

# Senate Calendar

TUESDAY, FEBRUARY 13, 2018

SENATE CONVENES AT: 9:30 A.M.

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**ACTION CALENDAR**

**NEW BUSINESS**

**Third Reading**

**S. 164.**

An act relating to establishing the Unused Prescription Drug Repository Program.

**H. 552.**

An act relating to approval of the adoption and codification of the charter of the Town of Ferrisburgh.

**H. 568.**

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

**H. 573.**

An act relating to approval of an amendment to the charter of the City of Rutland.

**Second Reading**

**Favorable with Recommendation of Amendment**

**S. 105.**

An act relating to consumer justice enforcement.

**Reported favorably with recommendation of amendment by Senator White for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 152 is added to read:

CHAPTER 152. MODEL STATE CONSUMER JUSTICE ENFORCEMENT  
ACT; STANDARD-FORM CONTRACTS

§ 6055. UNCONSCIONABLE TERMS IN STANDARD-FORM  
CONTRACTS PROHIBITED

(a) Unconscionable terms. There is a rebuttable presumption that the following contractual terms are substantively unconscionable when included in

a standard-form contract to which only one of the parties to the contract is an individual and that individual does not draft the contract:

(1) A requirement that resolution of legal claims take place in an inconvenient venue. An inconvenient venue is defined for State law claims as a place other than the state in which the individual resides or the contract was consummated and for federal law claims as a place other than the federal judicial district where the individual resides or the contract was consummated.

(2) A waiver of the individual's right to assert claims or seek remedies provided by State or federal statute.

(3) A waiver of the individual's right to seek punitive damages as provided by law.

(4) Pursuant to 12 V.S.A. § 465, a provision that limits the time in which an action may be brought under the contract or that waives the statute of limitations.

(5) A requirement that the individual pay fees and costs to bring a legal claim substantially in excess of the fees and costs that this State's courts require to bring such a State law claim or that federal courts require to bring such a federal law claim.

(b) Relation to common law and the Uniform Commercial Code. In determining whether the terms described in subsection (a) of this section are unenforceable, a court shall consider the principles that normally guide courts in this State in determining whether unconscionable terms are enforceable. Additionally, the common law and Uniform Commercial Code shall guide courts in determining the enforceability of unfair terms not specifically identified in subsection (a) of this section.

(c) Severability. If a court finds that a standard-form contract contains an illegal or unconscionable term, the court shall:

(1) refuse to enforce the entire contract or the specific part, clause, or provision containing the illegal or unconscionable term; or

(2) so limit the application of the illegal or unconscionable term or the clause containing such term as to avoid any illegal or unconscionable result.

(d) Unfair and deceptive act and practice. It is an unfair and deceptive practice in violation of section 2453 of this title to include one of the presumptively unconscionable terms identified in subsection (a) of this section in a standard-form contract to which only one of the parties to the contract is an individual and that individual does not draft the contract. Notwithstanding any other provisions to the contrary, a party who prevails in a claim under this section shall be entitled to \$1,000.00 in statutory damages per violation and an award of reasonable costs and attorney's fees.

(e) Each term found to be unconscionable pursuant to subsection (a) shall constitute a separate violation of this section.

(f) This section shall not apply to contracts to which one party is:

(1) regulated by the Vermont Department of Financial Regulation; or

(2) a financial institution as defined by 8 V.S.A. § 11101(32).

Sec. 2. 12 V.S.A. § 5652 is amended to read:

#### § 5652. VALIDITY OF ARBITRATION AGREEMENTS

(a) General rule. Unless otherwise provided in the agreement, a written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy thereafter arising between the parties creates a duty to arbitrate, and is valid, enforceable and irrevocable, except:

(1) upon such grounds as exist for the revocation of a contract; and

(2) as provided in 9 V.S.A. chapter 152.

\* \* \*

#### Sec. 3. EFFECTIVE DATE

This act shall take effect on October 1, 2019.

(Committee vote: 5-0-0)

#### S. 244.

An act relating to repealing the guidelines for spousal maintenance awards.

**Reported favorably with recommendation of amendment by Senator White for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. SPOUSAL SUPPORT AND MAINTENANCE TASK FORCE

(a) Creation. There is created the Spousal Support and Maintenance Task Force for the purpose of reviewing and making legislative recommendations to Vermont's laws concerning spousal support and maintenance.

(b) Membership. The Task Force shall be composed of the following nine members:

(1) a current member of the House of Representatives appointed by the Speaker of the House;

(2) a current member of the Senate appointed by the Committee on Committees;

(3) a Superior Court judge who has significant experience in the Family Division of Superior Court appointed by the Chief Justice;

(4) the Chief Superior Judge;

(5) two experienced family law attorneys appointed by the Family Law Section of the Vermont Bar Association;

(6) a representative of Vermont Alimony Reform who is domiciled in Vermont;

(7) the Executive Director of the Vermont Commission on Women or a designee who is domiciled in Vermont; and

(8) a member of the public, to be appointed by the Governor.

(c) Powers and duties. The Task Force shall make legislative recommendations to Vermont's spousal support and maintenance laws aimed to improve clarity, fairness, predictability, and consistency across the State in recognition of changes to the family structure in recent decades. The Task Force shall consider:

(1) the impact of the federal tax law passed by Congress in December 2017 on Vermont's spousal support laws;

(2) whether the term "permanent" in 15 V.S.A. § 752(a) should be changed to "long term";

(3) adding the impact of retirement of either the payor or the recipient as a factor in determining the duration or amount of a spousal support award;

(4) the effect of prenuptial agreements on spousal support awards;

(5) the effect of remarriage, cohabitation, or the death of a payor on spousal support judgments;

(6) how the standard of living affects spousal support awards;

(7) the appropriate balance between judicial discretion and consistency in awards; and

(8) whether judicial discretion or the spousal support guidelines are presumptive.

(d) Assistance. The legislative members of the Task Force shall have the assistance of Legislative Council. The Vermont Bar Association shall provide support with any surveys undertaken by the Task Force.

(e) Reports.

(1) On or before November 1, 2018, the Task Force shall submit an interim report on the impact of the federal tax law passed by Congress in

December 2017 on Vermont's spousal support laws, including its effects on existing spousal support payors and recipients.

(2) On or before March 1, 2019, the Task Force shall submit a majority and, if necessary, a minority report to the Senate and House Committees on Judiciary with its recommendations with respect to subdivisions (c)(2)-(8) of this section.

(f) Meetings.

(1) The Superior Court judge appointed in accordance with subdivision (b)(3) of this section shall serve as the Chair.

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

(3) The Task Force shall cease to exist on March 1, 2019.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Task Force shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than ten regular meetings.

(2) Other members of the Task Force 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 for not more than ten regular meetings.

Sec. 2. 2017 Acts and Resolves No. 60, Sec. 3 is amended to read:

Sec. 3. REPEAL

On July 1, ~~2019~~ 2021, 15 V.S.A. § 752(b)(8) (spousal support and maintenance guidelines) is repealed.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

**Reported favorably by Senator Nitka for the Committee on Appropriations.**

The Committee on Appropriations to which the bill was referred, respectfully report that it has considered the same and recommends that the bill ought to pass when amended as recommended by the Committee on Judiciary.

(Committee vote: 7-0-0)

## NOTICE CALENDAR

### Second Reading

#### Favorable

#### H. 694.

An act relating to captive insurance companies.

**Reported favorably by Senator Cummings for the Committee on Finance.**

(Committee vote: 6-0-1)

(No House amendments)

#### Favorable with Recommendation of Amendment

#### S. 162.

An act relating to services for individuals who are Deaf, Hard of Hearing, or DeafBlind.

**Reported favorably with recommendation of amendment by Senator White for the Committee on Government Operations.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. PURPOSE

The Vermont Center for the Deaf and Hard of Hearing closed in September 2014. Prior to its closing, the Center provided comprehensive and statewide educational, social, and support services to children, youth, and adults who are deaf, hard of hearing, or DeafBlind. These services included the Austine School for the Deaf, which closed in June 2014; several regional classrooms; consultant services for mainstreamed students; a parent-infant program; a family mentoring program; adult services; and numerous other support options. While efforts are underway to replace at least some of the discontinued services, it remains unclear whether the educational, support, and service needs of children and other persons in the State who are deaf, hard of hearing, or DeafBlind are currently being met. Over ten percent of Americans experience some degree of hearing loss, which represents over 70,000 Vermonters. It is the purpose of this act to establish the position of the Deaf, Hard of Hearing, and DeafBlind Services Director to serve as a central coordinator and resource for members of the deaf, hard of hearing, and DeafBlind community.

Sec. 2. 33 V.S.A. chapter 16 is amended is read:

CHAPTER 16. VERMONT SERVICES FOR PERSONS WHO ARE DEAF,  
HARD OF HEARING, AND OR DEAFBLIND ADVISORY COUNCIL

\* \* \*

§ 1603. DEAF, HARD OF HEARING, AND DEAFBLIND SERVICES  
DIRECTOR

The position of the Deaf, Hard of Hearing, and DeafBlind Services Director is established within the Department for the purpose of coordinating services within the Agencies of Human Services and of Education for children, youth, and adults who are deaf, hard of hearing, or DeafBlind and for their families. The Director shall have the following responsibilities:

(1) creating and administering a referral network for services for persons who are deaf, hard of hearing, or DeafBlind and for their families, including health, rehabilitative, education, employment, and interpreter services;

(2) coordinating with the Vermont Deaf, Hard of Hearing, and DeafBlind Advisory Council to provide annual recommendations to the Governor, including identifying system strengths and gaps in services;

(3) creating and distributing outreach and educational materials about available resources in a manner that is accessible to persons who are deaf, hard of hearing, or DeafBlind;

(4) establishing effective and collaborative working relationships among the staff of the Agencies of Human Services and of Education, service providers, and community partners; and

(5) providing other coordination services that account for the differing needs and attitudes of members of the deaf, hard of hearing, and DeafBlind community and their families.

Sec. 3. APPROPRIATION

The amount of \$89,347.00 is appropriated in State fiscal year 2019 for the purpose of establishing the position of the Deaf, Hard of Hearing, and DeafBlind Services Director pursuant to 33 V.S.A. § 1603.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

**S. 237.**

An act relating to providing representation to needy persons concerning immigration matters.

**Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 5203 is amended to read:

§ 5203. FEDERAL COURTS

This chapter applies only to representation in or with respect to the courts of this ~~state~~ State. It does not prohibit the ~~defender general~~ Defender General, the ~~deputy defender general~~ Deputy Defender General, or public defenders from representing a needy person in a federal court of the United States, if:

(1) ~~The~~ the matter arises out of or is related to an action pending or recently pending in a court of criminal jurisdiction of the ~~state~~ State; ~~or~~

(2) ~~Representation~~ representation is under a plan of the ~~United States~~ U.S. District Court as required by the Criminal Justice Act of 1964 (18 U.S.C. § 3006A); ~~or~~

(3) representation is in or with respect to a matter arising out of or relating to immigration status.

Sec. 2. 13 V.S.A. § 5241 is amended to read:

§ 5241. INEFFECTIVE ASSISTANCE CLAIM

\* \* \*

(b) In the performance of duties pursuant to a contract with or providing ad hoc legal services to the Office of the Defender General, an attorney shall have the benefit of ~~sovereign~~ immunity to the same extent as an attorney employed by the Defender General.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

## House Proposal of Amendment

### S. 103.

An act relating to the regulation of toxic substances and hazardous materials.

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

\* \* \* Toxics Use Reduction and Reporting \* \* \*

Sec. 1. 10 V.S.A. § 6633 is added to read:

#### § 6633. INTERGOVERNMENTAL COMMITTEE ON CHEMICAL MANAGEMENT

(a) Creation. There is created the Intergovernmental Committee on Chemical Management in the State to:

- (1) evaluate chemical inventories in the State on an annual basis;
- (2) identify potential risks to human health and the environment from chemical inventories in the State; and
- (3) propose measures or mechanisms to address the identified risks from chemical inventories in the State.

(b) Membership. The Intergovernmental Committee on Chemical Management shall be composed of the following nine members:

- (1) one member of the House of Representatives, appointed by the Speaker of the House;
- (2) one member of the Senate, appointed by the Committee on Committees;
- (3) the Secretary of Agriculture, Food and Markets or designee;
- (4) the Secretary of Natural Resources or designee;
- (5) the Commissioner of Health or designee;
- (6) the Commissioner of Labor or designee;
- (7) the Commissioner of Public Safety or designee;
- (8) the Secretary of Commerce and Community Development or designee;
- (9) the Commissioner of Information and Innovation, or the Commissioner of the successor department, or designee.

(c) Powers and duties. The Intergovernmental Committee on Chemical Management shall:

(1) Convene a citizen advisory panel to provide input and expertise to the Committee. The citizen advisory panel shall consist of persons with expertise in;

(A) toxicology;

(B) environmental law;

(C) manufacturing products;

(D) environmental health;

(E) public health;

(F) risk analysis;

(G) maternal and child health care;

(H) occupational health;

(I) industrial hygiene;

(J) public policy;

(K) chemical management by academic institutions;

(L) retail sales; and

(M) development and administration of information reporting technology or databases.

(2) Monitor actions taken by the U.S. Environmental Protection Agency (EPA) to regulate chemicals under the Toxic Substances Control Act, 15 U.S.C. chapter 53, and notify relevant State agencies of any EPA action relevant to the jurisdiction of the agency.

(3) Annually review chemical inventories in the State in relation to emerging scientific evidence in order to identify chemicals of high concern not regulated by the State.

(d) Assistance. The Intergovernmental Committee on Chemical Management shall have the administrative, technical, and legal assistance of the Agency of Natural Resources; the Agency of Agriculture, Food and Markets; the Department of Health; the Department of Public Safety; the Department of Labor; the Agency of Commerce and Community Development; and the Department of Information and Innovation. The Intergovernmental Committee on Chemical Management shall have the assistance of the Office of Legislative Council for legislative drafting and the assistance of the Joint Fiscal Office for the fiscal and economic analyses.

(e) Report. On or before January 15, and annually thereafter, the Intergovernmental Committee on Chemical Management shall report to the

Senate Committees on Natural Resources and Energy; on Health and Welfare; and on Economic Development, Housing and General Affairs and the House Committees on Natural Resources, Fish and Wildlife; on Human Services; and on Commerce and Economic Development regarding the actions of the Committee. The provisions of 2 V.S.A. § 20(d) regarding expiration of required reports shall not apply to the report to be made under this section. The report shall include:

(1) an estimate or summary of the known chemical inventories in the State, as determined by metrics or measures established by the Committee;

(2) a summary of any change under federal statute or rule affecting the regulation of chemicals in the State;

(3) recommended legislative or regulatory action to address the risks posed by new or emerging chemicals of high concern; and

(4) recommended legislative or regulatory action to reduce health risks from exposure to chemicals of high concern and reduce risks of harm to the natural environment.

(f) Meetings.

(1) The Secretary of Natural Resources shall be the chair of the Intergovernmental Committee on Chemical Management.

(2) The Secretary of Natural Resources shall call the first meeting of the Intergovernmental Committee on Chemical Management to occur on or before July 1, 2017.

(3) A majority of the membership of the Intergovernmental Committee on Chemical Management shall constitute a quorum.

(4) The Intergovernmental Committee on Chemical Management shall meet no more than four times in a calendar year.

(g) Authority of agencies. The establishment of the Intergovernmental Committee on Chemical Management shall not limit the independent authority of a State agency to regulate chemical use or management under existing State or applicable federal law.

## Sec. 2. INTERGOVERNMENTAL COMMITTEE ON CHEMICAL MANAGEMENT; REPORT ON TOXIC USE REDUCTION AND REPORTING

On or before February 15, 2018, after consultation with the citizen advisory panel and as part of the first report required under 10 V.S.A. § 6633(e), the Intergovernmental Committee on Chemical Management shall:

(1) Recommend how the State shall establish a centralized or unified electronic reporting system to facilitate compliance by businesses and other entities with chemical reporting and other regulatory requirements in the State. The recommendation shall:

(A) identify a State agency or department to establish and administer the reporting system;

(B) estimate the staff and funding necessary to administer the reporting system;

(C) propose how businesses and the public can access information submitted to or maintained as part of the reporting systems, including whether access to certain information or categories of information should be limited due to statutory requirements, regulatory requirements, trade secret protection, or other considerations;

(D) propose how information maintained as part of the reporting system can be accessed, including whether the information should be searchable by: chemical name, common name, brand name, product model, Global Product Classification (GPC) product brick description, standard industrial classification, chemical facility, geographic area, zip code, or address;

(E) propose how manufacturers of consumer products or subsets of consumer products shall report or notify the State of the presence of designated chemicals of concern in a consumer product and how information reported by manufacturers is made available to the public;

(F) propose a method for displaying information or filtering or refining search results so that information maintained on the reporting system can be accessed or identified in a serviceable or functional manner for all users of the system, including governmental agencies or departments, commercial and industrial businesses reporting to the system, nonprofit associations, and citizens; and

(G) estimate a timeline for establishment of the reporting system.

(2) Recommend statutory amendments and regulatory revisions to existing State recordkeeping and reporting requirements for chemicals, hazardous materials, and hazardous wastes in order to facilitate assessment of risks to human health and the environment posed by the use of chemicals in the State. The recommendations shall include:

(A) the thresholds or amounts of chemicals used, manufactured, or distributed, and hazardous materials and hazardous wastes generated or managed in the State that require recordkeeping and reporting;

(B) the persons or entities using, manufacturing, or distributing chemicals and generating or managing hazardous materials and hazardous wastes that are subject to recordkeeping and reporting requirements; and

(C) any changes required to streamline and modernize existing recordkeeping and reporting requirements to facilitate compliance by businesses and other entities.

(3) Recommend amendments to the requirements for Toxic Use Reduction and Hazardous Waste Reduction under 10 V.S.A. chapter 159, subchapter 2 that shall include:

(A) The list of chemicals or materials subject to the reporting and planning requirements. The list of chemicals or materials shall include and be in addition to the chemicals or substances listed under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986 and 18 V.S.A. § 1773 (chemicals of high concern to children).

(B) The thresholds or amounts of chemicals used or hazardous waste generated by a person that require reporting and planning.

(C) The information to be reported, including:

(i) the quantity of hazardous waste generated and the quantity of hazardous waste managed during a year;

(ii) the quantity of toxic substances, or raw material resulting in hazardous waste, used during a year;

(iii) an assessment of the effect of each hazardous waste reduction measure and toxics use reduction measure implemented; and

(iv) a description of factors during a year that have affected toxics use, hazardous waste generation, releases into the environment, and on-site and off-site hazardous waste management.

(D) The persons or entities using chemicals or generating hazardous waste that are subject to reporting and planning;

(E) Proposed revisions to the toxic chemical or hazardous waste reduction planning requirements, including conditions or criteria that qualify a person to complete a plan.

(F) Any changes to streamline and modernize the program to improve its effectiveness.

(4) Draft legislation to implement the Committee's recommendations under subdivisions (1), (2), and (3) of this section.

\* \* \* Testing Groundwater \* \* \*

Sec. 3. 10 V.S.A. § 1982 is added to read:

§ 1982. TESTING OF GROUNDWATER SOURCES

(a) Definition. As used in this section, “groundwater source” means that portion of a potable water supply that draws water from the ground, including a drilled well, shallow well, driven well point, or spring.

(b) Testing prior to new use. Prior to use of a new groundwater source as a potable water supply, the person who owns or controls the groundwater source shall test the groundwater source for the parameters set forth in subsection (c) of this section.

(c) Parameters of testing. A water sample collected under this section shall be analyzed for, at a minimum: arsenic, lead, uranium, gross alpha radiation, total coliform bacteria, total nitrate and nitrite, fluoride, manganese, and any other parameters required by the Agency by rule. The Agency by rule may require testing for a parameter by region or specific geographic area of concern.

(d) Submission of test results. Results of the testing required under subsection (b) shall be submitted, on a form provided by the Department of Health, to the Department of Health and, when required by the Secretary pursuant to a permit, to the Secretary.

(e) Rulemaking. The Secretary, after consultation with the Department of Health, the Wastewater and Potable Water Supply Technical Advisory Committee, private laboratories, and other interested parties, shall adopt by rule requirements regarding:

(1) when, prior to use of a new groundwater source, the test required under subsection (b) of this section shall be conducted;

(2) who shall be authorized to sample the source for the test required under subsections (b) and (c) of this section, provided that the rule shall include the person who owns or controls the groundwater source and licensed well drillers among those authorized to sample the source;

(3) how a water sample shall be collected in order to comply with the requirements of the analyses to be performed; and

(4) any other requirements necessary to implement this section.

(f) Marketability of title. Noncompliance with the requirements of this section shall not affect the marketability of title or create a defect in title of a property, provided water test results required under this section are forwarded, prior to the conveyance of the property, to the Department of Health and, when required by the Secretary pursuant to a permit, to the Agency.

Sec. 4. AGENCY OF NATURAL RESOURCES; GROUNDWATER  
SOURCE TESTING; RULEMAKING

The Secretary of Natural Resources shall commence rulemaking under 10 V.S.A. § 1982 on or before July 1, 2017. The Secretary shall adopt rules under 10 V.S.A. § 1982 on or before January 1, 2018.

Sec. 5. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

(a) ~~The commissioner~~ Commissioner may certify a laboratory that meets the standards currently in effect of the National Environmental Laboratory Accreditation Conference and is accredited by an approved National Environmental Laboratory Accreditation Program accrediting authority or its equivalent to perform the testing and monitoring:

(1) required under 10 V.S.A. chapter 56 and the federal Safe Drinking Water Act; and

(2) of water from a potable water supply, as that term is defined in 10 V.S.A. § 1972(6).

(b)(1) ~~The commissioner~~ Commissioner may by order suspend or revoke a certificate granted under this section, after notice and opportunity to be heard, if the ~~commissioner~~ Commissioner finds that the certificate holder has:

(A) submitted materially false or materially inaccurate information; or

(B) violated any material requirement, restriction, or condition of the certificate; or

(C) violated any statute, rule, or order relating to this title.

(2) The order shall set forth what steps, if any, may be taken by the certificate holder to relieve the holder of the suspension or enable the certificate holder to reapply for certification if a previous certificate has been revoked.

(c) A person may appeal the suspension or revocation of the certificate to the ~~board~~ Board under section 128 of this title.

\* \* \*

(f) A laboratory certified to conduct testing of groundwater sources or water supplies from for use by a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), including under the requirements of 10 V.S.A. § 1982, shall submit the results of groundwater analyses to the ~~department of health and the agency of natural resources~~ Department of Health in a format required by the ~~department of health~~ Department of Health.

Sec. 6. 10 V.S.A. § 1974 is amended to read:

§ 1974. EXEMPTIONS

Notwithstanding any other requirements of this chapter, the following projects and actions are exempt:

\* \* \*

(8) From the permit required for operation of failed supply under subdivision 1973(a)(4) of this title for the use or operation of a failed supply that consists of only one groundwater source that provides water to only one single family residence.

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

Sec. 7. 18 V.S.A. § 1775(b) is amended to read:

(b) Format for notice. The Commissioner shall specify the format for submission of the notice required by subsection (a) of this section, provided that the required format shall be generally consistent with the format for submission of notice in other states with requirements substantially similar to the requirements of this section. Any notice submitted under subsection (a) shall contain the following information:

(1) the name of the chemical used or produced and its chemical abstracts service registry number;

(2) a description of the product or product component containing the chemical, including: the brand name, the product model, and the universal product code if the product has such a code;

(3) the amount of the chemical contained in each unit of the product or product component, reported by weight or parts per million as authorized by the Commissioner;

(4) the name and address of the manufacturer of the children's product and the name, address, and telephone number of a contact person for the manufacturer;

(5) any other information the manufacturer deems relevant to the appropriate use of the product; and

(6) any other information required by the Commissioner under rules adopted pursuant to 3 V.S.A. chapter 25.

Sec. 8. 18 V.S.A. § 1776 is amended to read:

§ 1776. RULEMAKING; ADDITIONAL CHEMICALS OF CONCERN TO CHILDREN; PROHIBITION OF SALE

\* \* \*

(b) Additional chemicals of concern to children. The Commissioner may by rule add additional chemicals to the list of chemicals of high concern to children, provided that the Commissioner of Health, on the basis of ~~the weight of credible independent, peer-reviewed,~~ scientific ~~evidence has~~ research, determined determines that a chemical proposed for addition to the list meets both of the following criteria in subdivisions (1) and (2) of this subsection:

(1) The Commissioner of Health has determined that an authoritative governmental entity or accredited research university has demonstrated that the chemical:

(A) harms the normal development of a fetus or child or causes other developmental toxicity;

(B) causes cancer, genetic damage, or reproductive harm;

(C) disrupts the endocrine system;

(D) damages the nervous system, immune system, or organs or causes other systemic toxicity; or

(E) is a persistent bioaccumulative toxic.

(2) The chemical has been found through:

(A) biomonitoring to be present in human blood, umbilical cord blood, breast milk, urine, or other bodily tissues or fluids;

(B) sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(C) monitoring to be present in fish, wildlife, or the natural environment.

\* \* \*

(d) Rule to regulate sale or distribution.

(1) The Commissioner, ~~upon the recommendation of~~ after consultation with the Chemicals of High Concern to Children Working Group, may adopt a rule to regulate the sale or distribution of a children's product containing a chemical of high concern to children upon a determination that:

~~(A) children will~~ may be exposed to a chemical of high concern to children in the children's product; ~~and~~

~~(B) there is a probability that, due to the degree of exposure or~~

~~frequency of exposure of a child to a chemical of high concern to children in a children's product, exposure could cause or contribute to one or more of the adverse health impacts listed under subdivision (b)(1) of this section.~~

(2) In determining whether children ~~will~~ may be exposed to a chemical of high concern in a children's product, the Commissioner shall review available, credible information regarding:

(A) the market presence of the children's product in the State;

(B) the type or occurrence of exposures to the relevant chemical of high concern to children in the children's product;

(C) the household and workplace presence of the children's product; or

(D) the potential ~~and frequency~~ of exposure of children to the chemical of high concern to children in the children's product.

(3) A rule adopted under this section may:

(A) prohibit the children's product containing the chemical of high concern to children from sale, offer for sale, or distribution in the State; or

(B) require that the children's product containing the chemical of high concern to children be labeled prior to sale, offer for sale, or distribution in the State.

(4) In any rule adopted under this subsection, the Commissioner shall adopt reasonable time frames for manufacturers, distributors, and retailers to comply with the requirements of the rules. No prohibition on sale or manufacture of a children's product in the State shall take effect sooner than two years after the adoption of a rule adopted under this section unless the Commissioner determines that an earlier effective date is required to protect human health and the new effective date is established by rule.

(5) The Chemicals of High Concern to Children Working Group may, at its discretion, submit to the House Committees on Natural Resources, Fish and Wildlife and on Human Services and the Senate Committees on Natural Resources and Energy and on Health and Welfare the recommendations or information from a consultation provided to the Commissioner under subdivision (1) of this subsection.

\* \* \*

\* \* \* Effective Dates \* \* \*

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1 (Intergovernmental Committee on Chemical Management), 2 (report on toxic use reduction and reporting), and 4 (groundwater testing rulemaking) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2018, except that 10 V.S.A. § 1982(e) in Sec. 3 shall take effect on passage.

**Reported favorably with proposal of amendment by Senator Lyons for the Committee on Health and Welfare**

The Committee recommends that the Senate concur in the House proposal of amendment with further amendments as follows:

First: In Sec. 1, 10 V.S.A. § 6633, in subdivision (f)(2), after “July 1,” and before the period by striking out “2017” and inserting in lieu thereof the following: 2018

Second: In Sec. 2 (Intergovernmental committee on chemical management report), in the first sentence, after “February 15,” and before “, after consultation” by striking out “2018” and inserting in lieu thereof the following: 2019

Third: In Sec. 4 (ANR groundwater source testing rule) in the first sentence, by striking out “2017” where it appears and inserting in lieu thereof the following: 2018 and in the second sentence, by striking out “2018” where it appears and inserting in lieu thereof the following: 2019

(Committee vote: 5-0-0)

**Reported favorably with proposal of amendment by Senator McCormack for the Committee on Appropriations.**

The Committee recommends that the Senate concur in the House proposal of amendment with the following proposal of amendment as a substitute for the proposal of amendment recommended by the Committee on Health and Welfare:

First: by striking out the word “Intergovernmental” wherever it appears in the bill and inserting in lieu thereof the word Interagency

Second: In Sec. 1, 10 V.S.A. § 6633, in subsection (b), after the word “following” by striking out the word “nine” and inserting in lieu thereof the word seven

and by striking out subdivisions (b)(1) and (2) in their entirety and renumbering the remaining subdivisions in subsection (b) to be numerically correct

Third: in subdivision (f)(2), after “July 1,”, by striking out “2017” and inserting in lieu thereof 2018

Fourth: In Sec. 2 (Intergovernmental committee on chemical management report), in the first sentence, after “February 15,” by striking out “2018” and inserting in lieu thereof 2019

Fifth: In Sec. 4 (ANR groundwater source testing rule), in the first sentence, by striking out “2017” where it appears and inserting in lieu thereof 2018

and in the second sentence, by striking out “2018” where it appears and inserting in lieu thereof 2019

Sixth: In Sec. 9 (Effective Dates), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Sec. 3 (groundwater source testing) shall take effect on July 1, 2019, except that 10 V.S.A. § 1982(e) shall take effect of passage.

(c) All other sections shall take effect on July 1, 2018.

(Committee vote: 7-0-0)

### **CONFIRMATIONS**

The following appointment will be considered by the Senate, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Rachel Feldman of Middlesex – Member, Capitol Complex Commission (term 10/2/17 – 2/28/18) – By Sen. Mazza for the Committee on Institutions. (2/13/18)

## PUBLIC HEARINGS

**February 13, 2018 - 6:00 P.M. - 7:00 P.M.** - Room 11 - Re: Governor's Recommended FY 2019 State Budget - House Committee on Appropriations.

### **Community-Based Public Hearings on the Governor's Recommended FY2019 State Budget**

The Vermont House and Senate Committees on Appropriations are seeking public input on the Governor's Recommended FY2019 State Budget and will hold community-based public hearings on Monday, February 12, 2018, 6:00 – 7:00 p.m. at the following 5 locations.

**Johnson State College** – Stearns Student Center, Performance Space, 2<sup>nd</sup> Floor in Stearns

**Rutland City** – Rutland Public Schools, Longfellow School Building, Board Room

**St. Johnsbury** – St. Johnsbury House, Main dining room, 1207 Main St.

**St. Albans City** – St. Albans City School, Library, 29 Bellows St.

**Winooski** – Community College of Vermont, Room 401, 4<sup>th</sup> Floor.

**NEWLY Added Site: Springfield** – Springfield Town Hall, 96 Main Street, 3<sup>rd</sup> Floor Conference Room (Selectmen's Hall)

**5:30-6:30 p.m.**

An additional public hearing will be held on Tuesday, February 13, 2018, 6:00 – 7:00 p.m. in room 11 of the **State House in Montpelier**.

The Committees will take testimony on the Governor's recommended State budget at the above dates and times. Anyone interested in testifying should come to one of the hearings. Time limits on testimony may apply depending on volume of participants. If you have a story you would like to share privately with the committee members, please contact Theresa to schedule this at the end of one of the hearings.

For more information about the format of these events, or to submit written testimony, contact Theresa Utton-Jerman or Rebecca Buck at [tutton@leg.state.vt.us](mailto:tutton@leg.state.vt.us) or [rbuck@leg.state.vt.us](mailto:rbuck@leg.state.vt.us) or at 802-828-5767 or toll-free within Vermont at 1-800-322-5616. **Requests for interpreters should be made by Monday, January 29, 2018.**

**February 22, 2018 - 7:00 P.M.** - Room 11 - Re: Judicial Retention - Joint Committee on Judicial Retention.

## NOTICE OF JOINT ASSEMBLY

**Thursday, February 15, 2018 - 10:30 A.M.** - Election of two (2) trustees for the Vermont State Colleges Corporation.

Candidates for the positions of trustee must notify the Secretary of State **in writing** not later than Thursday, February 8, 2018, by 5:00 P.M. pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.

### FOR INFORMATION ONLY

#### CROSS OVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 2, 2018**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 16, 2018**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

**Note**: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

**Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, and Fee Bill).**