

1 H.625

2 Introduced by Representative Corcoran of Bennington

3 Referred to Committee on

4 Date:

5 Subject: Transportation; hazardous materials; liability; emergency

6 management; conservation and development; penalties

7 Statement of purpose of bill as introduced: This bill proposes to:

8 (1) require persons subject to the Hazardous Materials Transportation  
9 Act (HMTA), who are required to submit registration statements and  
10 transportation security plans under the HMTA and its implementing  
11 regulations, to submit copies to the Secretary of Transportation and the  
12 Commissioner of Public Safety;

13 (2) create strict liability for personal injuries or property damage arising  
14 from a violation of the HMTA and its implementing regulations;

15 (3) require the Emergency Management Division to consider the  
16 information contained in HMTA registration statements and transportation  
17 security plans in preparing the State emergency management strategy and to  
18 submit an annual report to the General Assembly summarizing its activities  
19 and grants received; and

20 (4) make persons subject to the HMTA liable for civil and criminal  
21 penalties in environmental enforcement actions brought by the State for

1 failures to comply with requirements of the HMTA and its implementing  
2 regulations.

3 An act relating to transportation of hazardous materials and emergency  
4 management

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

6 Sec. 1. 5 V.S.A. § 2001 is amended to read:

7 § 2001. TRANSPORTATION OF HAZARDOUS MATERIALS

8 (a) The Secretary of Transportation is authorized to promote safety in the  
9 transportation of hazardous materials by all modes of transportation, and  
10 furthermore is authorized:

11 (1) ~~is authorized to make~~ To adopt rules; under 3 V.S.A. chapter 25,  
12 governing transportation of hazardous materials. ~~“Hazardous~~ As used in this  
13 subsection, “hazardous materials” are those substances or materials in such  
14 quantity and form which may pose an unreasonable risk to health and safety or  
15 property when transported in commerce, by all modes. ~~For purposes of this~~  
16 ~~section, hazardous materials, and~~ and may include, but are not limited to,  
17 explosives, radioactive materials, etiologic agents, flammable liquids or solids,  
18 combustible liquids or solids, poisons, oxidizing or corrosive materials, and  
19 compressed gases. These rules shall be no less protective of public safety than  
20 the rules promulgated by the federal government with respect to the

1 transportation of hazardous materials but no rule shall prohibit a person  
2 between ~~the ages of 18 to~~ years of age and 21 years of age from operating a  
3 motor vehicle transporting hazardous materials;

4 (2) ~~is authorized to~~ To enforce these rules adopted pursuant to  
5 subdivision (1) of this subsection through the use of ~~agency~~ Agency staff or  
6 others pursuant to cooperative agreement; ~~and.~~

7 (3) ~~is authorized to~~ To enter into cooperative agreements with agencies  
8 of this and other states and of the federal government in relation to  
9 enforcement of these rules and rules or regulations promulgated by the federal  
10 government ~~which~~ that apply to transportation in Vermont.

11 (b) It shall be unlawful for any person to violate any of the rules  
12 ~~promulgated~~ adopted by the Secretary under this section.

13 (c) Any person who violates ~~these~~ the rules adopted by the Secretary under  
14 this section shall be subject to a civil penalty of not more than \$1,000.00.

15 These rules shall identify violations, and possible penalties, by category,  
16 depending on the seriousness of the violation.

17 (d) Notwithstanding any other provision of this chapter or other law  
18 whether general, special, or local, violations of any rules ~~promulgated~~ adopted  
19 pursuant to this section involving the operation of a motor vehicle may be  
20 charged through the use of a traffic complaint prescribed by the Supreme Court  
21 pursuant to 4 V.S.A. § 1105.

1 (e) With respect to the transportation of radioactive materials, nothing in  
2 this section shall be construed to abrogate or affect the provisions of any other  
3 federal or ~~state~~ State statute or local ordinance, regulation, or resolution ~~which~~  
4 that are more restrictive than or ~~which~~ that supersede the provisions of this  
5 section or rules adopted pursuant to this section.

6 (f) The regulations promulgated by the Pipeline and Hazardous Materials  
7 Safety Administration, U.S. Department of Transportation contained in Parts  
8 100–199 of Title 49 of the Code of Federal Regulations revised as of  
9 October 1, 2007, and any amendment or addition to these regulations, and the  
10 regulations promulgated by the Federal Motor Carrier Safety Administration,  
11 U.S. Department of Transportation contained in Parts 390–397 of Title 49 of  
12 the Code of Federal Regulations, revised as of October 1, 2008, and any  
13 amendment or addition to these regulations, and any provisions of any other  
14 regulations regarding the transportation of hazardous materials adopted by a  
15 federal agency may be adopted by the Secretary of Transportation.

16 (g) A person subject to the requirements of the Hazardous Materials  
17 Transportation Act (HMTA), 49 U.S.C. chapter 51, and its implementing  
18 regulations, who:

19 (1) submits a registration statement to the U.S. Department of  
20 Transportation shall submit a copy of the statement, including any updates  
21 thereto, to the Secretary and to the Commissioner of Public Safety;

1           (2) submits a transportation security plan to the U.S. Department of  
2           Transportation shall submit a copy of the plan, including any updates thereto,  
3           to the Secretary and to the Commissioner of Public Safety.

4           (h) A person subject to the requirements of the HMTA, 49 U.S.C.  
5           chapter 51, and its implementing regulations, who violates one or more  
6           requirement of the HMTA and its implementing regulations and thereby causes  
7           personal injury or property damage to another person shall be held strictly  
8           liable for the injury or damages caused by the violation.

9           Sec. 2. 20 V.S.A. § 3a is amended to read:

10          § 3a. EMERGENCY MANAGEMENT DIVISION; DUTIES; BUDGET

11          (a) In addition to other duties required by law, the ~~emergency management~~  
12          ~~division~~ Emergency Management Division shall:

13               (1) Establish and define emergency planning zones and prepare and  
14               maintain a comprehensive ~~state~~ State emergency management strategy that  
15               includes an emergency operations plan, establish and define emergency  
16               planning zones and prepare and maintain a radiological emergency response  
17               plan for use in those zones, and prepare an all-hazards mitigation plan in  
18               cooperation with other state, regional, and local agencies for use in such zones  
19               and in compliance with adopted federal standards for emergency management.  
20               The strategy shall be designed to protect the lives and property, including  
21               domestic animals, of persons within this ~~state~~ State who might be threatened as

1 the result of all-hazards, and shall align ~~state~~ State coordination structures,  
2 capabilities, and resources into a unified and ~~multi-disciplined~~ multidisciplined  
3 all-hazards approach to incident management. In preparing the strategy, the  
4 Division shall consider the information contained in the Hazardous Materials  
5 Transportation Act registration statements and transportation security plans  
6 submitted to the Commissioner pursuant to 5 V.S.A. § 2001(g).

7 \* \* \*

8 (3) Assist the ~~state emergency response commission~~ State Emergency  
9 Response Commission, the local emergency planning committees, and the  
10 municipally established local organizations referred to in section 6 of this title  
11 in carrying out their designated emergency functions, including developing,  
12 implementing, and coordinating emergency response plans.

13 (4) Provide administrative support to the ~~state emergency response~~  
14 ~~commission~~ State Emergency Response Commission.

15 (5) Submit a report to the General Assembly annually, on or before  
16 January 15, that summarizes:

17 (A) the emergency response training activities undertaken in the State  
18 in accordance with the curriculum developed by the U.S. Department of  
19 Transportation pursuant to 49 U.S.C. § 5115 for the training of public sector  
20 emergency response and preparedness teams in matters relating to the

1 transportation of hazardous material, and other training activities undertaken  
2 related to emergency response preparedness;

3 (B) the nature, specific source, and amount of each grant received by  
4 the State, a local emergency planning committee, or a local organization for  
5 emergency management to conduct emergency response training activities;

6 (C) the activities of the State Emergency Response Commission with  
7 respect to each specific authority granted under section 31 of this title; and

8 (D) its activities to carry out its obligations under subdivisions (1)–  
9 (4) of this subsection (a).

10 \* \* \*

11 Sec. 3. 10 V.S.A. chapter 159 is amended to read:

12 CHAPTER 159. WASTE MANAGEMENT; HAZARDOUS MATERIALS

13 \* \* \*

14 § 6607. TRANSPORTATION OF HAZARDOUS WASTES, MATERIALS

15 (a) In accordance with the Administrative Procedure Act, the Agency of  
16 Transportation, in consultation with the Secretary, shall issue rules for the  
17 transportation of hazardous wastes. Such rules shall be consistent with  
18 applicable rules issued by the U.S. Department of Transportation, and  
19 consistent with any rules, and standards of this chapter.

20 (b) The provisions of this section shall apply equally to those persons  
21 transporting hazardous wastes generated by others and to those transporting

1 hazardous wastes they have generated themselves, or combinations thereof, as  
2 well as persons transporting hazardous wastes through the State of Vermont.

3 (c) For purposes of their transportation, the following, in waste or usable  
4 form, shall not be considered hazardous wastes, but shall be handled as solid  
5 waste: mercury-added consumer products, pesticides, paint (whether water  
6 based or oil based), paint thinner, paint remover, stains, and varnishes. This  
7 exclusion shall not apply with respect to hazardous wastes that are regulated  
8 under federal law.

9 (d) A person subject to requirements of the Hazardous Materials  
10 Transportation Act (HMTA), 49 U.S.C. chapter 51, and its implementing  
11 regulations, shall comply with all applicable requirements of the HMTA and  
12 its implementing regulations.

13 \* \* \*

14 § 6612. PENALTIES

15 (a) Any person who violates any provision of this chapter, the rules  
16 adopted under this chapter, or the terms or conditions of any order of  
17 certification granted by the Secretary, shall be subject to a criminal penalty not  
18 to exceed \$25,000.00 or imprisonment for not more than six months, or both.

19 (b) Any person who violates any provision of this chapter relating to solid  
20 or hazardous waste management, the rules adopted under this chapter, ~~or~~ the  
21 terms or conditions of any order relating to solid or hazardous waste



1 management or terms and conditions of any solid or hazardous waste facility  
2 certification, or compliance with the Hazardous Materials Transportation Act  
3 and implementing regulations, shall be subject to a civil penalty not to exceed  
4 \$10,000.00.

5 (c) Each violation may be a separate and distinct offense and, in the case of  
6 a continuing violation, each day's continuance thereof may be deemed a  
7 separate and distinct offense.

8 (d) Any person who commits any of the following in violation of any  
9 provision of this chapter, the rules adopted under this chapter, or the terms or  
10 conditions of any order or certification under this title shall be subject to a  
11 criminal penalty not to exceed \$250,000.00, or imprisonment for not more than  
12 five years, or both:

13 (1) the knowing or reckless transport, treatment, storage, or disposal of  
14 any hazardous waste, or the knowing or reckless violation of subsection  
15 6607(d) of this chapter;

16 (2) the knowing or reckless transport, treatment, storage, or disposal of  
17 more than one cubic yard of solid waste or more than 275 pounds of solid  
18 waste;

19 (3) the knowing or reckless release of any hazardous material.

20 \* \* \*

1 Sec. 4. 10 V.S.A. § 8003 is amended to read:

2 § 8003. APPLICABILITY

3 (a) The Secretary may take action under this chapter to enforce the  
4 following statutes and rules, permits, assurances, or orders implementing the  
5 following statutes, and the Board may take such action with respect to  
6 subdivision (10) of this subsection:

7 \* \* \*

8 (12) 10 V.S.A. chapter 159, relating to solid waste, hazardous waste,  
9 ~~and hazardous materials,~~ and the Hazardous Materials Transportation Act;

10 \* \* \*

11 Sec. 5. EFFECTIVE DATE

12 This act shall take effect on July 1, 2018.