

1 H.260

2 Introduced by Representatives Helm of Castleton, Brennan of Colchester,  
3 Donaghy of Poultney, Johnson of Canaan and McAllister of  
4 Highgate

5 Referred to Committee on

6 Date:

7 Subject: Fish and wildlife; snowmobiles, motorboats, ATVs; jurisdictional  
8 transfer from motor vehicles and public safety

9 Statement of purpose: This bill proposes to transfer jurisdiction over  
10 snowmobiles, motorboats, ATVs, and the activities related to them from the  
11 departments of public safety and of motor vehicles to the department of fish  
12 and wildlife by transferring chapters 29 and 31 of Title 23 to a new chapter 104  
13 of Title 10.

14 An act relating to jurisdictional transfer of snowmobiles, motorboats, and  
15 ATVs

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

17 Sec. 1. REPEAL

18 23 V.S.A. chapter 29 (snowmobiles, motorboats and water sports) and  
19 23 V.S.A. chapter 31 (all-terrain vehicles) are repealed.

1       Sec. 2. 10 V.S.A. chapter 104 is added to read:

2           CHAPTER 104. SNOWMOBILES, MOTORBOATS, WATER SPORTS

3                           AND ALL-TERRAIN VEHICLES

4                                   Subchapter 1. Snowmobiles

5       § 4201. DEFINITIONS

6           For the purposes of this subchapter:

7                   (1) “Closed season” shall be defined as the time from April 16 to  
8                   December 15.

9                   (2) “Commercial operation” means the operation of a snowmobile on  
10                   the statewide snowmobile trail system by an individual participating in a  
11                   guided tour or who has rented a snowmobile from an individual or corporate  
12                   entity charging a fee for the tour or rental.

13                   (3) “Commissioner” means commissioner of fish and wildlife unless  
14                   otherwise stated.

15                   (4) “Department” means department of fish and wildlife unless  
16                   otherwise stated.

17                   (5) “Direct supervision” means that the supervisor is sufficiently close  
18                   and able to control, by communicating visually or orally, the operation of a  
19                   snowmobile by an operator under 16 years of age, taking into account the noise  
20                   created by snowmobiles and protective headgear worn by the operator.

1           (6) “Operate” includes an attempt to operate and shall be construed to  
2 cover all matters and things connected with the presence and use of  
3 snowmobiles whether they be at motion or rest.

4           (7) “Public land” means all land that is either owned or controlled by a  
5 local, state, or federal governmental body.

6           (8) “Secretary” means the secretary of the agency of natural resources.

7           (9) “Snowmobile” means a self-propelled vehicle intended for off-road  
8 travel primarily on snow, having a curb weight of not more than 793.783 kg  
9 (1,750 lbs.); driven by track or tracks in contact with the snow and steered by a  
10 ski or skis in contact with the snow. The maximum width of a snowmobile  
11 shall be no more than 48 inches. An all-terrain vehicle converted to operate  
12 with tracks shall not be considered to be a snowmobile.

13           (10) “Tour” means a snowmobile ride led by a guide or leader over a  
14 defined route or routes lasting anywhere from one-half hour to less than a day  
15 and participated in by one or more individuals who have paid a fee to an  
16 individual or corporate entity for the privilege of riding a snowmobile.

17           (11) “Trails maintenance assessment” (TMA) means a permit issued by  
18 the Vermont Association of Snow Travelers, Inc. granting use of Vermont  
19 snowmobile trails on public and private land. TMAs shall be issued in three  
20 different classifications: Vermont resident snowmobiles, nonresident  
21 snowmobiles, and commercial operation.

1           (12) "VAST" means the Vermont Association of Snow Travelers.

2           § 4202. REGISTRATION REQUIRED; EXCEPTIONS FOR

3                   GOVERNMENTAL ENTITIES ON LAND OWNED BY

4                   OPERATOR, OR WITH LANDOWNER CONSENT

5           (a) Registration and decal required. A person shall not operate a  
6           snowmobile unless it is registered and numbered by the state of Vermont or  
7           other state or province and displays a valid Vermont trails maintenance  
8           assessment decal adjacent to the registration decal on the left side of the  
9           snowmobile in accordance with this subchapter, except when operated:

10           (1) on the property of the owner of the snowmobile; or

11           (2) off the highway, in a ski area while being used for the purpose of  
12           packing snow or in rescue operations; or

13           (3) for official use by a federal, state, or municipal agency and only if  
14           the snowmobile is identified with the name or seal of the agency in a manner  
15           approved by the commissioner; or

16           (4) solely on privately owned land when the operator has the written  
17           consent of the owner, or his or her agent, of the property; or

18           (5) on frozen bodies of water as designated by the agency of natural  
19           resources under the provisions of 10 V.S.A. § 2607. For purposes of this  
20           subdivision, a snowmobile shall not be required to display a trails maintenance  
21           assessment decal if not operating on a portion of the statewide snowmobile

1 trails system. Liability insurance as provided for in subdivision 3206(b)(19) of  
2 this title and a valid registration decal are required; or

3 (6) for emergency use by fire service personnel.

4 (b) Registration period. The registration year for snowmobiles is from  
5 September 1 to August 31.

6 (c) Use of snowmobile on public or private lands. The registration of a  
7 snowmobile does not in and by itself constitute a license to cross or operate a  
8 snowmobile on public or private lands.

9 (d) Equipment condition and number. A snowmobile which does not  
10 comply with the provisions of section 4206 of this title or which has had its  
11 motor or serial number altered may not be registered by the commissioner.

12 (e) Special provisions for certain areas of operation: Massachusetts; New  
13 Hampshire; New York; province of Quebec. A legally registered snowmobile  
14 from any adjacent state or province which provides the same reciprocity to  
15 Vermont may enter this state by using a portion of the statewide snowmobile  
16 trail system, a public right-of-way open to snowmobiles, or private land that is  
17 posted open to snowmobiles, for a distance not to exceed three miles for the  
18 sole purpose of accessing the closest food, fuel, lodging, and repair services,  
19 and, at a point three miles from the state line, trails shall be posted "VT TMA  
20 Required Beyond This Point." In Addison, Bennington, and Rutland Counties,  
21 licensed snowmobiles from reciprocating jurisdictions may operate from the

1 New York border to Poultney village via corridor trail 4A (Delaware Hudson  
2 Rail Trail); from the New York border in Pawlet in the north to the New York  
3 border in the south in the town of Rupert (13 miles) along corridor trail 4; and  
4 from Lake Champlain at Benson Landing to the town of Benson via the local  
5 snowmobile trail.

6 (f) Reciprocity. The commissioner may grant registration reciprocity to  
7 snowmobiles registered in other states or provinces upon recommendation of  
8 the Governor's Snowmobile Council and the Vermont Association of Snow  
9 Travelers, Inc.; or its successor. The granting of reciprocal areas of use as  
10 provided in this act is not contingent upon reciprocity being granted to  
11 Vermont registrants by other states and provinces.

12 (g) Essex County; operation into Canada and New Hampshire from  
13 Beecher Falls and Canaan; access to United States and Canadian customs and  
14 immigration and naturalization services. For the purpose of providing access  
15 to international customs services, a snowmobile may be operated on the  
16 so-called "Keyhole Trail" for a distance of approximately one-half mile from  
17 United States/Canadian Customs at Beecher Falls to the town line of Pittsburg,  
18 New Hampshire, and for a distance of approximately four miles via Vermont  
19 Association of Snow Travelers snowmobile corridor 105 to Canaan and to the  
20 West Stewartstown, New Hampshire bridge connecting to the New Hampshire  
21 3A snowmobile trail on the Beecher Falls to Colebrook, New Hampshire

1 railbed, and immediately adjacent areas for services, provided the snowmobile  
2 is registered in another state or province.

3 (h) Special events exemption from registration. The commissioner may  
4 authorize the temporary operation of snowmobiles not registered in this state  
5 on designated regular or temporary trails for special events, provided the  
6 snowmobile is registered in another state or province.

7 (i) Authority of natural resources board. Nothing in this section relating to  
8 operation on frozen bodies of water shall be construed to affect the authority of  
9 the natural resources board to regulate uses of public bodies of water.

10 § 4203. TERMINATION OF REGISTRATION

11 The registration of a snowmobile ends when the owner transfers title to  
12 another. The former owner shall immediately return to the commissioner the  
13 registration certificate previously assigned to the transferred snowmobile with  
14 the date of sale, name, and residence of the new owner endorsed on the back  
15 thereof. When a person transfers the ownership of a registered snowmobile to  
16 another, files a new application, and pays a fee of \$2.00, he or she may have  
17 registered in his or her name another snowmobile for the remainder of the  
18 registration year without payment of any additional registration fee.

19 § 4204. REGISTRATION FEES AND DEALER PLATES

20 (a) Fees. Registration fees for snowmobiles other than as provided for in  
21 subsection (b) of this section are \$15.00 for residents and \$22.00 for

1 nonresidents. Duplicate registration certificates may be obtained upon payment  
2 of \$2.00.

3 (b)(1) Dealer; manufacturer and repair plates; fees. Unless exempted  
4 pursuant to subsection 4206(d) of this title, any person engaged in the  
5 manufacture or sale of snowmobiles shall obtain registration certificates and  
6 identifying number plates subject to such rules as may be adopted by the  
7 commissioner which shall be valid for the following purposes only: testing;  
8 adjusting; demonstrating; temporary use of customers for a period not to  
9 exceed 14 days; private business or pleasure use of such person or members of  
10 his or her immediate family; and use at fairs, shows, or races when no charge is  
11 made for such use.

12 (2) Fees. Fees for dealer registration certificates shall be \$40.00 for the  
13 first certificate issued to any person and \$5.00 for any additional certificate  
14 issued to the same person within the current registration period. Fees for  
15 temporary number plates shall be \$1.00 for each plate issued.

16 (c) Temporary registration pending issuance of permanent registration.  
17 The commissioner, by rules adopted pursuant to 3 V.S.A. chapter 25, shall  
18 provide for the issuance of temporary registrations of snowmobiles pending  
19 issuance of the permanent registration. VAST shall be an agent of the  
20 commissioner for the issuance of such temporary registrations. The fees for  
21 the temporary registrations shall be \$15.00 for residents and \$22.00 for



1 nonresidents and shall also constitute payment of the registration fee required  
2 by subsection (a) of this section. Temporary registrations shall be kept with  
3 the snowmobile while it is being operated and shall authorize operation  
4 without the registration decal being affixed for a period not to exceed 60 days  
5 from the date of issue.

6 (d) The commissioner may authorize the Vermont Association of Snow  
7 Travelers, or its successor, and its agents to register snowmobiles or to renew  
8 or assist with renewal of registrations for residents and nonresidents.

9 (e) Only the general assembly may change the fees provided for in this  
10 section.

11 § 4205. ANTIQUE SNOWMOBILES

12 (a) The one-time registration fee for a snowmobile that is at least 25 years  
13 old and is used exclusively in exhibitions, parades and public functions shall be  
14 \$42.00. The registration process for snowmobiles registered under this section  
15 shall be the same as provided in section 4204 of this title.

16 (b) The owner of a snowmobile that satisfies the criteria established in  
17 subsection (a) of this section shall be entitled to display antique snowmobile  
18 plates that shall be distributed according to rules adopted by the commissioner.

1     § 4206. SNOWMOBILE EQUIPMENT; WINDSHIELD; USE OF  
2             HEADLIGHT; ILLEGAL NOISE LEVEL; EXEMPTION FROM  
3             REGISTRATION AND EQUIPMENT REQUIREMENT

4             (a) Snowmobile; required equipment. All snowmobiles shall be equipped  
5     with at least one operational:

6             (1) headlight;

7             (2) red rear light;

8             (3) fully functional brake in good mechanical condition;

9             (4) efficient muffler; and

10            (5) such other equipment and devices as may be required to meet the  
11     noise level specifications of subsection (b) of this section.

12            (b) Windshield. If the snowmobile is equipped with a windshield, it shall  
13     be free from sharp or jagged edges.

14            (c) Light. Lights shall be on during operation and the lenses of headlights  
15     shall be clear, as supplied by the manufacturer, and unimpaired by the  
16     installation of colored lenses or other devices that would impair the ability of  
17     the headlight to perform to its original equipment design specifications.

18            (d) Muffler devices, noise levels. Any snowmobile manufactured on or  
19     after the following dates shall be equipped with a muffler system and such  
20     other equipment or devices which reduce maximum machine operating noise  
21     to a noise level of not more than:

1           (1) as of September 1, 1972, 82 decibels on the A scale at 50 feet, in a  
2 normal operating environment;

3           (2) as of September 1, 1973, at such level as established by the  
4 commissioner by rule except that the level may not exceed the level  
5 established in subdivision (1) of this subsection.

6           (e) Prohibited sale; illegal noise level; notice to consumer. No person shall  
7 sell for operation or offer to sell for operation within the state of Vermont:

8           (1) A snowmobile manufactured after the dates specified in subsection  
9 (d) of this section unless it complies with the sound requirements specified in  
10 subsection (d) of this section.

11           (2) No snowmobile shall be equipped in any manner which permits the  
12 operator thereof to bypass the muffler system.

13           (3) Replacement exhaust muffler. No person shall sell or offer to sell a  
14 replacement exhaust muffler system which will not meet or exceed the exhaust  
15 noise reduction capabilities of the snowmobile manufacturer's original  
16 equipment specifications for the snowmobile.

17           (4) Consumer information on noise levels. Any person selling or  
18 offering to sell a snowmobile or replacement muffler system shall include in  
19 the specifications thereof precise information concerning the designed  
20 maximum sound levels of the snowmobile or replacement muffler system.

1       (f) Exemption from registration and equipment requirements; racing  
2 contest. This section shall not apply to any snowmobile entered in a racing  
3 contest sponsored by a racing or snowmobile club, organization or association  
4 during the period the snowmobile is actually participating in or practicing or  
5 preparing for a racing event at an area especially provided for the purpose.

6 § 4207. OPERATION ON AND ACROSS PUBLIC HIGHWAYS,

7           SIDEWALKS; AGE RESTRICTIONS; PRIVATE LANDS;

8           PROHIBITED AREAS AND PROHIBITED METHODS OF

9           OPERATION; RECKLESS OPERATION; SWI; FINANCIAL

10          RESPONSIBILITY; TRAIL ACCESS LIMITED; HEAD AND

11          FACE PROTECTION

12       (a) A person shall operate, or cause to be operated, a snowmobile only in  
13 accordance with this subchapter.

14       (b) A snowmobile shall not be operated:

15           (1) Across or on a plowed public highway unless:

16           (A) the crossing is made at an angle of approximately 90 degrees to  
17 the direction of the highway and at a place where no obstruction prevents a  
18 quick and safe crossing; and

19           (B) the operator brings the snowmobile to a complete stop before  
20 entering the travelled portion of the highway; and

1           (C) the operator yields the right of way to motor vehicles and  
2 pedestrians using the highway; and

3           (D) the operator is 16 years of age or older. If the operator is under  
4 16 years of age but at least 12 years of age, that operator must be under the  
5 direct supervision of a person 18 years of age or older.

6           (2) On a public highway, unless it is not being maintained and plowed  
7 for use by motor vehicles during the snow season.

8           (3) On a public highway, unless the operator is not closer than five feet  
9 from the plowed portion. However, this section shall not apply to class IV  
10 roads or trails that are privately maintained or plowed.

11           (4) On a public highway, unless the highway has been opened to  
12 snowmobile travel by the selectboard or trustees or local governing body and is  
13 so posted by the municipality.

14           (5) On any privately owned land or private body of water unless:

15           (A) the operator is the owner or a member of the immediate family of  
16 the owner or lessee of the land or private body of water; or

17           (B) the operator has, on his or her person, the written consent of the  
18 owner or lessee of the land to operate a snowmobile in the specific area in  
19 which the operator is operating, or the snowmobile displays a valid TMA decal  
20 as required by subsection 4202(a) of this title that serves as proof that the  
21 snowmobile and its operator by virtue of the TMA are members of a

1 VAST-affiliated snowmobile club to which such consent has been given orally  
2 or in writing; or

3 (C) the owner of the land has designated the area for use by  
4 snowmobiles by posting the area in a manner approved by the secretary to give  
5 reasonable notice that snowmobiling is permitted.

6 (6) On any public land, body of public water, or natural area established  
7 under the provisions of 10 V.S.A. § 2607 or other state or federal statute or  
8 municipal ordinance, unless the secretary has designated such area for use by  
9 snowmobiles in manners chosen by the secretary or other public land manager.

10 (7) By a child under eight years of age unless he or she is on land owned  
11 by his or her parents, family, or legal guardian.

12 (8) By a person 12 years of age or younger, on private or public land  
13 and water without first obtaining a certificate of snowmobile education, unless  
14 he or she is operating on land owned, leased, or farmed by his or her parents,  
15 family, or guardian or unless the operator is the land owner.

16 (A) A person who is required to have a certificate of snowmobile  
17 education shall:

18 (i) possess the certificate when operating a snowmobile on  
19 public or private lands and waters of the state; and

20 (ii) show the certificate on demand of an enforcement officer  
21 wearing an insignia identifying him or her as a law enforcement officer.

1 However, no person charged with violating this subdivision shall be convicted  
2 if the person produces in court, to the officer, or to a state's attorney a  
3 certificate which was valid at the time the violation occurred.

4 (B) The following persons are exempt from the requirements of this  
5 subdivision:

6 (i) a person who is operating on land owned by his or her  
7 parents, family, or guardian or an operator who is the landowner;

8 (ii) any other person exempted by rules of the department of  
9 fish and wildlife;

10 (iii) any person who is under the direct supervision of a  
11 certified snowmobile safety instructor;

12 (iv) a child not yet 12 years of age but not younger than eight  
13 who is under the direct supervision of a parent or legal guardian who shall be  
14 liable for the actions of the child.

15 (C) The department of fish and wildlife shall adopt rules:

16 (i) that establish criteria for a course of instruction in  
17 snowmobile safety education;

18 (ii) relating to transient snowmobilers;

19 (iii) to administer a verbal test when appropriate;

1                   (iv) to coordinate a statewide program of snowmobile safety  
2 instruction and certification and ensure that a course of safety education is  
3 available within each county; and

4                   (v) that establish that a course of snowmobile safety education  
5 is available to children at the age of eight. Any child eight years of age but not  
6 yet 12 who passes the course may operate a snowmobile only when under the  
7 direct supervision of a parent or legal guardian who shall be liable for the  
8 actions of the child.

9                   (D) Any course of snowmobile safety education that is offered shall  
10 provide a minimum of six hours of instruction.

11                   (E) Any state-certified instructor may offer a course of instruction in  
12 snowmobile safety education approved by the department of fish and wildlife.

13                   (F) The department of fish and wildlife or its designee shall issue a  
14 certificate of snowmobile safety education to a person who:

15                   (i) passes a departmentally prescribed course of snowmobile  
16 safety education; or

17                   (ii) passes a snowmobile safety equivalency examination  
18 administered by persons authorized to offer a course of snowmobile safety  
19 education.



1           (G) Upon request, the department of fish and wildlife shall provide,  
2           without charge, snowmobile safety education materials to persons who plan to  
3           take the snowmobile safety equivalency examination.

4           (H) Once issued, the certificate of snowmobile education is valid for  
5           the lifetime of the person to whom it was issued and may not be revoked by the  
6           department of fish and wildlife or a court of law.

7           (I) The department of fish and wildlife shall replace, without charge,  
8           a lost or destroyed certificate if the department issued the certificate or has a  
9           record that the certificate was issued.

10           (J) A snowmobile safety certificate issued in another state or country  
11           in accordance with or substantially equivalent to criteria of the International  
12           Association of Snowmobile Administrators is sufficient to comply with the  
13           requirements of this section.

14           (9)(A) In any manner intended or that could reasonably be expected to  
15           harass, drive, or pursue any wildlife; or

16           (B) In any manner intended to cause an animal undue pain or  
17           suffering.

18           (10) If the registration certificate or written consent is not available for  
19           inspection and if the registration number or a plate of a size and type approved  
20           by the commissioner and a trails maintenance assessment decal are not  
21           displayed on the snowmobile in a manner approved by the commissioner.

1           (11) While the operator is under the influence of drugs or intoxicating  
2 liquor as defined in section 4209 of this title.

3           (12) In a reckless manner so as to endanger a person or property.

4           (13) Within any cemetery, public or private, as defined in 18 V.S.A.  
5 § 5302.

6           (14) On limited access highways, rights-of-way, or approaches unless  
7 permitted by the agency of transportation. In no case shall snowmobiling be  
8 permitted on any portion of the national system of interstate and defense  
9 highways unless the agency of transportation permits operation on such  
10 highways.

11           (15) On a sidewalk unless permitted by the selectboard or trustees or the  
12 local governing body.

13           (16) While the person's privilege to operate a snowmobile has been  
14 suspended.

15           (17) In an unreasonable or imprudent manner, and:

16           (A) No person shall drive a snowmobile on the statewide snowmobile  
17 trails system or a public right-of-way, open to snowmobiling, at a speed greater  
18 than is reasonable and prudent under the conditions, having regard for the  
19 actual and potential hazards there existing. In every event, speed shall be  
20 controlled as necessary to avoid collision with any person, vehicle,  
21 snowmobile, or other object on or adjacent to the snowmobile trail.

1           (B) The operator of every snowmobile shall drive at an appropriate  
2           reduced speed when approaching and crossing an intersection or railway grade  
3           crossing, when approaching and going around a curve, when approaching a hill  
4           crest, when traveling upon any narrow or winding trail, and when a special  
5           hazard exists with respect to pedestrians or other traffic by reason of weather  
6           or trail conditions.

7           (C) Snowmobiles operating on a public right-of-way open to  
8           snowmobiling shall comply with the provisions established in sections 1003,  
9           1007, and 1008 of Title 23.

10           (D) The maximum speed limit on state lands and public waters shall  
11           be determined by the agency of natural resources.

12           (E) Any law enforcement officer or emergency personnel may  
13           disregard speed regulations in accordance with section 1015 of Title 23.

14           (18) In a commercial manner unless the individual or entity offering the  
15           snowmobile for rent or hired for tour complies with the following:

16           (A) A snowmobile shall not be operated in a commercial manner on  
17           any privately owned land or body of private water unless the individual or  
18           entity offering a snowmobile for commercial operation has first obtained the  
19           written consent of the snowmobile club responsible for obtaining landowner  
20           permission for snowmobile trails and for trail maintenance in that area with  
21           consent from the proper owner over whose property the trail passes.

1           (B) A snowmobile shall not be operated in a commercial manner for  
2           commercial purposes on any public land, body of public water, or natural area  
3           unless the individual or entity has first obtained the written consent of the  
4           snowmobile club responsible for trail maintenance, and the secretary or other  
5           public land manager has designated such area for use by snowmobiles in a  
6           manner chosen by the secretary or public land manager to give reasonable  
7           notice that snowmobiling is permitted. The commercial operation of  
8           snowmobiles on public land or public water shall be by permit or license  
9           issued by the secretary or public land manager in a manner chosen by the  
10           secretary or public land manager.

11           (C) A commercial snowmobile operating on any private or public  
12           land, private or public water, or natural area shall display a commercial TMA.

13           (D) A commercial snowmobile operating on any private or public  
14           land, private or public water, or natural area shall display a decal or flag  
15           identifying the individual or entity that owns the snowmobile.

16           (19) Without liability insurance as described in this subdivision. No  
17           owner or operator of a snowmobile shall operate or permit the operation of the  
18           snowmobile on the statewide snowmobile trails system or public right-of-way,  
19           except on the property of the owner, without having in effect a liability policy  
20           or bond in the amounts of at least \$25,000.00 for one person and \$50,000.00  
21           for two or more persons killed or injured and \$10,000.00 for damages to

1 property in any one accident. In lieu thereof, evidence of self-insurance in the  
2 amount of \$115,000.00 must be filed with the commissioner. Such financial  
3 responsibility shall be maintained and evidenced in a form prescribed by the  
4 commissioner. The standards and process established in subsection 801(c) of  
5 Title 23 shall be adopted.

6 (20) On the statewide snowmobile trails system or on a public  
7 right-of-way after the hour of 11:00 p.m. and before the hour of 6:00 a.m., if  
8 requested by the landowner or ordered by a town or municipality through  
9 ordinance, unless the operation is more than 500 feet from a residence or  
10 residences or the operation is taking place to groom the trail. All trails  
11 impacted by this subdivision shall be posted to indicate that they are closed  
12 between the hours of 11:00 p.m. and 6:00 a.m.

13 (21) Without the operator's and rider's having proper head and face  
14 protection.

15 (A) No person shall operate or ride in or on a snowmobile or on a  
16 sled or device pulled by a snowmobile on the statewide snowmobile trails  
17 system (SSTS) without wearing upon his or her head protective headgear of a  
18 type approved by the commissioner, unless the operator of the snowmobile is  
19 in the process of grooming the trail. The headgear shall be equipped with a  
20 strap to secure the headgear in place.

1           (B) No person shall operate a snowmobile on the SSTS that is not  
2           equipped with a factory-installed or approved factory or aftermarket  
3           replacement windshield that adequately protects the operator's face, or the  
4           operator shall wear eyeglasses, goggles, or a protective face shield.

5           (22) During the closed season on the statewide snowmobile trails system  
6           or any public land, except for the following purposes:

7                   (A) grooming operations;

8                   (B) trail maintenance; or

9                   (C) search and rescue operations conducted by law enforcement  
10           officers defined in subdivision 4228(2) of this title or emergency medical  
11           personnel defined in 24 V.S.A. § 2651(6) or emergency use by fire service  
12           personnel defined in 20 V.S.A. § 3151 or private individuals who are assisting  
13           such officers or personnel.

14           (23) During the open season when the statewide snowmobile trails  
15           system has not been officially opened by the Vermont Association of Snow  
16           Travelers, Inc., due to lack of snow or for temporary closures caused by lack of  
17           snow or dangerous trail conditions, except for the following purposes:

18                   (A) grooming operations;

19                   (B) trail maintenance; or

20                   (C) search and rescue operations conducted by law enforcement  
21           officers defined in subdivision 4228(5) of this title or emergency medical

1 personnel defined in 24 V.S.A. § 2651(6) or emergency use by fire service  
2 personnel defined in 20 V.S.A. § 3151 or private individuals who are assisting  
3 such officers or personnel.

4 (c) It shall be an affirmative defense to a prosecution for trespass under  
5 subdivision (b)(5) of this section that the operator of the snowmobile was  
6 unable, after a reasonable diligent search, to locate within the state of Vermont  
7 a person with authority to grant or deny such permission.

8 (d) No public or private landowner or his or her agents shall be liable for  
9 any property damage or personal injury sustained by any person operating or  
10 riding as a passenger on a snowmobile or upon a vehicle or other device drawn  
11 by a snowmobile upon the public or private landowner's property, whether or  
12 not the public or private landowner has given permission to use the land,  
13 unless the public or private landowner charges a cash fee to the operator or  
14 owner of the snowmobile for the use of the property, or unless said damage or  
15 injury is intentionally inflicted by the landowner.

16 § 4208. PENALTIES AND REVOCATION OF REGISTRATION; SWI;

17 PRIVILEGE; SUSPENSION; CRIMINAL PENALTY

18 (a) A person who violates any of the following sections of this title shall be  
19 subject to a fine of \$35.00 for each violation:

20 (1) § 4203, failure to return transferred registration.

1           (2) § 4206(a), operation with defective or inadequate equipment, except  
2 improper muffling device.

3           (3) § 4206(c), sale of a snowmobile for operation without required  
4 equipment; improper operation; permitting improper operation.

5           (4) § 4207(b)(8), by a person under 12.

6           (5) § 4207(b)(1)(D), by a person under age 16.

7           (6) § 4207(b)(10), display of registration plate.

8           (b) A person who violates any of the following sections of this title shall be  
9 subject to a fine of \$55.00 for each violation:

10           (1) § 4207(b)(1), on a public highway.

11           (2) § 4207(b)(2) and (3), on a plowed highway.

12           (3) § 4207(b)(4), on a municipal highway.

13           (4) § 4207(b)(13), in cemeteries.

14           (5) § 4207(b)(14), interstate and limited access highways.

15           (6) § 4207(b)(15), sidewalks.

16           (c) A person who violates any of the following sections of this title shall be  
17 subject to a fine of \$135.00 for each violation:

18           (1) § 4202, operation of an unregistered snowmobile.

19           (2) § 4206(a), alterations made to headlight lenses.

20           (3) § 4207(a), permitting operation of an unregistered snowmobile.

21           (4) § 4207(b)(6), natural area.



1           (5) § 4207(b)(20), trail access limited.

2           (6) § 4207(b)(21), failure to wear proper protective headgear.

3           (d) A person who violates any of the following sections of this title shall be  
4 subject to a fine of \$300.00 for each violation:

5           (1) § 2404(b), misuse of manufacturer's/seller's registration.

6           (2) § 4207(b)(5), private land or private body of water.

7           (3) § 4207(b)(16), operation after privilege suspended.

8           (4) § 4207(b)(17), operation of a snowmobile in unreasonable manner.

9           (5) § 4207(b)(18)(C), display of improper TMA by a snowmobile used  
10 in a commercial operation.

11           (6) § 4207(b)(18)(D), failure to display commercial identification.

12           (7) § 4216, defacing numbers on snowmobiles.

13           (8) § 4217, defacing trail signs.

14           (e) A person who violates any of the following sections of this title shall be  
15 subject to a fine of up to \$500.00 for each violation:

16           (1) § 4207(d), operation with an improper muffling device.

17           (2) § 4207(b)(19), liability insurance.

18           (3) § 4207(b)(22) and (23), operation of a snowmobile in closed or open  
19 season.

20           (4) § 4207(b)(9)(A), harassing wildlife.

1       (f) A person who violates any of the following provisions of this title shall  
2 be imprisoned for not more than one year or fined not more than \$1,000.00, or  
3 both. If the person has been previously convicted of the same violation, the  
4 person shall be imprisoned for not more than two years or fined not more than  
5 \$3,000.00, or both:

6           (1) § 4207(b)(9)(B), intentionally causing animal pain or suffering.

7           (2) § 4207(b)(12), reckless operation.

8           (3) § 4219, leaving scene of an accident.

9           (4) § 4220, attempting to elude law enforcement officer.

10       (g) Defective, stolen, or fraudulently registered snowmobile; registration  
11 revocation or suspension. The commissioner of motor vehicles or his or her  
12 authorized agent may suspend or revoke the registration of any snowmobile  
13 registered in this state and repossess the number and certificate to it when he or  
14 she is satisfied that:

15           (1) a snowmobile has been stolen;

16           (2) the registrant is not the legal owner;

17           (3) a snowmobile is operated without proper equipment after the owner  
18 has been notified by a law enforcement officer to procure and use such  
19 equipment as is required by law or department rules; or

20           (4) the owner of a snowmobile has perpetrated some fraud upon the  
21 department of motor vehicles.

1        (h) Fines established under this section shall be mandatory and may not be  
2 reduced.

3        § 4209. OPERATING UNDER THE INFLUENCE OF INTOXICATING  
4                LIQUOR OR DRUGS; SWI

5        (a) A person shall not operate, attempt to operate, or be in actual physical  
6 control of a snowmobile on any lands, waters, or public highways of this state:

7                (1) when the person's alcohol concentration is 0.08 or more; or

8                (2) when the person is under the influence of intoxicating liquor; or

9                (3) when the person is under the influence of any other drug or under the  
10 combined influence of alcohol and any other drug to a degree which renders  
11 the person incapable of safely operating a snowmobile.

12        (b) A person who is a habitual user of or under the influence of any  
13 narcotic drug or who is under the influence of any other drug, substance, or  
14 inhalant other than intoxicating liquor to a degree which renders the person  
15 incapable of safely operating a snowmobile may not operate, attempt to  
16 operate, or be in actual physical control of a snowmobile.

17        (c) The fact that a person charged with a violation of this section is or has  
18 been entitled to use such drug under the laws of this state shall not constitute a  
19 defense against any charge of violating this section.

20        (d) A person may not be convicted of more than one offense under this  
21 section arising out of the same incident.

1       (e) For purposes of this section, “intoxicating liquor” includes “alcohol,”  
2       “malt beverages,” “spirituous liquors,” and “vinous beverages” as defined in  
3       section 2 of Title 7 and any beverage or liquid containing any of them.

4       (f) For the purposes of this section, “drug” means a regulated drug as  
5       defined in section 4201 of Title 18.

6       (g) If a person violates this section on a public highway, that person may be  
7       convicted of a violation of this section or a violation of section 1201 of Title  
8       23, but not both.

9       (h) Any person who is convicted of violating this section shall have his or  
10       her privilege to operate a snowmobile suspended for a period of one year and  
11       until the person complies with section 1209a of Title 23. Additionally, a  
12       person convicted of violating the provisions of this section shall be penalized  
13       under the provisions of section 1210 of Title 23.

14       § 4210. PRELIMINARY SCREENING DEVICE

15       When a law enforcement officer has reason to believe that a person may be  
16       violating or has violated section 4209 of this title, the officer may request the  
17       person to provide a sample of breath for a preliminary screening test using a  
18       device approved by the commissioner of health for this purpose. The person  
19       shall not have the right to consult an attorney prior to submitting to this  
20       preliminary breath alcohol screening test. The results of this preliminary  
21       screening test may be used for the purpose of deciding whether an arrest

1 should be made and whether to request an evidentiary test and shall not be  
2 used in any court proceeding except on those issues. Following the screening  
3 test, additional tests may be required of the operator pursuant to the provisions  
4 of section 1202 of Title 23.

5 § 4211. IMPLIED CONSENT

6 Any person who operates, attempts to operate, or is in actual physical  
7 control of a snowmobile on any lands, waters, or public highways of this state  
8 is deemed to have given consent to the taking of more than one sample of his  
9 or her breath or blood for the purpose of determining the alcoholic content of  
10 his or her blood. The samples shall be taken and the tests administered and  
11 analyzed consistently with the provisions of sections 1202, 1203, and 1203a of  
12 Title 23.

13 § 4212. PERMISSIVE INFERENCES

14 Upon the trial of any civil or criminal action or proceeding arising out of  
15 acts alleged to have been committed by a person while operating, attempting to  
16 operate, or in actual physical control of a snowmobile on any lands, waters, or  
17 public highways of this state, the person's alcohol concentration shall give rise  
18 to the following permissive inferences:

19 (1) If the person's alcohol concentration at that time was less than 0.08,  
20 such fact shall not give rise to any presumption or permissive inference that the  
21 person was or was not under the influence of intoxicating liquor, but such fact

1 may be considered with other competent evidence in determining whether the  
2 person was under the influence of intoxicating liquor.

3 (2) If the person's alcohol concentration at that time was 0.08 or more, it  
4 shall be a permissive inference that the person was under the influence of  
5 intoxicating liquor in violation of subdivision 4209(a)(2) or (3) of this title.

6 (3) If the person's alcohol concentration at any time within two hours of  
7 the alleged offense was 0.10 or more, it shall be a permissive inference that the  
8 person was under the influence of intoxicating liquor in violation of  
9 subdivision 4209(a)(2) or (3) of this title.

10 § 4213. REFUSAL TO SUBMIT TO TEST

11 If the person refuses to submit to an evidentiary test, it shall not be given,  
12 but the refusal may be introduced as evidence in a criminal proceeding.

13 § 4214. PERSONS UNDER 21; ALCOHOL CONCENTRATION OF 0.02

14 OR MORE

15 (a) A person under the age of 21 who operates, attempts to operate, or is in  
16 actual physical control of a snowmobile on any lands, waters, or public  
17 highways of this state when the person's alcohol concentration is 0.02 or more  
18 commits a civil traffic violation subject to the jurisdiction of the judicial  
19 bureau and subject to the following sanctions:

1           (1) For a first violation, the person's privilege to operate a snowmobile  
2           on any lands, waters, or public highways of this state shall be suspended for six  
3           months and until the person complies with section 1209a of Title 23.

4           (2) For a second or subsequent violation, the person's privilege to  
5           operate a snowmobile on any lands, waters, or public highways of this state  
6           shall be suspended until the person reaches the age of 21 or for one year,  
7           whichever is longer, and complies with section 1209a of Title 23.

8           (b) Notwithstanding the provisions in subsection (a) of this section to the  
9           contrary, a person's privilege to operate that has been suspended under this  
10           section shall not be reinstated until the commissioner has received satisfactory  
11           evidence that the provider of the therapy program has been paid in full.

12           (c) If a law enforcement officer has reasonable grounds to believe that a  
13           person is violating this section, the officer may request the person to submit to  
14           a breath test using a preliminary screening device approved by the  
15           commissioner of health. Notwithstanding any provisions to the contrary in  
16           sections 1202 and 1203 of Title 23:

17           (1) the results of the test shall be admissible evidence in a proceeding  
18           under this section; and

19           (2) there shall be no statutory right to counsel prior to the administration  
20           of the test.

1       (d) A refusal to submit to an evidentiary test shall be considered a violation  
2 of this section.

3       (e) In a proceeding under this section, if there was at any time within two  
4 hours of operating, attempting to operate, or being in actual physical control of  
5 a snowmobile on the lands, waters, or public highways of this state an alcohol  
6 concentration of 0.02 or more, it shall be a rebuttable presumption that the  
7 person's alcohol concentration was 0.02 or more at the time of operating,  
8 attempting to operate, or being in actual physical control.

9       (f) The alcohol program required under this section shall be administered  
10 by the office of alcohol and drug abuse programs and shall take into  
11 consideration any particular treatment needs of operators under the age of 21.

12       (g) A charge of violating this section shall not bar prosecution for any  
13 crime, including a prosecution under section 4209 of this title.

14       § 4215. ADMINISTRATION AND ENFORCEMENT

15       (a) The commissioner of motor vehicles shall administer the provisions of  
16 this subchapter, except as otherwise provided, and may adopt rules prescribing  
17 forms and procedures for application and registration as necessary to carry its  
18 provisions into effect.

19       (b) The secretary of the agency of natural resources shall provide to the  
20 agency of transportation a list of public lands, public waters, and natural areas  
21 on or over which a snowmobile may not be operated. The information



1 provided shall be incorporated in the booklet made available pursuant to  
2 subsection (c) of this section.

3 (c) This subchapter and rules adopted under this subchapter, together with  
4 the list provided by the secretary of the agency of natural resources, shall be  
5 printed in booklet form and made available to the public by the agency of  
6 transportation.

7 (d) The provisions of this subchapter and the rules adopted pursuant thereto  
8 shall be enforced by law enforcement officers as defined in section 4228 of this  
9 title in accordance with the provisions of 12 V.S.A. chapter 193.

10 (e) Law enforcement officers as defined in section 4228 of this title, in  
11 accordance with the provisions of 12 V.S.A. chapter 193, may conduct safety  
12 inspections on snowmobiles stopped for other snowmobile law violations on  
13 the statewide snowmobile trail system. Safety inspections may also be  
14 conducted in a designated area by law enforcement officials. A designated area  
15 shall be warned solely by blue lights either on a stationary snowmobile parked  
16 on a trail or on a cruiser parked at a roadside trail crossing.

17 § 4216. DEFACING MANUFACTURER IDENTIFICATION AND SERIAL  
18 NUMBERS

19 A person shall not willfully change or attempt to change or tamper with  
20 obliterate, deface, or in any manner interfere with the original or assigned  
21 motor number or manufacturer's serial number of any snowmobile.

1        § 4217. PLACING AND DEFACING TRAIL SIGNS

2            (a) A landowner or VAST may place snowmobile trail signs, markers, or  
3        posters on or adjacent to a snowmobile trail maintained by VAST if the  
4        landowner has granted permission for use of the land and for placement of the  
5        signs, markers, or posters.

6            (b) A person may not remove, deface, alter, or destroy trail signs, markers,  
7        or posters erected pursuant to subsection (a) of this section without the  
8        permission of VAST.

9            (c) The provisions of subsection (b) of this section shall not prevent a  
10       landowner from removing signs, markers, or posters that have been erected  
11       without permission of the landowner or which remain on the property after  
12       permission has been withdrawn.

13       § 4218. MUNICIPAL ORDINANCES

14            Municipalities shall have the power to adopt ordinances pursuant to 24  
15       V.S.A. chapter 59 for the purpose of regulating the time, manner, and location  
16       of operation of snowmobiles within their limits provided such ordinances do  
17       not controvert the provisions of this subchapter.

18       § 4219. ACCIDENTS; DUTY TO STOP AND REPORT

19            (a) The operator of a snowmobile who has caused or is involved in an  
20       accident resulting in injury to any person or property other than the  
21       snowmobile then under his or her control shall immediately stop and render

1 such assistance as may be reasonably necessary. The operator shall give his or  
2 her name, residence, registration number, and the name of the owner of the  
3 snowmobile to the party whose person or property is injured.

4 (b) The operator of a snowmobile involved in an accident resulting in death  
5 or injury to any person or in damage to property other than the snowmobile he  
6 or she is operating in excess of \$500.00 shall immediately notify a law  
7 enforcement officer and file a report of the incident with the commissioner  
8 within 72 hours, on forms prescribed by the commissioner.

9 § 4220. ATTEMPTING TO ELUDE A LAW ENFORCEMENT OFFICER

10 An operator of a snowmobile shall bring the snowmobile to a stop and not  
11 attempt to elude a law enforcement officer when signaled to do so by a law  
12 enforcement officer wearing insignia identifying him or her as such or  
13 operating a law enforcement vehicle or snowmobile sounding a siren or  
14 displaying a flashing blue or blue and white signal lamp.

15 § 4221. PROOF OF PAYMENT OF TAX

16 (a) No license, permits, registration, or similar authorization to own or  
17 operate any snowmobile shall be issued under this subchapter until proof of  
18 payment of or exemption from the tax imposed by 32 V.S.A. chapter 233 has  
19 been established in the manner prescribed by the commissioner of taxes.

20 (b) A current or expired registration certificate or other acceptable proof  
21 from the state or province of residence shall suffice as proof of payment of the

1 tax referred to in subsection (a) of this section for persons applying for  
2 nonresident registration in this state.

3 § 4222. ALLOCATION OF FEES AND PENALTIES; LIABILITY;  
4 INSURANCE; AUTHORITY TO CONTRACT FOR LAW  
5 ENFORCEMENT SERVICES

6 (a) The fees and penalties collected under this subchapter, except interest,  
7 are hereby allocated to the agency of natural resources for use by VAST for  
8 development and maintenance of the statewide snowmobile trail program  
9 (SSTP), for trails liability insurance, and to contract for law enforcement  
10 services with any constable, sheriff's department, municipal police department,  
11 the department of public safety, and the department of fish and wildlife for  
12 purposes of trail compliance pursuant to this subchapter. The departments of  
13 public safety and fish and wildlife are authorized to contract with VAST to  
14 provide these law enforcement services. The agency of natural resources may  
15 retain for its use up to \$11,500.00 during each fiscal year to be used for the  
16 oversight of the state snowmobile trail program.

17 (b) VAST shall purchase a trails liability insurance policy in the amount of  
18 \$1,000,000.00. The state of Vermont shall be named an additional insured.  
19 The policy shall extend to all VAST-affiliated snowmobile clubs and their  
20 respective employees and agents to provide for trails liability coverage for  
21 development and maintenance of the statewide snowmobile trails program

1 including groomer use and operation. The department of buildings and general  
2 services shall assist VAST with the procurement of trails liability and other  
3 related insurance.

4 (c) Nothing contained in this section shall authorize or create any cause of  
5 action to accrue or to be maintained against the state of Vermont.

6 (d) Any fees and penalties allocated pursuant to subsection (a) of this  
7 section shall not revert but shall be available until spent. Any accrued interest  
8 shall be deposited in the transportation fund.

9 § 4223. EXPENDITURE PLAN

10 VAST shall prepare a plan for the expenditure of funds for the SSTP that  
11 are allocated in section 4222 of this title and shall submit this plan to the  
12 governor's snowmobile council for its review, advice, and consent. The plan  
13 shall include provisions for:

14 (1) administration of the program;

15 (2) trail development and maintenance including contractual  
16 arrangements where appropriate; and

17 (3) periodic audits if requested by the council or auditor of accounts.

18 § 4224. GOVERNOR'S SNOWMOBILE COUNCIL

19 (a) The governor's snowmobile council is created. The members of the  
20 council shall consist of the president or designee of VAST; the secretary of the  
21 agency of natural resources or designee; the commissioner of the department of

1 fish and wildlife or designee; the commissioner of the department of public  
2 safety or designee; the commissioner of motor vehicles or designee; the  
3 president of the Vermont sheriffs' association or designee; the president of the  
4 Vermont chiefs of police association or designee; five members appointed by  
5 the governor to represent geographic regions of the state; one member of the  
6 house of representatives appointed by the speaker of the house; and one  
7 member of the senate appointed by the committee on committees. The chair  
8 shall be appointed by the governor.

9 (b) The council shall serve the following functions:

10 (1) to review, advise, and consent on development of the annual plan for  
11 the expenditure of funds for the statewide snowmobile trails program;

12 (2) to review and advise the governor and general assembly on matters  
13 relating to snowmobiling in Vermont, including environmental and community  
14 impacts, development of snowmobile trails, ways to encourage snowmobile  
15 traffic in those communities that seek more traffic and control the growth in  
16 municipalities that desire less traffic, adequacy of parking areas, carrying  
17 capacity of trails, state laws and rules affecting snowmobilers, and promoting  
18 snowmobiling in this state;

19 (3) to help coordinate efforts of VAST and state and federal agencies,  
20 private industry, and nonprofit organizations in meeting the needs of  
21 snowmobilers in Vermont;

1           (4) to perform any other duties or functions regarding snowmobiling  
2 assigned by the governor;

3           (5) to assure that municipal legislative bodies are given advance notice  
4 and an opportunity for input before trail or parking lot expansion takes place in  
5 the community.

6           (c) The members appointed by the governor shall serve for two-year terms,  
7 and all others shall serve the term of their office.

8           (d) The council may designate technical work groups, composed of  
9 representatives of appropriate public agencies and private organizations and of  
10 individuals, to assist in the collection, study, and evaluation of information and  
11 to advise the council on particular issues.

12           (1) The appointed members of the council and the president or designee  
13 of VAST shall be entitled to compensation at the rate provided for in section  
14 1010 of Title 32. Expenditures shall be paid from snowmobile funds  
15 appropriated to the agency of natural resources for administration of the  
16 program.

17           (2) Legislative members shall be entitled to compensation and  
18 reimbursement of expenses as provided for by section 406 of Title 2.

19           (3) Technical work group members shall not be entitled to compensation  
20 or reimbursement of expenses.

1       (e) The council is attached to the office of the secretary of the agency of  
2       natural resources for administrative support.

3       § 4225. LIABILITY INSURANCE; TRAIL MAINTENANCE

4       The state may extend coverage of its liability insurance to parties under  
5       contract with the department of forests, parks and recreation for development  
6       and maintenance of the snowmobile trail system. Insurance coverage shall  
7       match the state's current financial liability limits and shall be limited to those  
8       activities defined by the development and maintenance contract. The  
9       department of buildings and general services shall pay for this extended  
10       coverage with funds from snowmobile registration receipts.

11       § 4226. LAW ENFORCEMENT OFFICER'S TESTIMONY

12       In any proceeding under this subchapter, a law enforcement officer's  
13       testimony that he or she is certified pursuant to section 2358 of Title 20 shall  
14       be prima facie evidence of that fact.

15                       Subchapter 2. Motorboats and Water Sports

16       § 4227. DECLARATION OF POLICY

17       It is the policy of this state to promote safety for persons and property in  
18       and connected with the use, operation, and equipment of vessels and to  
19       promote uniformity of laws relating thereto.



1        § 4228. DEFINITIONS

2        As used in this subchapter, unless the context clearly requires a different  
3        meaning:

4            (1) “Commissioner” means commissioner of fish and wildlife unless  
5            otherwise stated.

6            (2) “Department” means department of fish and wildlife unless  
7            otherwise stated.

8            (3) “Secretary” means the secretary of the agency of natural resources.

9            (4) “Holding tank” means a container or device designed to provide for  
10          the retention of wastes on board a vessel and to prevent the discharge of wastes  
11          into the waters of this state.

12          (5) “Law enforcement officer” shall mean a person designated in  
13          subdivision 4(11) of Title 23 and shall include deputy state game wardens and  
14          auxiliary state police officers.

15          (6) “Marine toilet” means any toilet on or within any vessel except those  
16          that have been permanently sealed and made inoperative.

17          (7) “Motorboat” means any vessel propelled by machinery, whether or  
18          not such machinery is the principal source of propulsion, but shall not include  
19          a vessel which has a valid marine document issued by the bureau of customs of  
20          the United States government or any federal agency successor thereto.

21          (8) “Operate” means to navigate or otherwise use a motorboat or vessel.

1           (9) “Owner” means a person, other than a lien holder, having the  
2 property in or title to a motorboat. The term includes a person entitled to the  
3 use or possession of a motorboat subject to an interest in another person,  
4 reserved or created by agreement and securing payment or performance of an  
5 obligation, but the term excludes a lessee under a lease not intended as  
6 security.

7           (10) “Person” means an individual, partnership, firm, corporation,  
8 association, or other entity.

9           (11) “Personal watercraft” means a Class A vessel which uses an  
10 inboard engine powering a water jet pump as its primary source of motive  
11 power and which is designed to be operated by a person or persons sitting on,  
12 standing on, kneeling on, or being towed behind the vessel rather than in the  
13 conventional manner of sitting or standing inside the vessel.

14           (12) “Public waters of the state” means navigable waters as defined in  
15 chapter 49 of this title, excepting those waters in private ponds and private  
16 preserves as set forth in sections 5204, 5205, 5206, and 5210 of this title.

17           (13) “Racing shell or rowing scull” means a manually propelled vessel  
18 that is recognized by national or international racing associations for use in  
19 competitive racing and one in which all occupants row or scull, with the  
20 exception of a coxswain, if one is provided, and is not designed to carry and  
21 does not carry any equipment not solely for competitive racing.

1           (14) “Sailboard” means a sailboat whose unsupported mast is attached  
2 to a surfboard-like hull by a flexible joint.

3           (15) “Vessel” means every description of watercraft, other than a  
4 seaplane on the water or a racing shell or rowing scull occupied exclusively by  
5 persons over 12 years of age, used or capable of being used as a means of  
6 transportation on water.

7           (16) “Waste” means effluent, sewage, or any substance or material,  
8 liquid, gaseous, solid or radioactive, including heated liquids, whether or not  
9 harmful or deleterious to waters of this state.

10           (17) “Waters of this state” means any waters within the territorial limits  
11 of this state.

12           § 4229. OPERATION OF UNNUMBERED MOTORBOATS PROHIBITED

13           Every motorboat on the waters of this state shall be numbered. No person  
14 shall operate or give permission for the operation of any motorboat on such  
15 waters unless the motorboat is numbered in accordance with this subchapter or  
16 in accordance with applicable federal law or in accordance with a federally  
17 approved numbering system of another state; and unless:

18           (1) the certificate of number awarded to such motorboat is currently  
19 valid, and

20           (2) the identifying number set forth in the certificate of number is  
21 displayed on each side of the bow of such motorboat. Motorboats described in

1 subsection 4235 of this title, however, are excepted from the provisions of this  
2 section.

3 § 4230. CLASSIFICATION

4 Motorboats subject to the provisions of this subchapter shall be divided into  
5 four classes as follows:

6 (1) Class A. Less than 16 feet in length.

7 (2) Class 1. Sixteen feet or over and less than 26 feet in length.

8 (3) Class 2. Twenty-six feet or over and less than 40 feet in length.

9 (4) Class 3. Forty feet or over.

10 § 4231. FEES

11 (a) A person shall not operate a motorboat on the public waters of this state  
12 unless the motorboat is registered in accordance with this subchapter.

13 (b) Annually, the owner of each motorboat required to be registered by this  
14 state shall file an application for a number with the commissioner of motor  
15 vehicles on forms approved by him or her. The application shall be signed by  
16 the owner of the motorboat and shall be accompanied by a fee of \$17.00 and a  
17 surcharge of \$5.00 for a motorboat in class A; by a fee of \$28.00 and a  
18 surcharge of \$10.00 for a motorboat in class 1; by a fee of \$55.00 and a  
19 surcharge of \$10.00 for a motorboat in class 2; by a fee of \$121.00 and a  
20 surcharge of \$10.00 for a motorboat in class 3. Upon receipt of the application  
21 in approved form, the commissioner shall enter the application upon the

1 records of the department of motor vehicles and issue to the applicant a  
2 registration certificate stating the number awarded to the motorboat and the  
3 name and address of the owner. The owner shall paint on or attach to each side  
4 of the bow of the motorboat the identification number in such manner as may  
5 be prescribed by rules of the commissioner in order that it may be clearly  
6 visible. The registration shall be void one year from the first day of the month  
7 following the month of issue. A vessel of less than 10 horsepower used as a  
8 tender to a registered vessel shall be deemed registered, at no additional cost,  
9 and shall have painted or attached to both sides of the bow the same  
10 registration number as the registered vessel with the number "1" after the  
11 number. The number shall be maintained in legible condition. The  
12 registration certificate shall be pocket size and shall be available at all times for  
13 inspection on the motorboat for which issued, whenever the motorboat is in  
14 operation. A duplicate registration may be obtained upon payment of a fee of  
15 \$2.00 to the commissioner.

16 (c) A person engaged in the manufacture or sale of motorboats of a type  
17 otherwise required to be registered by this subchapter, upon application to the  
18 commissioner upon forms prescribed by him or her, may obtain registration  
19 certificates for use as described under subdivision (1) of this subsection.

20 (1) A dealer motorboat registration number may be used:

1           (A) for the purpose of testing or adjusting motorboats in the  
2 immediate vicinity of his or her place of business;

3           (B) for some purpose directly connected with the business of  
4 purchasing, selling, or exchanging motorboats by the dealer;

5           (C) for demonstration when the prospective purchaser is operating  
6 the motorboat and is not accompanied by the dealer or his or her employee, but  
7 not for more than three days;

8           (D) for the temporary accommodation of a customer whose  
9 motorboat, because of accident or wear, is disabled and is left with the dealer  
10 for repairs for not more than 14 days;

11           (E) for the private business or pleasure use of the dealer and members  
12 of his or her immediate family residing in the same household;

13           (F) for the use of those motorboats at regattas, marine parades, or  
14 water festivities where no charge is made for that use.

15           (2) The word “dealer” for the purpose of subdivision (1)(E) of this  
16 subsection shall include the principal officers of a corporation or dealer and  
17 those partners in a copartnership registered as a dealer as are actively and  
18 principally engaged in the motorboat business, but shall not include directors  
19 and stockholders nor inactive and silent partners.

20           (3) An application for a dealer motorboat registration number shall be  
21 accompanied by the following fees:

1           (A) for the first number applied for, \$25.00 and a surcharge of \$5.00;

2           (B) for each additional number applied for in the current registration  
3 period, \$5.00 and a surcharge of \$5.00.

4           (4) The commissioner shall issue a registration certificate of number for  
5 each identifying number awarded to the dealer in the manner described in  
6 subsection (a) of this section, except that a boat shall not be described in the  
7 certificate. A dealer's registration certificate expires one year from the first day  
8 of the month of issuance.

9           (5) A dealer's identifying number shall be displayed as required by  
10 subdivision 4229(2) of this title except that the number may be temporarily  
11 attached.

12           (6) A dealer or representative of a dealer shall not use a dealer's  
13 identifying number for any purpose other than those described in subdivision  
14 (1) of this subsection.

15           (d)(1) Registration of a motorboat ends when the owner transfers title to  
16 another. The former owner shall immediately return directly to the  
17 commissioner the registration certificate previously assigned to the transferred  
18 motorboat with the date of sale and the name and residence of the new owner  
19 endorsed on the back of the certificate.

20           (2) When a person transfers the ownership of a registered motorboat to  
21 another, files a new application, and pays a fee of \$5.00, he or she may have

1 registered in his or her name another motorboat of the same class for the  
2 remainder of the registration year without payment of any additional  
3 registration fee. However, if the fee for the registration of the motorboat  
4 sought to be registered is greater than the registration fee for the transferred  
5 motorboat, the applicant shall pay the difference between the fee first paid and  
6 the fee for the class motorboat sought to be registered.

7 (e) If an agency of the United States government has in force an overall  
8 system of identification numbering for motorboats within the United States, the  
9 numbering system employed under this subchapter by the commissioner shall  
10 conform with that system.

11 (f) Every registration certificate awarded under this subchapter shall  
12 continue in effect for one year from the first day of the month of issue unless  
13 sooner ended under this subchapter. The registration certificate may be  
14 renewed by the owner in the same manner provided for in securing the initial  
15 certificate.

16 (g) The owner shall notify the commissioner of the transfer of any part of  
17 his or her interest other than the creation of a security interest in a motorboat  
18 numbered in this state under subsections (a) and (b) of this section or of the  
19 destruction, or abandonment of the motorboat within 15 days of the transfer,  
20 destruction, or abandonment. The transfer, destruction, or abandonment shall  
21 end the certificate of number for the motorboat except that in the case of a



1 transfer of a part interest which does not affect the owner's right to operate the  
2 motorboat, the transfer shall not end the certificate of number.

3 (h) Any holder of a registration certificate shall notify the commissioner  
4 within 15 days if his or her address ceases to be the address appearing on the  
5 certificate and shall, as a part of the notification, furnish the commissioner with  
6 his or her new address. The commissioner may provide by rule for the  
7 surrender of the certificate bearing the former address and its replacement with  
8 a certificate bearing the new address or for the alteration of an outstanding  
9 certificate to show the new address of the holder.

10 (i) No number other than the number awarded to a motorboat or granted  
11 reciprocity under this subchapter may be painted, attached, or otherwise  
12 displayed on either side of the bow of the motorboat.

13 (j) The commissioner, by rules adopted pursuant to 3 V.S.A. chapter 25,  
14 may provide for the issuance of temporary registrations of motorboats pending  
15 issuance of the permanent registration. Motorboat dealers may issue  
16 temporary motorboat registrations. The dealer's fee for the temporary  
17 registrations shall be \$3.00 for each registration purchased from the department  
18 of motor vehicles. Temporary registrations shall be kept with the motorboat  
19 while being operated and shall authorize operation without the registration  
20 number being affixed for a period not to exceed 30 days from the date of issue.

1       (k) The commissioner shall enclose with every permanent and temporary  
2       motorboat registration and registration renewal certificate issued pursuant to  
3       this subchapter the following statement:

4       “I. Transporting zebra mussels or Eurasian milfoil to or from any Vermont  
5       water surface is illegal (10 V.S.A. § 1266).

6       “II. If your boat or equipment is exposed to Lake Champlain or any other  
7       zebra mussel or Eurasian milfoil infested water, the following steps should be  
8       taken prior to putting your boat or equipment in another Vermont lake, pond,  
9       or other water body:

10       “A. Inspect for and scrape off from your boat’s hull or equipment or any  
11       exposed areas any visible mussels or milfoil.

12       “B. Carefully flush with clean water all boat hulls, outdrive, live wells, bilge,  
13       trailers, anchors, ropes, bait buckets, raw engine cabling systems and other  
14       boat parts or equipment.

15       “C. Dry boats, trailers, and equipment thoroughly in the sun.”

16       § 4232. PRIVILEGE TO OPERATE A VESSEL; SUSPENSION OF  
17       PRIVILEGE; MINIMUM AGE FOR OPERATION OF A  
18       MOTORBOAT

19       (a) A person who meets the applicable requirements of this subchapter  
20       shall have the privilege to operate a vessel on the public waters of this state, as  
21       those waters are defined in 10 V.S.A. § 1422.

1        (b) A person whose privilege to operate a vessel has been suspended shall  
2        not operate, attempt to operate, or be in actual physical control of a vessel on  
3        the public waters of this state until the privilege to operate a vessel has been  
4        reinstated by the commissioner of motor vehicles.

5        (c) A person under the age of 12 shall not operate a motorboat powered by  
6        more than six horsepower on the public waters of this state.

7        § 4233. BOATING SAFETY EDUCATION; RULES

8        (a) When required. A person born after January 1, 1974 shall not operate a  
9        motorboat on the public waters of this state without first obtaining a certificate  
10       of boating education.

11       (b) Possession of certificate. A person who is required to have a certificate  
12       of boating education shall:

13           (1) possess the certificate when operating a motorboat on the public  
14           waters of the state; and

15           (2) show the certificate on the demand of an enforcement officer  
16           wearing insignia identifying him or her as such or operating a law enforcement  
17           motorboat or vessel. However, no person charged with violating this  
18           subsection shall be convicted if the person produces in court, to the officer, or  
19           to a state's attorney a certificate which was valid at the time the violation  
20           occurred.

1       (c) Exemptions. The following persons are exempt from the requirements  
2 of this section:

3           (1) a person who is licensed by the United States Coast Guard to operate  
4 a vessel for commercial purposes;

5           (2) a person operating a vessel on a body of water located on private  
6 property; and

7           (3) any other person exempted by rules of the department of fish and  
8 wildlife.

9       (d) Rules. The department of fish and wildlife shall:

10           (1) adopt rules that establish criteria for a course of instruction in  
11 boating safety education;

12           (2) adopt rules relating to transient boaters and persons who hire  
13 chartered vessels;

14           (3) administer a verbal test when appropriate;

15           (4) coordinate a statewide program of boating safety instruction and  
16 certification and ensure that a course of boating safety education is available  
17 within each county; and

18           (5) ensure that a course of boating safety education is available at the  
19 earliest practicable age for children.

20       (e) Hours of instruction. Any course of boating safety education that is  
21 offered shall provide a minimum of eight hours of instruction.

1        (f) Persons offering courses. The following persons may offer the course  
2        of instruction in boating safety education if approved by the department of fish  
3        and wildlife:

4            (1) the department of public safety;

5            (2) the United States Coast Guard Auxiliary;

6            (3) the United States Power Squadron;

7            (4) a political subdivision;

8            (5) a municipal corporation;

9            (6) a state agency;

10          (7) a public or nonpublic school;

11          (8) any group, firm, association, or person.

12        (g) Issuance of certificate. The department of fish and wildlife or its  
13        designee shall issue a certificate of boating safety education to a person who:

14            (1) passes the departmentally prescribed course in boating safety  
15        education; or

16            (2) passes a boating safety equivalency examination administered by  
17        persons authorized to offer the course on boating safety education.

18        (h) Education materials. Upon request, the department of fish and wildlife  
19        shall provide, without charge, boating safety education materials to persons  
20        who plan to take the boating safety equivalency examination.

1        (i) Lifetime issuance. Once issued, the certificate of boating safety  
2        education is valid for the lifetime of the person to whom it was issued and may  
3        not be revoked by the department of fish and wildlife or a court of law.

4        (j) Certificate replacement. The department of fish and wildlife shall  
5        replace, without charge, a lost or destroyed certificate if the department issued  
6        the certificate or has a record that the certificate was issued.

7        (k) Out-of-state certificate. A boating safety certificate issued in another  
8        state or country in accordance with or substantially equivalent to criteria of the  
9        National Association of State Boating Law Administrators is sufficient to  
10       comply with the requirements of this section.

11       § 4234. LIGHTS AND EQUIPMENT

12       (a) Every vessel shall carry and show the following lights when under way  
13       between sunset and sunrise:

14           (1) manually propelled boats, a lantern capable of showing a white light  
15           which shall be temporarily displayed in sufficient time to prevent collision;

16           (2) motorboats less than 26 feet in length, a white light aft showing all  
17           around, visible for at least two miles, a light in the forepart of the boat, lower  
18           than the white light aft, showing green to starboard and red to port, visible for  
19           at least one mile;

20           (3) motorboats 26 feet or longer, a white light aft showing all around,  
21           visible for at least two miles, a white light in the forepart of the boat showing

1 all around, a light in the forepart of the boat showing red to port and green to  
2 starboard, visible at least one mile;

3 (4) boats propelled by sail, a white light aft showing all around visible  
4 for at least two miles, and a white light in the forepart of the boat, lower than  
5 the white light aft, showing red to port and green to starboard;

6 (5) any light or combination of lights approved by the Coast Guard for  
7 inland waters shall be considered legal for Vermont waters.

8 (b)(1) Each vessel, except sailboards, shall carry at least one United States  
9 Coast Guard approved personal flotation device consistent with federal  
10 regulations in good and serviceable condition for each person aboard.

11 (2) Vessels; persons less than 12 years old. In addition to the provisions  
12 of this subsection, a person under the age of 12 aboard a vessel, while under  
13 way and while the person is on an open deck, shall wear a Type I, II, or III  
14 United States Coast Guard approved personal flotation device.

15 (3) Sailboards; persons less than 16 years old. A person under the age  
16 of 16 aboard a sailboard shall wear a Type I, II, or III United States Coast  
17 Guard approved personal flotation device.

18 (4) United States Coast Guard inspected commercial vessels shall be  
19 exempt from the provisions of this subsection.

20 (c) Every motorboat and auxiliary powered sailboats except outboard  
21 motorboats less than 26 feet in length and of open construction not carrying

1 passengers for hire shall carry on board, fully charged and in good condition,  
2 United States Coast Guard approved hand portable fire extinguishers as  
3 follows:

4 (1) Motorboats and auxiliary powered sailboats with no fixed fire  
5 extinguisher system in the machinery space and which are:

6 (A) less than 26 feet in length, one extinguisher;

7 (B) 26 feet or longer, but less than 40 feet, two extinguishers;

8 (C) 40 feet or longer, three extinguishers.

9 (2) Motorboats and auxiliary powered sailboats with a fixed fire  
10 extinguisher system in the machinery space and which are:

11 (A) 26 feet or longer but less than 40 feet, one extinguisher;

12 (B) 40 feet or longer, two extinguishers.

13 (d) The extinguishers referred to by this section are class B-I extinguishers  
14 described in 46 C.F.R. § 25.30, but one class B-II extinguisher described in  
15 that regulation may be substituted for two class B-I extinguishers.

16 (e) Every marine toilet on board any vessel operated on the waters of the  
17 state shall also incorporate or be equipped with a holding tank. Any holding  
18 tank designed so as to provide for an optional means of discharge to the waters  
19 on which the vessel is operating shall have the discharge openings sealed shut,  
20 and any discharge lines, pipes, or hoses shall be disconnected and stored while  
21 the vessel is in the waters of this state.



1        (f) Nothing in this section shall be construed to prevent the discharge of  
2        adequately treated wastes from any vessel operating under the provisions of a  
3        valid discharge permit issued by the department of environmental  
4        conservation.

5        § 4235. EXEMPTION FROM NUMBERING PROVISIONS

6        (1) A motorboat is not required to be numbered under this subchapter if  
7        it is:

8                (A) already covered by a number in effect which has been awarded to  
9        it under federal law or under a federally approved numbering system of  
10        another state if the boat has not been within the state for more than 90 days;

11                (B) a motorboat from a country other than the United States if the  
12        boat has not been within the state for more than 90 days;

13                (C) a motorboat that is owned by the United States, a state or  
14        subdivision of the United States, or a state and that is not rented, leased, or  
15        used by any person other than an employee of the government. However, the  
16        boat shall have the name of the government or department of the government  
17        owning it printed on each side of the bow;

18                (D) a ship's lifeboat;

19                (E) licensed, numbered, or otherwise registered under New  
20        Hampshire laws for operation on waters in that state, but only when it is

1 operated on such parts of the Connecticut River and impoundments of the river  
2 as may lie in Vermont and only when and to the same extent as New  
3 Hampshire laws allow motorboats licensed, numbered, or otherwise  
4 recognized by Vermont laws as being registered for lawful operation on waters  
5 within Vermont to be operated on such parts of the Connecticut River and  
6 impoundments of the river as may be in New Hampshire.

7 (2) Failure to meet one of the previous exemptions will require  
8 registration and numbering in Vermont.

9 § 4236. DOCUMENTED BOAT VALIDATION STICKER

10 (a) Annual validation required.

11 (1) An owner of a vessel, as defined in subdivision 4228(11) of this title,  
12 that has been registered in another state under a federally approved numbering  
13 system or that has a valid document issued by the United States Coast Guard,  
14 the United States Bureau of Customs, or any other federal agency and that is  
15 used in the waters of the state for at least 30 days in any calendar year shall  
16 apply annually to the commissioner of motor vehicles for validation of the  
17 out-of-state or federal registration of that vessel.

18 (2) The commissioner shall issue a validation sticker to any person who  
19 submits an application and pays a fee as required by subsection (b) of this  
20 section provided that the out-of-state or federal registration is valid and that the  
21 requirements of section 4250b of this title are met.

1           (3) A validation sticker issued under this section shall be valid through  
2           December 31 of the year in which it is issued.

3           (b) Application; fee. The owner of the vessel shall:

4           (1) submit an application to the commissioner on the form that the  
5           commissioner requires and be signed by every owner of the vessel; and

6           (2) pay to the commissioner an application fee in the same amount as  
7           would be paid if the vessel was being registered under subsection 4231(b) of  
8           this title.

9           (c) Sale of vessel. Within 30 days after the sale or other transfer of a vessel  
10          that is or should be validated under this section:

11          (1) the transferor shall give notice of the transfer to the commissioner on  
12          a form that the commissioner requires; and

13          (2) if the transferee intends to continue to use the vessel on the waters of  
14          the state for at least 30 days in any calendar year, he or she shall submit an  
15          application for validation and pay the fee as required by subsection (b) of this  
16          section.

17          (d) Display of sticker. The validation sticker shall be displayed on or about  
18          the forward half of the vessel.

19          (e) Operation without sticker prohibited. Unless the vessel that is subject  
20          to the validation requirement of this section displays a current validation  
21          sticker:

- 1           (1) a person may not operate the vessel on the waters of the state; and  
2           (2) the owner may not knowingly permit the vessel to be operated on the  
3           waters of the state.

4           § 4237. BOAT LIVERIES

5           The owner of a boat livery shall cause to be kept a record of the name and  
6           address of the person or persons hiring any vessel which is designed or  
7           permitted by him or her to be operated as a motorboat and the identification  
8           number and the date and time of rental. The record shall be preserved for at  
9           least six months.

10          § 4238. MUFFLING DEVICES

11          The exhaust of every internal combustion engine used on any motorboat  
12          shall be effectively muffled by equipment so constructed and used as to muffle  
13          the noise of the exhaust in a manner which reduces the maximum machine  
14          operating noise level to not more than 82 decibels on the A scale at 50 feet in a  
15          normal operating environment. The use of cutouts is prohibited except for  
16          motorboats competing in a regatta or boat race approved as provided in section  
17          4246 of this title and for such motorboats while on trial runs during a period  
18          not to exceed 48 hours immediately preceding such regatta or race and for such  
19          motorboats while competing in official trials for speed records during a period  
20          not to exceed 48 hours immediately following such regatta or race.

1     § 4239. SWIMMING AREAS

2           (a) The state board of forests, parks and recreation or a municipality in  
3     administering a swimming beach or waterfront program may designate a  
4     swimming area in front of the beach or land which the state or a municipality  
5     owns or controls and may make rules pertaining to the area. The rules may  
6     provide that no person, except a lifeguard on duty and other authorized  
7     personnel, may operate any boat, canoe, or water vehicle of any sort within the  
8     designated swimming area.

9           (b) A designated swimming area shall have bounds marked by buoys  
10    spaced no more than 100 feet apart. The buoys shall be displayed 24 inches  
11    above the water or shall have red flags not smaller than 12 by 18 inches  
12    displayed 18 inches above the water.

13    § 4240. OPERATION OF VESSELS; PROHIBITED ACTS

14           (a) Careless and negligent operation. A person shall not operate any vessel  
15    or manipulate any water skis, surfboard, or similar device in a careless or  
16    negligent manner or in any manner to endanger or jeopardize the safety, life, or  
17    property of another person.

18           (b) Permitting use by intoxicated person. The owner or person in charge or  
19    in control of a vessel shall not knowingly authorize or knowingly permit it to  
20    be propelled or operated by any person who is under the influence of  
21    intoxicating liquor, narcotic drugs, or barbiturates.

1           (c) Distance requirements.

2           (1) A person shall not operate any vessel, except a sailboard or a police  
3 or emergency vessel, within 200 feet of the shoreline, a person in the water, a  
4 canoe, rowboat or other vessel, an anchored or moored vessel containing any  
5 person, or anchorages or docks, except at a speed of less than five miles per  
6 hour which does not create a wake.

7           (2) Divers. A person shall not operate any vessel, except a  
8 nonmotorized canoe, a nonmotorized rowboat, or a police or emergency vessel,  
9 within 200 feet of a divers-down flag.

10           (3) Nothing herein shall prohibit rendering assistance to another person,  
11 picking up a person in the water, necessary mooring or landing, or leaving  
12 shore, or operating in any other place where obstruction, other than the  
13 shoreline, would prevent abiding by this statute.

14           (4) A person shall not operate a vessel, except at speeds of less than five  
15 miles per hour, within 200 feet of a designated swimming area.

16           (d) Underwater historic preserve area. A vessel shall not be operated in an  
17 “underwater historic preserve area” except as provided in this subsection.  
18 These areas are historic and archaeological sites located on the bottomlands of  
19 the waters of the state and are designated as public recreational areas. The  
20 division for historic preservation may designate underwater historic preserve  
21 areas, and they shall be identified by a floating special-purpose yellow buoy

1 marked "State of Vermont Underwater Historic Preserve." The following  
2 requirements shall govern the operation of vessels at the preserves:

3 (1) a vessel may secure to a yellow buoy only when diving at the  
4 preserve;

5 (2) only vessels 35 feet in length or less, and only those engaged in  
6 diving, may secure to a buoy;

7 (3) a divers-down flag shall be displayed whenever a vessel is secured to  
8 a buoy;

9 (4) on sites with multiple buoys, one vessel may be secured to each  
10 buoy;

11 (5) when a vessel is secured to the buoy, all other vessels shall remain at  
12 least 200 feet from the buoy; and

13 (6) anchoring is not permitted within 200 feet of the buoy.

14 (e) Overloaded vessel. A vessel shall not be loaded with passengers or  
15 cargo beyond its safe carrying capacity taking into consideration weather and  
16 other existing operating conditions.

17 (f) Attempting to elude a law enforcement officer. An operator of any  
18 vessel shall bring his or her vessel to a stop and not attempt to elude a law  
19 enforcement officer when signaled to do so by the officer wearing insignia  
20 identifying him or her as such or operating a law enforcement vessel sounding

1 a siren and displaying a flashing blue or blue and white signal lamp. The  
2 officer may board the vessel.

3 (g) Residential vessels prohibited on certain waters. The use of vessels for  
4 residential purposes is prohibited on all lakes and ponds which are located  
5 wholly within Vermont and on which there are no boat sanitary waste pumpout  
6 facilities approved by the department of environmental conservation. For  
7 purposes of this subsection, “residential purposes” includes but is not limited  
8 to sleeping overnight on a vessel. Vessels operated by agencies, entities,  
9 authorities, or instrumentalities of the state, including the state colleges and the  
10 University of Vermont, shall comply with this subsection except when law  
11 enforcement, an emergency, or the performance of official duties requires  
12 otherwise.

13 § 4241. OPERATIONS RULES AS BETWEEN VESSELS

14 (a) When two boats are approaching each other “head on” or in a manner  
15 so as to involve risk of collision, each boat shall bear to the right and pass the  
16 other boat on its left side.

17 (b) When boats approach each other obliquely or at right angles, the boat  
18 approaching on the right side has the right-of-way.

19 (c) One boat may overtake another on either side but shall grant the  
20 right-of-way to the overtaken boat.



1        (d) The United States Coast Guard Inland Navigation Rules (33 U.S.C. §§  
2        2001-2038 and 2071-2073, as amended from time to time) are hereby adopted  
3        as the operative rules for Lake Champlain, Lake Memphremagog, and Wallace  
4        Pond in Canaan.

5        § 4242. OPERATION OF PERSONAL WATERCRAFT

6        (a) A person under the age of 16 shall not operate a personal watercraft.

7        (b) All persons operating or riding on a personal watercraft shall wear a  
8        Type I, II, or III United States Coast Guard approved personal flotation device.

9        (c) Personal watercraft shall not be operated at any time during the hours  
10       between one-half hour after sunset and one-half hour before sunrise.

11       (d) Every person operating a personal watercraft equipped by the  
12       manufacturer with a lanyard type engine cut-off switch shall attach the lanyard  
13       to his or her wrist, clothing, or personal flotation device as appropriate for the  
14       specific craft.

15       § 4243. COLLISIONS, ACCIDENTS, AND CASUALTIES

16       (a) The operator of a vessel involved in a collision, accident, or other  
17       casualty, so far as he or she can do so without serious danger to his or her own  
18       vessel, crew, and passengers, shall render to other persons affected by the  
19       collision, accident, or other casualty such assistance as may be practicable and  
20       as may be necessary in order to save them from or minimize any danger caused  
21       by the collision, accident, or other casualty. Also, he or she shall give his or

1 her name, address, and identification of his or her vessel in writing to any  
2 person injured and to the owner of any property damaged in the collision,  
3 accident, or other casualty.

4 (b) If a collision, accident, or other casualty involving a vessel results in  
5 death or injury to a person or damage to property in excess of \$100.00, the  
6 operator shall file with the commissioner of motor vehicles within 36 hours a  
7 full description of the collision, accident, or other casualty, including such  
8 information as the commissioner may, by rule, require.

9 § 4244. TRANSMITTAL OF INFORMATION

10 In accordance with any request duly made by an authorized official or  
11 agency of the United States, any information compiled or otherwise available  
12 to the department of motor vehicles under subsection 4243(b) of this title shall  
13 be transmitted to the official or agency of the United States.

14 § 4245. WATER SKIS AND SURFBOARDS

15 (a) Except as provided in this subsection, a person shall not operate a vessel  
16 on any waters of this state to tow a person or persons on water skis, aquaplane,  
17 kite skis, wakeboard, kneeboard, or similar device unless the person being  
18 towed is wearing a United States Coast Guard-approved personal flotation  
19 device and unless there is in the vessel a person who is at least 12 years old, in  
20 addition to the operator, in a position to observe the progress of the person or  
21 persons being towed. Persons engaged in barefoot waterskiing may elect at

1 their own risk to wear a non-Coast Guard-approved barefoot wetsuit designed  
2 specifically for this activity. An observer shall not be required if the vessel is:

3 (1) a tow boat approved by the American Water Ski Association and  
4 equipped with a wide-angle mirror having a viewing surface of at least 48  
5 square inches;

6 (2) being operated by a person who is at least 18 years of age; and

7 (3) being operated within an American Water Ski Association regulation  
8 slalom course.

9 (b) The provisions of subsection (a) of this section do not apply to a  
10 performer engaged in a professional exhibition nor to a person engaged in an  
11 activity authorized under section 4246 of this title.

12 (c) A person shall not operate or manipulate any vessel, tow rope, or other  
13 device by which the direction or location of water skis, a surfboard, or similar  
14 device may be affected or controlled in such a way as to cause the water skis,  
15 surfboard, or similar device, or any person thereon to approach within 100 feet  
16 of a person swimming, or a canoe, rowboat, or other light craft conveying any  
17 person. This subsection does not prohibit necessary mooring or landing or  
18 leaving shore.

19 (d) The commissioner may designate areas less than 200 feet from the  
20 shoreline of a body of water, other than a river, to allow for the operation of a  
21 motorboat used for the purpose of towing a person or persons on water skis,

1 aquaplane, kite skis, surfboard, or similar device. The commissioner shall  
2 adopt rules to establish criteria governing the designation of such areas and  
3 conditions which may be placed on the designated areas. The commissioner  
4 may consider safety, potential environmental damage, the impact on adjacent  
5 areas and uses, and any other related concerns.

6 § 4246. REGATTAS; RACES; MARINE PARADES; TOURNAMENTS;

7 WATER SKIING EVENTS OR EXHIBITIONS; TRIATHLONS

8 (a) The commissioner of the department of fish and wildlife may authorize  
9 the holding of public regattas, motorboat or other boat races, marine parades,  
10 tournaments, water skiing events, exhibitions, or triathlons on any waters of  
11 this state and any associated public roads. He or she shall adopt and may, from  
12 time to time, amend rules concerning the safety of motorboats and other  
13 vessels and persons on these vessels, either observers or participants, and of  
14 persons swimming, cycling, or running in or observing an event. Whenever a  
15 public regatta, motorboat or other boat race, marine parade, tournament, water  
16 skiing event, exhibition, or triathlon is proposed to be held, the person in  
17 charge shall, at least 15 days prior to the event, file an application with the  
18 department of fish and wildlife for permission to hold the regatta, motorboat or  
19 other boat race, marine parade, tournament, water skiing event, exhibition, or  
20 triathlon. A copy of such application shall be sent to the municipality and  
21 organized lake association where the event is to be held 15 days in advance of

1 the event to allow for comment. The application shall set forth the date, time,  
2 and location where it is proposed to hold the regatta, motorboat or other boat  
3 race, marine parade, tournament, water skiing event, exhibition, or triathlon  
4 and it shall not be conducted without authorization of the department of fish  
5 and wildlife in writing, except that this provision shall not apply to  
6 unscheduled boat races to which the public has not been invited.

7 (b) The provisions of this section shall not exempt any person from  
8 compliance with applicable federal law or regulation, but nothing contained in  
9 this section shall be construed to require the securing of a state permit if a  
10 permit has been obtained from an authorized agency of the United States.

11 § 4247. PENALTIES

12 (a) A person who violates any of the following sections of this title shall be  
13 subject to a fine of not more than \$50.00 for each violation:

14 (1) § 4229, unnumbered boat.

15 (2) § 4231(a), unregistered boat.

16 (3) § 4231(d), old registered certificate to be returned.

17 (4) § 4231(e), compliance with federal motorboat ID system.

18 (5) § 4231(h), change of address.

19 (6) § 4231(i), incorrect number displayed on boat.

20 (7) § 4231(j), temporary registration.

21 (8) § 4232(a), qualified person may operate.

1           (9) § 4232(c), underage operation.

2           (10) § 4231(b), operating without boat certificate.

3           (11) § 4234(a)–(d), lights and equipment.

4           (12) § 4236, documented boat validation sticker.

5           (13) § 4237, boat rental records.

6           (14) § 4238, muffling device.

7           (15) § 4240(c), distance requirements.

8           (16) § 4240(d), under water historic preserve area.

9           (17) § 4240(e), overloaded vessel.

10          (18) § 4241, rules between vessels.

11          (19) § 4243(b), failing to file report.

12          (20) § 4245(a), water ski observer.

13          (21) § 4245(c), improper ski towing.

14          (22) § 4246, boat races.

15          (b) A person who violates section 1266 of this title shall be subject to a  
16          penalty of not more than \$1,000.00 for each violation. A person who violates a  
17          rule promulgated under section 1424 of this title or any of the following  
18          sections of this title shall be subject to a penalty of not more than \$300.00 for  
19          each violation:

20               (1) § 4234(e), marine toilet.

21               (2) § 4242, operation of personal watercraft.

1        (c) A person who violates any of the following sections of this title shall be  
2 imprisoned not more than three months or fined not more than \$300.00, or  
3 both, for each violation:

4            (1) § 4232(b), operating privilege suspended.

5            (2) § 4240(a), careless and negligent operation.

6            (3) § 4240 (b), permitting use by intoxicated person.

7            (4) § 4240 (f), attempting to elude a law enforcement officer.

8            (5) § 4240 (g), residential vessel prohibited.

9            (6) § 4243(a), leaving scene of accident.

10        (d) Boating while intoxicated; privilege suspension. Any person who is  
11 convicted of violating section 4250c of this title shall have his or her privilege  
12 to operate a vessel, except a nonmotorized canoe and a nonmotorized rowboat,  
13 suspended for a period of one year and until the person complies with section  
14 1209a of this title.

15        (e) Boating while intoxicated; criminal penalty. Any person who violates a  
16 provision of section 4250c of this title shall be imprisoned for not more than  
17 one year and subject to the following fines:

18            (1) for a first offense, not less than \$200.00 nor more than \$750.00;

19            (2) for a second or subsequent offense, not less than \$250.00 nor more  
20 than \$1,000.00.

1       (f)(1) Boating while intoxicated; death resulting. If the death of any person  
2 results from the violation of section 4250c of this title, the person convicted  
3 shall, instead of any other penalty imposed in this section, be imprisoned not  
4 less than one year nor more than 15 years or fined not more than \$10,000.00,  
5 or both; but the provisions of this section shall not be construed to limit or  
6 restrict prosecutions for manslaughter.

7           (B) If the death of more than one person results from a violation of  
8 section 4250c of this title, the operator may be convicted of a separate  
9 violation of this subdivision for each decedent.

10       (2)(A) Boating while intoxicated; serious bodily injury resulting. If  
11 serious bodily injury, as defined in 13 V.S.A. § 1021(2), results to any person  
12 other than the operator from a violation of section 4250c of this title, the  
13 person convicted of the violation shall be fined not more than \$5,000.00 or  
14 imprisoned not more than 15 years, or both.

15           (B) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results  
16 to more than one person other than the operator from a violation of section  
17 4250c of this title, the operator may be convicted of a separate violation of this  
18 subdivision for each person injured.

19       (g) Defective, stolen, or fraudulently registered motorboat; registration  
20 revocation or suspension. The commissioner of motor vehicles or his or her  
21 authorized agent may suspend or revoke the registration of any motorboat



1 registered in this state and repossess the number and certificate to it when he or  
2 she is satisfied that:

3 (1) a motorboat has been stolen and that the registrant has not legal title;

4 or

5 (2) a motorboat is in such poor mechanical or structural condition as to  
6 make it unseaworthy; or

7 (3) a motorboat is operated without proper equipment after the owner  
8 has been notified to procure and use such equipment as is required by law or  
9 department rules; or

10 (4) the owner of a motorboat has perpetrated some fraud upon the  
11 department of motor vehicles.

12 (h) More than two violations; education program required. Any person  
13 convicted of more than two boating violations concerning the operation of or  
14 safety equipment on a vessel within a two-year period shall, in addition to  
15 penalties provided for in this section, have his or her privilege to operate a  
16 vessel on the waters of this state suspended until the person has successfully  
17 completed the boating safety education program provided in section 4233 of  
18 this title. A person shall also be required to complete the program if convicted  
19 of careless or negligent operation or of operation under the influence of alcohol  
20 or drugs. The requirements of this subsection apply regardless of whether a  
21 person has completed the education program one or more times.

1     § 4248. ADMINISTRATION AND ENFORCEMENT

2           (a) The administration of the provisions of this subchapter, as they pertain  
3     to the registration and numbering of vessels and the suspension of the privilege  
4     to operate vessels, shall be the responsibility of the department of motor  
5     vehicles.

6           (b) This subchapter and rules promulgated under this subchapter shall be  
7     printed in booklet form and made available to the public by the department of  
8     fish and wildlife.

9           (c) The provisions of this subchapter and the rules adopted pursuant to this  
10    subchapter shall be enforced by law enforcement officers as defined in section  
11    4228 of this title in accordance with the provisions of 12 V.S.A. chapter 193,  
12    and they may also enforce the provisions of 10 V.S.A. § 1266 and the rules  
13    adopted pursuant to 10 V.S.A. § 1424. With respect to the provisions of  
14    10 V.S.A. § 1266 and the rules adopted pursuant to 10 V.S.A. § 1424,  
15    whenever a penalty for a violation of such a rule is not otherwise established,  
16    three district court judges appointed by the court administrator shall establish a  
17    schedule, within the limits prescribed by law, of the penalty to be imposed.  
18    Any law enforcement officer who issues a complaint shall advise the defendant  
19    of the schedule of penalties and show the defendant a copy of the schedule.

1     § 4249. FEES COLLECTED; SPECIAL FUND

2           (a) There is hereby established a special fund to be known as the motorboat  
3     registration fund for the purposes of ensuring that the fees and penalties  
4     collected under this subchapter are utilized in the protection and maintenance  
5     of the state's water resources. Any interest earned on the monies in this fund  
6     will be deposited in the general fund.

7           (b) The fees and penalties collected under the provisions of this subchapter,  
8     excluding surcharges collected under subsection 4231(b) and subdivisions  
9     4231(c)(3)(A) and (B) of this title, shall be deposited in the motorboat  
10    registration fund and shall be allocated as follows:

11           (1) 15 percent to the department of fish and wildlife, to be used for  
12    enforcement of this subchapter and implementation of a boating safety  
13    education program;

14           (2) 50 percent to the department of fish and wildlife, to be used: to  
15    match federal funds; for upgrading and expanding boating access areas and  
16    facilities located at those areas; for developing and constructing new boating  
17    access areas; and for facilitating or establishing and maintaining pump out  
18    stations, which may be, in the discretion of the commissioner, constructed or  
19    operated either by the department or on a contractual basis by a private person  
20    or entity. Users shall be charged reasonable and appropriate fees;

1           (3) 25 percent to the department of environmental conservation for the  
2 purpose of aquatic nuisance control pursuant to 10 V.S.A. §§ 921, 922, 923,  
3 and 1263a;

4           (4) 10 percent to the agency of agriculture, food and markets for the  
5 purpose of mosquito control pursuant to 6 V.S.A. chapter 85.

6           (c) The surcharges collected under subsection 4231(d) and subdivisions  
7 4231(c)(3)(A) and (B) of this title shall be credited to the special fund  
8 established under subdivision (b)(3) of this section for the purpose of an  
9 aquatic nuisance control grant program pursuant to sections 921, 922, and 923  
10 of this title.

11 § 4250. MOTOR PROPELLED BOATS ON DUFRESNE DAM WATERS

12           PROHIBITED

13           (a) The use and operation of motor propelled boats on the waters  
14 impounded by the Dufresne Dam, so-called, on the Battenkill River in the  
15 town of Manchester is prohibited.

16           (b) The fish and wildlife department shall post notice of this section  
17 conspicuously at the boat launching areas at the Dufresne Dam impoundment.

18           (c) A person who violates this section shall be fined not more than \$20.00  
19 for each offense.

1     § 4250a. MOTOR PROPELLED BOATS IN SOUTH POND PROHIBITED

2             (a) The use and operation of motor propelled boats on the waters of South  
3     Pond in the town of Marlboro is prohibited.

4             (b) The fish and wildlife department shall post notice of this section  
5     conspicuously at the boat launching areas at the South Pond impoundment.

6             (c) A person who violates this section shall be fined not more than \$20.00  
7     for each offense.

8     § 4250b. PROOF OF PAYMENT OF TAX

9             No license, permit, registration, validation, or similar authorization to own  
10     or operate any vessel shall be issued under this subchapter until proof of  
11     payment of or exemption from the tax imposed by 32 V.S.A. chapter 233 has  
12     been established in the manner prescribed by the commissioner of taxes.

13     § 4250c. OPERATING UNDER THE INFLUENCE OF INTOXICATING  
14             LIQUOR OR DRUGS; B.W.I.

15             (a) A person shall not operate, attempt to operate, or be in actual physical  
16     control of a vessel on the waters of this state while:

17                 (1) there is 0.08 percent or more by weight of alcohol in his or her  
18     blood, as shown by analysis of his or her breath or blood; or

19                 (2) under the influence of intoxicating liquor; or

1           (3) under the influence of any other drug or under the combined  
2 influence of alcohol and any other drug to a degree which renders the person  
3 incapable of operating safely.

4           (b) For purposes of this section, “intoxicating liquor” includes “alcohol,”  
5 “malt beverages,” “spirituous liquors,” and “vinous beverages” as defined in  
6 section 2 of Title 7, and any beverage or liquid containing any of the  
7 foregoing.

8           (c) A person who is a habitual user of or under the influence of any  
9 narcotic drug or who is under the influence of any other drug, substance, or  
10 inhalant other than intoxicating liquor to a degree which renders the person  
11 incapable of safely operating a vessel may not operate, attempt to operate, or  
12 be in actual physical control of a vessel. The fact that a person charged with a  
13 violation of this section is or has been entitled to use such drug under the laws  
14 of this state shall not constitute a defense against any charge of violating this  
15 section.

16           (d) For the purposes of this section, “drug” means a regulated drug as  
17 defined in section 4201 of Title 18.

18           (e) A person may not be convicted of more than one violation of subsection  
19 (a) of this section arising out of the same incident.

1 § 4250d. PERSONS UNDER 21; ALCOHOL CONCENTRATION OF 0.02

2 OR MORE

3 (a) A person under the age of 21 who operates, attempts to operate, or is in  
4 actual physical control of a vessel on the waters of this state when the person's  
5 alcohol concentration is 0.02 or more commits a civil traffic violation subject  
6 to the jurisdiction of the judicial bureau and subject to the following sanctions:

7 (1) For a first violation, the person's privilege to operate a vessel, except  
8 a nonmotorized canoe and a nonmotorized rowboat, on the waters of this state  
9 shall be suspended for six months and until the person complies with section  
10 1209a of Title 23.

11 (2) For a second or subsequent violation, the person's privilege to  
12 operate a vessel, except a nonmotorized canoe and a nonmotorized rowboat, on  
13 the waters of this state shall be suspended until the person reaches the age of  
14 21 or for one year, whichever is longer, and complies with section 1209a of  
15 Title 23.

16 (b) Notwithstanding the provisions in subsection (a) of this section to the  
17 contrary, a person's privilege to operate that has been suspended under this  
18 section shall not be reinstated until the commissioner has received satisfactory  
19 evidence that the provider of the therapy program has been paid in full.

20 (c) If a law enforcement officer has reasonable grounds to believe that a  
21 person is violating this section, the officer may request the person to submit to

1 a breath test using a preliminary screening device approved by the  
2 commissioner of health. Notwithstanding any provisions to the contrary in  
3 sections 1202 and 1203 of Title 23:

4 (1) the results of the test shall be admissible evidence in a proceeding  
5 under this section; and

6 (2) there shall be no statutory right to counsel prior to the administration  
7 of the test.

8 (d) A refusal to submit to a breath test shall be considered a violation of  
9 this section.

10 (e) In a proceeding under this section, if there was at any time within two  
11 hours of operating, attempting to operate, or being in actual physical control of  
12 a vessel on the waters of this state an alcohol concentration of 0.02 or more, it  
13 shall be a rebuttable presumption that the person's alcohol concentration was  
14 0.02 or more at the time of operating, attempting to operate, or being in actual  
15 physical control.

16 (f) The alcohol program required under this section shall be administered  
17 by the office of alcohol and drug abuse programs and shall take into  
18 consideration any particular treatment needs of operators under the age of 21.

19 (g) A charge of violating this section shall not bar prosecution for any  
20 crime, including a prosecution under section 4250c of this title.



1     § 4250e. IMPLIED CONSENT

2           Any person who operates, attempts to operate, or is in actual physical  
3     control of a vessel on the waters of this state is deemed to have given consent  
4     to the taking of more than one sample of his or her breath or blood for the  
5     purpose of determining the alcoholic content of his or her blood. The samples  
6     shall be taken and the tests administered and analyzed consistent with the  
7     provisions of sections 1202 and 1203 of Title 23.

8     § 4250f. PERMISSIVE INFERENCES

9           (a) Upon the trial of any civil or criminal action or proceeding arising out  
10     of acts alleged to have been committed by a person while operating, attempting  
11     to operate, or in actual physical control of a vessel on the waters of this state,  
12     the amount of alcohol in the person's blood or breath at the time alleged as  
13     shown by analysis of the person's blood or breath shall give rise to the  
14     following permissive inferences or presumptions:

15           (1) If there was at that time 0.05 percent or less by weight of alcohol in  
16     the person's blood or breath, it shall be presumed that the person was not under  
17     the influence of intoxicating liquor.

18           (2) If there was at that time in excess of 0.05 percent but less than 0.08  
19     percent by weight of alcohol in the person's blood or breath, such fact shall not  
20     give rise to any presumption or permissive inference that the person was or  
21     was not under the influence of intoxicating liquor, but such fact may be

1 considered with other competent evidence in determining whether the person  
2 was under the influence of intoxicating liquor.

3 (3) If there was at that time 0.08 percent or more by weight of alcohol in  
4 the person's blood or breath, as shown by analysis of the person's blood or  
5 breath, it shall be a permissive inference that the person was under the  
6 influence of intoxicating liquor in violation of section 4250c of this title.

7 (4) If there was at any time within two hours of the alleged offense, 0.10  
8 percent or more by weight of alcohol in the person's blood or breath as shown  
9 by analysis of the person's blood or breath, it shall be a permissive inference  
10 that the person was under the influence of intoxicating liquor in violation of  
11 subdivision 4250c(a)(2) or (3) of this title.

12 (b) Percent by weight of alcohol in the blood shall be based upon  
13 milligrams of alcohol per one hundred cubic centimeters of blood.

14 (c) The foregoing provisions shall not be construed as limiting the  
15 introduction of any other competent evidence bearing upon the question  
16 whether the person was under the influence of intoxicating liquor, nor shall  
17 they be construed as requiring that evidence of the amount of alcohol in the  
18 person's blood or breath must be preserved.

19 § 4250g. REFUSALS; SANCTIONS

20 (a) Refusals. If the person refuses to submit to an evidentiary test, it shall  
21 not be given, but the refusal may be introduced as evidence in a criminal

1 proceeding. If the person is charged with a violation of this subchapter, the  
2 court at the arraignment or as soon thereafter as is practicable shall hold a  
3 summary hearing and take evidence relating to the reasonableness of the  
4 officer's belief that the defendant was operating, attempting to operate, or in  
5 actual physical control of a vessel on the waters of this state while under the  
6 influence of intoxicating liquor or other drugs or both.

7 (b) Penalty; first refusal. Upon a finding by the court that the officer had  
8 reasonable grounds to believe that the defendant was so operating, attempting  
9 to operate, or in actual physical control of a vessel on the waters of this state,  
10 the court shall impose a civil penalty of not more than \$750.00. In addition,  
11 the person's privilege to operate a vessel, except a nonmotorized canoe and a  
12 nonmotorized rowboat, on the waters of this state shall be suspended for a  
13 period of one year and until the person complies with section 1209a of this  
14 title.

15 (c) Second occurrence after five years. Upon a second refusal to submit to  
16 testing and upon a finding by the court under subsection (a) of this section, if  
17 the second offense occurs more than five years after the date of the first  
18 offense for which a refusal was given, the court shall impose the same penalty  
19 and suspension as for a first refusal under this section.

20 (d) Second occurrence within five years. Upon a second refusal to submit  
21 to testing and upon a finding by the court under subsection (a) of this section,

1 if the offense occurred within five years of the date of the offense for which  
2 there was a first refusal by that person, and upon final determination of an  
3 appeal, the court shall impose a civil penalty of not more than \$1,000.00. In  
4 addition, the person's privilege to operate a vessel, except a nonmotorized  
5 canoe and a nonmotorized rowboat, on the waters of this state shall be  
6 suspended for a period of two years and until the person complies with section  
7 1209a of Title 23.

8 § 4250h. DIVERS; FLAG REQUIRED

9 (a) As used in this section:

10 (1) "Diver" means any person who is wholly submerged in the waters of  
11 the state and is equipped with a face mask and snorkel or "underwater  
12 breathing apparatus."

13 (2) "Divers-down flag" means a flag that is either square or rectangular,  
14 to approximately four units high by five units long, with a one unit diagonal  
15 stripe. The divers-down flag shall have a white diagonal stripe on a red  
16 background. The stripe shall begin at the top staff-side of the flag and extend  
17 diagonally to the opposite lower corner. The flag shall be free-flying and shall  
18 be removed when all divers are out of the water. The minimum size shall be  
19 12 by 12 inches.

20 (b) All divers shall prominently display a divers-down flag in the area in  
21 which the diving occurs, other than when diving in an area customarily used

1 for swimming only. Persons diving together as a group, in the same diving  
2 area, shall display at least one flag.

3 (c) A person who violates this section shall be fined not more than \$100.00  
4 for each violation.

5 Subchapter 3. All Terrain Vehicles

6 § 4250i. DEFINITIONS

7 For the purpose of this subchapter:

8 (1) "Commissioner" means the commissioner of fish and wildlife unless  
9 otherwise stated.

10 (2) "Department" means department of fish and wildlife unless  
11 otherwise stated.

12 (3) "Operate" includes an attempt to operate and shall be construed to  
13 cover all matters and things connected with the presence and use of all-terrain  
14 vehicles whether they be at motion or rest.

15 (4) "Secretary" means the secretary of the agency of natural resources.

16 (5) "All-terrain vehicle" or "ATV" means any nonhighway recreational  
17 vehicle, except snowmobiles, having no less than three low-pressure tires (10  
18 pounds per square inch, or less), not wider than 60 inches, and having a dry  
19 weight of less than 1,700 pounds when used for cross-country travel on trails  
20 or on any one of the following or a combination thereof: land, water, snow, ice,  
21 marsh, swampland, and natural terrain. An ATV on a public highway shall be

1 considered a motor vehicle, as defined in section 4 of Title 23, only for the  
2 purposes of those offenses listed in subdivisions 2502(a)(1)(H), (N), (R), (U),  
3 (Y), (FF), (GG), (II), and (ZZ); (2)(A) and (B); (3)(A), (B), (C), and (D);  
4 (4)(A), and (B) and (5) of Title 23 and as provided in section 1201 of Title 23.  
5 An ATV shall not include an electric personal assistive mobility device.

6 (6) "Club or association" means an all-terrain vehicle club or association.

7 § 4250j. REGISTRATION

8 (a) An all-terrain vehicle may not be operated unless registered pursuant to  
9 this subchapter or any other section of this title by the state of Vermont except  
10 when operated:

11 (1) on the property of the owner of the all-terrain vehicle; or

12 (2) off the highway, in a ski area while being used for the purpose of  
13 grooming snow or for maintenance or in rescue operations; or

14 (3) for official use by a federal, state, or municipal agency and only if  
15 the all-terrain vehicle is identified with the name or seal of the agency in a  
16 manner approved by the commissioner; or

17 (4) solely on privately owned land when the operator is specifically  
18 invited to do so by the owner of that property and has on his or her person the  
19 written consent of the owner.

20 (b) The provisions of section 305 of Title 23 shall apply to a registration,  
21 except the registration of a vehicle registered under subsection 4250l(b) of this

1 title shall become void on the last day of February next following the date of  
2 issue.

3 (c) The registration of an all-terrain vehicle does not constitute a license to  
4 cross or operate an all-terrain vehicle on public or private lands.

5 (d) An all-terrain vehicle which does not comply with the provisions of this  
6 subchapter may not be registered by the commissioner.

7 (e) An all-terrain vehicle owned by a person who is a resident of any other  
8 state or province shall be deemed to be properly registered for the purposes of  
9 this subchapter if it is registered in accordance with the laws of the state or  
10 province in which its owner resides, but only to the extent that a similar  
11 exemption or privilege is granted under the laws of that state or province for  
12 all-terrain vehicles registered in this state by a resident of this state.

13 § 4250k. TRANSFER OF REGISTRATION

14 The registration of an all-terrain vehicle ends when the owner transfers title  
15 to another person. The former owner shall immediately return to the  
16 commissioner the registration certificate and plate previously assigned to the  
17 transferred all-terrain vehicle with the date of sale, name, and residence of the  
18 new owner endorsed on the back of the certificate. When a person transfers  
19 the ownership of a registered all-terrain vehicle to another person, files a new  
20 application, and pays a fee of \$10.00, he or she may have registered in his or

1 her name another all-terrain vehicle for the remainder of the registration year  
2 without payment of any additional registration fee.

3 § 4250l. REGISTRATION FEES AND PLATES

4 (a) The registration fee for all-terrain vehicles other than as provided for in  
5 subsection (b) of this section is \$25.00. Duplicate registration certificates may  
6 be obtained upon payment of \$5.00 to the department.

7 (b) Any person engaged in the manufacture or sale of all-terrain vehicles  
8 shall obtain registration certificates and identifying number plates subject to  
9 rules which may be adopted by the commissioner which shall be valid for the  
10 following purposes only: testing; adjusting; demonstrating; temporary use of  
11 customers for a period not to exceed seven days; private business or pleasure  
12 use of the person or members of his or her immediate family; and use at fairs,  
13 shows, or races when no charge is made. Fees for registration certificates shall  
14 be \$45.00 for the first certificate issued to any person and \$5.00 for any  
15 additional certificate issued to the same person within the current registration  
16 period. Fees for temporary number plates shall be \$3.00 for each plate issued.

17 § 4250m. EQUIPMENT

18 (a) All all-terrain vehicles shall be equipped with one or more headlights  
19 and a red rear light, all in working order, and brakes in good mechanical  
20 condition and shall be equipped with an efficient muffler and such other  
21 equipment and devices as may be required to meet the noise level



1 specifications of subsection (b) of this section, and, if equipped with a  
2 windshield, it shall be free from sharp or jagged edges. Lights shall be on  
3 during operation from 30 minutes after sunset to 30 minutes before sunrise.

4 (b) Subject to regulation by rule of the commissioner, any all-terrain  
5 vehicles shall be equipped with a muffler system and such other equipment or  
6 devices which reduce maximum machine operating noise to a noise level of  
7 not more than 82 decibels on the A scale at 50 feet in a normal operating  
8 environment.

9 (c) No person shall sell or offer to sell within the state of Vermont an  
10 all-terrain vehicle unless it complies with the sound requirements specified in  
11 subsection (b) of this section. No all-terrain vehicle shall be equipped in any  
12 manner which permits the operator to bypass the muffler system; no person  
13 shall sell or offer to sell at either wholesale or retail a replacement exhaust  
14 muffler system which will not meet or exceed the exhaust noise reduction  
15 capabilities of the all-terrain vehicle. In addition, any person selling or  
16 offering to sell an all-terrain vehicle or replacement muffler system, whether at  
17 wholesale or retail, shall include in the specifications precise information  
18 concerning the designed maximum sound levels of the all-terrain vehicle or  
19 replacement muffler system.

20 (d) This section and section 42501 of this title shall not apply to any  
21 all-terrain vehicle entered into a racing contest sponsored by a racing or

1 all-terrain vehicle organization or association during the period the all-terrain  
2 vehicle is actually participating in or practicing or preparing for a racing event  
3 at an area especially provided for the purpose.

4 (e) The provisions of section 1222 of Title 23 shall not apply to any  
5 all-terrain vehicle registered pursuant to this subchapter.

6 (f) Every all-terrain vehicle shall be equipped with a United States Forest  
7 Service qualified spark arrester.

8 § 4250n. OPERATIONS

9 (a) A person may only operate or permit an all-terrain vehicle owned by  
10 him or under his or her control to be operated in accordance with this  
11 subchapter.

12 (b) An all-terrain vehicle may not be operated:

13 (1) Along a public highway unless it is not being maintained during the  
14 snow season or unless the highway has been opened to all-terrain vehicle travel  
15 by the selectboard or trustees or local governing body and is so posted by the  
16 municipality, except an all-terrain vehicle being used for agricultural purposes  
17 may be operated not closer than three feet from the traveled portion of any  
18 highway for the purpose of traveling within the confines of the farm.

1           (2) Across a public highway unless:

2                   (A) the crossing is made at an angle of approximately 90 degrees to  
3 the direction of the highway and at a place where no obstruction prevents a  
4 quick and safe crossing; and

5                   (B) the operator brings the all-terrain vehicle to a complete stop  
6 before entering the travelled portion of the highway; and

7                   (C) the operator yields the right-of-way to motor vehicles and  
8 pedestrians using the highway; and

9                   (D) the operator is 12 years of age or older and unless an operator  
10 under 16 years of age is under the direct supervision of a person 18 years of  
11 age or older.

12           (3) On any privately owned land or body of private water unless:

13                   (A) the operator is the owner or a member of the immediate family of  
14 the owner of the land; or

15                   (B) the operator has, on his or her person, the written consent of the  
16 owner or lessee of the land to operate an all-terrain vehicle in the specific area  
17 and during specific hours or days or both in which the operator is operating or  
18 has proof that he or she is a member of a club or association to which consent  
19 has been given orally or in writing; or

20                   (C) the owner of the land has designated the area for use by

1 all-terrain vehicles by posting the area in a manner approved by the secretary  
2 to give reasonable notice that use is permitted.

3 (4) On any public land, body of public water, or natural area established  
4 under the provisions of section 2607 of this title unless the secretary has  
5 designated the area for use by all-terrain vehicles pursuant to rules  
6 promulgated under provisions of 3 V.S.A. chapter 25.

7 (5) By a person under 12 years of age unless:

8 (A) he or she is on land owned by his or her parents, family, or  
9 guardian;

10 (B) he or she has written permission of the landowner or lessee; or

11 (C) he or she is under the direct supervision of a person at least 18  
12 years of age.

13 (6) In any manner intended or reasonably to be expected to harass,  
14 drive, or pursue any wildlife;

15 (7) If the registration certificate or consent form is not available for  
16 inspection and if the registration number or plate of a size and type approved  
17 by the commissioner is not displayed on the all-terrain vehicle in a manner  
18 approved by the commissioner;

19 (8) While the operator is under the influence of drugs or intoxicating  
20 beverages as defined in Title 23;

1           (9) In a careless or negligent manner or in a manner so as to endanger a  
2 person or property;

3           (10) Within a cemetery, public or private, as defined in 18 V.S.A.  
4 § 5302;

5           (11) On limited access highways, rights-of-way, or approaches unless  
6 permitted by the traffic committee under section 1004 of Title 23. In no cases  
7 shall the use of all-terrain vehicles be permitted on any portion of the national  
8 system of interstate and defense highways unless the traffic committee permits  
9 operation on these highways;

10           (12) On a sidewalk unless permitted by the selectboard or trustees of the  
11 local governing body.

12           (c) No public or private landowner shall be liable for any property damage  
13 or personal injury sustained by any person operating or riding as a passenger  
14 on an all-terrain vehicle or upon a vehicle or other device drawn by an  
15 all-terrain vehicle upon the public or private landowner's property, whether or  
16 not the public or private landowner has given permission to use the land,  
17 unless the public or private landowner charges a cash fee to the operator or  
18 owner of the all-terrain vehicle for the use of the property or unless damage or  
19 injury is intentionally inflicted by the landowner.

20           (d) In addition to all other requirements, an all-terrain vehicle may not be  
21 operated:

1           (1) if equipped with an exhaust system with a cut out, bypass, or similar  
2 device; or

3           (2) with the spark arrester removed or modified, except for use in closed  
4 course competition events.

5           (e) In addition to all other requirements, an all-terrain vehicle may not be  
6 operated by an operator who is less than 18 years of age unless one of the  
7 following criteria is met:

8           (1) the operator is operating on property owned or leased by the operator  
9 or his or her parents or guardian; or

10           (2) the operator is taking a prescribed safety education training course  
11 and operating under the direct supervision of a certified all-terrain vehicle  
12 safety instructor; or

13           (3) the operator holds an appropriate safety education certificate issued  
14 by this state or issued under the authority of another state or a province of  
15 Canada.

16           (f) A person who is required to hold an appropriate safety education  
17 certificate under the provisions of subsection (e) of this section shall exhibit  
18 the safety education certificate upon demand of a law enforcement officer  
19 having authority to enforce the provisions of this section.

20           (g) Notwithstanding any other provision of law or rule to the contrary, the  
21 commissioner may authorize the temporary operation of all-terrain vehicles not

1 registered in this state on Route 253 in Beecher Falls for an annual special  
2 event, provided the all-terrain vehicle is registered in another state or province.

3 § 4250o. PENALTIES AND REVOCATION OF REGISTRATION

4 (a) A person who violates a provision of this subchapter shall be fined not  
5 more than \$300.00 for each offense unless otherwise provided by law.

6 (b) In addition to the fines provided in subsection (a) of this section, the  
7 commissioner may suspend or revoke the registration of an all-terrain vehicle  
8 involved in a violation of this subchapter.

9 § 4250p. DESIGNATED AREAS

10 The secretary shall print a list of public lands and waters designated for use  
11 by all-terrain vehicles pursuant to subdivision 4250n(b)(4) of this title and  
12 make the publication available to the public.

13 § 4250q. DEFACING IDENTIFYING NUMBERS; SIGNS

14 (a) A person may not willfully change or attempt to change or tamper with,  
15 obliterate, deface, or in any manner interfere with the original or assigned  
16 motor number or manufacturer's serial number of any all-terrain vehicle.

17 (b) A person may not remove, deface, alter, or destroy trail signs, markers,  
18 or posters erected pursuant to this subchapter.

19 § 4250r. MUNICIPAL ORDINANCES

20 Municipalities shall have the power to adopt ordinances pursuant to  
21 24 V.S.A. chapter 59 for the purpose of regulating the time, manner, and

1 location or operation of all-terrain vehicles within their limits provided the  
2 ordinances do not controvert the provisions of this subchapter.

3 § 4250s. ACCIDENTS; DUTY TO STOP AND REPORT

4 (a) The operator of an all-terrain vehicle who has caused or is involved in  
5 an accident resulting in injury to any person or property, other than the  
6 all-terrain vehicle then under his or her control, shall immediately stop and  
7 render whatever assistance may be reasonably necessary. He or she shall give  
8 his or her name, residence, registration number, and the name of the owner of  
9 the all-terrain vehicle to the party whose person or property is injured.

10 (b) The operator of an all-terrain vehicle involved in an accident resulting  
11 in death or injury to any person or damage to property, other than the  
12 all-terrain vehicle he or she is operating, in excess of \$100.00, shall notify an  
13 enforcement officer immediately and file a report of the incident with the  
14 commissioner within 72 hours, on forms prescribed by the commissioner.

15 § 4250t. ATTEMPTING TO ELUDE A POLICE OFFICER

16 An operator of an all-terrain vehicle shall bring his or her vehicle to a stop  
17 when signaled to do so by an enforcement officer wearing identifying insignia  
18 or operating a law enforcement vehicle sounding a siren or displaying a  
19 flashing blue or blue and white signal lamp.



1     § 4250u. LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR  
2             LAW ENFORCEMENT SERVICES

3             (a) The amount of 85 percent of the fees and penalties collected under this  
4             subchapter, except interest, is hereby allocated to the agency of natural  
5             resources for use by the Vermont ATV sportsman's association (VASA) for  
6             development and maintenance of a statewide ATV trail program on private  
7             property, for trail liability insurance, and to contract for law enforcement  
8             services with any constable, sheriff's department, municipal police department,  
9             the department of public safety, and the department of fish and wildlife for  
10            purposes of trail compliance pursuant to this subchapter. The departments of  
11            public safety and fish and wildlife are authorized to contract with VASA to  
12            provide these law enforcement services. The agency of natural resources may  
13            retain for its use up to \$7,000.00 during each fiscal year to be used for  
14            administration of the state grant that supports this program.

15            (b) The department of buildings and general services shall assist VASA  
16            with the procurement of trail liability and other related insurance.

17            (c) VASA shall purchase a trail liability insurance policy in the amount of  
18            \$1,000,000.00. The state of Vermont shall be named an additional insured.  
19            The policy shall extend to all VASA-affiliated ATV clubs and their respective  
20            employees and agents to provide for trail liability coverage for development  
21            and maintenance of the statewide ATV trails program.

1       (d) Nothing contained in this section shall authorize or create any cause of  
2 action to accrue or to be maintained against the state of Vermont.

3       (e) Any fees and penalties allocated pursuant to subsection (a) of this  
4 section shall not revert but shall be available until spent. Any accrued interest  
5 shall be deposited in the transportation fund.

6       § 4250v. ADMINISTRATION OF SUBCHAPTER; RULES

7       The commissioner shall administer this chapter and shall adopt rules and  
8 prescribe forms and procedures for application and registration consistent with  
9 this subchapter as necessary to carry its provisions into effect.

10       § 4250w. ALL-TERRAIN SAFETY EDUCATION COURSE; ISSUANCE  
11               OF CERTIFICATE

12       (a) The commissioner of fish and wildlife shall establish and oversee a  
13 program of examination and certification of all-terrain vehicle operators. In  
14 order for an operator to be awarded a safety education certificate, he or she  
15 must submit evidence of successful completion of an all-terrain vehicle safety  
16 education course approved by the commissioner and must successfully pass a  
17 written examination which shall test the applicant's knowledge of safe  
18 all-terrain vehicle operating practices and the applicable laws of the state of  
19 Vermont.

20       (b) The commissioner may approve any appropriate all-terrain vehicle  
21 safety education course, regardless of whether or not it includes hands-on

1 instruction in operating the vehicle, if the course meets minimum standards  
2 established by the commissioner. An approved course shall include  
3 information about the appropriate use of helmets and the dangers of carrying a  
4 passenger. Such courses offered by the manufacturers or distributors of  
5 all-terrain vehicles, by community organizations such as 4-H, or by others,  
6 may be approved.

7 (c) The commissioner shall develop and make available a written  
8 examination appropriate for certification of all-terrain vehicle operators as  
9 required by this section. In the discretion of the commissioner, the  
10 examination may be administered by employees of the department of fish and  
11 wildlife or by the persons who offer any approved all-terrain vehicle safety  
12 education course.

13 (d) No all-terrain vehicle safety education course which includes actual  
14 operation of the vehicle shall be approved unless adequate insurance coverage  
15 is provided.

16 (e) The instructors and persons providing an all-terrain vehicle safety  
17 education course approved by the commissioner are exempt from compliance  
18 with the state's driver training laws.

19 § 4250x. TRAINING FEE

20 (a) A person or organization conducting an approved all-terrain vehicle  
21 safety education course may charge a reasonable fee to persons completing the

1 course as appropriate and necessary to defray the expenses of providing the  
2 course.

3 (b) The commissioner of fish and wildlife shall review and approve the  
4 maximum fee to be charged for any approved course prior to any fee being  
5 charged.

6 (c) A fee shall not be charged any person who is entitled to free training  
7 pursuant to the provisions of the consent decree, dated April 28, 1988, entered  
8 into by the all-terrain vehicle manufacturers and the United States government.

9 § 4250y. DISTRIBUTION OF SAFETY EDUCATION INFORMATION

10 Dealers shall distribute safety education information, as may be made  
11 available by the commissioner of fish and wildlife or the vehicle manufacturers  
12 or distributors, to all purchasers of all-terrain vehicles.

13 § 4250z. APPLICABILITY

14 The provisions of subsections 4250n(e) and (f) and sections 4250w through  
15 4250y of this title shall not apply to any two-wheeled vehicles, nor to  
16 four-wheeled vehicles having a dry weight in excess of 700 pounds.

17 Sec. 3. STATUTORY REVISION; AUTHORITY

18 The staff of the legislative council, in its statutory revision capacity, is  
19 authorized and directed to make such amendments to the Vermont Statutes  
20 Annotated as are necessary to effect the purpose of this act, including, where

- 1 applicable, substituting the words “fish and wildlife” for the words “public
- 2 safety.”