

Journal of the Senate

WEDNESDAY, MARCH 28, 2018

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Rosaire Bisson of Barre.

Message from the House No. 36

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 924. An act relating to making appropriations for the support of government.

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

The Governor has informed the House that on the March 27, 2018, he approved and signed a bill originating in the House of the following title:

H. 150. An act relating to parole eligibility.

Committee Relieved of Further Consideration; Bill Committed

H. 560.

On motion of Senator Ayer, the Committee on Health and Welfare was relieved of further consideration of House bill entitled:

An act relating to household products containing hazardous substances, and the bill was committed to the Committee on Natural Resources and Energy.

Bill Referred to Committee on Appropriations

H. 608.

House bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to creating an Older Vermonters Act working group.

Bill Referred to Committee on Finance**H. 904.**

House bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to miscellaneous agricultural subjects.

Bill Referred

House bill of the following title was read the first time and referred:

H. 924.

An act relating to making appropriations for the support of government.

To the Committee on Appropriations.

Bill Amended; Third Reading Ordered**S. 285.**

Senate bill entitled:

An act relating to universal recycling requirements.

Having been called up, was taken up.

Thereupon, pending the question, Shall the recommendation of amendment of the Committee on Natural Resources and Energy be amended as recommended by Senator Pollina?, Senator Pollina requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, Senators Pollina and Bray moved to amend the recommendation of amendment of the Committee on Natural Resources and Energy by adding two new sections to be numbered Secs. 3a and 3b to read as follows:

* * * Unclaimed Beverage Container Deposits * * *

Sec. 3a. 10 V.S.A. § 1530 is added to read:

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

(a) As used in this section, “deposit initiator” means the first distributor or manufacturer to collect the deposit on a beverage container sold to any person within the State.

(b) 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.

(c) 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.

(d) Beginning on October 10, 2019, and quarterly 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 quarter. 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 quarter;
- (2) the number of beverage containers sold in the preceding quarter and the number of beverage containers returned in the preceding quarter;
- (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 quarter;
- (5) any income earned on the deposit transaction account in the preceding quarter;
- (6) any other transactions, withdrawals, or service charges on the deposit transaction account from the preceding quarter; and
- (7) any additional information required by the Commissioner of Taxes.

(e)(1) On or before October 10, 2019, and quarterly thereafter, each deposit initiator shall remit from its deposit transaction account to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that should be in the deposit transaction account less the sum of:

- (A) income earned on amounts on the account during that quarter; and

(B) the total amount of refund value received by the deposit initiator for beverage containers during that quarter.

(2) In any calendar quarter, the deposit initiator may submit to the Commissioner of Taxes a request for reimbursement of refunds paid under this chapter that exceed the funds that are or should be in the deposit initiator's deposit transaction account. The Commissioner of Taxes shall pay a request for reimbursement under this subdivision from the funds remitted to the Commissioner under subdivision (1) of this subsection, provided that:

(A) the Commissioner determines that the funds in the deposit initiator's deposit transaction action are insufficient to pay the refunds on returned beverage containers; and

(B) a reimbursement paid by the Commissioner to the deposit initiator shall not exceed the amount paid by the deposit initiator under subdivision (1) of this subsection (e) in the preceding 12 months less amounts paid to the initiator pursuant to this subdivision (2) during that same 12-month period.

(f) 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.

(g) 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 (e) of this section.

Sec. 3b. 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.

* * *

Which was agreed to on a roll call, Yeas 19, Nays 11.

Senator Pollina having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, McCormack, Pearson, Pollina, Sirotkin, Westman, White.

Those Senators who voted in the negative were: Benning, Branagan, Brock, Collamore, Flory, Mazza, Nitka, Rodgers, Sears, Soucy, Starr.

Thereupon, Senators Kitchel, Ashe, McCormack, Nitka, Sears, Starr and Westman moved the recommendation of amendment of the Committee on Natural Resources and Energy, as amended be amended as follows:

First: In Sec. 3a, 10 V.S.A. § 1530, by striking out subsection (g) in its entirety.

Second: By striking out Sec. 3b in its entirety.

Which was agreed to.

Thereupon, Senator Bray moved to amend the recommendation of amendment of the Committee on Natural Resources and Energy, as amended in Sec. 3a in 10 V.S.A. § 1530(e)(1(B) by striking out the word “received” and inserting in lieu thereof the words paid out

Which was agreed to.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

H. 829. An act relating to appointing town grand jurors.

H. 846. An act relating to the application of general law to chartered municipalities.

Third Readings Ordered

H. 585.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to management of records.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

H. 615.

Senator Nitka, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to prohibiting the use of drones near correctional facilities.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered**H. 611.**

Senator Benning, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to compensation for victims of crime.

Reported recommending that the Senate propose to the House to amend the bill in Sec. 1, 13 V.S.A. § 5357, by amending the last sentence to read as follows: Such subrogation rights shall be against ~~the perpetrator of the crime~~ or any person liable for the pecuniary loss.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

Proposals of Amendment; Third Reading Ordered**H. 836.**

Senator Benning, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to electronic court filings for relief from abuse orders.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. LEGISLATIVE INTENT

This act permits relief from abuse orders to be obtained electronically in certain circumstances when courts are closed while enhancing the safety of all parties involved.

Second: In Sec. 2, 15 V.S.A. § 1106(b)(2) by striking out subparagraph (C) and inserting in lieu thereof a new subparagraph (C) to read as follows:

(C) The affidavit shall be sworn to or affirmed by administration of the oath over the telephone to the applicant by the authorized person, and shall conclude with the following statement: "I declare under the penalty of perjury pursuant to the laws of the State of Vermont that the foregoing is true and accurate. I understand that the penalty for perjury is imprisonment of not more than 15 years or a fine of not more than \$10,000.00, or both." The

authorized person shall note on the affidavit the date and time that the oath was administered.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

Message from the House No. 37

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 55. An act relating to the disposition of unlawful and abandoned firearms.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

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

J.R.S. 53. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, March 29, 2018.