

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resources, Fish and Wildlife to which was
3 referred Senate Bill No. 10 entitled “An act relating to liability for the
4 contamination of potable water supplies” respectfully reports that it has
5 considered the same and recommends that the House propose to the Senate that
6 the bill be amended by striking out all after the enacting clause and inserting in
7 lieu thereof the following:

8 * * * Contaminated Potable Water Supplies * * *

9 Sec. 1. 10 V.S.A. § 6615e is added to read:

10 § 6615e. RELIEF FOR CONTAMINATED POTABLE WATER SUPPLIES

11 (a) Definitions. As used in this section:

12 (1) “Public water system” means any system or combination of systems
13 owned or controlled by a person that provides drinking water through pipes or
14 other constructed conveyances to the public and that has at least 15 service
15 connections or serves an average of at least 25 individuals daily for at least
16 60 days out of the year. A “public water system” includes all collection,
17 treatment, storage, and distribution facilities under the control of the water
18 supplier and used primarily in connection with the system, and any collection
19 or pretreatment storage facilities not under the control of the water supplier
20 that are used primarily in connection with the system. “Public water system”
21 shall also mean any part of a system that does not provide drinking water, if

1 use of such a part could affect the quality or quantity of the drinking water
2 supplied by the system. “Public water system” shall also mean a system that
3 bottles drinking water for public distribution and sale.

4 (2) “Public community water system” means a public water system that
5 serves at least 15 service connections used by year-round residents or regularly
6 serves at least 25 year-round residents.

7 (b) Extension of public community water system.

8 (1) The Secretary, after due consideration of cost, may initiate a
9 proceeding under this section to determine whether a person that released
10 perfluorooctanoic acid into the air, groundwater, surface water, or onto the
11 land is liable for the costs of extending the water supply of a public water
12 system to an impacted property. A person who released perfluorooctanoic acid
13 shall be liable for the extension of a municipal water line when:

14 (A) the property is served by a potable water supply regulated under
15 chapter 64 of this title;

16 (B) the Secretary has determined that the potable water supply on the
17 property:

18 (i) is a failed supply under chapter 64 of this title due to
19 perfluorooctanoic acid contamination; or

1 (ii) is likely to fail due to contamination by perfluorooctanoic acid
2 due to the proximity of the potable water supply to other potable water supplies
3 contaminated by perfluorooctanoic acid or due to other relevant factors; and

4 (C) the person the Secretary determined released perfluorooctanoic
5 acid into the air, groundwater, surface water, or onto the land is a cause of or
6 contributor to the perfluorooctanoic acid contamination or likely contamination
7 of the potable water supply.

8 (2) A person liable for the extension of a public water system under this
9 section shall be strictly, jointly, and severally liable for all costs associated
10 with that public water system extension. The remedy under this section is in
11 addition to those provided by existing statutory or common law.

12 (c) Liability payment.

13 (1) Following notification of liability by the Secretary, a person liable
14 under subsection (b) of this section for the extension of the water supply of a
15 public water system shall pay the owner of the public water system for the
16 extension of the water supply within 30 days of receipt of a final engineering
17 design or within an alternate time frame ordered by the Secretary.

18 (2) If the person liable for the extension of the water supply does not
19 pay the owner within the time frame required under subdivision (1) of this
20 subsection, the person shall be liable for interest on the assessed cost of the
21 extension of the water supply.

1 (iv) a chemical or substance that, when released, poses a risk to
2 human health or other living organisms and that is listed by the Secretary by
3 rule.

4 (B) “Hazardous material” does not include herbicides and pesticides
5 when applied consistent with good practice conducted in conformity with
6 federal, State, and local laws and regulations and according to manufacturer’s
7 instructions. Nothing in this subdivision shall affect the authority granted and
8 the limitations imposed by section 6608a of this title.

9 Sec. 4. 10 V.S.A. § 6602(12) is amended to read:

10 (12) “Disposal” means the discharge, deposit, injection, dumping,
11 spilling, leaking, emitting, or placing of any solid waste or hazardous waste
12 into or on any land or water so that such solid waste or hazardous waste or any
13 constituent thereof may enter the environment or be emitted into the air or
14 discharged into any ground or surface waters.

15 * * * Brownfields * * *

16 Sec. 5. 10 V.S.A. § 6652(b) is amended to read:

17 (b) Upon receipt of the completion report, the Secretary shall determine
18 whether additional work is required in order to complete the plan. The
19 applicant shall perform any additional activities necessary to complete the
20 corrective action plan as required by the Secretary and shall submit a new
21 completion report. When the Secretary determines that the applicant has

1 successfully completed the corrective action plan and paid all fees and costs
2 due under this subchapter, the Secretary shall issue a certificate of completion,
3 which certifies that the work is completed. The certificate of completion shall
4 include a description of any land use restrictions and other conditions required
5 by the corrective action plan. The Secretary may establish land use restrictions
6 in the certificate of completion for a property, but the Secretary shall not
7 acquire interests in the property in order to establish a land use restriction.

8 Sec. 6. 10 V.S.A. § 6653 is amended to read:

9 § 6653. RELEASE FROM LIABILITY; PERSONAL RELEASE FROM

10 LIABILITY

11 (a) An applicant who has obtained a certificate of completion pursuant to
12 section 6652 of this title and successor owners of the property included in the
13 certificate of completion who are not otherwise liable under section 6615 for
14 the release or threatened release of a hazardous material at the property shall
15 not be liable under subdivision 6615(a)(1) of this title for any of the following:

16 (1) A release or threatened release that existed at the property at the time
17 of the approval of the corrective action plan and complies with one or both of
18 the following:

19 (A) was discovered after the approval of the corrective action plan by
20 means that were not recognized standard methods at the time of approval of the
21 corrective action plan;

1 (B) the material was not regulated as hazardous material until after
2 approval of the corrective action plan.

3 (2) Cleanup after approval of the corrective action plan was done
4 pursuant to more stringent cleanup standards effective after approval of the
5 corrective action plan.

6 (3) Natural resource damages pursuant to section 6615d of this title,
7 provided that the applicant did not cause the release that resulted in the
8 damages to natural resources.

9 * * *

10 (c) A release from liability under this section or forbearance from action
11 provided by section 6646 of this title does not extend to any of the following:

12 (1) A release or threatened release of a hazardous material that was not
13 present at the time the applicant submitted an application pursuant to this
14 subchapter where the release or threatened release:

15 (A) has not been addressed under an amended corrective action plan
16 approved by the Secretary; or

17 (B) was caused by intentional or reckless conduct by the applicant or
18 agents of the applicant.

19 (2) Failure to comply with the general obligations established in section
20 6644 of this title.

1 (a) The ~~state~~ State adopts, for purposes of classifying its groundwater, the
2 following classes and definitions thereof:

3 * * *

4 (4) Class IV. Not suitable as a source of potable water but suitable for
5 some agricultural, industrial and commercial use, provided that the Secretary
6 may authorize, subject to conditions, use as a source of potable water supply or
7 other use under a reclassification order issued for the aquifer.

8 * * * Public Trust Lands * * *

9 Sec. 9. ADDITIONAL AUTHORIZED USE; PUBLIC TRUST LANDS

10 (a) The General Assembly finds that:

11 (1) the General Assembly has the authority to authorize public uses of
12 filled public trust lands in the City of Burlington; and

13 (2) the use of the filled public trust lands in the City of Burlington
14 authorized by this act is consistent with the public trust doctrine.

15 (b) In addition to the uses authorized by the General Assembly in 1990
16 Acts and Resolves No. 274, 1991 Acts and Resolves No. 53, 1996 Acts and
17 Resolves No. 87, and 1997 Acts and Resolves No. 22, the filled public trust
18 lands within the City of Burlington that are located north of the centerline of
19 Maple Street extending north to the northern terminus of the Lake Street
20 extension completed in 2016 and that extend to the waters of Lake Champlain

1 may be utilized for public markets that benefit Vermont’s public and that are
2 available to the public on an open and nondiscriminatory basis.

3 (c) Any use authorized under this act is subject to all applicable
4 requirements of law.

5 * * * Effective Date * * *

6 Sec. 10. EFFECTIVE DATE

7 This act shall take effect on passage.

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14 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE