

1 H.15

2 Introduced by Representatives Deen of Westminster, Botzow of Pownal,  
3 Clarkson of Woodstock, Jewett of Ripton, Masland of Thetford,  
4 McCullough of Williston, Mitchell of Barnard, Mrowicki of  
5 Putney and Sharpe of Bristol

6 Referred to Committee on

7 Date:

8 Subject: Conservation; water resources management; aquatic nuisance

9 Statement of purpose: This bill proposes to recodify the existing aquatic  
10 nuisance control program of the agency of natural resources under one  
11 statutory chapter. The bill would also provide the agency of natural resources  
12 with the authority to respond rapidly to outbreaks of new aquatic species. In  
13 addition, the bill would require an aquatic nuisance control sticker be affixed  
14 annually to all motorboats not registered in the state and to all nonmotorized  
15 vessels using state waters. The surcharge on motorboat registrations would  
16 also increase. The fees collected from the sale of the aquatic nuisance control  
17 sticker and from the increased motorboat registration fee would be used for  
18 aquatic nuisance control activities.

19 AN ACT RELATING TO AQUATIC NUISANCE CONTROL

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

1 Sec. 1. 10 V.S.A. chapter 50 is added to read:

2 CHAPTER 50. AQUATIC NUISANCE CONTROL

3 § 1451. FINDINGS

4 The general assembly finds that:

5 (1) It is the policy of the state of Vermont that the water resources of the  
6 state shall be protected, regulated, and where necessary controlled under the  
7 authority of the state in the public interest to promote the general welfare and  
8 to protect public health and the environment.

9 (2) It is the policy of the state of Vermont to prevent the infestation and  
10 invasive proliferation of new aquatic species in waters of the state that result in  
11 negative environmental impacts, including habitat loss and a reduction in  
12 native biodiversity along with adverse social and economic impacts and  
13 impacts to the public health and safety.

14 (3) The ability to initiate quickly a response to contain and control a new  
15 aquatic species introduction before it can spread is critical to reduce future  
16 management costs and protect the integrity of Vermont's ecosystems.

17 (4) Infestations of new aquatic species must be detected early and acted  
18 upon swiftly to minimize economic, social, and ecological impacts as well as  
19 to increase the probability of a successful eradication effort.

20 § 1452. DEFINITIONS

21 As used in this chapter:

1           (1) “Agency” means the agency of natural resources.

2           (2) “Aquatic nuisance” means undesirable or excessive substances or  
3           populations that interfere with the recreational potential of a body of water.

4           Aquatic nuisances include rooted aquatic vegetation, animal and algal  
5           populations, and sediment deposits.

6           (3) “Aquatic plant” means a plant that naturally grows in water,  
7           saturated soils, or seasonally saturated soils, including algae and submerged,  
8           floating-leafed, floating, or emergent plants.

9           (4) “Biological controls” mean multi-cellular organisms.

10          (5) “Board” means the water resources panel of the natural resources  
11          board.

12          (6) “New aquatic species” means an aquatic species that was not known  
13          to occur in Vermont waters as of January 1, 2007.

14          (7) “Nonmotorized vessel” means every description of nonmotorized  
15          watercraft, including a sailboat, sail board, rowboat, paddle boat, raft, canoe, or  
16          kayak, used or capable of being used as a means of transportation on water.  
17          Nonmotorized vessel does not mean a single air mattress, single inner tube, or  
18          other water toy used for flotation.

19          (8) “Pesticide” means any substance produced, distributed, or used for  
20          preventing, destroying, or repelling nuisance aquatic vegetation, insects, or

1 other aquatic life, including lamprey. Pesticide includes unicellular organisms  
2 or extracts from unicellular organisms and does not include biological controls.

3 (9) "Secretary" means the secretary of natural resources.

4 (10) "Water resources" means the waters and the values inherent or  
5 potential in waters and their uses.

6 (11) "Waters" means all rivers, streams, creeks, brooks, reservoirs,  
7 ponds, lakes, and springs and all bodies of surface waters, artificial or natural,  
8 which are contained within, flow through, or border upon the state or any  
9 portion of it.

10 § 1453. AQUATIC NUISANCE CONTROL PROGRAM

11 (a) The agency of natural resources shall establish and maintain an aquatic  
12 nuisance control program.

13 (b) The aquatic nuisance control program shall perform the following  
14 services:

15 (1) receive and respond to aquatic nuisance complaints;

16 (2) work with municipalities, local interest organizations, private  
17 individuals, and agencies of the state to develop long-range programs  
18 regarding aquatic nuisance controls;

19 (3) work with federal, state, and local governments to obtain funding for  
20 aquatic nuisance control programs;

- 1           (4) implement an aquatic species rapid response program under this  
2 chapter;
- 3           (5) administer a grant-in-aid program under section 1458 of this title;
- 4           (6) place a sign at least 2 feet by 2 feet in size which states that the water  
5 is infected with an aquatic nuisance and that a person transporting the nuisance  
6 in violation of section 1454 of this title may be subject to a penalty of up to  
7 \$1,000.00 pursuant to 23 V.S.A. § 3317, so that the sign is easily visible from  
8 a ramp used to launch vessels at any fish and wildlife access area on a body of  
9 water infected with an aquatic nuisance;
- 10           (7) provide the commissioner of fish and wildlife and the commissioner  
11 of motor vehicles with written educational information about aquatic nuisances  
12 that can be included in an envelope containing a boat registration and in a  
13 department of fish and wildlife publication pertaining to fishing and boating.
- 14           § 1454. TRANSPORT OF AQUATIC PLANTS AND AQUATIC  
15           NUISANCE SPECIES
- 16           (a) No person shall transport an aquatic plant or aquatic plant part, zebra  
17 mussels (*Dreissena polymorpha*), quagga mussels (*Dreissena bugensis*), or  
18 other aquatic nuisance species identified by the secretary by rule to or from any  
19 Vermont waters on the outside of a vehicle, boat, personal watercraft, trailer,  
20 or other equipment. This section shall not restrict proper harvesting or other  
21 control activities undertaken for the purpose of eliminating or controlling the

1 growth or propagation of aquatic plants, zebra mussels, quagga mussels, or  
2 other aquatic nuisance species.

3 (b) The secretary may grant exceptions to persons to allow the transport of  
4 aquatic plants, zebra mussels, quagga mussels, or other aquatic nuisance  
5 species for scientific or educational purposes. When granting exceptions, the  
6 secretary shall take into consideration both the value of the scientific or  
7 educational purpose and the risk to Vermont surface waters posed by the  
8 transport and ultimate use of the specimens. A letter from the secretary  
9 authorizing the transport must accompany the specimens during transport.

10 § 1455. AQUATIC NUISANCE CONTROL PERMIT

11 (a) No person may use pesticides, chemicals other than pesticides,  
12 biological controls, bottom barriers, structural controls, or powered mechanical  
13 devices in waters of the state to control nuisance aquatic vegetation, insects, or  
14 other aquatic nuisances, including lamprey, unless that person has been issued  
15 a permit by the secretary.

16 (b) Notwithstanding other requirements set forth in chapter 47 of this title  
17 to the contrary, the secretary may issue permits under this section.

18 (c) Persons desiring a permit under this section shall make application to  
19 the secretary on a form prescribed by the secretary.

20 (d) The secretary shall issue a permit for the use of pesticides in waters of  
21 the state for the control of nuisance aquatic vegetation, insects, or other aquatic

1 life, including lamprey, when the applicant demonstrates and the secretary

2 finds:

3 (1) there is no reasonable nonchemical alternative available;

4 (2) there is acceptable risk to the nontarget environment;

5 (3) there is negligible risk to public health;

6 (4) a long-range management plan has been developed which  
7 incorporates a schedule of pesticide minimization; and

8 (5) there is a public benefit to be achieved from the application of a  
9 pesticide or, in the case of a pond located entirely on a landowner's property,  
10 no undue adverse effect upon the public good.

11 (e) A landowner applying to use a pesticide on a pond located entirely on  
12 the landowner's property is exempt from the requirement of subdivision (d)(4)  
13 of this section.

14 (f) The secretary shall issue a permit for the control of aquatic nuisances by  
15 biological controls, bottom barriers, structural controls, powered mechanical  
16 devices, or chemicals other than pesticides when the secretary finds:

17 (1) there is acceptable risk to the nontarget environment;

18 (2) there is negligible risk to public health; and

19 (3) there is either benefit to or no undue adverse effect upon the public  
20 good.

1       (g) The use of bottom barriers, structural controls, powered mechanical  
2       devices, and copper compounds as an algaecide in waters with a surface area  
3       of one acre or less located entirely on a person's property and with an outlet  
4       where the flow can be controlled for at least three days is exempt from the  
5       permit requirements of this section.

6       (h) The secretary shall adopt procedures under 3 V.S.A. chapter 25 which  
7       will provide an opportunity for public review and comment on permit  
8       applications. The procedures shall classify permit applications by degree of  
9       environmental risk involved and establish appropriate opportunities for public  
10       notice and comment for each class.

11       (i) An aquatic nuisance control permit issued under this section shall:

12               (1) specify in writing the secretary's findings under subsection (d) or (f)  
13       of this section;

14               (2) specify the location, manner, nature, and frequency of the permitted  
15       activity;

16               (3) contain additional conditions, requirements, and restrictions as the  
17       secretary deems necessary to preserve and protect the quality of the receiving  
18       waters, to protect the public health, and to minimize the impact on the  
19       nontarget environment. Such conditions may include requirements concerning  
20       recording, reporting, and monitoring;

1           (4) be valid for the period of time specified in the permit, not to exceed  
2 five years for chemical control, and not to exceed ten years for nonchemical  
3 control.

4           (j) An aquatic nuisance control permit issued under this chapter may be  
5 renewed from time to time upon application to the secretary. The process of  
6 permit renewal will be consistent with the requirements of this section.

7           (k) An applicant for a permit under this section shall pay an application fee  
8 as required by 3 V.S.A. § 2822. The agency of natural resources shall be  
9 exempt from this fee requirement.

10           (l) No permit shall be required under this section for mosquito control  
11 activities that are regulated by the agency of agriculture, food and markets,  
12 provided that:

13           (1) Prior to authorizing the use of larvicides or pupacides in waters of  
14 the state, the secretary of agriculture, food and markets shall designate  
15 acceptable control products and methods for their use and issue permits  
16 pursuant to 6 V.S.A. § 1083(5); and

17           (2) On an annual basis, the secretary of agriculture, food and markets  
18 shall notify the secretary of the location of all authorized mosquito control  
19 applications to the waters of the state that took place during the reporting year  
20 and the type and quantity of larvicide and pupacide used at each location.

1       (m) The secretary may issue general permits for the use of nonchemical  
2       aquatic nuisance control activities provided that the secretary makes the  
3       findings required in subsection (f) of this section. A general permit issued  
4       under this subsection is not required to specify the exact location or the  
5       frequency of the permitted activity.

6       § 1456. AQUATIC SPECIES RAPID RESPONSE GENERAL PERMITS

7       (a) Notwithstanding the requirements of section 1455 of this title, the  
8       secretary may issue an aquatic species rapid response general permit under this  
9       section for a term not to exceed ten years to control new aquatic species. This  
10       general permit shall identify the control technique, including the use of  
11       biological controls, pesticides, and any other control technique for the new  
12       aquatic species for which coverage may be sought under the permit.

13       (b) Applications for coverage under this general permit shall be limited to  
14       the commissioner of environmental conservation and the commissioner of fish  
15       and wildlife. The application shall state the grounds for declaring an  
16       emergency situation as defined in subsection (f) of this section. The  
17       application shall identify the new aquatic species and control techniques  
18       selected to respond to the emergency.

19       (c) The secretary shall provide notice of the application to the municipal  
20       clerk of the municipality or municipalities in which the proposed control  
21       activity will be conducted at the time the request for authorization is filed with

1 the secretary. The secretary shall provide an opportunity for written comment  
2 regarding whether the request complies with the terms and conditions of the  
3 aquatic species rapid response general permit for 10 days following receipt of  
4 the request for authorization.

5 (d) The secretary may issue an authorization under an aquatic species rapid  
6 response general permit only when the secretary finds:

7 (1) that an emergency exists; and

8 (2) that the proposed control technique meets the requirements of the  
9 general permit and is acceptable when considering the emergency situation.

10 (e) Authorization to act under the terms of a general permit issued under  
11 this section shall not exceed three years.

12 (f) Prior to determining that a new aquatic species emergency exists, the  
13 secretary shall consider the following factors:

14 (1) the likelihood that the aquatic species will cause harm to human  
15 health, safety, or the environment;

16 (2) the likelihood that the species will cause significant harm to the  
17 economy;

18 (3) the magnitude of the potential adverse impact of the species upon  
19 public health, safety, the environment, native biodiversity, water bodies,  
20 outdoor recreation, or any other use of the state's water resources;

1           (4) the likelihood that the species would naturalize in the state if not  
2 immediately controlled;

3           (5) the rate at which the invasion would spread throughout the state; and

4           (6) the difficulty to control the spread of the species in the state.

5       § 1457. ENTRANCE UPON LANDS TO PREVENT THE

6                   INTRODUCTION AND SPREAD OF NEW AQUATIC

7                   SPECIES

8       The aquatic nuisance control program shall take reasonable steps to prevent  
9 the introduction and spread of new aquatic species that may become invasive  
10 in the state. To accomplish this objective, the secretary or his or her agent may  
11 enter upon lands for the following purposes:

12           (1) to survey for, inspect, or investigate conditions relating to new  
13 aquatic species that may become invasive;

14           (2) to collect information to issue coverage under rapid response general  
15 permits under section 1456 of this title;

16           (3) to conduct or use control techniques that are available under or  
17 authorized by a rapid response general permit issued under section 1456 of this  
18 title; and

19           (4) to determine whether the rules of the agency adopted or issued under  
20 this chapter are being complied with.

1     § 1458. GRANT-IN-AID TO MUNICIPALITIES AND AGENCIES OF THE  
2             STATE

3             (a) A municipality or agency of the state which desires state assistance to  
4             control aquatic nuisances may apply in writing to the agency of natural  
5             resources in a manner prescribed by the agency of natural resources.

6             (b) When the agency finds that a proposed aquatic nuisance control  
7             program is suitable to control or minimize the effect an aquatic nuisance has on  
8             water quality and water use, it may award a grant of 75 percent or less of the  
9             project costs as determined by the agency. Recurring maintenance projects  
10            may be awarded grants of 75 percent or less of the annual project cost. In  
11            approving requests and determining the amount of any grant, the agency shall  
12            consider the following:

13                 (1) the use of the waters by persons outside the municipality in which  
14                 the waters are located;

15                 (2) the long-range effect of the control project;

16                 (3) the recreational use of the waters; and

17                 (4) the effectiveness of municipal shoreland zoning and other controls in  
18                 minimizing or preventing existing or new development from having any  
19                 adverse effects on the waters subject to the control program.

20             (c) The agency shall make awards to priority projects to the extent funds  
21             are available. First priority shall be projects to manage incipient infestations of

1 aquatic nuisances, second priority shall be projects to prevent or control the  
2 further spread of aquatic nuisances, and third priority shall be recurring  
3 maintenance projects. In establishing priorities for individual projects, the  
4 agency shall consider the following:

5 (1) public accessibility and recreational uses;

6 (2) the importance to commercial, agricultural, or other interests;

7 (3) the degree of local interest, as manifested by municipal or other  
8 contributions to the project;

9 (4) local efforts to control aquatic nuisances;

10 (5) other considerations affecting feasibility, probability of achieving  
11 long-term control, and necessity or advantage of the proposed work; and

12 (6) the extent to which the control project is a developmental rather than  
13 a maintenance program.

14 (d) With the approval of the secretary, the agency may use funds provided  
15 under this section as well as other funds for restoration, management, or  
16 protection projects or for studies in the best interests of the state when the  
17 appropriate municipal applicant is not available or not eligible to receive a  
18 grant.

19 (e) When the agency finds that a proposed aquatic nuisance control  
20 program is necessary and involves construction or installation of permanent  
21 facilities designed to control or minimize the effect that an aquatic nuisance

1 has on water quality or water use, it may award a grant of up to 50 percent of  
2 the nonfederal costs of the project provided that evidence is received that the  
3 project applicant has voted funds in a specific amount to undertake the project.  
4 The applicant shall demonstrate it has or will acquire adequate interests in the  
5 site of the project to provide undisturbed possession and use during the life of  
6 the project and shall demonstrate ability to operate and maintain the project.  
7 The applicant may enter into agreements with the agency for prosecution of all  
8 or any portion of the project. For purposes of this subsection, corporations  
9 registered with the secretary of state may be eligible applicants.

10 (f) The agency may make periodic grant payments upon submission by the  
11 grantee showing that costs for which reimbursement is requested have been  
12 incurred and paid by the grantee. Partial payments shall be made not more  
13 frequently than monthly. After the project has been completed and its costs  
14 audited by the agency, the agency shall certify the remainder of the award to  
15 the commissioner of finance and management who shall issue his or her  
16 warrant for payment. Interest costs incurred in local short-term borrowing of  
17 the grant amount may be reimbursed as part of the grant.

18 § 1459. JOINT MUNICIPAL PARTICIPATION

19 Should the shorelands of waters for which funds are requested under  
20 sections 1451–1461 of this title be under more than one municipal  
21 governmental jurisdiction, the provisions herein shall apply to the respective

1 municipalities under a joint application, except that the required municipal  
2 contribution shall be apportioned among the respective municipalities.

3 § 1460. AQUATIC NUISANCE CONTROL STICKER PROGRAM

4 (a) A person may not place or operate a motorboat registered outside  
5 Vermont or a nonmotorized vessel on the waters of the state unless a valid  
6 aquatic nuisance control sticker issued annually under subsection (b) of this  
7 section is permanently affixed to each side of the bow above the water line.

8 (b) No later than January 1 of each year, the agency of natural resources  
9 shall provide to agents authorized to sell hunting and fishing licenses under  
10 section 4254 of this title a sufficient number of aquatic nuisance control  
11 stickers for mounting on nonmotorized vessels or motorboats registered  
12 outside Vermont. The agency of natural resources may also sell aquatic  
13 nuisance control stickers for mounting on nonmotorized vessels or motorboats  
14 registered outside Vermont. The sticker must be in two parts so that one part  
15 of the sticker can be affixed to each side of the bow of a motorboat or  
16 nonmotorized vessel. The agency, as part of any program developed under this  
17 section, shall select a graphic design or designs for the sticker that will enhance  
18 the public awareness of the state's interest in controlling aquatic nuisance  
19 species.

1        (c) The fee for an individual aquatic nuisance control sticker shall be  
2        \$20.00 for motorboats registered outside Vermont and \$10.00 for a  
3        nonmotorized vessel.

4        (d) The monies collected under this section shall be credited to the special  
5        fund established under section 1461 of this title for the purpose of the aquatic  
6        nuisance program established under this chapter.

7        § 1461. AQUATIC SPECIES CONTROL FUND

8        (a) There is hereby created the aquatic species control fund in accordance  
9        with the provisions of subchapter 5 of chapter 7 of Title 32, except that interest  
10       earned on the fund shall be retained in the fund. The fund shall consist of  
11       monies collected pursuant to section 1460 of this title, any monies appropriated  
12       by the general assembly for the purposes of the fund, and any monies received  
13       by the secretary of natural resources from any other source, public or private,  
14       for the purposes of the fund.

15       (b) The monies deposited in the fund shall be used for the following  
16       purposes:

17            (1) To prevent and eliminate the spread of aquatic nuisance species;

18            (2) To conduct education and outreach and to prepare educational  
19        materials regarding the control of aquatic species;

20            (3) To conduct rapid response to new aquatic species;

21            (4) To enforce the requirements of this chapter; and





1 surcharge of ~~\$5.00~~ \$10.00 for a motorboat in class A; by a fee of \$28.00 and a  
2 surcharge of ~~\$10.00~~ \$15.00 for a motorboat in class 1; by a fee of \$55.00 and a  
3 surcharge of ~~\$10.00~~ \$15.00 for a motorboat in class 2; by a fee of \$121.00 and  
4 a surcharge of ~~\$10.00~~ \$15.00 for a motorboat in class 3. Upon receipt of the  
5 application in approved form, the commissioner shall enter the application  
6 upon the records of the department of motor vehicles and issue to the applicant  
7 a registration certificate stating the number awarded to the motorboat and the  
8 name and address of the owner. The owner shall paint on or attach to each side  
9 of the bow of the motorboat the identification number in such manner as may  
10 be prescribed by rules of the commissioner in order that it may be clearly  
11 visible. The registration shall be void one year from the first day of the month  
12 following the month of issue. A vessel of less than 10 horsepower used as a  
13 tender to a registered vessel shall be deemed registered, at no additional cost,  
14 and shall have painted or attached to both sides of the bow, the same  
15 registration number as the registered vessel with the number "1" after the  
16 number. The number shall be maintained in legible condition. The  
17 registration certificate shall be pocket size and shall be available at all times for  
18 inspection on the motorboat for which issued, whenever the motorboat is in  
19 operation. A duplicate registration may be obtained upon payment of a fee of  
20 \$2.00 to the commissioner.

1 (c) A person engaged in the manufacture or sale of motorboats of a type  
2 otherwise required to be registered by this subchapter, upon application to the  
3 commissioner upon forms prescribed by him or her, may obtain registration  
4 certificates for use as described under subdivision (1) of this subsection.

5 (1) A dealer motorboat registration number may be used:

6 (A) for the purpose of testing or adjusting motorboats in the  
7 immediate vicinity of his or her place of business;

8 (B) for some purpose directly connected with the business of  
9 purchasing, selling or exchanging motorboats by the dealer;

10 (C) for demonstration when the prospective purchaser is operating  
11 the motorboat and is not accompanied by the dealer or his or her employee, but  
12 not for more than three days;

13 (D) for the temporary accommodation of a customer, whose  
14 motorboat, because of accident or wear, is disabled and is left with the dealer  
15 for repairs for not more than 14 days;

16 (E) for the private business or pleasure use of the dealer and members  
17 of his or her immediate family residing in the same household;

18 (F) for the use of those motorboats at regattas, marine parades or  
19 water festivities where no charge is made for that use.

20 (2) The word “dealer” for the purpose of subdivision (1)(E) of this  
21 subsection shall include the principal officers of a corporation or dealer and

1 those partners in a copartnership registered as a dealer as are actively and  
2 principally engaged in the motorboat business, but shall not include directors  
3 and stockholders nor inactive and silent partners.

4 (3) An application for a dealer motorboat registration number shall be  
5 accompanied by the following fees:

6 (A) for the first number applied for, \$25.00 and a surcharge of ~~\$5.00~~  
7 \$10.00;

8 (B) for each additional number applied for in the current registration  
9 period, \$5.00 and a surcharge of ~~\$5.00~~ \$10.00.

10 \* \* \*

11 (k) The commissioner shall enclose with every permanent and temporary  
12 motorboat registration and registration renewal certificate issued pursuant to  
13 this chapter ~~the following a~~ statement: ~~“I. Transporting zebra mussels, or~~  
14 ~~Eurasian milfoil to or from any Vermont water surface is illegal (10 V.S.A. §~~  
15 ~~1266).~~

16 ~~“II. If your boat or equipment is exposed to Lake Champlain or any other~~  
17 ~~zebra mussel or Eurasian milfoil infested water, the following steps should be~~  
18 ~~taken prior to putting your boat or equipment in another Vermont lake, pond or~~  
19 ~~other water body:~~

20 ~~“A. Inspect for and scrape off from your boat’s hull or equipment or any~~  
21 ~~exposed areas any visible mussels or milfoil.~~

1           ~~“B. Carefully flush with clean water all boat hulls, outdrive, live wells,~~  
2 ~~bilge, trailers, anchors, ropes, bait buckets, raw engine cabling systems, and~~  
3 ~~other boat parts or equipment.~~

4           ~~“C. Dry boats, trailers, and equipment thoroughly in the sun.”~~ , based on  
5 current aquatic nuisance threats and spread prevention methods, regarding the  
6 danger of aquatic nuisances, how aquatic nuisance species are spread, and how  
7 spread of aquatic nuisance species may be controlled.

8           Sec. 6. 23 V.S.A. § 3305b is amended to read:

9           § 3305b. BOATING SAFETY EDUCATION; RULES

10           (a) When required. A person born after January 1, 1974 shall not operate a  
11 motorboat on the public waters of this state without first obtaining a certificate  
12 of boating education.

13           (b) Possession of certificate. A person who is required to have a certificate  
14 of boating education shall:

15           (1) possess the certificate when operating a motorboat on the public  
16 waters of the state; and

17           (2) show the certificate on the demand of an enforcement officer  
18 wearing insignia identifying him or her as such or operating a law enforcement  
19 motorboat or vessel. However, no person charged with violating this  
20 subsection shall be convicted if the person produces in court, to the officer, or

1 to a state's attorney a certificate which was valid at the time the violation  
2 occurred.

3 (c) Exemptions. The following persons are exempt from the requirements  
4 of this section:

5 (1) a person who is licensed by the United States Coast Guard to operate  
6 a vessel for commercial purposes;

7 (2) a person operating a vessel on a body of water located on private  
8 property; and

9 (3) any other person exempted by rules of the department of public  
10 safety.

11 (d) Rules. The department of public safety shall:

12 (1) adopt rules that establish criteria for a course of instruction in  
13 boating safety education;

14 (2) adopt rules relating to transient boaters and persons who hire  
15 chartered vessels;

16 (3) administer a verbal test when appropriate;

17 (4) coordinate a statewide program of boating safety instruction and  
18 certification and ensure that a course of boating safety education is available  
19 within each county; ~~and~~

20 (5) ensure that a course of boating safety education is available at the  
21 earliest practicable age for children; and

1           (6) ensure that the course includes an educational component regarding  
2           the environmental harm caused by aquatic nuisance species and how the spread  
3           of such species may be controlled when boaters follow specific steps to clean  
4           boats and trailers after use in state waters.

5           (e) Hours of instruction. Any course of boating safety education that is  
6           offered shall provide a minimum of eight hours of instruction.

7           (f) Persons offering courses. The following persons may offer the course  
8           of instruction in boating safety education if approved by the department of  
9           public safety:

- 10           (1) the department of public safety;
- 11           (2) the United States Coast Guard Auxiliary;
- 12           (3) the United States Power Squadron;
- 13           (4) a political subdivision;
- 14           (5) a municipal corporation;
- 15           (6) a state agency;
- 16           (7) a public or nonpublic school;
- 17           (8) any group, firm, association, or person.

18           (g) Issuance of certificate. The department of public safety or its designee,  
19           shall issue a certificate of boating safety education to a person who:

- 20           (1) passes the departmentally prescribed course in boating safety  
21           education; or

1           (2) passes a boating safety equivalency examination administered by  
2 persons authorized to offer the course on boating safety education.

3           (h) Education materials. Upon request, the department of public safety  
4 shall provide, without charge, boating safety education materials to persons  
5 who plan to take the boating safety equivalency examination.

6           (i) Lifetime issuance. Once issued, the certificate of boating safety  
7 education is valid for the lifetime of the person to whom it was issued and may  
8 not be revoked by the department of public safety or a court of law.

9           (j) Certificate replacement. The department of public safety shall replace,  
10 without charge, a lost or destroyed certificate if the department issued the  
11 certificate or has a record that the certificate was issued.

12           (k) Out-of-state certificate. A boating safety certificate issued in another  
13 state or country in accordance with or substantially equivalent to criteria of the  
14 National Association of State Boating Law Administrators is sufficient to  
15 comply with the requirements of this section.

16       Sec. 7. 23 V.S.A. § 3319 is amended to read:

17       § 3319. FEES COLLECTED; SPECIAL FUND

18           (a) There is hereby established a special fund to be known as the motorboat  
19 registration fund for the purposes of ensuring that the fees and penalties  
20 collected under this subchapter are utilized in the protection and maintenance

1 of the state's water resources. Any interest earned on the monies in this fund  
2 will be deposited in the general fund.

3 (b) The fees and penalties collected under the provisions of this subchapter,  
4 excluding surcharges collected under subsection 3305(b) and subdivisions  
5 3305(c)(3)(A) and (B) of this title, shall be deposited in the motorboat  
6 registration fund and shall be allocated as follows:

7 (1) 15 percent to the department of public safety, to be used for  
8 enforcement of this subchapter and implementation of a boating safety  
9 education program;

10 (2) 50 percent to the department of fish and wildlife, to be used: to  
11 match federal funds; for upgrading and expanding boating access areas and  
12 facilities located at those areas; for developing and constructing new boating  
13 access areas; and for facilitating or establishing and maintaining pump out  
14 stations, which may be, in the discretion of the commissioner, constructed or  
15 operated either by the department or on a contractual basis by a private person  
16 or entity. Users shall be charged reasonable and appropriate fees;

17 (3) 25 percent to the department of environmental conservation for the  
18 purpose of aquatic nuisance control pursuant to ~~10 V.S.A. §§ 921, 922, 923,~~  
19 ~~and 1263a~~ chapter 50 of Title 10;

20 (4) 10 percent to the agency of agriculture, food and markets for the  
21 purpose of mosquito control pursuant to 6 V.S.A. chapter 85.

1 (c) The surcharges collected under subsection 3305(b) and subdivisions  
2 3305(c)(3)(A) and (B) of this title shall be credited to the special fund  
3 established under subdivision (b)(3) of this section for the purpose of an  
4 aquatic nuisance control grant program pursuant to ~~sections 921, 922, and 923~~  
5 chapter 50 of Title 10.

6 Sec. 8. AGENCY OF NATURAL RESOURCES EDUCATIONAL  
7 MATERIALS

8 Educational materials prepared by the agency of natural resources regarding  
9 water pollution, use of state waters, hunting, or fishing shall include  
10 information regarding the environmental harm caused by aquatic nuisance  
11 species and how the spread of such species may be controlled when boaters  
12 and other users of state waters follow specific steps to clean boats, trailers, and  
13 other equipment after use in state waters.

14 Sec. 9. DEPARTMENT OF TOURISM AND MARKETING

15 All brochures promoting the state as a tourist destination and prepared by  
16 the department of tourism and marketing, distributed by the department of  
17 tourism and marketing, or paid for with state monies shall include information  
18 regarding the environmental harm caused by aquatic nuisance species and how  
19 the spread of such species may be controlled when boaters and other users of  
20 state waters follow specific steps to clean boats, trailers, and other equipment  
21 after use in state waters.

1       Sec. 10. EFFECTIVE DATE

2       This act shall take effect July 1, 2010.