

1 H.356

2 Introduced by Representatives Townsend of South Burlington and Deen of

3 Westminster

4 Referred to Committee on

5 Date:

6 Subject: Conservation and development; water resources; littering in or on

7 waters of the State

8 Statement of purpose of bill as introduced: This bill proposes to prohibit

9 littering in or on the waters of the State. The bill would establish a Marine

10 Debris Cleanup Fund for cleanup activities in shorelands and river corridors of

11 the State. Fees and fines collected for violation of the prohibition on littering

12 in or on state waters would be deposited in the Marine Debris Cleanup Fund.

13 An act relating to prohibiting littering in or on the waters of the State

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

15 ~~Sec. 1. 24 V.S.A. § 2201b is added to read:~~

16 ~~§ 2201b. LITTERING IN OR ON STATE WATERS; PROHIBITION~~

17 ~~(a) Definitions. As used in this section:~~

18 ~~(1) "Enforcement officer" means a state's attorney, the Attorney~~

19 ~~General, sheriffs, deputy sheriffs, constables, municipal police officers, state's~~

20 ~~attorneys, capitol police officers, motor vehicle inspectors, liquor investigators,~~

1 ~~state fish and game wardens, state police, and environmental enforcement~~
2 ~~officers employed by the Agency of Natural Resources.~~

3 ~~(2) "Litter" means discarded refuse, garbage, debris, animals, and all~~
4 ~~other forms of discarded waste.~~

5 ~~(3) "Waters" shall have the same meaning as in 10 V.S.A. § 1251(13).~~

6 ~~(b) Prohibition on littering in or on waters of the State. A person shall not~~
7 ~~throw, dump, deposit, cause, or permit to be thrown, dumped, or deposited any~~
8 ~~litter in or on waters in the State, including onto frozen water, unless the~~
9 ~~person has a permit under 10 V.S.A. chapter 47 to discharge waste to the~~
10 ~~waters of the State.~~

11 ~~(c) Penalties. A person who violates subsection (b) of this section commits~~
12 ~~a civil violation and shall be subject to a civil penalty of not more than~~
13 ~~\$500.00. A violation of this section shall be enforceable in the Judicial Bureau~~
14 ~~under 4 V.S.A. chapter 29 and may be brought by any enforcement officer.~~

15 ~~(d) Shoreland and river corridor cleanup. A person found in violation of~~
16 ~~this section may be assigned to spend up to 80 hours collecting litter from~~
17 ~~shorelands or river corridors, as those term are defined in 10 V.S.A. § 1422.~~

18 ~~(e) Revocation of fishing and hunting licenses. The Commissioner of Fish~~
19 ~~and Wildlife shall revoke the privilege of a person found in violation of this~~
20 ~~section of holding a hunting or fishing license, or both, for a period of one year~~
21 ~~from the date of the conviction, if the person fails to pay the penalty set forth in~~

1 ~~subsection (e) of this section. The Judicial Bureau shall immediately notify the~~
2 Commissioner of Fish and Wildlife of the entry of judgment.

3 (f) Amendment of complaint. A person authorized to enforce this section
4 may amend or dismiss a complaint issued by that person by marking the
5 complaint and returning it to the Judicial Bureau. At the hearing, a person
6 authorized to enforce this section may amend or dismiss a complaint issued by
7 that person, subject to the approval of the hearing judge.

8 (g) Enforcement actions taken under this section shall in no way preclude
9 the Secretary of Natural Resources, the Attorney General, or an appropriate
10 state prosecutor from initiating other or further enforcement actions under the
11 civil, administrative, or criminal enforcement provisions of 10 V.S.A.
12 chapter 47, 159, 201, or 211.

13 Sec. 2. 4 V.S.A. § 1102 is amended to read:

14 § 1102. JUDICIAL BUREAU; JURISDICTION

15 (a) A ~~judicial bureau~~ Judicial Bureau is created within the ~~judicial branch~~
16 Judicial Branch under the supervision of the ~~supreme court~~ Supreme Court.

17 (b) The ~~judicial bureau~~ Judicial Bureau shall have jurisdiction of the
18 following matters:

19 * * *

20 (6) Violations of 24 V.S.A. § 2201, relating to littering, burning of solid
21 waste, and illegal dumping.

(24) Violations of 24 V.S.A. § 2201b, relating to littering in or on waters of the State.

(c) ~~The judicial bureau~~ Judicial Bureau shall not have jurisdiction over municipal parking violations.

(d) Three hearing officers appointed by the ~~court administrator~~ Court Administrator shall determine waiver penalties to be imposed for violations within the ~~judicial bureau's~~ Judicial Bureau's jurisdiction, except:

(1) Municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

(2) [Deleted.]

Sec. 3. 13 V.S.A. § 7252 is amended to read:

§ 7252. FINES AND PENALTIES PAYABLE TO STATE

(a) ~~All~~ Except as set forth in subsection (b) of this section, fines, forfeitures, and penalties received by the district or superior court or by the ~~judicial bureau~~ Judicial Bureau, except as provided in section 7251 of this title, shall belong and be paid to the ~~state~~ State for deposit in the General Fund, except for a \$12.50 administrative charge for each offense or violation where a fine or penalty is assessed. The administrative charge shall be deposited in the

1 ~~court technology special fund Court Technology Special Fund established~~
2 pursuant to 4 V.S.A. § 27.

3 (b) Fines, forfeitures, and penalties imposed by the Judicial Bureau for
4 violations of 24 V.S.A. § 2201b, relating to littering in or on waters of the
5 State shall be paid to the Marine Debris Cleanup Fund established under
6 10 V.S.A. § 1264c, except for a \$12.50 administrative charge for each
7 violation which shall be retained by the State.

8 Sec. 4. 10 V.S.A. § 1264d is added to read:

9 § 1264d. MARINE DEBRIS CLEANUP FUND

10 (a) There is hereby established in the State Treasury a special fund to be
11 known as the Marine Debris Cleanup Fund, to be administered and expended
12 by the Secretary of Natural Resources to fund programs or projects for the
13 removal of litter or solid waste from the river corridor and shorelands of the
14 State.

15 (b) The Secretary may authorize disbursement or expenditures from the
16 Fund for:

17 (1) grants to municipalities, businesses, or associations for cleanup
18 programs or activities in river corridors and shoreland areas; and

19 (2) a public media campaign regarding the environmental consequences
20 of littering or depositing solid waste in or on the waters of the State.

1 ~~(c) There shall be deposited into the Fund:~~

2 ~~(1) all fines, forfeitures, and penalties imposed by the Judicial Bureau~~
3 ~~for violations of 24 V.S.A. § 2201b, relating to littering in or on waters of the~~
4 ~~State;~~

5 ~~(2) private gifts, bequests, grants, or donations made to the State from~~
6 ~~any public or private source for the purposes for which the Fund was~~
7 ~~established; and~~

8 ~~(3) any sums as may be appropriated by the General Assembly.~~

9 ~~(d) Interest earned by the Fund shall be credited and deposited to the Fund.~~

10 ~~All balances in the Fund at the end of the fiscal year shall be carried forward~~
11 ~~and remain a part of the Fund.~~

12 Sec. 5. EFFECTIVE DATE

13 ~~This act shall take effect on July 1, 2013.~~

Sec. 1. 24 V.S.A. § 2201 is amended to read:

§ 2201. THROWING, DEPOSITING, BURNING, AND DUMPING

REFUSE; PENALTY; SUMMONS AND COMPLAINT

(a)(1) Prohibition. Every person shall be responsible for proper disposal of his or her own solid waste. A person shall not throw, dump, deposit, cause, or permit to be thrown, dumped, or deposited any solid waste as defined in 10 V.S.A. § 6602, refuse of whatever nature, or any noxious thing;

(A) in or on the waters of the State, including frozen waters, or on the shores or banks of waters of the State in a manner as to be subject to being washed in the main stream or body of water under normal high water conditions, unless the person has a permit under 10 V.S.A. chapter 47 to discharge waste; or

(B) outside a solid waste management facility certified by the Agency of Natural Resources.

(2) It shall be prima facie evidence that a person who is identifiable from an examination of illegally disposed solid waste is the person who violated a provision of this section.

~~(2)~~(3) No person shall burn or cause to be burned in the open or incinerate in any container, furnace, or other device any solid waste without:

(A) first having obtained all necessary permits from the Agency of Natural Resources, the district environmental commission, and the municipality where the burning is to take place; and

(B) complying with all relevant State and local regulations and ordinances.

(b) Prosecution of violations. A person who violates a provision of this section commits a civil violation and shall be subject to a civil penalty of not more than \$500.00. This violation shall be enforceable in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29 in an action that may be

brought by a municipal attorney, solid waste management district attorney, environmental enforcement officer employed by the Agency of Natural Resources, grand juror, or designee of the legislative body of the municipality, or by any duly authorized law enforcement officer. If the throwing, placing, or depositing was done from a snowmobile or a motor vehicle, except a motor bus, it shall be prima facie evidence that the throwing, placing, or depositing was done by the driver of ~~such~~ the snowmobile or motor vehicle. If the throwing, placing, or depositing was done from a vessel, it shall be prima facie evidence that the throwing, placing, or depositing was done by the operator of the vessel. Nothing in this section shall be construed as affecting the operation of an automobile graveyard or salvage yard as defined in section 2241 of this title, nor shall anything in this section be construed as prohibiting the installation and use of appropriate receptacles for solid waste provided by the State or towns.

(c) Roadside cleanup; shoreland or river cleanup. A person found in violation of this section may be assigned to spend up to 80 hours collecting trash or litter from a specified segment of roadside or from a specified area of public property or from shorelands or river corridors, as those terms are defined in 10 V.S.A. § 1422.

(d) Revocation of motor vehicle operator's license. The Commissioner of Motor Vehicles shall suspend the motor vehicle operator's license or operating

privilege of a person found in violation of this section for a period of ten days if the person fails to pay the penalty set forth in subsection (b) of this section. If the person that fails to pay the penalty set forth in subsection (b) violated this section while operating a vessel, the Commissioner of Motor Vehicles shall suspend that person's certificate of boating education that is required by 23 V.S.A. § 3305b for a period of ten days. This provision shall not apply if the only evidence of violation is the presumption set forth in subsection (b) of this section. The Bureau shall immediately notify the Commissioner of Motor Vehicles of the entry of judgment.

(e) Revocation of hunting or fishing license. The Commissioner of Fish and Wildlife shall revoke the privilege of a person found in violation of this section from holding a hunting or fishing license, or both, for a period of one year from the date of the conviction, if the person fails to pay the penalty set forth in subsection (b) of this section. The Bureau shall immediately notify the Commissioner of Fish and Wildlife of the entry of judgment.

(f) ~~[Deleted.]~~ [Repealed.]

(g) Amendment of complaint. A person authorized to enforce this section may amend or dismiss a complaint issued by that person by marking the complaint and returning it to the Judicial Bureau. At the hearing, a person authorized to enforce this section may amend or dismiss a complaint issued by that person, subject to the approval of the hearing judge.

(h) ~~{Deleted.}~~ [Repealed.]

(i) Applicability. Enforcement actions taken under this section shall in no way preclude the Agency of Natural Resources, the Attorney General, or an appropriate State prosecutor from initiating other or further enforcement actions under the civil, administrative, or criminal enforcement provisions of 10 V.S.A. chapter 23, 47, 159, 201, or 211. To the extent that enforcement under this section is by an environmental enforcement officer employed by the Agency of Natural Resources, enforcement under this section shall preclude other enforcement by the ~~agency~~ Agency for the same offence.

(j) Definitions. As used in this section:

(1) “Motor vehicle” shall have the same meaning as in 23 V.S.A. § 4(21).

(2) “Snowmobile” shall have the same meaning as in 23 V.S.A. § 3801.

(3) “Vessel” means motor boats, boats, kayaks, canoes, sailboats, and all other types of watercraft.

(4) “Waters” shall have the same meaning as in 10 V.S.A. § 1251(13).

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.