

# ISN'T THERE A LAW ABOUT THAT?

## A GUIDE TO FINDING VERMONT LAW.

*Compiled by Paul Gillies*

### **Fear of the Law**

Let's face it. From the outside, the law looks very intimidating. Visit the town clerk's office some day and take a look at it. It's a set of green books, about twenty of them, entitled "Vermont Statutes Annotated." Every town clerk's office has to keep a set, and it's a set you can use. The regional libraries have them as well.

Just look at those green books, standing there on the shelf, so proper and so bold. Within those covers are all the state laws that apply to you, organized by title, chapter and section. Pull down a volume, and just leaf through it, reading a sentence here or there.

It's written in English. They stopped using Latin a long time ago. It's written in a wooden style, to be sure, but regular people-legislators-understood it at the time it was passed, so why shouldn't you?

Now if your assignment for tonight was to read the whole set

of books, you'd rightly balk at the idea. But nobody reads the whole thing. It's treated like an encyclopedia. You only take down the volume you need. The challenge is finding the right section.

### **Organization of the Vermont Statutes**

In the first volume the editors have placed the U. S. and Vermont Constitutions. The last volumes are the index. In between are 33 titles, organized by subject. Title 17 is Elections. Title 15 is Marriage and Divorce. Title 32 is Taxes. The law on qualifying for a business name is 11 V.S.A. § 1621, which means section 1621 in title 11 of the Vermont Statutes Annotated, abbreviated V.S.A.

You will note that a "title" is not the same as a volume. Some volumes contain several titles; some titles are in more than one volume. Titles are organized into chapters, which you find listed at

*Every  
year the  
legislature  
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You've just lost a close election for local office. The counting went late, and many of those doing the counting were tired. You're the losing candidate. Now what do you do?

The board of civil authority heard your tax appeal a month ago. Doesn't the law say that if the board takes too much time issuing its decision, you win?

The zoning administrator tells you that you can't have a home occupation in your back bedroom. Can she be right?

What is the law on open meetings, and when can the select board legitimately enter executive session? What is the speed limit on a town highway not posted for a particular speed? What is the rule about remaining on the checklist if your daughter moves to another state for college?

There are times in your life when you need to know what the law is. You want to know it right now and you don't want to call (or pay) a lawyer to find it for you. What will you do?

This pamphlet is intended to get you started. It tells you where to look and what to look for, on paper or on the internet, to find and read Vermont law.

The law is not just for lawyers and public officials. It is the operating manual for life in Vermont. It binds and regulates everybody's actions. Knowing it, being able to recite it and rely on it, is a right of any person. So what are you afraid of?

the beginning of the title. Sections (note that two §§ signs is the plural form of §) have subsections using letters or numbers.

Law changes every year. Every year the legislature enacts new laws and amends existing ones, producing a thick volume called Acts and Resolves. Every summer, the official publisher of the statutes issues pocket parts, which are found at the back of each volume of the statutes. Always check to be sure the pocket parts are up-to-date in the volume you're using.

You are ready to look something up.

### **Finding Aids**

An index is a tool for locating subjects. The final two volumes of the Vermont Statutes Annotated is one place to start. The rule on pocket parts applies to these volumes as well. One helpful place to start is at the beginning of the first volume, where the editors have provided a list of common names for some of the laws.

Most people find the law they need after using the index to put them in the neighborhood of the subject matter, and then read forward and backward in that area to locate the answer to their questions.

Sometimes the table of contents at the beginning of the title or the one at the beginning of the chapter is the best source. Sometimes, if you find a related subject, you can find a reference to the statute you're looking for under the

heading "Cross References" beneath the law itself. But most often, you hunt for the right law by reading through a chapter or two before finding it.

Diligence is essential in any undertaking, of course, but those trying to look up the law need to recognize the wisdom of closing the books at some point and coming back another time. Even seasoned researchers use this technique to handle the stress and frustration of this kind of work.

Of course, you could ask for help. The town clerk knows the statutes.

Listers can help you find references to the tax laws in Title 32. The Secretary of State's Office even has a toll free line to provide assistance to you.

### **Starting at the Beginning and Reading through to the End**

Everyone who has used the Vermont statutes has been embarrassed by failing to follow this simple rule. You cannot rush this business. You need to know what the law says, but you also need to know how it fits with other laws. Chapter reading, as opposed to section reading, is a good remedy against the danger of a little knowledge of the law.

The legislature tries to put everything together in the same place, but there are exceptions.

Sometimes exceptions are found in later sections or entirely different chapters; sometimes definitions play as important a role as what the statute says in plain English.

Few sections were enacted into law as single sentences. The more common practice is to propose whole chapters of law. Read the whole chapter.

Don't think you can take one sentence or part of a sentence out of context and expect that will do. That's not the way law is written or enforced.

### **Legislative History**

Knowing the history of the law you're researching is sometimes important. Knowing when the law was first enacted, and when and how it was amended are sometimes critical to questions of enforcement as well.

A brief legislative history of a statute is found following the statute itself. Look at 1 V.S.A. § 316, for instance. It says, "Added 1975, No. 231 (Adj. Sess.); amended 1987, No. 85, § 5, eff. June 9, 1987." Below that, under the heading "History," it says, "Amendments-1987, Subsection (e): Added."

To see the original statute, as enacted in 1975, you would need to look at the Acts and Resolves for 1976 (which is the adjourned session of the 1975 session of the Legislature), in Act No. 231. Acts and Resolves is a book published each summer by the Secretary of State, compiling all the new laws

from that year's legislative session, and it is available for review and copying at the town clerk's office or at the Vermont Department of Libraries in Montpelier. The addition of subsection (e) can be seen in Act No. 85 of the Acts and Resolves of 1987.

Beyond the language of a statute and its amendments, you can read minutes from the legislative committees who have reviewed and rewritten the law, at the Vermont State Archives, and transcripts or tapes of some committee hearings through the Legislative Council at the State House and the Public Records Division in Middlesex.

### Looking Up Cases

The courts interpret statutes when deciding cases. Somebody has used the statute as authority or a defense, and the court has used the statute in its decision. If you want to understand a statute fully, reading the leading cases on a statute is very useful.

Under many statutes, as they appear in the V.S.A., there is a section named "Annotations." These are references to decisions of the Vermont Supreme Court or other opinions. There is a paragraph describing the ruling, and then a citation of the decision. Take this as an example, found under 1 V.S.A. § 316, a part of the state's public records law:

Motive is irrelevant to the right of access under this chapter. *Finberg v. Murnane* (1992), 159 Vt. 431, 623 A.2d 979.

This could be important to your next public records search when the clerk asks you why you want to see the records. Not everyone needs to read the whole case, but relying too much on the annotation is not always prudent either. Suppose you want to read *Finberg v. Murnane*.

The first challenge is knowing what to look for. The case name "Finberg v. Murnane" means that *Finberg* sued *Murnane* and the case made it finally to the Vermont Supreme Court. Its reported decision is found in "159 Vt. 431," meaning volume 159 of the Vermont Reports, beginning on page 431.

The next question is how to find the case. Most lawyers have sets of the Vermont Reports, as does the Department of Libraries in Montpelier, and some other libraries.

You may not find the answer to your question in a court case, but it may help you understand the statute or at least how the courts will handle such questions.

### Reprints

The Secretary of State prints a special volume of election laws. The liquor control laws are available in a small pamphlet. There are several versions of the laws on planning and zoning around. Other agencies have also taken the time to publish the laws affecting their authority.

As with any source of law, you

must be careful to ensure that you have the most current law. Check the publication date of the pamphlet, and don't trust what you have in hand unless it's new or you've double-checked the wording by looking at a more current source.

### Other Sources of Vermont Law

State agencies have adopted rules, which they have written to flesh out the procedures and other details left undone in statute. Towns have ordinances and bylaws, which they have adopted to govern life in the community. These are as important in researching Vermont law as anything else.

Finding them is not always easy. State rules are usually available in paper form from the agency. A complete set is available for review and copying at the Department of Libraries and at the Secretary of State's Office. Town ordinances and bylaws are available through the Town Clerk.

### Vermont Statutes on the Internet

You can find Vermont law on the internet, as well as on paper. Start with the State of Vermont home page at <http://www.cit.state.vt.us/> and click on "legislature." From the next screen you can reach the "Vermont Statutes Online" screen.

*Town ordinances and bylaws are available through the Town Clerk.*

In this manifestation of the statutes, you may choose to read or download a full title, or search the entire set of laws for a particular word or phrase. Scrolling down on the page you will find a Full-Text Search option. Enter a key word, and you'll find all the references to that word in the V.S.A.

This method does not give you legislative history or annotations, however. Recent Vermont Supreme Court cases are available on the net, however, through the Vermont Department of Libraries. From the State of Vermont home page, scroll down until you can click on "libraries" and then "Department of Libraries: VALS." From there, choose #2 (Use Vt. State Government Databases), then #4 (Vt. Law), then #2 (Vt. Supreme Court slip opinions), and follow the instructions from that point forward.

### Now You Try It

Want to try to find the law? Use the six questions at the beginning of this pamphlet as a challenge to see if you can conduct basic research on locating Vermont law. The answers are found below, in very small letters.

### A Last Word on Vermont Law

Look at it this way: if only lawyers and legislators know the law, then democracy isn't working. This system of government

relies on a knowledgeable electorate and on citizens who know and apply the law as they need it. A little patience, a little diligence, and you can read for yourself whether a town or state official is right or not.

More importantly, you can know in advance how you will be treated. That is so much more efficient than showing up, not being prepared, and having to come back again for something else.

Think of the law as an operating manual for life as a citizen. You can't know everything, but you can start with what you need to know and work out from there. There's really no excuse not to do it.

#### Answers For Page 1

1. Losing Candidate's Right to a Recount: 17 V.S.A. § 2683.
2. Delays in Tax Appeals: 32 V.S.A. § 4404.
3. Home Occupations: 24 V.S.A. § 4406.
4. Executive Session: 1 V.S.A. § 313.
5. Local Speed Limits: 23V.S.A. § 1007.
6. Residency and Checklists: 17 V.S.A. § 2122.

### A Word about The Vermont Institute for Government

The Vermont Institute for Government (VIG) is a nonprofit corporation dedicated to improving educational opportunities for local officials and the public on how government works. It consists of representatives from each of the major groups in Vermont that offer such training.

The VIG has published other pamphlets that may be of use or interest to you. The include:

- *The Meeting Will Come to Order*, covering town meeting procedures.
- *Born to Chair*: An introduction to the science and art of chairing a board meeting.
- *Changing the World*, about how to increase your effectiveness in meetings of local and state boards and commissions.
- *Are you Appealing?*, which covers the tax grievance and appeal processes at the local level.
- *Isn't This My Land?*, relating to local planning and zoning.
- *The Vermont Citizenship Comprehensive Examination*, a fun test of basic information a citizen ought to know about Vermont government.
- *The Public Right of Way and You*, covering town highways.
- *How and why to Read a Town Report*, it can tell you a great deal about your town.
- *It's Your Turn: A Call to Local Office*, how to get involved in your local government.
- *Reforming Local Government by Charter*, how to change your local government.
- *The Development Review Board*, what's involved in creating a development review board.
- *The Law of Trees*, how the law treats trees and describes your rights.

Contact the VIG office for free copies of any of these pamphlets or to learn more about VIG.

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