

# Journal of the House

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**Tuesday, April 12, 2011**

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

## **Devotional Exercises**

Devotional exercises were conducted by Rep. Tim Jerman of Essex, VT.

## **Message from the Senate No. 36**

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

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

**S. 34.** An act relating to the collection and disposal of mercury-containing lamps.

**S. 90.** An act relating to respectful language in state statutes in referring to people with disabilities.

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. 26.** Joint resolution strongly reaffirming the general assembly's enthusiastic support for the Vermont Association of Snow Travelers' conversion of the Lamoille Valley Railroad rail bed into a four-season recreational trail and alternative transportation path.

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

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

**H.C.R. 120.** House concurrent resolution congratulating the students of Monument Elementary School in Bennington for their special effort to assist the victims of the recent natural and nuclear disasters in Japan.

**H.C.R. 121.** House concurrent resolution commemorating the 250th anniversary of the town of Hartford.

**H.C.R. 122.** House concurrent resolution congratulating the Stafford Technical Center SADD chapter on winning the 2010 National SADD Chapter

of the Year Award.

**H.C.R. 123.** House concurrent resolution commemorating the sesquicentennial of the Civil War.

**H.C.R. 124.** House concurrent resolution congratulating the 2011 Missisquoi Valley Union High School Thunderbirds Division II championship boys' basketball team.

**H.C.R. 125.** House concurrent resolution acknowledging the many Vermonters living with Alzheimer's disease and designating April 1 as Alzheimer's Awareness Day.

**H.C.R. 126.** House concurrent resolution in memory of Jack Gabriel Hannan, champion freeskiier.

**H.C.R. 127.** House concurrent resolution congratulating the Vermont Children's Trust Foundation on its 20th anniversary and designating April 13, 2011 as Vermont Children's Trust Foundation Day at the State House.

**H.C.R. 128.** House concurrent resolution congratulating the Peace Corps on half a century of exemplary public service.

**H.C.R. 129.** House concurrent resolution congratulating James Kochalka on his designation as the first Vermont cartoonist laureate.

**H.C.R. 130.** House concurrent resolution designating April 27, 2011, as National Walk@Lunch Day in Vermont.

#### **Pledge of Allegiance**

**Page Zachray Akey of Williston** led the House in the Pledge of Allegiance.

#### **Committee Bill Introduced**

##### **H. 452**

**Rep. Sweaney of Windsor**, for the committee on Government Operations, introduced a bill, entitled

An act relating to establishing the boundary line between the towns of Shelburne and St. George

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

#### **Senate Bills Referred**

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

**S. 34**

Senate bill, entitled

An act relating to the collection and disposal of mercury-containing lamps;  
To the committee on Fish, Wildlife & Water Resources.

**S. 90**

Senate bill, entitled

An act relating to respectful language in state statutes in referring to people with disabilities;

To the committee on Government Operations.

**Joint Resolution Referred to Committee****J.R.S. 26**

By Senate Committee on Transportation,

**J.R.S. 26.** Joint resolution strongly reaffirming the general assembly's enthusiastic support for the Vermont Association of Snow Travelers' conversion of the Lamoille Valley Railroad rail bed into a four-season recreational trail and alternative transportation path.

*Whereas*, the St. Johnsbury and Lake Champlain Railroad was completed in 1877 as a 93-mile rail line extending from St. Johnsbury in the east to Swanton in the west, and

*Whereas*, the rail line continued as a privately owned commercial transportation corridor until the state of Vermont purchased it in 1973, renaming it the Lamoille Valley Railroad (LVR), and

*Whereas*, in 1995 and 1997, severe flooding caused major damage to the tracks and ties of the railroad, and

*Whereas*, at the agency of transportation's (AOT's) request, the regional planning commissions, local chambers of commerce, and economic development officials, operating as the Mountain Valley Corridor Consortium, assumed responsibility for conducting the LVR corridor proposal process, and the proposal of the Vermont Association of Snow Travelers (VAST) to create a four-season recreational corridor and alternative transportation path was selected, and

*Whereas*, in accordance with Sec. 16 of No. 141 of the Acts of the 2001 Adj. Sess. (2002), the AOT was directed to obtain federal approval for discontinuance of rail service, as required under the Surface Transportation

Act, and to gain approval to designate the LVR rail bed for interim trail use, and subject to receiving the federal approval, to enter into leases with VAST to construct the four-season recreational corridor and alternative transportation path and with St. Johnsbury and Swanton for municipally managed recreation trails on small segments of the LVR located in those towns, and

*Whereas*, in Sec. 78 of No. 93 of the Acts of the 2005 Adj. Sess. (2006), the general assembly authorized the establishment of the Lamoille Valley Rail Trail (LVRT) project and the acceptance of federal funding that was authorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub.L. No. 109-59) which provided \$5.3 million of federal funds, and

*Whereas*, also in 2006, AOT entered into a long-term lease agreement with VAST to build and maintain the LVRT, and

*Whereas*, on June 1, 2009, the Act 250 district 5, 6, and 7 Act 250 coordinators issued a joint initial jurisdictional opinion, concluding that the LVRT did not require an ACT 250 permit because it qualified for the act's "repair and maintenance exemption," but in response to a number of landowners' requests for reconsideration, two of the three coordinators reversed their original opinions, concluding on September 30, 2009 that the LVRT will require an Act 250 permit (with the other coordinator dissenting), and

*Whereas*, the proposed LVRT project provides an unprecedented opportunity to enhance the protection of natural and cultural resources within the project corridor through the repair of existing areas of trail washout and soil erosion, improved stream crossings, the cleanup of existing hazards, eliminating existing encroachments, and the refurbishment of existing drainage infrastructure, combined with implementation of ongoing maintenance activities, and

*Whereas*, the economic, environmental, and recreational tourism benefits of the LVRT would be of enormous benefit to Vermonters and especially the towns along its path, *now therefore be it*

***Resolved by the Senate and House of Representatives:***

That the General Assembly reaffirms its enthusiastic support for the Vermont Association of Snow Travelers' conversion of the Lamoille Valley Railroad rail bed into a four-season recreational trail and alternative transportation path, *and be it further*

***Resolved:*** That the executive branch of Vermont state government is urged to demonstrate similarly enthusiastic support, including:

1) That the agencies of transportation and of natural resources support VAST in the acquisition of an Act 250 permit, including that the agency of natural resources, where possible, assist VAST with the filing and issuance of that agency's required permits.

2) That the agencies of commerce and community development, of natural resources, and of transportation assist VAST in the securing of the remaining funding necessary to proceed with the full conversion of the rail bed.

3) That the agency of transportation adhere to all commitments it made in the 2006 lease agreement with VAST, *and be it further*

**Resolved:** That the Secretary of State be directed to send a copy of this resolution to VAST Executive Director Bryant Watson, to Secretary of Transportation Brian Searles, to Secretary of Natural Resources Deborah Markowitz, and to Secretary of Commerce and Community Development Lawrence Miller.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the Committee on Transportation.

### **Bill Amended; Third Reading Ordered**

#### **H. 24**

**Rep. South of St. Johnsbury**, for the committee on Corrections and Institutions, to which had been referred House bill, entitled

An act relating to the maintenance and conveyance of Maidstone Lake Road

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

#### Sec. 1. MAIDSTONE LAKE ROAD

(a) Notwithstanding any law, including 19 V.S.A. § 309b, the town of Maidstone is authorized to accept that 5.93-mile portion of the existing road known as Maidstone Lake Road beginning at Route 102 and ending at the entrance to Maidstone State Park, including the segment located within the town of Brunswick, as a Class 3 town highway of the town of Maidstone, even though the road does not meet the road and bridge standards adopted by the town of Maidstone pursuant to 19 V.S.A. § 309b.

(b) Of the funds appropriated to the agency of natural resources in Sec. 20 of No. 43 of the Acts of the 2009 Adj. Sess. (2010), for the purpose of upgrading and maintaining the road, the balance remaining as of January 1, 2011 shall be transferred to the town of Maidstone and shall be used by the town for that purpose.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

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

**Bill Amended; Third Reading Ordered****H. 448**

**Rep. Atkins of Winooski** spoke for the committee on Government Operations.

**Rep. Heath of Westford**, for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to contributions to the state and municipal employees' retirement systems

Reported in favor of its passage when amended as follows:

In Sec. 1, subdivision (b)(2), in the second sentence, by striking out "1.3 percent" and by inserting in lieu thereof the words "the total increased contributions", and, preceding "group C", by striking out the words "the total" and, preceding "on an aggregate", by striking out the words "per year"

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Appropriations agreed to.

Pending the question, Shall the bill be read the third time? **Rep. Atkins of Winooski** moved to amend the bill as follows:

First: By adding two new sections to be Sec. 1a and Sec. 1b to read:

Sec. 1a. 3 V.S.A. § 925 is amended to read:

§ 925. MEDIATION; FACT FINDING

\* \* \*

(k) In the case of the state of Vermont, the decision of the board shall recommend its choice to the general assembly as the bargaining agreement which shall become effective subject to appropriations by the general assembly. The board shall determine the cost of the package selected and request the appropriation necessary to fund the recommendation be final, and the terms of the chosen agreement shall be binding on each party, subject to appropriations in accordance with subsection 982(d) of this title. In the case of the University of Vermont or the Vermont state colleges, the decision of the

board shall be final and binding on each party. ~~Nothing herein precludes the general assembly from enacting laws amending provisions of any collective bargaining agreement involving the state of Vermont arrived at under this section.~~

\* \* \*

Sec. 1b. 3 V.S.A. § 982 is amended to read:

§ 982. AGREEMENTS; LIMITATIONS, RENEGOTIATION, AND  
RENEWAL

\* \* \*

(d) When the parties are unable to reach agreement on a collective bargaining agreement, and the Vermont labor relations board recommends an agreement in accordance with subsection 925(k) of this title, the board shall determine the cost of the agreement selected and request the general assembly to appropriate the amount determined to be necessary to implement the selected agreement. If the general assembly chooses to appropriate sufficient funds, the agreement shall become effective at the beginning of the next fiscal year. If the general assembly appropriates less than the amount requested, the terms of the agreement effected by the lesser appropriation shall be renegotiated based on the amount of the funds actually appropriated, and the agreement with the negotiated changes shall become effective at the beginning of the next fiscal year.

(e) No portions of any agreement shall become effective separately except with mutual consent of both parties.

~~(e)~~(f) Such an agreement shall terminate at the expiration of its specified term. Negotiations for a new agreement to take effect upon the expiration of the preceding agreement shall be commenced at any time within one year next preceding the expiration date upon the request of either party and may be commenced at any time previous thereto with the consent of both parties.

~~(f)~~(g) In the event the state of Vermont, the University of Vermont, and the Vermont state colleges as employer and the collective bargaining unit are unable to arrive at an agreement and there is not an existing agreement in effect, the existing contract shall remain in force until a new contract is ratified by the parties. However, nothing in this subsection shall prohibit the parties from agreeing to a modification of certain provisions of the existing contract which, as amended, shall remain in effect until a new contract is ratified by the parties.

~~(g)~~(h) The board is authorized to enforce compliance with all provisions of a collective bargaining agreement upon complaint of either party. In the event a complaint is made by either party to an agreement the board shall proceed in the manner prescribed in section 965 of this title relating to the prevention of unfair labor practices.

Second: In Sec. 3, Review of Vermont State Employees' Retirement Member Contribution Rate Structure, after the words "By July 1, 2016," by adding the words "the governor or his or her designee,"

Which was agreed to and third reading of the bill ordered.

**Bill Read Second Time; Third Reading Ordered**

**H. 450**

**Rep. Grad of Moretown** spoke for the committee on Judiciary.

House bill entitled

An act relating to limited immunity from liability for job performance information disclosed to employers of individuals who work with minors or vulnerable adults

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

**Bill Read Second Time; Consideration Interrupted by Recess**

**H. 258**

**Rep. Ellis of Waterbury**, for the committee on Natural Resources and Energy, to which had been referred House bill, entitled

An act relating to public participation in environmental enforcement proceedings

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

Sec. 1. 10 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

As used in this chapter:

\* \* \*

(4) "Person" means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the



state of Vermont or any agency, department or subdivision of the state, federal agency, or any other legal or commercial entity.

\* \* \*

(12) “Environmental court” or “environmental division” means the environmental division of the superior court established by 4 V.S.A. § 30.

(13) “Federally authorized or delegated program” means an area of environmental regulation where the U.S. Environmental Protection Agency has authorized or delegated to Vermont primary regulatory responsibility, including the Clean Water Act, the Clean Air Act, and the Resource Conservation and Recovery Act.

(14) “Post” means the placing of the required information on the website of the secretary or the board.

Sec. 2. 10 V.S.A. § 8012 is amended to read:

§ 8012. REQUEST FOR HEARING

\* \* \*

(b) The environmental division shall have authority to:

\* \* \*

(2) affirm, or vacate and remand to the secretary an order issued under subdivision 8008(b)(5) of this title. The environmental division shall vacate and remand an order under this subdivision when a violation is found to exist but the procedure contained in the order is ~~not reasonably likely to achieve the intended result~~ insufficient to carry out the purposes of this chapter;

\* \* \*

~~(d) The environmental division may grant party status to an aggrieved person for the purpose of providing evidence and legal arguments only in relation to the sufficiency of an order issued under the authority of section 8008 of this title. As used in this subsection, an “aggrieved person” means a person who demonstrates that the interest of that person is not adequately represented by any other party and who at the time of the alleged violation had:~~

~~(1) an ownership, leasehold or contractual interest in real property directly affected by the violation described in the order; or~~

~~(2) an interest in the outcome of the proceeding which is distinct from the interest of the public at large because of the person’s place of residence, place of employment or place of business.~~

~~(e)~~(d) Notice of a request for hearing shall stay the order and payment of the penalty, if imposed, pending the hearing. The secretary may issue an emergency order with regard to the alleged violation that is the subject of the hearing, if grounds for such an order develop during the hearing process.

~~(f)~~(e) Any claim a person may have under a private right of action which is not determined in a proceeding under this chapter shall be preserved.

Sec. 3. 10 V.S.A. § 8013 is amended to read:

§ 8013. CONDUCT OF HEARINGS; APPEAL; STAY

(a) The secretary shall have the burden of proof by a preponderance of the evidence.

(b) Parties may be represented by counsel in hearings before the environmental division. The agency of natural resources may represent itself. A party may conduct cross-examination required for a full and true disclosure of the facts.

(c) An appeal from a decision of the environmental division may be taken by the secretary, the board, or the respondent to the supreme court. The attorney general also may appeal if the attorney general has appeared as a party.

(d) An appeal by a respondent or the attorney general to the supreme court shall not stay an order, but shall stay payment of a penalty. A respondent may petition the supreme court for a stay of an order.

Sec. 4. 10 V.S.A. § 8014(a) is amended to read:

(a) The secretary may seek enforcement of a final administrative order, final orders pursuant to an assurance of discontinuance, or civil complaints pursuant to section 8019 of this title, or a landfill extension order in the civil, criminal, or environmental division of the superior court.

Sec. 5. 10 V.S.A. § 8019 is amended to read:

§ 8019. ~~ENVIRONMENTAL TICKETING~~ CIVIL COMPLAINTS

(a) The secretary and the board each shall have the authority to adopt rules for the issuance of civil complaints for violations of their respective enabling statutes or rules adopted under those statutes that are enforceable in the ~~judicial bureau pursuant to the provisions of chapter 29 of Title 4~~ environmental division. Any proposed rule under this section shall include ~~both~~ the full, minimum, and waiver penalty amounts for each violation. The maximum civil penalty for any violation brought under this section shall not exceed \$3,000.00 exclusive of court fees.

(b) A civil complaint issued under this section shall preclude the issuing entity from seeking an additional monetary penalty for the violation specified in the complaint when any one of the following occurs: the waiver penalty is paid, judgment is entered after trial or appeal, or a default judgment is entered. Notwithstanding this preclusion, the agency and the board may issue additional complaints or initiate an action under chapter 201 of this title, including a monetary penalty when a violation is continuing or is repeated, and may also bring an enforcement action to obtain injunctive relief or remediation and, in such additional action, may recover the costs of bringing the additional action and the amount of any economic benefit the respondent obtained as a result of the underlying violation in accordance with subdivisions 8010(b)(7) and (c)(1) of this title.

(c) The secretary or board chair and his or her duly authorized representative shall have the authority to amend or dismiss a complaint by so marking the complaint and returning it to the ~~judicial bureau~~ environmental division or by notifying the hearing officer or judge at the hearing.

(d) Subsequent to the issuance of a civil complaint under this section and the conclusion of any hearing and appeal regarding that complaint, the following shall be considered part of the respondent's record of compliance when calculating a penalty under section 8010 of this title:

(1) The respondent's payment of the full or waiver penalty stated in the complaint.

(2) The respondent's commission of a violation after the hearing before the ~~judicial bureau~~ environmental division on the complaint.

(3) The respondent's failure to appear or answer the complaint resulting in the entry of a default judgment.

(4) A finding, after appeal, that the respondent committed a violation.

Sec. 6. 10 V.S.A. § 8020 is added to read:

§ 8020. PUBLIC PARTICIPATION IN ENFORCEMENT

(a) Prior to sending an administrative order, assurance of discontinuance, or civil complaint issued under this chapter to the environmental division, the secretary or the board shall post the administrative order, assurance of discontinuance, or civil complaint for public notice and written comment for 30 days. At the conclusion of the 30-day notice and written comment period, the secretary or the board shall evaluate the proposed action pursuant to the written comments received. After the evaluation of the written comments, the

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secretary or the board may withdraw an administrative order, assurance of discontinuance, or civil complaint.

(b) When the secretary or board issues a final administrative order, assurance of discontinuance, or civil complaint, it shall be sent to the environmental division along with any written comments received during the 30-day comment period. Concurrent with filing, the secretary or board shall post the final proposed action for public notice for 14 days. The environmental division shall hold the administrative order, assurance of discontinuance, or civil complaint for 14 days from the date of filing to allow any person to file a motion for permissive intervention pursuant to the procedure in Rule 24(c) of the Vermont Rules of Civil Procedure. At the conclusion of the 14-day period, if no motion to intervene has been filed, the environmental division shall process the administrative order, assurance of discontinuance, or civil complaint as set out elsewhere in this chapter.

(c) In order for a person to intervene permissively in an administrative order, assurance of discontinuance, or civil complaint, the person shall have filed a written comment with the agency or board setting out the specific objection to the proposed action during the 30-day comment period required under subsection (a) of this section.

(d) When the secretary issues an emergency administrative order, the pre-filing public notice and comment provisions contained in this section shall not apply. The environmental division shall act on the emergency administrative order as required by section 8009 of this title. The secretary shall publish the emergency administrative order concurrent with filing it with the environmental division. A person shall have 14 days from the date the emergency administrative order is filed to file a motion for permissive intervention. A motion to intervene shall not stay an emergency administrative order.

(e) The environmental division shall evaluate a motion from an aggrieved person for permissive intervention in light of Rule 24(b)(1) of the Vermont Rules of Civil Procedure. A motion for permissive intervention shall clearly state the basis for the claim that the administrative order, assurance of discontinuance, or civil complaint is insufficient to carry out the purposes of this chapter. A hearing may be held on the motion for permissive intervention in the discretion of the environmental division. When the environmental division determines that a motion to intervene fails to meet the requirements for permissive intervention, the court shall deny the motion.

(f) When the environmental division permits an aggrieved person to intervene, it shall be for the sole purpose of establishing that the terms of an

administrative order, emergency administrative order, assurance of discontinuance, or civil complaint are insufficient to carry out the purposes of this chapter. The intervenor shall have the burden of proof by a preponderance of the evidence that the administrative order, emergency administrative order, assurance of discontinuance, or civil complaint is insufficient to carry out the purposes of this chapter. A hearing may be held on the claim that the administrative order, emergency administrative order, assurance of discontinuance, or civil complaint is insufficient to carry out the purposes of this chapter in the discretion of the environmental division. The environmental division upon finding that the proposed action is insufficient to carry out the purposes of this chapter shall inform the parties in writing and shall include the basis of its decision and shall vacate the proposed action.

(g) The secretary or board shall not oppose any motion filed for permissive intervention, but when the environmental division permits a person to intervene, the secretary or board may oppose the intervenor's claim that the proposed action is insufficient to carry out the purposes of this chapter. The secretary shall investigate all citizen complaints of a violation of a federally authorized or delegated program and shall respond to known complainants in writing.

(h) As used in this section, an "aggrieved person" means a person who alleges an injury to a particularized interest protected by a statute listed under subsection 8003(a) of this section, and the alleged injury is attributable to a violation addressed by an assurance of discontinuance, administrative order, emergency order, or civil complaint issued under this chapter. An organization or association is an aggrieved person under this section when one or more of its members would be an aggrieved person in his or her own right, the interests at stake are germane to the purposes of the organization or association, and neither the claim asserted nor the relief requested by the organization or association requires participation of the individual member.

Sec. 7. 10 V.S.A. § 8021 is added to read:

§ 8021. COST RECOVERY

(a) When the secretary expends monies from a special fund to remediate an environmental violation, the secretary may recover such monies through an administrative order, emergency administrative order, or assurance of discontinuance issued under this chapter.

(b) When costs are recovered under this section, they shall be deposited into the special fund from which they were expended.

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**Sec. 8. SALVAGE YARD OPERATIONAL STANDARDS**

Sec. 6 of No. 93 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

**Sec. 6. REPEAL**

24 V.S.A. § 2248(a) (statutory operational standards for salvage yards) is repealed ~~March 31, 2011~~ on the effective date of the rules required by 24 V.S.A. § 2248.

**Sec. 9. EFFECTIVE DATE**

This act shall take effect on July 1, 2011, except for Sec. 8 which shall take effect on passage.

**Rep. French of Shrewsbury**, for the committee on Judiciary, recommended that the bill ought to pass when amended as recommended by the committee on Natural Resources and Energy and when further amended as follows:

First: In Sec. 5, 10 V.S.A. § 8019 by adding subsection (e) to read as follows:

(e) Penalties assessed under this section shall be deposited in the general fund.

Second: In Sec. 6, 10 V.S.A. § 8020, by inserting the following at the end of subsection (a):

At the conclusion of the 30-day notice period, if no comments have been received, the secretary or the board shall file the administrative order, assurance of discontinuance, or civil complaint with the environmental division, and the environmental division shall process the administrative order, assurance of discontinuance, or civil complaint as set out elsewhere in this chapter.

Third: By adding new Secs. 8, 9, and 10 to read:

Sec. 8. 4 V.S.A. § 1102 is amended to read:

**§ 1102. JUDICIAL BUREAU; JURISDICTION**

(a) A judicial bureau is created within the judicial branch under the supervision of the supreme court.

(b) The judicial bureau shall have jurisdiction of the following matters:

\* \* \*

(6) Violations of 24 V.S.A. § 2201, relating to littering, burning of solid waste, and illegal dumping.

\* \* \*

~~(17) Violations of the statutes listed in 10 V.S.A. § 8003, any rules or permits issued under those statutes, and any assurances of discontinuance or orders issued under chapter 201 of Title 10, provided that a rule has been adopted and a civil complaint issued concerning such a violation under 10 V.S.A. § 8019.~~

\* \* \*

(d) Three hearing officers appointed by the court administrator shall determine waiver penalties to be imposed for violations within the judicial bureau's jurisdiction, except:

(1) Municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

~~(2) The agency of natural resources and the natural resources board shall include full and waiver penalties in each rule that is adopted under 10 V.S.A. § 8019. For purposes of environmental violations, the issuing entity shall indicate the appropriate full and waiver penalties on the complaint.~~

Sec. 9. 4 V.S.A. § 1106 is amended to read:

§ 1106. HEARING

\* \* \*

(b) The hearing shall be held before a hearing officer and conducted in an impartial manner. The hearing officer may, by subpoena, compel the attendance and testimony of witnesses and the production of books and records. All witnesses shall be sworn. The burden of proof shall be on the state or municipality to prove the allegations by clear and convincing evidence. As used in this section, "clear and convincing evidence" means evidence which establishes that the truth of the facts asserted is highly probable. Certified copies of records supplied by the department of motor vehicles, or the agency of natural resources, ~~or the natural resources board~~ and presented by the issuing officer or other person shall be admissible without testimony by a representative of the department of motor vehicles, or the agency of natural resources, ~~or the natural resources board~~.

\* \* \*

~~(e) A state's attorney may dismiss or amend a complaint, except that dismissal or amendment of a complaint subject to subdivision 1102(b)(17) of this title shall be governed by 10 V.S.A. § 8019(e).~~

\* \* \*

Sec. 10. 4 V.S.A. § 1107 is amended to read:

§ 1107. APPEALS

(a) A decision of the hearing officer may be appealed to the criminal division of the superior court, ~~except for a decision in a proceeding under subdivision 1102(b)(17) of this title.~~ The proceeding before the criminal division of the superior court shall be on the record, or at the option of the defendant, de novo. The defendant shall have the right to trial by jury. An appeal shall stay payment of a penalty and the imposition of points.

~~(b) A decision of the hearing officer in a proceeding under subdivision 1102(b)(17) of this title may be appealed to the environmental division of the superior court created under chapter 27 of this title. The proceedings before the environmental division shall be on the record. The defendant shall not have a right to a jury trial. An appeal shall stay the payment of a penalty.~~

(c) If a decision is appealed, the state's attorney of the county in which the violation occurred shall represent the state, and the state's attorney, grand juror, or municipal attorney shall represent the municipality. ~~In an appeal to the environmental division of the superior court from a decision under subdivision 1102(b)(17) of this title, an attorney from the agency of natural resources or the natural resources board shall represent the state.~~

(d) No appeal as of right exists to the supreme court. On motion made to the supreme court by a party, the supreme court may allow an appeal to be taken to it from the criminal ~~or environmental~~ division of the superior court.

and by renumbering the subsequent sections of the bill to be numerically correct

Fourth: In Sec. 9, prior to renumbering, by striking "Sec. 8" where it appears and inserting in lieu thereof "Sec. 11"

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

**Recess**

At eleven o'clock and ten minutes in the forenoon, the Speaker declared a recess until one o'clock and fifteen minutes in the afternoon.



At one o'clock and twenty minutes in the afternoon, the Speaker called the House to order.

**Consideration Resumed; Bill Amended and Third Reading Ordered**

**H. 258**

Consideration resumed on House bill, entitled

An act relating to public participation in environmental enforcement proceedings;

The recurring question, Shall the report of the committee on Natural Resources and Energy be amended as recommended by the committee on Judiciary? was agreed to.

Thereupon, the report of the committee on Natural Resources and Energy, as amended, was agreed to and third reading ordered.

**Senate Proposal of Amendment Concurred in**

**H. 236**

The Senate proposed to the House to amend House bill, entitled

An act relating to limitation of prosecutions for sexual abuse of a vulnerable adult

The Senate proposed to the House that after passage the title of the bill be amended to read: "An act relating to extending the limitation of prosecutions for sexual abuse of a vulnerable adult"

Which proposal of amendment was considered and concurred in.

**Message from the Senate No. 37**

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

Mr. Speaker:

I am directed to inform the House that:

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

**J.R.S. 27.** Joint resolution relating to weekend adjournment.

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

**Committee Relieved of Consideration  
and Bill Committed to Other Committee**

**S. 90**

**Rep. Sweaney of Windsor** moved that the committee on Government Operations be relieved of House bill, entitled

An act relating to respectful language in state statutes in referring to people with disabilities

And that the bill be committed to the committee on Human Services, which was agreed to.

**Adjournment**

At one o'clock and thirty minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at one o'clock in the afternoon.