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H.269

Introduced by Representatives Sullivan of Burlington, Donovan of Burlington,  
Forguites of Springfield, Keenan of St. Albans City, Macaig of  
Williston, McCormack of Burlington, O’Sullivan of Burlington,  
Pearson of Burlington, Rachelson of Burlington, Ram of  
Burlington, Ryerson of Randolph, Stevens of Waterbury, Van  
Wyck of Ferrisburgh, and Wright of Burlington

Referred to Committee on

Date:

Subject: Conservation and development; land use; waste management;  
contaminated properties; contaminated soils

Statement of purpose of bill as introduced: This bill proposes to allow soils  
that are otherwise legally categorized as solid waste that contain low levels of  
polycyclic aromatic hydrocarbons (PAHs), select metals, or other potentially  
hazardous materials that have been excavated during development or  
redevelopment projects located in downtowns or village centers to be  
transported to another location with similar levels of PAHs and metals as  
opposed to being transported and disposed of at a certified waste management  
facility.

1 An act relating to the transportation and disposal of excavated development  
2 soils legally categorized as solid waste

3 It is hereby enacted by the General Assembly of the State of Vermont:

4 Sec. 1. LEGISLATIVE FINDINGS

5 Polycyclic aromatic hydrocarbons (PAHs) and certain metals that are  
6 considered to be hazardous materials are consistently present in the  
7 environment due to atmospheric deposition of exhaust products from the  
8 incomplete combustion of hydrocarbons including wood, oil, coal, gasoline,  
9 and garbage. As a result, PAHs and select metals are often found in soils  
10 associated with downtowns or village centers at concentrations that exceed the  
11 existing Vermont screening standards throughout the property, without an  
12 identifiable site specific source of the contamination.

13 Sec. 2. 10 V.S.A. § 6602 is amended to read:

14 § 6602. DEFINITIONS

15 As used in this chapter:

16 \* \* \*

17 (37) “PAHs” means polycyclic aromatic hydrocarbons.

18 (38) “Excavated development soils” means any unconsolidated mineral  
19 and organic matter overlying bedrock that has been subjected to and influenced  
20 by geologic and other environmental factors caused by atmospheric deposition  
21 located in a designated downtown development district, growth center,  
22 neighborhood development area, or village center, excluding sediment.

1           (39) “Downtown development district” shall have the meaning stated in  
2           24 V.S.A. § 2791(4).

3           (40) “Growth center” shall have the meaning stated in  
4           24 V.S.A. § 2793c.

5           (41) “Neighborhood development area” shall have the meaning stated in  
6           24 V.S.A. § 2793e.

7           (42) “Village center” shall have the meaning stated in  
8           24 V.S.A. § 2791(10).

9           (43) “Origin site” means a location where excavated development soils  
10          originate.

11          (44) “Receiving site” means a location where excavated development  
12          soils are deposited.

13          (45) “Excavated soils concentration level” means those levels of PAHs,  
14          metals, and hazardous material, expressed in units of mass per volume,  
15          contained in the excavated development soils.

16          (46) “Receiving site concentration level” means those levels of PAHs,  
17          metals, and hazardous material that exist at the receiving site.

18          (47) “Background concentration level” means the concentration level of  
19          PAHs, polychlorinated biphenyls, arsenic, and other metal contamination that  
20          is attributable to site contamination caused by atmospheric deposition and

1 determined to be representative of statewide or regional concentrations through  
2 a scientifically valid means as determined by the Secretary.

3 Sec. 3. 10 V.S.A. § 6604a(c) is added to read:

4 (c) On or before July 1, 2016, the Secretary shall adopt rules regarding the  
5 excavation of development soils containing PAHs and select metals and their  
6 storage, transport, management, and disposal. In adopting these rules, the  
7 Secretary shall:

8 (1) Allow the transportation and disposal, without treatment, of  
9 excavated development soils, otherwise legally categorized as solid waste,  
10 from a site of origin to a receiving site if the excavated soils concentration  
11 level is approximately the same or less than the receiving site concentration  
12 level.

13 (2) Require a qualified environmental professional to certify that the soil  
14 located at the receiving site conforms with the Secretary's rules.

15 (3) Require notification by the owner of the origin site to the Secretary  
16 10 days prior to transport of the excavated development soils to the receiving  
17 site. The notice shall include information related to the quantity of excavated  
18 development soil to be deposited, the location of the origin site, the location of  
19 the receiving site, the excavated soils concentration level, the receiving site  
20 concentration level, and written consent by the receiving site owner for the  
21 proposed deposit of excavated development soils. Upon notice, the Secretary

1 has five days to contest either the nature of the soil or its method of  
2 transportation or disposal if the Secretary has a significant concern that the  
3 development soils or disposal methods present a threat to the public health,  
4 public safety, environment, or create a nuisance.

5 (4) The Secretary shall permit any excavated development soils  
6 stockpiled on land owned by a municipality to remain at the current stockpiled  
7 location for up to two years after adoption of the final rules.

8 (d) Within one year of the adoption of rules provided for in subsection (c),  
9 the Secretary shall set statewide or regional background concentration levels,  
10 and shall adopt rules that shall define solid waste to exclude excavated  
11 development soils with a concentration level equal to or lower than  
12 background concentration levels.

13 Sec. 4. EFFECTIVE DATE

14 This act shall take effect on passage.