

1 H.348

2 Introduced by Committee on Agriculture

3 Date:

4 Subject: Agriculture; Interstate Pest Control Compact

5 Statement of purpose: This bill proposes to adopt the Interstate Pest Control
6 Compact.

7 An act relating to the Interstate Pest Control Compact

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

9 Sec. 1. FINDINGS

10 The general assembly finds that:

11 (1) The Interstate Pest Control Compact was formed in 1968 with the
12 assistance of the Council of State Governments.

13 (2) Vermont originally joined the compact in 1977, paid its membership
14 fee, and has enjoyed the benefits of membership for over 30 years.

15 (3) The compact was purportedly adopted within chapter 83 of Title 6 in
16 session language by No. 171 of the Acts of the 1977 Adj. Sess. (1978).

17 (4) No. 68 of the Acts of the 1995 Adj. Sess. (1996) repealed chapter 83
18 of Title 6, and there is currently no specific enabling legislation for Vermont's
19 continued participation in compact membership.

1 Sec. 2. 6 V.S.A. chapter 83 is added to read:

2 CHAPTER 83. PEST CONTROL COMPACT

3 § 981. ADOPTION OF COMPACT

4 The Pest Control Compact is hereby enacted into law and entered into with
5 all other jurisdictions legally joining therein in the form substantially as
6 follows:

7 PEST CONTROL COMPACT

8 ARTICLE I

9 Findings

10 The party states find that:

11 (1) In the absence of the higher degree of cooperation among them
12 possible under this compact, the annual loss of approximately 137 billion
13 dollars from the depredations of pests is virtually certain to continue, if not to
14 increase.

15 (2) Because of the varying climatic, geographic, and economic factors,
16 each state may be affected differently by particular species of pests; but all
17 states share the inability to protect themselves fully against those pests which
18 present serious dangers to them.

19 (3) The migratory character of pest infestations makes it necessary for
20 states both adjacent to and distant from one another to complement each
21 other's activities when faced with conditions of infestation and reinfestation.

1 any donation or grant whose terms are inconsistent with any provision of this
2 compact.

3 ARTICLE IV

4 The Insurance Fund, Internal Operations, and Management

5 (a) The insurance fund shall be administered by a governing board and
6 executive committee as hereinafter provided. The actions of the governing
7 board and the executive committee pursuant to this compact shall be deemed
8 the actions of the insurance fund.

9 (b) The members of the governing board shall each be entitled to one vote
10 on such board. No action of the governing board shall be binding unless taken
11 at a meeting at which a majority of the total number of votes on the governing
12 board is cast in favor thereof. Action of the governing board shall be only at a
13 meeting at which a majority of the members is present.

14 (c) The insurance fund shall have a seal which may be employed as an
15 official symbol and which may be affixed to documents and otherwise used as
16 the governing board may provide.

17 (d) The governing board shall elect annually, from among its members, a
18 chair, a vice chair, a secretary, and a treasurer. The chair may not succeed
19 himself or herself. The governing board may appoint an executive director and
20 fix his or her duties and his or her compensation, if any. Such executive
21 director shall serve at the pleasure of the governing board. The governing

1 board shall make provision for the bonding of such of the officers and
2 employees of the insurance fund as may be appropriate.

3 (e) Irrespective of the civil service, personnel or other merit system laws of
4 any of the party states, the executive director, or if there be no executive
5 director, the chair, in accordance with such procedures as the bylaws may
6 provide, shall appoint, remove, or discharge such personnel as may be
7 necessary for the performance of the functions of the insurance fund and shall
8 fix the duties and compensation of such personnel. The governing board in its
9 bylaws shall provide for the personnel policies and programs of the insurance
10 fund.

11 (f) The insurance fund may borrow, accept, or contract for the services of
12 personnel from any state, the United States, or any other governmental agency,
13 or from any person, firm, association, or corporation.

14 (g) The insurance fund may accept for any of its purposes and functions
15 under this compact any and all donations, and grants of money, equipment,
16 supplies, materials, and services, conditional or otherwise, from any state, the
17 United States, or any other governmental agency, or from any person, firm,
18 association, or corporation, and may receive, utilize, and dispose of the same.
19 Any donation, gift, or grant accepted by the governing board pursuant to this
20 subsection or services borrowed pursuant to subsection (h) of this article shall
21 be reported in the annual report of the insurance fund. Such report shall

1 include the nature, amount, and conditions, if any, of the donation, gift, grant,
2 or services borrowed and the identity of the donor or lender.

3 (h) The governing board shall adopt bylaws for the conduct of the business
4 of the insurance fund and shall have the power to amend and to rescind these
5 bylaws. The insurance fund shall publish its bylaws in a convenient form and
6 shall file a copy thereof and a copy of any amendment thereto with the
7 appropriate agency or officer in each of the party states.

8 (i) The insurance fund annually shall make to the governor and legislature
9 of each party state a report covering its activities for the preceding year. The
10 insurance fund may make such additional reports as it may deem desirable.

11 (j) In addition to the powers and duties specifically authorized and
12 imposed, the insurance fund may do such other things as are necessary and
13 incidental to the conduct of its affairs pursuant to this compact.

14 ARTICLE V

15 Compact and Insurance Fund Administration

16 (a) In each party state there shall be a compact administrator, who shall be
17 selected and serve in such manner as the laws of the state may provide, and
18 who shall:

19 (1) Assist in the coordination of activities pursuant to the compact in the
20 state; and

21 (2) Represent the state on the governing board of the insurance fund.

1 (b) If the laws of the United States specifically so provide, or if
2 administrative provision is made therefor within the federal government, the
3 United States may be represented on the governing board of the insurance fund
4 by a number not to exceed three representatives. Any such representative or
5 representatives of the United States shall be appointed and serve in such
6 manner as may be provided by or pursuant to federal law, but no such
7 representative shall have a vote on the governing board or the executive
8 committee thereof.

9 (c) The governing board shall meet at least once each year for the purpose
10 of determining policies and procedures in the administration of the insurance
11 fund and, consistent with the provisions of the compact, supervising and giving
12 direction to the expenditure of moneys from the insurance fund. Additional
13 meetings of the governing board shall be held on call of the chair, the
14 executive committee, or a majority of the membership of the governing board.

15 (d) At such times as it may be meeting, the governing board shall pass
16 upon applications for assistance from the insurance fund and authorize
17 disbursements therefrom. When the governing board is not in session, the
18 executive committee thereof shall act as agent of the governing board, with full
19 authority to act for it in passing upon such applications.

20 (e) The executive committee shall be composed of the chair of the
21 governing board and four additional members of the governing board chosen

1 by it so that there shall be one member representing each of four geographic
2 groupings of party states. The governing board shall make such geographic
3 groupings. If there is representation of the United States on the governing
4 board, one such representative may meet with the executive committee. The
5 chair of the governing board shall be the chair of the executive committee. No
6 action of the executive committee shall be binding unless taken at a meeting at
7 which at least four members of such committee are present and vote in favor
8 thereof. Necessary expenses of each of the five members of the executive
9 committee incurred in attending meetings of such committee, when not held at
10 the same time and place as a meeting of the governing board, shall be charges
11 against the insurance fund.

12 ARTICLE VI

13 Assistance and Reimbursement

14 (a) Each party state pledges to each other party state that it will employ its
15 best efforts to eradicate, or control within the strictest practicable limits, any
16 and all pests. It is recognized that performance of this responsibility involves:

17 (1) The maintenance of pest control and eradication activities of
18 interstate significance by a party state at a level that would be reasonable for its
19 own protection in the absence of this compact.

1 (2) The meeting of emergency outbreaks or infestations of interstate
2 significance to no less an extent than would have been done in the absence of
3 this compact.

4 (b) Whenever a party state is threatened by a pest not present within its
5 borders but present within another party state, or whenever a party state is
6 undertaking or engaged in activities for the control or eradication of a pest or
7 pests, and finds that such activities are or would be impracticable or
8 substantially more difficult of success by reason of failure of another party
9 state to cope with infestation or threatened infestation, that state may request
10 the governing board to authorize expenditures from the insurance fund for
11 eradication or control measures to be taken by one or more of such other party
12 states at a level sufficient to prevent, or to reduce to the greatest practicable
13 extent, infestation or reinfestation of the requesting state. Upon such
14 authorization, the responding state or states shall take or increase such
15 eradication or control measures as may be warranted. A responding state shall
16 use moneys available from the insurance fund expeditiously and efficiently to
17 assist in affording the protection requested.

18 (c) In order to apply for expenditures from the insurance fund, a requesting
19 state shall submit the following in writing:

20 (1) A detailed statement of the circumstances which occasion the
21 request for the invoking of the compact.

1 (2) Evidence that the pest on account of whose eradication or control
2 assistance is requested constitutes a danger to an agricultural or forest crop,
3 product, tree, shrub, grass, or other plant having a substantial value to the
4 requesting state.

5 (3) A statement of the extent of the present and projected program of the
6 requesting state and its subdivisions, including full information as to the legal
7 authority for the conduct of such program or programs and the expenditures
8 being made or budgeted therefor, in connection with the eradication, control,
9 or prevention of introduction of the pest concerned.

10 (4) Proof that the expenditures being made or budgeted as detailed in
11 subdivision 3 of this article do not constitute a reduction of the effort for the
12 control or eradication of the pest concerned or, if there is a reduction, the
13 reasons why the level of program detailed in subdivision (3) of this article
14 constitutes a normal level of pest control activity.

15 (5) A declaration as to whether, to the best of its knowledge and belief,
16 the conditions which in its view occasion the invoking of the compact in the
17 particular instance can be abated by a program undertaken with the aid of
18 moneys from the insurance fund in one year or less, or whether the request is
19 for an installment in a program which is likely to continue for a longer period
20 of time.

1 (6) Such other information as the governing board may require
2 consistent with the provisions of this compact.

3 (d) The governing board or executive committee shall give due notice of
4 any meeting at which an application for assistance from the insurance fund is
5 to be considered. Such notice shall be given to the compact administrator of
6 each party state and to such other officers and agencies as may be designated
7 by the laws of the party states. The requesting state and any other party state
8 shall be entitled to be represented and present evidence and argument at such
9 meeting.

10 (e) Upon the submission as required by subsection (c) of this article and
11 such other information as it may have or acquire, and upon determining that an
12 expenditure of funds is within the purposes of this compact and justified
13 thereby, the governing board or executive committee shall authorize support of
14 the program. The governing board or executive committee may meet at any
15 time or place for the purpose of receiving and considering an application. Any
16 and all determinations of the governing board or executive committee, with
17 respect to an application, together with the reasons therefor shall be recorded
18 and subscribed in such manner as to show and preserve the votes of the
19 individual members thereof.

20 (f) A requesting state which is dissatisfied with a determination of the
21 executive committee shall upon notice in writing given within 20 days of the

1 determination with which it is dissatisfied, be entitled to receive a review
2 thereof at the next meeting of the governing board. Determinations of the
3 executive committee shall be reviewable only by the governing board at one of
4 its regular meetings, or at a special meeting held in such manner as the
5 governing board may authorize.

6 (g) Responding states required to undertake or increase measures pursuant
7 to this compact may receive moneys from the insurance fund, either at the time
8 or times when such state incurs expenditures on account of such measures, or
9 as reimbursement for expenses incurred and chargeable to the insurance fund.
10 The governing board shall adopt and, from time to time, may amend or revise
11 procedures for submission of claims upon it and for payment thereof.

12 (h) Before authorizing the expenditure of moneys from the insurance fund
13 pursuant to an application of a requesting state, the insurance fund shall
14 ascertain the extent and nature of any timely assistance or participation which
15 may be available from the federal government and shall request the appropriate
16 agency or agencies of the federal government for such assistance and
17 participation.

18 (i) The insurance fund may negotiate and execute a memorandum of
19 understanding or other appropriate instrument defining the extent and degree
20 of assistance or participation between and among the insurance fund,
21 cooperating federal agencies, states, and any other entities concerned.

1 considered and disposed of by the governing board or executive committee in
2 the same manner as an application with respect to a pest within a party state,
3 except as provided in this article.

4 (b) At or in connection with any meeting of the governing board or
5 executive committee held pursuant to Article VI(d) of this compact, a nonparty
6 state shall be entitled to appear, participate, and receive information only to
7 such extent as the governing board or executive committee may provide. A
8 nonparty state shall not be entitled to review of any determination made by the
9 executive committee.

10 (c) The governing board or executive committee shall authorize
11 expenditures from the insurance fund to be made in a nonparty state only after
12 determining that the conditions in such state and the value of such expenditures
13 to the party states as a whole justify them. The governing board or executive
14 committee may set any conditions which it deems appropriate with respect to
15 the expenditure of moneys from the insurance fund in a nonparty state and may
16 enter into such agreement or agreements with nonparty states and other
17 jurisdictions or entities as it may deem necessary or appropriate to protect the
18 interests of the insurance fund with respect to expenditures and activities
19 outside party states.

1 two-year period. The claims account shall contain all moneys not included in
2 the operating account and shall not exceed the amount reasonably estimated to
3 be sufficient to pay all legitimate claims on the insurance fund for a period of
4 three years. At any time when the claims account has reached its maximum
5 limit or would reach its maximum limit by the addition of moneys requested
6 for appropriation by the party states, the governing board shall reduce its
7 budget requests on a pro rata basis in such manner as to keep the claims
8 account within such maximum limit. Any moneys in the claims account by
9 virtue of conditional donations, grants, or gifts shall be included in calculations
10 made pursuant to this subsection only to the extent that such moneys are
11 available to meet demands arising out of the claims.

12 (d) The insurance fund shall not pledge the credit of any party state. The
13 insurance fund may meet any of its obligations in whole or in part with moneys
14 available to it under Article IV(g) of this compact, provided that the governing
15 board take specific action setting aside such moneys prior to incurring any
16 obligation to be met in whole or in part in such manner. Except where the
17 insurance fund makes use of moneys available to it under Article IV(g) hereof,
18 the insurance fund shall not incur any obligation prior to the allotment of
19 moneys by the party states adequate to meet the same.

20 (e) The insurance fund shall keep accurate accounts of all receipts and
21 disbursements. The receipts and disbursements of the insurance fund shall be

1 subject to the audit and accounting procedures established under its bylaws.
2 However, all receipts and disbursements of funds handled by the insurance
3 fund shall be audited yearly by a certified or licensed public accountant and a
4 report of the audit shall be included in and become part of the annual report of
5 the insurance fund.

6 (f) The accounts of the insurance fund shall be open at any reasonable time
7 for inspection by duly authorized officers of the party states and by any
8 persons authorized by the insurance fund.

9 ARTICLE X

10 Entry Into Force and Withdrawal

11 (a) This compact shall enter into force when enacted into law by any five or
12 more states. Thereafter, this compact shall become effective as to any other
13 state upon its enactment thereof.

14 (b) Any party state may withdraw from this compact by enacting a statute
15 repealing the same, but no such withdrawal shall take effect until two years
16 after the executive head of the withdrawing state has given notice in writing of
17 the withdrawal to the executive heads of all other party states. No withdrawal
18 shall affect any liability already incurred by or chargeable to a party state prior
19 to the time of such withdrawal.

1 § 983. FILING OF BYLAWS AND AMENDMENTS

2 Pursuant to 6 V.S.A. § 981, Article IV(h) of the compact, copies of bylaws
3 and amendments thereto shall be filed with the agency of agriculture, food and
4 markets.

5 § 984. COMPACT ADMINISTRATOR

6 The compact administrator for this state shall be the secretary of agriculture,
7 food and markets or a designated representative. The duties of the compact
8 administrator shall be deemed a regular part of the duties of the secretary's
9 office.

10 § 985. REQUEST FOR ASSISTANCE FROM INSURANCE FUND

11 Within the meaning of 6 V.S.A. § 981, Article VI(b) or Article VIII(a), a
12 request or application for assistance from the insurance fund may be made by
13 the secretary of agriculture, food and markets or designee whenever in his or
14 her judgment the conditions qualifying this state for such assistance exist and it
15 would be in the best interest of this state to make such request.

16 § 986. CREDIT FOR EXPENDITURES

17 The department, agency, or officer expending or becoming liable for an
18 expenditure on account of a control or eradication program undertaken or
19 intensified pursuant to the compact shall have credited to its, his or her account
20 in the state treasury the amount or amounts of any payments made to this state

1 to defray the cost of such program, or any part thereof, or as reimbursement
2 thereof.

3 § 987. EXECUTIVE HEAD

4 As used in the compact, with reference to this state, the term “executive
5 head” shall mean the governor.