

**HOUSE COMMITTEE
ON
TRANSPORTATION**
OVERVIEW OF KEY
LEGAL AND
LEGISLATIVE
PRINCIPLES



Domestic Affairs,
Technology, Science
& Innovation

Topics covered

Vermont Statutes Annotated;
Session Law; Acts

Background on Key Legal Principles

Overview of the Transportation Bill
& Miscellaneous Motor Vehicles Bill

Drafting & Role of Staff

Finding Resources on the Website

Statutory and Session Laws

- Lingo: Green books (V.S.A.), white books, bills, acts, statutory/codified law, session law, resolutions, replacement volume, supplement, pocket part, statutory revision.
- Legislative history.
- Biggest difference between session law and statutory/codified law?
 - Harder to find session law!
 - Also cited differently:
 - Session law: [YEAR] Acts and Resolves No. [ACT #], Sec. [ACT SEC. #]
 - Codified law: [TITLE #] V.S.A. § [STATUTE SEC. #]

Transportation Statutes

Titles this committee has jurisdiction over:

- [Title 5: Aeronautics and Surface Transportation](#)
- [Title 19: Highways](#)
- [Title 23: Motor Vehicles](#) [also bicycles, pedestrians on highways, ATVs, vessels]
 - **Note:** Other titles of law may need to be referenced and reviewed.

Structure of Statutes

Structure of Statutes

- Title
 - [Part]
 - Chapter
 - [Subchapter]
 - Section
 - Subsection ((a), (b) . . .)
 - Subdivision
- Subdivision includes everything below a subsection:
 - (1), (2), (3) . . .
 - (A), (B), (C) . . .
 - (i), (ii), (iii) . . .
 - (I), (II), (III) . . .
 - (aa), (bb), (cc) . . .

Vermont Statutes Annotated

Title 23 : Motor Vehicles

Chapter 001 : General Provisions

(Cite as: 23 V.S.A. § 4)

§ 4. Definitions

Except as may otherwise be provided by law, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the law regulating vehicles, as provided in this title and 20 V.S.A. part 5, the following definitions shall apply:

(1) "Authorized emergency vehicle" means a vehicle of a fire department, police vehicle, public and private ambulance, and a vehicle to which a permit has been issued pursuant to subdivision 1252(a)(1) or (2) of this title.

(2) "Button" is a traffic control marking consisting of an object, either permanently attached to the pavement or temporarily placed, and projecting above the surface.

Chapter 028 : Gasoline Tax

Subchapter 001 : General Gasoline Tax

(Cite as: 23 V.S.A. § 3106)

§ 3106. Imposition, rate, and payment of tax

(a)(1) Except for sales of motor fuels between distributors licensed in this State, which sales shall be exempt from the taxes and assessments authorized under this section, unless exempt under the laws of the United States at the time of filing the report required by section 3108 of this title, each distributor shall pay to the Commissioner:

(A) a tax of \$0.121 upon each gallon of motor fuel sold by the distributor; and

(B) the following assessments:

(i) a motor fuel transportation infrastructure assessment that is the greater of:

(I) \$0.0396; or

(II) two percent of the tax-adjusted retail price upon each gallon of motor fuel sold by the distributor; and

(ii) a fuel tax assessment, which shall be used exclusively for transportation purposes and not be transferred from the Transportation Fund, that is the greater of:

(I) \$0.134 per gallon; or

Statutory Definitions

Definitions may apply throughout an entire title, or only within a specific chapter, subchapter, section, or session law.

- See, e.g., definitions of “highway” at 23 V.S.A. §§ [4\(13\)](#) and [1200\(7\)](#).

23 V.S.A. § 4(13)	23 V.S.A. § 1200(7)
“Highway,” “road,” “public highway,” or “public road” shall include all parts of any bridge, culvert, roadway, street, square, fairground, or other place open temporarily or permanently to public or general circulation of vehicles, and shall include a way laid out under authority of law.	“Highway” has the same meaning as in subdivision 4(13) of this title, except that for purposes of this subchapter, “highway” does not include the driveway that serves only a single-family or two-family residence of the operator. This exception shall not apply if . . .

Background Principles: Federal Law

- Federal law is the supreme law of the land.
 - The U.S. Constitution, a federal statute (U.S.C.), or even a federal regulation (C.F.R.) may control over a Vermont law and limit the General Assembly's ability to legislate in an area.
- Preemption: When a federal law preempts (displaces) the application of state law.
 - For example, a federal court has held that federal railroad law preempts the application of Vermont's Act 250 and certain municipal laws.
 - In many areas, federal law does not regulate (e.g., most rules of the road) and preemption is not an issue.
 - **Note**: Preemption is not self-enforcing: unconstitutional laws, or laws that are preempted, may be on the books and may be enforced for years. It may take a court decision and an injunction to prevent enforcement, although when preemption or unconstitutionality is clear, a law may not be enforced.

Background Principles: Federal Law

- Monetary Consequences: Some federal laws do not “preempt” state law, but by penalizing states through reduced appropriations they give states a powerful incentive to conform to federal transportation policy.
- Federal Court Decisions:
 - U.S. Supreme Court decisions override contrary decisions of federal appellate courts, and federal appellate court decisions override contrary federal district court decisions.
 - Higher court decisions are binding on lower courts within a court’s jurisdiction.
 - Vermont is in the Second Circuit (along with NY and CT), so decisions of the Second Circuit Court of Appeals are binding on the U.S. District Court for Vermont.
 - However, decisions of the First Circuit Court of Appeals (whose jurisdiction includes ME, NH, MA, RI, and PR) are only persuasive.

Background Principles: State Law

Hierarchy:

- Vermont Constitution
- Vermont Laws (V.S.A. and session laws)
- Vermont Rules adopted by any branch of State Government
 - (Note: Our position is that General Assembly's parliamentary rules prevail over statute)
- Municipal law

Does not include common law (law made by courts deciding cases)

Background Principles: State Law

Rulemaking:

- Administrative rules are adopted by Executive Branch agencies and bodies, including DMV and the Traffic Committee.
 - The General Assembly must authorize an agency to adopt the rules.
- The Legislative Committee on Administrative Rules (LCAR) and Legislative Committee on Judicial Rules review Executive Branch and Judicial Branch rules.

Subsequent Acts: Later enacted law may amend, repeal, or “notwithstanding” earlier enacted law.

- General Assembly may not constrain subsequent lawmaking by the General Assembly (however, the General Assembly’s lawmaking power may be limited by the Vermont or U.S. Constitutions).
 - **NOTE:** This also applies to specifying how a future General Assembly appropriates money.

Background Principles: Common Law or Case Law

- Vermont Superior Courts and the Vermont Supreme Court interpret the meaning of laws and may even create law. A court decision that interprets or creates law often is called “case law” or “common law” as opposed to “statutory law.”
- If it has authority, the General Assembly may react to case law that it does or does not agree with by passing an act to supersede a court decision or by codifying the decision in statutory law.
- Case annotations are in the green books and the full cases themselves are available on paid subscription legal databases (e.g. Westlaw). More recent Vermont Supreme Court cases are available for free on the Judiciary’s website.
 - **Warning:** Cases listed in the green books may relate to an old version of a statute.

Transportation Bill (aka T-Bill)

Process: Starts in House Transportation (always a committee bill) and the first draft includes proposals from the Agency of Transportation as drafted/modified by Leg. Counsel. Sometimes also contains technical corrections from Leg. Counsel. House Transportation modifies and adds to the proposals and makes any changes to the Agency's proposed Transportation Program (released on the same day that the Governor gives the Budget Address) prior to introduction.

- **Note**: In a typical year, the T. Bill gets the extra week for cross-over.

Structure:

- Sec. 1 adopts Governor's proposed transportation program, as amended by the Act.
- Next several sections amend the proposed transportation program.
- Sections that follow usually represent the Agency of Transportation's policy proposals, as amended after the committee process, and sections proposed by committee members and other legislators.

Miscellaneous Motor Vehicles Bill

Process: Has started in the Senate since at least the 2010 session and the first draft includes proposals from the Department of Motor Vehicles as drafted/modified by Leg. Counsel. Sometimes also contains technical corrections from Leg. Counsel. Senate Transportation modifies and adds to the proposals prior to introduction/passage by the Senate.

- Many of the bills that are introduced in the House and referred to House Transportation are appropriate for inclusion in the Miscellaneous Motor Vehicles Bill, but that does not mean that is where they end up if the language moves forward. See, e.g., primary enforcement of the adult seat belt law.

PRIOR Transportation & miscellaneous motor vehicles bills

(continued)

	2021	2022
Transportation Bill ("T. Bill")	<ul style="list-style-type: none">- H.433 Bill Page- 2021 Acts and Resolves No. 55- Act Summary (with one-page fiscal summary)- Fiscal Year 2022 Transportation Program (as passed)	<ul style="list-style-type: none">- H.736 Bill Page- 2022 Acts and Resolves No. 184- Act Summary (with one-page fiscal summary)- Fiscal Year 2021 Transportation Program (as passed)
Miscellaneous Motor Vehicles Bill ("Misc. MV Bill")	<ul style="list-style-type: none">- S.86 Bill Page- 2021 Acts and Resolves No. 76- Act Summary	<ul style="list-style-type: none">- S.280 Bill Page- Final Side-by-Side

PRIOR Transportation & miscellaneous motor vehicles bills

	2023	2024
Transportation Bill ("T. Bill")	<ul style="list-style-type: none">- H.479 Bill Page- 2023 Acts and Resolves No. 62- Act Summary- Fiscal Year 2024 Transportation Program (as passed)	<ul style="list-style-type: none">- H.868 Bill Page- 2024 Acts and Resolves No. 148- Act Summary- Fiscal Year 2025 Transportation Program (as passed)
Miscellaneous Motor Vehicles Bill ("Misc. MV Bill")	<ul style="list-style-type: none">- S.99 Bill Page- 2023 Acts and Resolves No. 41- Act Summary	<ul style="list-style-type: none">- S.309 Bill Page- 2024 Acts and Resolves No. 165- Act Summary

Bill Drafting: Key Concepts

Drafting Conventions: Reader assistance headings; underlines/strikethroughs; ellipses (* * *).

No. 60
2019

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***** Commercial Driver License for Qualified Military Personnel *****

Sec. 5. 23 V.S.A. § 4108(d) is amended to read:

(d) At the discretion of the Commissioner, the knowledge test and the skills test required under ~~49 C.F.R. § 383.113~~ 49 C.F.R. §§ 383.113 and 383.133, as amended, and the tests required for a passenger endorsement or a tank vehicle endorsement or a hazardous materials endorsement under 49 CFR §§ 383.117,

383.119, or 383.121, as amended, may be waived for a commercial motor vehicle driver with military commercial motor vehicle experience who is currently licensed at the time of his or her application for a commercial driver license, if the test is substituted with an applicant's driving record in combination with the driving experience specified in this subsection. The Commissioner shall impose conditions and limitations to restrict the applicants from whom alternative requirements for the skills test may be accepted. Such conditions shall include the following:

Bill Drafting: Key Concepts

Effective Dates and Transition Language: Super important (makes language not be effective until a point in the future)/explains how something should be implemented.

- **Note:** Can be retroactive. More retroactive effective dates in 2020 and 2021 to address DMV modifications to operations due to COVID-19.

Sunsets: A shorthand phrasing for prospective repeals, which go into effect in the future and (usually) force the General Assembly to address an issue (again) down the line.

- Expect to address the repeal of the automated license plate recognition (ALPR) systems statutes and maybe the Agency's authorization to enter into public-private partnerships and the savings clause for the City of Burlington to continue regulating transportation network companies (TNCs) like Uber and Lyft in a way that is inconsistent with State law this biennium. Set to sunset on July 1, 2024, July 1, 2023, and July 1, 2025, respectively.

Bill Drafting: Key Concepts

Reports: Annual/single requests; codified/session law.

Details:

- A central tension in crafting legislation: a more specific statute may better develop and implement legislative intent. However, specificity may cause committees to get bogged down, and may leave situations unaddressed and eliminate needed flexibility.
- Another key issue in some legislation: whether to address an issue fully in statute; to delegate rulemaking authority to an agency; or to authorize an agency to implement a program and “fill in the blanks” without having to go through the rulemaking process.

Role of Staff

Role of Legislative Counsel and Joint Fiscal Office staff: Nonpartisan; serve committees and all members in both chambers throughout the lifecycle of a bill.

Drafting Style; Editors/Drafting Ops.: There is a Drafting Manual, which strives for uniformity in the statutes since so many different people draft language, and a truly wonderful team of editors and drafting technicians.

Finding Resources on the Website

The screenshot shows the Vermont General Assembly website. At the top left is the Vermont State Capitol dome icon and the text "VERMONT GENERAL ASSEMBLY". Below this is a blue navigation bar with the following menu items: "BILLS & RESOLUTIONS", "COMMITTEES", "VERMONT LAWS", "HOUSE", "SENATE", "JOINT FISCAL OFFICE", "REPORTS & RESEARCH", "THE STATE HOUSE", and "STAFF & OFFICES". The main header features a large image of the Vermont State Seal with the motto "FREEDOM AND JUSTICE". Below the seal, the text reads "Welcome to the website of the Legislature of the State of Vermont." To the right of this text is a search bar with the label "SEARCH FOR:" and three tabs: "Bill or Resolution", "Legislator", and "Committee". Below the tabs is a search input field with the placeholder text "Enter bill number, title or keyword" and a "SEARCH" button. Below the search bar are three main content areas: 1) "THE House of Representatives" with an image of the House chamber; 2) "THE Senate" with an image of the Senate chamber; and 3) "Scheduled Committee Meetings" with a "View Full List" link. Below the "Scheduled Committee Meetings" section is an "Announcements" section with the text: "Senate Session There will be a Senate Session on Friday, January 8, 2021 at 11:30 A.M. | [READ MORE](#)".