

1 H.348

2 An act relating to the Interstate Pest Control Compact

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

4 Sec. 1. FINDINGS

5 The general assembly finds that:

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

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

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

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 (1996) repealed chapter 83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

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

16 CHAPTER 83. PEST CONTROL COMPACT

17 § 981. ADOPTION OF COMPACT

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

1 benefit to them in other states and to which they may contribute in accordance
2 with their relative interest, the most equitable means of financing cooperative
3 pest eradication and control programs.

4 ARTICLE II

5 Definitions

6 As used in this compact, unless the context clearly requires a different
7 construction:

8 (1) “Executive committee” means the committee established pursuant to
9 Article V(e) of this compact.

10 (2) “Governing board” means the administrators of this compact
11 representing all of the party states when such administrators are acting as a
12 body in pursuance of authority vested in them by this compact.

13 (3) “Insurance fund” means the pest control insurance fund established
14 pursuant to this compact.

15 (4) “Pest” means any invertebrate animal, pathogen, parasitic plant, or
16 similar or allied organism which can cause disease or damage in any crops,
17 trees, shrubs, grasses, or other plants of substantial value.

18 (5) “Requesting state” means a state which invokes the procedures of
19 the compact to secure the undertaking or intensification of measures to control
20 or eradicate one or more pests within one or more other states.

1 board and the executive committee pursuant to this compact shall be deemed
2 the actions of the insurance fund.

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

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

11 (d) The governing board shall elect annually, from among its members, a
12 chair, a vice chair, a secretary, and a treasurer. The chair may not succeed
13 himself or herself. The governing board may appoint an executive director and
14 fix his or her duties and his or her compensation, if any. Such executive
15 director shall serve at the pleasure of the governing board. The governing
16 board shall make provision for the bonding of such of the officers and
17 employees of the insurance fund as may be appropriate.

18 (e) Irrespective of the civil service, personnel or other merit system laws of
19 any of the party states, the executive director, or if there be no executive
20 director, the chair, in accordance with such procedures as the bylaws may
21 provide, shall appoint, remove, or discharge such personnel as may be

1 necessary for the performance of the functions of the insurance fund and shall
2 fix the duties and compensation of such personnel. The governing board in its
3 bylaws shall provide for the personnel policies and programs of the insurance
4 fund.

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

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

18 (h) The governing board shall adopt bylaws for the conduct of the business
19 of the insurance fund and shall have the power to amend and to rescind these
20 bylaws. The insurance fund shall publish its bylaws in a convenient form and

1 shall file a copy thereof and a copy of any amendment thereto with the
2 appropriate agency or officer in each of the party states.

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

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

9 ARTICLE V

10 Compact and Insurance Fund Administration

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

14 (1) Assist in the coordination of activities pursuant to the compact in the
15 state; and

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

17 (b) If the laws of the United States specifically so provide, or if
18 administrative provision is made therefor within the federal government, the
19 United States may be represented on the governing board of the insurance fund
20 by a number not to exceed three representatives. Any such representative or
21 representatives of the United States shall be appointed and serve in such

1 manner as may be provided by or pursuant to federal law, but no such
2 representative shall have a vote on the governing board or the executive
3 committee thereof.

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

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

15 (e) The executive committee shall be composed of the chair of the
16 governing board and four additional members of the governing board chosen
17 by it so that there shall be one member representing each of four geographic
18 groupings of party states. The governing board shall make such geographic
19 groupings. If there is representation of the United States on the governing
20 board, one such representative may meet with the executive committee. The
21 chair of the governing board shall be the chair of the executive committee. No

1 action of the executive committee shall be binding unless taken at a meeting at
2 which at least four members of such committee are present and vote in favor
3 thereof. Necessary expenses of each of the five members of the executive
4 committee incurred in attending meetings of such committee, when not held at
5 the same time and place as a meeting of the governing board, shall be charges
6 against the insurance fund.

7 ARTICLE VI

8 Assistance and Reimbursement

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

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

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

18 (b) Whenever a party state is threatened by a pest not present within its
19 borders but present within another party state, or whenever a party state is
20 undertaking or engaged in activities for the control or eradication of a pest or
21 pests, and finds that such activities are or would be impracticable or

1 substantially more difficult of success by reason of failure of another party
2 state to cope with infestation or threatened infestation, that state may request
3 the governing board to authorize expenditures from the insurance fund for
4 eradication or control measures to be taken by one or more of such other party
5 states at a level sufficient to prevent, or to reduce to the greatest practicable
6 extent, infestation or reinfestation of the requesting state. Upon such
7 authorization, the responding state or states shall take or increase such
8 eradication or control measures as may be warranted. A responding state shall
9 use moneys available from the insurance fund expeditiously and efficiently to
10 assist in affording the protection requested.

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

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

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

19 (3) A statement of the extent of the present and projected program of the
20 requesting state and its subdivisions, including full information as to the legal
21 authority for the conduct of such program or programs and the expenditures

1 being made or budgeted therefor, in connection with the eradication, control,
2 or prevention of introduction of the pest concerned.

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

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

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

16 (d) The governing board or executive committee shall give due notice of
17 any meeting at which an application for assistance from the insurance fund is
18 to be considered. Such notice shall be given to the compact administrator of
19 each party state and to such other officers and agencies as may be designated
20 by the laws of the party states. The requesting state and any other party state

1 shall be entitled to be represented and present evidence and argument at such
2 meeting.

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

13 (f) A requesting state which is dissatisfied with a determination of the
14 executive committee shall upon notice in writing given within 20 days of the
15 determination with which it is dissatisfied, be entitled to receive a review
16 thereof at the next meeting of the governing board. Determinations of the
17 executive committee shall be reviewable only by the governing board at one of
18 its regular meetings, or at a special meeting held in such manner as the
19 governing board may authorize.

20 (g) Responding states required to undertake or increase measures pursuant
21 to this compact may receive moneys from the insurance fund, either at the time

1 or times when such state incurs expenditures on account of such measures, or
2 as reimbursement for expenses incurred and chargeable to the insurance fund.

3 The governing board shall adopt and, from time to time, may amend or revise
4 procedures for submission of claims upon it and for payment thereof.

5 (h) Before authorizing the expenditure of moneys from the insurance fund
6 pursuant to an application of a requesting state, the insurance fund shall
7 ascertain the extent and nature of any timely assistance or participation which
8 may be available from the federal government and shall request the appropriate
9 agency or agencies of the federal government for such assistance and
10 participation.

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

15 ARTICLE VII

16 Advisory and Technical Committees

17 The governing board may establish advisory and technical committees
18 composed of state, local, and federal officials, and private persons to advise it
19 with respect to any one or more of its functions. Any such advisory or
20 technical committee or any member or members thereof may meet with and
21 participate in its deliberations upon request of the governing board or executive

1 committee. An advisory or technical committee may furnish information and
2 recommendations with respect to any application for assistance from the
3 insurance fund being considered by such board or committee, and the board or
4 committee may receive and consider the same, provided that any participant in
5 a meeting of the governing board or executive committee held pursuant to
6 Article VI(d) of the compact shall be entitled to know the substance of any
7 such information and recommendations, at the time of the meeting if made
8 prior thereto or as a part thereof or, if made thereafter, no later than the time at
9 which the governing board or executive committee makes its disposition of the
10 application.

11 ARTICLE VIII

12 Relations with Nonparty Jurisdictions

13 (a) A party state may make application for assistance from the insurance
14 fund in respect of a pest in a nonparty state. Such application shall be
15 considered and disposed of by the governing board or executive committee in
16 the same manner as an application with respect to a pest within a party state,
17 except as provided in this article.

18 (b) At or in connection with any meeting of the governing board or
19 executive committee held pursuant to Article VI(d) of this compact, a nonparty
20 state shall be entitled to appear, participate, and receive information only to
21 such extent as the governing board or executive committee may provide. A

1 nonparty state shall not be entitled to review of any determination made by the
2 executive committee.

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

13 ARTICLE IX

14 Finance

15 (a) The insurance fund shall submit to the executive head or designated
16 officer or officers of each party state a budget for the insurance fund for such
17 period as may be required by the laws of that party state for a presentation to
18 the legislature thereof.

19 (b) Each of the budgets shall contain specific recommendations of the
20 amount or amounts to be appropriated by each of the party states. The request
21 for appropriations shall be apportioned among the party states as follows:

1 one-tenth of the total budget in equal shares and the remainder in proportion to
2 the value of agricultural and forest crops and products, excluding animals and
3 animal products, produced in each party state. In determining the value of
4 such crops and products, the insurance fund may employ such source or
5 sources of information as in its judgment present the most equitable and
6 accurate comparisons among the party states. Each of the budgets and requests
7 for appropriations shall indicate the source or sources used in obtaining
8 information concerning value of products.

9 (c) The financial assets of the insurance fund shall be maintained in two
10 accounts to be designated respectively as the “operating account” and the
11 “claims account.” The operating account shall consist only of those assets
12 necessary for the administration of the insurance fund during the next ensuing
13 two-year period. The claims account shall contain all moneys not included in
14 the operating account and shall not exceed the amount reasonably estimated to
15 be sufficient to pay all legitimate claims on the insurance fund for a period of
16 three years. At any time when the claims account has reached its maximum
17 limit or would reach its maximum limit by the addition of moneys requested
18 for appropriation by the party states, the governing board shall reduce its
19 budget requests on a pro rata basis in such manner as to keep the claims
20 account within such maximum limit. Any moneys in the claims account by
21 virtue of conditional donations, grants, or gifts shall be included in calculations

1 made pursuant to this subsection only to the extent that such moneys are
2 available to meet demands arising out of the claims.

3 (d) The insurance fund shall not pledge the credit of any party state. The
4 insurance fund may meet any of its obligations in whole or in part with moneys
5 available to it under Article IV(g) of this compact, provided that the governing
6 board take specific action setting aside such moneys prior to incurring any
7 obligation to be met in whole or in part in such manner. Except where the
8 insurance fund makes use of moneys available to it under Article IV(g) hereof,
9 the insurance fund shall not incur any obligation prior to the allotment of
10 moneys by the party states adequate to meet the same.

11 (e) The insurance fund shall keep accurate accounts of all receipts and
12 disbursements. The receipts and disbursements of the insurance fund shall be
13 subject to the audit and accounting procedures established under its bylaws.
14 However, all receipts and disbursements of funds handled by the insurance
15 fund shall be audited yearly by a certified or licensed public accountant and a
16 report of the audit shall be included in and become part of the annual report of
17 the insurance fund.

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

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ARTICLE X

Entry Into Force and Withdrawal

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

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

ARTICLE XI

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating

1 herein, the compact shall remain in full force and effect as to the remaining
2 party states and in full force and effect as to the state affected as to all
3 severable matters.

4 § 982. COOPERATION OF STATE AGENCIES WITH INSURANCE

5 FUND

6 Consistent with law and within available appropriations, the departments,
7 agencies, and officers of this state may cooperate with the insurance fund
8 established by the pest control compact.

9 § 983. FILING OF BYLAWS AND AMENDMENTS

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

13 § 984. COMPACT ADMINISTRATOR

14 The compact administrator for this state shall be the secretary of agriculture,
15 food and markets or a designated representative. The duties of the compact
16 administrator shall be deemed a regular part of the duties of the secretary's
17 office.

18 § 985. REQUEST FOR ASSISTANCE FROM INSURANCE FUND

19 Within the meaning of 6 V.S.A. § 981, Article VI(b) or Article VIII(a), a
20 request or application for assistance from the insurance fund may be made by
21 the secretary of agriculture, food and markets or designee whenever in his or

1 her judgment the conditions qualifying this state for such assistance exist and it
2 would be in the best interest of this state to make such request.

3 § 986. CREDIT FOR EXPENDITURES

4 The department, agency, or officer expending or becoming liable for an
5 expenditure on account of a control or eradication program undertaken or
6 intensified pursuant to the compact shall have credited to its, his or her account
7 in the state treasury the amount or amounts of any payments made to this state
8 to defray the cost of such program, or any part thereof, or as reimbursement
9 thereof.

10 § 987. EXECUTIVE HEAD

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