

# VERMONT VEHICLE AND AUTOMOTIVE DISTRIBUTORS ASSOCIATION

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## 2020 INTERIM LEGISLATIVE REPORT

JULY 23, 2020



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## INTRODUCTION

On June 26 the Vermont General Assembly adjourned until August 25 when lawmakers will reconvene for about a month to close an estimated \$332 million hole in the budget due to COVID-19. Legislative leaders have made it clear that fiscal matters and COVID-19 related bills will be the primary focus in August but they have not closed the door on other bills. This report contains the bills of direct interest to VADA that were enacted in 2020 before lawmakers adjourned in June and those bills that are pending and could be passed in August or September.

## BILLS OF INTEREST TO VADA ENACTED INTO LAW IN 2020

### **DIRECT-TO-CONSUMER MOTOR VEHICLE SALES (H.942, SEC. 22) - ENACTED**

[The Transportation Bill, H.942](#), contains a study of direct-to-consumer motor vehicle sales to Vermonters by entities such as Tesla and Carvana. This study was a compromise in response to [S.241](#), a bill that Senator Andrew Perchlik, D-Washington, said he introduced to make clear that Tesla could sell vehicles directly to Vermonters and could open a service center in Vermont. The bill as introduced amended the definition of “dealer” in department of motor vehicle law to add a definition of “motor vehicle manufacturer that sells directly to consumers” and then allowed such a manufacturer to either directly or indirectly open a repair facility in Vermont and exempts them from Vermont’s motor vehicle franchise law. VADA strongly opposed the bill. As a compromise, VADA drafted and agreed to the following study that was enacted into law:

#### Sec. 22. STUDY ON DIRECT-TO-CONSUMER MOTOR VEHICLE SALES; REPORT

(a) The Agency of Transportation, in consultation with the Attorney General’s Office, the Department of Financial Regulation, a manufacturer that engages in direct-to-consumer motor vehicle sales to Vermont consumers, and the Vermont Vehicle and Automotive Distributors Association, shall conduct a study and, on or before December 15, 2020, file a written report on the findings of its study, sources reviewed, and recommendations regarding the regulation of direct-to-consumer motor vehicle sales with the Senate Committees on Economic Development, Housing and General Affairs and on Transportation and the House Committees on Commerce and Economic Development and on Transportation.



(b) The report shall, at a minimum, include a review of:

(1) all Vermont consumer protection laws and regulations that currently apply when a consumer purchases a motor vehicle from a dealer registered pursuant to 23 V.S.A. chapter 7, subchapter 4, whether those consumer protections currently apply to direct-to-consumer motor vehicle sales, and, if not, whether those consumer protections should apply to direct-to-consumer motor vehicle sales;

(2) how consumers currently obtain financing in direct-to-consumer motor vehicle sales and any proposals that would better protect Vermont consumers who engage in direct-to-consumer motor vehicle sales;

(3) how consumers are currently taxed in direct-to-consumer motor vehicle sales and whether there are steps the State can take to maximize the collection of taxes owed on direct-to-consumer motor vehicle sales where the vehicles are operated in Vermont;

(4) any enforcement issues related to direct-to-consumer motor vehicle sales;

(5) what reasons, if any, exist to prohibit manufacturers engaged in direct-to-consumer motor vehicle sales from owning, operating, or controlling a motor vehicle warranty or service facility in the State and a recommendation on whether a sales center should be required if a manufacturer engaged in direct-to-consumer motor vehicle sales is permitted to own, operate, or control a motor vehicle warranty or service facility in the State;

(6) laws, rules, and best practices from other jurisdictions and any model legislation related to the regulation of direct-to-consumer motor vehicle sales; and

(7) how any proposed amendments to Vermont law regulating direct-to-consumer motor vehicle sales will affect dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4; franchisors and franchisees, as defined in 9 V.S.A. § 4085; and other persons who are selling motor vehicles to Vermonters.

(c) As used in this section, “direct-to-consumer motor vehicle sales” means sales made by:

(1) motor vehicle manufacturers that sell or lease vehicles they manufacture directly to Vermont consumers and not through dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4; or

(2) other persons that sell or lease new or used motor vehicles directly to Vermont



consumers and not through Vermont licensed dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4 on websites such as Carvana, Vroom, and TrueCar.

## **TRANSPORTATION BILL/VEHICLE INCENTIVE AND EMISSIONS REPAIR PROGRAMS (H.942) - ENACTED**

[H.942, the Transportation bill](#), contains the state's transportation budget for the upcoming fiscal year. In addition to the direct-to-consumer vehicle study outlined above, Secs. 13 & 14 amend the Vehicle Incentive and Emissions Repair Programs and the New Plug-In Electric Vehicle (PEV) Incentive Program. The bill includes new income guidelines for the New PEV Incentive Program that are based on adjusted gross income rather than medium household income and eligibility for weatherization. The maximum incentive is now set at \$4,000 for a battery electric vehicle (BEV) and \$3,000 for a plug-in hybrid electric vehicle (PHEV). MSRP remains at \$40,000. [Click here](#) for a link to a chart summarizing the new proposed income criteria and incentive amounts. The bill adds \$50,000 in transportation funds for the emissions repair program. The bill allows unused funds remaining from this year for any of these programs to be carried forward to be used next year. The Secretary of AOT has the discretion to add funds if there is another federal COVID stimulus bill and there is money left over after basic road maintenance and other projects are funded. The \$200,000 that was initially earmarked for Drive Electric Vermont to continue its work with auto dealers and others to expand the PEV market is also subject to contingent funding and it will not be funded unless the Secretary uses his discretion to do so.

## **MISCELLANEOUS CHANGES TO LAWS RELATED TO VEHICLES (S.339) - ENACTED**

[S.339, An Act Relating to Miscellaneous Changes to Laws Related to Vehicles](#), was enacted into law in June. It contains numerous changes to Vermont's motor vehicle statutes. Some provisions of interest to VADA are:

- » the creation of a new "electronic in-transit registration permit" to allow an individual, other than a motor vehicle dealer, to move a vehicle into or around the state for the purpose of registering it
- » a provision that allows Vermont residents to get an exempt vehicle title for



- a vehicle that is more than 15 years old (rather than more than 25 years old)
- » a provision requiring DMV to report in January on the department's procedures for the release of personal information it collects
- » a provision directing the Agency of Transportation to develop an on-line permitting system for trucks and study a number of truck related safety issues

## **DMV LICENSE, PERMIT AND REGISTRATION EXTENSIONS (H.742) - ENACTED**

Governor Scott signed [H.742, An Act Related to Vermont's Response to COVID-19](#), on Monday, March 30. The bulk of the bill relates to health care but Sections 35-37 relate to transportation. The bill allows photographs on driver's license renewals to be up to 16 years old to allow more people to remotely renew their licenses. The bill also requires the Commissioner of DMV to extend for 90 days beyond expiration, all driver's licenses, learner's permits, privileges to operate, non-driver identification cards, registrations, and registration plates or placards for an individual with a disability.

## **WORKERS COMPENSATION (S.342) - ENACTED**

[S.342, An act relating to temporary workers' compensation amendments related to COVID-19](#), creates a presumption that if an employee is disabled or dies from COVID-19 it will be covered under workers' compensation under certain conditions. The presumption is stronger for "front-line workers." This presumption will be repealed on January 15, 2021 unless the legislature acts to extend it before then. The bill also requires the Commissioner of Financial Regulation to examine the potential for creating a special fund to reimburse workers' compensation insurers and others for workers' compensation costs related to COVID-19.



## BILLS OF INTEREST TO VADA THAT COULD MOVE IN AUGUST

### DEALER FINANCING (S.135) – PENDING IN HOUSE

[S.135, An Act Relating to Consumer Protection and Automobile Financing](#), passed the Senate and is pending in the House Commerce & Economic Development Committee. The bill as introduced includes a cap on dealer reserve and dealer documentation fees, among other provisions that VADA strongly opposes. The Senate bill dropped those more controversial pieces but the Senate-passed bill does require a dealer to give a consumer a copy of their credit application at the time a vehicle is being sold. However, VADA opposes the Senate-passed bill because it allows a consumer to bring a private right of action against a dealer and obtain penalties, attorney's fees, etc, if the dealer simply forgets to give the consumer their credit application at the time of sale. There is no way for the dealer to cure a violation. Rep. Mike Marcotte, Chair of the House Commerce and Economic Development Committee, said his committee is too busy addressing COVID-19 to take up S.135 but if he were to take the bill up he will let VADA have an opportunity to weigh in.

### POSSIBLE TAX INCREASES

[Current revenue projections](#) for FY21, the current fiscal year that starting on July 1st, show a revenue shortfall of \$219 million in the General Fund, \$39 million in the Transportation Fund and \$75 million in the Education Fund, for a grand total of \$332 million. Lawmakers in August and September will either have to cut costs, raise taxes, move money around or use some of \$250 million of one-time federal coronavirus relief funds that haven't already been allocated to the extent allowed. At this time federal law does not allow the state to use the \$250 million to backfill a revenue hole. Increased taxes are a threat.

### GLOBAL WARMING SOLUTIONS ACT OF 2020 (H.688) – PENDING IN HOUSE



H.688 turns Vermont's greenhouse gas reduction goals into greenhouse gas reduction mandates. It creates a 22-member Vermont Climate Council, chaired by the Secretary of Administration, which must adopt a Climate Action Plan by December 1, 2021, and update it every four years thereafter. Many are concerned that the state is opening itself up to lawsuits if the state is unable to meet the mandates. This bill passed the House and in late June the Senate passed it with a proposal of amendment. The Senate Proposal of Amendment is pending on the House Calendar for the House's consideration when they return in August. Here is a link to the bill as it passed the [House](#) and the Senate [Proposal](#) of Amendment.

### **AN ACT RELATING TO ENERGY EFFICIENCY ENTITIES AND PROGRAMS TO REDUCE GREENHOUSE GAS EMISSIONS IN THE THERMAL ENERGY AND TRANSPORTATION SECTORS (S.337) – PENDING IN HOUSE**

S.337 authorizes the use of up to \$2 million per year from existing electric efficiency funds for up to 3 years to be spent on programs, measures and services that reduce greenhouse gas emissions in the thermal energy or transportation sectors. The bill passed the Senate and is pending in the House Energy and Technology Committee. This bill is seen as a stop gap measure to fund greenhouse gas emission reduction efforts in the transportation sector until the Public Service Board issues its final report in the PSB's "All Fuels Utility" or "Act 62" Docket. The PSB must issue an "all fuels utility" report by January 15, 2021, outlining how to fund tax transportation efficiencies the same way that electricity is taxed to pay for electric efficiencies. [Click here](#) for a link to the bill as it passed the Senate.

### **AN ACT RELATING TO ADOPTING A CLIMATE CHANGE RESPONSE PLAN AND REGIONAL PLANNING COMMISSION INVOLVEMENT IN IDENTIFYING HEALTH CARE-RELATED NEEDS (S.185) – PENDING IN HOUSE**

This bill requires the department of health to develop a climate change response plan by July 1, 2021 and present it to House Committees on Human Services & Health and Welfare and the Senate Committee on Health and Welfare. The bill also requires regional planning commissions to assist hospitals with the development of health needs assessments and to consult with the Agency of Human Services, Dept. of Health and Vermont Emergency Management "to incorporate public health



and safety concerns related to climate change into State and local emergency and hazard mitigation, response, and recovery plans.” The bill is pending in the House Human Services Committee. [Here is a link](#) to the bill as it passed the Senate.

## **PENDING REGULATORY MATTERS.**

### **TRANSPORTATION AND CLIMATE INITIATIVE (TCI) – PENDING WITH GOVERNOR**

TCI is a regional project among 12 states and the District of Columbia, including Vermont, to reduce greenhouse gas emissions from the transportation sector by using a “cap and invest” model or other mechanism. The mechanism contemplated is to raise the gas tax and use those funds to invest in efforts to reduce greenhouse gases. Due to COVID-19, the TCI timeline has been pushed back and a draft Memorandum of Understanding will be circulated among states in the fall of 2020 and each state will have to decide whether to sign on. [Click here](#) for the TCI website.

### **AUTOMATED VEHICLE TESTING GUIDANCE AND APPLICATION – PENDING AT AOT/TRAFFIC COMMITTEE**

The Agency of Transportation released its draft [Automated Vehicle Testing Guidance and Application](#) in April, held a public hearing on June 30, and intends to release the final guidance soon. This guidance contains the requirements a company must meet to obtain a state permit to test certain automated vehicles in Vermont. Once the guidance is finalized it will be adopted by the Vermont Traffic Committee. [Click here](#) for AOT’s Automated Vehicle Testing website.

LPA will start up our weekly updates once the General Assembly reconvenes in August. In the meantime, please let us know if you have any questions.