

1 H.343

2 Introduced by Representatives Webb of Shelburne, Deen of Westminster,

3 Krebs of South Hero and McCullough of Williston

4 Referred to Committee on

5 Date:

6 Subject: Conservation; agriculture; water quality; Lake Champlain

7 Statement of purpose: This bill proposes to establish several programs and
8 standards intended to improve the water quality of Lake Champlain. The bill
9 would require the agency of natural resources (ANR) to inspect all
10 concentrated animal feeding operations in the St. Albans Bay watershed to
11 determine if such operations require a discharge permit. The bill would also
12 require the accepted agricultural practices to be amended to require livestock
13 exclusion from state waters. The bill would require ANR to seek funding
14 under the federal Water Resources Development Act for restoration projects in
15 the Lake Champlain watershed. The bill would require ANR to conduct a
16 study of the feasibility and cost of constructing sewer systems in the St. Albans
17 Bay watershed. The bill also would establish a Lake Champlain watershed
18 team at ANR to develop and recommend management measures to reduce
19 phosphorus pollution in the Lake Champlain watershed.

20 An act relating to the water quality of Lake Champlain

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

2 Sec. 1. 10 V.S.A. § 1263(g) is amended to read:

3 (g)(1) Notwithstanding any other provision of law, any person who owns or
4 operates a concentrated animal feeding operation that requires a permit under
5 the federal National Pollutant Discharge Elimination System permit
6 regulations shall submit an application to the secretary for a discharge permit
7 and pay the required fees specified in 3 V.S.A. § 2822. On or before July 1,
8 2007, the secretary of natural resources shall adopt rules implementing the
9 federal National Pollutant Discharge Elimination System permit regulations for
10 discharges from concentrated animal feeding operations. Until such
11 regulations are adopted, the substantive permitting standards and criteria used
12 by the secretary to evaluate applications and issue or deny discharge permits
13 for concentrated animal feeding operations shall be those specified by federal
14 regulations. The secretary may issue an individual or general permit for these
15 types of discharges in accordance with the procedural requirements of
16 subsection (b) of this section and other state law. For the purposes of this
17 subsection, “concentrated animal feeding operation.” means a farm that meets
18 the definition contained in the federal regulations.

19 (2) On or before July 1, 2012, the secretary of natural resources, after
20 consultation with the secretary of agriculture, food and markets, shall inspect
21 all concentrated animal feeding operations located in the watershed of

1 St. Albans Bay of Lake Champlain in order to determine if there is a discharge
2 from a concentrated animal feeding operation that requires a permit under
3 subdivision (1) of this subsection or other corrective action.

4 Sec. 2. 6 V.S.A. § 4810(a) is amended to read:

5 (a) Agricultural land use practices. In accordance with 10 V.S.A.
6 § 1259(i), the secretary shall adopt by rule, pursuant to chapter 25 of Title 3,
7 and shall implement and enforce agricultural land use practices in order to
8 reduce the amount of agricultural pollutants entering the waters of the state.
9 These agricultural land use practices shall be created in two categories,
10 pursuant to subdivisions (1) and (2) of this subsection.

11 (1) "Accepted Agricultural Practices" (AAPs) shall be standards to be
12 followed in conducting agricultural activities in this state. These standards
13 shall address activities which have a potential for causing pollutants to enter
14 the groundwater and waters of the state, including dairy and other livestock
15 operations plus all forms of crop and nursery operations and on-farm or
16 agricultural fairground, registered pursuant to ~~section~~ 20 V.S.A. § 3902 of Title
17 20, livestock and poultry slaughter and processing activities. The AAPs shall
18 include, as well as promote and encourage, practices for farmers in preventing
19 pollutants from entering the groundwater and waters of the state when engaged
20 in, but not limited to, animal waste management and disposal, soil amendment
21 applications, plant fertilization, and pest and weed control. The AAPs shall

1 require all dairy or livestock operations, regardless of size, to develop and
2 implement a nutrient management plan that is designed to prevent the runoff or
3 discharge of nutrients to the waters of the state. The AAPs shall include a
4 requirement that all dairy and livestock operations take measures to exclude
5 livestock from entering the waters of the state. Persons engaged in farming, as
6 defined in ~~section~~ 10 V.S.A. § 6001 of Title 10, who follow these practices
7 shall be presumed to be in compliance with water quality standards. AAPs
8 shall be practical and cost effective to implement. The AAPs for groundwater
9 shall include a process under which the agency shall receive, investigate, and
10 respond to a complaint that a farm has contaminated the drinking water or
11 groundwater of a property owner. By January 1, 2011, and every five years
12 thereafter, the secretary shall update and revise the AAPs by rule in order to
13 incorporate the most current practices and standards for reducing the amount of
14 agricultural pollutants and nutrients entering groundwater and the waters of the
15 state.

16 * * *

17 (c) The secretary of agriculture, food and markets shall consult with the
18 Lake Champlain basin program and the University of Vermont Extension
19 Service in developing the AAPs for livestock exclusion and nutrient
20 management planning under subsection (a) of this section.

1 Sec. 3. WATER RESOURCES DEVELOPMENT ACT FUNDING

2 Under Section 542 of the Water Resources Development Act of 2000,
3 \$20,000,000.00 is available from the U.S. Army Corps of Engineers for
4 projects that produce immediate and substantial ecosystem restoration,
5 preservation, and protection benefits for Lake Champlain. The secretary of
6 natural resources shall seek funding under the Water Resources Development
7 Act for restoration projects to improve the water quality of Lake Champlain,
8 including funding for the upgrade of municipal pollution abatement facilities,
9 erection of livestock exclusion fencing, and construction of sewage systems.

10 Sec. 4. ANR STUDY OF CONSTRUCTING SEWER SYSTEMS IN ST.

11 ALBANS BAY WATERSHED

12 On or before January 1, 2012, the agency of natural resources shall report to
13 the house committee on fish, wildlife and water resources and the senate
14 committee on natural resources and energy regarding the feasibility and cost of
15 constructing a sewer system in the St. Albans Bay watershed. The report shall
16 include:

17 (1) A summary of the legal process for establishing and operating a
18 sewer system;

19 (2) An estimated cost for constructing a sewer system for the St. Albans
20 Bay watershed, including cost estimates to construct smaller sewer systems to

1 target areas of potential increased pollution from septic systems bordering the
2 bay;

3 (3) An estimate of the environmental benefit to Lake Champlain that
4 would result from the construction of a sewer system for St. Albans Bay,
5 including an estimate of the reduced phosphorus load attributable to
6 construction of such a sewer system.

7 Sec. 5. LAKE CHAMPLAIN WATERSHED TEAM; ST. ALBANS BAY
8 PILOT PROGRAM

9 (a) Establishment of Lake Champlain watershed team. There is established
10 within the agency of natural resources a team of environmental experts to
11 develop and recommend management measures to reduce phosphorus
12 pollution in the Lake Champlain watershed. The Lake Champlain watershed
13 team shall consist of the following members:

14 (1) the secretary of natural resources, or his or her designee;

15 (2) the secretary of agriculture, food and markets, or his or her designee;

16 (3) an employee of the department of environmental conservation who
17 is primarily responsible for writing, reviewing, or issuing Vermont pollution
18 discharge elimination system permits, to be appointed by the secretary of
19 natural resources;

20 (4) an employee of the agency of agriculture, food and markets division
21 of agricultural resource management and environmental stewardship who has

1 responsibility for overseeing or enforcing the accepted agricultural practices or
2 the agricultural water quality program, to be appointed by the secretary of
3 agriculture, food and markets;

4 (5) two representatives of municipal planners from municipalities
5 located in the Lake Champlain watershed, to be appointed by the governor.

6 (6) two managers of municipalities located in the Lake Champlain
7 watershed, to be appointed by the speaker of the house; and

8 (7) two representatives of watershed organizations with a focus on the
9 remediation of Lake Champlain, to be appointed by the committee on
10 committees;

11 (b) Powers of Lake Champlain watershed team. The Lake Champlain
12 watershed team shall have the authority to:

13 (1) Require the agency of natural resources to conduct inspections or
14 analyses of all land uses within each of the major watersheds for Lake
15 Champlain in order to identify sources of phosphorus and propose methods for
16 their reduction;

17 (2) Conduct water quality sampling;

18 (3) Generate a priority list of projects, programs, or actions to address
19 phosphorus pollution to Lake Champlain or a lake segment;

20 (4) Draft a work plan for the needs of each major watershed of Lake
21 Champlain, including enforcement priorities, cost estimates of pollution

1 abatement facilities in the watershed achieving the discharge standard of
2 10 V.S.A. § 1266a, and recommendations for establishing and managing
3 utilities for the control of stormwater or sewage;

4 (5) Conduct education and outreach activities regarding the need to
5 reduce phosphorus pollution to Lake Champlain. Such activities may include
6 public hearings.

7 (c) St. Albans Bay pilot program. The Lake Champlain watershed team
8 shall initiate exercise of its authority under this section by establishing a pilot
9 program to review, analyze, and recommend management of phosphorus
10 pollution in the St. Albans Bay watershed.

11 Sec. 6. EFFECTIVE DATE

12 This act shall take effect on passage.