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ACTION CALENDAR
CONSIDERATION INTERRUPTED BY ADJOURNMENT
Second Reading

Favorable with Recommendation of Amendment

S. 285.

An act relating to universal recycling requirements.

Pending Question:

Shall the recommendation of amendment of the Committee on Natural Resources and Energy be amended as moved by Senator Pollina?

Text of amendment:

Senator Pollina has moved that the recommendation of amendment of the Committee on Natural Resources and Energy be amended by striking out Sec. 4 (effective date) and its reader assistance and inserting in lieu thereof six new sections to be Secs. 4–9 and their reader assistances to read as follows:

* * * Beverage Container Redemption * * *

Sec. 4. 10 V.S.A. § 1521 is amended to read:

§ 1521. DEFINITIONS

~~For the purpose of~~ As used in this chapter:

(1) “Beverage” means beer or other malt beverages ~~and~~₂ mineral waters, mixed wine ~~drink,~~ drinks, wine, soda water₂ ~~and~~ carbonated and noncarbonated soft drinks, noncarbonated water, and all nonalcoholic carbonated and noncarbonated drinks in liquid form and intended for human consumption, except for rice milk, soymilk, almond milk, hempseed milk, milk, and dairy products. As of January 1, 1990₂ “beverage” also shall mean liquor.

* * *

(3) “Container” means the individual, separate, bottle, can, jar₂ or carton composed of glass, metal, paper, plastic₂ or any combination of those materials containing a consumer product. This definition shall not include containers made of biodegradable material.

(4) “Distributor” means every person who engages in the sale of consumer products in containers to a dealer in this state State, including any

manufacturer who engages in such sales. Any dealer or retailer who sells, at the retail level, beverages in containers without having purchased them from a person otherwise classified as a distributor, shall be a distributor.

(5) "Manufacturer" means every person bottling, canning, packing, or otherwise filling containers for sale to distributors or dealers.

* * *

(8) "Secretary" means the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources.

(9) "Mixed wine drink" means a beverage containing wine and more than 15 percent added plain, carbonated, or sparkling water; and ~~which that~~ contains added natural or artificial blended material, such as fruit juices, flavors, flavoring, adjuncts, coloring, or preservatives; which that contains not more than 16 percent alcohol by volume; or other similar product marketed as a wine cooler.

(10) "Liquor" means spirits as defined in 7 V.S.A. § 2.

(11) "Deposit initiator" means the first distributor or manufacturer to collect the deposit on a beverage container sold to any person within the State.

Sec. 5. 10 V.S.A. § 1522 is amended to read:

§ 1522. BEVERAGE CONTAINERS; DEPOSIT

(a) Except with respect to beverage containers ~~which that~~ contain liquor, a deposit of ~~not less than five cents~~ \$0.05 shall be paid by the consumer on each beverage container sold at the retail level and shall be refunded to the consumer upon return of the empty beverage container. With respect to beverage containers of volume greater than 50 ml. ~~which that~~ contain liquor or wine, a deposit of ~~15 cents~~ \$0.15 shall be paid by the consumer on each beverage container sold at the retail level and shall be refunded to the consumer upon return of the empty beverage container. The difference between liquor bottle deposits collected and refunds made is ~~hereby~~ retained by the Liquor Control Enterprise Fund for administration of this subsection.

(b) A retailer or a person operating a redemption center who redeems beverage containers shall be reimbursed by the manufacturer or distributor of such beverage containers in an amount ~~which is three and one-half cents~~ of \$0.035 per container for containers of beverage brands that are part of a commingling program and ~~four cents~~ \$0.04 per container for containers of beverage brands that are not part of a commingling program.

(c) ~~[Deleted.]~~ [Repealed.]

(d) Containers shall be redeemed during no fewer than 40 hours per week during the regular operating hours of the establishment.

Sec. 6. 10 V.S.A. § 1524 is amended to read:

§ 1524. LABELING

(a) Every beverage container sold or offered for sale at retail in this ~~state~~ State shall clearly indicate by embossing or imprinting on the normal product label, or in the case of a metal beverage container on the top of the container, the word “Vermont” or the letters “VT” and the refund value of the container in not less than one-eighth inch type size or such other alternate indications as may be approved by the ~~secretary~~ Secretary. This subsection does not prohibit including names or abbreviations of other states with deposit legislation comparable to this chapter.

(b) ~~The commissioner of the department of liquor control~~ Commissioner of Liquor Control may allow, in the case of liquor bottles, a conspicuous, adhesive sticker to be attached to indicate the deposit information required in subsection (a) of this section, provided that the size, placement, and adhesive qualities of the sticker are as approved by the ~~commissioner~~ Commissioner. The stickers shall be affixed to the bottles by the manufacturer, except that liquor ~~which~~ that is sold in the ~~state~~ State in quantities less than 100 cases per year may have stickers affixed by personnel employed by the ~~department~~ Department.

(c) This section shall not apply to permanently labeled beverage containers.

(d) The Secretary may allow, in the case of wine bottles, a conspicuous, adhesive sticker to be attached to indicate the deposit information required in subsection (a) of this section, provided that the size, placement, and adhesive qualities of the sticker are as approved by the Secretary. The stickers shall be affixed by the manufacturer.

Sec. 7. 10 V.S.A. § 1530 is added to read:

§ 1530. ABANDONED BEVERAGE CONTAINER DEPOSITS; DEPOSIT TRANSACTION ACCOUNT; BEVERAGE REDEMPTION FUND

(a) A deposit initiator shall open a separate interest-bearing account in a Vermont branch of a financial institution to be known as the deposit transaction account. The deposit initiator shall keep the deposit transaction account separate from all other revenues and accounts.

(b) Beginning on July 1, 2019, each deposit initiator shall deposit in its deposit transaction account the refund value established by section 1522 of this title for all beverage containers sold by the deposit initiator. The deposit initiator shall deposit the refund value for each beverage container in the account not more than three business days after the date on which the beverage container is sold. All interest, dividends, and returns earned on the deposit transaction account shall be paid directly to the account. The deposit initiator

shall pay all refunds on returned beverage containers from the deposit transaction account.

(c) Beginning on August 10, 2019, and by the tenth day of each month thereafter, every deposit initiator shall report to the Secretary of Natural Resources and the Commissioner of Taxes concerning transactions affecting the deposit initiator's deposit transaction account in the preceding month. The deposit initiator shall submit the report on a form provided by the Commissioner of Taxes. The report shall include:

(1) the balance of the account at the beginning of the preceding month;

(2) the number of nonreusable beverage containers sold in the preceding month and the number of nonreusable beverage containers returned in the preceding month;

(3) the amount of beverage container deposits received by the deposit initiator and deposited into the deposit transaction account;

(4) the amount of refund payments made from the deposit transaction account in the preceding month;

(5) any income earned on the deposit transaction account in the preceding month;

(6) any other transactions, withdrawals, or service charges on the deposit transaction account from the preceding month; and

(7) any additional information required by the Commissioner of Taxes.

(d) On or before August 10, 2019, and on the tenth day of each month thereafter, each deposit initiator shall remit from its deposit transaction account to the Commissioner of Taxes any abandoned beverage container deposits from the preceding month. The amount of abandoned beverage container deposits for a month is the amount equal to the amount of deposits that should be in the fund less the sum of:

(1) income earned on amounts on the account during that month; and

(2) the total amount of refund value received by the deposit initiator for nonrefillable containers during that month.

(e) The Secretary of Natural Resources may prohibit the sale of a beverage that is sold or distributed in the State by a deposit initiator who fails to comply with the requirements of this chapter. The Secretary may allow the sale of a beverage upon the deposit initiator's coming into compliance with the requirements of this chapter.

(f) The Commissioner of Taxes shall deposit in the Solid Waste Management Assistance Account of the Waste Management Assistance Fund

established under section 6618 of this title all abandoned beverage container deposits remitted under subsection (d) of this section.

Sec. 8. 10 V.S.A. § 6618 is amended to read:

§ 6618. WASTE MANAGEMENT ASSISTANCE FUND

(a) There is hereby created in the State Treasury a fund to be known as the Waste Management Assistance Fund, to be expended by the Secretary of Natural Resources. The Fund shall have three accounts: one for Solid Waste Management Assistance, one for Hazardous Waste Management Assistance, and one for Electronic Waste Collection and Recycling Assistance. The Hazardous Waste Management Assistance Account shall consist of a percentage of the tax on hazardous waste under the provisions of 32 V.S.A. chapter 237, as established by the Secretary, the toxics use reduction fees under subsection 6628(j) of this title, and appropriations of the General Assembly. In no event shall the amount of the hazardous waste tax ~~which~~ that is deposited to the Hazardous Waste Management Assistance Account exceed 40 percent of the annual tax receipts. The Solid Waste Management Assistance Account shall consist of the franchise tax on waste facilities assessed under the provisions of 32 V.S.A. chapter 151, subchapter 13, abandoned beverage container deposits remitted to the State under section 1530 of this title, and appropriations of the General Assembly. The Electronic Waste Collection and Recycling Account shall consist of the program and implementation fees required under section 7553 of this title. All balances in the Fund accounts at the end of any fiscal year shall be carried forward and remain a part of the Fund accounts, except as provided in subsection (e) of this section. Interest earned by the Fund shall be deposited into the appropriate Fund account. Disbursements from the Fund accounts shall be made by the State Treasurer on warrants drawn by the Commissioner of Finance and Management.

(b) The Secretary may authorize disbursements from the Solid Waste Management Assistance Account for the purpose of enhancing solid waste management in the State in accordance with the adopted waste management plan. This includes:

* * *

(9) The Secretary shall annually allocate 17 percent of the receipts of this account, based on the projected revenue for that year, for implementation of the Plan adopted pursuant to section 6604 of this title and Solid Waste Implementation Plans adopted pursuant to 24 V.S.A. § 2202a.

* * *

(11) Costs of solid waste management entities and commercial haulers in complying with universal recycling requirements.

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

UNFINISHED BUSINESS OF TUESDAY, FEBRUARY 27, 2018

Second Reading

Favorable with Recommendation of Amendment

S. 222.

An act relating to technical amendments to civil and criminal procedure statutes.

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. 10 V.S.A. § 8007(c) is amended to read:

(c) An assurance of discontinuance shall be in writing and signed by the respondent and shall specify the statute or regulation alleged to have been violated. The assurance of discontinuance shall be simultaneously filed with the Attorney General and the Environmental Division. The Secretary or the Natural Resources Board shall post a final draft assurance of discontinuance to its website and shall provide a final draft assurance of discontinuance to a person upon request. When signed by the Environmental Division, the assurance shall become a judicial order. Upon motion by the Attorney General made within ~~10~~ 14 days ~~of~~ after the date the assurance is signed by the Division and upon a finding that the order is insufficient to carry out the purposes of this chapter, the Division shall vacate the order.

Sec. 2. 12 V.S.A. § 1 is amended to read:

§ 1. RULES OF PLEADING, PRACTICE, AND PROCEDURE; FORMS

The Supreme Court is empowered to prescribe and amend from time to time general rules with respect to pleadings, practice, evidence, procedure, and forms for all actions and proceedings in all courts of this State. The rules thus prescribed or amended shall not abridge, enlarge, or modify any substantive rights of any person provided by law. The rules when initially prescribed or any amendments thereto, including any repeal, modification, or addition, shall take effect on the date provided by the Supreme Court in its order of promulgation, unless objected to by the ~~Joint~~ Legislative Committee on Judicial Rules as provided by this chapter. If objection is made by the ~~Joint~~

Legislative Committee on Judicial Rules, the initially prescribed rules in question shall not take effect until they have been reported to the General Assembly by the Chief Justice of the Supreme Court at any regular, adjourned, or special session thereof, and until after the expiration of 45 legislative days of that session, including the date of the filing of the report. The General Assembly may repeal, revise, or modify any rule or amendment thereto, and its action shall not be abridged, enlarged, or modified by subsequent rule.

Sec. 3. 12 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

As used in sections 3 and 4 of this chapter:

(1) “Adopting authority” means the Chief Justice of the Supreme Court or the ~~administrative judge~~ Chief Superior Judge, where appropriate;

(2) “Court” means the Supreme Court, except in those instances where the statutes permit rules to be adopted by the ~~administrative judge~~ Chief Superior Judge, in which case, the word “court” means the ~~administrative judge~~; Chief Superior Judge.

* * *

Sec. 4. 12 V.S.A. § 701 is amended to read:

§ 701. SUMMONS

(a) Any law enforcement officer authorized to serve criminal process or a State’s Attorney may summon a person who commits an offense to appear before Superior Court by a summons in such form as prescribed by the Court Administrator, stating the time when, and the place where, the person shall appear, signed by the enforcement officer or State’s Attorney and delivered to the person.

* * *

~~(d) A person who does not so appear in response to a summons for a traffic offense as defined in 23 V.S.A. § 2201 shall be fined not more than \$100.00. [Repealed.]~~

Sec. 5. 12 V.S.A. § 3125 is amended to read:

§ 3125. PAYMENT OF TRUSTEE’S CLAIM BY CREDITOR

When it appears that personal property in the hands of a person summoned as a trustee is mortgaged, pledged, or liable for the payment of a debt due to him or her, the court may allow the attaching creditor to pay or tender the amount due to the trustee, and he or she shall thereupon deliver such property, as ~~hereinbefore~~ provided in this subchapter, to the officer holding the execution.

Sec. 6. 12 V.S.A. § 3351 is amended to read:

§ 3351. ATTACHMENT, TAKING IN EXECUTION, AND SALE

Personal property not exempt from attachment, subject to a mortgage, pledge, or lien, may be attached, taken in execution, and sold as the property of the mortgagor, pledgor, or general owner, in the same manner as other personal property, except as ~~hereinafter~~ otherwise provided in this subchapter.

Sec. 7. 18 V.S.A. § 4245 is amended to read:

§ 4245. REMISSION OR MITIGATION OF FORFEITURE

(a) On petition filed within 90 days of after completion of a forfeiture proceeding, ~~the claims commission established in 32 V.S.A. § 931~~ a court that issued a forfeiture order pursuant to section 4244 of this title may order that the forfeiture be remitted or mitigated. The petition shall be sworn, and shall include all information necessary for its resolution or shall describe where such information can be obtained. Upon receiving a petition, the ~~claims commission court~~ shall investigate and may conduct a hearing if in its judgment it would be helpful to resolution of the petition. The ~~claims commission court~~ shall either grant or deny the petition within 90 days.

(b) The ~~claims commission court~~ may remit or mitigate a forfeiture upon finding that relief should be granted to avoid extreme hardship or upon finding that the petitioner has a valid, good faith interest in the property which is not held through a straw purchase, trust, or otherwise for the benefit of another and that the petitioner did not at any time have knowledge or reason to believe that the property was being or would be used in violation of the law.

Sec. 8. 18 V.S.A. § 4474g(b) is amended to read:

(b) Prior to acting on an application for a Registry identification card, the Department shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center. A fingerprint-supported, out-of-state criminal history record and a criminal history record from the Federal Bureau of Investigation shall be required only every three years for renewal of a card for a dispensary owner, principal, and financier.

Sec. 9. REPEAL

2017 Acts and Resolves No. 11, Sec. 60 (amending 32 V.S.A. § 5412) is repealed.

Sec. 10. 3 V.S.A. § 163 is amended to read:

§ 163. JUVENILE COURT DIVERSION PROJECT

(a) The Attorney General shall develop and administer a juvenile court diversion project for the purpose of assisting juveniles charged with delinquent acts. ~~Rules which were adopted by the Vermont Commission on the Administration of Justice to implement the juvenile court diversion project shall be adapted by the Attorney General to the programs and projects established under this section.~~ In consultation with the diversion programs, the Attorney General shall adopt a policies and procedures manual in compliance with this section.

(b) The diversion ~~project program~~ program administered by the Attorney General shall ~~encourage the development~~ support the operation of diversion ~~projects programs~~ in local communities through grants of financial assistance to, or by contracting for services with, municipalities, private groups, or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of project ~~grants~~ funding.

* * *

Sec. 11. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROGRAM

(a) The Attorney General shall develop and administer an adult court diversion program in all counties. ~~The program shall be operated through the juvenile diversion project.~~ In consultation with Diversion programs, the Attorney General shall adopt only such rules as are necessary to establish an adult court diversion program for adults a policies and procedures manual, in compliance with this section.

* * *

(c) The program shall ~~encourage the development~~ support the operation of diversion programs in local communities through grants of financial assistance to, or contracts for services with, municipalities, private groups, or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of program ~~grants~~ funding.

* * *

(e) All adult court diversion programs receiving financial assistance from the Attorney General shall adhere to the following provisions:

(1) The diversion program shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The prosecuting attorney may refer a person to diversion either before or after arraignment and shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. The

matter shall become confidential when notice is provided to the court. If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A) and the crime is a misdemeanor, the prosecutor shall provide the person with the opportunity to participate in the court diversion program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the program would not serve the ends of justice. If the prosecuting attorney refers a case to diversion, the prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise files held by the court, the prosecuting attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

- (A) the Board diversion program declines to accept the case;
- (B) the person declines to participate in diversion;
- (C) the Board diversion program accepts the case, but the person does not successfully complete diversion; or
- (D) the prosecuting attorney recalls the referral to diversion.

* * *

(7)(A) The Irrespective of whether a record was expunged, the adult court diversion program shall maintain sufficient records so that the reasons for success or failure of the program in particular cases and overall can be investigated by program staff. These records shall include a centralized statewide filing system that will include the following information about individuals who have successfully completed an adult court diversion program:

- (i) name and date of birth;
- (ii) offense charged and date of offense;
- (iii) place of residence;
- (iv) county where diversion process took place; and
- (v) date of completion of diversion process.

(B) These records shall not be available to anyone other than the participant and his or her attorney, State's Attorneys, the Attorney General, and directors of adult court diversion programs.

(C) Notwithstanding subdivision (B) of this subsection (e), the Attorney General shall, upon request, provide to a participant or his or her attorney sufficient documentation to show that the participant successfully completed diversion.

* * *

(g)(1) Within 30 days ~~of~~ after the two-year anniversary of a successful completion of adult diversion, the court shall provide notice to all parties of record of the court's intention to order the ~~sealing~~ expungement of all court files and records, law enforcement records other than entries in the adult court diversion program's centralized filing system, fingerprints, and photographs applicable to the proceeding. The court shall give the State's Attorney an opportunity for a hearing to contest the ~~sealing~~ expungement of the records. The court shall ~~seal~~ expunge the records if it finds:

(1)(A) two years have elapsed since the successful completion of the adult diversion program by the participant and the dismissal of the case by the State's Attorney;

(2)(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction; and

(3)(C) rehabilitation of the participant has been attained to the satisfaction of the court.

(2) The court may expunge any records that were sealed pursuant to this subsection prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subdivision, the court shall provide written notice of its intent to expunge the record to the State's Attorney's office that prosecuted the case.

(3)(A) The court shall keep a special index of cases that have been expunged pursuant to this section together with the expungement order. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(B) The special index and related documents specified in subdivision (A) of this subdivision (3) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(C) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case or by the court if the court finds that inspection of the documents is necessary to serve the interests of justice. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(D) The Court Administrator shall establish policies for implementing this subsection (g).

(h) ~~Upon~~ Except as otherwise provided in this section, upon the entry of an order ~~sealing such expunging~~ files and records under this section, the proceedings in the matter ~~under this section~~ shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein.

(i) ~~Inspection of the files and records included in the order may thereafter be permitted by the court only upon petition by the participant who is the subject of such records, and only to those persons named therein. [Repealed.]~~

(j) The process of automatically ~~sealing~~ expunging records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court to have his or her records ~~sealed~~ expunged. ~~Sealing~~ Expungement shall occur if the requirements of subsection (g) of this section are met.

* * *

Sec. 12. 13 V.S.A. § 15 is added to read:

§ 15. USE OF VIDEO

(a) Except as provided by subsection (b) of this section, proceedings governed by Rules 5 and 10 of the Vermont Rules of Criminal Procedure and chapter 229 of this title shall be in person and on the record, and shall not be performed by video conferencing or other electronic means until the Defender General and the Executive Director of the Department of Sheriffs and State's Attorneys execute a joint certification that the video conferencing program in use by the court at the site where the proceeding occurs adequately ensures attorney-client confidentiality and the client's meaningful participation in the proceeding.

(b) A proceeding at which subsection (a) of this section applies may be performed by video conferencing if counsel for the defendant or a defendant not represented by counsel consents.

Sec. 13. 13 V.S.A. § 2301 is amended to read:

§ 2301. MURDER-DEGREES DEFINED

Murder committed by means of poison, or by lying in wait, or by ~~wilful~~ willful, deliberate, and premeditated killing, or committed in perpetrating or attempting to perpetrate arson, sexual assault, aggravated sexual assault, kidnapping, robbery, or burglary, shall be murder in the first degree. All other kinds of murder shall be murder in the second degree.

Sec. 14. EARNED GOOD TIME; REPORT

On or before November 15, 2018, the Commissioner of Corrections, in consultation with the Chief Superior Judge, the Attorney General, the Executive Director of the Department of Sheriffs and State's Attorneys, and the Defender General, shall report to the Senate and House Committees on Judiciary, the Senate Committee on Institutions, and the House Committee on Corrections and Institutions on the advisability and feasibility of reinstating a system of earned good time for persons under the supervision of the Department of Corrections.

Sec. 15. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to miscellaneous judiciary procedures.

(Committee vote: 5-0-0)

UNFINISHED BUSINESS OF TUESDAY, MARCH 13, 2018

Third Reading

S. 272.

An act relating to miscellaneous changes to laws related to motor vehicles and motorboats.

Second Reading

Favorable with Recommendation of Amendment

S. 197.

An act relating to liability for toxic substance exposures or releases.

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:

* * * Strict Liability; Toxic Substance Release * * *

Sec. 1. 10 V.S.A. chapter 159, subchapter 5 is added to read:

Subchapter 5. Strict Liability for Toxic Substance Release

§ 6685. DEFINITIONS

As used in this subchapter:

(1) "Harm" means any personal injury or property damage.

(2) “Release” means any intentional or unintentional, permitted or unpermitted, act or omission that allows a toxic substance to enter the air, land, surface water, groundwater, or any other place where the toxic substance may be located in one or more of the following amounts:

(A) more than two gallons or pounds;

(B) two gallons or pounds or less if the amount released poses a potential or actual threat to human health; or

(C) for any toxic substance regulated under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675, as amended, the reportable quantity specified under 40 C.F.R. § 302.4.

(3)(A) “Toxic substance” means any substance, mixture, or compound that has the capacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption through any body surface and that satisfies one or more of the following:

(i) the substance, mixture, or compound is listed on the U.S. Environmental Protection Agency Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-To-Know Act, Comprehensive Environmental Response, Compensation and Liability Act, and Section 112(r) of the Clean Air Act;

(ii) the substance, mixture, or compound is defined as a “hazardous material” under 10 V.S.A. § 6602 or under rules adopted under 10 V.S.A. chapter 159;

(iii) testing has produced evidence, recognized by the National Institute for Occupational Safety and Health or the U.S. Environmental Protection Agency, that the substance, mixture, or compound poses acute or chronic health hazards;

(iv) the Department of Health has issued a public health advisory for the substance, mixture, or compound; or

(v) the Secretary of Natural Resources has designated the substance, mixture, or compound as a hazardous waste under 10 V.S.A. chapter 159.

(B) “Toxic substance” shall not mean:

(i) a pesticide regulated by the Secretary of Agriculture, Food and Markets; or

(ii) ammunition or components thereof, firearms, air rifles, discharge of firearms or air rifles, or hunting or fishing equipment or components thereof.

§ 6686. LIABILITY FOR RELEASE OF TOXIC SUBSTANCES

(a) Any person who releases a toxic substance shall be held strictly, jointly, and severally liable for any harm resulting from the release.

(b) Any person held liable under subsection (a) of this section shall have the right to seek contribution from any other person who caused or contributed to the release. The right to contribution under this subsection shall include the right to seek contribution from a chemical manufacturer that released a toxic substance when a court determines that the manufacturer failed to warn a person of a toxic substance's propensity to cause the harm complained of.

(c) Nothing in this section shall be construed to supersede or diminish in any way existing remedies available to a person or the State at common law or under statute.

* * * Medical Monitoring Damages * * *

Sec. 2. 12 V.S.A. chapter 219 is added to read:

CHAPTER 219. MEDICAL MONITORING DAMAGES

§ 7201. DEFINITIONS

As used in this chapter:

(1) "Disease" means any disease, ailment, or adverse physiological or chemical change linked with exposure to a toxic substance.

(2) "Exposure" means ingestion, inhalation, contact with the skin or eyes, or any other physical contact.

(3) "Medical monitoring damages" means the cost of medical tests or procedures and related expenses incurred for the purpose of detecting latent disease resulting from exposure.

(4) "Release" means any intentional or unintentional, permitted or unpermitted, act or omission that allows a toxic substance to enter the air, land, surface water, groundwater, or any other place where the toxic substance may be located in one or more of the following amounts:

(A) more than two gallons or pounds;

(B) two gallons or pounds or less if the amount released poses a potential or actual threat to human health; or

(C) for any toxic substance regulated under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675, as amended, the reportable quantity specified under 40 C.F.R. § 302.4.

(5)(A) "Toxic substance" means any substance, mixture, or compound

that has the capacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption through any body surface and that satisfies one or more of the following:

(i) the substance, mixture, or compound is listed on the U.S. Environmental Protection Agency Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-To-Know Act, Comprehensive Environmental Response, Compensation and Liability Act, and Section 112(r) of the Clean Air Act;

(ii) the substance, mixture, or compound is defined as a “hazardous material” under 10 V.S.A. § 6602 or under rules adopted under 10 V.S.A. chapter 159;

(iii) testing has produced evidence, recognized by the National Institute for Occupational Safety and Health or the U.S. Environmental Protection Agency, that the substance, mixture, or compound poses acute or chronic health hazards;

(iv) the Department of Health has issued a public health advisory for the substance, mixture, or compound; or

(v) the Secretary of Natural Resources has designated the substance, mixture, or compound as a hazardous waste under 10 V.S.A. chapter 159; or

(vi) the substance, when released, can be shown by expert testimony to pose a potential threat to human health or the environment.

(B) “Toxic substance” shall not mean:

(i) a pesticide regulated by the Secretary of Agriculture, Food and Markets; or

(ii) ammunition or components thereof, firearms, air rifles, discharge of firearms or air rifles, or hunting or fishing equipment or components thereof.

§ 7202. MEDICAL MONITORING DAMAGES FOR EXPOSURE TO TOXIC SUBSTANCES

(a) A person with or without a present injury or disease shall have a cause of action for medical monitoring damages against a person who released a toxic substance if all of the following are demonstrated by a preponderance of the evidence:

(1) The person was exposed to the toxic substance as a result of tortious conduct by the person who released the toxic substance, including conduct that constitutes negligence, battery, strict liability, trespass, or nuisance;

(2) There is a probable link between exposure to the toxic substance and a latent disease.

(3) The person's exposure to the toxic substance increases the risk of developing the latent disease. A person does not need to prove that the latent disease is certain or likely to develop as a result of the exposure.

(4) Diagnostic testing is reasonably necessary. Testing is reasonably necessary if a physician would prescribe testing for the purpose of detecting or monitoring the latent disease.

(5) Medical tests or procedures exist to detect the latent disease.

(b) A court shall place the award of medical monitoring damages into a court-supervised program administered by a medical professional.

(c) If a court places an award of medical monitoring damages into a court-supervised program pursuant to subsection (c) of this section, the court shall also award to the plaintiff reasonable attorney's fees and other litigation costs reasonably incurred.

(d) Nothing in this chapter shall be deemed to preclude the pursuit of any other civil or injunctive remedy available under statute or common law, including the right of any person to recover for damages related to the manifestation of a latent disease. The remedies in this chapter are in addition to those provided by existing statutory or common law.

(e) This section does not preclude a court from certifying a class action for medical monitoring damages.

* * * Effective Date * * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 4-1-0)

NEW BUSINESS

Third Reading

S. 166.

An act relating to the provision of medication-assisted treatment for inmates.

S. 173.

An act relating to sealing criminal history records when there is no conviction.

S. 206.

An act relating to business consumer protection for point-of-sale equipment leases.

S. 224.

An act relating to co-payment limits for visits to chiropractors.

S. 229.

An act relating to State Board of Education approval of independent schools.

S. 261.

An act relating to mitigating trauma and toxic stress during childhood by strengthening child and family resilience.

Second Reading

Favorable with Recommendation of Amendment

S. 168.

An act relating to employment protection for volunteer emergency responders.

Reported favorably with recommendation of amendment by Senator Soucy for the Committee on Economic Development, Housing and General Affairs.

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. 21 V.S.A. § 495o is added to read:

§ 495o. VOLUNTEER EMERGENCY RESPONDERS

(a) As used in this section:

(1) “Emergency medical personnel” shall include “emergency medical personnel,” “ambulance service,” “emergency medical services,” and “first responder service” as defined in 24 V.S.A. § 2651.

(2) “Firefighter” shall have the same meaning as in 20 V.S.A. § 3151(3).

(3) “Volunteer emergency responder” means a volunteer firefighter or volunteer emergency medical personnel.

(b) An employer shall not discharge, discriminate, or retaliate against an employee because the employee was absent from work to perform duty as a volunteer emergency responder.

(c) This section shall not apply to any public safety agency or provider of emergency medical services if, as determined by the employer, the employee's absence would hinder the availability of public safety or emergency medical services.

(d) An employee that is a volunteer emergency responder shall notify his or her employer at the time of hire or at the time that the employee becomes a volunteer emergency responder and shall provide the employer with a written statement signed by the chief of the volunteer fire department or the designated director or chief of the ambulance service or emergency medical services stating that the employee is a volunteer emergency responder.

(e) Nothing in this section shall prohibit an employer from requiring an employee to provide reasonable notice that the employee is leaving work to respond to an emergency.

(f)(1) An employer shall not be required to compensate an employee for time that an employee is absent from employment while performing his or her duty as a volunteer emergency responder.

(2)(A) An employer may require an employee to use any accrued time off for time that the employee is absent from work while performing his or her duty as a volunteer emergency responder, provided that the employer shall compensate the employee for any accrued time off used at his or her normal hourly wage rate.

(B) Notwithstanding subdivision (A) of this subdivision (2), an employer shall not prevent an employee from performing his or her duty as a volunteer emergency responder due to a lack of accrued time off or paid leave.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

S. 180.

An act relating to the Vermont Fair Repair Act.

Reported favorably with recommendation of amendment by Senator Baruth for the Committee on Economic Development, Housing and General Affairs.

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. FINDINGS

The General Assembly finds:

(1) Manufacturers can make it difficult or impossible—whether inadvertently or intentionally—for consumers or independent repair technicians to fix their consumer electronic products, even for such minor repairs as replacing a battery or screen.

(2) Manufacturers may limit access to information or parts to correct defects to only those customers who are under warranty; may refuse access to information or parts for owners of older models; and may refuse to stock or sell parts at fair and reasonable prices. Consequently, consumers are often left with few options other than to buy new.

(3) Modern repairs involve electronics: any product that can have embedded electronics will eventually have embedded electronics. Repairing those electronics requires information, parts, firmware access, and tooling specifications from the product designers.

(4) The knowledge and tools to repair and refurbish consumer electronic products should be distributed as widely and freely as the products themselves. In contrast to centralized manufacturing, reuse must be broadly distributed to achieve economies of scale.

(5) Many manufacturers have made commitments to sustainability, repair, and reuse, and the innovation economy of Vermont and the United States has had many positive economic and environmental impacts. Legislation that further promotes extending the lifespan of consumer electronic products can create jobs and benefit the environment.

(6) As demonstrated by Massachusetts’s experience with a right to repair initiative concerning automobiles in 2014, which resulted in a compromise between manufacturers and independent repair providers to adopt a voluntary nationwide approach for providing diagnostic codes and repair data available in a common format by the 2018 model year, legislative action to secure a right to repair can achieve positive benefits for manufacturers, independent businesses, and consumers.

Sec. 2. RIGHT TO REPAIR TASK FORCE; REPORT

(a) Creation. There is created the Right to Repair Task Force.

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

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

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

(3) the Attorney General or designee;

(4) the Secretary of Commerce and Community Development or designee; and

(5) the Secretary of Digital Services or designee.

(c) Stakeholder engagement. The Task Force shall solicit testimony and participation in its work from representatives of relevant stakeholders, including authorized and independent repair providers, and consumer, environmental, agricultural, medical device, and other trade groups having an interest in consumer or business electronic product repairs.

(d) Powers and duties. The Task Force shall review and consider the following issues relating to potential legislation designed to secure the right to repair consumer electronic products, including personal electronic devices such as cell phones, tablets, and computers:

(1) the scope of products to include;

(2) economic costs and benefits, including economic development and workforce opportunities;

(3) effects on the cost and availability to consumers of new and used consumer electronic products in the marketplace, including diminished availability of refurbished products for secondary users;

(4) consequences or impacts for intellectual property and trade secrets;

(5) environmental and economic costs of a “throw-away” economy;

(6) legal issues, including potential for alignment or conflict with federal law, and litigation risks;

(7) issues relating to privacy and security features in electronic products; and

(8) any other issues the Task Force considers relevant and necessary to accomplish its work, including regulation of business consumer products or other products the Task Force finds appropriate.

(e) Assistance. The Task Force shall have the administrative, legal, and fiscal assistance of the Office of Legislative Council and the Joint Fiscal Office. Relevant agencies and departments within State government shall provide their technical and other expertise upon request of the Task Force.

(f) Report. On or before December 15, 2018, the Task Force shall submit a written report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development with its findings and any recommendations for legislative action, including specific findings and recommendations concerning personal electronic devices such as cell phones, tablets, and computers.

(g) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Task Force to occur on or before August 1, 2018.

(2) The legislative members of the Task Force shall serve as co-chairs.

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

(4) The Task Force shall cease to exist on December 15, 2018.

(h) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than five meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

Reported favorably by Senator Westman for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs and when so amended ought to pass.

(Committee vote: 6-0-1)

S. 225.

An act relating to access to Vermont Prescription Monitoring System data by academic researchers and coverage by commercial health insurers for costs associated with medication-assisted treatment.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Health and Welfare.

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. COSTS ASSOCIATED WITH MEDICATION-ASSISTED TREATMENT; PILOT PROGRAMS

(a) The Commissioner of Vermont Health Access shall develop pilot programs in which one or more health insurers contribute funding to providers who are not affiliated with an authorized treatment program but who meet federal requirements for use of controlled substances in the pharmacological

treatment of opioid addiction in order to support the costs of funding licensed alcohol and drug counselors and other medical professionals who support this work. The Commissioner shall collaborate with one or more health insurers; a large, integrated federally qualified health center; and a multisite Blueprint community in carrying out the requirements of this section. The pilot programs shall:

(1) align with current Blueprint funding or other payment models that may be developed in consultation with stakeholders for opioid treatment programs and other providers who are not affiliated with an authorized treatment program but who meet federal requirements for use of controlled substances in the pharmacological treatment of opioid addiction;

(2) align with potential integration of Medicare funding into opioid treatment programs and other providers who are not affiliated with an authorized treatment program but who meet federal requirements for use of controlled substances in the pharmacological treatment of opioid addiction; and

(3) be designed to allow the integration into accountable care organization funding.

(b) On or before January 15, 2019, the Commissioner shall report to the Senate Committee on Health and Welfare and House Committees on Health Care and on Human Services regarding the design and construction of the pilot programs and any recommendations for legislative action.

(c) As used in this section:

(1) “Health insurer” means any health insurance company, nonprofit hospital and medical service corporation, managed care organization, and to the extent permitted under federal law any administrator of an insured, self-insured, or publicly funded health care benefit plan offered by public and private entities. The term shall include the administrator of the health benefit plan offered by the State of Vermont to its employees and the administrator of any health benefit plan offered by any agency or instrumentality of the State to its employees. The term shall not include stand-alone dental plans or benefit plans providing coverage for a specific disease or other limited benefit coverage.

(2) “Provider” means physicians, advanced practice registered nurses, and physician assistants.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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

An act relating to pilot programs for coverage by commercial health insurers of costs associated with medication-assisted treatment.

(Committee vote: 5-0-0)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 53.

An act relating to a universal, publicly financed primary care system.

Reported favorably with recommendation of amendment by Senator Ayer for the Committee on Health and Welfare.

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. UNIVERSAL PRIMARY CARE; INTENT

(a) It is the intent of the General Assembly to create and implement a program of universal, publicly financed primary care for all Vermont residents. The program should ensure that Vermonters have access to primary health care without facing financial barriers that might otherwise discourage them from seeking necessary care.

(b) The General Assembly continues to support the principles for health care reform enacted in 2011 Acts and Resolves No. 48, Sec. 1a, and plans to use universal primary care as a platform for a tiered approach to achieving universal health care coverage.

(c) In order to improve Vermonters' access to essential health care services, it is the intent of the General Assembly that universal access to primary care services should be available without cost-sharing.

Sec. 2. UNIVERSAL PRIMARY CARE; FINDINGS

The General Assembly finds that:

(1) Universal access to primary care will advance the health of Vermonters by addressing Vermonters' health care problems before they become more serious and more costly. A large volume of research from throughout the United States concludes that increased access to primary care enhances the overall quality of care and improves patient outcomes.

(2) Universal access to primary care will reduce systemwide health care spending. A study completed in accordance with 2016 Acts and Resolves No. 172, Sec. E.100.10 and submitted on November 23, 2016 found significant cost savings in a review of data from nonuniversal public and private primary

care programs in the United States and around the world. One reason for these savings is that better access to primary care reduces the need for emergency room visits and hospital admissions.

(3) The best primary care program is one that provides primary care for all residents without point-of-service patient cost-sharing or insurance deductibles for primary care services. The study completed in accordance with 2016 Acts and Resolves No. 172, Sec. E.100.10 found that primary care cost-sharing in many locales decreased health care utilization and affected individuals with low income disproportionately.

(4) A universal primary care program will build on and support existing health care reform efforts, such as the Blueprint for Health, the all-payer model, and accountable care organizations.

(5) A universal primary care program can be structured in such a way as to create model working conditions for primary care physicians, who are currently overburdened with paperwork and administrative duties, and who are reimbursed at rates disproportionately lower than those of other specialties.

(6) The costs of a universal primary care program for Vermont were estimated in a study ordered by the General Assembly in 2015 Acts and Resolves No. 54, Secs. 16–19 and submitted on December 16, 2015.

Sec. 3. UNIVERSAL PRIMARY CARE; DRAFT OPERATIONAL MODEL; REPORT

(a)(1) The Green Mountain Care Board shall convene, facilitate, and supervise the participation of certified accountable care organizations, Bi-State Primary Care, and other interested stakeholders with applicable subject matter expertise to develop a draft operational model for a universal primary care program.

(2)(A) Using as its basis the primary care service categories and primary care specialty types described in 33 V.S.A. § 1852, the draft operational model shall address at least the following components:

(i) who would be eligible to receive publicly financed universal primary care services under the program;

(ii) who would deliver care under the program and in what settings;

(iii) how funding for the primary care services would move through the health care system; and

(iv) how to ensure maintenance of records demonstrating quality of care without increasing the administrative burden on primary care providers.

(B) In addition to the components described in subdivision (A) of this subdivision (2), the draft operational model may also include recommendations regarding the specific services that should be included in the universal primary care program and a methodology or benchmark for determining reimbursement rates to primary care providers.

(3) To the extent permitted under the All-Payer ACO Agreement with the Centers for Medicare and Medicaid Services and Vermont's Medicaid Section 1115 waiver, up to \$300,000.00 in expenses incurred by certified accountable care organizations to develop the draft operational model described in this subsection may be funded through delivery system reform payments.

(4) The Senate Committee on Health and Welfare may meet up to five times following the adjournment of the General Assembly in 2018 to provide guidance and receive updates from the Green Mountain Care Board and participating stakeholders developing the draft operational model for universal primary care pursuant to this subsection.

(5) All relevant State agencies shall provide timely responses to requests for information from the Green Mountain Care Board and participating stakeholders developing the draft operational model for universal primary care pursuant to this subsection.

(6) The Green Mountain Care Board and participating stakeholders shall submit the draft operational model for universal primary care on or before January 1, 2019 to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, the Department of Human Resources, and the Department of Vermont Health Access.

(b) On or before July 1, 2019, the Departments of Human Resources and of Vermont Health Access, as the administrative departments with expertise and experience in the administration and oversight of health benefit programs in this State, shall provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance their assessments of the draft operational model plan for universal primary care and their recommendations with respect to implementation of the universal primary care program.

(c) On or before July 1, 2019, the Department of Financial Regulation shall provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance its recommendations for appropriate mechanisms for the State to employ to obtain reinsurance and to guarantee the solvency of the universal primary care program.

Sec. 4. UNIVERSAL PRIMARY CARE; LEGAL ANALYSIS; REPORT

The Office of the Attorney General, in consultation with the Green Mountain Care Board and the Department of Financial Regulation, shall conduct a legal analysis of any potential legal issues regarding implementation of a universal primary care program in Vermont, including whether there are likely any legal impediments due to federal preemption under the Employee Retirement Income Security Act (ERISA) and whether the program could be designed in a manner that would permit Vermont residents to continue to be eligible under federal law to use a health savings account established in conjunction with a high-deductible health plan. The Office shall submit its legal analysis on or before January 1, 2019 to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Sec. 5. UNIVERSAL PRIMARY CARE; SCOPE OF SERVICES AND PROVIDERS; REPORT

(a) The Green Mountain Care Board shall convene a working group of interested stakeholders with applicable subject matter expertise to develop:

(1) recommendations for the specific services and providers that should be included in the universal primary care program, including the scope of the mental health and substance use disorder services, and suggested modifications to 18 V.S.A. § 1852(a)(1) and (2);

(2) methods to resolve coordination of benefits issues in the universal primary care program; and

(3) recommendations for strategies to address other issues associated with the development and implementation of the universal primary care program.

(b) On or before October 1, 2018, the Green Mountain Care Board shall provide the working group's recommendations to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Sec. 6. IMPLEMENTATION TIMELINE; CONDITIONS

(a) In addition to the plans, assessments, and analyses required by Secs. 3, 4, and 5 of this act, the General Assembly adopts the following implementation timeline for the universal primary care program:

(1) submission by the Agency of Human Services of a final implementation plan for universal primary care on or before January 1, 2020;

(2) enactment by the General Assembly of the funding mechanism or mechanisms during the 2020 legislative session;

(3) application by the Agency of Human Services to the U.S. Department of Health and Human Services for all necessary waivers and approvals for universal primary care on or before January 1, 2021; and

(4) coverage of publicly financed primary care services for Vermont residents under the universal primary care program beginning on or before January 1, 2022.

(b) Implementation of the universal primary care program shall occur only if the following conditions are met:

(1) the program will not increase the administrative burden on primary care providers;

(2) the program will provide reimbursement amounts for primary care services that are sufficient to attract an adequate number of primary care providers to participate;

(3) the program has appropriate financing in place to support the covered services while ensuring the continued solvency of the program;

(4) the program will include coverage for basic mental health care;

(5) the program will not include coverage for dental care services;

(6) the program will provide clear information to health care providers and consumers regarding which services are covered and which services are not covered under the universal primary care program; and

(7) the program adheres to the principles of 2011 Acts and Resolves No. 48, Sec. 1a.

Sec. 7. 33 V.S.A. chapter 18, subchapter 3 is added to read:

Subchapter 3. Universal Primary Care

§ 1851. DEFINITIONS

As used in this section:

(1) “Health care facility” shall have the same meaning as in 18 V.S.A. § 9402.

(2) “Health care provider” means a person, partnership, or corporation, including a health care facility, that is licensed, certified, or otherwise authorized by law to provide professional health care services in this State to an individual during that individual’s medical care, treatment, or confinement.

(3) “Health service” means any treatment or procedure delivered by a health care professional to maintain an individual’s physical or mental health or to diagnose or treat an individual’s physical or mental condition or intellectual disability, including services ordered by a health care professional, chronic care management, preventive care, wellness services, and medically necessary services to assist in activities of daily living.

(4) “Primary care” means health services provided by health care

professionals who are specifically trained for and skilled in first-contact and continuing care for individuals with signs, symptoms, or health concerns, not limited by problem origin, organ system, or diagnosis. Primary care does not include dental services.

(5) “Vermont resident” means an individual domiciled in Vermont as evidenced by an intent to maintain a principal dwelling place in Vermont indefinitely and to return to Vermont if temporarily absent, coupled with an act or acts consistent with that intent. The Secretary of Human Services shall establish specific criteria for demonstrating residency.

§ 1852. UNIVERSAL PRIMARY CARE

(a) It is the intent of the General Assembly that all Vermont residents should receive publicly financed primary care services.

(1) The following service categories should be included in a universal primary care program when provided by a health care provider in one of the primary care specialty types described in subdivision (2) of this subsection:

- (A) new or established patient office or other outpatient visit;
- (B) initial new or established patient preventive medicine evaluation;
- (C) other preventive services;
- (D) patient office consultation;
- (E) administration of vaccine;
- (F) prolonged patient service or office or other outpatient service;
- (G) prolonged physician service;
- (H) initial or subsequent nursing facility visit;
- (I) other nursing facility service;
- (J) new or established patient home visit;
- (K) new or established patient assisted living visit;
- (L) other home or assisted living facility service;
- (M) alcohol, smoking, or substance use disorder screening or counseling;
- (N) all-inclusive clinic visit at a federally qualified health center or rural health clinic; and
- (O) mental health.

(2) Services provided by a licensed health care provider in one of the following primary care specialty types should be included in universal primary

care when providing services in one of the primary care service categories described in subdivision (1) of this subsection:

- (A) family medicine physician;
- (B) registered nurse;
- (C) internal medicine physician;
- (D) pediatrician;
- (E) physician assistant or advanced practice registered nurse;
- (F) psychiatrist;
- (G) obstetrician/gynecologist;
- (H) naturopathic physician;
- (I) geriatrician;
- (J) registered nurse certified in psychiatric or mental health nursing;
- (K) social worker;
- (L) psychologist;
- (M) clinical mental health counselor; and
- (N) alcohol and drug abuse counselor.

(b) For Vermont residents covered under Medicare, Medicare should continue to be the primary payer for primary care services, but the State of Vermont should cover any co-payment or deductible amounts required from a Medicare beneficiary for primary care services.

§ 1853. UNIVERSAL PRIMARY CARE FUND

(a) The Universal Primary Care Fund is established in the State Treasury as a special fund to be the single source to finance primary care for Vermont residents.

(b) Into the Fund shall be deposited:

(1) transfers or appropriations from the General Fund, authorized by the General Assembly;

(2) revenue from any taxes established for the purpose of funding universal primary care in Vermont;

(3) if authorized by waivers from federal law, federal funds from Medicaid and from subsidies associated with the Vermont Health Benefit Exchange established in subchapter 1 of this chapter; and

(4) the proceeds from grants, donations, contributions, taxes, and any

other sources of revenue as may be provided by statute or by rule.

(c) The Fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5, except that interest earned on the Fund and any remaining balance shall be retained in the Fund. The Agency of Human Services shall maintain records indicating the amount of money in the Fund at any time.

(d) All monies received by or generated to the Fund shall be used only for payments to health care providers for primary care health services delivered to Vermont residents and to cover any co-payment or deductible amounts required from Medicare beneficiaries for primary care services.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

Reported without recommendation by Senator Lyons for the Committee on Finance.

(Committee voted: 5-1-1)

S. 111.

An act relating to privatization contracts.

Reported favorably with recommendation of amendment by Senator Pearson 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. IMPROVEMENTS TO PRIVATIZATION CONTRACTING

The Secretary of Administration, the Commissioner of Buildings and General Services, the Attorney General, the Auditor of Accounts, and the President of the Vermont State Employees' Association or designee shall study and recommend to the House and Senate Committees on Government Operations, on or before January 15, 2019, improvements to the method by which privatization contracts are awarded, including recommendations to ensure that any State service that is privatized may include provisions regarding livable wages and benefits, and follow-up annual audits to ensure that the projected cost savings are realized through the contracted activity.

(Committee vote: 5-0-0)

Reported favorably by Senator Ashe for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Government Operations and when so amended ought to pass.

(Committee vote: 6-0-1)

S. 287.

An act relating to universal recycling requirements.

Reported favorably with recommendation of amendment by Senator Rodgers for the Committee on Natural Resources and Energy.

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. USE OF BOTTOM BARRIERS WITHOUT PERMIT

(a) 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:

(A) three days prior to placement of the barriers in the water if the Secretary has identified the water as containing threatened or endangered species; or

(B) on the day the barriers are placed in the water if the Secretary has not identified the water as containing threatened or endangered species; 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.

(b) The Secretary of Natural Resources shall designate an e-mail address, telephone number, or other publicly available method by which a lake association may provide the notice required by this section seven days a week.

Sec. 2. ANR REPORT TO GENERAL ASSEMBLY; AQUATIC
NUISANCE CONTROL PERMIT; RULE

(a) On or before January 15, 2019 and prior to issuing the general permit required by 2017 Acts and Resolves No. 67 Sec. 9 or any new aquatic nuisance general permit under 10 V.S.A. chapter 50, the Secretary of Natural Resources shall submit a proposed final draft of the general permit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife while the General Assembly is in session so that the General Assembly may review the general permit and recommend changes.

(b) Prior to filing under 3 V.S.A. § 841, final proposed rule for aquatic nuisance control under 10 V.S.A. chapter 50, the Secretary of Natural Resources shall submit the proposed rule to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife while the General Assembly is in session so that the General Assembly may review the rule and recommend changes.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to aquatic nuisance control.

(Committee vote: 5-0-0)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, 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 Service Board shall be fully and separately acted upon.

Adam Greshin of Warren - Commissioner of the Department of Finance and Management (term 7/10/17 - 2/28/19) - By Senator Clarkson for the Committee on Government Operations. (2/28/19)

Richard J. Wobby of Northfield - Member of the Liquor Control Board - By Senator Ayer for the Committee on Economic Development, Housing and General Affairs. (2/21/18)

NOTICE OF JOINT ASSEMBLY

March 15, 2018 - 10:30 A.M. - Retention of one Superior Court Judge, John R. Treadwell and one Magistrate, Barry E. Peterson.

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).