

House Calendar

Wednesday, April 19, 2017

106th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 PM

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

Third Reading

H. 150 Parole eligibility 923

S. 50 An act relating to insurance coverage for telemedicine services delivered in or outside a health care facility..... 923

Favorable with Amendment

S. 12 An act relating to increasing the maximum prison sentence for first, second, and subsequent offenses of aggravated animal cruelty 923
Rep. LaLonde for Judiciary

S. 75 An act relating to aquatic nuisance species control..... 925
Rep. Lefebvre for Natural Resources, Fish and Wildlife

Favorable

S. 96 An act relating to a news media privilege 935
Rep. LaLonde for Judiciary

Senate Proposal of Amendment

H. 182 Certain businesses regulated by the Department of Financial Regulation 935

H. 494 The Transportation Program and miscellaneous changes to transportation-related law 937

NOTICE CALENDAR

Favorable with Amendment

S. 20 An act relating to permanent licenses for persons 66 years of age or older 947

Rep. Beyor for Natural Resources, Fish and Wildlife

Rep. Helm for Appropriations 949

Rep. Canfield for Ways and Means..... 949

S. 52 An act relating to the Public Service Board and its proceedings 949
Rep. Sibiliala for Energy and Technology

S. 72 An act relating to requiring telemarketers to provide accurate caller
identification information 968
Rep. Kimbell for Commerce and Economic Development

S. 127 An act relating to miscellaneous changes to laws related to vehicles and
vessels 973
Rep. Brennan for Transportation

Favorable

H. 526 Regulating notaries public 992
Rep. Hubert for Government Operations
Rep. Browning for Ways and Means 992

H. 536 Approval of amendments to the charter of the Town of Colchester . 993
Rep. Lewis for Government Operations

ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 150

An act relating to parole eligibility

S. 50

An act relating to insurance coverage for telemedicine services delivered in or outside a health care facility

Favorable with Amendment

S. 12

An act relating to increasing the maximum prison sentence for first, second, and subsequent offenses of aggravated animal cruelty

Rep. LaLonde of South Burlington, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. chapter 8 is amended to read:

CHAPTER 8. HUMANE AND PROPER TREATMENT OF ANIMALS

Subchapter 1. Cruelty to Animals

§ 351. DEFINITIONS

As used in this chapter:

(1) "Animal" means all living sentient creatures, not human beings.

* * *

(19) "Sexual conduct" means:

(A) any act between a person and animal that involves contact between the mouth, sex organ, or anus of a person and the mouth, sex organ, or anus of an animal; or

(B) without a bona fide veterinary or animal husbandry purpose, the insertion, however slight, of any part of a person's body or of any instrument, apparatus, or other object into the vaginal or anal opening of an animal.

* * *

§ 352. CRUELTY TO ANIMALS

A person commits the crime of cruelty to animals if the person:

(1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner, or engages in a reckless course of conduct that results in the death of an animal;

* * *

(10) uses a live animal as bait or lure in a race, game, or contest, or in training animals in a manner inconsistent with 10 V.S.A. Part 4 of Title 10 or the rules adopted thereunder;

(11)(A) engages in sexual conduct with an animal;

(B) possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that it be used for sexual conduct;

(C) organizes, promotes, conducts, aids, abets, or participates in as an observer an act involving any sexual conduct with an animal;

(D) causes, aids, or abets another person to engage in sexual conduct with an animal;

(E) permits sexual conduct with an animal to be conducted on premises under his or her charge or control; or

(F) advertises, offers, or accepts the offer of an animal with the intent that it be subject to sexual conduct in this State.

§ 352a. AGGRAVATED CRUELTY TO ANIMALS

A person commits the crime of aggravated cruelty to animals if the person:

(1) kills an animal by intentionally causing the animal undue pain or suffering;

(2) intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal; or

(3) intentionally injures or kills an animal that is in the performance of official duties while under the supervision of a law enforcement officer.

* * *

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

(1) Except as provided in subdivision (3) ~~or~~, (4), or (5) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than three years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than five years or a fine of not more than \$7,500.00, or both.

* * *

(5) A person who violates subdivision 352(1) of this title by intentionally killing or attempting to kill an animal belonging to another shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(Committee vote: 9-0-2)

(For text see Senate Journal February 15, 2017)

S. 75

An act relating to aquatic nuisance species control

Rep. Lefebvre of Newark, for the Committee on Natural Resources; Fish & Wildlife, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1452 is amended to read:

§ 1452. DEFINITIONS

As used in this chapter:

(1) “Agency” means the ~~agency of natural resources~~ Agency of Natural Resources.

(2) “Aquatic nuisance” means undesirable or excessive substances or populations that interfere with the recreational potential or aquatic habitat of a body of water, including rooted aquatic plants and animal and algal populations. Aquatic nuisances include ~~rooted aquatic plants and animal and algal populations~~ zebra mussels (*Dreissena polymorpha*), quagga mussels (*Dreissena bugensis*), Asian clam (*Corbicula fluminea*), fishhook waterflea (*Cercopagis pengoi*), rusty crayfish (*Orconectes rusticus*), spiny waterflea (*Bythotrephes longimanus*), or other species identified by the Secretary by rule.

(3) “Aquatic plant” means a plant that naturally grows in water, saturated soils, or seasonally saturated soils, including algae and submerged, floating-leafed, floating, or emergent plants.

(4) “Biological controls” ~~mean~~ means multi-cellular organisms.

(5) ~~“Board” means the water resources panel of the natural resources board.~~ [Repealed.]

* * *

(9) “Secretary” means the ~~secretary of natural resources~~ Secretary of Natural Resources.

(10) “Water resources” means the waters and the values inherent or potential in waters and their uses.

(11) “Waters” means all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, and springs and all bodies of surface waters, artificial or natural, ~~which~~ that are contained within, flow through, or border upon the ~~state~~ State or any portion of it.

(12) “Baitbox” means a receptacle, not exceeding 25 cubic feet in volume, used for holding or keeping baitfish alive for personal use.

(13) “Live well” means a well for keeping fish alive in a vessel by allowing water to circulate through the well.

(14) “Ballast tank” means any tank or hold on a vessel used for carrying ballast water, whether or not the tank or hold was designed for that purpose.

(15) “Bilge area” means the lowest point in the vessel where water can collect when the vessel is in its static floating position.

(16) “Decontaminate” means a process used to kill, destroy, or remove aquatic nuisance species and other organic material that may be present in or on a vessel, motor vehicle transporting the vessel, trailer, or other equipment. Decontamination may include washing a vessel, motor vehicle transporting the vessel, trailer, or other equipment with water at a sufficiently high temperature to kill or remove aquatic nuisance species.

(17) “Lake association” means a lake protection organization registered with the Secretary of Natural Resources on a form provided by the Secretary.

(18) “Marina” means a property, other than a public access or landing area regulated under section 4145 of this title, on the shoreline of a water of the State that contains a dock, basin, or ramp that, at no cost or for remuneration, provides to the public secure moorings or vessel access to the water.

(19) “Motor vehicle” means any vehicle propelled or drawn by power other than muscular power, including a snowmobile, motorcycle, all-terrain vehicle, farm tractor, or tracked vehicle.

(20) “Personal watercraft” shall have the same meaning as set forth in 23 V.S.A. § 3302.

(21) “Transport” means to move motor vehicles, vessels, personal watercraft, seaplanes, trailers, and other equipment over land, but does not include movement within the immediate area required for loading and preparing vehicles, vessels, personal watercraft, seaplanes, trailers, and other equipment prior to movement into or away from a body of water.

(22) “Vessel” means every description of watercraft used or capable of being used as a means of transportation on water, including personal watercraft.

Sec. 2. 10 V.S.A. § 1454 is amended to read:

§ 1454. TRANSPORT OF AQUATIC PLANTS AND AQUATIC
NUISANCE SPECIES

(a) ~~No~~ Transport of aquatic nuisance species; prohibition. A person shall not transport an aquatic plant ~~or~~, aquatic plant part, zebra mussels (*Dreissena polymorpha*), quagga mussels (*Dreissena bugensis*), or other aquatic nuisance species identified by the Secretary by rule to or from any Vermont waters on the outside of a vehicle, boat, personal watercraft, trailer, or other equipment water. This section shall not restrict:

(1) proper harvesting or other control activities undertaken for the purpose of eliminating or controlling the growth or propagation of aquatic plants, zebra mussels, quagga mussels, or other aquatic nuisance species; or

(2) proper collection of water samples for the purpose of water quality monitoring.

(b) Inspection of vessel entering or leaving water. A person transporting a vessel to or from a water shall, prior to launching the vessel and upon leaving a water, inspect the vessel, the motor vehicle transporting the vessel, the trailer, and other equipment, and shall remove and properly dispose of any aquatic plants, aquatic plant parts, and aquatic nuisance species.

(c) Aquatic nuisance species inspection station. It shall be a violation of this section for a person transporting a vessel to or from a water to not have the vessel, the motor vehicle transporting the vessel, the trailer, and other equipment inspected and, if determined necessary, decontaminated at an approved aquatic nuisance species inspection station prior to launching the vessel and upon leaving a water if:

(1) an aquatic nuisance species inspection station is maintained at the area where the vessel is entering or leaving the water;

(2) the aquatic nuisance species inspection station is open; and

(3) an individual operating the aquatic nuisance species inspection station identifies the vessel for inspection or decontamination.

(d) Draining of vessel; transport.

(1)(A) When leaving a water of the State and prior to transport away from the area where the vessel left the water, a person operating a vessel shall drain the vessel, trailer, and other equipment of water, including water in live wells, ballast tanks, and bilge areas. A person is not required to drain:

(i) baitboxes when authorized under 10 App. V.S.A. § 122(5) to transport bait in a baitbox away from a water; or

(ii) vehicles and trailers specifically designed and used for water hauling.

(B) A person operating a vessel shall drain the vessel, trailer, and other equipment of water in a manner to avoid a discharge to the water of the State. This subdivision (d)(1) does not authorize a person to discharge waste, as defined in section 1251 of this title, to waters of the State. A person shall dispose of waste in the manner required by law.

(2) When a person transports a vessel, the person shall remove or open the drain plugs, bailers, valves, and other devices that are used to control the draining of water from ballast tanks, bilge areas, and live wells of the vessel, trailer, and other equipment, except for vehicles and trailers specifically designed and used for water hauling and emergency response vehicles and equipment.

(e) Exceptions to transport prohibition. The Secretary may ~~grant~~ grant ~~exceptions to persons to~~ allow the transport of aquatic plants, ~~zebra mussels,~~ ~~quagga mussels,~~ aquatic plant parts, or ~~other~~ aquatic nuisance species for scientific ~~or~~ purposes, educational purposes, or other purposes specifically authorized by the Secretary. When ~~granting exceptions~~ allowing the transport of aquatic plants, aquatic plant parts, or aquatic nuisance species under this subsection, the Secretary shall take into consideration both the value of the scientific or educational purpose and the risk to Vermont surface waters posed by the transport and ultimate use of the specimens. A letter from the Secretary authorizing the transport must accompany the specimens during transport.

(e)(f) Signage; access areas and marinas. Signage shall be posted at all public access and landing areas regulated under section 4145 of this title and at all marinas regarding the requirements of subsections (a)–(d) of this section relating to aquatic nuisance transport and inspection and decontamination of

vessels, motor vehicles transporting vessels, trailers, or other equipment. The Secretary shall provide marinas with the signs required under this section.

(g) Violations. Pursuant to 4 V.S.A. § 1102, a violation of this section may be brought in the Judicial Bureau by any law enforcement officer, as that term is defined in 23 V.S.A. § 3302(2), or, pursuant to section 8007 or 8008 of this title, a violation of this section may be brought in the Environmental Division of the Superior Court. ~~When a violation is brought by an enforcement officer other than an environmental enforcement officer employed by the Agency of Natural Resources, the enforcement officer shall submit to the Secretary a copy of the citation for purposes of compliance with the public participation requirements of section 8020 of this title.~~ If a violation of this section is adjudicated in the Judicial Bureau or the Environmental Division, the violation shall not be addressed or adjudicated a second time in the other court.

Sec. 3. 10 V.S.A. § 1455(a) is amended to read:

(a) ~~No~~ A person may shall not use pesticides, chemicals other than pesticides, biological controls, bottom barriers, structural barriers, structural controls, or powered mechanical devices in waters of the State to control nuisance aquatic plants, insects, or other aquatic nuisances, including lamprey, unless that person has been issued a permit by the ~~secretary~~ Secretary.

Sec. 4. 10 V.S.A. § 1461 is added to read:

§ 1461. AQUATIC NUISANCE INSPECTION STATIONS; TRAINING PROGRAM

(a) The Secretary of Natural Resources shall establish a training program regarding how to conduct inspection of vessels, motor vehicles, trailers, and other equipment for the presence of aquatic plants, aquatic plant parts, and aquatic nuisance species. The training program shall include online training, recorded material, training manuals, or other material that allows a person to complete training remotely.

(b) The Secretary of Natural Resources shall establish a training program regarding how to decontaminate vessels, motor vehicles, trailers, and other equipment to prevent the spread of aquatic plants, aquatic plant parts, and aquatic nuisance species. The training program shall:

(1) require a person operating aquatic nuisance decontamination equipment to complete in-person training conducted by the Secretary or an entity approved by the Secretary; and

(2) instruct participants regarding how to address noncompliance with the requirements of section 1454 of this title, including how to report a violation to law enforcement, if a violation needs to be reported, and how

operators of the inspection station do not have law enforcement authority to mandate compliance with the requirements of section 1454 of this title.

(c) In order to establish an aquatic nuisance species inspection station for the purposes of the vessel inspection and decontamination requirements of subsection 1454(c) of this title, a lake association, municipality, or the Commissioner of Environmental Conservation shall apply to the Secretary for approval. As a condition of approval, a representative of an lake association or municipality shall complete the training programs established under subsections (a) and (b) of this section. A lake association or municipality seeking to operate an aquatic nuisance species inspection station shall designate a representative to complete the training programs established under subsections (a) and (b) of this section. In order to operate an aquatic nuisance species inspection station, a lake association or municipality shall own or control aquatic nuisance decontamination equipment.

(d) A lake association or municipality approved to operate an aquatic nuisance species inspection station under subsection (b) of this section shall provide persons who will operate the aquatic nuisance species inspection station with training materials furnished by the Secretary regarding how to:

(1) conduct the inspection of vessels, motor vehicles, trailers, and other equipment for the presence of aquatic plants, aquatic plant parts, and aquatic nuisance species; and

(2) complete the in-person training required under subsection (b) of this section in order to operate decontamination equipment.

(e) The Secretary may adopt rules under section 1460 of this title to implement the training requirements of this section, including an annual schedule of available training.

Sec. 5. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(27) Violations of 10 V.S.A. § 1454(a)–(d) relating to the transport of aquatic plants and aquatic nuisance species.

Sec. 6. 23 V.S.A. § 3317(b) is amended to read:

(b) A person who violates a requirement under 10 V.S.A. § 1454 shall be subject to enforcement under 10 V.S.A. ~~chapter 201~~ § 8007 or 8008 or a fine under this chapter, provided that the person shall be assessed a penalty or fine of not more than \$1,000.00 for each violation. A person who violates a rule adopted under 10 V.S.A. § 1424 shall be subject to enforcement under 10 V.S.A. chapter 201, provided that the person shall be assessed a penalty of

not more than \$300.00 for each violation. A person who violates any of the following sections of this title shall be subject to a penalty of not more than \$300.00 for each violation:

§ 3306(e) marine toilet

§ 3312a operation of personal watercraft

Sec. 7. USE OF BOTTOM BARRIERS WITHOUT PERMIT

The Secretary of Natural Resources shall not require an aquatic nuisance control permit under 10 V.S.A. § 1455 for the use of up to 15 bottom barriers on an inland lake to control nonnative aquatic nuisance species, provided that:

(1) the bottom barriers are managed and controlled by a lake association;

(2) each bottom barrier shall be of no greater size than 14 feet by 14 feet;

(3) the bottom barriers are not installed in an area where they:

(A) create a hazard to public health; or

(B) unreasonably impede boating or navigation;

(4) the lake association notifies the Secretary of the use of the barriers three days prior to placement of the barriers in a water; and

(5) the Secretary may require the removal of the bottom barriers upon a determination that the barriers pose a threat to a threatened or endangered species.

Sec. 8. REPEAL; BOTTOM BARRIERS

Sec. 7 of this act (bottom barriers for aquatic nuisance control) shall be repealed on March 1, 2018.

Sec. 9. AQUATIC NUISANCE CONTROL GENERAL PERMIT

On or before February 1, 2018, the Secretary of Natural Resources shall issue a general permit for aquatic nuisance control activities. The general permit shall allow for nonchemical aquatic nuisance control activities and any other management or control measures that the Secretary considers appropriate and for which the Secretary has general permit authority under 10 V.S.A. chapter 50. The general permit shall authorize rapid response activities that an individual or lake association may take to control aquatic nuisance species. The provisions of 10 V.S.A. § 1456(a) and (c)–(f) related to the rapid response permits for aquatic nuisance control shall apply to the rapid response activities authorized in the permit required under this section.

Sec. 10. ANR PUBLIC OUTREACH REGARDING AQUATIC NUISANCE SPECIES TRANSPORT AND INSPECTION REQUIREMENTS

Beginning on July 1, 2017, the Secretary of Natural Resources shall provide education and outreach to the public regarding the transport and inspection requirements in 10 V.S.A chapter 50 for the reduction of the spread of aquatic nuisance species. The education and outreach shall include a notification in the Department of Fish and Wildlife guides to hunting and fishing in Vermont regarding the aquatic nuisance transport prohibition and the requirements to inspect vessels for aquatic nuisance species when entering or leaving a water.

Sec. 11. ANR REPORT; AQUATIC NUISANCE TRANSPORT; LAKE CHAMPLAIN

(a) On or before November 15, 2017, the Secretary of Natural Resources shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish and Wildlife a report regarding how to control the transport of aquatic nuisances to and from Lake Champlain. The report shall include:

(1) an inventory of the boat decontamination facilities or other aquatic nuisance control measures currently employed at boat launches, marinas, or other areas on Lake Champlain;

(2) a summary of whether the current measures to control aquatic nuisance transport to and from Lake Champlain are adequate;

(3) a proposal for siting boat decontamination facilities or other comparable aquatic nuisance control measures at boat launches, marinas, or other areas on Lake Champlain, including where proposed facilities or other aquatic nuisance control measures would be located;

(4) a summary of how proposed boat decontamination facilities or comparable aquatic nuisance control measures would be staffed, including whether staff would possess sufficient authority to inspect a vessel entering or leaving Lake Champlain in order to require boat decontamination or another aquatic nuisance control measure;

(5) an estimate of the cost to implement proposed boat decontamination facilities or other aquatic nuisance control measures on Lake Champlain; and

(6) a recommendation of whether and how vessels leaving Lake Champlain should be quarantined from entering other waters of the State for a defined time period or until a specific condition is satisfied; and

(7) draft legislation that the Secretary determines is necessary to implement any boat decontamination facility or other aquatic nuisance control measure proposed in the report.

(b) As used in this section, “aquatic nuisance” and “vessel” shall have the same meanings as set forth in 10 V.S.A. § 1452.

Sec. 12. 10 V.S.A. § 1264b is amended to read:

§ 1264b. ~~STORMWATER-IMPAIRED WATERS RESTORATION~~

STORMWATER FUND

(a) A fund to be known as the ~~stormwater impaired waters restoration fund~~ Stormwater Fund is created in the ~~state treasury~~ State Treasury to be expended by the ~~secretary of natural resources~~ Secretary of Natural Resources. The ~~fund~~ Fund shall be administered by the ~~secretary of natural resources through the facilities engineering division~~ Secretary of Natural Resources. The ~~fund~~ Fund shall consist of:

(1) ~~Stormwater~~ stormwater impact fees paid by permittees ~~in order~~ to meet applicable permitting standards for the discharges of regulated stormwater runoff to the stormwater-impaired waters of the ~~state~~ State and Lake Champlain and waters that contribute to the impairment of Lake Champlain;

(2) ~~Such~~ such sums as may be appropriated or transferred to the ~~fund~~ Fund by the ~~general assembly, the state emergency board, or the joint fiscal committee~~ General Assembly, the State Emergency Board, or the Joint Fiscal Committee during such times when the ~~general assembly~~ General Assembly is not in session;

(3) ~~Principal~~ principal and interest received from the repayment of loans made from the ~~fund~~ Fund;

(4) ~~Private~~ private gifts, bequests, and donations made to the ~~state~~ State for any of the purposes for which the ~~fund~~ Fund was established; and

(5) ~~Other~~ other funds from any public or private source intended for use for any of the purposes for which the ~~fund~~ Fund has been established.

(b) The ~~fund~~ Fund shall maintain separate accounts for each stormwater-impaired water and each phosphorus-impaired lake segment of Lake Champlain and the monies in each account may only be used to fund offsets in the designated water. Offsets shall be designed to reduce the sediment load, phosphorus load, or hydrologic impact of regulated stormwater runoff in ~~stormwater impaired waters~~ the receiving water. All balances in the ~~fund~~ Fund at the end of any fiscal year shall be carried forward and remain a part of the ~~fund~~ Fund. Interest earned by the ~~fund~~ Fund shall be deposited into the ~~fund~~ Fund.

(c) The ~~facilities engineering division~~ Secretary may authorize disbursements from the ~~fund~~ Fund to offsets that meet the requirements of the

rule adopted pursuant to subsection 1264a(e) 1264(f) of this title. The public funds used to capitalize the stormwater impaired waters restoration fund Fund shall:

(1) ~~Be~~ be disbursed only to an offset that is owned or operated by a municipality or a governmental subdivision, agency, or instrumentality; and

(2) ~~Be~~ be disbursed only to reimburse a municipality or a governmental subdivision, agency, or instrumentality for those funds provided by the municipality or governmental subdivision, agency, or instrumentality to complete or construct an offset.

(d) A municipality or governmental subdivision, agency, or instrumentality may, on an annual basis, reserve capacity in an offset that the municipality or governmental subdivision, agency, or instrumentality operates or owns and that meets the requirements of ~~subsection 1264a(e)~~ the rule adopted pursuant to subsection 1264(f) of this title. A municipality or governmental subdivision, agency, or instrumentality reserving offset capacity shall inform the ~~secretary of natural resources~~ Secretary of the offset capacity for which the offset will not receive disbursements from the ~~stormwater impaired waters restoration fund Fund~~ Fund for nonmunicipal discharges. ~~A municipality that reserves capacity as an offset may receive disbursements from the fund to mitigate the uncontrolled sediment load or hydrologic impact in discharges for which the municipality is issued a permit for the discharge of regulated stormwater runoff under subdivision 1264a(b)(1) of this title.~~

(e) Eligible persons may apply for a grant from the ~~fund Fund~~ Fund to design and implement an offset. The ~~fund Fund~~ Fund may be used to match other public and private sources of funding for such projects. ~~The funds may also be used to match federal funds otherwise available to capitalize the fund created by 24 V.S.A. § 4753(a)(8).~~

(f) A discharger that pays a stormwater impact fee to the ~~stormwater-impaired waters restoration fund under section 1264a of this title Fund~~ Fund in order to receive a permit for the discharge of regulated stormwater runoff may receive reimbursement of that fee if the discharger fails to discharge under the stormwater discharge permit, if the discharger notifies the ~~secretary~~ Secretary of the abandonment of the discharge permit, and if the ~~secretary~~ Secretary determines that unobligated monies for reimbursement remain in the ~~stormwater-impaired restoration fund Fund~~ Fund.

Sec. 13. REPEAL; INTERIM STORMWATER PERMITTING

10 V.S.A. § 1264a(e) (interim stormwater permitting authority) is repealed.

Sec. 14. EFFECTIVE DATES

(a) This section and Secs. 1–11 (aquatic nuisance species control) shall take effect on passage.

(b) Secs. 12 and 13 (stormwater management) shall take effect on July 1, 2017.

(Committee vote: 8-0-1)

(For text see Senate Journal March 22, 2017)

Favorable

S. 96

An act relating to a news media privilege

Rep. LaLonde of South Burlington, for the Committee on Judiciary, recommends that the bill ought to pass in concurrence.

(Committee Vote: 10-0-1)

(For text see Senate Journal march 22, 2017)

Senate Proposal of Amendment

H. 182

An act relating to certain businesses regulated by the Department of Financial Regulation

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

First: By striking out Sec. 14 (segregated accounts of money transmitters) in its entirety and by inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. [DELETED.]

Second: By striking out Sec. 15 (segregated accounts of money transmitters) in its entirety and by inserting in lieu thereof a new Sec. 15 to read as follows:

Sec. 15. [DELETED.]

Third: In Sec. 18, 8 V.S.A. § 2200, by striking out the newly renumbered subdivision 17 (loan solicitation) in its entirety and by inserting in lieu thereof a new subdivision 17 to read as follows:

~~(15)~~(17)(A) “Loan solicitation” means, for compensation or gain or with the expectation of compensation or gain, to:

(i) offer, solicit, broker, directly or indirectly arrange, place, or find a loan for a prospective Vermont borrower;

(ii) engage in any activity intended to assist a prospective Vermont borrower in obtaining a loan, including lead generation;

(iii) arrange, in whole or in part, a loan through a third party, regardless of whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party, through any method, including mail, telephone, Internet, or any electronic means; or

(iv) advertise or cause to be advertised in this State a loan or any of the services described in subdivisions (i)–(iii) of this subdivision (17)(A).

(B) As used in this subdivision (17), “loan solicitation” does not:

(i) apply to residential mortgage loans;

(ii) include a broker-dealer registered or exempt from registration under 9 V.S.A. § 5401 when the broker-dealer provides the services described in subdivision (A) of this subdivision (17) and the broker-dealer is not compensated by the consumer for those services;

(iii) include an agent registered or exempt from registration under 9 V.S.A. § 5402 when the agent provides the services described in subdivision (A) of this subdivision (17) and the individual agent is not compensated by the consumer for those services;

(iv) include an insurance producer licensed under 8 V.S.A. § 4800 when the insurance producer provides the services described in subdivision (A) of this subdivision (17) and the individual insurance producer is not compensated by the consumer for those services;

(v) include a seller of goods or services that provides the services described in subdivision (A) of this subdivision (17) in connection with financing the sale or proposed sale of the seller’s goods or services and the seller is not compensated by the consumer for the services described in subdivision (A) of this subdivision (17); or

(vi) include other categories of loans or service providers as determined by the Commissioner by rule or order.

Fourth: In Sec. 19, 8 V.S.A. § 2201, in subdivision (a)(5) (loan solicitation), after “A person licensed as a lender” by inserting the following: , sales finance company,

Fifth: In Sec. 32 (effective dates), by striking out “14 (money transmitter segregated accounts).”

(For text see House Journal March 14, 2017)

H. 494

An act relating to the Transportation Program and miscellaneous changes to transportation-related law

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

* * * Transportation Program Adopted as Amended; Definitions * * *

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation’s proposed fiscal year 2018 Transportation Program appended to the Agency of Transportation’s proposed fiscal year 2018 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) “Agency” means the Agency of Transportation.

(2) “Secretary” means the Secretary of Transportation.

(3) The table heading “As Proposed” means the Transportation Program referenced in subsection (a) of this section; the table heading “As Amended” means the amendments as made by this act; the table heading “Change” means the difference obtained by subtracting the “As Proposed” figure from the “As Amended” figure; and the term “change” or “changes” in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net “Change” in the applicable table heading.

(4) “TIB funds” means monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

* * * Department of Motor Vehicles * * *

Sec. 2. DEPARTMENT OF MOTOR VEHICLES

For fiscal year 2018, spending authority for the Department of Motor Vehicles is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	18,395,579	18,395,579	0
Operating Expense	11,106,337	10,906,337	-200,000
Total	29,501,916	29,301,916	-200,000
<u>Sources of Funds</u>			
State	27,973,478	27,773,478	-200,000
Federal	1,423,438	1,423,438	0
Interdept. Transfer	105,000	105,000	0
Total	29,501,916	29,301,916	-200,000

* * * State Highway Bridge Program * * *

Sec. 2a. PROGRAM DEVELOPMENT – STATE HIGHWAY BRIDGE PROGRAM

The following project is added to the development and evaluation (D&E) list of the Program Development – State Highway Bridge Program within the fiscal year 2018 Transportation Program: NH 020-2 () – Quechee – Rehab of Bridge 61 on U.S. Route 4 in the town of Hartford over the Ottauquechee River. To the extent funds become available as a result of the unanticipated delay of or cost savings on projects in the fiscal year 2018 Transportation Program, the funds may be spent as necessary for D&E of this project.

* * * Bike and Pedestrian Facilities Program; Lamoille Valley Rail Trail * * *

Sec. 3. REPEAL

(a) 2016 Acts and Resolves No. 158, Sec. 9a (Bike and Pedestrian Facilities Program; Lamoille Valley Rail Trail) is repealed.

(b) In the Program Development – Bike and Pedestrian Facilities Program section of the Agency’s fiscal year 2018 proposed Transportation Program, within the project information description for the Swanton–St. Johnsbury LVRT() project, the projected cash requirement fields are amended as follows:

(1) under “Projected FY 2019,” the estimated amount of construction expenditures and the total expenditures is amended from “980,000” to “1,000,000”;

(2) under “Projected FY 2020,” the estimated amount of construction expenditures and the total expenditures is amended from “0” to “1,000,000”; and

(3) under “Projected FY 2021,” the estimated amount of construction expenditures and the total expenditures is amended from “0” to “1,000,000.”

* * * Maintenance Program * * *

Sec. 4. MAINTENANCE

For fiscal year 2018, spending authority for the Maintenance Program is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	45,558,652	43,638,652	-1,920,000
Operating Expense	45,265,393	45,265,393	0
Grants	421,780	421,780	0
Total	91,245,825	89,325,825	-1,920,000
<u>Sources of Funds</u>			
State	87,376,083	87,376,083	0

Federal	3,769,742	1,849,742	-1,920,000
Interdept. Transfer	100,000	100,000	0
Total	91,245,825	89,325,825	-1,920,000

* * * License Plate Savings * * *

Sec. 4a. SAVINGS RELATED TO SINGLE LICENSE PLATES;
ANALYSIS; SPENDING AUTHORITY

(a) Secs. 2 and 5 of this act reallocate \$200,000.00 in spending authority from the Department of Motor Vehicles (DMV) to the Town Highway Class 2 Roadway Program as result of cost savings projected to result from the requirement that DMV issue one license plate instead of two license plates for most motor vehicles registered in Vermont.

(b) On or before December 1, 2017, the Commissioner of Motor Vehicles shall provide the House and Senate Committees on Appropriations and on Transportation an updated analysis of cost savings projected to result in fiscal year 2018 from requiring one license plate. If the cost savings are projected to exceed \$200,000.00, the Administration shall propose in its fiscal year 2018 Budget Adjustment Act submission an increase in spending authority for the Town Highway Class 2 Roadway Program for fiscal year 2018, and a decrease in spending authority for the Department of Motor Vehicles for fiscal year 2018, to the extent the savings are projected to exceed \$200,000.00.

* * * Town Highway Bridge Program * * *

Sec. 4b. TOWN HIGHWAY BRIDGE PROGRAM

The following project is added to the Town Highway Bridge Program within the fiscal year 2018 Transportation Program: FLAP (1) – Derby – culvert replacement on the access road to the Eagle Point Wildlife Management Area in Derby. To the extent funds become available for the project from the Federal Lands Access Program in fiscal year 2018, the funds may be expended as necessary for advancement of this project.

* * * Town Aid Programs * * *

Sec. 5. TOWN HIGHWAY CLASS 2 ROADWAY PROGRAM

For fiscal year 2018, spending authority for the Town Highway Class 2 Roadway Program is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	7,248,750	7,848,750	600,000
Total	7,248,750	7,848,750	600,000
<u>Sources of funds</u>			
State	7,248,750	7,848,750	600,000
Federal	0	0	0

Total	7,248,750	7,848,750	600,000
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Sec. 6. TOWN HIGHWAY FEDERAL DISASTERS PROGRAM

Spending authority for the fiscal year 2018 Town Highway Federal Disasters Program is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	200,000	180,000	-20,000
Total	200,000	180,000	-20,000
<u>Sources of funds</u>			
State	20,000	20,000	0
Federal	180,000	160,000	-20,000
Total	200,000	180,000	-20,000

* * * Transportation Alternatives Program * * *

Sec. 7. 19 V.S.A. § 38 is amended to read:

§ 38. TRANSPORTATION ALTERNATIVES GRANT PROGRAM

* * *

(c) The Transportation Alternatives Grant Program is created. The Grant Program shall be administered by the Agency, and shall be funded in the amount provided for in 23 U.S.C. § ~~213(a)~~ 133(h), less the funds set aside for the Recreational Trails Program as ~~specified in 23 U.S.C. § 213(f)~~. Awards shall be made to eligible entities as defined under 23 U.S.C. § ~~213(e)(4)~~ 133(h), and awards under the Grant Program shall be limited to the activities ~~described at 23 U.S.C. § 213(b) other than Recreational Trails Program grants authorized under federal law.~~

(d) Eligible entities awarded a grant must provide all funds required to match federal funds awarded for a Transportation Alternatives project. All grant awards shall be decided and awarded by the Transportation Alternatives Grant Committee.

(e) Transportation Alternatives grant awards shall be announced annually by the Transportation Alternatives Grant Committee not earlier than December and not later than the following March.

(f)(1) In fiscal years 2018 and 2019, all Grant Program funds shall be reserved for municipalities for environmental mitigation projects relating to stormwater and highways, including eligible salt and sand shed projects.

(2) Each In fiscal year 2020 and thereafter, \$1,100,000.00 of Grant Program funds, or such lesser sum if all eligible applications amount to less than \$1,100,000.00, shall be reserved for municipalities for environmental mitigation projects relating to stormwater and highways, including eligible salt

and sand shed projects. Regarding the balance of Grant Program funds, in evaluating applications for Transportation Alternatives grants, the Transportation Alternatives Grant Committee shall give preferential weighting to projects involving as a primary feature a bicycle or pedestrian facility. The degree of preferential weighting and the circumstantial factors sufficient to overcome the weighting shall be in the complete discretion of the Transportation Alternatives Grant Committee.

* * *

Sec. 8. MUNICIPAL MITIGATION ASSISTANCE PROGRAM

Authorized spending in the Municipal Mitigation Assistance Program for fiscal year 2018 is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Operating Expenses	150,000	150,000	0
Grants	8,032,342	9,032,342	1,000,000
Total	8,182,342	9,182,342	1,000,000
<u>Sources of Funds</u>			
State	1,640,000	1,240,000	-400,000
Federal	5,442,342	5,442,342	0
Clean Water Fund	1,100,000	1,100,000	0
Other	0	1,400,000	1,400,000
Total	8,182,342	9,182,342	1,000,000

Sec. 9. FUTURE APPROPRIATIONS; REPEAL

2016 Acts and Resolves No. 158, Sec. 5 (future appropriations) is repealed.

Sec. 10. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

* * *

(c) State aid for town highway bridges. There shall be an annual appropriation for town bridge engineering services and for aid in maintaining or constructing bridges having a span of six feet or more on class 1, 2, and 3 town highways. Annually the Agency shall ~~distribute~~ expend these funds according to a the Transportation Program plan based upon applications submitted by the towns approved by the General Assembly. With the approval of the Agency, funds may be used for alternatives which eliminate the need for a bridge or bridges, including construction or reconstruction of highways, purchase of parcels of land that would be landlocked by closure of a bridge or bridges, payment of damages for loss of highway access, and substitution of other means of access.

* * *

(i) ~~Monies disbursed from the Clean Water Fund established in 10 V.S.A. § 1388 for~~ The Agency shall administer the Municipal Mitigation Assistance Program. Through the Program, the Agency shall provide assistance and grants to municipalities for environmental mitigation projects related to stormwater and highways shall be administered by the Agency through the Municipal Mitigation Grant Program and for the establishment and operation of stormwater utilities. Grants provided to municipalities under the Program shall be matched by Municipalities shall match grants with local funds sufficient to cover 20 percent of the project costs, except that the Agency may issue grants for the establishment or operation of stormwater utilities without requiring a local match. From the operating expenses appropriated for the Program, the Agency is authorized to pay costs billed to the Agency by municipal stormwater utilities.

* * *

* * * Central Garage * * *

Sec. 11. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2018, the amount of \$1,296,047.00 is transferred from the Transportation Fund to the Central Garage Fund created in 19 V.S.A. § 13.

* * * Transportation Program Terminology * * *

Sec. 12. 19 V.S.A. § 10 is amended to read:

§ 10. DUTIES

The Agency shall, except where otherwise specifically provided by law:

* * *

(16) Inform the Joint Transportation Oversight Committee of any anticipated loss or reduction of federal funding for transportation purposes due to either a lack of State funds for matching, or a decrease in federal funds for the ~~one-year capital program~~ Transportation Program.

* * *

Sec. 13. 19 V.S.A. § 10g is amended to read:

§ 10g. ANNUAL REPORT; TRANSPORTATION PROGRAM; ADVANCEMENTS, CANCELLATIONS, AND DELAYS

(a) The Agency of Transportation shall annually present to the General Assembly a multiyear Transportation Program covering the same number of years as the Statewide Transportation Improvement ~~Plan~~ Program (STIP), consisting of the recommended budget for all Agency activities for the ensuing fiscal year and projected spending levels for all Agency activities for the

following fiscal years. The Program shall include a description and year-by-year breakdown of recommended and projected funding of all projects proposed to be funded within the time period of the STIP and, in addition, a description of all projects that are not recommended for funding in the first fiscal year of the proposed Program but which are scheduled for construction during the time period covered by the STIP. The Program shall be consistent with the planning process established by 1988 Acts and Resolves No. 200, as codified in 3 V.S.A. chapter 67 and 24 V.S.A. chapter 117, the statements of policy set forth in sections 10b–10f of this title, and the long-range systems plan, corridor studies, and project priorities developed through the capital planning process under section 10i of this title.

* * *

Sec. 14. 19 V.S.A. § 1512 is amended to read:

§ 1512. UTILITY RELOCATIONS

(a) When relocation of a utility is required by a project for the improvement, construction, or reconstruction of a highway under the provisions of this chapter, the ~~agency~~ Agency or a municipality, or both, may pay for some or all of the cost of the relocation.

(b) The ~~agency~~ Agency, following the procedures set forth in 3 V.S.A. chapter 25, shall adopt rules setting standards for determining when and to what extent the authority granted by subsection (a) of this section may be exercised. These standards shall take into account the following:

* * *

(4) the overall effect on the ~~state's transportation capital program~~ State's Transportation Program of using available highway construction funds for utility relocation purposes.

* * * Automated Vehicles * * *

Sec. 15. AUTOMATED VEHICLES

(a) On or before December 15, 2017, the Secretary shall convene a meeting of public and private stakeholders with expertise related to:

(1) the licensing of automated vehicle (AV) operators and the registration of AVs;

(2) AV operator education and training;

(3) insurance and liability issues related to AVs;

(4) enforcement of laws governing AV operation;

(5) inspections of AVs;

- (6) testing of AVs in Vermont;
- (7) emergency response practices in relation to AVs;
- (8) infrastructure needs associated with the rollout of AVs; and
- (9) social, economic, and environmental consequences of the rollout of AVs.

(b) The purpose of the meeting required under subsection (a) of this section is to gather information related to and raise awareness of opportunities and challenges related to AVs, and identify policy areas requiring further research or possible legislation. On or before January 15, 2018, the Secretary shall report back to the House and Senate Committees on Transportation on its activities and any recommendations related to AVs, including any proposed legislation.

(c) The Secretary shall monitor guidance from the federal government, activities in other states, and industry trends related to the development and rollout of AVs.

* * * Park and Rides * * *

Sec. 16. 19 V.S.A. chapter 5 is amended to read:

CHAPTER 5. CONDEMNATION FOR STATE
HIGHWAY PROJECTS

§ 500. INTENT

The purpose of this chapter is to ensure that a property owner receives fair treatment and just compensation when the owner's property is taken for State highway projects, and that condemnation proceedings are conducted expeditiously so that highway projects in the public interest are not unnecessarily delayed.

§ 501. DEFINITIONS

The following words and phrases as used in this chapter shall have the following meanings:

* * *

(4) "Highway" shall include park and rides.

* * *

* * * Distribution of Public Transit Program Funds * * *

Sec. 17. 24 V.S.A. § 5091 is amended to read:

§ 5091. FUNDING

(a) The Secretary of Transportation, within the annual budget setting process, shall meet with the Public Transit Advisory Council and representatives of public transit systems to establish the level of State funds needed by public transit systems in Vermont, and shall consider this level in formulating the Agency of Transportation's ~~State Budget request~~ proposed Transportation Program.

(b) State funds authorized by the ~~Legislature~~ General Assembly as grant assistance for the operation of public transit services shall be eligible for use as a matching source for federal funds.

(c) The same fiscal accountability requirements and regulatory standards shall apply to all grantees of funds as provided by rule of the Secretary of Transportation.

(d) Rideshare, capital, contracted services, and transportation brokerage services are not to be considered as operating funds under this section.

(e) State funds shall be paid ~~on a semi-annual payment basis to eligible grantees with the first payment paid immediately upon approval of the contract and the second payment to occur at the start of the third quarter of the State fiscal year as follows:~~

(1) the first payment of 50 percent of the estimated annual fiscal year total shall be paid immediately upon execution of the grant;

(2) subsequent payments shall be paid quarterly based on projected need determined by current fiscal year spending and availability of funds;

(3) additional payments, if necessary, shall occur only if actual costs exceed the previous payments and if funds are available.

* * *

* * * Highways; Utility Facilities * * *

Sec. 18. 19 V.S.A. § 1111 is amended to read:

§ 1111. PERMITTED USE OF THE RIGHT-OF-WAY; RELOCATION OR ADJUSTMENT ORDERS

(a) Permits; relocation or adjustment orders.

(1) Permits must be obtained by anyone or any corporation wishing to use as described in this section any part of the highway right-of-way on either the State or town system. Notwithstanding any other statutory requirement, a

permit shall be required for any use of any highway right-of-way, consistent with the provisions of this section. In issuing a permit under this section for a use of a State highway right-of-way, the Secretary may require a transportation impact fee in accordance with 10 V.S.A. chapter 151, subchapter 5. Except for this transportation impact fee authority of the Secretary, the authority given to the Board, the Secretary, and the Attorney General under this section shall also apply to the legislative bodies of towns, or their designees.

(2) Except in emergencies, the Agency or the municipality shall seek input and consider input received from affected utilities before issuing a utility relocation or adjustment order. In specifying the times for utility relocation or adjustment work, the Agency or the municipality shall allocate to each a reasonable time for its role in the relocation or adjustment work after taking into account:

(A) the season of the year; and

(B) the respective duties and responsibilities of the pole or conduit owner and the involved utilities, including the need to install, transfer, or retire individual components in a specific sequence.

(3) When the Agency or a municipality issues a utility relocation or adjustment order in accordance with law in connection with highway maintenance or construction activities, and a utility fails to move or adjust its line or other facility within the time specified in the order, that utility shall be liable to the State or to the municipality for damages that the State or the municipality is required to pay a contractor for delay caused by the failure. However, a utility shall not be liable for such damages if its failure to move or adjust the line or facility is for reasons beyond its control, including: emergency restoration activities; inclement weather; timing restrictions imposed by law or permits; terms of collective bargaining agreements; or the failure of another utility to complete its assigned responsibilities for the installation, transfer, or retirement of its facilities. If the Agency or the selectboard cannot agree with a utility as to whether the utility is liable or as to the amount of damages under this subdivision (a)(3), the Agency or selectboard may bring an action in accordance with subsection (h) of this section.

* * *

(h) Restraining prohibited acts; damages. Whenever the Secretary believes that any person is in violation of the provisions of this chapter, he or she may also bring an action in the name of the Agency in a court of competent jurisdiction against the person to collect civil penalties as provided for in subsection (j) of this section ~~and~~, for damages, and to restrain by temporary or permanent injunction the continuation or repetition of the violation. The

selectboard shall have the same authority for town highways. The Court may issue temporary or permanent injunctions without bond, and any other relief as may be necessary and appropriate for abatement of any violation. An action, injunction, or other enforcement proceeding by a municipality relating to the failure to obtain or comply with the terms and conditions of any permit issued by a municipality pursuant to this section shall be instituted within 15 years from the date the alleged violation first occurred and not thereafter. The burden of proving the date on which the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.

* * *

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES AND RETROACTIVITY

(a) This section, Sec. 9 (future appropriations; repeal), and Sec. 15 (automated vehicles) shall take effect on passage. Notwithstanding 1 V.S.A. § 214, Sec. 9 shall apply retroactively to July 1, 2016.

(b) All other sections shall take effect on July 1, 2017.

(For text see House Journal March 3, 2017)

NOTICE CALENDAR

Favorable with Amendment

S. 20

An act relating to permanent licenses for persons 66 years of age or older

Rep. Beyor of Highgate, for the Committee on Natural Resources; Fish & Wildlife, recommends that the House propose to the Senate that the bill be amended as follows:

That the bill be amended by striking out Sec. 2 (effective date) in its entirety and inserting in lieu thereof two new sections to be Secs. 2 and 3 to read:

Sec. 2. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER FUND BOARD

(a) Creation. There is created a the Clean Water Fund Board which shall recommend to the Secretary of Administration expenditures from the Clean Water Fund. The Clean Water Fund Board shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Fund Board shall be composed of:

(1) ~~the~~ The Secretary of Administration or designee;

- (2) ~~the~~ The Secretary of Natural Resources or designee;
- (3) ~~the~~ The Secretary of Agriculture, Food and Markets or designee;
- (4) ~~the~~ The Secretary of Commerce and Community Development or designee; and,
- (5) ~~the~~ The Secretary of Transportation or designee.
- (6) Four members of the public to be appointed as follows:

(A) The Speaker of the House of Representatives shall appoint two members of the public, one of whom shall be a municipal official.

(B) The Committee on Committees shall appoint two members of the public, one of whom shall be a municipal official.

(C) Of the members appointed under this subdivision (6), it is the intent of the General Assembly that at any one time a member representing each of the following major watersheds shall be serving on the Board:

- (i) the Connecticut River watershed;
- (ii) the Hudson River watershed;
- (iii) the Lake Champlain watershed; and
- (iv) the Lake Memphremagog watershed.

(c) Officers; committees; rules; reimbursement.

(1) The Clean Water Fund Board shall annually elect a chair from its members. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(2) Members of the Board who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 paid from the budget of the Agency of Administration for attendance of meetings of the Board.

* * *

(g) Terms; appointed members. Members who are appointed to the Clean Water Fund Board shall be appointed for terms of three years, except initially, appointments shall be made such that one member appointed by the Speaker shall be appointed for a term of two years, and one member appointed by the Committee on Committees shall be appointed for a term of one year. Vacancies on the Board shall be filled for the remaining period of the term in the same manner as initial appointments.

Sec. 3. EFFECTIVE DATES

(a) This section and Sec. 2 (Clean Water Fund Board) shall take effect on passage.

(b) Sec. 1 (permanent fishing and hunting licenses) shall take effect on January 1, 2018.

(Committee vote: 8-0-1)

(For text see Senate Journal March 15, 2017)

Rep. Helm of Fair Haven, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources; Fish & Wildlife.

(Committee Vote: 11-0-0)

Rep. Canfield of Fair Haven, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources; Fish & Wildlife.

(Committee Vote: 10-0-1)

S. 52

An act relating to the Public Service Board and its proceedings

Rep. Sibilia of Dover, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Preapplication Submittals; Energy Facilities * * *

Sec. 1. 30 V.S.A. § 248(f) is amended to read:

(f) However, plans for the construction of such a facility within the State must be submitted by the petitioner to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement.

(1) ~~Such~~ The municipal or regional planning commission may take one or more of the following actions:

(A) ~~hold~~ Hold a public hearing on the proposed plans. The planning commission may request that the petitioner or the Department of Public Service, or both, attend the hearing. The petitioner and the Department each shall have an obligation to comply with such a request. The Department shall consider the comments made and information obtained at the hearing in making recommendations to the Board on the application and in determining

whether to retain additional personnel under subdivision (1)(B) of this subsection.

(B) Request that the Department of Public Service exercise its authority under section 20 of this title to retain experts and other personnel to review the proposed facility. The Department may commence retention of these personnel once the petitioner has submitted proposed plans under this subsection. The Department may allocate the expenses incurred in retaining these personnel to the petitioner in accordance with section 21 of this title. Granting a request by a planning commission pursuant to this subdivision shall not oblige the Department or the personnel it retains to agree with the position of the commission.

(C) ~~Such commissions shall make~~ Make recommendations, if any, to the Public Service Board and to the petitioner at least seven days prior to filing of the petition with the Public Service Board within 40 days of the petitioner's submittal to the planning commission under this subsection.

(D) Once the petition is filed with the Public Service Board, make recommendations to the Board by the deadline for submitting comments or testimony set forth in the applicable provision of this section, Board rule, or scheduling order issued by the Board.

(2) The petitioner's application shall address the substantive written comments related to the criteria of subsection (b) of this section received by the petitioner within 45 days of the submittal made under this subsection and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

* * * Facility Siting; Service of Application When Determined Complete;
Extension of Telecommunications Siting Authority * * *

Sec. 2. 30 V.S.A. § 246 is amended to read:

§ 246. TEMPORARY SITING OF METEOROLOGICAL STATIONS

(a) As used in this section, a "meteorological station" consists of one temporary tower, which may include guy wires, and attached instrumentation to collect and record wind speed, wind direction, and atmospheric conditions.

(b) The Public Service Board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of, a certificate of public good for the temporary installation of one or more meteorological stations under the provisions of section 248 of this title. A meteorological station shall be deemed to promote the public good of the State if it is in compliance with the criteria of this section and the Board rules or orders. An applicant for a certificate of public good for a meteorological station shall be exempt from the requirements of subsection 202(f) of this title.

(c) In developing rules or orders, the Board:

(1) Shall develop a simple application form and shall require that ~~completed applications be filed~~ the applicant first file the application with the Board; and that, within two business days of notification from the Board that the application is complete, the applicant serve copies of the complete application on the Department of Public Service, the Agency of Natural Resources, the Agency of Transportation, and the municipality in which the meteorological station is proposed to be located.

(2) Shall require that if no objections are filed within 30 days of the ~~Board's receipt of a complete application~~ date of service of the complete application under subdivision (1) of this subsection, and the Board determines that the applicant has met all of the requirements of section 248 of this title, the certificate of public good shall be issued for a period that the Board finds reasonable, but in no event for more than five years. Upon request of an applicant, the Board may renew a certificate of public good. Upon expiration of the certificate, the meteorological station and all associated structures and material shall be removed, and the site shall be restored substantially to its preconstruction condition.

(3) May waive the requirements of section 248 of this title that are not applicable to meteorological stations, including criteria that are generally applicable to public service companies as defined in this title. The Board shall not waive review regarding whether construction will have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety.

(4) Shall seek to simplify the application and review process, as appropriate, in conformance with this section.

* * *

Sec. 3. 30 V.S.A. § 248(a)(4) is amended to read:

(4)(A) With respect to a facility located in the State, the Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located. From the comments made at the public hearing, the Board shall derive areas of inquiry that are relevant to the findings to be made under this section and shall address each such area in its decision. Prior to making findings, if the record does not contain evidence on such an area, the Board shall direct the parties to provide evidence on the area. This subdivision does not require the Board to respond to each individual comment.

(B) The Public Service Board shall hold technical hearings at locations which it selects.

(C) ~~At the time of filing its application with the Board, copies shall be given by the petitioner to~~ Within two business days of notification from the Board that the petition is complete, the petitioner shall serve copies of the complete petition on the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health, Agency of Natural Resources, Historic Preservation Division, Agency of Transportation, Agency of Agriculture, Food and Markets, and to the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

(D) Notice of the public hearing shall be published and maintained on the Board's website for at least 12 days before the day appointed for the hearing. Notice of the public hearing shall be published once in a newspaper of general circulation in the county or counties in which the proposed facility will be located, and the notice shall include an Internet address where more information regarding the proposed facility may be viewed.

* * *

Sec. 4. 30 V.S.A. § 248(j)(2) is amended to read:

(2) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition. ~~The~~ Within two business days of notification by the Board that the filing is complete, the party shall serve copies of the complete filing on the parties specified in subdivision (a)(4)(C) of this section and the Board shall give written notice of the proposed certificate and its determination that the filing is complete to ~~the~~ those parties ~~specified in subdivision (a)(4)(C) of this section,~~ to any public interest organization that has in writing requested notice of applications to proceed under this subsection, and to any other person found by the Board to have a substantial interest in the matter. Such notice also shall be published on the Board's website within two days of issuing the determination that the filing is complete and shall request comment within ~~28~~ 30 days of the ~~initial publication date of service of the complete filing~~ on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the Board finds that the petition raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

Sec. 5. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS

FACILITIES

* * *

(e) Notice. No less than 60 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the Secretary of Natural Resources; the Secretary of Transportation; the Division for Historic Preservation; the Commissioner of Public Service and its Director for Public Advocacy; the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions. The notices to the legislative body and planning commission of the municipality shall attach a statement that itemizes the rights and opportunities available to those bodies under subdivisions (c)(2) and (e)(2) of this section and under subsections (m), (n), and (o) of this section and informs them of the guide published under subsection (p) of this section and how to obtain a copy of that guide.

* * *

(i) Sunset of Board authority. Effective on July 1, ~~2017~~ 2020, no new applications for certificates of public good under this section may be considered by the Board.

(j) Telecommunications facilities of limited size and scope.

* * *

(2)(A) Any ~~party~~ person seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its application, ~~and provide~~. Within two business days of notification from the Board that the filing is complete, the applicant shall serve notice and a copy of the application, proposed certificate of public good, and proposed findings of fact to on the Commissioner of Public Service and its Director for Public Advocacy, the Secretary of Natural Resources, the Division for Historic Preservation, the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. At the same time the applicant files the documents specified in this subdivision with the Board Within two business days of notification from the Board that

the filing is complete, the applicant also shall give serve written notice of the proposed certificate ~~to~~ on the landowners of record of property adjoining the project site or sites unless the Board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the Board within ~~21~~ 30 days of the ~~notice~~ date of service on the question of whether the application raises a significant issue with respect to the substantive criteria of this section. If the Board finds that an application raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

* * *

(C) If the Board accepts a request to consider an application under the procedures of this subsection, then unless the Public Service Board subsequently determines that an application raises a significant issue, the Board shall issue a final determination on an application filed pursuant to this subsection ~~within 45 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules,~~ within ~~45~~ 60 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the Board rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this subsection ~~within 90 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules,~~ within 90 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete.

* * *

(k) De minimis modifications. An applicant intending to make a de minimis modification of a telecommunications facility shall provide written notice of its intent, including a description of the de minimis modification, its plans for the de minimis modification, and its certification that the project constitutes a de minimis modification under this section, to the following: the landowner of record of the property on which the facility is located; the legislative body of the municipality in which the applicant proposes to undertake such limited modifications to the facility; and the Commissioner of Public Service and his or her Director for Public Advocacy. Unless an objection to the classification of a proposed project as a de minimis modification is filed with the Board within ~~21~~ 30 days of this notice, a certificate of public good shall be issued. Objections may be filed only by persons entitled to notice of this proposed project pursuant to this subsection. If an objection of the classification of the proposed project as a de minimis modification is timely filed with the Board, the Board may determine whether

the intended project meets the definition of de minimis modification established in subdivision (b)(2) of this section.

* * *

(o) Retention; experts. The Department of Public Service may retain experts and other personnel as identified in section 20 of this title to provide information essential to a full consideration of an application for a certificate of public good under this section. The Department may allocate the expenses incurred in retaining these personnel to the applicant in accordance with section 21 of this title. The Department may commence retention of these personnel once the applicant has filed the ~~45-day~~ 60-day notice under subsection (e) of this section. A municipal legislative body or planning commission may request that the Department retain these personnel. Granting such a request shall not oblige the Department or the personnel it retains to agree with the position of the municipality.

* * *

* * * Notice of Petitions for a CPG to Do Business * * *

Sec. 6. 30 V.S.A. § 231 is amended to read:

§ 231. CERTIFICATE OF PUBLIC GOOD; ABANDONMENT OF
SERVICE; HEARING

(a) A person, partnership, unincorporated association, or previously incorporated association, ~~which~~ that desires to own or operate a business over which the Public Service Board has jurisdiction under the provisions of this chapter shall first petition the Board to determine whether the operation of such business will promote the general good of the State, and shall at that time file a copy of any such petition with the Department. The Department, within 12 days, shall review the petition and file a recommendation regarding the petition in the same manner as is set forth in subsection 225(b) of this title. Such recommendation shall set forth reasons why the petition shall be accepted without hearing or shall request that a hearing on the petition be scheduled. If the Department requests a hearing on the petition, or, if the Board deems a hearing necessary, it shall appoint a time and place in the county where the proposed corporation is to have its principal office for hearing the petition, ~~and shall make an order for the publication of the substance thereof and the time and place of hearing two weeks successively in a newspaper of general circulation in the county to be served by the petitioner, the last publication to be at least seven days before the day appointed for the hearing. At least 12 days before this hearing, notice of the hearing shall be published on the Board's website and once in a newspaper of general circulation in the county in which the hearing will occur. The website notice shall be maintained~~

through the date of the hearing. The newspaper notice shall include an Internet address where more information regarding the petition may be viewed. The Director for Public Advocacy shall represent the public at ~~such~~ the hearing. If the Board finds that the operation of such business will promote the general good of the State, it shall give such person, partnership, unincorporated association, or previously incorporated association a certificate of public good specifying the business and territory to be served by such petitioners. For good cause, after opportunity for hearing, the Board may amend or revoke any certificate awarded under the provisions of this section. If any such certificate is revoked, the person, partnership, unincorporated association, or previously incorporated association shall no longer have authority to conduct any business which is subject to the jurisdiction of the Board whether or not regulation thereunder has been reduced or suspended, under section 226a or 227a of this title.

* * *

* * * Enforcement * * *

Sec. 7. 30 V.S.A. § 2 is amended to read:

§ 2. DEPARTMENT POWERS

* * *

(h) The Department shall investigate when it receives a complaint that there has been noncompliance with section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections, including a complaint of such noncompliance received pursuant to section 208 of this title or the complaint protocol established under 2016 Acts and Resolves No. 130, Sec. 5c.

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

§ 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

* * *

(h) In accordance with the process set forth in this subsection, the Department may issue an administrative citation to a person the Department believes after investigation violated section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections.

(1) An administrative citation, whether draft or final, shall:

(A) state each provision of statute and rule and each condition of a certificate of public good alleged to have been violated;

(B) include a concise statement of the facts giving rise to the alleged violation and the evidence supporting the existence of those facts;

(C) request that the person take the remedial action specified in the notice or pay a civil penalty of not more than \$5,000.00 for the violation, or both; and

(D) if remedial action is requested, state the reasons for seeking the action.

(2) The Department shall initiate the process by issuing a draft administrative citation to the person and sending a copy to each municipality in which the person's facility is located, each adjoining property owner to the facility, the complainant if any, and, for alleged violations of the facility's certificate of public good, each party to the proceeding in which the certificate was issued.

(A) At the time the draft citation is issued, the Department shall file a copy with the Board and post the draft citation on its website.

(B) Commencing with the date of issuance, the Department shall provide an opportunity of 30 days for public comment on the draft citation. The Department shall include information on this opportunity in the draft citation.

(C) Once the public comment period closes, the Department:

(i) Shall provide the person and the Board with a copy of each comment received.

(ii) Within 15 days of the close of the comment period, may file a revised draft citation with the Board. The revised draft citation may be accompanied by a stipulation or agreed settlement between the person and the Department with a request for Board approval.

(D) The Board may on its own initiative open a proceeding to investigate the violation alleged in the draft citation. The Board shall take any such action within 25 days of the close of the public comment period, or the filing of a revised draft citation, whichever is later. Such a Board proceeding shall supersede the draft citation.

(3) If the Board has not opened a proceeding pursuant to subdivision (2)(D) of this subsection, the Department may issue a final administrative citation to the person. Within 30 days of receipt of a final administrative citation, the person shall respond in one of the following ways:

(A) Request a hearing before the Board on the existence of the alleged violation, the proposed penalty, and the proposed remedial action.

(B) Pay any civil penalty set forth in the notice and agree to undertake such remedial action as is set forth in the notice and submit to the Department for its approval a plan for compliance. In such a case, the final administrative citation shall be enforceable in the same manner as an order of the Board.

(C) Decline to contest the existence of the alleged violation and request a hearing on either the proposed penalty or remedial action, or both. When exercising this option, a person may agree to either the proposed penalty or remedial action and seek a hearing only on the penalty or action with which the person disagrees.

(4) When a person requests a hearing under subdivision (3) of this subsection, the Board shall open a proceeding and conduct a hearing in accordance with the provisions of this section on the alleged violation and such remedial action and penalty as are set forth in the notice. Notwithstanding any contrary provision of this section, a penalty under this subdivision (4) shall not exceed \$5,000.00.

(5) If a person pays the civil penalty set forth in a final administrative citation, then the Department shall be precluded from seeking and the Board from imposing additional civil penalties for the same alleged violation unless the violation is continuing or is repeated.

(6) If a person agrees to undertake the remedial action set forth in a final administrative citation, failure to undertake the action or comply with a compliance plan approved by the Department shall constitute a separate violation.

(7) The Board may approve disposition of a final administrative citation by stipulation or agreed settlement submitted before entry of a final order.

(8) Penalties assessed under this subsection shall be deposited in the General Fund.

* * * Name Change to Public Utility Commission * * *

Sec. 9. 30 V.S.A. § 3 is amended to read:

§ 3. ~~PUBLIC SERVICE BOARD~~ UTILITY COMMISSION

(a) The Vermont Public Service Board Utility Commission shall consist of a Chair and two members. The Chair and each member shall not be required to be admitted to the practice of law in this State.

(b) The Chair shall be nominated, appointed, and confirmed in the manner of a Superior judge.

(c) Members of the ~~Board~~ Commission other than the Chair shall be appointed in accordance with this subsection. Whenever a vacancy occurs,

public announcement of the vacancy shall be made. The Governor shall submit at least five names of potential nominees to the Judicial Nominating Board for review. The Judicial Nominating Board shall review the candidates in respect to judicial criteria and standards only and shall recommend to the Governor those candidates the Board considers qualified. The Governor shall make the appointment from the list of qualified candidates. The appointment shall be subject to the consent of the Senate.

(d) The term of each member shall be six years. Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated. A member wishing to succeed himself or herself in office may seek reappointment under the terms of this section.

(e) Notwithstanding 3 V.S.A. § 2004, or any other provision of law, members of the ~~Board~~ Commission may be removed only for cause. When a ~~Board~~ Commission member who hears all or a substantial part of a case retires from office before such case is completed, he or she shall remain a member of the ~~Board~~ Commission for the purpose of concluding and deciding such case, and signing the findings, orders, decrees, and judgments therein. A retiring Chair shall also remain a member for the purpose of certifying questions of law if appeal is taken. For such service, he or she shall receive a reasonable compensation to be fixed by the remaining members of the ~~Board~~ Commission and necessary expenses while on official business.

(f) A case shall be deemed completed when the ~~Board~~ Commission enters a final order therein even though such order is appealed to the Supreme Court and the case remanded by that court to the ~~Board~~ Commission. Upon remand the ~~Board~~ Commission then in office may in its discretion consider relevant evidence including any part of the transcript of testimony in the proceedings prior to appeal.

(g) The Chair shall have general charge of the offices and employees of the ~~Board~~ Commission.

Sec. 10. 30 V.S.A. § 7001(1) is amended to read:

(1) “~~Board~~” “Commission” means the Public ~~Service Board~~ Utility Commission under section 3 of this title.

Sec. 11. 30 V.S.A. § 8002(1) is amended to read:

(1) “~~Board~~” “Commission” means the Public ~~Service Board~~ Utility Commission under section 3 of this title, ~~except when used to refer to the Clean Energy Development Board.~~

Sec. 12. REVISION AUTHORITY

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall make the following revisions throughout the

statutes as needed for consistency with Secs. 9–11 of this act, as long as the revisions have no other effect on the meaning of the affected statutes:

(1) replace “Public Service Board” with “Public Utility Commission”; and

(2) replace “Board” with “Commission” when the existing term “Board” refers to the Public Service Board.

Sec. 13. RULES; NAME CHANGE

(a) The rules of the Public Service Board in effect on July 1, 2017 shall become rules of the Vermont Public Utility Commission (the Commission).

(b) In those rules, the Commission is authorized to change all references to the Public Service Board so that they refer to the Commission. Unless accompanied by one or more other revisions to the rules, such a change need not be made through the rulemaking process under the Administrative Procedure Act.

* * * Remote Location Access by Citizens to PSB Hearings * * *

Sec. 14. PLAN; CITIZENS’ ACCESS TO PSB HEARINGS FROM REMOTE LOCATIONS

(a) On or before December 15, 2017, the Division for Telecommunications and Connectivity within the Department of Public Service, in consultation with relevant organizations such as the Vermont Access Network and Vermont access management organizations, shall submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy a plan to achieve citizen access to hearings and workshops of the Public Service Board from remote locations across the State. The access shall include interactive capability and the ability to use multiple remote locations simultaneously. The plan may build on the Department’s Vermont Video Connect proposal described in the Report to the General Assembly by the Vermont Interactive Technologies Working Group dated Dec. 9, 2015, submitted pursuant to 2015 Acts and Resolves No. 58, Sec. E.602.1.

(b) The plan shall include each of the following:

(1) assessment of cost-effective interactive video technologies;

(2) identification of at least five locations across Vermont that are willing and able to host the access described in subsection (a) of this section;

(3) the estimated capital costs of providing such access; and

(4) the estimated operating costs for hosting and connecting.

* * * Citizen Access to Public Service Board; Implementation Report * * *

Sec. 15. REPORT; IMPLEMENTATION OF WORKING GROUP
RECOMMENDATIONS

On or before December 15, 2017, the Public Service Board shall submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy a report on the progress made in implementing the recommendations of the Access to Public Service Board Working Group created by 2016 Acts and Resolves No. 174, Sec. 15, including those recommendations that the Group identified as not requiring statutory change.

* * * Appliance Efficiency * * *

Sec. 16. PURPOSE

In light of the findings set forth at 9 V.S.A. § 2792, Secs. 17 through 21 of this act adopt federal appliance and lighting efficiency standards in effect on January 19, 2017 so that the same standards will be in place in Vermont should the federal standards be repealed or voided. The act also adopts federal standards for general service lighting that have been adopted by the U.S. Department of Energy and are scheduled to come into effect on January 20, 2020, again so that the same standards will be in place in Vermont. The act does not adopt standards for other products or standards for a product that are different from the federal standards.

Sec. 17. 9 V.S.A. § 2793 is amended to read:

§ 2793. DEFINITIONS

As used in this chapter:

* * *

(15) “General service lamp” has the same meaning as set forth in the action published at 82 Fed. Reg. 7276, 7321-22 (January 19, 2017) and modified by the action published at 82 Fed. Reg. 7322, 7333 (January 19, 2017).

Sec. 18. 9 V.S.A. § 2794 is amended to read:

§ 2794. SCOPE

(a) The provisions of this chapter apply to the following types of new products sold, offered for sale, or installed in the State:

- (1) Medium voltage dry-type distribution transformers.
- (2) Metal halide lamp fixtures.

- (3) Residential furnaces and residential boilers.
- (4) Single-voltage external AC to DC power supplies.
- (5) State-regulated incandescent reflector lamps.
- (6) General service lamps.

(7) Each other product for which the Commissioner is required to adopt an efficiency or water conservation standard by rule pursuant to section 2795 of this title.

(8) Any other product that may be designated by the Commissioner in accordance with section 2797 of this title.

(b) The provisions of this chapter do not apply to:

(1) New products manufactured in the State and sold outside the State and the equipment used in manufacturing those products.

(2) New products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State.

(3) Products installed in mobile manufactured homes at the time of construction.

(4) Products designed expressly for installation and use in recreational vehicles.

Sec. 19. 9 V.S.A. § 2795 is amended to read:

§ 2795. EFFICIENCY AND WATER CONSERVATION STANDARDS

~~Not later than June 1, 2007, the~~ The Commissioner shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 establishing minimum efficiency standards for the types of new products set forth in section 2794 of this title. The rules shall provide for the following minimum efficiency standards for products sold or installed in this State:

* * *

(6) In the rules, the Commissioner shall adopt minimum efficiency and water conservation standards for each product that is subject to a standard under 10 C.F.R. §§ 430 and 431 as those provisions existed on January 19, 2017. The minimum standard and the testing protocol for each product shall be the same as adopted in those sections of the Code of Federal Regulations.

(7) In the rules, the Commissioner shall adopt a minimum efficacy standard for general service lamps of 45 lumens per watt, when tested in accordance with 10 C.F.R. § 430.23(gg) as that provision existed on January 19, 2017.

Sec. 20. 9 V.S.A. § 2796 is amended to read:

§ 2796. IMPLEMENTATION

* * *

(f)(1) When federal preemption under 42 U.S.C. § 6297 applies to a standard adopted pursuant to this chapter for a product, the standard shall become enforceable on the occurrence of the earliest of the following:

(A) The federal energy or water conservation standard for the product under 42 U.S.C. chapter 77 is withdrawn, repealed, or otherwise voided. However, this subdivision (A) shall not apply to any federal energy or water conservation standard set aside by a court of competent jurisdiction upon the petition of a person who will be adversely affected, as provided in 42 U.S.C. § 6306(b).

(B) A waiver of federal preemption is issued pursuant to 42 U.S.C. § 6297.

(2) The federal standard for general service lamps shall be considered to be withdrawn, repealed, or otherwise voided within the meaning of this subsection if it does not come into effect on January 20, 2020 pursuant to the actions published at 82 Fed. Reg. 7276 and 7333 (January 19, 2017).

(3) When a standard adopted pursuant to this chapter becomes enforceable under this subsection, a person shall not sell or offer for sale in the State a new product subject to the standard unless the efficiency or water conservation of the new product meets or exceeds the requirements set forth in the standard.

Sec. 21. RULE ADOPTION; SCHEDULE; REPORT

(a) Rule adoption; schedule.

(1) On or before August 1, 2017, the Commissioner of Public Service shall file with the Secretary of State proposed rules to effect Sec. 19 of this act.

(2) On or before April 1, 2018, the Commissioner shall finally adopt these rules, unless the Legislative Committee on Administrative Rules extends this date pursuant to 3 V.S.A. § 843(c).

(b) Reports.

(1) On or before December 15, 2017, the Commissioner of Public Service shall file a progress report on the rulemaking required by this act. The report shall attach the proposed rules as filed with the Secretary of State.

(2) On or before December 15, 2018, the Commissioner of Public Service shall file a further progress report on the rulemaking required by this act. The report shall attach the rules as finally adopted by the Commissioner.

* * * Energy Storage * * *

Sec. 22. ENERGY STORAGE; REPORT

(a) Definitions. As used in this section, “energy storage” means a system that uses mechanical, chemical, or thermal processes to store energy for later use.

(b) Report. On or before November 15, 2017, the Commissioner of Public Service shall submit a report on the issue of deploying energy storage on the Vermont electric transmission and distribution system.

(1) The Commissioner shall submit the report to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

(2) The Commissioner shall provide an opportunity for the public and Vermont electric transmission and distribution companies to submit information relevant to the preparation of the report.

(3) The report shall:

(A) summarize existing state, regional, and national actions or initiatives affecting deployment of energy storage;

(B) identify and summarize federal and state jurisdictional issues regarding deployment of energy storage;

(C) identify the opportunities for, the benefits of, and the barriers to deploying energy storage;

(D) identify and evaluate regulatory options and structures available to foster energy storage, including potential cost impacts to ratepayers; and

(E) assess the potential methods for fostering the development of cost-effective solutions for energy storage in Vermont and the potential benefits and cost impacts of each method for ratepayers.

(4) The report shall identify the challenges and opportunities for fostering energy storage in Vermont.

Sec. 23. 30 V.S.A. § 8015 is amended to read:

§ 8015. VERMONT CLEAN ENERGY DEVELOPMENT FUND

* * *

(b) Definitions. ~~For purposes of~~ As used in this section, the following definitions shall apply:

* * *

(6) “Energy storage” means a system that uses mechanical, chemical, or thermal processes to store energy for later use.

* * *

(d) Expenditures authorized.

(1) Projects for funding may include the following:

(A) projects that will sell power in commercial quantities;

(B) among those projects that will sell power in commercial quantities, funding priority will be given to those projects that commit to sell power to Vermont utilities on favorable terms;

(C) projects to benefit publicly owned or leased buildings;

(D) renewable energy projects on farms, which may include any or all costs incurred to upgrade to a three-phase line to serve a system on a farm;

(E) ~~small-scale~~ small-scale renewable energy in Vermont residences, institutions, and businesses:

(i) generally; and

(ii) through the Small-scale Renewable Energy Incentive Program;

(F) projects under the agricultural economic development special account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

(G) until December 31, 2008 only, super-efficient buildings;

(H) projects to develop and use thermal or geothermal energy, regardless of whether they also involve the generation of electricity;

(I) emerging energy-efficient technologies;

(J) effective projects that are not likely to be established in the absence of funding under the program;

(K) natural gas vehicles and associated fueling infrastructure if each such vehicle is dedicated only to natural gas fuel and, on a life cycle basis, the vehicle’s emissions will be lower than those of commercially available vehicles using other fossil fuel, and any such infrastructure will deliver gas without interruption of flow;

(L) electric vehicles and associated charging stations;

(M) energy storage projects that facilitate utilization of renewable energy resources.

* * *

* * * Telecommunications Plan * * *

Sec. 24. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The Department of Public Service shall constitute the responsible planning agency of the State for the purpose of obtaining for all consumers in the State stable and predictable rates and a technologically advanced telecommunications network serving all service areas in the State. The Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) The Department shall prepare a Telecommunications Plan for the State. The Department of Innovation and Information, the Agency of Commerce and Community Development, and the Agency of Transportation shall assist the Department in preparing the Plan. The Plan shall be for a 10-year period and shall serve as a basis for State telecommunications policy. Prior to preparing the Plan, the Department shall prepare:

(1) ~~an~~ An overview, looking 10 years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the Department of Public Service, will significantly affect State telecommunications policy and programs;

(2) ~~a survey~~ One or more surveys of Vermont residents and businesses, conducted in cooperation with the Agency of Commerce and Community Development to determine what telecommunications services are needed now and in the succeeding ~~ten~~ 10 years, generally, and with respect to the following specific sectors in Vermont;

(A) the educational sector, with input from the Secretary of Education;

(B) the health care and human services sectors, with input from the Commissioner of Health and the Secretary of Human Services;

(C) the public safety sector, with input from the Commissioner of Public Safety and the Executive Director of the Enhanced 911 Board; and

(D) the workforce training and development sectors, with input from the Commissioner of Labor.

(3) ~~an~~ An assessment of the current state of telecommunications infrastructure;

(4) ~~an~~ An assessment, conducted in cooperation with the Department of Innovation and Information and the Agency of Transportation, of the current

State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government; ~~and~~.

(5) ~~an~~ An assessment of the state of telecommunications networks and services in Vermont relative to other states, including price comparisons for key services and comparisons of the state of technology deployment.

(c) In developing the Plan, the Department shall take into account the State telecommunications policies and goals of section 202c of this title.

(d) In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of telecommunications utilities with a certificate of public good, other providers, including the Vermont Electric Power Co., Inc. (VELCO), and other interested State agencies, particularly the Agency of Commerce and Community Development, the Agency of Transportation, and the Department of Innovation and Information, whose views shall be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any change that will produce better service or reduce costs. To this end, the Department may require the submission of data by each company subject to supervision by the Public Service Board.

(e) Before adopting a Plan, the Department shall conduct public hearings on a final draft and shall consider the testimony presented at such hearings in preparing the final Plan. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose. The Plan shall be adopted by September 1, 2014, and then reviewed and updated as provided in subsection (f) of this section.

(f) The Department, from time to time, but in no event less than every three years, shall institute proceedings to review the Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the Plan. For good cause or upon request by a joint resolution passed by the General Assembly, an interim review and revision of any section of the Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose.

(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the

Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.

* * * Standard Offer Program; Exemption * * *

Sec. 25. STANDARD OFFER PROGRAM; EXEMPTION; REPORT

(a) On or before December 15, 2018, the Public Service Board (Board) shall submit a written report providing its recommendations related to the exemption set forth at 30 V.S.A. § 8005a(k)(2)(B) and any issues arising from that exemption, including the effect of the exemption on the State's achievement of the renewable energy goals set forth in 30 V.S.A. § 8001. In developing its recommendations under this section, the Board shall conduct a proceeding to solicit input from potentially affected parties and the public.

(b) Notwithstanding any contrary provision of the exemption at 30 V.S.A. § 8005a(k)(2)(B), a retail electricity provider shall not qualify to be exempt under subdivision 8005a(k)(2)(B) during calendar year 2018 or calendar year 2019 unless that provider previously qualified for an exemption under that subdivision.

(c) In this section, "retail electricity provider" has the same meaning as in 30 V.S.A. § 8002.

* * * Effective Dates * * *

Sec. 26. EFFECTIVE DATES

This section and Secs. 14 through 25 shall take effect on passage. The remainder of this act shall take effect on July 1, 2017.

and that after passage the title of the bill be amended to read: "An act relating to the Public Service Board, energy, and telecommunications"

(**Committee Vote: 8-0-0**)

S. 72

An act relating to requiring telemarketers to provide accurate caller identification information

Rep. Kimbell of Woodstock, for the Committee on Commerce and Economic Development, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Telemarketers; Accurate Caller I.D. Information * * *

Sec. 1. 9 V.S.A. chapter 63, subchapter 1 is amended to read:

Subchapter 1. General Provisions

* * *

§ 2464a. PROHIBITED TELEPHONE SOLICITATIONS

(a) Definitions. As used in this section, section 2464b, and section 2464c of this title:

(1) “Customer” means a customer, residing or located in Vermont, of a company providing telecommunications service as defined in 30 V.S.A. § 203(5).

(2) “Caller identification information” means information a caller identification service provides regarding the name and number of the person calling.

(3) “Caller identification service” means a service that allows a subscriber of the service to have the telephone number, and where available, the name of the calling party transmitted contemporaneously with the telephone call and displayed on a device in or connected to the subscriber’s telephone.

(4) “Federal functional regulator” means a federal functional regulator as defined in 15 U.S.C. § 6809(2).

~~(3)~~(5) “Financial institution” means a financial institution as defined in 15 U.S.C. § 6809(3).

~~(4)~~(6) “Tax-exempt organization” means an organization described in Section 501(c) of the Internal Revenue Service Code (26 U.S.C. § 501(c)).

~~(5)~~(7) “Telemarketer” means any telephone solicitor. However, “telemarketer” does not include any telephone solicitor who is otherwise registered or licensed with, or regulated or chartered by, the Secretary of State, the Public Service Board, the Department of Financial Regulation, or the Department of Taxes, or is a financial institution subject to regulations adopted pursuant to 15 U.S.C. § 6804(a) by a federal functional regulator. Telephone solicitors registered with the Department of Taxes to collect Vermont income withholding, sales and use, or meals and rooms tax, but not registered with any other agency listed in this subdivision, shall provide to the Secretary of State an address and agent for the purpose of submitting to the jurisdiction of the Vermont courts in any action brought for violations of this section.

~~(6)~~(8) “Telephone solicitation”:

(A) means the solicitation by telephone of a customer for the purpose of encouraging the customer to contribute to an organization ~~which~~ that is not a tax-exempt organization, or to purchase, lease, or otherwise agree to pay consideration for money, goods, or services; and

(B) does not include:

(i) telephone calls made in response to a request or inquiry by the called customer;

(ii) telephone calls made by or on behalf of a tax-exempt organization, an organization incorporated as a nonprofit organization with the State of Vermont, or an organization in the process of applying for tax-exempt status or nonprofit status;

(iii) telephone calls made by a person not regularly engaged in the activities listed in subdivision (A) of this subdivision ~~(6)(8)~~; or

(iv) telephone calls made to a person with whom the telephone solicitor has an established business relationship.

~~(7)(9)~~ “Telephone solicitor” means any person placing telephone solicitations, or hiring others, on an hourly, commission, or independent contractor basis, to conduct telephone solicitations.

(b) Prohibition; Caller Identification Information.

(1) No telemarketer shall make a telephone solicitation to a telephone number in Vermont without having first registered in accordance with section 2464b of this title.

(2) No person shall make any telephone call to a telephone number in Vermont ~~which~~ that violates the Federal Trade Commission’s Do Not Call Rule, 16 C.F.R. subdivision 310.4(b)(1)(iii), or the Federal Communication Commission’s Do Not Call Rule, 47 C.F.R. subdivision 64.1200(c)(2) and subsection (d), as amended from time to time.

(3)(A) A person who places a telephone call to make a telephone solicitation, or to induce a charitable contribution, donation, or gift of money or other thing of value, shall transmit or cause to be transmitted to a caller identification service in use by the recipient of the call:

(i) the caller’s telephone number; and

(ii) if made available by the caller’s carrier, the caller’s name.

(B) Notwithstanding subdivision (A) of this subdivision (3), a caller may substitute for its own name and number the name and the number, which is answered during regular business hours, of the person on whose behalf the caller places the call.

(c) Violation. A violation of this section shall constitute a violation of section 2453 of this title. Each prohibited telephone call shall constitute a separate violation. In considering a civil penalty for violations of subdivision (b)(2) of this section, the court may consider, among other relevant factors, the extent to which a telephone solicitor maintained and complied with procedures

designed to ensure compliance with the rules of the Federal Communications Commission and the Federal Trade Commission.

(d) Criminal Penalties. A telemarketer who makes a telephone solicitation in violation of subdivision (b)(1) of this section shall be imprisoned for not more than 18 months or fined not more than \$10,000.00, or both. It shall be an affirmative defense, for a telemarketer with five or fewer employees, that the telemarketer did not know, and did not consciously avoid knowing, that Vermont has a requirement of registration of telemarketers. Each telephone call shall constitute a separate solicitation under this section. This section shall not be construed to limit a person's liability under any other civil or criminal law.

§ 2464b. REGISTRATION OF TELEMARETERS

(a) Every telemarketer shall register with the Secretary of State, on a form approved by the Secretary. In the case of a telemarketer who hires, whether on an hourly, commission, or independent contractor basis, one or more persons to conduct telephone solicitations, only the person who causes others to conduct telephone solicitations need register. The Secretary of State may adopt rules prescribing the manner in which registration under this section shall be conducted, including a requirement of notice to the Secretary by the telemarketer when the telemarketer ceases to do business in Vermont.

(b) The Secretary of State shall require that each telemarketer designate an agent for the purpose of submitting to the jurisdiction of the Vermont courts in any action brought for violations of section 2464a of this title.

(c) The Secretary of State shall collect the following fees when a document described in this section is delivered to the Office of the Secretary of State for filing:

(1) Registration: \$125.00.

(2) Statement of change of designated agent or designated office, or both: \$25.00, not to exceed \$1,000.00 per filer per calendar year.

§ 2464c. PRIVATE CAUSE OF ACTION

Any person who receives a telephone call in violation of subsection 2464a(b) of this title may bring an action in Superior Court for damages, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney's fees. The ~~Court~~ court may issue an award for the person's actual damages or \$500.00 for a first violation, or \$1,000.00 for each subsequent violation, whichever is greater. In considering the amount of punitive damages, the ~~Court~~ court may consider, among other relevant factors, the extent to which a telephone solicitor maintained and complied with procedures designed to ensure compliance with the requirements of sections

2464a and 2464b of this title. This section shall not limit any other claims the person may have under applicable law.

* * *

* * * Data Brokers * * *

Sec. 2. DATA BROKERS; RECOMMENDATION

(a) Findings. The General Assembly finds that:

(1) The data broker industry brings benefits to society by:

(A) providing data necessary for the operation of both the public and private sectors;

(B) supporting the critical flow of information for interstate and intrastate commerce; and

(C) aiding in securing and protecting consumer identities.

(2) Despite these benefits, concerns have arisen about the data broker industry, including:

(A) how the data broker industry or persons accessing the industry may directly or indirectly harm vulnerable populations;

(B) the use of the data broker industry by those who harass, stalk, and otherwise harm others;

(C) whether appropriate safeguards are in place to assure that our most sensitive information is not sold to identity thieves, scammers, and other criminals; and

(D) the impact of the data broker industry on the privacy, dignity, and well-being of the people of Vermont.

(b) Recommendation. On or before December 15, 2017, the Commissioner of Financial Regulation and the Attorney General, in consultation with industry and consumer stakeholders, shall submit a recommendation or draft legislation to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs reflecting:

(1) an appropriate definition of the term “data broker”;

(2) whether and, if so, to what extent the data broker industry should be regulated by the Commissioner of Financial Regulation or the Attorney General;

(3) additional consumer protections that data broker legislation should seek to include that are not addressed within the framework of existing federal and State consumer protection laws; and

(4) proposed courses of action that balance the benefits to society that the data broker industry brings with actual and potential harms the industry may pose to consumers.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 11-0-0)

(For text see Senate Journal March 22, 2017)

S. 127

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

Rep. Brennan of Colchester, for the Committee on Transportation, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Special Plates and Placards for Persons With Disabilities * * *

Sec. 1. 23 V.S.A. § 304a is amended to read:

§ 304a. SPECIAL REGISTRATION PLATES AND PLACARDS FOR
PEOPLE WITH DISABILITIES

(a) The following definitions shall apply to this section:

* * *

(6) “Eligible person” means:

(A) a person who is blind or has an ambulatory disability and has been issued a special registration plate or a windshield placard by this State or another state;

(B) a person who is transporting a person described in subdivision (A) of this subdivision (6); or

(C) a person transporting a person who is blind or has an ambulatory disability on behalf of an organization that has been issued a special registration plate or a windshield placard by this State or another state for the purpose of transporting a person who is blind or has an ambulatory disability.

* * *

(e)(1) A person, other than an eligible person, who for his or her own purposes parks a vehicle in a space for persons with disabilities shall be ~~fin~~subject to a civil penalty of not less than \$200.00 for each violation and shall be liable for towing charges.

(2) A person, other than an eligible person, who displays a special registration plate or removable windshield placard not issued to him or her under this section and parks a vehicle in a space for persons with disabilities, shall be subject to a civil penalty of not less than \$400.00 for each violation and shall be liable for towing charges.

(3) ~~He or she shall~~ A person who violates this section also shall be liable for storage charges not to exceed \$12.00 per day, and an artisan's lien may be imposed against the vehicle for payment of the charges assessed.

(4) The person in charge of the parking space or spaces for persons with a disability or any duly authorized law enforcement officer shall cause the removal of a vehicle parked in violation of this section.

(5) A violation of this section shall be considered a traffic violation within the meaning of 4 V.S.A. chapter 29.

* * *

* * * Special License Plates * * *

Sec. 2. 23 V.S.A. § 304b is amended to read:

§ 304b. CONSERVATION MOTOR VEHICLE REGISTRATION PLATES

* * *

(b) Initial fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$12.00~~ 46 percent to the Transportation Fund.

(2) ~~\$7.00~~ 27 percent to the Department of Fish and Wildlife for deposit into the Nongame Wildlife Account created in 10 V.S.A. § 4048.

(3) ~~\$7.00~~ 27 percent to the Department of Fish and Wildlife for deposit into the Watershed Management Account created in 10 V.S.A. § 4050.

(c) Renewal fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$11.00~~ 42 percent to the Department of Fish and Wildlife for deposit into the Nongame Wildlife Account created in 10 V.S.A. § 4048.

(2) ~~\$11.00~~ 42 percent to the Department of Fish and Wildlife for deposit into the Watershed Management Account created in 10 V.S.A. § 4050.

(3) ~~\$4.00~~ 16 percent to the Transportation Fund.

(d) The Commissioner of Fish and Wildlife is authorized to deposit fees collected by the Department of Fish and Wildlife under subsections (b) and (c) of this section into the Conservation Camp Fund when the fees collected exceed the annual funding needs of the Nongame Wildlife Account and the Watershed Management Account.

Sec. 3. 23 V.S.A. § 304c is amended to read:

§ 304c. MOTOR VEHICLE REGISTRATION PLATES: BUILDING BRIGHT SPACES FOR BRIGHT FUTURES FUND

* * *

(b) Fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$7.00~~ 29 percent to the Transportation Fund.

(2) ~~\$17.00~~ 71 percent to the Department for Children and Families for deposit in the Bright Futures Fund created in 33 V.S.A. § 3531.

(c) Renewal fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$19.00~~ 79 percent to the Department for Children and Families for deposit in the Bright Futures Fund in 33 V.S.A. § 3531.

(2) ~~\$5.00~~ 21 percent to the Transportation Fund.

(d) The Department of Motor Vehicles shall be charged by the Department of Corrections for the production of the Bright Futures Fund license plates.

* * * Annual Special Excess Weight Permits * * *

Sec. 4. 23 V.S.A. § 305 is amended to read:

§ 305. REGISTRATION PERIODS

(a) The Commissioner of Motor Vehicles shall issue registration certificates, validation stickers, and number plates upon initial registration, and registration certificates and validation stickers for each succeeding renewal period of registration, upon payment of the registration fee. Number plates so issued will become void one year from the first day of the month following the month of issue unless a longer initial registration period is authorized by law, or unless this period is extended through renewal. Registrations issued for motor trucks shall become void one year from the first day of the month following the month of issue. ~~The fees for annual special excess weight permits issued to these vehicles pursuant to section 1392 of this title shall be prorated so as to coincide with registration expiration dates.~~

* * *

* * * Temporary Registration * * *

Sec. 5. 23 V.S.A. § 312 is amended to read:

§ 312. TEMPORARY REGISTRATION PENDING ISSUANCE OF CERTIFICATE OF TITLE

(a) In his or her discretion, the Commissioner may issue a temporary registration certificate to a person required to obtain a certificate of title in accordance with chapter 21 of this title upon payment of the registration fee provided in subchapter 2 of this chapter and of the title fee. The temporary registration certificate and the number plate shall be valid for 60 days and shall not be renewed. At the expiration of the temporary registration, a permanent registration certificate and a set of number plates shall be issued provided that all documents and information required by law are filed with the Commissioner.

(b) The registration fee paid in accordance with subsection (a) of this section shall not be refunded, except that the fee shall be deemed the fee for the permanent registration, if one is issued, or shall be deemed the fee for another an application for registration to register another vehicle, if the title requirements are met during that registration period. Likewise, the title fee shall be deemed the fee for the title, if one is issued, or shall be deemed the fee for an application to title another vehicle.

* * * Registration Transfers * * *

Sec. 6. 23 V.S.A. § 321 is amended to read:

§ 321. PROCEDURE UPON TRANSFER

Upon the transfer of ownership of any registered motor vehicle its registration shall expire. The person in whose name the transferred vehicle was registered shall immediately return direct to the Commissioner the registration certificate assigned to the transferred vehicle, with the date of sale and the name and residence of the new owner endorsed on the back. However, the Commissioner may accept any other satisfactory evidence of the above required information. The transferor shall forthwith remove the registration number plates from the transferred vehicle and may attach the same to another unregistered motor vehicle owned by him or her. Upon the transfer of registration plates from a motor vehicle, the registration of which has expired as above provided, to another motor vehicle, owned by the ~~transferor~~ transferor, the owner or operator shall not, for a period of ~~30~~ 60 days, be subject to a fine for the operation of the latter motor vehicle without the proper registration certificate, provided he or she has, within 24 hours of the transfer, made application, as provided in section 323 of this title, for transfer of the

registration number plates. If such application for transfer is not so received by the Commissioner, the number plates shall be returned to the Commissioner at the end of five days after the transfer of ownership.

* * * Registration Fees; Local Transit Buses * * *

Sec. 7. 23 V.S.A. § 372a is amended to read:

§ 372a. LOCAL TRANSIT PUBLIC TRANSPORTATION SERVICE

(a) The annual registration fee for any motor bus used in local transit or public transportation service shall be \$62.00, except for those vehicles owned by a municipality for such service that are subject to the provisions of section 376 of this title. In the event a bus registered for local transit or public transportation service is thereafter registered for general use during the same registration year, such fee shall be applied towards the fee for general registration.

(b) As used in this section, a motor bus used in public transportation service ~~bus~~ is a bus used by a nonprofit public transit system as defined in 24 V.S.A. § 5088(3), and a motor bus used in local transit ~~bus~~ is a motor bus used entirely within or not more than ~~40~~ 100 miles beyond the boundaries of a city or town.

* * * Exhibition Vehicles * * *

Sec. 8. 23 V.S.A. § 373 is amended to read:

§ 373. EXHIBITION VEHICLES; YEAR OF MANUFACTURE PLATES

(a) The annual fee for the registration of a motor vehicle which is maintained ~~solely~~ for use in exhibitions, club activities, parades, and other functions of public interest and which is not used for ~~the~~ general daily transportation of passengers or property on any highway, ~~except to attend such functions,~~ shall be \$21.00, in lieu of fees otherwise provided by law. Permitted use shall include:

(1) use in exhibitions, club activities, parades, and other functions of public interest; and

(2) occasional transportation of passengers or property not more than one day per week.

* * *

* * * Licenses and Permits to Operate; Refusals to Issue * * *

Sec. 9. 23 V.S.A. § 603(c) is amended to read:

(c) An ~~operator~~ operator's license, junior ~~operator~~ operator's license, or ~~learner~~ learner's permit shall not be issued to an applicant whose license ~~or~~

~~learner, learner's permit, or privilege to operate~~ is suspended, revoked, or canceled in any jurisdiction.

Sec. 10. CONFORMING CHANGES

(a) In 23 V.S.A. § 601(b), the phrase "operator licenses" shall be replaced with "operator's licenses" wherever it appears.

(b) In 23 V.S.A. § 603(b) and (d), wherever they appear:

(1) The phrase "operator license" shall be replaced with "operator's license."

(2) The phrase "junior operator license" shall be replaced with "junior operator's license."

(3) The phrase "learner permit" shall be replaced with "learner's permit."

* * * Learner's Permits; Operation Under * * *

Sec. 11. 23 V.S.A. § 615 is amended to read:

§ 615. UNLICENSED OPERATORS

(a)(1)(A) An unlicensed person 15 years of age or older may operate a motor vehicle if he or she possesses a valid learner's permit issued to him or her by the Commissioner, or by another jurisdiction in accordance with section 208 of this title, and if one of the following persons who is not under the influence of alcohol or drugs rides beside him or her:

(i) his or her licensed parent or guardian;

(ii) a licensed or certified driver education instructor;

(iii) a licensed examiner of the Department; or

(iv) a licensed person at least 25 years of age ~~rides beside him or her.~~

(B) A person described under subdivisions (A)(i)–(iv) of this subdivision (1) who, while under the influence of alcohol or drugs, rides beside an individual whom the person knows to be unlicensed shall be subject to the same penalties as for a violation of subsection 1130(b) of this title. A holder of a learner's permit shall not be deemed to have violated this section if a person described under subdivisions (A)(i)–(iv) of this subdivision (1) rides beside him or her while the person is under the influence of alcohol or drugs.

(C) Nothing in this section shall be construed to permit a person against whom a revocation or suspension of license is in force, or a person younger than 15 years of age, or a person who has been refused a license by the Commissioner to operate a motor vehicle.

* * *

* * * Distracted Driving * * *

Sec. 12. 23 V.S.A. § 1095b is amended to read:

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE
PROHIBITED

* * *

(c) Penalties.

(1) A person who violates this section commits a traffic violation and shall be subject to a fine of not less than \$100.00 and not more than \$200.00 for a first violation, and of not less than \$250.00 and not more than \$500.00 for a second or subsequent violation within any two-year period.

(2) A person convicted of violating this section while operating within a ~~properly designated work zone in which construction, maintenance, or utility personnel are present~~ the following areas shall have ~~two~~ four points assessed against his or her driving record for a first conviction and five points assessed for a second or subsequent conviction:

(A) a properly designated work zone in which construction, maintenance, or utility personnel are present; or

(B) a school zone marked with warning signs conforming to the Manual on Uniform Traffic Control Devices.

(3) A person convicted of violating this section outside ~~a work zone in which personnel are present~~ the areas designated in subdivision (2) of this subsection shall ~~not~~ have two points assessed against his or her driving record for a first conviction and four points assessed for a second or subsequent conviction.

* * *

Sec. 13. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Unless the assessment of points is waived by a Superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance with subsection 2501(b) of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

- (LL)(i) § 1095. Entertainment picture visible to operator;
- (ii) § 1095b(c)~~(2)~~(3) Use of portable electronic device ~~in~~ outside work or school zone - first offense;

* * *

(3) Four points assessed for:

- (A) § 1012. Failure to obey enforcement officer;
- (B) § 1013. Authority of enforcement officers;
- (C) § 1051. Failure to yield to pedestrian;
- (D) § 1057. Failure to yield to persons who are blind;
- (E) § 1095b(c)(2) Use of portable electronic device in work or school zone—first offense;
- (F) § 1095b(c)(3) Use of portable electronic device outside work or school zone—second and subsequent offenses;

(4) Five points assessed for:

- (A) § 1050. Failure to yield to emergency vehicles;
- (B) § 1075. Illegal passing of school bus;
- (C) § 1099. Texting prohibited;
- (D) § 1095b(c)(2) Use of portable electronic device in work or school zone—second and subsequent offenses;

* * *

* * * DUI-Related Provisions * * *

Sec. 14. 23 V.S.A. chapter 13, subchapter 13 is amended to read:

Subchapter 13. Drunken Driving

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(10) “Random retest” means a test of a vehicle operator’s blood alcohol concentration, other than a test required to start the vehicle, that is required at random intervals during operation of a vehicle equipped with an ignition interlock device.

* * *

§ 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND
DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

* * *

(b) Abstinence.

(1)(A) Notwithstanding any other provision of this subchapter, a person whose license or privilege to operate has been suspended or revoked for life under this subchapter may apply to the Driver Rehabilitation School Director and to the Commissioner for reinstatement of his or her driving privilege. The person shall have completed three years of total abstinence from consumption of alcohol or nonprescription regulated drugs, or both. The use of a regulated drug in accordance with a valid prescription shall not disqualify an applicant for reinstatement of his or her driving privileges unless the applicant used the regulated drug in a manner inconsistent with the prescription label.

(B) The beginning date for the period of abstinence shall be no sooner than the effective date of the suspension or revocation from which the person is requesting reinstatement and shall not include any period during which the person is serving a sentence of incarceration to include furlough. The application shall include the applicant’s authorization for a urinalysis examination to be conducted prior to reinstatement under this subdivision. The application to the Commissioner shall be accompanied by a fee of \$500.00. The Commissioner shall have the discretion to waive the application fee if the Commissioner determines that payment of the fee would present a hardship to the applicant.

* * *

§ 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE OR CERTIFICATE; PENALTIES

* * *

(e) ~~Except as provided in subsection (m) of this section, the~~ The holder of an ignition interlock RDL or ignition interlock certificate shall pay the costs of installing, purchasing or leasing, and removing the ignition interlock device as well as calibrating the device and retrieving data from it periodically as may be specified by the Commissioner.

* * *

(1)(1) The Commissioner, in consultation with any individuals or entities the Commissioner deems appropriate, shall adopt rules and may enter into agreements to implement the provisions of this section. The Commissioner shall not approve a manufacturer of ignition interlock devices as a provider in this State unless the manufacturer agrees to reduce the cost of installing, leasing, and deinstalling the device by at least 50 percent for persons who furnish proof of receipt of 3SquaresVT, LIHEAP, or Reach Up benefits or like benefits in another state.

(2) The rules shall establish uniform performance standards for ignition interlock devices including required levels of accuracy in measuring blood alcohol concentration, efficacy in distinguishing valid breath samples, the occurrence of random retests while the vehicle is running, and automatic signaling by the vehicle if the operator fails such a retest. After an initial random retest to occur within 15 minutes of the vehicle starting, subsequent random retests shall occur on average not more often than once every 30 minutes. The Commissioner shall certify devices that meet these standards, specify any periodic calibration that may be required to ensure accuracy of the devices, and specify the means and frequency of the retrieval and sharing of data collected by ignition interlock devices. ~~Persons who elect to obtain an ignition interlock RDL or certificate following a conviction under this subchapter when the person's blood alcohol concentration is proven to be 0.16 or more shall be required to install an ignition interlock device with a Global Positioning System feature.~~ The rules also shall establish a schedule of extensions of the period prior to eligibility for reinstatement as authorized under subsection (h) of this section.

* * *

* * * Length of Vehicles * * *

Sec. 15. 23 V.S.A. § 1402(b)(2) is amended to read:

~~(2) Notwithstanding the provisions of this section, the Agency of Transportation may erect signs at those locations where it would be unsafe to operate vehicles in excess of 68 feet in length. [Repealed.]~~

Sec. 16. 23 V.S.A. § 1432 is amended to read:

§ 1432. LENGTH OF VEHICLES; ~~AUTHORIZED HIGHWAYS~~

* * *

~~(f) List of approved highways. The Commissioner shall prepare a list of each highway that has been approved for travel by vehicles referred to in subsection (a) of this section. The list shall be furnished, without charge, to each permitting service, electronic dispatching service, or other similar service authorized to do business in this State and, upon request, to any interested person. [Repealed.]~~

* * * Transfer of Title, Registration; Vessels, Snowmobiles, and ATVs * * *

Sec. 17. 23 V.S.A. § 3816 is amended to read:

§ 3816. TRANSFER OF INTEREST IN VESSEL, SNOWMOBILE, OR ALL-TERRAIN VEHICLE

(a) If an owner transfers his or her interest in a vessel, snowmobile, or all-terrain vehicle, other than by the creation of a security interest, he or she shall, at the time of delivery of the vessel, snowmobile, or all-terrain vehicle, execute an assignment and warranty of title to the transferee in the space provided on the certificate or as the Commissioner prescribes, and cause the certificate and assignment to be mailed or delivered to the transferee or to the Commissioner. Where title to a vessel, snowmobile, or all-terrain vehicle is in the name of more than one person, the nature of the ownership must be indicated by one of the following on the certificate of title:

* * *

~~(e)(1) Pursuant to the provisions of 14 V.S.A. § 313, whenever the estate of an individual who dies intestate consists principally of a vessel, snowmobile, or all-terrain vehicle, the surviving spouse shall be deemed to be the owner of the vessel, snowmobile, or all-terrain vehicle and title to the vessel, snowmobile, or all-terrain vehicle shall automatically pass to the surviving spouse. The surviving spouse may register Upon request, the Department shall register and title the vessel, snowmobile, or all-terrain vehicle by paying a transfer fee not to exceed \$2.00 in the name of the surviving spouse, and no fee shall be assessed.~~

(2) Notwithstanding any contrary provision of law, and except as provided in subdivision (3) of this subsection, whenever the estate of an individual consists in whole or in part of a vessel, snowmobile, or all-terrain

vehicle, and the person's will or other testamentary document does not specifically address disposition of the same, the surviving spouse shall be deemed to be the owner and title to the vessel, snowmobile, or all-terrain vehicle shall automatically pass to the surviving spouse. Upon request, the Department shall register and title the vessel, snowmobile, or all-terrain vehicle in the name of the surviving spouse, and no fee shall be assessed.

(3) This subsection shall not apply if the vessel, snowmobile, or all-terrain vehicle is titled in the name of one or more persons other than the decedent and the surviving spouse.

* * * Enforcement of Snowmobile and Boating Violations * * *

Sec. 18. REPEAL

12 V.S.A. chapter 193 (snowmobile and boating violations) is repealed.

Sec. 19. 23 V.S.A. § 3208 is amended to read:

§ 3208. ADMINISTRATION AND ENFORCEMENT

* * *

(d) The provisions of this subchapter and the rules adopted pursuant thereto shall be enforced by law enforcement officers as defined in section 3302 of this title in accordance with the provisions of ~~12 V.S.A. chapter 193~~ 4 V.S.A. chapter 29. Testimony of a witness as to the existence of navigation or snowmobile control signs, signals, or markings, shall be prima facie evidence that such control, sign, signal, or marking existed pursuant to a lawful statute, regulation, or ordinance and that the defendant was lawfully required to obey a direction of such device.

(e) Law enforcement officers as defined in section 3302 of this title, ~~in accordance with the provisions of 12 V.S.A. chapter 193,~~ may conduct safety inspections on snowmobiles stopped for other snowmobile law violations on the Statewide Snowmobile Trail System. Safety inspections may also be conducted in a designated area by law enforcement officials. A designated area shall be warned solely by blue lights either on a stationary snowmobile parked on a trail or on a cruiser parked at a roadside trail crossing.

Sec. 20. 23 V.S.A. § 3318 is amended to read:

§ 3318. ADMINISTRATION AND ENFORCEMENT

(a) The administration of the provisions of this chapter, as they pertain to the registration and numbering of vessels and the suspension of the privilege to operate vessels, shall be the responsibility of the Department of Motor Vehicles.

* * *

(c) The provisions of this subchapter and the rules adopted pursuant to this subchapter shall be enforced by law enforcement officers as defined in section 3302 of this title in accordance with the provisions of ~~12 V.S.A. chapter 193~~ 4 V.S.A. chapter 29. Law enforcement officers as defined in section 3302 of this title may also enforce the provisions of 10 V.S.A. § 1454 and the rules adopted pursuant to 10 V.S.A. § 1424 in accordance with the requirements of 10 V.S.A. chapter 50.

* * * Motor Vehicle Purchase and Use Tax * * *

Sec. 21. 32 V.S.A. § 8902(5) is amended to read:

(5) “Taxable cost” means the purchase price as defined in subdivision (4) of this section or the taxable cost as determined under section 8907 of this title. For any purchaser who has paid tax on the purchase or use of a motor vehicle that was sold or traded by the purchaser or for which the purchaser received payment under a contract of insurance, the taxable cost of the replacement motor vehicle other than a leased vehicle shall exclude:

* * *

(B) the amount received from the sale of a motor vehicle last registered in his or her name, the amount not to exceed the ~~average book~~ clean trade-in value of the same make, type, model, and year of manufacture as designated by the manufacturer and as shown in the NADA Official Used Car Guide, ~~National Automobile Dealers Association~~ (New England edition), or any comparable publication, provided such sale occurs within three months of the taxable purchase. However, this three-month period shall be extended day-for-day for any time that a member of a guard unit or of the U.S. Armed Forces, as defined in 38 U.S.C. § 101(10), spends outside Vermont due to activation or deployment, and an additional 60 days following the person’s return from activation or deployment. Such amount shall be reported on forms supplied by the Commissioner of Motor Vehicles;

* * *

Sec. 22. 32 V.S.A. § 8907 is amended to read:

§ 8907. COMMISSIONER, COMPUTATION OF TAXABLE COSTS

(a) The Commissioner may investigate the taxable cost of any motor vehicle transferred subject to the provisions of this chapter. If the motor vehicle is not acquired by purchase in Vermont or is received for an amount which does not represent actual value, or if no tax form is filed or it appears to the Commissioner that a tax form contains fraudulent or incorrect information, the Commissioner may, in his or her discretion, fix the taxable cost of the motor vehicle at the ~~average book~~ clean trade-in value of vehicles of the same make, type, model, and year of manufacture as designated by the manufacturer,

as shown in the NADA Official Used Car Guide, National Automobile Dealers Association (New England Edition) or any comparable publication, less the lease end value of any leased vehicle. The Commissioner may compute and assess the tax due thereon, and notify the purchaser thereof forthwith by certified mail, and the purchaser shall remit the same within 15 days thereafter.

* * *

Sec. 23. MOTOR VEHICLE PURCHASE AND USE TAX; EXTENSION
OF THREE-MONTH PERIOD TO REDUCE TAXABLE COST

(a) Notwithstanding 32 V.S.A. § 8902(5)(B), the three-month limitation on the period in which to reduce the taxable cost of a motor vehicle by the sale of a previously owned vehicle shall not apply in the case of vehicles sold to the manufacturer pursuant to buyback agreement under a Volkswagen, Audi, or Porsche diesel engine defeat device settlement or judgment, if the vehicle is sold to the manufacturer:

(1) on or before November 10, 2017, in the case of 2.0 liter diesel engine Volkswagens and Audis; or

(2) on or before one year after buybacks commence under the 3.0 liter diesel engine class action settlement for Volkswagens, Audis, and Porsches.

(b) If a person paid a purchase and use tax in excess of the amount that would have been required if this section had been in effect at the time of the tax payment, the Commissioner of Motor Vehicles, upon application, shall issue the person a refund in accordance with this section.

* * * Vermont Strong License Plates * * *

Sec. 24. VERMONT STRONG MOTOR VEHICLE PLATES

(a) In 2012 Acts and Resolves No. 71, Sec. 1, as amended by 2012 Acts and Resolves No. 143, Sec. 13, the General Assembly authorized the Department of Motor Vehicles to distribute “Vermont Strong” commemorative plates and authorized operators of certain Vermont-registered vehicles to display the commemorative plates over the regular front registration plates of such vehicles until June 30, 2014. In 2014 Acts and Resolves No. 189, Sec. 26, the authorized display period was extended to June 30, 2016.

(b) Through an executive order issued on June 2, 2016, No. 3-74, the Governor ordered and directed that the Commissioner of Motor Vehicles continue to permit Vermonters to display Vermont Strong plates on the front of eligible vehicles and that Vermont law enforcement officers refrain from ticketing or otherwise penalizing any Vermonter for displaying a Vermont Strong plate on eligible vehicles “until the General Assembly next has the

opportunity to consider and clarify the duration of Vermont Strong Commemorative License Plates.”

(c) Under 23 V.S.A. § 511(a), “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.” The Commissioner has implemented this authority through a regulation, CVR 14-050-025, which states, “Two registration plates are issued to and must be displayed by all registered vehicles” with the exception of certain listed vehicles. The listed exceptions do not include pleasure cars or motor trucks, which therefore are required to display two registration plates unless otherwise provided by law.

(d) This subsection supersedes Executive Order 3-74. The display of Vermont Strong commemorative plates in place of front registration plates no longer is authorized. On and after September 1, 2017, the Commissioner of Motor Vehicles and law enforcement officers shall enforce the provisions of 23 V.S.A. § 511(a) and CVR 14-050-025 that require the display of two registration plates on pleasure cars and on motor trucks. Prior to September 1, 2017, the Commissioner shall take measures to raise public awareness that the display of Vermont Strong commemorative plates in place of front registration plates no longer is authorized.

* * * Incident Clearance; Duties; Limitation on Liability * * *

Sec. 25. 23 V.S.A. § 1102 is amended to read:

§ 1102. REMOVAL OF STOPPED VEHICLES

(a) ~~Any~~ Subject to subsection (c) of this section, any enforcement officer is authorized to:

(1) ~~move~~ cause the removal of a vehicle stopped, parked, or standing contrary to section 1101 of this title, or ~~to~~ require the driver or other person in charge to move the vehicle to a safe position off the ~~paved or~~ main-traveled part of the highway;

(2) ~~remove~~ cause the removal of an unattended vehicle ~~which~~ or cargo ~~that~~ is an obstruction to traffic or to maintenance of the highway to a garage or other place of safety;

(3) ~~remove~~ cause the removal of any vehicle found upon a highway, as defined in 19 V.S.A. § 1, to a garage or other place of safety when:

(A) the officer is informed by a reliable source that the vehicle has been stolen or taken without the consent of its owner; or

(B) the person in charge of the vehicle is unable to provide for its removal; or

(C) the person in charge of the vehicle has been arrested under circumstances ~~which~~ that require his or her immediate removal from control of the vehicle.

(b) In the case of a crash involving a serious bodily injury or fatality, clearance of the crash scene may be delayed until the crash investigation is completed.

(c) A towing operator shall undertake removal of a vehicle or cargo under this section only if summoned to the scene by the vehicle owner or vehicle operator, or an enforcement officer, and is authorized to perform the removal as follows:

(1) The owner or operator of the vehicle or cargo being removed shall summon to the scene the towing operator of the owner's or operator's choice in consultation with the enforcement officer and designate the location to where the vehicle or cargo is to be removed.

(2) The provisions of subdivision (1) of this subsection shall not apply when the owner or operator is incapacitated or otherwise unable to summon a towing operator, does not make a timely choice of a towing operator, or defers to the enforcement officer's selection of the towing operator.

(3) The authority provided to the owner or operator under subdivision (1) of this subsection may be superseded by the enforcement officer if the towing operator of choice cannot respond to the scene in a timely fashion and the vehicle or cargo is a hazard, impedes the flow of traffic, or may not legally remain in its location in the opinion of the enforcement officer.

(d)(1) Except as provided in subdivision (2) of this subsection, the vehicle owner and the motor carrier, if any, shall be responsible to the law enforcement agency or towing operator for reasonable costs incurred solely in the removal and subsequent disposition of the vehicle or cargo under this section.

(2) When applicable, the provisions of 10 V.S.A. § 6615 (liability for release of hazardous materials) shall apply in lieu of this subsection.

(e) Except for intentionally inflicted damage or gross negligence, an enforcement officer or a person acting at the direction of an enforcement officer who removes from a highway a motor vehicle or cargo that is obstructing traffic or maintenance activities or creating a hazard to traffic shall not be liable for damage to the vehicle or cargo incurred during the removal.

(f) Any enforcement officer causing the removal of a motor vehicle under this section shall notify the Department as to the location and date of discovery of the vehicle, date of removal of the vehicle, name of the towing service removing the vehicle, and place of storage. The officer shall record and remove from the vehicle, if possible, any information ~~which~~ that might aid the

Department in ascertaining the ownership of the vehicle and forward ~~it~~ the information to the Department. A motor vehicle towed under authority of this section may qualify as an abandoned motor vehicle under subchapter 7 of chapter 21 of this title.

(g)(1) Except as otherwise provided in subdivision (2) of this subsection, the operator of a vehicle involved in a crash who is required by law to stop the vehicle, or who elects to stop the vehicle, at the crash scene shall move and stop the vehicle at the nearest location where the vehicle will not impede traffic or jeopardize the safety of a person.

(2) The duty to move a vehicle under subdivision (1) of this subsection shall not apply when:

(A) the crash involved the death of or apparent injury to any person;

(B) the vehicle to be moved was transporting hazardous material;

(C) the vehicle cannot be operated under its own power without further damage to the vehicle or the highway; or

(D) the movement cannot be made without endangering other highway users.

(3) An operator required to move a vehicle under this subsection who fails to do so shall not be ticketed, assessed a civil penalty, or have points assessed against his or her driving record.

Sec. 26. 23 V.S.A. § 1128 is amended to read:

§ 1128. ACCIDENTS—DUTY TO STOP

(a) The operator of a motor vehicle who has caused or is involved in ~~an accident~~ a crash resulting in injury to any person other than the operator, or in damage to any property other than the vehicle then under his or her control, shall immediately stop and render any assistance reasonably necessary. Subsection 1102(g) of this title (stopping not to impede traffic or jeopardize safety; exceptions) governs the location where a person shall stop. The operator shall give his or her name, residence, license number, and the name of the owner of the motor vehicle to any person who is injured or whose property is damaged and to any enforcement officer. A person who violates this section shall be fined not more than \$2,000.00 or imprisoned for not more than two years, or both.

* * *

* * * Inspections; Mail Carrier Vehicles * * *

Sec. 27. 23 V.S.A. § 1222(e) is added to read:

(e) A vehicle used as a mail carrier under a contract with the U.S. Postal Service shall not fail inspection solely because, in converting the vehicle to be a right-hand drive vehicle, the right air bag in the front compartment has been disconnected or a nonfactory disconnect switch has been installed to disable the air bag.

* * * Motorboat Safety Equipment * * *

Sec. 28. 23 V.S.A. § 3306 is amended to read:

§ 3306. LIGHTS AND EQUIPMENT

(a) Every vessel shall carry and show the following lights when underway between sunset and sunrise:

* * *

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

* * *

(g) Motorboats operated on waters that the U.S. Coast Guard has determined to be navigable waters of the United States and therefore subject to the jurisdiction of the United States must have lights and other safety equipment as required by U.S. Coast Guard rules and regulations.

Sec. 29. 23 V.S.A. § 3317 is amended to read:

§ 3317. PENALTIES

(a) A person who violates any of the following sections of this title shall be subject to a ~~fine~~ penalty of not more than \$50.00 for each violation:

* * *

- § 3306(a)-(d) and (g) lights and equipment
- § 3307a documented boat validation sticker
- § 3308 boat rental records
- § 3309 muffling device
- § 3311(c) distance requirements
- § 3311(d) underwater historic preserve area
- § 3311(e) overloaded vessel
- § 3311(h)-(i) authority of law enforcement officer
- § 3312 rules between vessels

- § 3313(b) failing to file report
- § 3315(a) water ski observer
- § 3315(c) improper ski towing
- § 3316 boat races

* * *

* * * Injury Prevention; Educational Resource * * *

Sec. 30. PREVENTING INJURY ON PROPERTY USED FOR RECREATION

(a) The Secretary of Transportation, in consultation with the Commissioners of Fish and Wildlife and of Forests, Parks and Recreation, shall:

(1) Develop an educational resource for property owners related to the prevention of injuries arising from recreational use of property. At a minimum, this resource shall:

(A) note that failure to mark appropriately a chain, wire, cable, or similar material strung across a known path of recreational users can result in severe injury or death; and

(B) recommend means and methods to mark appropriately such chains, wires, cables, or similar materials.

(2) Take appropriate steps to cause this resource to be disseminated to owners of property in the State.

(b) Nothing in this section is intended to modify the rights, duties, liabilities, or defenses available to any person under any other law. Neither the existence of, nor the fact that a property owner received or may have received or been aware of, the educational resource required to be developed under this section shall be discoverable or used in any civil, criminal, or administrative proceeding.

* * * Effective Dates; Retroactivity; Sunset; Applicability * * *

Sec. 31. EFFECTIVE DATES; RETROACTIVITY; SUNSET; APPLICABILITY

(a)(1) This section and Secs. 9 (licenses and permits to operate; refusals to issue), 15 (signs regarding length of vehicles), 16 (list of approved highways), 23 (motor vehicle purchase and use tax; extension of three-month period to reduce taxable cost), 24 (Vermont Strong license plates), 25–26 (incident clearance), 27 (inspections; mail carrier vehicles), 28–29 (motorboat safety

equipment), and 30 (injury prevention; educational resource) shall take effect on passage.

(2) In Sec. 14, 23 V.S.A. § 1209a(b) (reinstatement under Total Abstinence Program) shall take effect on passage.

(3) Notwithstanding 1 V.S.A. § 214, Sec. 23 shall apply retroactively to October 26, 2016.

(4) 23 V.S.A. § 1222(e), added in Sec. 27 (inspections; mail carrier vehicles), shall be repealed on July 1, 2020.

(b) In Sec. 14, 23 V.S.A. § 1213(1)(2) (timing of random retests and elimination of GPS requirement) shall take effect 60 days after passage of this act.

(c) All other sections shall take effect on July 1, 2017.

(d) In Sec. 14, 23 V.S.A. § 1213(1)(2) (timing of random retests and elimination of GPS requirement) shall apply to all persons with ignition interlock restricted driver's licenses as of the effective date of this provision and to persons whose underlying DUI offenses occurred prior to the effective date of this act, as well as to persons who obtain ignition interlock RDLs on or after the effective date of this provision.

(e) In Sec. 14, 23 V.S.A. § 1209a(b) (reinstatement under Total Abstinence Program) shall apply to persons whose periods of abstinence began prior to the effective date of this provision, as well as to persons who begin a period of abstinence on or after the effective date of this provision. In addition to hardship fee waivers authorized under 23 V.S.A. § 1209a(b), if a person's application for reinstatement under the Program was denied prior to the effective date solely because of use of a drug in accordance with a valid prescription, and the person used the drug in a manner consistent with the prescription label, the Commissioner shall waive the fee for a subsequent application.

(Committee vote: 10-0-1)

(For text see Senate Journal March 21, 2017)

Favorable

H. 526

An act relating to regulating notaries public.

(Rep. Hubert of Milton will speak for the Committee on Government Operations.)

Rep. Browning of Arlington, for the Committee on Ways and Means, recommends the bill ought to pass.

(Committee Vote: 9-1-1)

H. 536

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

Rep. Lewis of Berlin, for the Committee on Government Operations, recommends the bill ought to pass.

(Committee Vote: 9-0-2)

Public Hearings

April 20, 2017 - Room 10, 10:00 AM-12:00 PM - Federal 2018 Farm bill - House Agriculture and Forestry; Senate Agriculture