

# Journal of the House

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**Tuesday, February 20, 2018**

At ten o'clock in the forenoon the Speaker called the House to order.

## **Devotional Exercises**

Devotional exercises were conducted by Rev. Deadra Ashton, Christ Church Presbyterian, Burlington, VT.

## **Pledge of Allegiance**

Page Mack Briglin of Thetford led the House in the Pledge of Allegiance.

## **Message from the Senate No. 25**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

**S. 237.** An act relating to providing representation to needy persons concerning immigration matters.

In the passage of which the concurrence of the House is requested.

The Senate has considered bill originating in the House of the following title:

**H. 694.** An act relating to captive insurance companies.

And has passed the same in concurrence.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

**H.C.R. 239.** House concurrent resolution congratulating the 2017 Class of Boy Scout Eagle rank recipients in Vermont.

**H.C.R. 240.** House concurrent resolution in memory of former Representative Gordon N. Stafford of Brighton.

**H.C.R. 241.** House concurrent resolution honoring former Bethel Town Clerk and Treasurer Jean Burnham for her nearly half century of illustrious municipal public service.

**H.C.R. 242.** House concurrent resolution congratulating the U-32 High

School Raiders on winning a fifth consecutive boys' outdoor track and field championship.

**H.C.R. 243.** House concurrent resolution in memory of John T. Ewing of Burlington.

**H.C.R. 244.** House concurrent resolution designating February 13, 2018 as Suicide Prevention Awareness Day at the State House.

**H.C.R. 246.** House concurrent resolution honoring Vermont State Police Lieutenant Matthew Nally Sr. of Cabot for his exemplary public service as a law enforcement officer.

**H.C.R. 247.** House concurrent resolution honoring Patrick Scheidel for his exemplary 27-year career as Essex Town Manager.

**H.C.R. 248.** House concurrent resolution in memory of Vermont National Guard Sergeant Major Michael Evan Cram of Milton.

### **House Bills Introduced**

House bills of the following titles were severally introduced, read the first time and referred to committee or placed on the Calendar as follows:

#### **H. 893**

By Reps. Till of Jericho, Brumsted of Shelburne, Christensen of Weathersfield, Christie of Hartford, Donovan of Burlington, Dunn of Essex, Gannon of Wilmington, Howard of Rutland City, Joseph of North Hero, Lalonde of South Burlington, Lanpher of Vergennes, Lucke of Hartford, McCullough of Williston, Miller of Shaftsbury, Morris of Bennington, Mrowicki of Putney, Poirier of Barre City, Potter of Clarendon, Rachelson of Burlington, Sharpe of Bristol, Stuart of Brattleboro, Sullivan of Burlington, Troiano of Stannard, Walz of Barre City, Webb of Shelburne, Yacovone of Morristown and Yantachka of Charlotte,

House bill, entitled

An act relating to authorizing towns to increase the smoking age to 21;

To the committee on Government Operations.

#### **H. 894**

By the committee on Government Operations,

An act relating to pensions, retirement, and setting the contribution rates for municipal employees;

Pursuant to House rule 48, bill placed on the Calendar for notice.

**Senate Bill Referred****S. 237**

Senate bill, entitled

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

Was read and referred to the committee on Judiciary.

**Third Reading; Bill Passed****H. 581**

House bill, entitled

An act relating to Connectivity Initiative grant eligibility

Was taken up, read the third time and passed.

**Third Reading; Bill Passed****H. 582**

House bill, entitled

An act relating to increased funding for the Connectivity Initiative

Was taken up, read the third time and passed.

**Third Reading; Bill Passed****H. 843**

House bill, entitled

An act relating to technical corrections

Was taken up, read the third time and passed.

**Committee Bill; Second Reading; Third Reading Ordered****H. 892**

**Rep. Briglin of Thetford** spoke for the committee on Health Care.

House bill entitled

An act relating to regulation of short-term, limited-duration health insurance coverage and association health plans

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

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**Second Reading; Bill Amended; Third Reading Ordered****H. 576**

**Rep. Sullivan of Burlington** for the committee on Natural Resources, Fish and Wildlife, to which had been referred House bill entitled,

An act relating to stormwater management

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Three-Acre Stormwater Permit \* \* \*

Sec. 1. FINDINGS

For the purposes of Secs. 1–3 of this act, the General Assembly finds that:

(1) As part of the total maximum daily load (TMDL) plan for Lake Champlain and the implementation plan for the TMDL, the Agency of Natural Resources (ANR) and the U.S. Environmental Protection Agency (EPA) agreed to obtain most of the required pollutant reduction for Lake Champlain from developed lands and nonpoint sources of phosphorus.

(2) In 2015, the General Assembly enacted 2015 Acts and Resolves No. 64 (Act 64) to provide ANR with the statutory authority needed to implement the point source and nonpoint source controls of phosphorus agreed to by ANR and EPA.

(3) After enactment of Act 64, EPA finalized the TMDL for Lake Champlain and listed within the accountability framework for the plan all of the point source and nonpoint source control measures that would be implemented in order to provide reasonable assurances, as required by EPA guidance, that the plan will achieve the load reductions necessary to clean up Lake Champlain.

(4) One provision of Act 64 included in the accountability framework for the Lake Champlain TMDL is the requirement that ANR issue by January 1, 2018 a general permit for discharges of stormwater from impervious surface of three or more acres in size when the discharge previously was not permitted or was permitted under standards in place prior to 2002.

(5) ANR did not issue the three-acre permit by January 1, 2018.

(6) As a result, private property owners who would be subject to the three-acre permit lack certainty as to when their property will be required to be permitted and what the permit will require.

(7) ANR's failure to adopt the three-acre permit and its failure to

comply with statutory requirements are not accepted by the General Assembly and the citizens of Vermont.

Sec. 2. 10 V.S.A. § 1264 is amended to read:

§ 1264. STORMWATER MANAGEMENT

\* \* \*

(b) Definitions. As used in this section:

\* \* \*

(8) “Offset” means a State-permitted or ~~approved State-approved~~ action or project within a stormwater-impaired water, Lake Champlain, or a water that contributes to the impairment of Lake Champlain that a discharger or a third person may complete to mitigate that mitigates the impacts that a discharge of regulated stormwater runoff has on ~~the stormwater-impaired water, or the impacts of phosphorus on Lake Champlain, or a water that contributes to the impairment of Lake Champlain~~ receiving waters.

\* \* \*

(11) “Stormwater impact fee” means the monetary charge assessed to a permit applicant for the discharge of regulated stormwater runoff ~~to a stormwater-impaired water or for the discharge of phosphorus to Lake Champlain, or a water that contributes to the impairment of Lake Champlain~~ in order to mitigate ~~a sediment load level, hydrologic impact, or other impact impacts~~ that the discharger is unable to control through on-site treatment or completion of an offset on a site owned or controlled by the permit applicant.

\* \* \*

(f) Rulemaking. On or before ~~December 31, 2017~~ April 1, 2018, the Secretary shall ~~adopt~~ prefile rules to manage stormwater runoff with the Interagency Committee on Administrative Rules under 3 V.S.A. § 8378. At a minimum, the rules shall:

\* \* \*

(g) General permits.

(1) The Secretary may issue general permits for classes of stormwater runoff that shall be adopted and administered in accordance with the provisions of subsection 1263(b) of this title.

\* \* \*

(3) ~~On or before January 1, 2018,~~ Within 120 days after the adoption by the Secretary of the rules required under subsection (f) of this section, the Secretary shall issue a general permit under this section for discharges of

stormwater from impervious surface of three or more acres in size, when the stormwater discharge previously was not permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual. Under the general permit, the Secretary shall:

(A) Establish a schedule for implementation of the general permit by geographic area of the State. The schedule shall establish the date by which an owner of impervious surface shall apply for coverage under this subdivision (3) ~~of this section~~. The schedule established by the Secretary shall require an owner of impervious surface subject to permitting under this subdivision to obtain coverage by the following dates:

(i) for impervious surface located within the Lake Champlain watershed, the Lake Memphremagog watershed, ~~no later than~~ or the watershed of a stormwater impaired water on or before October 1, 2023; and

(ii) for impervious surface located within all other watersheds of the State, no later than October 1, ~~2028~~ 2033.

(B) Establish criteria and technical standards, such as best management practices, for implementation of stormwater improvements for the retrofitting of impervious surface subject to permitting under this subdivision (3).

(C) Require that a discharge of stormwater from impervious surface subject to the requirements of this section comply with the standards of subsection (h) of this section for redevelopment of or renewal of a permit for existing impervious surface.

(D) Allow the use of stormwater impact fees, offsets, and phosphorus credit trading within the watershed of the water to which the stormwater discharges or runs off.

\* \* \*

(h) Permit requirements. An individual or general stormwater permit shall:

(1) Be valid for a period of time not to exceed five years.

(2) For discharges of regulated stormwater to a ~~stormwater-impaired~~ stormwater-impaired water, for discharges of phosphorus to Lake Champlain or Lake Memphremagog, or for discharges of phosphorus to a water that contributes to the impairment of Lake Champlain or Lake Memphremagog:

(A) In which no TMDL, watershed improvement permit, or water quality remediation plan has been approved, require that the discharge shall

comply with the following discharge standards:

(i) A new discharge or the expanded portion of an existing discharge shall satisfy the requirements of the Stormwater Management Manual and shall not increase the pollutant load in the receiving water for stormwater.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the discharge shall satisfy on-site the water quality, recharge, and channel protection criteria set forth in the Stormwater Management Manual that are determined to be technically feasible by an engineering feasibility analysis conducted by the Agency<sub>2</sub> and the discharge shall not increase the pollutant load in the receiving water for stormwater.

(B) In which a TMDL or water quality remediation plan has been adopted, require that the discharge shall comply with the following discharge standards:

(i) For a new discharge or the expanded portion of an existing discharge, the discharge shall satisfy the requirements of the Stormwater Management Manual, and the Secretary shall determine that there are sufficient pollutant load allocations for the discharge.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the Secretary shall determine that there are sufficient pollutant load allocations for the discharge<sub>2</sub> and the Secretary shall include any requirements that the Secretary deems necessary to implement the TMDL or water quality remediation plan.

(3) Contain requirements necessary to comply with the minimum requirements of the rules adopted under this section, the Vermont water quality standards, and any applicable provision of the Clean Water Act.

\* \* \* Half-Acre Permitting Threshold for Stormwater Discharges \* \* \*

Sec. 3. 10 V.S.A. § 1264(c) is amended to read:

(c) Prohibitions.

(1) A person shall not commence the construction or redevelopment of ~~one~~ one-half of an acre or more of impervious surface without first obtaining a permit from the Secretary.

(2) A person shall not discharge from a facility that has a standard industrial classification identified in 40 C.F.R. § 122.26 without first obtaining a permit from the Secretary.

(3) A person that has been designated by the Secretary as requiring coverage for its municipal separate storm sewer system ~~may~~ shall not

discharge without first obtaining a permit from the Secretary.

(4) A person shall not commence a project that will result in an earth disturbance of one acre or greater, or of less than one acre if part of a common plan of development, without first obtaining a permit from the Secretary.

(5) A person shall not expand existing impervious surface by more than 5,000 square feet, such that the total resulting impervious area is greater than one acre, without first obtaining a permit from the Secretary.

(6)(A) In accordance with the schedule established under subdivision (g)(2) of this section, a municipality shall not discharge stormwater from a municipal road without first obtaining:

(i) an individual permit;

(ii) coverage under a municipal road general permit; or

(iii) coverage under a municipal separate storm sewer system permit that implements the technical standards and criteria established by the Secretary for stormwater improvements of municipal roads.

(B) As used in this subdivision (6), “municipality” means a city, town, or village.

(7) In accordance with the schedule established under subdivision (g)(3) of this section, a person shall not discharge stormwater from impervious surface of three or more acres in size without first obtaining an individual permit or coverage under a general permit issued under this section if the discharge was never previously permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual.

#### Sec. 4. APPLICABILITY OF AGENCY RULES

All Agency of Natural Resources rules applicable to the construction of one acre or more of impervious surface shall be applicable to the construction or redevelopment of one-half of an acre or more of impervious surface.

#### Sec. 5. TRANSITION

The construction or redevelopment of less than one acre of impervious surface shall not require a permit under 10 V.S.A. § 1264(c)(1)(A) provided that:

(1) except for applications for permits issued pursuant to 10 V.S.A. § 1264(c)(4), complete applications for all local, State, and federal permits related to the regulation of land use or a discharge to waters of the State have



been submitted as of July 1, 2022, the applicant does not subsequently file an application for a permit amendment that would have an adverse impact on water quality, and substantial construction of the project commences within two years from July 1, 2022;

(2) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), all local, State, and federal permits related to the regulation of land use or a discharge to waters of the State have been obtained as of July 1, 2022, and substantial construction of the project commences within two years from July 1, 2022;

(3) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), no local, State, or federal permits related to the regulation of land use or a discharge to waters of the State are required, and substantial construction of the project commences within two years from July 1, 2022; or

(4) the construction, redevelopment, or expansion is a public transportation project, and as of July 1, 2022, the Agency of Transportation or the municipality principally responsible for the project has initiated right-of-way valuation activities or determined that right-of-way acquisition is not necessary, and substantial construction of the project commences within five years from July 1, 2022.

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

#### Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1–2 (three-acre stormwater permit) shall take effect on passage.

(b) Secs. 3–5 (half-acre operational threshold) act shall take effect on July 1, 2022.

**Rep. Baser of Bristol**, for the committee on Ways and Means, recommended that the bill ought to pass when amended as recommended by the committee on Natural Resources, Fish and Wildlife and when further amended as follows:

First: In Sec. 2, 10 V.S.A. § 1264, in subsection (f), after “under 3 V.S.A. § 8373.” and before “At a minimum” by inserting the following sentence to read:

On or before April 1, 2019, the Secretary of Natural Resources shall adopt the rules to manage stormwater runoff.

Second: By striking Sec. 6 and its reader assistance in its entirety and inserting in lieu thereof the following:

\* \* \* Stormwater Permit Fees \* \* \*

Sec. 6. 3 V.S.A. 2822(j)(2)(B)(iv)(X) is added to read:

(X) Individual or general operating permits authorizing discharges of stormwater runoff from new development or redevelopment of less than one acre of impervious surface permitted after July 1, 2022 pursuant to 10 V.S.A. 1264(c)(1) shall be exempt from the fees imposed by subdivisions (I) and (II) of this subdivision.

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

Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 1–2 (three-acre stormwater permit) and 6 (permit fees) shall take effect on passage.

(b) Secs. 3–5 (half-acre operational threshold) shall take effect on July 1, 2022.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Natural Resources, Fish and Wildlife was amended as recommended by the committee on Ways and Means. Report of the committee on Natural Resources, Fish and Wildlife as amended agreed to and third reading ordered.

**Second Reading; Bill Amended; Third Reading Ordered**

**H. 693**

**Rep. Strong of Albany**, for the committee on General, Housing and Military Affairs, to which had been referred House bill, entitled

An act relating to designating the Honor and Remember Flag as the State Veterans Flag

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 1 V.S.A § 496a is added to read:

§ 496a. HONOR AND REMEMBER FLAG

The Honor and Remember Flag is designated as the State Flag to recognize those Vermonters who died during or as the result of serving on active duty in the U.S. Armed Forces. This designation will recognize their bravery and educate Vermonters about the sacrifices their fellow citizens have made to protect our nation. The Honor and Remember Flag may be flown on State-owned and municipally owned flagpoles, including those at military facilities, war memorials, and veterans cemeteries, on legal holidays and other designated days. The Department of Buildings and General Services may establish a protocol for the flying of the Honor and Remember Flag and may

accept donations of the flag to be flown on State-owned flagpoles.

Sec. 2. 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 the Honor and Remember Flag”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on General, Housing and Military Affairs agreed to and third reading ordered.

**Favorable Report; Second Reading;  
Third Reading Ordered**

**H. 779**

**Rep. Kitzmiller of Montpelier**, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to the legislative directory prepared by the Secretary of State

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Bill Ordered to Lie**

**S. 103**

House bill, entitled

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

Having appeared on the Calendar for notice, was taken up and pending consideration of the Senate proposal of amendment, on motion of **Rep. Deen of Westminster** the bill was ordered to lie.

**Message from the Senate No. 26**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

**S. 40.** An act relating to increasing the minimum wage.

In the passage of which the concurrence of the House is requested.

The Senate has on its part adopted joint resolution of the following title:

**J.R.S. 49.** Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

**Second Reading; Bill Amended; Third Reading Ordered**

**H. 571**

**Rep. Stevens of Waterbury** for the committee on General, Housing and Military Affairs, to which had been referred House bill entitled,

An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery

Reported in favor of its passage when amended as follows:

First: In Sec. 9, 7 V.S.A. § 101, by striking out subdivision (b)(4) in its entirety and inserting a new subdivision (b)(4) to read:

(4) The Governor shall biennially designate a member of the Board to be its Chair. The Chair shall have general charge of the offices and employees of the Board.

Second: In Sec. 105, 32 V.S.A. § 1010, by striking out the section in its entirety and inserting a new Sec. 105 to read:

Sec. 105. 32 V.S.A. § 1010 is amended to read:

§ 1010. MEMBERS OF CERTAIN BOARDS

(a) Except for those members serving ex officio or otherwise regularly employed by the State, the compensation of the members of the following Boards shall be \$50.00 per diem:

\* \* \*

(7) ~~Liquor Control Board~~ [Repealed.]

\* \* \*

(g) For each day of official duties, a member of the Board of Liquor and Lottery shall receive the same per diem compensation as a member of the General Assembly receives pursuant to 2 V.S.A. § 406(a)(1) together with his or her actual and necessary expenses pursuant to subsection (c) of this section.

Third: In Sec. 111, Transition, in subdivision (a)(1), after the words “The Commissioner of Liquor” by striking out the words “and Lottery” and inserting in lieu thereof the word “Control”

**Rep. Trieber of Rockingham**, for the committee on Appropriations, recommended that the bill ought to pass when amended as recommended by

the committee on General, Housing and Military Affairs and when further amended as follows:

First: In Sec. 9, 7 V.S.A. § 101, by striking out subdivision (b)(1) in its entirety and inserting in lieu thereof a new subdivision (b)(1) to read:

(b)(1) The ~~Liquor Control~~ Board of Liquor and Lottery shall consist of five persons, ~~not more than three members of which.~~ Not all members of the Board shall belong to the same political party.

Second: In Sec. 105, 32 V.S.A. § 1010, by striking out the section in its entirety and inserting in lieu thereof a new Sec. 105 to read:

Sec. 105. [Deleted.]

Third: By inserting a Sec. 105a to read as follows:

Sec. 105a. 32 V.S.A. § 1010 is amended to read:

§ 1010. MEMBERS OF CERTAIN BOARDS

(a) Except for those members serving ex officio or otherwise regularly employed by the State, the compensation of the members of the following Boards shall be \$50.00 per diem:

\* \* \*

(7) ~~Liquor Control~~ Board of Liquor and Lottery

\* \* \*

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on General, Housing and Military Affairs was amended as recommended by the committee on Appropriations. Report of the committee on General, Housing and Military Affairs as amended was agreed to and third reading ordered.

### Adjournment

At eleven o'clock and thirty minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.