

Vermont Legislative Council

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MEMORANDUM

To: Representative Quimby
From: Zach Mauldin
Date: February 24, 2014
Subject: H.685 overview and summary

OVERVIEW

H.685 is a bill relating to the identification of moorings in Vermont waters. The bill proposes to create a new subchapter in 29 V.S.A. chapter 11 regulating moorings. The bill would divide chapter 11 into three subchapters, with the third subchapter being a new subchapter related to moorings. The first subchapter would contain the existing general policy sections of the chapter, and the second chapter would contain the existing sections relating to permitting of encroachments such as fixed piers and docks.

A mooring, as defined by the bill, is a “buoy, piling, or other apparatus used to secure, berth, or moor vessels in public water. It does not include fixed piers connected to the shore” The bill would require persons who place a mooring in the waters of the State to affix to the mooring their name and address. Once a mooring is properly labeled, that mooring may only be used to secure a vessel by the owner or by persons with express permission from the owner. An unidentified mooring, however, may be used by anyone to secure vessels. Excluded from regulation under the bill are moorings subject to a validly issued municipal ordinance. This is to ensure that towns that already regulate moorings by ordinance will not be affected by this bill’s passage. This bill does nothing to affect the way encroachments such as docks and piers are currently permitted under existing law, and simply requires owners of floating mooring buoys to label them with the their name and address.

SECTION BY SECTION SUMMARY

SECTION 1

- Section 1 amends 29 V.S.A. § 401. This section is the policy section of chapter 11. The bill divides this section into three subsections, (a), (b), and (c), with subsection (c) being a new subsection relating to moorings.

- The changes to the existing language of this section simply add references to the new subchapters created by this bill: to subchapter 2 for those sections related to encroachments, and to subchapter 3 for the sections related to moorings.
- The new subsection (c) explains that, for purposes of regulating moorings, the Department of Environmental Conservation jurisdiction extends to all public waters of the State.

SECTION 2

- This section adds a new definition to 29 V.S.A. § 402, defining the term “Mooring” to mean “a buoy, piling, stake, or other apparatus used to secure, berth, or moor vessels in public water.” Mooring does not include “fixed piers connected to the shore or accessory structures directly related thereto that are encroachments subject to the permitting requirements of section 403 of this title.” This means that structures that are currently permitted as encroachments are not moorings.

SECTION 3

- This section amends 29 V.S.A. § 403(b). The existing § 403(b) lists the uses for which an encroachment permit is not necessary. The bill adds a new subdivision making explicit that moorings, as defined above, will not need a permit under 19 V.S.A. chapter 11.

SECTION 4

- This section amends 29 V.S.A. § 406. The existing § 406 provides that any person may appeal an act or decision of the Department. The bill amends the section so that this appeals section only applies to the subchapter 2 relating to encroachments, rather than applying to the whole chapter. The amended 29 V.S.A. § 406 would not apply to the new subchapter on moorings. The new subchapter 3 has its own appeals section, which is laid out below.

SECTION 5

- This section amends 29 V.S.A. § 409. Section 409 relates to injunctions to prevent, restrain, or abate a violation of 29 V.S.A. chapter 11. The bill amends this section to make it clear that the section only applies to violations of the newly redesignated subchapter two relating to encroachments.

SECTION 6

- This section creates the new 29 V.S.A. chapter 11, subchapter 3. This new subchapter would consist of four new sections which create new requirements for owners of moorings.
- The first newly created section is 29 V.S.A. § 416. This section creates the identification requirement for moorings. Subsection (a) provides that a person who places a mooring on or in the waters of the State shall paint or attach the owner's name and address to the mooring. Subsection (b) provides that any person may use a mooring that is not identified. This requirement should encourage mooring owners to properly label their mooring.
- The next new section is 29 V.S.A. § 417. This section provides that any person who ties up to an identified mooring without the permission of the owner may be fined up to \$75.00.
- Next, this section creates 29 V.S.A. § 418, which is the appeals section for the subchapter 3 on moorings. It provides that appeals of acts or decisions of the Department under this subchapter shall be must according to 10 V.S.A. chapter 220.
- Finally, this section creates 29 V.S.A. § 419, which relates to the application of municipal ordinances. It provides that subchapter 3 shall not apply to a mooring subject to a validly issued municipal ordinance. Some towns have passed ordinances regulating moorings in a variety of ways. Moorings in these towns will not be subject to the labeling requirement of § 416 or any other provision of the subchapter.

SECTION 7

- This section recodifies 29 V.S.A. §§ 401-402 to be 29 V.S.A. chapter 11, subchapter 1, as explained above.

SECTION 8

- This section recodifies 29 V.S.A. §§ 403–410 to be 29 V.S.A. chapter 11, subchapter 2, as explained above.

SECTION 9

- This section contains the effective date for the bill, July 1, 2014

CONCLUSION

This bill requires owners of moorings in Vermont State waters to label their mooring with their name and address. If the owner does so, only the owner may use the mooring. A person who uses a mooring without the permission of the owner may be fined up to \$75.00. A mooring that is not properly labeled, however, may be used by anyone.