

1 H.663

2 Introduced by Representatives Smith of New Haven, Partridge of Windham,
3 Beck of St. Johnsbury, Buckholz of Hartford, Graham of
4 Williamstown, Hooper of Randolph, Lawrence of Lyndon, and
5 Norris of Shoreham

6 Referred to Committee on

7 Date:

8 Subject: Conservation and development; natural resources; municipal planning
9 and development; agriculture; municipal land use bylaws

10 Statement of purpose of bill as introduced: This bill proposes to direct that no
11 municipal land use bylaw may have the effect of prohibiting an accessory on-
12 farm business at the same location as a farm regulated under the rules for
13 required agricultural practices adopted by the Secretary of Agriculture, Food
14 and Markets. The bill also proposes to define and set forth requirements for
15 what constitutes an accessory on-farm business. The bill does not affect
16 existing exemptions for agriculture under 10 V.S.A. chapter 151 or 24 V.S.A.
17 chapter 117.

18 An act relating to municipal land use regulation of accessory on-farm
19 businesses

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

1 Sec. 1. PURPOSE

2 The General Assembly adopts this act to:

3 (1) promote and facilitate the economic viability of Vermont's
4 farms; and

5 (2) increase the consistency across the State of municipal regulation and
6 permitting of accessory activity that supports those farms.

7 Sec. 2. 24 V.S.A. § 4412 is amended to read:

8 § 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

9 Notwithstanding any existing bylaw, the following land development
10 provisions shall apply in every municipality:

11 * * *

12 (11) Accessory on-farm businesses. No bylaw shall have the effect of
13 prohibiting an accessory on-farm business at the same location as a farm.

14 (A) Definitions. As used in this subdivision (11):

15 (i) "Accessory on-farm business" means activity that is accessory
16 to a farm and comprises one or more of the following:

17 (I) The storage, preparation, processing, and sale of qualifying
18 products, provided that more than 50 percent of the total annual sales are from
19 qualifying products that are principally produced on the farm at which the
20 business is located.

21 (II) Educational, recreational, or social events that feature

1 ~~agricultural practices or qualifying products, or both. Such events may include~~
2 ~~tours of the farm, tastings and meals featuring qualifying products, and classes~~
3 ~~or exhibits in the preparation, processing, or harvesting of qualifying products.~~

4 (III) Private events, such as conferences or weddings, in which
5 the farm is leasing space to others who control and present the event. Such
6 events must occur at the same location as the farm operation. An event shall
7 not be considered private if the attendees must pay in order to attend.

8 (ii) "Farm" means a parcel or parcels owned, leased, or managed
9 by a person, devoted primarily to farming, and subject to the RAP rules. For
10 leased lands to be part of a farm, the lessee must exercise control over the
11 lands to the extent they would be considered as part of the lessee's own farm.
12 Indicators of such control include whether the lessee makes day-to-day
13 decisions concerning the cultivation or other farming-related use of the leased
14 lands and whether the lessee manages the land for farming during the lease
15 period.

16 (iii) "Farming" shall have the same meaning as in 10 V.S.A.
17 § 6001.

18 (iv) "Qualifying product" means a product that is wholly:

19 (I) an agricultural, horticultural, viticultural, or dairy
20 commodity, or maple syrup;

21 (II) livestock or cultured fish or a product thereof,

1 ~~(III) a product of poultry, bees, an orchard, or fiber crops;~~

2 ~~(IV) a commodity otherwise grown or raised on a farm; or~~

3 ~~(V) a product manufactured on one or more farms from~~

4 ~~commodities wholly grown or raised on one or more farms.~~

5 ~~(v) “RAP rules” means the rules on required agricultural practices~~
6 ~~adopted pursuant to 6 V.S.A. chapter 215, subchapter 2.~~

7 ~~(B) Eligibility. For an accessory on-farm business to be eligible for~~
8 ~~the benefit of this subdivision (11), the business shall comply with each of the~~
9 ~~following:~~

10 ~~(i) The business is operated by the farm owner, one or more~~
11 ~~persons residing on the farm parcel, or the lessee of a portion of the farm.~~

12 ~~(ii) The farm meets the threshold criteria for the applicability of~~
13 ~~the RAP rules as set forth in those rules.~~

14 ~~(C) Use of existing structures or land. An accessory on-farm~~
15 ~~business may take place inside any existing structures or on the land.~~

16 ~~(D) Review; permit. Activities of an accessory on-farm business that~~
17 ~~are not exempt under section 4413 of this title may be subject to site plan~~
18 ~~review pursuant to section 4416 of this title. A bylaw may require that such~~
19 ~~activities meet the same performance standards otherwise adopted in the bylaw~~
20 ~~for similar commercial uses pursuant to subdivision 4414(5) of this title.~~

21 ~~(E) Less restrictive. A municipality may adopt a bylaw concerning~~

1 ~~accessory on-farm businesses that is less restrictive than the requirement of~~
2 ~~this subdivision (11).~~

3 (F) Notification; training. The Secretary of Agriculture, Food and
4 Markets shall provide periodic written notification and training sessions to
5 farms subject to the RAP rules on the existence and requirements of this
6 subdivision (11) and the potential need for other permits for an accessory on-
7 farm business, including a potable water and wastewater system permit under
8 10 V.S.A. chapter 64.

9 Sec. 3. EFFECTIVE DATE

10 ~~This act shall take effect on July 1, 2018.~~

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farms; and

(2) increase the consistency across the State of municipal regulation and
permitting of accessory activity that supports those farms.

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(A) Definitions. As used in this subdivision (11):

(i) "Accessory on-farm business" means activity that is accessory to a farm and comprises one or both of the following:

(I) The storage, preparation, processing, and sale of qualifying products, provided that more than 50 percent of the total annual sales are from qualifying products that are principally produced on the farm at which the business is located.

(II) Educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such events may include tours of the farm, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products.

(ii) "Farm" means a parcel or parcels owned, leased, or managed by a person, devoted primarily to farming, and subject to the RAP rules. For leased lands to be part of a farm, the lessee must exercise control over the lands to the extent they would be considered as part of the lessee's own farm. Indicators of such control include whether the lessee makes day-to-day decisions concerning the cultivation or other farming-related use of the leased lands and whether the lessee manages the land for farming during the lease

period.

(iii) "Farming" shall have the same meaning as in 10 V.S.A.

§ 6001.

(iv) "Qualifying product" means a product that is wholly:

(I) an agricultural, horticultural, viticultural, or dairy commodity, or maple syrup;

(II) livestock or cultured fish or a product thereof;

(III) a product of poultry, bees, an orchard, or fiber crops;

(IV) a commodity otherwise grown or raised on a farm; or

(V) a product manufactured on one or more farms from commodities wholly grown or raised on one or more farms.

(v) "RAP rules" means the rules on required agricultural practices adopted pursuant to 6 V.S.A. chapter 215, subchapter 2.

(B) Eligibility. For an accessory on-farm business to be eligible for the benefit of this subdivision (11), the business shall comply with each of the following:

(i) The business is operated by the farm owner, one or more persons residing on the farm parcel, or the lessee of a portion of the farm.

(ii) The farm meets the threshold criteria for the applicability of the RAP rules as set forth in those rules.

(C) Use of structures or land. An accessory on-farm business may

take place inside new or existing structures or on the land.

(D) Review; permit. Activities of an accessory on-farm business that are not exempt under section 4413 of this title may be subject to site plan review pursuant to section 4416 of this title. A bylaw may require that such activities meet the same performance standards otherwise adopted in the bylaw for similar commercial uses pursuant to subdivision 4414(5) of this title.

(E) Less restrictive. A municipality may adopt a bylaw concerning accessory on-farm businesses that is less restrictive than the requirement of this subdivision (11).

(F) Notification; training. The Secretary of Agriculture, Food and Markets shall provide periodic written notification and training sessions to farms subject to the RAP rules on the existence and requirements of this subdivision (11) and the potential need for other permits for an accessory on-farm business, including a potable water and wastewater system permit under 10 V.S.A. chapter 64.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.