

1 H.344

2 Introduced by Representatives Cheney of Norwich, Edwards of Brattleboro,
3 Krawczyk of Bennington, McCullough of Williston, Mitchell of
4 Barnard, Nuovo of Middlebury and Weston of Burlington

5 Referred to Committee on

6 Date:

7 Subject: Conservation; waste management; solid waste advisory board

8 Statement of purpose: This bill proposes to establish a solid waste advisory
9 board to advise the general assembly and the secretary of natural resources on
10 an ongoing basis regarding the policy matters that relate to solid waste and
11 solid waste management in Vermont. The bill would also require the secretary
12 of natural resources to consult with the solid waste advisory board in adopting
13 solid waste management rules for the state.

14 An act relating to establishing the solid waste advisory board

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

16 Sec. 1. 10 V.S.A. § 6602 is amended to read:

17 § 6602. DEFINITIONS

18 For the purposes of this chapter:

19 (1) "Secretary" means the secretary of the agency of natural resources,
20 or his duly authorized representative.

1 (2) “Solid waste” means any discarded garbage, refuse, septage, sludge
2 from a waste treatment plant, water supply plant, or pollution control facility
3 and other discarded material including solid, liquid, semi-solid, or contained
4 gaseous materials resulting from industrial, commercial, mining, or agricultural
5 operations and from community activities but does not include animal manure
6 and absorbent bedding used for soil enrichment; high carbon bulking agents
7 used in composting; or solid or dissolved materials in industrial discharges
8 which are point sources subject to permits under the Water Pollution Control
9 Act, chapter 47 of this title.

10 (3) “Generator” means any person, by site, whose act or process
11 produces hazardous waste or whose act first causes a hazardous waste to
12 become subject to regulation.

13 (4) “Hazardous waste” means any waste or combination of wastes of a
14 solid, liquid, contained gaseous, or semi-solid form, including but not limited
15 to those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or
16 which generate pressure through decomposition, heat or other means, which in
17 the judgment of the secretary may cause, or contribute to, an increase in
18 mortality or an increase in serious irreversible or incapacitating reversible
19 illness, taking into account the toxicity of such waste, its persistence and
20 degradability in nature, and its potential for assimilation, or concentration in
21 tissue, and other factors that may otherwise cause or contribute to adverse

1 acute or chronic effects on the health of persons or other living organisms, or
2 any matter which may have an unusually destructive effect on water quality if
3 discharged to ground or surface waters of the state. All special nuclear, source,
4 or by-product material, as defined by the Atomic Energy Act of 1954 and
5 amendments thereto, codified in 42 U.S.C. § 2014, is specifically excluded
6 from this definition.

7 * * *

8 (12) "Disposal" means the discharge, deposit, injection, dumping,
9 spilling, leaking, or placing of any solid waste or hazardous waste into or on
10 any land or water so that such solid waste or hazardous waste or any
11 constituent thereof may enter the environment or be emitted into the air or
12 discharged into any ground or surface waters.

13 (13) "Waste" means a material that is discarded or is being accumulated,
14 stored, or physically, chemically or biologically treated prior to being
15 discarded or has served its original intended use and is normally discarded or is
16 a manufacturing or mining by-product and is normally discarded.

17 * * *

18 (19) "Implementation plan" means that plan which is adopted to be
19 consistent with the state solid waste management plan. This plan must include
20 all the elements required for consistency with the state plan. This

1 implementation plan is the basis for state certification of facilities under
2 subsection 6605(c) of this title.

3 * * *

4 (24) "Municipal solid waste" means combined household, commercial,
5 and industrial waste materials generated in a given area.

6 (25) "Board" means the solid waste advisory board.

7 Sec. 2. 10 V.S.A. § 6603 is amended to read:

8 § 6603. SECRETARY; POWERS

9 In addition to any other powers conferred on him by law, the secretary shall
10 have the power to:

11 (1) ~~Adopt~~ After consultation with the board, adopt, amend, and repeal
12 rules pursuant to chapter 25 of Title 3 implementing the provisions of this
13 chapter;

14 * * *

15 Sec. 3. 10 V.S.A. § 6603a is added to read:

16 § 6603a. SOLID WASTE ADVISORY BOARD

17 (a) There is hereby established a solid waste advisory board (SWAB) to
18 advise the general assembly and the secretary on an ongoing basis regarding
19 the policy matters that relate to solid waste and solid waste management in
20 Vermont. The SWAB shall:

1 (1) Develop guidance for the general assembly and the secretary
2 regarding solid waste management in the state;

3 (2) Consult with the solid waste management districts and other solid
4 waste planning entities regarding solid waste management in the state;

5 (3) Research and review national and international policy and programs
6 in order to determine specific actions or management techniques that should be
7 adopted in Vermont;

8 (4) Recommend to the secretary of natural resources adoption of new
9 solid waste management rules or amendments to existing solid waste
10 management rules; and

11 (5) In making recommendations under this subsection, consider and give
12 priority to the impact of solid waste management on human health and the
13 environment, including climate change.

14 (b) The SWAB shall report annually to the house and senate committees on
15 natural resources and energy, the house committee on fish, wildlife and water
16 resources, the house committee on ways and means, and the senate committee
17 on finance. The report shall include:

18 (1) An evaluation of the solid waste infrastructure of the state and any
19 recommendations for improving such infrastructure;

1 (2) Recommended product stewardship and other manufacturer take-
2 back programs, including recommended legislation and recommendations for
3 addressing priority waste streams;

4 (3) Proposed waste reduction and diversion strategies, including public
5 education programs;

6 (4) Calculated or estimated solid waste disposal capacity in Vermont;

7 (5) Recommended amendments to regulatory solid waste programs,
8 including recommended rule changes;

9 (6) Alternative solid waste technology recommended for use in the state;

10 (7) Recommendations for achieving consistent, statewide solid waste
11 management and services;

12 (8) Recommendations for achieving parallel collection of solid waste
13 and recyclables; and

14 (9) An estimate of the financial costs and environmental benefits of any
15 proposal or recommendation submitted under subdivisions (1) through (8) of
16 this subsection.

17 (c) The SWAB shall be composed of the following members:

18 (1) One member of the house appointed by the speaker of the house;

19 (2) One member of the senate appointed by the committee on
20 committees;

21 (3) The secretary of natural resources or his or her designee;

1 (4) One representative of a solid waste district or alliance serving a
2 population of 40,000 or more persons appointed by the governor;

3 (5) One representative of a solid waste district or alliance serving a
4 population of less than 40,000 persons appointed by the governor

5 (6) One solid waste hauler in the state appointed by the governor;

6 (7) One representative of the Vermont product stewardship council
7 designated by the council;

8 (8) One owner of a solid waste landfill in the state appointed by the
9 governor;

10 (9) One representative of an environmental group or organizations
11 appointed by the governor; and

12 (10) One representative of an industry that manufactures consumer
13 products for sale in Vermont appointed by the governor.

14 (d) The agency of natural resources shall provide the board with necessary
15 administrative, technical, and legal services.

16 Sec. 4. 10 V.S.A. § 6604 is amended to read:

17 § 6604. WASTE MANAGEMENT PLANS

18 (a) No later than April 30, 1988 the secretary shall publish and adopt, after
19 notice and public hearing pursuant to chapter 25 of Title 3, a solid waste
20 management plan which sets forth a comprehensive statewide strategy for the
21 management of waste, including whey. No later than July 1, 1991, the

1 secretary shall publish and adopt, after notice and public hearing pursuant to
2 chapter 25 of Title 3, a hazardous waste management plan, which sets forth a
3 comprehensive statewide strategy for the management of hazardous waste.
4 Beginning July 1, 2009, the solid waste advisory board shall have the authority
5 to revise, amend, or adopt the solid waste management plan required by this
6 section.

7 (1)(A) The plans shall be based upon the following priorities, in
8 descending order:

- 9 (i) the greatest feasible reduction in the amount of waste
10 generated;
- 11 (ii) reuse and recycling of waste to reduce to the greatest extent
12 feasible the volume remaining for processing and disposal;
- 13 (iii) waste processing to reduce the volume or toxicity of the waste
14 stream necessary for disposal;
- 15 (iv) land disposal of the residuals.

16 (B) Processing and disposal alternatives shall be preferred which do
17 not foreclose the future ability of the state to reduce, reuse, and recycle waste.
18 In determining feasibility, the secretary or the board shall evaluate alternatives
19 in terms of their expected life-cycle costs.

20 (2) The plans shall be revised at least once every five years and shall
21 include:

1 (A) methods to reduce and remove material from the waste stream,
2 including commercially generated and other organic wastes, used clothing, and
3 construction and demolition debris, and to separate, collect, and recycle, treat
4 or dispose of specific waste materials that create environmental, health, safety,
5 or management problems, including, but not limited to, tires, batteries, obsolete
6 electronic equipment, and unregulated hazardous wastes. These portions of the
7 plans shall include strategies to assure recycling in the state, and to prevent the
8 incineration or other disposal of marketable recyclables. They shall consider
9 both the current solid waste stream and its projected changes, and shall be
10 based on:

11 (i) an analysis of the volume and nature of wastes generated in the
12 state, the sources of those wastes, and the current fate or disposition of those
13 wastes;

14 (ii) an assessment of the feasibility and cost of recycling each type
15 of waste, including an assessment of the feasibility of providing the option of
16 single source recycling;

17 (iii) a survey of existing and potential markets for each type of
18 waste that can be recycled;

19 (B) a proposal for the development of facilities and programs
20 necessary at the state, regional or local level to achieve the priorities identified
21 in subdivision (a)(1) of this section. Consideration shall be given to the need

1 for additional regional or local composting facilities, the need to expand the
2 collection of commercially generated organic wastes, and the cost-
3 effectiveness of developing single stream waste management infrastructure
4 adequate to serve the entire population, which may include material recovery
5 centers. These portions of the plan shall be based, in part, on an assessment of
6 the status, capacity, and life expectancy of existing treatment and disposal
7 facilities, and they shall include siting criteria for waste management facilities,
8 and shall establish requirements for full public involvement.

9 (b) The secretary may manage the hazardous wastes generated, transported,
10 treated, stored or disposed in the state by administering a regulatory and
11 management program which, at a minimum, meets the requirements of subtitle
12 C of the Resource Conservation and Recovery Act of 1976, and amendments
13 thereto, codified as 42 U.S.C. chapter 82, subchapter 3, and the Comprehensive
14 Environmental Response, Compensation, and Liability Act of 1980, as
15 amended.

16 (1) Removal of hazardous waste from the waste stream. The secretary is
17 authorized to carry out studies, evaluations and pilot projects to remove
18 significant quantities of unregulated hazardous wastes from the waste stream,
19 when in the secretary's opinion the public health and safety will not be
20 adversely affected. One or more of these projects shall investigate the
21 feasibility and effectiveness of separating from the rest of the waste stream

1 those nonhazardous materials which require disposal in landfills, but which
2 may not require the use of liners and leachate collection systems.

3 (2) Report on disposal of hazardous wastes. The secretary shall consult
4 with interested persons on the disposal of hazardous waste, including persons
5 with relevant expertise and representatives from state and local government,
6 industry, the agricultural sector, the University of Vermont, and the general
7 public. The secretary shall conduct public hearings, take relevant testimony,
8 perform appropriate analysis and report to the general assembly and the
9 governor by January 1, 1990, on the following:

10 (A) the nature, origin, and amount of hazardous waste generated in
11 the state;

12 (B) the cost and environmental impact of current disposal practices;

13 (C) options for the treatment, and disposal of leachate collected from
14 sanitary landfills;

15 (D) steps that can be taken to reduce waste flows, or recycle wastes;

16 (E) the need for recycling, treatment and disposal facilities to be
17 located within the state; and

18 (F) a proposed process and proposed criteria for use in siting and
19 constructing needed facilities within the state, and for obtaining the maximum
20 amount of public input in any such process.

1 (c) The secretary or the board shall hold public hearings, perform studies as
2 required, conduct ongoing analyses, and make recommendations to the general
3 assembly with respect to the reduction of the waste stream. In this process, the
4 secretary or the board shall consult with manufacturers of commercial products
5 and of packaging used with commercial products, retail sales enterprises,
6 health and environmental advocates, waste management specialists, the general
7 public, and state agencies. The goal of the process is to ensure that packaging
8 used and products sold in the state are not an undue burden to the state's ability
9 to manage its waste. The secretary or the board shall seek voluntary changes
10 on the part of the industrial and commercial sector in both their practices and
11 the products they sell, so as to serve the purposes of this section. In this
12 process, the secretary or the board may obtain voluntary compliance schedules
13 from the appropriate industry or commercial enterprise, and shall entertain
14 recommendations for alternative approaches. The secretary or the board shall
15 report at the beginning of each biennium to the general assembly, with any
16 recommendations or options for legislative consideration.

17 (1) In carrying out the provisions of this subsection, the secretary first
18 shall consider ways to keep hazardous material and nonrecyclable,
19 nonbiodegradable material out of the waste stream, as soon as possible. In this
20 process, immediate consideration shall be given to the following:

1 (A) evaluation of products and packaging that contain large
2 concentrations of chlorides, such as packaging made with polyvinyl chloride
3 (PVC);

4 (B) evaluation of polystyrene packaging, particularly that used to
5 package fast food on the premises where the food is sold;

6 (C) evaluation of products and packaging that bring heavy metals
7 into the waste stream, such as disposable batteries, paint and paint products
8 and containers, and newspaper supplements and similar paper products;

9 (D) identification of unnecessary packaging, which is nonrecyclable
10 and nonbiodegradable.

11 (2) With respect to the above, the secretary shall consider the following:

12 (A) product and packaging bans, products or packaging which ought
13 to be exempt from such bans, the existence of less burdensome alternatives,
14 and alternative ways that a ban may be imposed;

15 (B) tax incentives, including the following options:

16 (i) product taxes, based on a sliding scale, according to the degree
17 of undue harm caused by the product, the existence of less harmful
18 alternatives, and other relevant factors;

19 (ii) taxes on all nonrecyclable, nonbiodegradable products or
20 packaging;

21 (C) deposit and return legislation for certain products.

1 (d) A portion of the state's solid waste management plan shall set forth a
2 comprehensive statewide program for the collection, treatment, beneficial use
3 and disposal of septage and sludge. The ~~secretary~~ board shall work
4 cooperatively with the department of health and the agency of agriculture, food
5 and markets in developing this portion of the plan and the rules to carry it out,
6 both of which shall be consistent with or more stringent than that prescribed by
7 section 405 of the Clean Water Act (33 U.S.C. § 1251, et seq.). In addition,
8 the ~~secretary~~ board shall consult with local governmental units and the
9 interested public in the development of the plans. The sludge management
10 plan and the septage management plan shall be developed and adopted by
11 January 15, 1987. In the development of these portions of the plan,
12 consideration shall be given to, but shall not be limited to, the following:

- 13 (1) the varying characteristics of septage and sludge;
14 (2) its value as a soil amendment;
15 (3) the need for licensing or other regulation of septage and sludge
16 handlers;
17 (4) the need for seasonal storage capability;
18 (5) the most appropriate burdens to be borne by individuals,
19 municipalities and industrial and commercial enterprises;
20 (6) disposal site permitting procedures;
21 (7) appropriate monitoring and reporting requirements;

- 1 (8) actions which can be taken through existing state programs to
2 facilitate beneficial use of septage and sludge;
- 3 (9) the need for regional septage facilities;
- 4 (10) an appropriate public information program; and
- 5 (11) the need for and proposed nature and cost of appropriate pilot
6 projects.

7 (e) Although the plans adopted under this section and any amendments to
8 these plans shall be adopted by means of a public process that is similar to the
9 process involved in the adoption of administrative rules, the plans, as initially
10 adopted or as amended, shall not be a rule.

11 Sec. 5. 10 V.S.A. § 6604b is amended to read:

12 § 6604b. TESTING OF SOLID WASTES PRIOR TO BENEFICIAL USE
13 ON LAND OR DISTRIBUTION AND MARKETING

14 (a) The secretary of natural resources, in consultation with the board, the
15 secretary of agriculture, food and markets, and ~~with~~ the commissioner of
16 health, shall adopt rules to establish a testing program for all sewage sludge, or
17 similar liquid wastes, prior to their beneficial use on land, or prior to
18 distribution and marketing of those wastes in liquid or solid form. The testing
19 program shall establish a process for the determination of minimum testing
20 frequencies and specific parameters for which analysis must be completed, and
21 shall detail procedures by which samples are collected, stored, and tested.

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Sec. 6. 10 V.S.A. § 6605c is amended to read:

§ 6605c. SOLID WASTE CATEGORICAL CERTIFICATIONS

* * *

(b) The secretary, after consultation with the board, may, by rule, list certain solid waste categories as eligible for certification pursuant to this section:

* * *

(e) This section shall not apply to the storage, treatment, or disposal of:

(1) municipal solid waste;

(2) sludge;

(3) septage; or

(4) mineral processing waste. For purposes of this section, mineral

processing waste means solid waste from an industrial or manufacturing facility that processes materials from a mining activity and where chemicals, as defined by the secretary, after consultation with the board, by rule, are intentionally added as a part of that processing.

Sec. 7. 10 V.S.A. § 6612(b) is amended to read:

(b) Any person who violates any provision of this chapter relating to solid or hazardous waste management, the ~~regulations~~ rules promulgated thereunder, or the terms or conditions of any order relating to solid or hazardous waste

1 management or terms and conditions of any solid or hazardous waste facility
2 certification, shall be subject to a civil penalty not to exceed \$10,000.00.

3 Sec. 8. 10 V.S.A. § 6618(b) is amended to read:

4 (b) The secretary, after consultation with the board, may authorize
5 disbursements from the solid waste management assistance account for the
6 purpose of enhancing solid waste management in the state in accordance with
7 the adopted waste management plan. This includes:

8 * * *

9 Sec. 9. 10 V.S.A. § 6621a(a) is amended to read:

10 (a) In accordance with the following schedule, no person shall knowingly
11 dispose of the following solid waste in landfills:

12 * * *

13 (3) White goods, after January 1, 1991. “White goods” include
14 discarded refrigerators, washing machines, clothes driers, ranges, water
15 heaters, dishwashers, and freezers. Other similar domestic and commercial
16 large appliances may be added, as identified by rule of the secretary, after
17 consultation with the board.

18 * * *

19 Sec. 10. 10 V.S.A. § 6625(d) and (e) are amended to read:

20 (d) The secretary, after consultation with the board, shall adopt rules to
21 carry out this subchapter. The rules shall include a provision for exempting

1 from the requirements of this subchapter generators for whom the secretary
2 determines no source reduction opportunities exist. The secretary, after
3 consultation with the board, may, by rule, add or remove any toxic substance
4 or hazardous waste from the provisions of this subchapter. In order to add or
5 remove any toxic substance or hazardous waste from the provisions of this
6 subchapter, the secretary shall make findings with respect to toxicity, potential
7 impact on public health and the environment and the potential for use
8 reduction or waste reduction of the toxic substance or hazardous waste.

9 (e) The secretary shall, after consultation with the board, adopt, by rule, a
10 list of SIC codes that identifies those facilities that are subject to this
11 subchapter as a large user. The list initially must include SIC codes 20 through
12 39. In adding additional SIC codes, the secretary shall make findings with
13 respect to chemical use within the SIC category, and shall find:

14 * * *

15 Sec. 11. 10 V.S.A. § 6631 is amended to read:

16 § 6631. REPORT TO LEGISLATURE

17 Commencing January 1, 1997, and every other year thereafter, the secretary
18 shall prepare and submit to the general assembly a report of the department's
19 operation and activities in carrying out this subchapter. Alternatively, the
20 report may be published as a part of a pollution prevention newsletter which
21 shall be submitted to the general assembly. This report shall include:

1 (3) An estimate of the cost to implement universal, curbside recycling
2 statewide;

3 (4) Draft legislation that would replace the beverage container deposit
4 and redemption system required under 10 V.S.A. chapter 53 with a recycling
5 system designed to increase the overall recycling volume and types of material
6 recycled in the state.

7 (5) A recommended mechanism for funding any new recycling activities
8 and litter reduction efforts proposed in the draft legislation required under
9 subdivision (4) of this section. Any revenue generated from a funding
10 mechanism proposed by the board shall be available to create additional solid
11 waste recycling infrastructure, identify and create markets for recycled
12 materials and products, reduce litter and increase the efficiency and efficacy of
13 recycling operations within Vermont.