

1 H.462

2 Introduced by Representative Deen of Westminster

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; public waters; docks and
6 encroachments

7 Statement of purpose: This bill would expand the jurisdiction of the agency of
8 natural resources to permit encroachments, such as docks and piers. The bill
9 would expand jurisdiction to include encroachments on all public waters, not
10 just lakes and ponds. Public waters are the navigable waters of the state.

11 An act relating to encroachments on public waters

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

13 ~~Sec. 1. 29 V.S.A. § 403 is amended to read:~~

14 ~~§ 403. ENCROACHMENT PROHIBITED~~

15 ~~(a) Except as provided in subsection (b) of this section, no person shall~~
16 ~~encroach on any of those waters and lands of lakes and ponds public waters~~
17 ~~under the jurisdiction of the board without first obtaining a permit under this~~
18 ~~chapter. No permit shall be granted if the encroachment adversely affects the~~
19 ~~public good~~

- 1 ~~(b) A permit shall not be required for the following uses provided that~~
2 ~~navigation or boating is not unreasonably impeded:~~
- 3 ~~(1) Wooden or metal docks for noncommercial use mounted on piles or~~
4 ~~floats provided that:~~
- 5 ~~(A) the combined horizontal distance of the proposed encroachment~~
6 ~~and any existing encroachments located within 100 feet thereof which are~~
7 ~~owned or controlled by the applicant do not exceed 50 feet and their aggregate~~
8 ~~surface areas do not exceed 500 square feet; and~~
- 9 ~~(B) concrete, masonry, earth or rock fill, sheet piling, bulkheading,~~
10 ~~cribwork, or similar construction does not form a part of the encroachment;~~
- 11 ~~(2) A water intake pipe not exceeding two inches inside diameter;~~
- 12 ~~(3) Temporary extensions of existing structures added for a period not to~~
13 ~~exceed six months, if required by low water;~~
- 14 ~~(4) Ordinary repairs and maintenance to existing commercial and~~
15 ~~noncommercial structures;~~
- 16 ~~(5) Duck blinds, floats, rafts, and buoys.~~
- 17 ~~(c) Existing encroachments shall not be enlarged, extended, or added to~~
18 ~~without first obtaining a permit under this chapter, except as provided in~~
19 ~~subsection (b) of this section.~~

1 ~~(d) This chapter shall not apply to encroachments subject to the provisions~~
2 ~~of 10 V.S.A., chapter 43, concerning dams, or regulations adopted under the~~
3 ~~provisions of 10 V.S.A. § 1424, concerning public waters.~~

4 ~~(e) This section shall not apply to the installation on lake bottoms of small~~
5 ~~filtering devices not exceeding nine square feet of disturbed area on the end of~~
6 ~~water intake pipes less than two inches in diameter for the purpose of zebra~~
7 ~~mussel control.~~

Sec. 1. 29 V.S.A. § 401 is amended to read:

§ 401. POLICY

Lakes and ponds which are public waters of Vermont and the lands lying thereunder are a public trust, and it is the policy of the state that these waters and lands shall be managed to serve the public good, as defined by section 405 of this title, to the extent authorized by statute. For the purposes of this chapter, the exercise of this management shall be limited to encroachments subject to section 403 of this title. The management of these waters and lands shall be exercised by the department of environmental conservation in accordance with this chapter and the rules of the board. For the purposes of this chapter, jurisdiction of the department shall be construed as extending to all lakes and ponds which are public waters and the lands lying thereunder, which lie beyond the shoreline or shorelines delineated by the mean water level of any lake or pond which is a public water of the state, as such mean water level is determined by the board. For the purposes of this chapter, jurisdiction shall include encroachments of docks and piers on the boatable tributaries of Lake Champlain and Lake Memphremagog upstream to the first barrier to navigation, and encroachments of docks and piers on the Connecticut River impoundments and boatable tributaries of such impounds

upstream to the first barrier to navigation. No provision of this chapter shall be construed to permit trespass on private lands without the permission of the owner.

Sec. 2. 29 V.S.A. § 403 is amended to read:

§ 403. ENCROACHMENT PROHIBITED

(a)(1) Except as provided in subsection (b) of this section, no person shall encroach on any of those waters and lands of lakes and ponds under the jurisdiction of the board without first obtaining a permit under this chapter.

(2) Except as provided in subsection (b) of this section, no person shall encroach on the following waters with a dock or pier without first obtaining a permit under this chapter:

(A) boatable tributaries of Lake Champlain and Lake Memphremagog upstream to the first barrier to navigation; and

(B) Connecticut River impoundments and boatable tributaries of such impoundments upstream to the first barrier to navigation.

(3) No permit shall be granted if the encroachment adversely affects the public good.

(b) A permit shall not be required for the following uses provided that navigation or boating is not unreasonably impeded:

(1) Wooden or metal docks for noncommercial use mounted on piles or floats provided that:

(A) the combined horizontal distance of the proposed encroachment and any existing encroachments located within 100 feet thereof which are owned or controlled by the applicant do not exceed 50 feet and their aggregate surface areas do not exceed 500 square feet; and

(B) concrete, masonry, earth or rock fill, sheet piling, bulkheading, cribwork, or similar construction does not form a part of the encroachment;

(2) A water intake pipe not exceeding two inches inside diameter;

(3) Temporary extensions of existing structures added for a period not to exceed six months, if required by low water;

(4) Ordinary repairs and maintenance to existing commercial and noncommercial structures;

(5) Duck blinds, floats, rafts, and buoys.

(c) Existing encroachments shall not be enlarged, extended, or added to without first obtaining a permit under this chapter, except as provided in subsection (b) of this section.

(d) This chapter shall not apply to encroachments subject to the provisions of chapter 43 of Title 10, concerning dams, or regulations adopted under the provisions of 10 V.S.A. § 1424 concerning public waters.

(e) This section shall not apply to the installation on lake bottoms of small filtering devices not exceeding nine square feet of disturbed area on the end of water intake pipes less than two inches in diameter for the purpose of zebra mussel control.