

1 H.586

2 Representative Helm of Fair Haven moves that the recommendation of the
3 Committee on Fish, Wildlife and Water Resources be amended as follows:

4 First: By adding a Sec. 23a to read as follows:

5 Sec. 23a. 10 V.S.A. chapter 84 is added to read:

6 CHAPTER 84. SHORELAND STANDARDS FOR STATE LANDS

7 § 2681. PURPOSE

8 The purpose of this chapter is to require the Agency of Natural Resources to
9 upgrade Agency-owned fishing access areas, beaches, roadways, and other
10 property in lake shoreland areas to meet the shoreland standards required for
11 private development in lake shoreland areas.

12 § 2682. DEFINITIONS

13 As used in this chapter:

14 (1) “Cleared area” means an area where vegetation is permanently
15 removed.

16 (2) “Expansion” means an increase or addition to existing impervious
17 surface or an increase to existing cleared area.

18 (3) “Impervious surface” means those manmade surfaces, including
19 paved and unpaved roads, parking areas, roofs, driveways, and walkways, from
20 which precipitation runs off rather than infiltrates.

1 (4) “Lake” means a body of standing water, including a pond or a
2 reservoir, which may have natural or artificial water level control. Private
3 ponds shall not be considered lakes.

4 (5) “Mean water level” means the mean water level of a lake as defined
5 in the Mean Water Level Rules of the Agency of Natural Resources adopted
6 under 29 V.S.A. § 410.

7 (6) “Private pond” means a body of standing water that is a natural
8 water body of not more than 20 acres located on property owned by one person
9 or an artificial water body of any size located on property owned by one
10 person. A “private pond” shall include a reservoir specifically constructed for
11 one of the following purposes: snowmaking storage, golf course irrigation,
12 stormwater management, or fire suppression.

13 (7) “Protected shoreland area” means the land area located within
14 250 feet, horizontal distance, of the mean water level of a lake.

15 (8) “State lands” means land or real property owned or controlled by the
16 Agency of Natural Resources, including State parks, State forests, and State
17 wildlife management areas.

18 (9) “Stormwater runoff” means precipitation and snowmelt that does not
19 infiltrate into the soil, including material dissolved or suspended in it, but does
20 not include discharges from undisturbed natural terrain or wastes from
21 combined sewer overflows.

1 (10) “Vegetation” means all live trees, shrubs, and other plants.

2 Vegetation does not mean grass.

3 § 2683. CONSERVATION OF SHORELANDS ON STATE LANDS

4 (a) On or before July 1, 2016, the Agency of Natural Resources shall
5 implement the following management standards within protected shoreland
6 areas on State lands:

7 (1) All cleared area and impervious surface shall be at least 100 feet
8 from the mean water level, except:

9 (A) when compliance would be inconsistent and or in conflict with
10 applicable federal requirements for the management of a parcel of land held by
11 the Agency;

12 (B) boat ramps for fish and wildlife access areas are allowed within
13 100 feet of the mean water level of a lake, provided that the ramp shall be
14 designed to prevent or reduce runoff of stormwater to a surface water; and

15 (C) water dependent, public recreational uses of no more than
16 100 square feet of impervious surface or cleared area may be maintained or
17 established within 100 feet of the mean water level of a lake, provided that
18 impervious surface or cleared area authorized under this subdivision shall not
19 exceed 20 percent of the State lands within the protected shoreland area.

1 (2) A buffer strip of vegetation that meets the requirements of section
2 2684 of this title shall be established and preserved within an area of 100 feet
3 from the mean water level of a lake, except that:

4 (A) a single footpath not to exceed six feet in width is allowed within
5 the vegetated buffer to allow access to the mean water level of a lake; and

6 (B) impervious surface or cleared area authorized under subdivisions
7 (a)(1)(A) and (B) is allowed in the vegetated buffer.

8 (3) Impervious surface or cleared area allowed in the protected
9 shoreland area may only be expanded away from the mean water level of a
10 lake.

11 (4) Any proposed cleared area or impervious surface within a protected
12 shoreland area shall be sited on a slope of less than 20 percent, or the
13 impervious surface or cleared area within the protected shoreland area shall be
14 sited on a stable slope with minimal erosion and minimal negative impacts to
15 water quality, except when compliance would be inconsistent or in conflict
16 with applicable federal requirements for the management of a parcel of land
17 held by the Agency.

18 (b) The Secretary of Natural Resources shall retrofit all State lands that do
19 not comply with the requirements of subsection (a) of this section unless the
20 Citizens Advisory Committee on the Shorelands of State Lands grants a
21 variance under section 2685 of this title from the requirements of this section.

1 § 2684. VEGETATION MANAGEMENT OF LAKE SHORELAND

2 BUFFERS

3 (a) Within the vegetated buffer strip required under section 2683 of this
4 title, selective cutting of trees is allowed, provided that a well-distributed stand
5 of trees and other natural vegetation is maintained.

6 (b) A “well-distributed stand of trees adjacent to a lake” shall be defined as
7 maintaining a minimum rating score of 16 in each 25-foot by 25-foot
8 rectangular area in the buffer strip as determined by the following rating
9 system.

10 <u>(1) Diameter of tree at 4-1/2 feet above</u>	<u>Points</u>
11 <u>ground level (inches)</u>	
12 <u>2–< 4 in.</u>	<u>1</u>
13 <u>4–< 8 in.</u>	<u>2</u>
14 <u>8–< 12 in.</u>	<u>4</u>
15 <u>12 in. or greater</u>	<u>8</u>

16 (2) The following shall govern in applying this point system:

17 (A) 25-foot by 25-foot rectangular plots shall be established within a
18 vegetated buffer where a property owner or lessee proposes clearing within the
19 buffer.

20 (B) Each successive plot must be adjacent to but not overlap a
21 previous plot.

1 (C) Any plot not containing the required points must have no
2 vegetation removed except as otherwise allowed by rules adopted under this
3 section.

4 (D) Any plot containing the required points may have vegetation
5 removed down to the minimum points required or as otherwise allowed by
6 rules adopted under this chapter.

7 (E) Where conditions permit, no more than 50 percent of the points
8 on any 25-foot by 25-foot rectangular area may consist of trees greater than
9 12 inches in diameter.

10 (F) No more than 40 percent of the total volume of trees four inches
11 or more in diameter, measured at four and one-half feet above ground level,
12 may be removed in any 10-year period.

13 (G) Existing vegetation under three feet in height and other ground
14 cover, including leaf litter and the forest duff layer, shall not be cut, covered,
15 or removed, except to provide for a footpath or other permitted uses.

16 (H) Pruning of tree branches on the bottom one-third of the tree is
17 allowed.

18 (c) As used in this section, “other natural vegetation” means retaining
19 existing vegetation under three feet in height and other ground cover and
20 retaining at least five saplings less than two inches in diameter at four and
21 one-half feet above ground level for each 25-foot by 25-foot rectangle area. If

1 five saplings do not exist, no woody stems less than two inches in diameter can
2 be removed until five saplings have been planted or rooted in the plot.

3 § 2685. CITIZENS ADVISORY COMMITTEE ON THE SHORELANDS
4 OF STATE LANDS

5 (a) There is established a Citizens Advisory Committee on the Shorelands
6 of State Lands in order to oversee the Agency of Natural Resources’
7 compliance with the requirements of section 2683 of this title.

8 (b) The Citizens Advisory Committee on the Shorelands of State Lands
9 shall consist of 11 members: one senator appointed by the Committee on
10 Committees, one Representative appointed by the Speaker of the House, and
11 nine Vermont citizens, including one recommended by the Commissioner of
12 Forests, Parks and Recreation, who come from a variety of geographic
13 locations in Vermont appointed by the Governor. The Citizens Advisory
14 Committee on the Shorelands of State Lands shall elect a chair by a majority
15 vote of its members. Legislative committee members shall serve two-year
16 terms that coincide with their term of office or until the biennial appointment
17 of successors. Other advisory committee members shall be appointed for
18 three-year terms, except that initial appointments shall be for staggered terms.

19 (c) The Citizens Advisory Committee on the Shorelands of State Lands
20 Committee:

1 (1) shall review the actions and progress made by the Agency of Natural
2 Resources in complying with the requirements of section 2683 of this title;

3 (2) may grant to the Secretary of Natural Resources a variance from the
4 requirements of section 2683 of this title when the requirements of subsection
5 (d) of this section are met; and

6 (3) shall report to the House and Senate Committees on Natural
7 Resources and Energy and the House Committee on Fish, Wildlife and Water
8 Resources regarding the compliance by the Agency of Natural Resources with
9 the requirements of section 2682 of this title.

10 (d)(1) The Citizens Advisory Committee on the Shorelands of State Lands
11 may grant a variance under this section if the Committee finds that:

12 (A) the impervious surface or cleared area on State lands do not
13 negatively impact the water quality of a lake; and

14 (B) the Agency of Natural Resources' compliance with the
15 requirements of section 2683 of this title would involve the significant
16 expenditure of State funds without equal or greater benefits to water quality.

17 (2) No variance shall be granted pursuant to this section except after
18 public notice and an opportunity for a public meeting and until the Citizens
19 Advisory Committee on the Shorelands of State Lands has considered the
20 relative interests of the Agency of Natural Resources and the general public.

1 § 2685. ENFORCEMENT; PENALTIES

2 (a) Any citizen of the State may commence a civil action against the
3 Agency of Natural Resources for alleged violations of section 2683 of this title.

4 (b) A violation of section 2683 of this title by the Agency of Natural
5 Resources shall be subject to a civil penalty of not less than \$2,000.00 and not
6 more than \$10,000.00 per violation.

7 Second: In Sec. 24, in subsection (a), by striking out “and” where it appears
8 before “23” and after “(AAP; use value appraisal report)” and before the period
9 by inserting , 23a (shoreland standards for State lands).