

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2016**

Bill Number: H. 876 Name of Bill: **An act relating to transportation capital program and miscellaneous changes to transportation-related law.**

Agency/ Dept: Transportation Author of Bill Review: Michele Boomhower

Date of Bill Review: 05/12/2016 Related Bills and Key Players: N/A

Status of Bill: (check one): ☐ Upon Introduction ☐ As passed by 1<sup>st</sup> body ☒ As passed by both

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**Recommended Position:**

☒ Support ☐ Oppose ☐ Remain Neutral ☐ Support with modifications identified in #8 below

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**Analysis of Bill**

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**Summary of bill and issue it addresses.** The purpose of this bill is to direct the capital program of the Agency and address transportation policies.

1. **Is there a need for this bill?** Yes.
2. **What are likely to be the fiscal and programmatic implications of this bill for this Department?** The bill establishes the transportation capital program spending authority for the Agency and implements transportation policies.
3. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** The scope of this review is limited to transportation-related implications.
4. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** (for example, public, municipalities, organizations, business, regulated entities, etc) The scope of this review is limited to transportation-related implications (see attached summary of the bill indicating fiscal and programmatic impacts).

**5. Other Stakeholders:**

**6.1 Who else is likely to support the proposal and why?** Indeterminate. There are numerous stakeholders affected by this bill with varying positions that are dependent on how they are affected.

**6.2 Who else is likely to oppose the proposal and why?** Indeterminate. There are numerous stakeholders affected by this bill with varying positions that are dependent on how they are affected.

- 6. Rationale for recommendation:** The scope of this review is limited to transportation-related implications. With few exceptions, all transportation-related provisions are consistent with VTrans' original

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recommendations. Wherever they are not consistent with VTrans' original recommendations, VTrans positions vary from support to neutral, and we do not oppose any of the transportation-related provisions.

7. **Specific modifications that would be needed to recommend support of this bill:** N/A.

8. **Gubernatorial appointments to board or commission?** None

**Secretary/Commissioner has reviewed this document:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## **H. 876: FY17 Transportation Bill**

### **Sec. 1 Transportation Program Adopted; Definitions**

Sec. 1 adopts the Agency of Transportation's ("Agency") proposed fiscal year 2017 Transportation Program except as the Program is amended in the bill. Sec. 1 also defines terms used throughout the bill.

### **Sec. 2 Program Development Program; Spending Authority**

In Sec. 2a:

Subsec. (a) reduces FY17 spending authority by \$1,108,369 in transportation funds, by \$86,204 in TIB funds, and by \$4,778,292 in federal funds.

Subsec. (b) directs the Secretary of Transportation:

- to select projects for which spending will be reduced;
- not to delay a project unless the full amount of the reduction cannot be achieved through other means;
- to promptly notify the transportation committees or the Joint Transportation Oversight Committee if a project nonetheless is delayed.

Subsec. (c) restores the spending authority reduced in subsec. (a) on a contingent basis, to the extent that a positive balance exists in the Transportation Fund or TIB Fund or both at the end of fiscal year 2016, to the FY17 Program Development Program up to a total of \$1,194,573 in transportation funds, TIB funds, or both and by up to \$4,778,292 in matching federal funds

**More information if needed:** This section is included to account for changes in forecasted revenues since the fiscal year 2017 budget was recommended.

### **Sec. 3 Town Highway Class 2 Roadway Program**

Sec. 3 increases FY17 Town Highway Class 2 Roadway program by \$400,000 to \$7,648,750.

### **Sec. 4 Appropriation of Transportation Funds; Department of Public Safety**

Sec. 4 amends the provision of law that sets limits on the amount of transportation funds appropriated to the Department of Public Safety:

- To set the maximum amount that may be appropriated at \$21.15 million in fiscal year 2017;
- To set the maximum amount that may be appropriated in fiscal year 2018 and in succeeding years at \$20.25 million.
- To allocate \$2.1 million of the funds appropriated from the Transportation Fund to the Department of Public Safety for State Police vehicle costs (only); unexpended/unencumbered funds shall revert to the T Fund at the close of the FY.

**Sec. 5 Future Appropriations to Town Highway Class 2 Roadway Program, to Department of Public Safety; Legislative Intent**

Sec. 5 (1) clarifies the intention of the Legislature to direct at least \$400,000 of the \$900,000 reduction in the amount of transportation funds appropriated to the Dept. of Public Safety scheduled for FY18 be used to fund a permanent increase of at least \$400,000 in transportation funds appropriated to the Town Highway Class 2 Roadway program, above the \$7,248,750 in funds appropriated for the TH Class 2 program in prior fiscal years

Sec. 5(2) directs the Agency to propose a FY18 Transportation Program that assumes \$400,000 of transportation funds will be appropriated to the Department of Public Safety for vehicles in addition to the transportation funds appropriated to the Department in FY18 pursuant to 19 V.S.A. §11a(a)(4).

**Sec. 6 Appropriation; State Aid for Town Highways**

Sec. 6 directs the Agency to fund a minimum of \$7,648,750 in new Class 2 Town Highway Roadway Program grants.

**Sec. 7 Program Development Program; Allocation for Education Initiatives**

Sec. 7 requires the Secretary of Transportation to allocate up to \$100,000 in federal NHTSA grant funds to the Share the Road Program and to other highway safety educational initiatives for the purpose of educating users of the transportation system on how to improve the safety of all users.

**Sec. 8 Roadway Program; Project Cancellation**

Sec. 8 cancels from the candidate list of the Agency's Roadway Program a project to upgrade Vermont Rt. 2A in Colchester. The Town of Colchester requested this cancellation because the project has been superseded by another project affecting Vermont Rt. 2A recommended by the CIRC Alternative Task Force.

**Sec. 9 Traffic and Safety Program; Project Additions**

Sec. 9 adds three projects to the candidate list of the Agency's Traffic and Safety Program that were included in the fiscal year 2016 approved Transportation Program but were inadvertently omitted from the Agency's fiscal year 2017 proposed Transportation Program.

**Sec. 9a Bike and Pedestrian Facilities Program; Lamoille Valley Rail Trail**

In Sec. 9a:

Subsec. (a) adds a project to the fiscal year 2017 Bike and Pedestrian Facilities Program related to development of the Lamoille Valley Rail Trail. The project is to be funded with monies raised by the Vermont Association of Snow Travelers (VAST) before January 1, 2017 and up to \$400,000 in funds identified by the Secretary of Transportation to match each dollar raised by VAST.

Subsec. (b) directs the Agency to include a project in its fiscal year 2018 proposed transportation program related to development of the Lamoille Valley Rail Trail funded with monies raised by VAST from January 1, 2017 to January 1, 2018 and up to \$1,000,000 in State or eligible federal funds to match each dollar raised by VAST.

## **Sec. 10 Municipal Mitigation Grant Program**

Sec. 10 reduces spending authority of State transportation funds by \$200,000 and increases spending authority of federal funds by an equivalent amount in the fiscal year 2017 Municipal Mitigation Grant Program for a total program of \$2,905,000.

**More information if needed:** The \$200,000 in federal funds is available from an unspent portion of a federal earmark that may be used on Municipal Mitigation Grant Program activities. Swapping out the funding sources in this section helps avoid a further \$200,000 cut in authorized spending of transportation funds.

## **Sec. 11 Transfer to the Central Garage Fund**

Sec. 11 transfers \$1,283,215 from the Transportation Fund to the Central Garage Fund. This is an annual transfer that enables the Central Garage to purchase and replace highway maintenance equipment.

**More information if needed:** This section notwithstanding 19 VSA § 13(c) because that section would require a transfer of approximately \$1.7 million.

## **Sec. 12 Positions**

Sec. 12 relates to the establishment of 19 total permanent positions within the Agency of Transportation and to the extension of 5 existing limited service positions.

### ***Permanent positions – subsecs. (a)–(d)***

Subsec. (a) authorizes the Agency to establish 2 new permanent positions related to water quality improvements in the State.<sup>1</sup>

Subsec. (b) converts 7 existing limited service positions<sup>2</sup> at the Agency to be permanent positions. The Agency requests these positions to increase its district-level maintenance staff in order to assist municipalities with water quality and other municipal projects.

Subsec. (c) converts 9 additional limited service positions<sup>3</sup> to be permanent positions. The Agency requests these positions for its right-of-way, bridge design, and roadway design work and to enable the Agency to execute additional projects made possible under the recently enacted federal highway aid reauthorization bill.

Subsec. (d) converts 1 additional limited service position<sup>4</sup> to be a permanent position. This position is for a civil engineer.

### ***Extension of limited service positions – subsecs. (e) & (f)***

Subsec. (e) extends to June 30, 2019 the terms of three (3) limited service positions created in the 2012 Transportation Bill and increases the Agency's flexibility with regard to the use of these positions.

Subsec. (f) extends to June 30, 2019 the terms of 2 additional limited service positions created in the spring of 2012 from the position pool maintained by the Agency of Administration.

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<sup>1</sup> Specifically, the positions are for (1) a grants coordinator for the Municipal Mitigation Grants Program, and (2) for staff to carry out the Agency's obligations under its Transportation Separate Stormwater Segregated System (TS4) permit.

<sup>2</sup> These limited service positions were initially created in the 2012 Budget Adjustment Act in response to Tropical Storm Irene and the spring 2011 flooding.

<sup>3</sup> These limited service positions also were initially created in the 2012 Transportation Bill in response to Tropical Storm Irene and the spring 2011 flooding.

<sup>4</sup> This limited service position was initially established in May 2012 from the position pool maintained by the Agency of Administration.

### **Sec. 13 FY 2016 Rail Program; Project Addition**

Sec. 13 adds to the candidate list of the current, fiscal year 2016 Transportation Program a rail project related to the award of a \$10 million federal TIGER grant to Vermont for improvements to Vermont's western rail corridor.

#### **More information if needed:**

- The funds from this TIGER grant will be used toward an overall \$26.4 million project to improve service on the State-owned rail line between Rutland and Burlington, VT, by funding the replacement of approximately 11 miles of track with new rail, ballast, and ties; upgrade of several crossings; addition of 3 station platforms; rehabilitation of a bridge; and additions of a new passing siding, a passing lane, and a crossover.
- "TIGER" is a federal discretionary grant program for transportation projects, and is an acronym for "Transportation Investment Generating Economic Recovery."

### **Sec. 14 Approval of Sale of State-Owned Railroad Property**

Sec. 14 authorizes the Secretary of Transportation to convey to the town of Bennington a 2.5-acre parcel of property that the Agency has leased to the town since 1986 at no cost. Under the terms of the conveyance, the town's interest must terminate and revert to the State if the property ceases to be used for public purposes, except that the Secretary and the town may enter into a boundary adjustment agreement with the owner of an adjacent parcel.

#### **More information if needed:**

- The Agency's historic practice is to convey surplus property to municipalities for no consideration if the property is to be used for public purposes.
- The town of Bennington has developed a public parking lot on the property authorized to be conveyed.
- The provision of this section authorizing the boundary adjustment agreement without triggering a reversion to the State involves a boundary line adjustment of approx. 2 feet.

### **Secs. 15–17 Rail Trespassing**

Sec. 15 repeals an existing railroad trespassing law dating from 1876 and replaces it with an updated law that creates a civil traffic violation for trespassing on certain railroad property.

Subsec. (a) defines several terms used in the section, including "railroad property," which consists of enumerated property<sup>5</sup> owned, leased, or operated by a railroad carried or used in its rail operations and does not include inactive railroad property of the Twin State Railroad.

Subsec. (b) prohibits a person from knowingly entering or remaining on railroad property without lawful authority or the railroad carrier's consent. Crossing railroad property at a public highway or other authorized crossing is not prohibited.

Subsec. (c) prohibits a person from riding on a train without lawful authority or the railroad carrier's consent.

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<sup>5</sup> The enumerated property consists of:

- (i) a right-of-way, track, yard, station, shed, or depot;
- (ii) a train, locomotive, engine, car, work equipment, rolling stock, or safety device; and
- (iii) a "railroad structure," which means a bridge, tunnel, viaduct, trestle, culvert, abutment, communication tower, or signal equipment.

"Right-of-way" is defined to mean "the track and roadbed and property located on either side of the tracks that is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs."

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Subsec. (d) lists a number of situations when a person is not subject to ticketing under the section.

Subsec. (e) clarifies that nothing in this trespassing civil violation section is intended to modify rights, duties, liabilities, or defenses available under any other law or under a license or agreement.

Subsec. (f) provides that a person who violates this section commits a traffic violation and is subject to a civil penalty of not more than \$200.00.

Sec. 16 repeals a separate law that creates criminal penalties for riding on a train without permission or without paying a fare, and for loitering on certain railroad property. This law encompasses conduct that is prohibited under Sec. 11 of the bill.

Sec. 17 amends the definition of “traffic violation” to include within its scope the rail trespassing violation created in Sec. 11 of the bill.

**More information if needed:** Traffic violations are enforced through the issuance of a complaint by an enforcement officer, followed by the right to contest the complaint in a hearing before a Judicial Bureau hearing officer, with the right of further appeal to the Criminal Division of the Superior Court.

## **Sec. 18 Transportation Capital Program; Prioritization System**

Sec. 18 amends the law that requires the Agency of Transportation to develop a rating system in order to prioritize various categories of transportation projects.

- Adds language specifying that one of the two components of the rating system is based on performance-based factors as well as asset management-based factors. *See* subdiv. (1)(1).
- Eliminates a reference to the Chittenden County Metropolitan Planning Organization, as this organization was merged into the Chittenden County Regional Planning Commission and no longer exists as a separate entity. *See* subdiv. (1)(1)(E).
- Adds as a factor that the Agency must consider in the rating system the resilience of the transportation infrastructure to floods and other extreme weather events. *See* subdiv. (1)(1)(F).
- Broadens the scope of the factors that the Agency must consider in establishing the second component of its rating system, including the importance of the transportation infrastructure to health in surrounding communities. *See* subdiv. (1)(2)(B).

## **Secs. 19-20 Adjustments to Existing Projects**

Sec. 19 repeals language that purports to require the Agency to report to and obtain approval from the Transportation Board before proceeding on a project when construction cost estimates for the project exceed the last approved cost estimate by a “substantial level” as determined by the Transportation Board. According to the Agency and the Transportation Board, the requirements of this provision have not been carried out in practice in recent memory.

Sec. 20 is a conforming change needed because of repeal of the language in Sec. 19 of the bill.



## **Sec. 21 Reporting Required in Proposed Transportation Program**

In the annual proposed Transportation Program that the Agency is required to submit to the General Assembly, Sec. 21 requires the Agency to include project updates for:

- all projects for which total estimated costs have increased by more than \$8 million or by more than 100%; and
- all projects that have been closed out, the projected costs for the project in the prior year's approved Transportation Program, and the total costs incurred over the life of the project.

These reports will assist the Transportation Committees in overseeing the activities of the Agency of Transportation.

## **Sec. 22 Joint Transportation Oversight Committee**

Sec. 22 repeals a provision that requires the Agency to report annually to the Joint Transportation Oversight Committee (JTOC) project-specific information related to cost overruns, cost savings, and funding availability from delayed projects.

The report repealed in this section has not been useful to JTOC and preparing the report has been burdensome to the Agency. Further, a separate provision in this section requires the Agency to report to JTOC "upon request"; as a result, JTOC has the authority to obtain the information it needs in order to carry out its oversight functions.

## **Sec. 23 Appropriation; State Aid for Town Highways**

Sec. 23 addresses the scope of the existing State Aid for Nonfederal Disasters Program, which is a grant program for municipalities that suffer disasters that do not qualify for federal aid. This section also addresses eligibility under the Program.

This section:

- expands the scope of eligible projects to include projects to repair or replace drainage structures on class 4 town highways, if the town is able to document that it maintained the structure prior to the disaster; and
- codifies the Agency's existing practice of limiting eligibility under the Program based on a threshold that compares the total damages to town highways and drainage structures resulting from the disaster to the town's overall highway budget.

## **Sec. 24 Highways; alterations; quasi-judicial process**

Sec. 24 amends an existing quasi-judicial process that town selectboards must use when certain proposed transportation system-related activities will affect the rights of property owners. The process is designed to ensure that property owners are compensated for damages resulting from the proposed activity.

- Allows a town to serve notice of the proposed activity on an interested person through one of the methods<sup>6</sup> allowed under Rule 4 of the Vermont Rules of Civil Procedure.
- Makes miscellaneous technical and clarifying changes to the section and other changes related to gender neutrality.

## **Sec. 25 Minor alterations to existing facilities; tendering payment**

Sec. 25 amends a provision that authorizes the Agency to use the quasi-judicial process described in the prior section when carrying out minor alterations to existing transportation facilities. This section adds language to give the Agency a method to tender payment to an interested person by making payment into an escrow account for any damages arising from the proposed activity when the person refuses to accept or facilitate payment. This

<sup>6</sup> These methods include personal service or leaving the notice at a person's dwelling with a responsible person.

provision provides a clear mechanism for a project to move forward when federal law requires tender of payment for any damages before the project can start.

<b>Secs. 26</b>	<b><i>Reserved</i></b>
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<b>Secs. 27–34</b>	<b>Water Quality</b>
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Sec. 27 consists of findings related to Secs. 23–29 of the bill. The findings include that the Agency of Transportation is required under federal and State law to manage stormwater from its property and, because of the expense it incurs managing stormwater, the Agency should receive a uniform credit against municipal stormwater utility fees.

Sec. 28 amends the definition of “stormwater” under the sewage system chapter of law so it is the same as the definition of “stormwater runoff” under 10 V.S.A. § 1264.

Secs. 29–31 relate to rate and stormwater credits for property of the Agency of Transportation.

Municipal stormwater utilities may be formed and assess rates as one of three different entities: sewage disposal systems, sewage systems, or consolidated sewer districts.

- Secs. 29 (sewage disposal), 30 (sewage systems), and 31 (consolidated sewer district) provide that if a municipal sewer charge is assessed on Agency property for stormwater management, the charge must not exceed the highest rate applicable to other properties in the municipality, and the Agency must receive a 35% credit on the charge.

Sec. 32 adds a definition of the phrase “stormwater utility” to the water quality chapter of Title 10. A “stormwater utility” is defined as a system adopted by a municipality as a sewage disposal system, sewage system, or consolidated sewer district for the management of stormwater.

Sec. 33 requires the Clean Water Fund Board when making recommendations on expenditures from the Clean Water Fund to prioritize funding to municipalities for the establishment or operation of stormwater utilities, in addition to other funding priorities. This priority funding for stormwater utilities will last for the first three years of the Fund.

Sec. 34 requires the Agency to submit an annual report on the status of municipal establishment and implementation of stormwater utilities in the State and on amounts paid by the Agency to stormwater utilities. The reporting requirement expires in 2021.

<b>Secs. 35–37</b>	<b>Statewide Property Parcel Mapping Program</b>
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Secs. 35–37 of the bill relate to the establishment of a Statewide Property Parcel Mapping Program within the Agency of Transportation.

The Program is eligible for federal funding from the Federal Highway Administration, and is expected to be used in a wide variety of applications by the Agency of Transportation, other State agencies, municipalities, regional planning commissions, and the public.



Sec. 35:

- includes findings that the State has an interest in creating a statewide property parcel data layer that will include all property parcels in each Vermont town, city, incorporated village, gore, and grant in a standard, integrated format, and that the data layer is expected to promote the Agency's mission; and
- directs the Agency to continue to work with State agencies and external partners benefited by the data layer to develop an MOU to address funding sources other than the Transportation Fund for the 20 percent State match for fiscal year 2018 and in succeeding fiscal years.

Sec. 36 adds administration of the Statewide Property Parcel Mapping Program to the list of duties that the Agency of Transportation is required to perform.

Sec. 37

- Establishes the Statewide Property Parcel Mapping Program.
- Creates an Advisory Board for the purpose of monitoring the Program and making recommendations to the Agency of Transportation on how the Program can be improved. No per diems or expenses are authorized for Board members.
- Directs the Agency to make every effort to ensure that starting in fiscal year 2018, all State matching funds are provided by other State agencies or external partners that benefit from the Program.

### **Sec. 38 Quechee Gorge Bridge Safety Measures**

In Sec. 38:

- Subsec. (a) directs the Agency to complete a project on the Quechee Gorge Bridge on or before July 1, 2016, or as soon as practicable thereafter if necessary to obtain permits or meet federal requirements, to install a structure providing information and resources, signs, or communication devices, or some combination of these, aimed at preventing suicides at the bridge.
- Subsec. (b) directs the Agency to consult with various interested parties to review and evaluate other measures that could be taken at the bridge to prevent suicides and enhance the safety of first responders and bridge users.
- Subsec. (c) directs the Agency to report back on the results of its review on or before January 10, 2017.

### **Secs. 39–44 Vulnerable Users; Rules of the Road**

Secs. 39-44 amend various rules of the road governing motorists and vulnerable users.

A “vulnerable user” is defined in Title 23 as:

“a pedestrian; an operator of highway building, repair, or maintenance equipment or of agricultural equipment; a person operating a wheelchair or other personal mobility device, whether motorized or not; a person operating a bicycle or other nonmotorized means of transportation (such as roller skates, rollerblades, or roller skis); or a person riding, driving, or herding an animal.”

Sec. 39 amends Vermont’s “safe passing” law:

- to require the operator of a motor vehicle approaching or passing a vulnerable user to increase clearance to a recommended distance of four (4) feet, and establishes a minimum penalty for a violation of \$200.00;
- to appropriately reference the duties of a passing vehicle when crossing the center of a highway and eliminate a reference to a passing vehicle making an “audible signal” when passing.

Sec. 40 amends the section of law that governs the duties of a vehicle when it crosses to the left of the center of a highway in order to prohibit the vehicle from passing unless the passing movement can be made without interfering with a vulnerable user.

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Sec. 41 requires drivers of vehicles entering a highway from a private road to yield the right of way to vulnerable users approaching on the highway.

Sec. 42 requires vehicle operators turning left to only do so if they can maintain a safe distance from a vulnerable user and establishes a minimum penalty for a violation of \$200.00.

Sec. 43 gives a bicyclist flexibility to not give hand signals when turning (or when significantly slowing down), and to not give such signals continuously for 100 feet, when the bicyclist cannot give the signals safely.

Sec. 44 amends a subchapter of law that establishes specific rights and obligations of bicyclists.

In § 1136 language is added to clarify that a bicyclist is not subject to rights and duties applicable to other vehicles that are inconsistent with other specific provisions that regulate bicyclists.

In § 1139:

- An existing standard that bicyclists must generally ride as near to the right side of a roadway as is “practicable” is amended to specify that bicyclists must ride as near to the right of the improved area of the highway right-of-way as is “safe”.
- Existing language that creates exceptions for when a bicyclist must ride to the left, or in a left lane, in a roadway is reorganized so as to allow, but not require, bicyclists to ride to the left when taking precautions to avoid hazards and road conditions and is amended to provide examples of such hazards.

In § 1142 the penalty for a violation of section 1139(b) of the title shall result in a fine of up to \$100.00; this section addresses riding two abreast and the requirement of not impeding the normal and reasonable movement of traffic, as well as, the requirement of riding single file on a laned roadway.

## **Secs. 45-52 Ignition Interlock Devices**

Secs. 45-52 make a variety of changes to Vermont’s law governing ignition interlock restricted driver’s licenses (“ignition interlock RDLs” or “RDLs”). Ignition interlock devices measure a person’s alcohol concentration and prevent a motor vehicle from being started by a person whose alcohol concentration is 0.02 or greater. Persons operating under RDLs are authorized to drive only vehicles equipped with an ignition interlock device.

Under current law:

- Operating under an ignition interlock RDL is voluntary for all DUI offenders.
- DUI offenders must serve certain “hard” suspension periods prior to being eligible to obtain an ignition interlock RDL.
- DUI offenders whose offense involves death or serious bodily injury to another person are disqualified from obtaining an RDL.
- DUI offenders who elect to operate under an RDL are required to operate under the RDL for a period longer than their initial suspension period.

**Secs. 45-52** amend current law by:

- Establishing the concept of an “ignition interlock certificate” for nonresidents who wish to regain the privilege to operate a motor vehicle in Vermont.
- Eliminating “hard” suspension periods prior to eligibility for an ignition interlock RDL or certificate except in the case of a person whose offense involves death or serious bodily injury to another person or involves refusal of a law enforcement officer’s reasonable request for an evidentiary test.

- Making operation under an ignition interlock RDL or certificate “mandatory” for second or subsequent DUI offenders by requiring such offenders to operate under an RDL or certificate prior to being eligible for reinstatement of their “regular” operator’s license or privilege to operate.
- Eliminating requirements that a person operate under an RDL for a period longer than his or her initial suspension period.
- Eliminating the requirement that a person be enrolled in the CRASH Program prior to being eligible to obtain an ignition interlock RDL or certificate.
- Requiring that for the Commissioner of Motor Vehicles to approve an ignition interlock device manufacturer as a supplier in Vermont, the manufacturer must agree to reduce the cost of installing, leasing, and deinstalling the device by at least 50 percent for persons who prove that they receive 3Squares, LIHEAP, or Reach Up benefits or like benefits in another state.

**Sec. 53 Signs for Census-designated Places Within Towns**

Sec. 53 authorizes a town to approve a sign visible to the traveling public that refers only to a census-designated place within the town rather than to the entire town.

A census-designated place is a statistical entity consisting of a settled concentration of population that is identifiable by name, is not legally incorporated under Vermont law, and is delineated as such a place by the U.S. Census Bureau according to its guidelines.

**Sec. 54 Dealers**

Sec. 54 excludes from 23 V.S.A. §4(8)(A)(ii)(III) the sale or exchange of a trailer with a gross vehicle weight of 3,500 pounds or less.

**Sec. 55 Dealer Regulation Review**

Sec. 55 directs the Commissioner of Motor Vehicles to review VT statutes, rules, and procedures regulating various categories of motor vehicles, comparing regulations in other states, to determine if VT laws should be amended. The DMV Commissioner shall consult with new and used vehicle dealers or their representatives and report back to the Transportation Committees by 01/15/17, including proposed legislative language to implement recommendations.

**Sec. 56-57 Motor-Assisted Bicycles**

Sec. 56-57 defines “motor-assisted bicycles and clarifies that they are regulated under section 1136 of Title 23; additionally, it specifies that motor-assisted bicycles shall not be operated by a person under the age of 16 on a highway in VT.

**Sec. 58 Nondriver Identification Cards**

Sec. 58 increases the original and four-year renewal fee for nondriver identification cards from \$20 to \$24 and allows for electronic notification for the renewal application and notice.

**Sec. 59 Refund When Registration Plates Not Used**

Sec. 59 clarifies the process and allowances for number plates on motor vehicles, snowmobiles, and motor boats.

**Sec. 60 Exhibition Vehicles; Year of Manufacture Plates**

Sec. 60 increases the fee for exhibition plates from \$15 to \$21 and allows for the display of plates issued prior to 1968 (up from 1939) to be displayed if the issued plate is maintained within the vehicle and can be produced for law enforcement review.

**Sec. 61-64 Reciprocal Recognition of Nonresident Registration, Licenses and Permits;  
Foreign Visitors**

Sec. 61 enables a motor vehicle owned by a nonresident to be considered registered, and a nonresident operator to be considered licensed or permitted in VT, if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to their registration and operating requirements except if the owner or operator is a resident of a country not adjoining the United States and only for a period of up to 30 days for vacation purposes.

Sec. 62 repeals existing legislation to conform to Sec. 61 of the bill.

Sec. 63 is a conforming change needed because of the language in Sec. 61 of the bill and allows for electronic notification for the renewal application and notice.

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Sec. 64 is additional conforming reference language needed because of the language in Sec. 61.

#### **Sec. 65-67 Special Examinations; Conforming Changes**

Sec. 65 is expanded to include certified physician assistants and licensed advance practice registered nurses as persons authorized to review driver's qualifications for licensure, including those, and all other allowed practitioners who practice in a state adjacent to VT.

Sec. 66 repeals § 638 of this title which addresses dissatisfaction with physical and mental examinations.

Sec. 67 is a conforming reference due to the elimination § 638 in Sec. 66 of this bill.

#### **Sec. 68 - 70 Smugglers' Notch; Winter Closure of Vermont Route 108; Commercial Vehicle Operation Prohibited**

Sec. 68 defines commercial vehicles for the purposes of this subsection which are prohibited from operating on the Smugglers' Notch segment of Vermont Route 108 and establishes a penalty of \$1000 for violating the prohibition and a penalty of \$2000 for impeding traffic (ie. getting stuck in the Notch). For second and subsequent convictions, within a 3-year period, the penalty will be doubled. The Agency shall erect signs noticing closures and restrictions.

Sec. 69 establishes the requirements for use of chains in snow and ice conditions on vehicles with weight ratings of more than 26,000 pounds and a penalty of \$1000 for violating the prohibition and a penalty of \$2000 for impeding traffic. For second and subsequent convictions, within a 3-year period, the penalty will be doubled. The Agency shall erect signs noticing closures and restrictions.

Sec. 70 expands the references in § 2302 to include violations created in Sec. 68 and 69 of this bill.

#### **Sec. 71 School Bus Operators**

Sec. 71 clarifies the certification requirements for school bus operators and delineates an examination period of every two years for certification.

#### **Sec. 72-73 Overweight and Overdimension Vehicles**

Sec. 72 removes the administrative fee of \$6 for each violation processed and directs the administrative fee to be set as specified in 13 V.S.A. § 725.

Sec. 73 repeals 23 V.S.A. § 1400(d) regarding contracts for electronic permitting for single trip permits.

#### **Sec. 74-76 Motor Vehicle Titles**

Sec. 74 updates definitions of salvaged motor vehicles.

Sec. 75 outlines that a person is entitled to the personal delivery of only one title in a single day and of no more than three titles in a calendar month.

Sec. 76 addresses salvage and crushed vehicles certificates of title and their transfers.

#### **Sec. 77 Abandoned Motor Vehicles**

Sec. 77 clarifies the definition of an abandoned motor vehicle and outlines the process for removal, certification, identification, and reclamation processes, as well as fees and charges.

## **Sec. 78-80 Repeals and Conforming Changes**

Sec. 78 repeals the following sections:

- (1) 23 V.S.A. § 366 (log-haulers; registration).
- (2) 23 V.S.A. § 423 (negotiating and entering into an interstate compact regarding truck license fees).
- (3) 23 V.S.A. § 605 (unsatisfied judgment; suspension).

Sec. 79 eliminates log-haulers from the annual fee of \$20 outlined in 23 V.S.A. § 369.

Sec. 80 is a conforming change to address the repeal of 23 V.S.A. § 605.

## **Sec. 81 Chemicals of High Concern to Children; Vehicle Exemptions**

Sec. 81 adds wheel chairs to the definition of consumer products in 18 V.S.A. § 1772 and clarifies the definition of “motor vehicle”.

## **Sec. 82 Installation of Signage Regarding Unlawful Idling of Motor Vehicle Engines**

Sec. 82 directs the Dept. of Buildings and General Services and the Agency to install signs on state owned property with a parking facility or structure capacity of 25 cars or more indicating that idling of motor vehicles is prohibited under 23 V.S.A. § 1110; additional signage may be installed at other parking locations as well.

## **Sec. 83 Study of DUI Drug Offence Enforcement Challenges**

Sec. 83 directs the Executive Director of the Department of State’s Attorneys and Sheriffs, the Commissioner of Public Safety, the Impaired Driving Project Manager of the Governor’s Highway Safety Program, and attorneys representing DUI defendants, to study challenges in the enforcement of DUI drug offenses, including the lack of a rapid roadside tool such as a preliminary screening test of saliva to detect drugs other than alcohol and report their findings on November 1, 2016, to the Joint Legislative Justice Oversight Committee, the House and Senate Committees on Judiciary, and the House and Senate Committees on Transportation.

## **Sec. 84 Effective Dates; Applicability to DUI Matters**

Sub Sec (a) Sec. 84 and Secs. 12 (positions); 13 (Rail Program); 14 (sale of State-owned rail property); Secs. 26, 27, 28, 29, 30, 31, 32, and 33 (stormwater utilities; rates; incentives); 35 (statewide property parcel data layer; findings); 38 (Quechee Gorge Bridge safety issues); Sec. 81 (chemicals of high concern to children); and 82 (prohibited idling of motor vehicles; signs) shall take effect on passage.

Sub Sec (b) The requirement for a second or subsequent DUI offender to operate under an ignition interlock RDL or certificate as a condition of eligibility for reinstatement of the offender’s regular operator’s license or privilege to operate, created under Sec. 46, amending 23 V.S.A. § 1209a, shall apply only in connection with a second or subsequent DUI offense that occurs on or after July 1, 2016.

### **FURTHER ANALYSIS OF DMV ELEMENTS OF H. 876: LEGISLATIVE BILL REVIEW FORM: 2016**

<b>Bill Number:</b>	<b>H. 876 amendment to include S.225 content</b>	<b>Name of Bill:</b>	Click here to enter text.
<b>Agency/ Dept:</b>	<b>Motor Vehicles</b>	<b>Author of Bill Review</b>	<b>Cherie Yaeger</b>
<b>Date of Bill Review:</b>	<b>4/27/2016</b>	<b>Related Bills and Key Players</b>	Click here to enter text.

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Status of Bill: (check one): ☐ Upon Introduction ☐ As passed by 1<sup>st</sup> body ☐ As passed by both

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Recommended Position:

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☒ Support ☐ Oppose ☐ Remain Neutral ☐ Support with modifications identified in #8 below

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## Analysis of Bill

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### 9. Summary of bill and issue it addresses.

Sec #	Topic	Description
54	Dealer Definition	<b>Subdiv. (8)(A)(ii)(III)</b> exempts small trailers with a gross vehicle weight rating of 3,500 pounds or less from counting toward the sales threshold to qualify as a dealer.
55	Review of Dealer Regulations	Directs the Commissioner of Motor Vehicles, in consultation with new and used dealers and other interested persons, to review Vermont's regulation of dealers and the regulation of dealers by other states in order to determine whether Vermont's system of dealer regulation should be updated. The Commissioner is directed to report back to the Committees on Transportation on or before January 15, 2017, with findings, recommendations, and any proposed legislation.
58	Nondriver identification cards	<b>Subsec. (b)</b> increases the renewal fee for a four-year nondriver identification card from \$20 to \$24 (consistent H.877), and authorizes the Commissioner of Motor Vehicles to send renewal notices electronically if customer opts in to receive electronically.  <b>Subsec. (i)</b> strikes out existing language that prescribes data storage technology used and the data elements to be contained therein on nondriver identification cards, and instead references federal standards. <b>Further explanation if needed:</b> Federal standards governing licenses and id cards require use of bar codes that store 10 minimum data elements.
59	Refunds when registration plates are not used	Eliminates references to returning registration validation stickers and requirements that such stickers not be affixed to license plates in the statute that authorizes the Commissioner of Motor Vehicles to issue full or partial refunds when motor vehicle, snowmobile, or motorboat registrations are cancelled.  <b>Further explanation if needed:</b> Under current practice, registration validation stickers include the vehicle's registration number. In the past, this was not the case, and validation stickers were generic; as a result, it used to be important for a registrant to return the validation sticker in order to qualify for a refund so that the registrant could not use the generic validation sticker on another vehicle. DMV's position is that under current practice, the return of validation stickers is not a concern.
61-64	Recognition of out-of-state	<b>Sec. 46</b> reenacts with some stylistic modifications an existing statute that

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Sec #	Topic	Description
	licenses, permits, and registrations; sending of license renewal notice	<p>is repealed in Sec. 47 of the bill, and adds a cross-reference to a related law in Title 23. Because the statute addresses Vermont's recognition of motor vehicle registrations and operator's licenses and permits issued by other jurisdictions, the language is moved from the chapter of law that addresses registrations only to the chapter that contains provisions common to registrations and operator's licenses.</p> <p><b>Sec. 47</b> repeals the existing reciprocity language from the registration section, as the language was added to the section common to license and registration in the section above.</p> <p><b>Sec. 48</b> amends a law that addresses license requirements in Vermont. <b>Subdiv. (a)(1)</b> updates a cross-reference based on changes made in sect. 46 &amp; 47.</p> <p><b>Subdiv. (a)(2)(B)</b> is added to reflect a provision of existing law that authorizes operation of a motor vehicle in Vermont under a foreign country license for up to 30 days for vacation purposes.</p> <p><b>Subsec. (c)</b> authorizes the Commissioner of Motor Vehicles to send license renewal notices electronically.</p> <p><b>Sec. 49</b> makes conforming changes for consistency with the changes made in Secs. 46 &amp; 47 of the bill.</p>
65	Special examinations of motor vehicle operators	Expands the list of persons who are eligible to conduct special examinations of motor vehicle operators, by including authorized health care professionals in adjoining states as well as including certified physician assistants and licensed advance practice registered nurses as acceptable examiners.
66-67	Additional special examinations of motor vehicle operators	<p><b>Sec. 51</b> repeals a law that allows a person dissatisfied with the results of a special examination to have two additional examinations by health care providers approved by the Commissioner and that provides for the decision of the additional examiners to be final.</p> <p><b>Further explanation if needed:</b></p> <ul style="list-style-type: none"> <li>- According to DMV, the procedure authorized in this section has not been used in many years (no one in management at DMV recalls when it was last used), and it is inconsistent with DMV's practice of using the individual's primary care provider for the initial examination and DMV's experience that an individual's primary health care provider is best situated to opine on the individual's ability to drive.</li> <li>- Under a separate provision of law (23 V.S.A. § 671), an individual is entitled to a hearing prior to a suspension arising from the results of a special examination and is entitled to appeal the outcome of the hearing.</li> </ul> <p><b>Sec. 52</b> is a conforming change needed because of the repeal in Sec. 13 of the bill.</p>
68	Smugglers' Notch, winter closure of VT Route 108; Commercial Vehicle Operation Prohibited	<ul style="list-style-type: none"> <li>• Signs will be posted indicating road closure and vehicle restrictions.</li> <li>• Add that commercial vehicles are prohibited from operating on Smugglers' Notch segment of VT Route 108.</li> </ul>

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Sec #	Topic	Description
		<ul style="list-style-type: none"> <li>Sets civil penalties and fines for violation.</li> </ul>
69-70	Chain requirements for vehicles with weight rating of more than 26,000 lbs.	<p><b>Section 54</b></p> <ul style="list-style-type: none"> <li>Adds a definition of chains as referenced in this section.</li> <li>Makes it mandatory for vehicles with a weight rating of more than 26,000 lbs. to use chains on specified state highways.</li> <li>Highways requiring chains will have signs posting these requirements.</li> </ul> <p><b>Section 55</b> Adds subsection 1006b(b), section 1006c to traffic violation</p>
71	Examinations of school bus operators	Allows school bus operators to submit medical certificates to the schools that employ them every two years instead of every year.
72	Allocation of overweight and overdimension vehicle fines	Makes a technical correction in order to cross-reference the appropriate section of law that governs the administrative charge retained by the State when overweight and overdimension vehicle fines are collected. The administrative charge in this section was not updated when the administrative fee was increased the last couple of times so this avoids that happening again in the future.
73	Overlength vehicle permitting	Repeals a provision that grants the Commissioner of Motor Vehicles authority to enter into contracts with third parties for the permitting of motor vehicles over 72' in length for operation on pre-approved routes. DMV testified that this authority is unused and unnecessary.
74	Certificates of title; definitions	Updates the definitions of "salvaged motor vehicle" and "salvage certificate of title" for consistency with each other and for consistency with other provisions of law governing salvage certificates of title.
75	Delivery of certificates of title	<p>Establishes that a person is entitled to personal delivery of no more than one certificate of title in a day and of no more than three titles in a month.</p> <p><b>Further explanation if needed:</b> This section does <u>not</u> set a limit on the number of titles that a person may receive through the mail.</p>
76	Salvage certificates of title	Authorizes the Commissioner of Motor Vehicles to issue a salvage certificate of title to an insurance company required to obtain such a title for a vehicle declared a total loss, when the insurer is unable to furnish the original title or proof of ownership to the Department of Motor Vehicles, as long as the insurance company provides evidence of payment for the total loss and of its prior attempt to obtain the original title.
77	Abandoned motor vehicle law	<p>Amends several sections in the abandoned motor vehicle law, which governs the rights and duties of persons on whose property a motor vehicle is abandoned, in order to add a definition of "landowner," to expand the law to provide for persons other than a towing service to file an abandoned motor vehicle certification form and potentially obtain title to an abandoned motor vehicle, and to make stylistic and clarifying changes.</p> <p><b>Further explanation if needed:</b>  <b>§ 2151</b> adds a definition of the term "landowner" to the abandoned motor vehicle law, and reorganizes the definition of "abandoned motor vehicle" for clarity.  <b>§ 2152</b> makes various clarifying and stylistic changes to a provision</p>

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Sec #	Topic	Description
		<p>governing removal of abandoned motor vehicles on property, and substitutes the new defined term “landowner” for the phrase “owner or agent of the property” in several places.</p> <p><b>§ 2153</b> requires a “landowner” on whose property an abandoned motor vehicle is located, and not just a “towing service,” to file an abandoned motor vehicle certification form within a 30-day time period, unless the vehicle has been removed from the property, and makes clear that this requirement does not create a private right of action against the landowner.</p> <p><b>§ 2154</b> substitutes the new defined term “landowner” for the phrase “owner or agent of the property” in a provision governing the obligation of a person who reclaims an abandoned motor vehicle to reimburse certain fees.</p> <p><b>§ 2155</b> adds language to allow a towing fee to be charged directly to the vehicle owner and eliminates a reference to a “towing service” sending the abandoned motor vehicle certification form to DMV (since it is a “landowner” who sends the form to DMV, and a “landowner” may be, but is not necessarily, a towing service).</p>
78-80	Repeals and conforming changes	<p><b>Sect. 63</b></p> <p><b>Subdiv. (1)</b> repeals a special registration provision for log-haulers, as DMV has not registered any of these vehicles in recent memory.</p> <p><b>Subdiv. (2)</b> repeals a statute providing a special discounted registration rate for diesel-powered pleasure cars (\$26 for one year and \$48 for two years). The result of the repeal is that diesel-powered pleasure cars will be subject to the same registration rates as other pleasure cars (currently \$69 for one year and \$127 for two years).</p> <p><b>Subdiv. (3)</b> repeals an outmoded, unused statute that requires the Secretary of Transportation to negotiate an interstate compact regarding truck user license fees.</p> <p><b>Subdiv. (4)</b> repeals a law that requires the Commissioner of Motor Vehicles to suspend the driver’s license or privilege to operate of a person against whom there is an outstanding judgment for damages arising from a motor vehicle accident cause by violation of a traffic law.</p> <p><b>Secs. 64 and 65</b> are conforming changes needed because of the repeals in Sec. 22 of the bill.</p>
81	Chemicals of high concern to children; exemption for motor vehicles	Amends the definition of “motor vehicle” in the chapter of law regulating chemicals of high concern to children, in order to exempt from regulation under the chapter all vehicles propelled by power other than muscular power, regardless of whether a vehicle is intended primarily for use on public highways.
83	Study of DUI Drug Offense Enforcement Challenges	Requires a summer study by Dept. of Stat’s Attorneys and Sheriffs on the challenges that exist with enforcement of DUI drug offenses.

## **10. Is there a need for this bill?**

Yes, this bill is needed to change several statutes pertaining to motor vehicles so the DMV can run more effectively and provide better customer service to residents of the state.

## **11. What are likely to be the fiscal and programmatic implications of this bill for this Department?**

### Section 42

Minimal changes to update manuals and issue a bulletin, however this is current practice for the department as we have not required retail locations such as Home Depot, Lowes, etc. that sell small trailers to register as dealers.

### Sections 43

Review of dealer regulations: DMV will conduct a study with VT Dealers and VADA to report on current dealer regulations that are in place in Vermont state, other states state, and recommend any changes that could be made to benefit the dealer program. Cost to the Department will only be employee time.

### Section 44

Non-driver ID's: There will be a form change needed due to the fee increase. No change at this time for sending renewals electronically. This is in place to allow for future use. The bar code has already been added and the magstripe will stay on until the next redesign of the card. Fiscal impact will be minimal due to changing the form.

### Section 45

Not returning registration validation stickers: Procedural changes only.

### Sections 46, 47 & 49

No implications for the Department as these sections just move existing law to a new section.

### Sections 48

No change at this time for sending renewals electronically. No impact for other sections.

### Section 50

Expands list of person able to conduct special examinations of mv operators. No changes required.

### Sections 51 & 52

This is an outdated section of statute and is not currently done so this will have no impact at DMV.

### Section 53 - 56

No impact to DMV

### Section 57

Allocation of overweight and overdimension vehicle fines: Current DMV practice no changes required.

### Section 58

Overlength vehicle permitting: This current authority is unused and unnecessary, not current DMV practice.

### Section 59

No changes required.

### Section 60

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Delivery of certificates of title; will allow the Department to be more efficient as we won't be issuing as many titles in an over the counter method which is much more time consuming.

#### Section 61

Salvage certificate of title will need to modify forms to allow for an insurance company or authorized representative to receive a Salvaged Title from DMV in instances where they are unable to obtain the original title from the insured. This will be a minimal cost impact.

#### Section 62

Abandoned motor vehicle law: Procedure changes as well as change to forms to allow landowners, not just towing companies to apply for an Abandoned Motor Vehicle Certification. This will be of minimal fiscal impact to DMV.

#### Sections 63, 64, & 65

No adverse impacts to DMV with the exception of fewer suspensions

#### Section 66

Chemicals of high concern to children, exemption for motor vehicles. No impact to DMV.

Overall program changes and cost to DMV:

Procedures: minimal work needed, minimal cost to DMV

Bulletins: employee, dealer, enforcement – minimal cost to DMV

Forms: Change of 5-10 forms possible. Minimal cost to DMV.

### **12. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**

The department is not aware of any other departments that would be impacted by these sections.

### **13. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)**

- Dealership will likely welcome the DMV conducting a study of neighbor state's dealer regulation policies to ensure that VTs auto industry is on an even playing field and they can remain competitive in the current business environment.
- The public might see the repeal of the §638 as not allowing for a second opinion however they do have that right by appealing the suspension that would result should their primary care physician deem them unfit to drive.
- Personal/Expedited Delivery Certificates of Title – Dealership representatives, and those private parties selling multiple vehicles that they obtain from auction will not be happy that they have to wait weeks to acquire titles that they used to get on the same day or within 24 hours.

### **14. Other Stakeholders:**

#### **6.1 Who else is likely to support the proposal and why?**

##### **a. Who else is likely to oppose the proposal and why?**



**15. Rationale for recommendation:** *Justify recommendation stated above.*

The DMV drafted this bill to support and improve DMV practices and procedures and to improve customer service to residents of Vermont.

**16. Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

The DMV supports this bill and does not recommend any changes.

**17. Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many?**

No

**Secretary/Commissioner has reviewed this document:** \_\_\_\_\_ **Date:** \_\_\_\_\_