shall transfer ownership of its fiber-optic assets to the communications union district in which those assets are located. The transfer shall include the transfer of rights and obligations under any existing contracts or lease agreements with third parties regarding the maintenance or use of the fiber-optic assets. In addition, the transfer shall include a requirement that, upon the dissolution of a communications union district, any such fiber assets shall become the property of the State to be managed by the Department of Public Service. A communications union district may refuse to accept the transfer of assets authorized by this section, in which case the assets shall remain the property of the Department of Public Service. Nothing in this section shall preclude the Department from transferring fiber-optic assets to a communications union district that initially declined to accept such assets prior to September 30, 2021.

* * * Telecommunications and Connectivity Advisory Board * * *

Sec. 8. 30 V.S.A. § 202f is amended to read:

§ 202f. TELECOMMUNICATIONS AND CONNECTIVITY ADVISORY BOARD

(a) There is created the Telecommunications and Connectivity Advisory Board for the purpose of making recommendations to the Commissioner of Public Service regarding his or her telecommunications responsibilities and duties as provided in this section. The Connectivity Advisory Board shall consist of eight members selected as follows:

- (1) the State Treasurer or designee;
- (2) the Secretary of Commerce and Community Development or designee;
- (3) five at-large members appointed by the Governor, who shall not be employees or officers of the State at the time of appointment; and
- (4) the Secretary of Transportation or designee.

(b) A quorum of the Connectivity Advisory Board shall consist of four voting members. No action of the Board shall be considered valid unless the action is supported by a majority vote of the members present and voting and then only if at least four members vote in favor of the action. The Governor shall select, from among the at-large members, a chair and vice chair.

(c) In making appointments of at-large members, the Governor shall give consideration to citizens of the State with knowledge of telecommunications technology, telecommunications regulatory law, transportation rights-of-way and infrastructure, finance, environmental permitting, and expertise regarding the delivery of telecommunications services in rural, high-cost areas. However, the five at-large members may not be persons with a financial interest in or owners or employees of an enterprise that provides broadband or cellular service or that is seeking in-kind or financial support from the Department of Public Service. The conflict of interest provision in this subsection shall not be construed to disqualify a member who has ownership in a mutual fund, exchange traded fund, pension plan, or similar entity that owns shares in such enterprises as part of a broadly diversified portfolio. The at-large members shall serve terms of two years beginning on February 1 in odd-numbered years and until their successors are appointed and qualified. However, three of the five at-large members first appointed by the Governor shall serve an initial term of three years. Vacancies shall be filled for the balance of the unexpired term. A member may be reappointed for up to three consecutive terms. Upon completion of a term of service for any reason, including the term's expiration or a member's resignation, and for one year from the date of such completion, a former Board member shall not advocate before the Connectivity Board, Department of Public Service, or the Public Utility Commission on behalf of an enterprise that provides broadband or cellular service.

(d) Except for those members otherwise regularly employed by the State, the compensation of the Board's members is that provided by 32 V.S.A. § 1010(a). All members of the Board, including those members otherwise regularly employed by the State, shall receive their actual and necessary expenses when away from home or office upon their official duties.

(e) In performing its duties, the Connectivity Advisory Board may use the legal and technical resources of the Department of Public Service. The Department of Public Service shall provide the Board with administrative services.

(f) The Connectivity Advisory Board shall:

~~(1) have review and nonbinding approval authority with respect to the awarding of grants under the Connectivity Initiative. The Commissioner shall have sole authority to make the final decision on grant awards, as provided in subsection (g) of this section.~~

(2) function in an advisory capacity to the Commissioner on the development of State telecommunications policy and planning, including the action plan required under subdivision 202e(b)(6) of this chapter and the State

Telecommunications Plan; and

~~(3)~~ annually advise the Commissioner on the development of requests for proposals under the Connectivity Initiative.

~~(4)~~ annually provide the Commissioner with recommendations for the apportionment of funds to the High-Cost Program and the Connectivity Initiative.

~~(5)~~(2) annually provide the Commissioner with recommendations on the appropriate Internet access speeds for publicly funded telecommunications and connectivity broadband projects.

~~(g)~~ The Commissioner shall make an initial determination as to whether a proposal submitted under the Connectivity Initiative meets the criteria of the request for proposals. The Commissioner shall then provide the Connectivity Advisory Board a list of all eligible proposals and recommendations. The Connectivity Advisory Board shall review the recommendations of the Commissioner and may review any proposal submitted, as it deems necessary, and either approve or disapprove each recommendation and may make new recommendations for the Commissioner's final consideration. The Commissioner shall have final decision-making authority with respect to the awarding of grants under the Connectivity Initiative. If the Commissioner does not accept a recommendation of the Board, he or she shall provide the Board with a written explanation for such decision.

~~(h)~~ On November 15, 2019, and annually thereafter, the Commissioner shall submit to the Connectivity Advisory Board an accounting of monies in the Connectivity Fund and anticipated revenue for the next year.

~~(i)~~(h) The Chair shall call the first meeting of the Connectivity Advisory Board. The Chair or a majority of Board members may call a Board meeting. The Board may meet up to six times a year.

~~(j)~~(i) At least annually, the Connectivity Advisory Board and the Commissioner or designee shall jointly hold a public meeting to review and discuss the status of State telecommunications policy and planning, the Telecommunications Plan, the Connectivity Fund, the Connectivity Initiative, the High-Cost Program, and any other matters they deem necessary to fulfill their obligations under this section.

~~(k)~~(j) Information and materials submitted by a telecommunications service provider concerning confidential financial or proprietary information shall be exempt from public inspection and copying under the Public Records Act, nor shall any information that would identify a provider who has submitted a proposal under the Connectivity Initiative be disclosed without the consent of the provider, unless a grant award has been made to that provider.

Nothing in this subsection shall be construed to prohibit the publication of statistical information, determinations, reports, opinions, or other information ~~so long as~~ provided the data are disclosed in a form that cannot identify or be associated with a particular telecommunications service provider.

* * * VEDA; Broadband Expansion Loan Program; Lending Capacity * * *

Sec. 9. 10 V.S.A. § 280ee is amended to read:

§ 280ee. BROADBAND EXPANSION LOAN PROGRAM

(a) Creation. There is established within the Authority the Vermont Broadband Expansion Loan Program (~~the Program~~), the purpose of which is to enable the Authority to make loans that expand broadband service to unserved and underserved Vermonters as part of a plan to achieve universal broadband coverage in a community or communications union district.

(b) Intent. It is understood that loans under the Program may be high-risk loans to likely start-up businesses and therefore losses in the Program may be higher than the Authority's historical loss rate. Loans shall be underwritten by the Authority utilizing underwriting parameters that acknowledge the higher risk nature of these loans. The Authority shall not make a loan unless the Authority has a reasonable expectation of the long-term viability of the business. The Program is intended to provide start-up loans until such time as the borrower can refinance the loans through, for example, the municipal revenue bond market.

(c)(1) Requirements. The Authority shall make loans for start-up and expansion ~~that enable Internet service providers to expand broadband availability of broadband projects~~ in unserved and underserved locations as part of a plan to achieve universal broadband coverage in a community or communications union district.

(2) The Authority shall establish policies and procedures for the Program necessary to ensure the expansion of broadband availability to the largest number of Vermont addresses as possible. The policies shall specify that:

(A) loans may be made in an amount of up to \$4,000,000.00;

(B) ~~eligible borrowers include communications union districts and other units of government, nonprofit organizations, cooperatives, and for-profit businesses;~~

(i) communications union districts;

(ii) Internet service providers working in conjunction with a communications union district to expand broadband service to unserved and

underserved locations as part of a plan to achieve universal broadband coverage in the district; and

(iii) Internet service providers working in conjunction with a municipality that was not part of a communications union district prior to December 1, 2020 to expand broadband service to unserved and underserved locations as part of a plan to achieve universal broadband coverage in such municipality;

~~(C)~~ a loan shall not exceed 90 percent of project costs;

~~(D)~~ interest and principal may be deferred up to ~~two~~ three years;

~~(E)~~(D) a maximum of \$10,800,000.00 in Authority loans may be ~~made~~ outstanding under the Program commencing on June 20, 2019; ~~and~~

~~(F)~~(E) the provider shall offer to all customers broadband service that is capable of speeds of at least 100 Mbps symmetrical; ~~and~~

(F) not more than one-sixth of the total allowable loans under this Program shall be available to eligible borrowers under subdivision (2)(B)(iii) of this subsection (c).

(3) To ensure the limited funding available through the Program supports the highest-quality broadband available to the most Vermonters and prioritizes delivering services to the unserved and underserved, the Authority shall consult with the Department of Public Service and the Vermont Community Broadband Board.

(d) On or before January 1, 2020, and annually thereafter, the Authority shall submit a report of its activities pursuant to this section to the Senate Committee on Finance and the House Committees on Commerce and Economic Development and on Energy and Technology. Each report shall include operating and financial statements for the two most recently concluded State fiscal years. In addition, each report shall include information on the Program portfolio, including the number of projects financed; the amount, terms, and repayment status of each loan; and a description of the broadband projects financed in whole or in part by the Program.

Sec. 10. 10 V.S.A. § 280ff is amended to read:

§ 280ff. FUNDING

(a) The State Treasurer, in consultation with the Secretary of Administration, shall negotiate an agreement with the Authority incorporating the provisions of this section and consistent with the requirements of this subchapter.

~~(b) Repayment from or appropriation~~ State appropriations to the Authority in years 2021 and until the Program terminates ~~is~~ are based on the Authority's contributions to loan loss reserves for the Program in accordance with generally accepted accounting principles. Any difference between the actual loan losses incurred by the Authority in a fiscal year 2020 through Program termination shall be adjusted in the following year's appropriation.

~~(1) The Program shall terminate when all borrowers enrolled in the Program have repaid in full or loans have been charged-off against the reserves of the Authority.~~

~~(2) Upon termination of the Program, any remaining funds held by the Authority and not used for the Program shall be repaid to the State. This is a revolving loan program.~~

~~(3)~~(2) The accumulated total of the appropriation shall not exceed \$8,500,000.00 over the life of the Program.

~~(4)~~(3) The Authority shall absorb its historical loan loss reserve rate before any State funds are expended.

~~(5)~~(4) Additionally, the Authority shall absorb up to \$3,000,000.00 in Program losses shared with the State on a pro rata basis.

* * * CUDs; Public Records Act; Trade Secret Exemption; Intent * * *

Sec. 11. 30 V.S.A. § 3084 is added to read:

§ 3084. CONFIDENTIALITY; LEGISLATIVE INTENT

The purpose of this section is to clarify that any records or information produced or acquired by a district that are trade secrets or confidential business information shall be exempt from public inspection and copying pursuant to 1 V.S.A. § 317(c)(9). Such records or information shall be available for public inspection after project completion.

* * * Property Tax Exemption; Broadband Infrastructure * * *

Sec. 12. 32 V.S.A. § 3802 is amended to read:

§ 3802. PROPERTY TAX

The following property shall be exempt from taxation:

* * *

(19) Real and personal property, except land, owned by an electric distribution utility that comprises broadband infrastructure, including structures, machinery, lines, poles, wires, and fixtures, provided the infrastructure is leased to a communications union district or to an Internet service provider working in conjunction with a communications union district,

and is primarily for the purpose of providing broadband service capable of speeds of at least 100 Mbps symmetrical. This exemption applies only to broadband infrastructure constructed on or after July 1, 2021.

Sec. 13. 32 V.S.A. § 3800(n) is added to read:

(n) The statutory purpose of the exemptions for broadband infrastructure in subdivision 3802(19) of this title is to lower the cost of broadband deployment in unserved and underserved areas of Vermont.

Sec. 14. 32 V.S.A. § 3602a is amended to read:

§ 3602a. FACILITIES USED IN THE GENERATION, TRANSMISSION,
OR DISTRIBUTION OF ELECTRIC POWER

All structures, machinery, poles, wires, and fixtures of all kinds and descriptions used in the generation, transmission, or distribution of electric power that are so fitted and attached as to be part of the works or facilities used to generate, transmit, or distribute electric power shall be set in the grand list as real estate. Nothing in this section shall alter the scope of the ~~exemption in subdivision~~ exemptions in subdivisions 3803(2) and 3802(19) of this title, nor shall it alter the taxation of municipally owned improvements accorded by section 3659 of this title.

Sec. 15. 32 V.S.A. § 3620 is amended to read:

§ 3620. ELECTRIC UTILITY POLES, LINES, AND FIXTURES

Electric utility poles, lines, and fixtures owned by nonmunicipal utilities shall be taxed at appraisal value as defined by section 3481 of this title, except as provided under subdivision 3802(19) of this title.

* * * Communications Workforce Development * * *

Sec. 16. BROADBAND OCCUPATIONAL NEEDS SURVEY

(a) The Commissioner of Labor shall conduct an occupational needs survey to determine workforce needs in the communications sector specific to broadband buildout and maintenance. In conducting this survey, the Commissioner shall solicit input from employers and subcontractors throughout the State. The Department of Public Service and communications union districts shall assist the Department of Labor in identifying employers with workforce needs connected to this act. The purpose of the survey is to identify current and future employment opportunities and the prerequisite skills needed for widespread worker recruitment and building a talent pipeline to support the goals of this act.

(b) The Commissioner shall report his or her findings and recommendations to the relevant legislative committees of jurisdiction on or

before January 15, 2022.

(c) Employers who do not participate in supplying information for this report will not be eligible for grant funding under this act.

Sec. 17. FTTX; INCUMBENT TRAINING PROGRAM

Vermont Technical College, in consultation with the Vermont Department of Labor, shall establish an incumbent training program for communications installers and technicians. The goal of the program is to provide skills upgrades for existing employees. Up to \$40,000.00 is appropriated from the Vermont Department of Labor's fiscal year 2022 Training Fund to support this training program.

Sec. 18. BROADBAND INSTALLER APPRENTICESHIP PROGRAM

The Commissioner of Labor, working with broadband employers, shall establish a federally registered apprenticeship program that meets one or more occupational needs related to the installation and maintenance of broadband networks.

* * * Easements; Private Property; Fiber * * *

Sec. 19. UTILITY POLES IN EASMENTS ACROSS PRIVATE PROPERTY

Utility easements and State rules regarding utility rights of way and pole attachments shall include as an authorized utility use the installation of fiber for purposes of providing broadband service to the public. Such use of the utility easement and right of way serves the public good and facilitates the construction of broadband networks as contemplated in this act.

Sec. 20. APPROPRIATION

In fiscal year 2022, the sum of \$100,000,000.00 is appropriated from the American Rescue Plan Act of 2021 State Fiscal Relief Fund to the Vermont Community Broadband Fund to be expended in a manner consistent with 30 V.S.A. § chapter 91A.

* * * Legislative Priorities for Federal Funds * * *

Sec. 21. LEGISLATIVE PRIORITIES; FEDERAL FUNDS

With respect to federal funds potentially available to the State of Vermont in fiscal years 2021 and 2022, the General Assembly establishes as a high priority providing support for community efforts that advance the State's goal of achieving universal access to reliable, high-quality, affordable broadband consistent with the policies, purposes, and programs established under 30 V.S.A. chapter 91A, concerning the Vermont Community Broadband Board established in Sec. 2 of this act.

* * * Effective Dates * * *

Sec. 22. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Secs. 12-15 (property tax exemption for broadband infrastructure) shall take effect on July 1, 2021; and

(2) Sec. 4 (repeal of the Broadband Innovation Grant Program) and Sec. 8 (Telecommunications and Connectivity Advisory Board) shall take effect on January 1, 2022.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Finance with the following amendment thereto:

By striking out Sec. 20 (appropriation) in its entirety.

And by renumbering the remaining sections to be numerically correct.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Finance was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Finance, as amended, was agreed to and third reading of the bill was ordered on a roll call Yeas 30, Nays 0.

Senator Hardy 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, Campion, Chittenden, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingalls, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Parent, Pearson, Perchlik, Pollina, Ram, Sears, Sirotkin, Starr, Terenzini, Westman, White.

Those Senators who voted in the negative were: None.

Proposal of Amendment; Third Reading Ordered**H. 435.**

Senator Pollina, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to miscellaneous Department of Corrections-related amendments.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Polygraph Examinations; Drug Testing; Report * * *

Sec. 1. [Deleted.]

* * * Organization * * *

Sec. 2. 28 V.S.A. § 123 is added to read:

§ 123. DEPARTMENT OF CORRECTIONS MONITORING COMMISSION

(a) Creation. There is created the Corrections Monitoring Commission to provide advice and counsel to the Commissioner of Corrections with regard to the Commissioner's responsibility to manage the reporting of sexual misconduct; promote adherence to anti-retaliation policies; ensure overall policy implementation and effectiveness; improve the transparency, accountability, and cultural impact of agency decisions; and ensure that the determination of investigatory findings and any resulting disciplinary actions are just and appropriate.

(b) Members.

(1) The Commission shall be composed of the following nine members:

(A) a former judge with knowledge of the criminal justice system, appointed by the Chief Justice of the Vermont Supreme Court;

(B) a retired attorney, appointed by the Department of State's Attorneys and Sheriffs;

(C) a former corrections officer, appointed by the Vermont State Employees' Association;

(D) two formerly incarcerated individuals who resided at different facilities, appointed by the Defender General;

(E) the Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee;

(F) a former management-level employee of the Department of Corrections with experience in corrections management, appointed by the Governor;

(G) an individual at large with knowledge of and experience in the correctional system, crime prevention, human resources, or compliance, appointed by the Governor; and

(H) a former employee of a Vermont Community Justice Center, appointed by the Community Justice Network of Vermont.

(2) No member, at the time of appointment or during membership, shall be employed by the Department of Corrections or work in any part of the State correctional system. To the extent feasible, the appointing entities shall appoint members that will create a diverse Commission including gender, racial, and cultural diversity. Commission members shall demonstrate an understanding of and respect for the values, dignity, and diversity of individuals who are in the custody of the Commissioner of Corrections and those working within the State correctional system. If an appointing entity is unable to find a candidate for appointment to the Commission who meets the criteria of subdivision (1) of this subsection, the appointing entity may appoint an individual with relevant lived experience.

(c) Powers and duties. The Commission shall have the following duties:

(1) Provide advice and counsel to the Commissioner of Corrections in carrying out the Commissioner's responsibilities at the Department of Corrections to monitor reporting of sexual misconduct, oversee the implementation of the Department's anti-retaliation policy, create transparency and implement policies relating to misconduct, and review disciplinary actions.

(2) Examine facility staffing needs, employee retention, employee working conditions, and employee morale. The Commission may interview current Department employees and individuals in the custody of the Department, review exit interview records for former Department employees, and meet with the Vermont State Employees' Association to further the Commission's understanding of these issues. The Commission shall report annually on or before January 15 to the Commissioner of Corrections, the Secretary of Human Services, the House Committees on Corrections and Institutions and Government Operations, and the Senate Committees on Judiciary and Government Operations on:

(A) the Department's progress in improving staffing retention, working conditions, and employee morale over the year;

(B) the largest barriers to further improvement in staffing retention, working conditions, and employee morale; and

(C) any recommendations for improving employee retention, working conditions, and employee morale, including identifying any efforts undertaken in other states that could be implemented at the Department.

(3) Monitor the Department in the following areas:

(A) the timely reporting of allegations of sexual misconduct;

(B) compliance with the Prison Rape Elimination Act;

(C) the Department's implementation of and adherence to policies relating to employee misconduct and discipline;

(D) employees' adherence to Department policies, procedures, and directives, particularly to code of ethics and anti-retaliation policies;

(E) maintenance of an independent reporting hotline to the State Police at the women's facility;

(F) investigations of employee misconduct, the movement of contraband in facilities, threats to personal safety, and the Department's response to major events that occur in the Department of Corrections, including the death of an individual in the custody of the Commissioner of Corrections and the escape of an individual from a Department facility or Department custody; and

(G) facility staffing needs, employee retention, and employees' working conditions and morale.

(4) Beginning on January 1, 2023, report annually to the Commissioner of Corrections, the Secretary of Human Services, the House Committees on Corrections and Institutions and Government Operations, and the Senate Committees on Judiciary and Government Operations on metrics that assess the Department's performance in the areas identified in subdivision (c)(3) of this section, including listing the number of complaints of retaliation and complaints of sexual misconduct and the outcomes of those complaints; identifying areas of repeated noncompliance with policies, procedures, and directives; and providing recommendations for improving compliance and eliminating instances of sexual misconduct in the Department of Corrections.

(d) Member terms. The members of the Commission shall serve staggered three-year terms. A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the term. A member appointed to fill a vacancy before the expiration of a term shall not be deemed to have served a term for the purpose of this

subsection. Members of the Commission shall be eligible for reappointment. Members of the Commission shall serve not more than two consecutive terms. A member may be removed by a majority vote of the members of the Commission.

(e) Meetings.

(1) The Commission shall annually select a chair from among its members at the first meeting.

(2) A majority of the membership shall constitute a quorum.

(f) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Department of Corrections.

(g) Commissioner of Correction's duties. The creation and existence of the Commission shall not relieve the Commissioner of his or her duties under the law to manage, supervise, and control the Department of Corrections.

(h) Reimbursement. Members of the Commission shall be entitled to receive per diem compensation and reimbursement for expenses in accordance with 32 V.S.A. § 1010.

Sec. 3. SUNSET OF CORRECTIONS MONITORING COMMISSION

28 V.S.A. § 123 (Department of Corrections Monitoring Commission) is repealed on July 1, 2025.

Sec. 4. IMPLEMENTATION OF THE CORRECTIONS MONITORING COMMISSION

(a) The Corrections Monitoring Commission, created in Sec. 2 of this act, is established on January 1, 2022.

(b) Members of the Commission shall be appointed on or before December 1, 2021. Terms of members shall officially begin on January 1, 2022.

(c)(1) In order to stagger the terms of the members of the Corrections Monitoring Commission as described in 28 V.S.A. § 123 in Sec. 2 of this act, the initial terms of those members shall be as follows:

(A) the Chief Justice of the Vermont Supreme Court shall appoint a member for a three-year term;

(B) the Department of State's Attorneys and Sheriffs shall appoint a member for a two-year term;

(C) the Vermont State Employees' Association shall appoint a member for a three-year term;

(D) the Defender General shall appoint two members, one for a one-year term and one for a three-year term;

(E) the Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee shall serve a two-year term;

(F) the Governor shall appoint a member to fill the position designated in subdivision (b)(1)(F) of Sec. 2 of this act for a two-year term;

(G) the Governor shall appoint a member to fill the position designated in subdivision (b)(1)(G) of Sec. 2 of this act for a one-year term; and

(H) the Community Justice Network of Vermont shall appoint a member for a one-year term.

(2) After the expiration of the initial terms set forth in subdivision (1) of this subsection, Commission member terms shall be as set forth in 28 V.S.A. § 123 in Sec. 2 of this act.

Sec. 5. 28 V.S.A. § 124 is added to read:

§ 124. DEPARTMENT OF CORRECTIONS; CORRECTIONS
INVESTIGATIVE UNIT

(a) Creation. There is created the Corrections Investigative Unit (CIU) within the Department. The CIU shall investigate the following topics to comply with federal law and to identify systemic issues within the Department:

(1) allegations of violations of the Prison Rape Elimination Act;

(2) major events that occur in the Department, including the death of an individual in the custody of the Department or the escape of an individual from a facility or the custody of Department staff;

(3) Department compliance with policies, procedures and directives;

(4) the movement of contraband in facilities; and

(5) threats against the personal safety of Department employees and individuals in the custody of the Department.

(b) Staff. The Commissioner of Corrections shall appoint and employ sufficient staff and adopt the necessary procedures for the CIU to carry out the duties required under this section.

(c) Coordination. The CIU shall coordinate with outside investigative agencies and law enforcement agencies concerning criminal allegations and shall coordinate with a designated point of contact at the Department of Human Resources on employee misconduct investigations and disciplinary

actions. The CIU shall conduct personal safety planning as necessary for employees who receive threats.

(d) Employee rights.

(1) An employee who is subject to questioning or investigation by the CIU shall be entitled to all procedural and substantive rights afforded to the employee by State and federal law and any applicable collective bargaining agreement or employment contract, including any contractual rights that apply to proceedings or investigations that may result in an adverse employment action.

(2) Information gathered by the CIU in the course of an investigation shall be subject to discovery pursuant to the applicable rules of the Vermont Labor Relations Board or a court of competent jurisdiction, as appropriate.

(e) Collective bargaining. Nothing in this section shall be construed to limit the right of the State and the employee organization to collectively bargain with respect to matters related to investigations and employee discipline that are not otherwise controlled by statute.

* * * Crime * * *

Sec. 6. 13 V.S.A. § 3257 is amended to read:

§ 3257. SEXUAL EXPLOITATION OF AN INMATE A PERSON UNDER THE SUPERVISION OF THE DEPARTMENT OF CORRECTIONS

(a) ~~No~~ A correctional employee, contractor, or other person providing services to offenders on behalf of the Department of Corrections or pursuant to a court order or in accordance with a condition of parole, probation, supervised community sentence, or furlough shall not engage in a sexual act with:

(1) a person who the employee, contractor, or other person providing services knows:

(1) is confined to a correctional facility; or

(2) is any offender being supervised by the Department of Corrections while on parole, probation, supervised community sentence, or furlough, where the employee, contractor, or other service provider is currently engaged in a direct supervisory relationship with the person being supervised. For purposes of this subdivision, a person is engaged in a direct supervisory relationship with a supervisee if the supervisee is assigned to the caseload of that person knows or reasonably should have known that the offender is being supervised by the Department, unless the offender and the employee, contractor, or person providing services were married, parties to a civil union, or engaged in a sexual relationship at the time of sentencing for the offense for

which the offender is being supervised by the Department.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both.

Sec. 7. CRIMINAL JUSTICE COUNCIL; DEPARTMENT OF
CORRECTIONS; CERTIFICATION PROCESS

During the 2021 legislative interim, the Criminal Justice Council and the Department of Corrections shall develop a proposal governing minimum training standards, complaint investigations, and a process for certification and decertification of correctional officers as defined in 28 V.S.A. § 3. The proposal shall address the relationship between the Council's and the Corrections Investigative Unit's scope of investigative authority. On or before December 1, 2021, the Council and the Department shall report the proposal to the Joint Legislative Justice Oversight Committee, including any fiscal and programmatic impact of the proposal.

* * * Effective Date * * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations?, Senators Pollina, Clarkson, Collamore, Ram and White moved to amend the proposal of amendment of the Committee on Government Operations in Sec. 6, 13 V.S.A. § 3257, in subdivision (a)(2), following "parties to a civil union, or engaged in a", by inserting the word consensual

Which was agreed to.

Thereupon, the proposal of amendment of the Committee on Government Operations, as amended, was agreed to and third reading of the bill was ordered.

House Proposal of Amendment Concurred In

S. 20.

House proposal of amendment to Senate bill entitled:

An act relating to restrictions on perfluoroalkyl and polyfluoroalkyl substances and other chemicals of concern in consumer products.

Was taken up.

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

* * * PFAS in Class B Firefighting Foam * * *

Sec. 1. 18 V.S.A. chapter 33 is added to read:

CHAPTER 33. PFAS IN FIREFIGHTING AGENTS AND EQUIPMENT

§ 1661. DEFINITIONS

As used in this chapter:

(1) “Class B firefighting foam” means chemical foams designed for flammable liquid fires.

(2) “Intentionally added” means the addition of a chemical in a product that serves an intended function in the product component.

(3) “Manufacturer” means any person, firm, association, partnership, corporation, organization, joint venture, importer, or domestic distributor of firefighting agents or equipment. As used in this subsection, “importer” means the owner of the product.

(4) “Municipality” means any city, town, incorporated village, town fire district, or other political subdivision that provides firefighting services pursuant to general law or municipal charter.

(5) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(6) “Personal protective equipment” means clothing designed, intended, or marketed to be worn by firefighting personnel in the performance of their duties, designed with the intent for use in fire and rescue activities, and includes jackets, pants, shoes, gloves, helmets, and respiratory equipment.

(7) “Terminal” means an establishment primarily engaged in the wholesale distribution of crude petroleum and petroleum products, including liquefied petroleum gas from bulk liquid storage facilities.

§ 1662. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

A person, municipality, or State agency shall not discharge or otherwise use for training or testing purposes class B firefighting foam that contains intentionally added PFAS.

§ 1663. RESTRICTION ON MANUFACTURE, SALE, AND DISTRIBUTION; EXCEPTIONS

(a)(1) Unless otherwise required under federal law, but not later than

October 1, 2023, a manufacturer of class B firefighting foam shall not manufacture, sell, offer for sale, or distribute for sale or use in this State class B firefighting foam to which PFAS have been intentionally added.

(2) Notwithstanding subdivision (1) of this subsection, the restriction on the manufacture, sale, offer for sale, or distribution of class B firefighting foam containing intentionally added PFAS for use at a terminal shall not apply until January 1, 2024.

(b) A person operating a terminal after January 1, 2024, and who seeks to purchase class B firefighting foam containing intentionally added PFAS for the purpose of fighting emergency class B fires, may apply to the Department of Environmental Conservation for a temporary exemption from the restrictions on the manufacture, sale, offer for sale, or distribution of class B firefighting foam for use at a terminal. An exemption shall not exceed one year. The Department of Environmental Conservation, in consultation with the Department of Health, may grant an exemption under this subsection if the applicant provides:

(1) clear and convincing evidence that there is not a commercially available alternative that:

(A) does not contain intentionally added PFAS; and

(B) is capable of suppressing a large atmospheric tank fire or emergency class B fire at the terminal;

(2) information on the amount of class B firefighting foam containing intentionally added PFAS that is annually stored, used, or released at the terminal;

(3) a report on the progress being made by the applicant to transition at the terminal to class B firefighting foam that does not contain intentionally added PFAS; and

(4) an explanation of how:

(A) all releases of class B firefighting foam containing intentionally added PFAS shall be fully contained at the terminal; and

(B) existing containment measures prevent firewater, wastewater, runoff, and other wastes from being released into the environment, including into soil, groundwater, waterways, and stormwater.

(c) Nothing in this section shall prohibit a terminal from providing class B firefighting foam in the form of aid to another terminal in the event of a class B fire.

§ 1664. SALE OF PERSONAL PROTECTIVE EQUIPMENT
CONTAINING PFAS

(a) A manufacturer or other person that sells firefighting equipment to any person, municipality, or State agency shall provide written notice to the purchaser at the time of sale, citing to this chapter, if the personal protective equipment contains PFAS. The written notice shall include a statement that the personal protective equipment contains PFAS and the reason PFAS are added to the equipment.

(b) The manufacturer or person selling personal protective equipment and the purchaser of the personal protective equipment shall retain the notice for at least three years from the date of the transaction.

§ 1665. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

(a) A manufacturer of class B firefighting foam containing intentionally added PFAS shall provide written notice to persons that sell the manufacturer's products in this State about the restrictions imposed by this chapter not less than one year prior to the effective date of the restrictions.

(b) Unless a class B firefighting foam containing intentionally added PFAS is intended for use at a terminal, and if after January 1, 2024, the person operating a terminal holds a temporary exemption pursuant to subsection (b) of section 1663 of this title, a manufacturer that produces, sells, or distributes a class B firefighting foam containing intentionally added PFAS shall:

(1) recall the product and reimburse the retailer or any other purchaser for the product; and

(2) issue either a press release or notice on the manufacturer's website describing the product recall and reimbursement requirement established in this subsection.

§ 1666. CERTIFICATE OF COMPLIANCE

The Attorney General may request a certificate of compliance from a manufacturer of class B firefighting foam or firefighting personal protective equipment. Within 30 days after receipt of the Attorney General's request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer's product or products comply with the requirements of this chapter; or

(2) notify persons who are selling a product of the manufacturer's in this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and

addresses of those persons notified.

§ 1667. PENALTIES

(a) A violation of this chapter shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.

* * * PFAS, Phthalates, and Bisphenols in Food Packaging * * *

Sec. 2. 18 V.S.A. chapter 33A is added to read:

CHAPTER 33A. CHEMICALS OF CONCERN IN FOOD PACKAGING

§ 1671. DEFINITIONS

As used in this chapter:

(1) “Bisphenols” means any member of a class of industrial chemicals that contain two hydroxyphenyl groups. Bisphenols are used primarily in the manufacture of polycarbonate plastic and epoxy resins.

(2) “Department” means the Department of Health.

(3) “Food package” or “food packaging” means a package or packaging component that is intended for direct food contact.

(4) “Intentionally added” means the addition of a chemical in a product that serves an intended function in the product component.

(5) “Ortho-phthalates” means any member of the class of organic chemicals that are esters of phthalic acid containing two carbon chains located in the ortho position.

(6) “Package” means a container providing a means of marketing, protecting, or handling a product and shall include a unit package, an intermediate package, and a shipping container. “Package” also means unsealed receptacles, such as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs.

(7) “Packaging component” means an individual assembled part of a package, such as any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels, and disposable gloves used in commercial or institutional food service.

(8) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” has the same meaning as in section 1661 of this title.

§ 1672. FOOD PACKAGING

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a food package to which PFAS have been intentionally added and are present in any amount.

(b)(1) Pursuant to 3 V.S.A. chapter 25, the Department may adopt rules prohibiting a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package to which bisphenols have been intentionally added and are present in any amount. The Department may exempt specific chemicals within the bisphenol class when clear and convincing evidence suggests they are not endocrine-active or otherwise toxic.

(2) The Department may only prohibit a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package in accordance with this subsection if the Department or at least one other state has determined that a safer alternative is readily available in sufficient quantity and at a comparable cost and that the safer alternative performs as well as or better than bisphenols in a specific application of bisphenols to a food package or the packaging component of a food package.

(3) If the Department prohibits a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package in accordance with this subsection, the prohibition shall not take effect until two years after the Department adopts the rules.

(c) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a food package that includes inks, dyes, pigments, adhesives, stabilizers, coatings, plasticizers, or any other additives to which ortho-phthalates have been intentionally added and are present in any amount.

(d) This section shall not apply to the sale or resale of used products.

§ 1673. CERTIFICATE OF COMPLIANCE

The Attorney General may request a certificate of compliance from a manufacturer of food packaging. Within 30 days after receipt of the Attorney General’s request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer's product or products comply with the requirements of this chapter; or

(2) notify persons who are selling a product of the manufacturer's in this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and addresses of those persons notified.

§ 1674. RULEMAKING

Pursuant to 3 V.S.A. chapter 25, the Commissioner of Health shall adopt any rules necessary for the implementation, administration, and enforcement of this chapter.

§ 1675. PENALTIES

(a) A violation of this chapter shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.

* * * Rugs, Carpets, and Aftermarket Stain and Water Resistant
Treatments * * *

Sec. 3. 18 V.S.A. chapter 33B is added to read:

CHAPTER 33B. PFAS IN RUGS, CARPETS, AND AFTERMARKET STAIN AND WATER RESISTANT TREATMENTS

§ 1681. DEFINITIONS

As used in this chapter:

(1) "Aftermarket stain and water resistant treatments" means treatments for textile and leather consumer products used in residential settings that have been treated during the manufacturing process for stain, oil, and water resistance but excludes products marketed or sold exclusively for use at industrial facilities during the manufacture of a carpet, rug, clothing, or shoe.

(2) "Department" means the Department of Health.

(3) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.

(4) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in section 1661 of this title.

(5) “Rug or carpet” means a thick fabric used to cover floors.

§ 1682. RUGS AND CARPETS

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a residential rug or carpet to which PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 1683. AFTERMARKET STAIN AND WATER RESISTANT TREATMENTS

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State aftermarket stain and water resistant treatments for rugs or carpets to which PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 1684. CERTIFICATE OF COMPLIANCE

The Attorney General may request a certificate of compliance from a manufacturer of rugs, carpets, or aftermarket stain and water resistant treatments. Within 30 days after receipt of the Attorney General’s request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer’s product or products comply with the requirements of this chapter; or

(2) notify persons who are selling a product of the manufacturer’s in this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and addresses of those persons notified.

§ 1685. RULEMAKING

Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt any rules necessary for the implementation, administration, and enforcement of this chapter.

§ 1686. PENALTIES

(a) A violation of this chapter shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.

* * * Ski Wax * * *

Sec. 4. 18 V.S.A. chapter 33C is added to read:

CHAPTER 33C. PFAS IN SKI WAX

§ 1691. DEFINITIONS

As used in this chapter:

(1) “Department” means the Department of Health.

(2) “Intentionally added” means the addition of a chemical in a product that serves an intended function in the product component.

(3) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” has the same meaning as in section 1661 of this title.

(4) “Ski wax” means a lubricant applied to the bottom of snow runners, including skis and snowboards, to improve their grip and glide properties.

§ 1692. SKI WAX

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State ski wax or related tuning products to which PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 1693. CERTIFICATE OF COMPLIANCE

The Attorney General may request a certificate of compliance from a manufacturer of ski wax. Within 30 days after receipt of the Attorney General’s request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer’s product or products comply with the requirements of this chapter; or

(2) notify persons who are selling a product of the manufacturer’s in this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and addresses of those persons notified.

§ 1694. RULEMAKING

Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt any rules necessary for the implementation, administration, and enforcement of this

chapter.

§ 1695. PENALTIES

(a) A violation of this chapter shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.

* * * Chemicals of High Concern to Children * * *

Sec. 5. 18 V.S.A. § 1773 is amended to read:

§ 1773. CHEMICALS OF HIGH CONCERN TO CHILDREN

(a) List of chemicals of high concern to children. The following chemicals are designated as chemicals of high concern to children for the purposes of the requirements of this chapter:

* * *

(67) PFHxS (perfluorohexane sulfonic acid).

(68) PFHpA (perfluoroheptanoic acid).

(69) PFNA (perfluorononanoic acid).

(70) Any other chemical designated by the Commissioner as a chemical of high concern to children by rule under section 1776 of this title.

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2021, except that Secs. 1 (class B firefighting foam) and 5 (chemicals of high concern to children) shall take effect on July 1, 2022 and Secs. 2 (food packaging), 3 (rugs and carpets), and 4 (ski wax) shall take effect on July 1, 2023.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Adjournment

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