

1 H.685

2 Introduced by Representative Krebs of South Hero

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; water resources; moorings

6 Statement of purpose of bill as introduced: This bill proposes to create
7 standards for identification and registration of moorings in the waters of the
8 State.

9 An act relating to identification and registration of moorings

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

11 ~~Sec. 1. 29 V.S.A. § 401 is amended to read:~~

12 ~~§ 401. POLICY~~

13 ~~(a) Lakes and ponds which are public waters of Vermont and the lands~~
14 ~~lying thereunder are a public trust, and it is the policy of the State that these~~
15 ~~waters and lands shall be managed to serve the public good, as defined by~~
16 ~~section 405 of this title, to the extent authorized by statute. For the purposes of~~
17 ~~this chapter, the exercise of this management shall be limited to encroachments~~
18 ~~subject to section 403 of this title subchapter 2 and moorings subject to~~
19 ~~subchapter 3 of this chapter. The management of these waters and lands shall~~

1 ~~be exercised by the Department of Environmental Conservation in accordance~~
2 with this chapter and the rules of the Department.

3 (b) For the purposes of regulation of encroachments under subchapter 2 of
4 this chapter, jurisdiction of the Department shall be construed as extending to
5 all lakes and ponds which are public waters and the lands lying thereunder,
6 which lie beyond the shoreline or shorelines delineated by the mean water
7 level of any lake or pond which is a public water of the State, as such mean
8 water level is determined by the Department. For the purposes of regulation of
9 encroachments under subchapter 2 of this chapter, jurisdiction shall include
10 encroachments of docks and piers on the boatable tributaries of Lake
11 Champlain and Lake Memphremagog upstream to the first barrier to
12 navigation, and encroachments of docks and piers on the Connecticut River
13 impoundments and boatable tributaries of such impounds upstream to the first
14 barrier to navigation. No provision of this chapter shall be construed to permit
15 trespass on private lands without the permission of the owner.

16 (c) For purposes of regulation of moorings regulated under subchapter 3 of
17 this chapter, jurisdiction of the Department shall be construed as extending to
18 all public waters of the State.

19 Sec. 2. 29 V.S.A. § 402(8) is added to read:

20 (8) "Mooring" means a buoy, piling, stake, or other apparatus used to
21 secure, berth, or moor vessels in public water. It does not include fixed piers

1 ~~connected to the shore or accessory structures directly related thereto that are~~
2 encroachments subject to the permitting requirements of section 403 of this
3 title.

4 Sec. 3. 29 V.S.A. § 403(b) is amended to read:

5 (b) A permit shall not be required for the following uses provided that
6 navigation or boating is not unreasonably impeded:

7 * * *

8 (6) Moorings, as defined by subdivision 402(8) of this chapter.

9 Sec. 4. 29 V.S.A. § 406 is amended to read:

10 § 406. APPEALS

11 Appeals of any act or decision of the ~~department~~ Department under this
12 ~~chapter~~ subchapter shall be made in accordance with 10 V.S.A. chapter 220 of
13 Title 10.

14 Sec. 5. 29 V.S.A. § 409 is amended to read:

15 § 409. INJUNCTION

16 Any person aggrieved by any violation of this ~~chapter~~ subchapter, or the
17 ~~attorney general~~ Attorney General at the request of the ~~department~~ Department,
18 may institute any appropriate action in the ~~superior court~~ Superior Court of the
19 county in which a proposed or existing encroachment is located to prevent,
20 restrain, correct, or abate any violation of this ~~chapter~~ subchapter or of the
21 conditions of any permit issued under this ~~chapter~~ subchapter.

1 ~~Sec. 6. 29 V.S.A. chapter 11, subchapter 3 is added to read:~~

2 Subchapter 3. Moorings

3 § 416. IDENTIFICATION OF MOORINGS

4 (a) A person who places a mooring on or in the waters of the State shall
5 paint on or attach to the mooring the owner's name and address.

6 (b) Any person may use a mooring not bearing the owner's name and
7 address to secure his or her vessel.

8 § 417. UNAUTHORIZED USE OF MOORINGS

9 A person who ties or otherwise attaches a vessel to an identified mooring of
10 another without express permission of the mooring's owner is subject to an
11 administrative penalty of not more than \$75.00.

12 § 418. APPEALS

13 Appeals of any act or decision of the Department under this subchapter
14 shall be made in accordance with 10 V.S.A. chapter 220.

15 Sec. 7. RECODIFICATION

16 29 V.S.A. §§ 401–402 are recodified within chapter 11 to be subchapter 1,
17 which is added to read:

18 Subchapter 1. General Provisions

19 Sec. 8. RECODIFICATION

20 29 V.S.A. §§ 403–410 are recodified within chapter 11 to be subchapter 2,
21 which is added to read:

1 ~~Subchapter 2. Encroachments~~

2 Sec. 9. EFFECTIVE DATE

3 ~~This act shall take effect on July 1, 2014.~~

Sec. 1. 29 V.S.A. § 401 is amended to read:

§ 401. POLICY

(a) Lakes and ponds which are public waters of Vermont and the lands lying thereunder are a public trust, and it is the policy of the State that these waters and lands shall be managed to serve the public good, as defined by section 405 of this title, to the extent authorized by statute. For the purposes of this chapter, the exercise of this management shall be limited to encroachments subject to ~~section 403 of this title~~ subchapter 2 and moorings subject to subchapter 3 of this chapter. The management of these waters and lands shall be exercised by the Department of Environmental Conservation in accordance with this chapter and the rules of the Department.

(b) For the purposes of regulation of encroachments under subchapter 2 of this chapter, jurisdiction of the Department shall be construed as extending to all lakes and ponds which are public waters and the lands lying thereunder, which lie beyond the shoreline or shorelines delineated by the mean water level of any lake or pond which is a public water of the State, as such mean water level is determined by the Department. For the purposes of regulation of encroachments under subchapter 2 of this chapter, jurisdiction shall include

encroachments of docks and piers on the boatable tributaries of Lake Champlain and Lake Memphremagog upstream to the first barrier to navigation, and encroachments of docks and piers on the Connecticut River impoundments and boatable tributaries of such impounds upstream to the first barrier to navigation. No provision of this chapter shall be construed to permit trespass on private lands without the permission of the owner.

(c) For purposes of regulation of moorings regulated under subchapter 3 of this chapter, jurisdiction of the Department shall be construed as extending to all public waters of the State.

Sec. 2. 29 V.S.A. § 402(8) is added to read:

(8) "Mooring" means a buoy, piling, stake, or other apparatus used to secure, berth, or moor vessels in public water. It 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.

Sec. 3. 29 V.S.A. § 403(b) is amended to read:

(b) A permit shall not be required for the following uses provided that navigation or boating is not unreasonably impeded:

* * *

(6) Moorings, as defined by subdivision 402(8) of this chapter.

Sec. 4. 29 V.S.A. § 406 is amended to read:

§ 406. APPEALS

Appeals of any act or decision of the ~~department~~ Department under this ~~chapter~~ subchapter shall be made in accordance with 10 V.S.A. chapter 220 of Title 10.

Sec. 5. 29 V.S.A. § 409 is amended to read:

§ 409. INJUNCTION

Any person aggrieved by any violation of this ~~chapter~~ subchapter, or the ~~attorney-general~~ Attorney General at the request of the ~~department~~ Department, may institute any appropriate action in the ~~superior-court~~ Superior Court of the county in which a proposed or existing encroachment is located to prevent, restrain, correct, or abate any violation of this ~~chapter~~ subchapter or of the conditions of any permit issued under this ~~chapter~~ subchapter.

Sec. 6. 29 V.S.A. chapter 11, subchapter 3 is added to read:

Subchapter 3. Moorings

§ 416. IDENTIFICATION OF MOORINGS

(a) A person who places a mooring on or in the waters of the State shall paint on or attach to the mooring the owner's name and address.

(b) Any person may use a mooring not bearing the owner's name and address to secure his or her vessel.

§ 417. UNAUTHORIZED USE OF MOORINGS

Unless use of a mooring is necessary in a time of emergency to protect personal safety or property, a person who ties or otherwise attaches a vessel to an identified mooring of another without express permission of the mooring's owner is subject to an administrative penalty of not more than \$75.00.

§ 418. APPEALS

Appeals of any act or decision of the Department under this subchapter shall be made in accordance with 10 V.S.A. chapter 220.

§ 419. APPLICATION OF MUNICIPAL ORDINANCES

This subchapter shall not apply to a mooring subject to a validly issued municipal ordinance.

Sec. 7. RECODIFICATION

29 V.S.A. §§ 401–402 are recodified within chapter 11 to be subchapter 1, which is added to read:

Subchapter 1. General Provisions

Sec. 8. RECODIFICATION

29 V.S.A. §§ 403–410 are recodified within chapter 11 to be subchapter 2, which is added to read:

Subchapter 2. Encroachments

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2014.