



# The **STATEHOUSE INSIDER**

*Weekly politics and analysis  
of transportation issues*



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## **2014 LEGISLATIVE WRAP-UP**

No single overarching issue or personality dominated the 2014 legislative session. Unlike the 2013 session, the Governor did not surprise the legislature with any controversial proposals, but rather showed flexibility with the legislature in dealing with budget, taxes and other issues. There did, however, seem to be a higher level of gamesmanship between the two chambers than is usually the case. It is not unusual for one chamber to tack legislation it wants, and which is languishing in the other chamber, on to a bill that had already passed that

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other chamber. This session both chambers used this tactic on multiple bills coming from the other chamber in a "throw it all against the wall and see what sticks" approach. Nonetheless, in the end and with the exception of reforming PreK-12 education governance, the two chambers were for the most part able to reconcile their differences. House Speaker Shap Smith again demonstrated his strong leadership skills, breaking a tie-vote for the first time in his six year tenure as speaker. It is unknown whether or not he will run again. Senate President John Campbell had a productive and smooth year, thanks in part to politically savvy and supportive staff. He also has yet to publicly say if he'll run for reelection. Meanwhile, over a dozen House members have announced their retirement. None of the 30 Senators have revealed their plans for next year yet, but the filing deadline is June 12.

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Some of the big noteworthy issues this session included the budget, taxes, economic development, labor, health care and education. Lawmakers enacted a FY2015 state budget of \$7.32 billion, up from \$7.07 billion in FY2014. The approved budget is \$2.65 million less than what the Governor proposed despite the fact that it funds expenses, such as a multimillion dollar contract with newly unionized home health workers, that were not included in the Governor's original budget proposal. In order to fund this budget the legislature raised \$5.49 million in new taxes, most of which come from increased taxes on cigarettes and other tobacco products, and an increase on the assessment on employers who do not provide health insurance or, even if they do provide health insurance, have employees on Medicaid.

An omnibus economic development bill, which aims to provide support to new and existing businesses and to promote internships, job training and workforce development, became the vehicle for additional legislative goals, ultimately passing with telecommunications and energy related provisions, among others. The bill, S.220, also includes a proposal pushed by the administration late in the session establishing a \$4.5 million fund to retain and attract

business. The fund was created in large part due to concerns that IBM may sell its Essex Junction plant.

The focus on businesses extended to labor issues this session. A number of labor/employment related bills were introduced. H.552, which raises the state's minimum wage from \$8.73/hour to \$10.50/hour in four stages over four years passed. As did S.316, which allows childcare providers to form a union to negotiate with the state over child care subsidies. However, S.213, which prohibited retaliation against employees who avail themselves of benefits, and which was prompted by publicity over employment practices by the company that provides food service at UVM, Sodexo, did not pass. Neither did H.208, dealing with paid sick leave.

The House Health Care, Senate Health and Welfare and Senate Finance Committees devoted time early in the session discussing health care reform and grilling the administration on their progress with the health care exchange. Lawmakers also voiced their frustration that the administration did not, as it had promised, deliver a plan for publicly financing the single payer health care system it has been pursuing since Governor Shumlin took office in January 2011. Sen. Peter Galbraith, D-Windham, introduced S.252, which called for financing the single payer system largely with payroll taxes, as a way to force the conversation. The bill changed significantly after going through the Senate, House and a conference committee, before failing. The Senate was able to revive sections of the bill by using another piece of legislation as the vehicle.

Vermont also passed a landmark GMO labeling bill. Beginning July 2016, many foods sold in the state containing genetically modified organism will have to be labeled. Food manufacturers have already indicated they will sue to stop this first in the nation requirement.

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## **VADA SPECIFIC LEGISLATION**

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Numerous bills of interest to VADA members were debated in the General Assembly this biennium. Notably, the extremely problematic used car lemon law bill, H.165, that the Vermont AG's office introduced at the beginning of the biennium, is now dead thanks to the many VADA members who testified against it and weighed in with their lawmakers. Below are in-depth summaries of those bills of specific interest to VADA members that passed the House and Senate in 2014, all of which are likely to be signed into law by Governor Shumlin.

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## DMV MISCELLANEOUS BILL

[S.314](#), the DMV Miscellaneous bill, includes several provisions relevant to VADA, which are further explained below.

### *Dealer Plates*

Long before the session started the Senate Transportation Committee signaled to Marilyn Miller at VADA that they wanted to tackle the issue of dealer plates. As a result, VADA spent a considerable amount of time educating lawmakers on the use and importance of dealer plates this year. The bill reduces the number of dealer plates that motor vehicle dealers are issued with their dealer registration, and limits the issuance of additional dealer plates according to the dealer's volume of sales in the prior year. These changes will be implemented on a rolling basis, as dealer registrations expire during the 24-month period following the bill's immediate effective date. The bill also calls for a study, due by January 1, 2015, on the use of dealer plates on towing service vehicles. Below is the dealer plate language that appears on pages 37-39 of the bill. The underlined sections represent new language.

### § 453. FEES AND NUMBER PLATES

(a)(1) An application for dealer's registration shall be accompanied by a fee of \$370.00 for each certificate issued in such dealer's name. The Commissioner shall furnish free of charge with each dealer's registration certificate ~~five sets of three~~ number plates showing the distinguishing number assigned such dealer. ~~In his or her discretion, he or she~~ The Commissioner may furnish further sets of additional plates at a fee of \$40.00 per set according to the volume of the dealer's sales in the prior year or, in the case of an initial registration, according to the dealer's reasonable estimate of expected sales, as follows:

- (A) under 20 sales: 0 additional plates;
- (B) 20-49 sales: 1 additional plate;
- (C) 50-99 sales: up to 5 additional plates;
- (D) 100-249 sales: up to 12 additional plates;
- (E) 250-499 sales: up to 17 additional plates;
- (F) 500-749 sales: up to 27 additional plates;
- (G) 750-999 sales: up to 37 additional plates;

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(H) 1,000-1,499 sales: up to 47 additional plates;

(I) 1,500 or more: up to 57 additional plates.

(2) If the issuance of additional plates is authorized under subdivision (1) of this subsection, up to two plates shall be provided free of charge, and the Commissioner shall collect \$40.00 for each additional plate thereafter.

#### Sec. 30. TRANSITION PROVISION; DEALER PLATES

The Commissioner may enforce compliance with Sec. 29 of this act on a rolling basis as dealer registrations expire over the 24-month period following the effective date of Sec. 29 of this act. Over this 24-month period, upon receiving the renewal application of a dealer who has been issued plates in excess of the limits established in 23 V.S.A. § 453(a)(1), the Commissioner shall require the dealer to return plates that exceed the limits established in 23 V.S.A. § 453(a)(1).

#### Sec. 31. MORATORIUM ON ISSUANCE OF DEALER PLATES; REPEAL

(a) Except for replacement of damaged dealer plates, no dealer registration plates may be issued under 23 V.S.A. § 453(a) to an existing dealer in addition to the number of plates already issued to that dealer, unless the dealer would be eligible for additional plates under 23 V.S.A. § 453(a) as amended by Sec. 29 of this act.

(b) This section shall be repealed on July 1, 2014.

#### Sec. 32. STUDY OF USE OF DEALER PLATES ON TOWING VEHICLES

(a) The Commissioner of Motor Vehicles shall study the use of dealer plates on towing service vehicles and formulate recommendations as to whether the existing law authorizing such use should be repealed, amended, or retained in its existing form. In conducting this study, the Commissioner shall review the laws of other jurisdictions and consult with interested persons, including a cross-section of dealers.

(b) On or before January 15, 2015, the Commissioner shall report his or her findings and recommendations to the House and Senate Committees on Transportation.

#### *Cell Phone Ban*

S.314 was also used as the vehicle for a handheld cell phone ban, an issue that received substantial publicity this session. Just days before adjournment, lawmakers from the House and Senate Transportation and Judiciary Committees, agreed in conference committee to include the ban, which had previously been endorsed by the House and rejected by the Senate, namely the Senate Judiciary Committee.

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Meanwhile Governor Shumlin had a change of heart once the bill passed, supporting the measure, which he had previously publicly opposed. Beginning October 1, Vermonters will be prohibited from using handheld cell phones while driving. Penalties for initial and subsequent offenses within a certain time period will be limited to a fine. Points on a driver's license will only be imposed if the cell phone is used in a work zone or if the driver is a minor. A public education campaign aimed at informing Vermonters of the new law is expected to launch this summer. (See pages 45-49.)

### *Vermont Strong License Plates*

The bill extends for two years to June 30, 2016, the period during which Vermont registered "pleasure cars" and trucks weighing less than 26,001 lbs. (excluding vehicles registered under the International Registration Plan) may display Vermont Strong commemorative plates. After that date the price of any remaining plates will be reduced from \$25.00 to \$5.00. (See page 35.)

### *Autocycles*

Additional language in S.314 allows "autocycles" to be registered in Vermont and classifies them as motorcycles. Elio Motors is the primary company developing these types of vehicles, which have three wheels, two seats, get 84 mpg highway and 48 mpg city, and cost \$6,800. Vermont DMV was supportive of this measure, as it would prevent them from having to come up with a new plates and registration forms. The language also exempts autocycle owners from taking the motorcycle exam and wearing a helmet. (See pages 41-43.)

Additional provisions in S.314 relate to the following:

- Nondriver identification cards.
- Vehicles eligible to display vanity plates.
- Registration validation stickers and proof of temporary registration.
- Recognition of out-of-state learner's permits and junior operators licenses.
- Driver's training school licenses.
- Providing proof of financial responsibility via an electronic device.
- Fuel dealers.
- The allocation of snowmobile registration proceeds.
- Ignition interlocks.
- Single trip permits for oversized vehicles.

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## **THE T-BILL**

Lawmakers gave final approval to [H.872](#), the Transportation bill, in April. Despite being the largest transportation budget to date at \$685 million, the T-bill, a "must pass" bill every session, was unusually uncontroversial this year. The bill outlines

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the transportation projects, services and activities that VTRANS will be engaged in during FY 2014 and 2015. Highlights include the following:

- Supplemental funding for paving and road repair due to harsh winter conditions.
- The transfer of the Vermont Local Roads Program, a grant program operated by Saint Michael's College, to VTRAN's Training Center and the creation of a Local Technical Assistance Program (LTAP) to provide transportation-related technical assistance and training to local communities.
- Requiring that VTRANS provide one annual consolidated transportation system and activities report to the legislature. Currently, such information is provided in several different reports.
- The creation of a Stakeholder Group to review the state's current design standards for highways and roads.

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## DMV PORTAL FEES

Members of the House Ways and Means and Senate Finance Committees negotiated their way to a final version of H.735, the fee bill, during the last week of the session. While the main sticking points in conference committee related to firearm storage fees and universal service charges on prepaid wireless services, Sections 26-28 of the bill are relevant to VADA. These provisions allow the Vermont Web Portal Board to assess a 3 percent fee on over-the-counter credit card payments at DMV branch offices. Former fees were 2.5 percent. This new fee will go into effect July 1 of this year. The full text of the bill as it passed the legislature is not yet available online, however, the DMV language can be found [here](#) (page 11).

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## TOXIC CHEMICALS

One of the most contentious issues this session was the toxic chemicals bill, [S.239](#), which was finalized on the second to last day of the session when the Senate conceded to a watered down House version of the bill. As it passed the legislature, the bill does the following:

- Exempts motor vehicles at the request of VADA and the auto manufacturers
- Creates a list of 66 chemicals of high concern to children. The Department of Health is required to publish the list and review it every two years, beginning July 1, 2017, to determine if additional chemicals should be added.
- Establishes a Chemicals of High Concern to Children Working Group made up of health, environmental and chemical experts, as well as business representatives.
- Requires the Working Group to advise the Commissioner of Health on chemicals that should be added or removed from the list.

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- Allows the Department of Health to regulate the sale of children's products that contain chemicals of high concern to children, provided the Working Group has made a recommendation to do so.
  - Requires the Commissioner of Health to recommend at least two chemicals of high concern to children for review by the Working Group every two years, beginning July 1, 2017.
  - Requires children's product manufacturers and trade associations representing children's product manufacturers to disclose to the Department of Health any chemicals of high concern intentionally added to their products at a specified level of concentration. Manufacturers and trade associations will have to pay a fee of \$200 for each disclosure.
  - Establishes a Chemicals of High Concern to Children Fund to pay for the administration of the above provisions.
  - Requires the Department of Health to submit an annual report to the legislature.

The bill will take effect upon enactment.

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## SECURITY BREACH

The omnibus economic development bill, S.220, includes language relating to security breaches. Specifically, the provisions require law enforcement to notify a business in writing if they believe that a security breach has occurred and to also notify the business of their requirements to report related information to the AG's office or the Department of Financial Regulation. After going to a conference committee, lawmakers gave final approval to the bill on the last day of the session. The full text is not yet available, but the language can be found in the [May 9 House Calendar](#) (starting on page 3657).

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## STRIP DEVELOPMENT

[H.823](#), a bill backed by the Department of Housing and Community Development that encourages growth in designated downtowns, passed the legislature this session with provisions aimed at discouraging sprawl and "strip development." Specifically, the bill adds a definition of "strip development" under Act 250 and includes a new criterion 9(L) that looks at "settlement patterns" and imposes restrictions on existing and proposed strip development in the Act 250 process in some situations. Also included are provisions relating to downtown development projects, mixed use and mixed income housing projects in downtowns, permitting for downtown water and sewer main connections and municipal-based inclusionary zoning.

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## TRANSPORTATION IMPROVEMENT FEES

The House agreed to the Senate's version of [H.740](#) in early May, sending the bill to Governor Shumlin. Presently, in many cases the owner of a project undergoing Act

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250 review will be required to pay for the full cost of improving transportation infrastructure even though the developer's project is only partially responsible for the need to upgrade the infrastructure. H.740 changes this "last one in pays the full cost" approach by establishing a system for assessing owners of development projects for their fair share of the cost. Specifically, VTRANS is authorized to establish Transportation Improvement Districts ("TID") in connection with transportation projects included in the agency's multiyear Capital Transportation Program. The owners of development projects located in a TID that have to go through Act 250 review or obtain a "curb cut" access permit from the agency can then be assessed a fee, payable to VTRANS, for their fair share of the cost of the project. Notably, a District Act 250 Commission can require that a transportation impact fee be paid to a municipality if the impacts of the project are limited to municipal highways or other transportation facilities. The fee revenue then has to be spent on the relevant transportation project within 15 years.

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## UCC UPDATE

The Senate concurred with a House amendment to [H.483](#), which adopts the Uniform Law Commission's ("ULC") 2010 UCC Article 9 recommended updates. These updates affect auto dealers and all others who receive security interests in personal property to secure debt. Only three states have not yet enacted the updates (Vermont, New York, Oklahoma). The bill makes no changes to the ULC updates, and primarily focuses on clarifying the identity of the debtor's name (like deferring to the name listed on a valid drivers license).

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## BATTERY STEWARDSHIP

[H.695](#), another bill that passed in the final days of the session, requires producers of primary batteries to develop product stewardship plans for the collection and recycling of such batteries and to pay a fee of \$15,000 per year per plan to the Agency of Natural Resources. The agency is responsible for approving and overseeing the implementation of the plans. Stewardship organizations, made up of the battery producers, may also submit plans on behalf of the producers. If a producer or organization fails to submit a plan, they will be prohibited from selling, or delivering to a retailer, primary batteries. While vehicle batteries are not explicitly exempt in the language, primary batteries are limited to those weighing two kilograms or less (motor vehicle batteries weigh significantly more), including alkaline, carbon-zinc, and lithium metal batteries and do not include batteries that are not easily removable or are not intended to be removed from a consumer product.