

1 S.287

2 Introduced by Senator Rodgers

3 Referred to Committee on Natural Resources and Energy

4 Date: January 3, 2018

5 Subject: Conservation and development; solid waste; recycling

6 Statement of purpose of bill as introduced: This bill proposes to amend
7 requirements for the recycling of mandated recyclables, leaf and yard
8 residuals, and food residuals. The bill would remove glass bottles and
9 containers from the definition of mandated recyclables and would increase the
10 scope of the beverage container redemption system to include wine and ot
11 her alcoholic beverages. The bill would also amend the definition of solid
12 waste management facility to include bag-drop or fast-trash sites. The bill
13 would allow a solid waste management facility to charge a separate fee for the
14 collection of mandated recyclables. The bill would strike the requirement that
15 a person who produces more than 18 tons per year of food residuals arrange
16 for their transfer to a facility that manages food residuals. The would bill also
17 strike the requirement that commercial haulers, beginning on July 1, 2018,
18 offer the service of collection of food residuals separate from other solid
19 waste. In addition, the bill would exempt commercial haulers from collecting
20 mandated recyclables and leaf and yard residuals in municipalities that meet
21 specified criteria.

~~An act relating to universal recycling requirements~~

~~An act relating to aquatic nuisance control~~

An act relating to aquatic nuisance control, Act 250 corrective actions, and beverage container redemption

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

~~*** Glass Recycling ***~~

Sec. 1. 10 V.S.A. § 6602(29) is amended to read:

(29) "Mandated recyclable" means the following source separated materials: aluminum and steel cans; aluminum foil and aluminum pie plates; ~~glass bottles and jars from foods and beverages;~~ polyethylene terephthalate (PET) plastic bottles or jugs; high density polyethylene (HDPE) plastic bottles and jugs; corrugated cardboard; white and colored paper; newspaper; magazines; catalogues; paper mail and envelopes; boxboard; and paper bags.

Sec. 2. 10 V.S.A. § 1521 is amended to read:

§ 1521. DEFINITIONS

~~For the purpose of~~ As used in this chapter:

(1) "Beverage" means beer or other malt beverages and mineral waters, wine, mixed wine drink, soda water and, carbonated soft drinks in liquid form and intended for human consumption, and all other alcoholic beverages not otherwise listed. As of January 1, 1990 "beverage" also shall mean liquor.

* * *

~~(11) "Alcoholic beverages" shall have the same meaning as in~~

1 ~~7 V.S.A. § 2.~~

2 Sec. 3. 10 V.S.A. § 1524 is amended to read:

3 § 1524. LABELING

4 (a) Every beverage container sold or offered for sale at retail in this ~~state~~
5 State shall clearly indicate by embossing or imprinting on the normal product
6 label, or in the case of a metal beverage container on the top of the container,
7 the word "Vermont" or the letters "VT" and the refund value of the container
8 in not less than one-eighth inch type size or ~~such~~ other alternate indications as
9 may be approved by the ~~secretary~~ Secretary. This subsection does not prohibit
10 including names or abbreviations of other states with deposit legislation
11 comparable to this chapter.

12 (b) The ~~commissioner of the department of liquor control~~ Commissioner of
13 Liquor Control may allow, in the case of liquor bottles, a conspicuous,
14 adhesive sticker to be attached to indicate the deposit information required in
15 subsection (a) of this section, provided that the size, placement, and adhesive
16 qualities of the sticker are as approved by the ~~commissioner~~ Commissioner.
17 The stickers shall be affixed to the bottles by the manufacturer, except that
18 liquor ~~which~~ that is sold in the ~~state~~ State in quantities less than 100 cases per
19 year may have stickers affixed by personnel employed by the ~~department~~
20 Department.

21 ~~(c) This section shall not apply to permanently labeled beverage containers.~~

1 ~~(d) The Secretary may allow, in the case of wine bottles, a conspicuous,~~
2 ~~adhesive sticker to be attached to indicate the deposit information required in~~
3 ~~subsection (a) of this section, provided that the size, placement, and adhesive~~
4 ~~qualities of the sticker are as approved by the Secretary. The stickers shall be~~
5 ~~affixed by the manufacturer.~~

6 * * * Solid Waste Management Facilities * * *

7 Sec. 4. 10 V.S.A. § 6602(10) is amended to read:

8 (10) "Facility" means all contiguous land, structures, other
9 appurtenances, and improvements on the land, used for treating, storing, or
10 disposing of waste. A facility may consist of several treatment, storage, or
11 disposal operational units. A facility shall include a site referred to as a bag-
12 drop or fast-trash site where solid waste, mandated recyclables, leaf and yard
13 residuals, or food residuals are temporarily collected by a commercial hauler,
14 solid waste district, or other person on specified days or at specified times.

15 Sec. 5. 10 V.S.A. § 6605 is amended to read:

16 § 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

17 (a)(1) No person shall construct, substantially alter, or operate any solid
18 waste management facility without first obtaining certification from the
19 Secretary for such facility, site, or activity, except for sludge or septage
20 treatment or storage facilities located within the fenced area of a domestic
21 wastewater treatment plant permitted under chapter 47 of this title. This
22 ~~exemption for sludge or septage treatment or storage facilities shall exist~~

1 only if:

2 (A) the treatment facility does not utilize a process to further reduce
3 pathogens further in order to qualify for marketing and distribution; and

4 (B) the facility is not a drying bed, lagoon, or nonconcrete
5 bunker; and

6 (C) the owner of the facility has submitted a sludge and septage
7 management plan to the Secretary and the Secretary has approved the plan.
8 Noncompliance with an approved sludge and septage management plan shall
9 constitute a violation of the terms of this chapter, as well as a violation under
10 chapters 201 and 211 of this title.

11 (2) Certification shall be valid for a period not to exceed 10 years.

12 * * *

13 (j) A facility certified under this section that offers the collection of
14 municipal solid waste shall:

15 (1) Beginning on July 1, 2014, collect mandated recyclables separate
16 from other solid waste and deliver mandated recyclables to a facility
17 maintained and operated for the management and recycling of mandated
18 recyclables. A facility shall not be required to accept mandated recyclables
19 from a commercial hauler.

20 (2) Beginning on July 1, 2015, collect leaf and yard residuals separate
21 from other solid waste and deliver leaf and yard residuals to a location that

1 ~~manages leaf and yard residuals in a manner consistent with the priority uses~~
2 established under subdivisions 6605k(a)(3)-(5) of this title.

3 (3) Beginning on July 1, 2017, collect food residuals separate from
4 other solid waste and deliver food residuals to a location that manages food
5 residuals in a manner consistent with the priority uses established under
6 subdivisions 6605k(a)(2)-(5) of this title.

7 (k) The Secretary may, by rule, adopt exemptions to the requirements of
8 subsection (j) of this section, provided that the exemption is consistent with the
9 purposes of this chapter and the objective of the State plan.

10 (l) ~~A facility certified under this section that offers the collection of~~
11 ~~municipal solid waste shall not charge a separate fee for the collection of~~
12 ~~mandated recyclables.~~ A facility certified under this section may incorporate
13 the cost of the collection of mandated recyclables into the cost of the collection
14 of municipal solid waste and may adjust the charge for the collection of
15 municipal solid waste. A facility certified under this section also may charge a
16 separate fee for the collection of mandated recyclables, leaf and yard residuals,
17 or food residuals. If a facility collects mandated recyclables from a
18 commercial hauler, the facility may charge a fee for the collection of those
19 mandated recyclables.

20 * * * Food Residuals Management * * *

21 ~~Sec. 6. 10 V.S.A. § 6605k is amended to read~~

~~§ 6605k. FOOD RESIDUALS; MANAGEMENT HIERARCHY~~

(a) It is the policy of the State that food residuals collected under the requirements of this chapter shall be managed according to the following order of priority uses:

- (1) reduction of the amount generated at the source;
- (2) diversion for food consumption by humans;
- (3) diversion for agricultural use, including consumption by animals;
- (4) composting, land application, and digestion; and
- (5) energy recovery.

(b) A person who produces more than an amount identified under subsection (c) of this section in food residuals and is located within 20 miles of a certified organics management facility that has available capacity and that is willing to accept the food residuals shall:

(1) ~~Separate~~ separate food residuals from other solid waste, provided that a de minimis amount of food residuals may be disposed of in solid waste when a person has established a program to separate food residuals and the program includes a component for the education of program users regarding the need to separate food residuals; and

(2) ~~Arrange~~ arrange for the transfer of food residuals to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions (a)(2)-(5) of this section or shall manage food residuals on site.

1 ~~(c) The following persons shall be subject to the requirements of~~
2 subsection (b) of this section:

3 (1) beginning on July 1, 2014, a person whose acts or processes produce
4 more than 104 tons per year of food residuals;

5 (2) beginning on July 1, 2015, a person whose acts or processes produce
6 more than 52 tons per year of food residuals;

7 (3) beginning on July 1, 2016, a person whose acts or processes produce
8 more than 26 tons per year of food residuals; and

9 ~~(4) beginning July 1, 2017, a person whose acts or processes produce~~
10 ~~more than 18 tons per year of food residuals; and [Repealed.]~~

11 (5) beginning on July 1, 2020, any person who generates any amount of
12 food residuals.

13 * * * Commercial Hauler Requirements * * *

14 Sec. 7. 10 V.S.A. § 6607a is amended to read:

15 § 6607a. WASTE TRANSPORTATION

16 (a) A commercial hauler desiring to transport waste within the State shall
17 apply to the Secretary for a permit to do so, by submitting an application on a
18 form prepared for this purpose by the Secretary and by submitting the
19 disclosure statement described in section 6605f of this title. These permits
20 shall have a duration of five years and shall be renewed annually. The
21 ~~application shall indicate the nature of the waste to be hauled. The Secretary~~

1 ~~may specify conditions that the Secretary deems necessary to assure~~

2 ~~compliance with State law.~~

3 ~~(b) As used in this section:~~

4 ~~(1) "Commercial hauler" means:~~

5 ~~(A) any person that transports regulated quantities of hazardous~~
6 ~~waste; and~~

7 ~~(B) any person that transports solid waste for compensation in a~~
8 ~~vehicle.~~

9 ~~(2) The commercial hauler required to obtain a permit under this section~~
10 ~~is the legal or commercial entity that is transporting the waste, rather than the~~
11 ~~individual employees and subcontractors of the legal or commercial entity. In~~
12 ~~the case of a sole proprietorship, the sole proprietor is the commercial entity.~~

13 ~~(3) The Secretary shall not require a commercial hauler to obtain a~~
14 ~~permit under this section, comply with the disclosure requirements of this~~
15 ~~section, comply with the reporting and registration requirements of section~~
16 ~~6608 of this title, or pay the fee specified in 3 V.S.A. § 2822, if:~~

17 ~~(A) the commercial hauler does not transport more than four cubic~~
18 ~~yards of solid waste at any time; and~~

19 ~~(B) the solid waste transportation services performed are incidental~~
20 ~~to other nonwaste transportation-related services performed by the commercial~~

21 ~~hauler.~~

(1) Except as set forth in subdivisions (2), (3), ~~and (4), and (5)~~ of this subsection, a commercial hauler that offers the collection of municipal solid waste shall:

(A) Beginning on July 1, 2015, offer to collect mandated recyclables ~~separated~~ separate from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning on July 1, 2016, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

(C) ~~Beginning on July 1, 2018, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title. [Repealed.]~~

(2) In a municipality that has adopted a solid waste management ordinance addressing the collection of mandated recyclables, leaf and yard residuals, or food residuals, a commercial hauler in that municipality is not required to comply with the requirements of subdivision (1) of this subsection ~~and subsection (b) of this section for the material addressed by the ordinance in~~

1 the ordinance:

2 (A) is applicable to all residents of the municipality;

3 (B) prohibits a resident from opting out of municipally provided
4 solid waste services; and

5 (C) does not apply a variable rate for the collection for the material
6 addressed by the ordinance.

7 (3) A commercial hauler is not required to comply with the
8 requirements of subdivision (1)(A), (B), or (C) of this subsection in a specified
9 area within a municipality if:

10 (A) the Secretary has approved a solid waste implementation plan for
11 the municipality;

12 (B) for purposes of waiver of the requirements of subdivision (1)(A)
13 of this subsection (g), the Secretary determines that under the approved plan:

14 (i) the municipality is achieving the per capita disposal rate in the
15 State Solid Waste Plan; and

16 (ii) the municipality demonstrates that its progress toward meeting
17 the diversion goal in the State Solid Waste Plan is substantially equivalent to
18 that of municipalities complying with the requirements of subdivision (1)(A)
19 of this subsection (g);

20 (C) the approved plan delineates an area where solid waste

21 management services required by subdivision (1)(A), (B), or (C) of this

1 subsection (g) are not required; and

2 (D) in the delineated area, alternatives to the services, including on-
3 site management, required under subdivision (1)(A), (B), or (C) of this
4 subsection (g) are offered, the alternative services have capacity to serve the
5 needs of all residents in the delineated area, and the alternative services are
6 convenient to residents of the delineated area.

7 (4) A commercial hauler is not required to comply with the
8 requirements of subdivision (1)(A), (B), or (C) of this subsection for mandated
9 recyclables, leaf and yard residuals, or food residuals collected as part of a
10 litter collection event operated or administered by a nonprofit organization or
11 municipality.

12 (5) A commercial waste hauler is not required to comply with the
13 requirements of subdivision (1)(A) or (B) of this subsection for mandated
14 recyclables or leaf and yard residuals in a municipality that satisfies one or
15 both of the following conditions:

16 (A) The municipality has an approved solid waste implementation
17 plan or belongs to a group of municipalities with an approved solid waste
18 implementation plan and the geographic area served by the implementation
19 plan has a housing density of fewer than 35 units per square mile as
20 determined by the most recent U.S. Census Bureau data available.

21 (B) The municipality has an approved solid waste implementation

1 ~~plan or belongs to a group of municipalities with an approved solid waste~~
2 implementation plan and there is a facility within the municipality or an
3 adjacent municipality that accepts mandated recyclables and leaf and yard
4 residuals.

5 (h) A commercial hauler certified under this section that offers the
6 collection of municipal solid waste may not charge a separate line item fee on
7 a bill to a residential customer for the collection of mandated recyclables,
8 provided that a commercial hauler may charge a fee for all service calls, stops,
9 or collections at a residential property and a commercial hauler may charge a
10 tiered or variable fee based on the size of the collection container provided to a
11 residential customer or the amount of waste collected from a residential
12 customer. A commercial hauler certified under this section may incorporate
13 the cost of the collection of mandated recyclables into the cost of the collection
14 of solid waste and may adjust the charge for the collection of solid waste. A
15 commercial hauler certified under this section that offers the collection of solid
16 waste may charge a separate fee for the collection of mandated recyclables,
17 leaf and yard residuals, or food residuals from a residential customer.

18 * * * Effective Dates * * *

19 Sec. 8. EFFECTIVE DATES

20 (a) This section and Secs. 4 and 5 (solid waste management facilities),
21 ~~6 (food residuals management) and 7 (commercial haulers) shall take effect on~~

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2
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~~passage~~
~~(b) Secs. 1-3 (glass recycling, beverage container redemption) shall take effect on January 1, 2019.~~

~~Sec. 1. USE OF BOTTOM BARRIERS WITHOUT PERMIT~~

~~(a) The Secretary of Natural Resources shall not require an aquatic nuisance control permit under 10 V.S.A. § 1455 for the use of up to 15 bottom barriers on an inland lake to control nonnative aquatic nuisance species, provided that:~~

~~(1) the bottom barriers are managed and controlled by a lake association;~~

~~(2) each bottom barrier shall be of no greater size than 14 feet by 14 feet;~~

~~(3) the bottom barriers are not installed in an area where they:~~

~~(A) create a hazard to public health; or~~

~~(B) unreasonably impede boating or navigation;~~

~~(4) the lake association notifies the Secretary of the use of the barriers:~~

~~(A) three days prior to placement of the barriers in the water if the Secretary has identified the water as containing threatened or endangered species; or~~

~~(B) on the day the barriers are placed in the water if the Secretary has not identified the water as containing threatened or endangered species; and~~

~~(5) the Secretary may require the removal of the bottom barriers upon a determination that the barriers pose a threat to a threatened or endangered species.~~

~~(b) The Secretary of Natural Resources shall designate an e-mail address, telephone number, or other publicly available method by which a lake association may provide the notice required by this section seven days a week.~~

~~Sec. 2. ANR REPORT TO GENERAL ASSEMBLY; AQUATIC NUISANCE CONTROL PERMIT; RULE~~

~~(a) On or before January 15, 2019 and prior to issuing the general permit required by 2017 Acts and Resolves No. 67 Sec. 9 or any new aquatic nuisance general permit under 10 V.S.A. chapter 50, the Secretary of Natural Resources~~

~~shall submit a proposed final draft of the general permit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife while the General Assembly is in session so that the General Assembly may review the general permit and recommend changes.~~

~~(b) Prior to filing under 5 V.S.A. § 841, final proposed rule for aquatic nuisance control under 10 V.S.A. chapter 50, the Secretary of Natural Resources shall submit the proposed rule to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife while the General Assembly is in session so that the General Assembly may review the rule and recommend changes.~~

~~Sec. 3. EFFECTIVE DATE~~

~~This act shall take effect on passage.~~

~~*** Aquatic Nuisance and Rapid Response Control Activities ***~~

~~Sec. 1. REPORT ON IMPLEMENTATION OF THE GENERAL PERMIT
FOR NONCHEMICAL AQUATIC NUISANCE AND RAPID
RESPONSE CONTROL ACTIVITIES~~

~~On or before January 15, 2019, the Secretary of Natural Resources shall submit to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy a report regarding the implementation in 2018 of the general permit for the use of nonchemical aquatic nuisance and rapid response control activities issued under 10 V.S.A. § 1455(m) and 2017 Acts and Resolves No. 67, Sec. 9. The report shall include a summary of the implementation of the general permit, the process for approval of notices of intent for coverage under the general permit, the number of persons who applied for coverage under the general permit, the number of persons who were approved for coverage under the general permit, and any recommendations to improve the implementation of the general permit.~~

~~*** Act 250 Corrective Actions ***~~

~~Sec. 2. 10 V.S.A. § 6081 is amended to read:~~

~~§ 6081. PERMITS REQUIRED; EXEMPTIONS~~

~~***~~

~~(x)(1) No permit or permit amendment is required for the construction of improvements for any one of the actions or abatements authorized in this subdivision:~~

~~(A) a remedial or removal action for which the Secretary of Natural~~

Resources has authorized disbursement under section 1283 of this title;

(B) abating a release or threatened release, as directed by the Secretary of Natural Resources under section 6615 of this title;

(C) a remedial or removal action directed by the Secretary of Natural Resources under section 6615 of this title;

(D) a corrective action authorized in a corrective action plan approved by the Secretary of Natural Resources under section 6615b of this title;

(E) a corrective action authorized in a corrective action plan approved by the Secretary of Natural Resources under chapter 159, subchapter 3 of this title; or

(F) the management of "development soils," as that term is defined in subdivision 6602(39) of this title, under a plan approved by the Secretary of Natural Resources under section 6604c of this title.

(2) Any development subsequent to the construction of improvements for any one of the actions or abatements authorized in subdivision (1) of this subsection shall not be exempt from the provisions of this chapter.

** * * Beverage Container Redemption * * **

Sec. 3. WAIVER OF BEVERAGE CONTAINER REDEMPTION REQUIREMENTS

After consultation with interested parties, the Secretary of Natural Resources shall submit to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy recommended changes to the standards or criteria by which the Secretary of Natural Resources authorizes a retailer who sells beverage containers to refuse to redeem beverage containers. The Secretary shall submit the recommended changes as part of the report required under 10 V.S.A. § 6604(b).

Sec. 4. REPEAL; BEVERAGE CONTAINER REDEMPTION; REFUSAL TO REDEEM

Subsection 10-105(d) of the Agency of Natural Resources' Environmental Protection Regulations for the Deposit for Beverage Containers shall be repealed on July 1, 2018.

**** Effective Dates ****

Sec. 5. EFFECTIVE DATES

(a) This section and Sec. 2 (Act 250 corrective action plans) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2018.