

1 H.509

2 Introduced by Representative Deen of Westminster

3 Referred to Committee on

4 Date:

5 Subject: Conservation; water resources; Lake Champlain; total maximum
6 daily load plan

7 Statement of purpose: This bill proposes to amend requirements for
8 agricultural water quality and stormwater control in order to aid in the
9 reduction of phosphorus pollution to Lake Champlain. The bill would provide
10 that livestock exclusion fencing is eligible for state financial assistance to
11 farmers. The bill would also authorize alternative manure application as an
12 eligible activity under the state's farm agronomic practice program. The bill
13 would also expand the Vermont agricultural buffer program to apply to
14 intermittent streams. The bill would also direct the Vermont housing and
15 conservation board to maximize state participation in the federal wetlands
16 reserve program when seeking funding to protect and preserve farmland. In
17 addition, the bill would require the agency of transportation to adopt water
18 quality best management practices for highway construction, maintenance, and
19 repair. Implementation of these best management practices by a municipality
20 would be a requirement for receipt of state highway funding.

1 An act relating to pollution control measures for Lake Champlain

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

3 Sec. 1. 6 V.S.A. § 4821(a) is amended to read:

4 (a) Program created. A program is created to provide state financial
5 assistance to Vermont farmers in support of their voluntary construction of
6 on-farm improvements and maintenance of acceptable operating standards
7 designed to abate nonpoint source agricultural waste discharges into the waters
8 of the state of Vermont, consistent with goals of the federal Water Pollution
9 Control Act and with state water quality standards. The program shall be
10 conducted in a manner which makes maximum use of federal financial aid for
11 the same purpose, as provided by this subchapter, and which seeks to use the
12 least costly methods available to accomplish the abatement required. The
13 construction of temporary fencing intended to exclude livestock from entering
14 surface waters of the state shall be an on-farm improvement eligible for
15 assistance under this subchapter when subject to a maintenance agreement
16 entered into with the agency of agriculture, food and markets.

17 Sec. 2. 6 V.S.A. § 4900 is amended to read:

18 § 4900. VERMONT AGRICULTURAL BUFFER PROGRAM

19 (a) The secretary of agriculture, food and markets is authorized to develop
20 a Vermont agricultural buffer program in addition to the federal conservation
21 reserve enhancement program in order to compensate farmers for establishing

1 and maintaining harvestable perennial vegetative buffers and installing
2 conservation practices in ditch networks on ~~annual cropland~~ agricultural land
3 adjacent to the surface waters of the state.

4 (b) The establishment and annual incentive payments from the agency of
5 agriculture, food and markets under the Vermont agricultural buffer program
6 shall not exceed ~~40 percent of~~ the combined federal and state payment that the
7 relevant ~~cropland~~ agricultural land or conservation practice would be eligible
8 for under the federal conservation reserve enhancement program or approved
9 conservation practices. The incentive payment shall be made annually at the
10 end of the cropping season for a nonrenewable five-year period.

11 (c) The secretary of agriculture, food and markets may establish by
12 procedure financial and technical criteria for the implementation and operation
13 of the Vermont agricultural buffer program.

14 (d) Land enrolled in the Vermont agricultural buffer program shall be
15 considered to be in “active use” as that term is defined in 32 V.S.A.
16 § 3752(15).

17 (e) As used in this section, “surface waters” means all rivers, streams,
18 ditches, creeks, brooks, reservoirs, ponds, lakes, and springs which are
19 contained within, flow through, or border upon the state or any portion of it.
20 Surface waters shall include intermittent streams, creeks, and brooks that have
21 a defined channel and evidence of water and sediment transport, even if such

1 watercourses do not have surface water flow throughout the year or throughout
2 the channel.

3 Sec. 3. 6 V.S.A. § 4951 is amended to read:

4 § 4951. FARM AGRONOMIC PRACTICES PROGRAM

5 (a) The farm agronomic practices assistance program is created in the
6 agency of agriculture, food and markets to provide the farms of Vermont with
7 state financial assistance for the implementation of soil-based practices that
8 improve soil quality and nutrient retention, increase crop production, minimize
9 erosion potential, and reduce agricultural waste discharges. The following
10 practices shall be eligible for assistance to farms under the grant program:

11 (1) conservation crop rotation;

12 (2) cover cropping;

13 (3) strip cropping;

14 (4) cross-slope tillage;

15 (5) zone or no-tillage;

16 (6) pre-sidedress nitrate tests;

17 (7) annual maintenance of a nutrient management plan that is no longer
18 receiving funding under a state or federal contract, provided the maximum
19 assistance provided to a farmer under this subdivision shall be \$1,000.00 per
20 year; ~~and~~

1 (8) educational and instructional activities to inform the farmers and
2 citizens of Vermont of:

3 (A) the impact on Vermont waters of agricultural waste discharges;

4 (B) the federal and state requirements for controlling agricultural
5 waste discharges;

6 (9) implementing alternative manure application techniques; and

7 (10) additional soil erosion reduction practices.

8 (b) Funding available under section 4827 of this title for nutrient
9 management planning may be used to fund practices under this section.

10 Sec. 4. 10 V.S.A. § 321(d) is amended to read:

11 (d) On behalf of the state of Vermont, the board shall seek and administer
12 federal farmland protection funds to facilitate the acquisition of interests in
13 land to protect and preserve in perpetuity important farmland for future
14 agricultural use. Such funds shall be used to implement and effectuate the
15 policies and purposes of this chapter. In seeking federal farmland protection
16 funds under this subsection, the board shall seek to maximize state
17 participation in the federal wetlands reserve program in order to allow for
18 increased or additional implementation of conservation practices on farmland
19 protected or preserved under this chapter.

1 Sec. 5. 10 V.S.A. § 1021(a) is amended to read:

2 (a) A person shall not change, alter, or modify the course, current, or
3 cross-section of any watercourse ~~with a drainage area greater than ten square~~
4 ~~miles at the location of the proposed change, alteration or modification,~~ or of
5 designated outstanding resource waters, within or along the boundaries of this
6 state either by movement, fill, or by excavation of ten cubic yards or more in
7 any year, unless authorized by the secretary.

8 Sec. 6. 19 V.S.A. § 996 is added to read:

9 § 996. HIGHWAY CONSTRUCTION, MAINTENANCE, AND REPAIR

10 BEST MANAGEMENT PRACTICES

11 The agency of transportation, as approved by the agency of natural
12 resources, shall adopt by rule best management practices to be followed by the
13 agency of transportation and towns in the construction, maintenance, and
14 repair of state and town highways. These best management practices shall
15 address activities which have a potential for causing pollutants to enter the
16 groundwater and waters of the state, including stormwater runoff and direct
17 discharges to state waters. Best management practices shall be practical and
18 cost-effective to implement.

1 Sec. 7. 19 V.S.A. § 308 is amended to read:

2 § 308. COMPLIANCE WITH PROVISIONS

3 A town shall not be entitled to receive money from the state under this
4 chapter in any year until it has complied with the provisions of this chapter and
5 the best management practices adopted by the agency under section 996 of this
6 title.

7 Sec. 8. EFFECTIVE DATES

8 (a) This section and Secs. 1 (livestock fencing; best management practices),
9 2 (Vermont agricultural buffer program), 3 (farm agronomic practices
10 program) and 4 (VHCB; agricultural land preservation) of this act shall take
11 effect upon passage.

12 (b) Secs. 5 (stream alteration permits) and 6 (agency of transportation best
13 management practices) of this act shall take effect July 1, 2010.

14 (c) Sec. 7 (municipal compliance with agency of transportation best
15 management practices) of this act shall take effect July 1, 2011.