

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred Senate Bill No. 108 entitled “An act relating to employee
4 misclassification” respectfully reports that it has considered the same and
5 recommends that the House propose to the Senate that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 * * * Employee Misclassification * * *

9 Sec. 1. 21 V.S.A. § 712 is added to read:

10 § 712. COMPLAINT OF MISCLASSIFICATION; ENFORCEMENT BY
11 ATTORNEY GENERAL

12 (a) In addition to any other remedies provided under this chapter, an
13 individual may file a complaint with the Attorney General that an employer
14 has committed a violation of section 687 or 708 of this chapter by claiming
15 that it is not an employer as defined pursuant to subdivision 601(3) of this
16 chapter or that an individual is not a worker or employee as defined pursuant to
17 subdivision 601(14) of this chapter.

18 (b) Subject to the terms of the memorandum of understanding between the
19 Attorney General and the Commissioner of Labor executed pursuant to section
20 3 of this title, the Attorney General may investigate the complaint and may
21 enforce the provisions of section 687 or 708 of this chapter by restraining

1 prohibited acts, seeking civil penalties, obtaining assurances of discontinuance,
2 and conducting civil investigations in accordance with the procedures
3 established in 9 V.S.A. §§ 2458–2461 as though a violation of section 687 or
4 708 of this chapter and any related violations of the provisions of this chapter
5 were unfair acts in commerce. Any employer, employment agency, or labor
6 organization complained against shall have the same rights and remedies as
7 specified in 9 V.S.A. §§ 2458–2461. The Superior Courts may impose the
8 same civil penalties and investigation costs and order other relief to the State of
9 Vermont or an aggrieved employee for a violation of section 687 or 708 of this
10 chapter and any related violations of the provisions of this chapter as they are
11 authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and
12 2461 in an unfair act in commerce. In addition, the Superior Courts may order
13 restitution of wages or other benefits on behalf of an employee and may order
14 reinstatement and other appropriate relief on behalf of an employee.

15 (c) If, following the investigation, the Attorney General determines that an
16 employer has committed a violation of section 687 or 708 of this chapter, the
17 Attorney General shall notify the Commissioners of Labor, of Financial
18 Regulation, and of Taxes of the determination, and those Commissioners shall
19 review whether the employer is in compliance with the employment,
20 insurance, or tax laws that are under their jurisdiction.

1 Sec. 2. 21 V.S.A. § 1379 is added to read:

2 § 1379. COMPLAINT OF MISCLASSIFICATION; ENFORCEMENT BY
3 ATTORNEY GENERAL

4 (a) In addition to any other remedies provided under this chapter, an
5 individual who is misclassified by an employing unit or harmed by an
6 employing unit's misclassification of an employee as an independent
7 contractor may file a complaint of the misclassification and any related
8 violations of the provisions of this chapter with the Attorney General.

9 (b) Subject to the terms of the memorandum of understanding between the
10 Attorney General and the Commissioner of Labor executed pursuant to section
11 3 of this title, the Attorney General may investigate the complaint and may
12 enforce the provisions of this chapter by restraining prohibited acts, seeking
13 civil penalties, obtaining assurances of discontinuance, and conducting civil
14 investigations in accordance with the procedures established in 9 V.S.A.
15 §§ 2458–2461 as though the misclassification of an employee and any related
16 violations of the provisions of this chapter were unfair acts in commerce. Any
17 employer, employment agency, or labor organization complained against shall
18 have the same rights and remedies as specified in 9 V.S.A. §§ 2458–2461. The
19 Superior Courts may impose the same civil penalties and investigation costs
20 and order other relief to the State of Vermont or an aggrieved employee for the
21 misclassification of an employee and any related violations of the provisions of

1 this chapter as they are authorized to impose or order under the provisions of
2 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the
3 Superior Courts may order restitution of wages or other benefits on behalf of
4 an employee and may order reinstatement and other appropriate relief on
5 behalf of an employee.

6 (c) If, following the investigation, the Attorney General determines that an
7 employee has been misclassified as an independent contractor, the Attorney
8 General shall notify the Commissioners of Labor, of Financial Regulation, and
9 of Taxes of the determination, and those Commissioners shall review whether
10 the employer is in compliance with the employment, insurance, or tax laws that
11 are under their jurisdiction.

12 Sec. 3. 21 V.S.A. § 1314 is amended to read:

13 § 1314. REPORTS AND RECORDS; SEPARATION INFORMATION;
14 DETERMINATION OF ELIGIBILITY; FAILURE TO REPORT
15 EMPLOYMENT INFORMATION; DISCLOSURE OF
16 INFORMATION TO OTHER STATE AGENCIES TO
17 INVESTIGATE MISCLASSIFICATION OR MISCODING

18 * * *

19 (d)(1) Except as otherwise provided in this chapter, information obtained
20 from any employing unit or individual in the administration of this chapter, and
21 determinations as to the benefit rights of any individual shall be held

1 confidential and shall not be disclosed or open to public inspection in any
2 manner revealing the individual's or employing unit's identity, nor be
3 admissible in evidence in any action or proceeding other than one arising out
4 of this chapter, or to support or facilitate an investigation by a public agency
5 identified in subdivision (e)(1) of this section.

6 * * *

7 (e)(1) Subject to such restrictions as the Board may by regulation prescribe,
8 information from unemployment insurance records may be made available to
9 any public officer or public agency of this or any other state or the federal
10 government dealing with the administration or regulation of relief, public
11 assistance, unemployment compensation, a system of public employment
12 offices, wages and hours of employment, workers' compensation,
13 misclassification or miscoding of workers, occupational safety and health, or a
14 public works program for purposes appropriate to the necessary operation of
15 those offices or agencies. The Commissioner may also make information
16 available to colleges, universities, and public agencies of the State for use in
17 connection with research projects of a public service nature, and to the
18 Vermont Economic Progress Council with regard to the administration of
19 32 V.S.A. chapter 105, subchapter 2; but no person associated with those
20 institutions or agencies may disclose that information in any manner that

1 would reveal the identity of any individual or employing unit from or
2 concerning whom the information was obtained by Commissioner.

3 * * *

4 (8) The Department of Labor shall disclose, upon request, to the
5 Attorney General and employees of the Office of the Attorney General
6 information necessary for the Attorney General to investigate a complaint and
7 enforce the provisions of this chapter as provided pursuant to section 1379 of
8 this chapter.

9 * * *

10 Sec. 4. 21 V.S.A. § 346 is added to read:

11 § 346. ENFORCEMENT BY ATTORNEY GENERAL; EMPLOYEE

12 MISCLASSIFICATION

13 (a) In addition to any other remedies provided under this subchapter, an
14 individual may file a complaint with the Attorney General that an employer
15 has committed a violation of section 342, 343, 348, 482, or 483 of this chapter
16 by misclassifying an employee as an independent contractor.

17 (b) Subject to the terms of the memorandum of understanding between the
18 Attorney General and the Commissioner of Labor executed pursuant to section
19 3 of this title, the Attorney General may investigate a complaint of a violation
20 of section 342, 343, 348, 482, or 483 of this chapter that is related to the
21 misclassification of an employee as an independent contractor and may enforce

1 those provisions by restraining prohibited acts, seeking civil penalties,
2 obtaining assurances of discontinuance, and conducting civil investigations in
3 accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as
4 though the misclassification of an employee and any related violations of the
5 provisions of section 342, 343, 348, 482, or 483 of this chapter were unfair acts
6 in commerce. Any employer complained against shall have the same rights
7 and remedies as specified in 9 V.S.A. §§ 2458–2461. The Superior Courts
8 may impose the same civil penalties and investigation costs and order other
9 relief to the State of Vermont or an aggrieved employee for the
10 misclassification of an employee and any related violations of the provisions of
11 this chapter as they are authorized to impose or order under the provisions of
12 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the
13 Superior Courts may order restitution of wages or other benefits on behalf of
14 an employee and may order reinstatement and other appropriate relief on
15 behalf of an employee.

16 (c) If, following the investigation, the Attorney General determines that an
17 employer committed a violation of section 342, 343, 348, 482, or 483 of this
18 chapter by misclassifying an employee as an independent contractor, the
19 Attorney General shall notify the Commissioners of Labor, of Financial
20 Regulation, and of Taxes of the determination, and those Commissioners shall

1 review whether the employer is in compliance with the employment,
2 insurance, or tax laws that are under their jurisdiction.

3 Sec. 5. 21 V.S.A. § 342a is amended to read:

4 § 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

5 * * *

6 (h) Information obtained from any employer, employee, or witness in the
7 course of investigating a complaint of unpaid wages shall be confidential and
8 shall not be disclosed or open to public inspection in any manner that reveals
9 the employee's or employer's identity or be admissible in evidence in any
10 action or proceeding other than one arising under this subchapter. However,
11 such information may be released to any public official for the purposes
12 provided in subdivision 1314(e)(1) of this title or to the Attorney General in
13 relation to investigations conducted pursuant to section 346 of this subchapter
14 as provided pursuant to the terms of the memorandum of understanding
15 between the Attorney General and the Commissioner of Labor executed
16 pursuant to section 3 of this title.

17 Sec. 6. 21 V.S.A. § 387 is added to read:

18 § 387. ENFORCEMENT BY ATTORNEY GENERAL; EMPLOYEE

19 MISCLASSIFICATION

20 (a) In addition to any other remedies provided under this subchapter, an
21 individual may file a complaint with the Attorney General that an employer

1 has committed a violation of this subchapter by misclassifying an employee as
2 an independent contractor.

3 (b) Subject to the terms of the memorandum of understanding between the
4 Attorney General and the Commissioner of Labor executed pursuant to section
5 3 of this title, the Attorney General may investigate a complaint of a violation
6 of this subchapter that is related to the misclassification of an employee as an
7 independent contractor and may enforce the provisions of this subchapter by
8 restraining prohibited acts, seeking civil penalties, obtaining assurances of
9 discontinuance, and conducting civil investigations in accordance with the
10 procedures established in 9 V.S.A. §§ 2458–2461 as though the
11 misclassification of an employee and any related violations of the provisions of
12 this subchapter were unfair acts in commerce. Any employer complained
13 against shall have the same rights and remedies as specified in 9 V.S.A.
14 §§ 2458–2461. The Superior Courts may impose the same civil penalties and
15 investigation costs and order other relief to the State of Vermont or an
16 aggrieved employee for the misclassification of an employee and any related
17 violations of the provisions of this chapter as they are authorized to impose or
18 order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in
19 commerce. In addition, the Superior Courts may order restitution of wages or

1 other benefits on behalf of an employee and may order reinstatement and other
2 appropriate relief on behalf of an employee.

3 (c) If, following the investigation, the Attorney General determines that an
4 employer has violated this subchapter by misclassifying an employee as an
5 independent contractor, the Attorney General shall notify the Commissioners
6 of Labor, of Financial Regulation, and of Taxes of the determination, and those
7 Commissioners shall review whether the employer is in compliance with the
8 employment, insurance, or tax laws that are under their jurisdiction.

9 Sec. 7. 32 V.S.A. § 3102 is amended to read:

10 § 3102. CONFIDENTIALITY OF TAX RECORDS

11 * * *

12 (d) The Commissioner shall disclose a return or return information:

13 * * *

14 (5) to the Attorney General, if such return or return information relates
15 to chapter 205 of this title or 33 V.S.A. chapter 19, subchapters 1A and 1B, for
16 purposes of investigating potential violations of and enforcing 7 V.S.A.
17 chapter 40, 20 V.S.A. chapter 173, subchapter 2A, ~~and~~ 33 V.S.A. chapter 19,
18 subchapters 1A and 1B, and 21 V.S.A. §§ 346, 387, 712, and 1379;

19 * * *

1 Sec. 8. 21 V.S.A. § 3 is added to read:

2 § 3. COOPERATION WITH ATTORNEY GENERAL; MEMORANDUM
3 OF UNDERSTANDING

4 (a) The Attorney General and the Commissioner of Labor shall enter into a
5 memorandum of understanding to establish a process for sharing information
6 and the coordination of investigatory resources in relation to the provisions of
7 sections 346, 387, 712, and 1379 of this title. Notwithstanding any provision
8 of 9 V.S.A. § 2460(a) to the contrary, the memorandum shall, at a minimum,
9 provide for the following:

10 (1) A procedure for delegating investigatory responsibility following the
11 receipt of a complaint, including the following procedural steps that shall be
12 taken after the Attorney General receives a complaint pursuant to sections 346,
13 387, 712, and 1379 of this title:

14 (A) The Attorney General shall provide the Commissioner of Labor
15 with notice of the complaint within five business days.

16 (B) The Commissioner of Labor shall have 60 days following the
17 receipt of a complaint from the Attorney General within which to decide
18 whether to investigate a complaint, request that the Attorney General
19 investigate the complaint, or decline to investigate the complaint because the
20 allegations it contains, if true, would not constitute a violation of the applicable
21 provisions of law.

1 (C) If the Commissioner of Labor elects to investigate a complaint,
2 following the initial investigation, the Commissioner may elect to:

3 (i) dismiss the complaint due to a lack of evidence that a violation
4 of the applicable law occurred;

5 (ii) commence an enforcement action related to any violations of
6 the applicable laws; or

7 (iii) refer the case to the Attorney General if the employer,
8 through the misclassification of employees, appears to be engaging in willful,
9 substantial, or systemic violations of the provisions of chapter 5, subchapter 2
10 or 3 of this title, or chapter 9 or 17 of this title.

11 (D)(i) If the Commissioner of Labor fails to take action on a
12 complaint pursuant to subdivision (B) of this subdivision (a)(1) within 60 days
13 after receiving a complaint from the Attorney General, the Attorney General
14 shall determine whether to investigate the complaint as provided pursuant to
15 sections 346, 387, 712, and 1379 of this title.

16 (ii) If the Commissioner of Labor declines to investigate a
17 complaint pursuant to subdivision (B) of this subdivision (a)(1) because the
18 allegations it contains, if true, would not constitute a violation of the applicable
19 provisions of law, the complaint shall be closed.

20 (2) The exchange of information related to an alleged violation or the
21 investigation of an alleged violation pursuant to sections 346, 387, 712, and

1 1379 of this title between the Commissioner of Labor and the Attorney

2 General.

3 (3) A process for resolving a disagreement between the parties regarding
4 whether an employer engaged in employee misclassification in favor of the
5 determination made by the Commissioner of Labor.

6 (b) The Attorney General shall enter into separate memoranda of
7 understanding with the Commissioner of Financial Regulation and the
8 Commissioner of Taxes to establish a process for sharing information related
9 to an investigation by the Attorney General pursuant to sections 346, 387, 712,
10 and 1379 of this title. Notwithstanding any provision of 9 V.S.A. § 2460(a) to
11 the contrary, each memorandum shall, at a minimum, provide for the
12 disclosure of the Attorney General’s determination that an employer has,
13 through the misclassification of an employee, violated the provisions of 21
14 V.S.A. chapter 5, subchapter 2 or 3 of this title, or chapter 9 or 17 of this title,
15 and the basis for that determination.

16 (c) Information shared pursuant to this section shall be exempt from public
17 inspection and copying under the Public Records Act and shall be kept
18 confidential. Notwithstanding 1 V.S.A. § 317(e), the Public Records Act
19 exemption created in this section shall continue in effect and shall not be
20 repealed through the operation of 1 V.S.A. § 317(e).

1 Sec. 9. EMPLOYEE MISCLASSIFICATION; ENFORCEMENT BY
2 ATTORNEY GENERAL; REPORTS

3 (a)(1) On or before January 15, 2021, the Attorney General, in consultation
4 with the Commissioners of Financial Regulation, of Labor, and of Taxes, shall
5 submit a written report to the House Committees on Commerce and Economic
6 Development and on General, Housing, and Military Affairs and the Senate
7 Committees on Economic Development, Housing and General Affairs and on
8 Finance regarding the enforcement of employment law violations related to
9 employee misclassification by the Attorney General pursuant to 21 V.S.A.
10 §§ 346, 387, 712, and 1379.

11 (2) The report shall include:

12 (A) for each calendar year:

13 (i) the number of complaints received by the Office of the
14 Attorney General;

15 (ii) the number of investigations initiated by the Commissioner of
16 Labor following a referral from the Attorney General;

17 (iii) the number of investigations initiated by the Attorney
18 General;

19 (iv) the number of investigations that resulted in the imposition of
20 a civil penalty, an assurance of discontinuance, or the imposition of injunctive
21 relief; and

1 (B) any recommendations for legislative action to improve the
2 effectiveness of the provisions of 21 V.S.A. §§ 346, 387, 712, and 1379.

3 (b)(1) On or before January 15, 2023, the Attorney General, in consultation
4 with the Commissioners of Financial Regulation, of Labor, and of Taxes, shall
5 submit a written report to the House Committees on Commerce and Economic
6 Development and on General, Housing, and Military Affairs and the Senate
7 Committees on Economic Development, Housing and General Affairs and on
8 Finance regarding the enforcement of employment law violations related to
9 employee misclassification by the Attorney General pursuant to 21 V.S.A.
10 §§ 346, 387, 712, and 1379.

11 (2) The report shall include:

12 (A) for each calendar year:

13 (i) the number of complaints received by the Office of the
14 Attorney General;

15 (ii) the number of investigations initiated by the Attorney General;

16 and

17 (iii) the number of investigations that resulted in the imposition of
18 a civil penalty, an assurance of discontinuance, or the imposition of injunctive
19 relief; and

20 (B) a recommendation regarding whether to delay or eliminate the
21 repeal of 21 V.S.A. §§ 346, 387, 712, and 1379, and if a delay or elimination

1 of the repeal is proposed, any recommendations for legislative action related to
2 those sections.

3 Sec. 10. REPEAL

4 21 V.S.A. §§ 346, 387, 712, and 1379 are repealed.

5 Sec. 11. 21 V.S.A. § 1314 is amended to read:

6 § 1314. REPORTS AND RECORDS; SEPARATION INFORMATION;
7 DETERMINATION OF ELIGIBILITY; FAILURE TO REPORT
8 EMPLOYMENT INFORMATION; DISCLOSURE OF
9 INFORMATION TO OTHER STATE AGENCIES TO
10 INVESTIGATE MISCLASSIFICATION OR MISCODING

11 * * *

12 (e)(1) Subject to such restrictions as the Board may by regulation prescribe,
13 information from unemployment insurance records may be made available to
14 any public officer or public agency of this or any other state or the federal
15 government dealing with the administration or regulation of relief, public
16 assistance, unemployment compensation, a system of public employment
17 offices, wages and hours of employment, workers' compensation,
18 misclassification or miscoding of workers, occupational safety and health, or a
19 public works program for purposes appropriate to the necessary operation of
20 those offices or agencies. The Commissioner may also make information
21 available to colleges, universities, and public agencies of the State for use in

1 connection with research projects of a public service nature, and to the
2 Vermont Economic Progress Council with regard to the administration of
3 32 V.S.A. chapter 105, subchapter 2; but no person associated with those
4 institutions or agencies may disclose that information in any manner that
5 would reveal the identity of any individual or employing unit from or
6 concerning whom the information was obtained by Commissioner.

7 * * *

8 (8) ~~The Department of Labor shall disclose, upon request, to the~~
9 ~~Attorney General and employees of the Office of the Attorney General~~
10 ~~information necessary for the Attorney General to investigate a complaint and~~
11 ~~enforce the provisions of this chapter as provided pursuant to section 1379 of~~
12 ~~this chapter. [Repealed.]~~

13 * * *

14 Sec. 12. 21 V.S.A. § 342a is amended to read:

15 § 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

16 * * *

17 (h) Information obtained from any employer, employee, or witness in the
18 course of investigating a complaint of unpaid wages shall be confidential and
19 shall not be disclosed or open to public inspection in any manner that reveals
20 the employee's or employer's identity or be admissible in evidence in any
21 action or proceeding other than one arising under this subchapter. However,

1 such information may be released to any public official for the purposes
2 provided in subdivision 1314(e)(1) of this title ~~or to the Attorney General~~
3 ~~pursuant to the terms of a memorandum of understanding between the~~
4 ~~Commissioner and the Attorney General that was agreed to in relation to~~
5 ~~investigations conducted pursuant to section 346 of this subchapter.~~

6 Sec. 13. 32 V.S.A. § 3102 is amended to read:

7 § 3102. CONFIDENTIALITY OF TAX RECORDS

8 * * *

9 (d) The Commissioner shall disclose a return or return information:

10 * * *

11 (5) to the Attorney General, if such return or return information relates
12 to chapter 205 of this title or 33 V.S.A. chapter 19, subchapters 1A and 1B, for
13 purposes of investigating potential violations of and enforcing 7 V.S.A.
14 chapter 40, 20 V.S.A. chapter 173, subchapter 2A, and 33 V.S.A. chapter 19,
15 subchapters 1A and 1B, ~~and 21 V.S.A. §§ 346, 387, 712, and 1379;~~

16 * * *

17 * * * Workers' Compensation Studies and Outreach * * *

18 Sec. 14. WORKERS' COMPENSATION EXEMPTION FOR EQUINE

19 CARE AND MANAGEMENT; REPORT

20 (a) On or before January 15, 2020, the Commissioners of Agriculture and
21 of Labor shall report to the House Committee on Commerce and Economic

1 Development and the Senate Committee on Economic Development, Housing
2 and General Affairs regarding whether certain activities related to equine care
3 and management should be excluded from the definition of “worker” and
4 “employee” pursuant to 21 V.S.A. § 601(14).

5 (b) The report shall specifically address the following:

6 (1) an appropriate definition for the terms “agriculture” and “farm
7 employment” as those terms are used in 21 V.S.A. § 601(14)(C);

8 (2) whether any activities related to equine care and management would
9 fall within the definitions of “agriculture” and “farm employment” determined
10 pursuant to subdivision (1) of this subsection;

11 (3) what activities related to equine care and management, if any, should
12 be included in the exemptions from the definition of “worker” and
13 “employee”; and

14 (4) what the potential impact of excluding the activities identified
15 pursuant to subdivision (3) of this subsection from the definition of “worker”
16 and “employee” would be with respect to workers’ compensation premiums,
17 worker safety, and potential liability for employers that have equine care and
18 management operations.

19 (c) The report may include a recommendation for legislative action.

1 Sec. 15. STATE EMPLOYEES; WORKERS' COMPENSATION; POST-
2 TRAUMATIC STRESS DISORDER; MENTAL DISORDERS;
3 STUDY; REPORT

4 On or before January 15, 2020, the Agency of Administration, Office of
5 Risk Management, in consultation with the Agency of Human Services, the
6 Department for Children and Families, and the Departments of Human
7 Resources and of Labor, shall submit a written report on the workers'
8 compensation claims submitted by State employees in relation to post-
9 traumatic stress disorder and other mental conditions to the House Committee
10 on Commerce and Economic Development and the Senate Committee on
11 Economic Development, Housing and General Affairs. The report shall:

12 (1) examine the occurrence and frequency of workers' compensation
13 claims submitted by State employees in relation to post-traumatic stress
14 disorder and other mental conditions that are caused or aggravated by
15 workplace stressors or workplace violence;

16 (2) identify professions and occupations in State government that have a
17 heightened risk of exposure to traumatic situations or stress that could cause
18 post-traumatic stress disorder or other mental conditions;

19 (3) include an inventory of currently existing prevention and education
20 plans related to the occurrence of post-traumatic stress disorder and other
21 mental conditions among State employees;

1 (4) identify various approaches for preventing the occurrence of post-
2 traumatic stress disorder and other mental conditions among State employees,
3 including specific actions and methods to reduce the likelihood of job-related
4 stressors or workplace violence; and

5 (5) identify specific training and educational activities and materials that
6 can be implemented to:

7 (A) enable State employees to better recognize situations, incidents,
8 and other occurrences that may result in a stressful situation or violent
9 interaction;

10 (B) enable State employees to better recognize the symptoms of post-
11 traumatic stress disorder and other common mental conditions in themselves
12 and their coworkers;

13 (C) identify the resources available to employees following a
14 stressful or traumatic incident, including the Employee Assistance Program
15 and counseling; and

16 (D) educate State employees regarding how to file and pursue a
17 workers' compensation claim for work-related post-traumatic stress disorder or
18 another work-related mental condition that requires treatment or has become
19 disabling.

1 **Sec. 16. ADOPTION OF PRESCRIPTION DRUG FORMULARY; REPORT**

2 (a) On or before January 15, 2020, the Commissioner of Labor, in
3 consultation with the Commissioner of Health, shall submit a report to the
4 House Committees on Commerce and Economic Development and on Health
5 Care and the Senate Committees on Economic Development, Housing and
6 General Affairs and on Health and Welfare that examines the possibility of
7 adopting for workers' compensation in Vermont a nationally recognized,
8 evidence-based prescription drug formulary appropriate for resolving issues
9 related to drugs prescribed for the treatment of work-related injuries.

10 (b) The report shall specifically include the following:

11 (1) an analysis of the potential impact of adopting a nationally
12 recognized, evidence-based prescription drug formulary for workers'
13 compensation in Vermont on:

14 (A) employee health outcomes and the ability of employees to return
15 to work;

16 (B) the administration of workers' compensation claims; and

17 (C) workers' compensation premiums;

18 (2) a list of other states that have adopted a nationally recognized,
19 evidence-based prescription drug formulary for their workers' compensation
20 programs and a summary of any positive or adverse impacts resulting from the
21 adoption of the formulary; and

1 (3) an estimate of the cost of adopting and implementing a nationally
2 recognized, evidence-based prescription drug formulary for workers'
3 compensation in Vermont.

4 (c) The report may include a recommendation for legislative action.

5 **Sec. 17.** WORKERS' COMPENSATION; COMPENSATION FOR
6 PRESCRIBED OVER-THE-COUNTER MEDICATIONS;
7 OUTREACH

8 On or before October 15, 2019, the Commissioner of Labor shall develop
9 and disseminate informational materials to educate workers and employers
10 regarding the ability of a worker to receive compensation for the cost of
11 prescribed over-the-counter medications. The methods of disseminating the
12 materials shall include:

13 (1) posting the information on the Department's website;

14 (2) e-mailing or otherwise providing written notice to insurance carriers
15 that offer workers' compensation insurance in Vermont; and

16 (3) ensuring, in coordination with the Department of Health and the
17 appropriate professional licensing boards and professional membership
18 associations, that the information is made available to all licensed health care
19 professionals who are authorized to prescribe medications and to all licensed
20 pharmacists in Vermont.

1 * * * Direct Deposit of Workers' Compensation * * *

2 Sec. 18. 21 V.S.A. § 650 is amended to read:

3 § 650. PAYMENT; AVERAGE WAGE; COMPUTATION

4 * * *

5 (f) When benefits have been awarded or are not in dispute as provided in
6 subsection (e) of this section, the employer shall establish a weekday on which
7 payment shall be mailed or deposited and notify the claimant and the
8 Department of that day. The employer shall ensure that each weekly payment
9 is mailed or deposited on or before the day established. Payment shall be made
10 by direct deposit to a claimant who elects that payment method. The employer
11 shall notify the claimant of his or her right to payment by direct deposit. If the
12 benefit payment is not mailed or deposited on the day established, the
13 employer shall pay to the claimant a late fee of \$10.00 or five percent of the
14 benefit amount, whichever is greater, for each weekly payment that is made
15 after the established day. ~~For the purposes of~~ As used in this subsection,
16 “paid” means the payment is mailed to the claimant’s mailing address or, in the
17 case of direct deposit, transferred into the designated account. In the event of a
18 dispute, proof of payment shall be established by affidavit.

19 * * * Required Notice for Unemployment Insurance * * *

20 Sec. 19. 21 V.S.A. § 1346 is amended to read:

21 § 1346. CLAIMS FOR BENEFITS; ~~REGULATIONS~~ RULES; NOTICE

1 (a) Claims for benefits shall be made in accordance with ~~such regulations~~
2 as rules adopted by the Board may prescribe. ~~Each employer shall post and~~
3 ~~maintain printed statements of such regulations in places readily accessible to~~
4 ~~individuals in his or her service and shall make available to each such~~
5 ~~individual, at the time he or she becomes unemployed, a printed statement of~~
6 ~~such regulations. Such printed statements shall be supplied by the~~
7 ~~Commissioner to each employer without cost to him or her.~~

8 (b) Every person making a claim shall certify that he or she has not, during
9 the week with respect to which waiting period credit or benefits are claimed,
10 earned or received wages or other remuneration for any employment, whether
11 subject to this chapter or not, otherwise than as specified in his or her claim.
12 All benefits shall be paid in accordance with ~~such regulations as the rules~~
13 adopted by the Board may prescribe.

14 (c) An employer shall post notice of how an unemployed individual can
15 seek unemployment benefits in a form provided by the Commissioner in a
16 place conspicuous to individuals performing services for the employer. The
17 notice shall also advise individuals of their rights under the Domestic and
18 Sexual Violence Survivor’s Transitional Employment Program, pursuant to
19 chapter 16A of this title. The Commissioner shall provide a copy of the notice
20 to an employer upon request without cost to the employer.

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* * * Effective Dates * * *

Sec. 20. EFFECTIVE DATES

(a) Secs. 10, 11, 12, and 13 shall take effect on July 1, 2023.

(b) Sec. 18 of this act shall take effect January 1, 2020.

(c) The remaining sections of this act shall take effect on July 1, 2019.

and that after passage the title of the bill be amended to read: “An act relating to workers’ compensation, unemployment insurance, and employee misclassification”

(Committee vote: _____)

Representative _____

FOR THE COMMITTEE