

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resources, Fish and Wildlife to which was  
3 referred Senate Bill No. 75 entitled “An act relating to aquatic nuisance species  
4 control” respectfully reports that it has considered the same and recommends  
5 that the House propose to the Senate that the bill be amended by striking out all  
6 after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 10 V.S.A. § 1452 is amended to read:

8 § 1452. DEFINITIONS

9 As used in this chapter:

10 (1) “Agency” means the ~~agency of natural resources~~ Agency of Natural  
11 Resources.

12 (2) “Aquatic nuisance” means undesirable or excessive substances or  
13 populations that interfere with the recreational potential or aquatic habitat of a  
14 body of water, including rooted aquatic plants and animal and algal  
15 populations. Aquatic nuisances include ~~rooted aquatic plants and animal and~~  
16 ~~algal populations~~ zebra mussels (Dreissena polymorpha), quagga mussels  
17 (Dreissena bugensis), Asian clam (Corbicula fluminea), fishhook waterflea  
18 (Cercopagis pengoi), rusty crayfish (Orconectes rusticus), spiny waterflea  
19 (Bythotrephes longimanus), or other species identified by the Secretary  
20 by rule.



1           (15) “Bilge area” means the lowest point in the vessel where water can  
2           collect when the vessel is in its static floating position.

3           (16) “Decontaminate” means a process used to kill, destroy, or remove  
4           aquatic nuisance species and other organic material that may be present in or  
5           on a vessel, motor vehicle transporting the vessel, trailer, or other equipment.  
6           Decontamination may include washing a vessel, motor vehicle transporting the  
7           vessel, trailer, or other equipment with water at a sufficiently high temperature  
8           to kill or remove aquatic nuisance species.

9           (17) “Lake association” means a lake protection organization registered  
10           with the Secretary of Natural Resources on a form provided by the Secretary.

11           (18) “Marina” means a property, other than a public access or landing  
12           area regulated under section 4145 of this title, on the shoreline of a water of the  
13           State that contains a dock, basin, or ramp that, at no cost or for remuneration,  
14           provides to the public secure moorings or vessel access to the water.

15           (19) “Motor vehicle” means any vehicle propelled or drawn by power  
16           other than muscular power, including a snowmobile, motorcycle, all-terrain  
17           vehicle, farm tractor, or tracked vehicle.

18           (20) “Personal watercraft” shall have the same meaning as set forth in  
19           23 V.S.A. § 3302.

20           (21) “Transport” means to move motor vehicles, vessels, personal  
21           watercraft, seaplanes, trailers, and other equipment over land, but does not

1 include movement within the immediate area required for loading and  
2 preparing vehicles, vessels, personal watercraft, seaplanes, trailers, and other  
3 equipment prior to movement into or away from a body of water.

4 (22) “Vessel” means every description of watercraft used or capable of  
5 being used as a means of transportation on water, including personal  
6 watercraft.

7 Sec. 2. 10 V.S.A. § 1454 is amended to read:

8 § 1454. TRANSPORT OF AQUATIC PLANTS AND AQUATIC  
9 NUISANCE SPECIES

10 (a) ~~No Transport of aquatic nuisance species; prohibition. A person shall~~  
11 ~~not transport an aquatic plant or, aquatic plant part, zebra mussels (*Dreissena*~~  
12 ~~*polymorpha*), quagga mussels (*Dreissena bugensis*), or other aquatic nuisance~~  
13 ~~species identified by the Secretary by rule to or from any Vermont waters on~~  
14 ~~the outside of a vehicle, boat, personal watercraft, trailer, or other equipment~~  
15 ~~water.~~ This section shall not restrict:

16 (1) proper harvesting or other control activities undertaken for the  
17 purpose of eliminating or controlling the growth or propagation of ~~aquatic~~  
18 ~~plants, zebra mussels, quagga mussels, or other aquatic nuisance species; or~~

19 (2) proper collection of water samples for the purpose of water quality  
20 monitoring.

1       (b) Inspection of vessel entering or leaving water. A person transporting a  
2 vessel to or from a water shall, prior to launching the vessel and upon leaving a  
3 water, inspect the vessel, the motor vehicle transporting the vessel, the trailer,  
4 and other equipment, and shall remove and properly dispose of any aquatic  
5 plants, aquatic plant parts, and aquatic nuisance species.

6       (c) Aquatic nuisance species inspection station. A person transporting a  
7 vessel to or from a water shall, prior to launching the vessel, have the vessel,  
8 the motor vehicle transporting the vessel, the trailer, and other equipment  
9 inspected and decontaminated at an approved aquatic nuisance species  
10 inspection station if:

11           (1) an aquatic nuisance species inspection station is maintained at the  
12 area where the vessel is entering or leaving the water;

13           (2) the aquatic nuisance species inspection station is open; and

14           (3) an individual operating the aquatic nuisance species inspection  
15 station identifies the vessel for inspection or decontamination.

16       (d) Draining of vessel; transport.

17           (1) When leaving a water of the State and prior to transport away from  
18 the area where the vessel left the water, a person operating a vessel shall drain  
19 the vessel, trailer, and other equipment of water, including water in live wells,  
20 ballast tanks, and bilge areas. A person is not required to drain baitboxes or  
21 vehicles and trailers specifically designed and used for water hauling. A

1 person operating a vessel shall drain the vessel, trailer, and other equipment of  
2 water in a manner to avoid a discharge to the water of the State. This  
3 subdivision does not authorize a person to discharge waste, as defined in  
4 section 1251 of this title, to waters of the State. A person shall dispose of  
5 waste in the manner required by law.

6 (2) When a person transports a vessel, the person shall remove or open  
7 the drain plugs, bailers, valves, and other devices that are used to control the  
8 draining of water from ballast tanks, bilge areas, and live wells of the vessel,  
9 trailer, and other equipment, except for vehicles and trailers specifically  
10 designed and used for water hauling and emergency response vehicles and  
11 equipment.

12 (e) Exceptions to transport prohibition. The Secretary may ~~grant~~  
13 ~~exceptions to persons to~~ allow the transport of aquatic plants, ~~zebra mussels,~~  
14 ~~quagga mussels,~~ aquatic plant parts, or ~~other~~ aquatic nuisance species for  
15 scientific ~~or~~ purposes, educational purposes, or other purposes specifically  
16 authorized by the Secretary. When ~~granting exceptions~~ allowing the transport  
17 of aquatic plants, aquatic plant parts, or aquatic nuisance species under this  
18 subsection, the Secretary shall take into consideration both the value of the  
19 scientific or educational purpose and the risk to Vermont surface waters posed  
20 by the transport and ultimate use of the specimens. A letter from the Secretary  
21 authorizing the transport must accompany the specimens during transport.

1        ~~(e)~~(f) Signage; access areas and marinas. Signage shall be posted at all  
2        public access and landing areas regulated under section 4145 of this title and at  
3        all marinas regarding the requirements of subsections (a)-(d) of this section  
4        relating to aquatic nuisance transport and inspection and decontamination of  
5        vessels, motor vehicles transporting vessels, trailers, or other equipment. The  
6        Secretary shall provide marinas with the signs required under this section.

7        (g) Violations. Pursuant to 4 V.S.A. § 1102, a violation of this section  
8        may be brought in the Judicial Bureau by any law enforcement officer, as that  
9        term is defined in 23 V.S.A. § 3302(2), or, pursuant to section 8007 or 8008 of  
10       this title, a violation of this section may be brought in the Environmental  
11       Division of the Superior Court. When a violation is brought by an  
12       enforcement officer other than an environmental enforcement officer employed  
13       by the Agency of Natural Resources, the enforcement officer shall submit to  
14       the Secretary a copy of the citation for purposes of compliance with the public  
15       participation requirements of section 8020 of this title. If a violation of this  
16       section is adjudicated in the Judicial Bureau or the Environmental Division, the  
17       violation shall not be addressed or adjudicated a second time in the other body.

18       Sec. 3. 10 V.S.A. § 1455(a) is amended to read:

19       (a) ~~No~~ A person may shall not use pesticides, chemicals other than  
20       pesticides, biological controls, bottom barriers, structural barriers, structural  
21       controls, or powered mechanical devices in waters of the State to control

1 nuisance aquatic plants, insects, or other aquatic nuisances, including lamprey,  
2 unless that person has been issued a permit by the ~~secretary~~ Secretary.

3 Sec. 4. 10 V.S.A. § 1461 is added to read:

4 § 1461. AQUATIC NUISANCE INSPECTION STATIONS; TRAINING  
5 PROGRAM

6 (a) The Secretary of Natural Resources shall establish a training program  
7 regarding how to conduct inspection of vessels, motor vehicles, trailers, and  
8 other equipment for the presence of aquatic plants, aquatic plant parts, and  
9 aquatic nuisance species. The training program shall include online training,  
10 recorded material, training manuals, or other material that allows a person to  
11 complete training remotely, provided that a person operating aquatic nuisance  
12 decontamination equipment shall be required to complete in-person training  
13 conducted by the Secretary or an entity approved by the Secretary.

14 (b) The Secretary of Natural Resources shall establish a training program  
15 regarding how to decontaminate vessels, motor vehicles, trailers, and other  
16 equipment to prevent the spread of aquatic plants, aquatic plant parts, and  
17 aquatic nuisance species.

18 (c) In order to establish an aquatic nuisance species inspection station for  
19 the purposes of the vessel inspection and decontamination requirements of  
20 subsection 1454(c) of this title, a lake association, municipality, or the  
21 Commissioner of Environmental Conservation shall apply to the Secretary for



1 approval. As a condition of approval, a representative of an lake association or  
2 municipality shall complete the training programs established under  
3 subsections (a) and (b) of this section. A lake association or municipality  
4 seeking to operate an aquatic nuisance species inspection station shall  
5 designate a representative to complete the training programs established under  
6 subsections (a) and (b) of this section. In order to operate an aquatic nuisance  
7 species inspection station, a lake association or municipality shall own or  
8 control aquatic nuisance decontamination equipment.

9 (d) A lake association or municipality approved to operate an aquatic  
10 nuisance species inspection station under subsection (b) of this section shall  
11 provide persons who will operate the aquatic nuisance species inspection  
12 station with training materials furnished by the Secretary regarding how to  
13 conduct inspection of vessels, motor vehicles, trailers, and other equipment for  
14 the presence of aquatic plants, aquatic plant parts, and aquatic nuisance  
15 species.

16 (e) The Secretary may adopt rules under section 1460 of this title to  
17 implement the training requirements of this section, including an annual  
18 schedule of available training.

19 Sec. 5. 4 V.S.A. § 1102(b) is amended to read:

20 (b) The Judicial Bureau shall have jurisdiction of the following matters:

21 \* \* \*

1           (27) Violations of 10 V.S.A. § 1454(a)–(d) relating to the transport of  
2           aquatic plants and aquatic nuisance species.

3           Sec. 6. 23 V.S.A. § 3317(b) is amended to read:

4           (b) A person who violates a requirement under 10 V.S.A. § 1454 shall be  
5           subject to enforcement under 10 V.S.A. ~~chapter 201~~ § 8007 or 8008 or a fine  
6           under this chapter, provided that the person shall be assessed a penalty or fine  
7           of not more than \$1,000.00 for each violation. A person who violates a rule  
8           adopted under 10 V.S.A. § 1424 shall be subject to enforcement under  
9           10 V.S.A. chapter 201, provided that the person shall be assessed a penalty of  
10          not more than \$300.00 for each violation. A person who violates any of the  
11          following sections of this title shall be subject to a penalty of not more than  
12          \$300.00 for each violation:

13          § 3306(e)                   marine toilet

14          § 3312a                    operation of personal watercraft

15          **Sec. 7. USE OF BOTTOM BARRIERS WITHOUT PERMIT**

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

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

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

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

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

5                   (B) unreasonably impede boating or navigation;

6           (4) the lake association notifies the Secretary of the use of the barriers  
7 three days prior to placement of the barriers in a water; and

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

11 **Sec. 8. REPEAL; BOTTOM BARRIERS**

12           Sec. 7 of this act (bottom barriers for aquatic nuisance control) shall be  
13 repealed on March 1, 2018.

14 **Sec. 9. AQUATIC NUISANCE CONTROL GENERAL PERMIT**

15           On or before February 1, 2018, the Secretary of Natural Resources shall  
16 issue a general permit for aquatic nuisance control activities. The general  
17 permit shall allow for nonchemical aquatic nuisance control activities and any  
18 other management or control measures that the Secretary considers appropriate  
19 and for which the Secretary has general permit authority under 10 V.S.A.  
20 chapter 50. The general permit shall authorize rapid response activities that an  
21 individual or lake association may take to control aquatic nuisance species.

1 The provisions of 10 V.S.A. § 1456(a) and (c)–(f) related to the rapid response  
2 permits for aquatic nuisance control shall apply to the rapid response activities  
3 authorized in the permit required under this section.

4 Sec. 10. ANR PUBLIC OUTREACH REGARDING AQUATIC NUISANCE  
5 SPECIES TRANSPORT AND INSPECTION REQUIREMENTS

6 Beginning on July 1, 2017, the Secretary of Natural Resources shall provide  
7 education and outreach to the public regarding the transport and inspection  
8 requirements in 10 V.S.A chapter 50 for the reduction of the spread of aquatic  
9 nuisance species. The education and outreach shall include a notification in  
10 the Department of Fish and Wildlife guides to hunting and fishing in Vermont  
11 regarding the aquatic nuisance transport prohibition and the requirements to  
12 inspect vessels for aquatic nuisance species when entering or leaving a water.

13 Sec. 11. ANR REPORT; AQUATIC NUISANCE TRANSPORT; LAKE  
14 CHAMPLAIN

15 (a) On or before November 15, 2017, the Secretary of Natural Resources  
16 shall submit to the Senate Committee on Natural Resources and Energy and  
17 the House Committee on Natural Resources, Fish and Wildlife a report  
18 regarding how to control the transport of aquatic nuisances to and from Lake  
19 Champlain. The report shall include:

1           (1) an inventory of the boat decontamination facilities or other aquatic  
2           nuisance control measures currently employed at boat launches, marinas, or  
3           other areas on Lake Champlain;

4           (2) a summary of whether the current measures to control aquatic  
5           nuisance transport to and from Lake Champlain are adequate;

6           (3) a proposal for siting boat decontamination facilities or other  
7           comparable aquatic nuisance control measures at boat launches, marinas, or  
8           other areas on Lake Champlain, including where proposed facilities or other  
9           aquatic nuisance control measures would be located;

10           (4) a summary of how proposed boat decontamination facilities or  
11           comparable aquatic nuisance control measures would be staffed, including  
12           whether staff would possess sufficient authority to inspect a vessel entering or  
13           leaving Lake Champlain in order to require boat decontamination or another  
14           aquatic nuisance control measure;

15           (5) an estimate of the cost to implement proposed boat decontamination  
16           facilities or other aquatic nuisance control measures on Lake Champlain; and

17           (6) a recommendation of whether and how vessels leaving Lake  
18           Champlain should be quarantined from entering other waters of the State for a  
19           defined time period or until a specific condition is satisfied;

1           (7) draft legislation that the Secretary determines is necessary to  
2           implement any boat decontamination facility or other aquatic nuisance control  
3           measure proposed in the report.

4           (b) As used in this section, “aquatic nuisance” and “vessel” shall have the  
5           same meanings as set forth in 10 V.S.A. § 1452.

6           Sec. 12. 10 V.S.A. § 1264b is amended to read:

7           § 1264b. ~~STORMWATER-IMPAIRED WATERS RESTORATION~~  
8           STORMWATER FUND

9           (a) A fund to be known as the ~~stormwater-impaired waters restoration fund~~  
10           Stormwater Fund is created in the ~~state treasury~~ State Treasury to be expended  
11           by the ~~secretary of natural resources~~ Secretary of Natural Resources. The ~~fund~~  
12           Fund shall be administered by the ~~secretary of natural resources through the~~  
13           ~~facilities engineering division~~ Secretary of Natural Resources. The ~~fund~~ Fund  
14           shall consist of:

15           (1) ~~Stormwater~~ stormwater impact fees paid by permittees ~~in order~~ to  
16           meet applicable permitting standards for the discharges of regulated  
17           stormwater runoff to the stormwater-impaired waters of the ~~state~~ State and  
18           Lake Champlain and waters that contribute to the impairment of Lake  
19           Champlain;

20           (2) ~~Such~~ such sums as may be appropriated or transferred to the ~~fund~~  
21           Fund by the ~~general assembly, the state emergency board, or the joint fiscal~~

1 ~~committee~~ General Assembly, the State Emergency Board, or the Joint Fiscal  
2 Committee during such times when the ~~general assembly~~ General Assembly is  
3 not in session;

4 (3) ~~Principal~~ principal and interest received from the repayment of loans  
5 made from the ~~fund~~ Fund;

6 (4) ~~Private~~ private gifts, bequests, and donations made to the ~~state~~ State  
7 for any of the purposes for which the ~~fund~~ Fund was established; and

8 (5) ~~Other~~ other funds from any public or private source intended for use  
9 for any of the purposes for which the ~~fund~~ Fund has been established.

10 (b) The ~~fund~~ Fund shall maintain separate accounts for each stormwater-  
11 impaired water and each phosphorus-impaired lake segment of Lake  
12 Champlain and the monies in each account may only be used to fund offsets in  
13 the designated water. Offsets shall be designed to reduce the sediment load,  
14 phosphorus load, or hydrologic impact of regulated stormwater runoff in  
15 stormwater-impaired waters the receiving water. All balances in the ~~fund~~ Fund  
16 at the end of any fiscal year shall be carried forward and remain a part of the  
17 ~~fund~~ Fund. Interest earned by the ~~fund~~ Fund shall be deposited into the ~~fund~~  
18 Fund.

19 (c) The ~~facilities engineering division~~ Secretary may authorize  
20 disbursements from the ~~fund~~ Fund to offsets that meet the requirements of the  
21 rule adopted pursuant to subsection 1264a(e) 1264(f) of this title. The public

1 funds used to capitalize the ~~stormwater impaired waters restoration fund~~ Fund  
2 shall:

3 (1) ~~Be~~ be disbursed only to an offset that is owned or operated by a  
4 municipality or a governmental subdivision, agency, or instrumentality; and

5 (2) ~~Be~~ be disbursed only to reimburse a municipality or a governmental  
6 subdivision, agency, or instrumentality for those funds provided by the  
7 municipality or governmental subdivision, agency, or instrumentality to  
8 complete or construct an offset.

9 (d) A municipality or governmental subdivision, agency, or instrumentality  
10 may, on an annual basis, reserve capacity in an offset that the municipality or  
11 governmental subdivision, agency, or instrumentality operates or owns and that  
12 meets the requirements of ~~subsection 1264a(e)~~ the rule adopted pursuant to  
13 subsection 1264(f) of this title. A municipality or governmental subdivision,  
14 agency, or instrumentality reserving offset capacity shall inform the ~~secretary~~  
15 ~~of natural resources~~ Secretary of the offset capacity for which the offset will  
16 not receive disbursements from the ~~stormwater impaired waters restoration~~  
17 ~~fund~~ Fund for nonmunicipal discharges. ~~A municipality that reserves capacity~~  
18 ~~as an offset may receive disbursements from the fund to mitigate the~~  
19 ~~uncontrolled sediment load or hydrologic impact in discharges for which the~~  
20 ~~municipality is issued a permit for the discharge of regulated stormwater runoff~~  
21 ~~under subdivision 1264a(b)(1) of this title.~~



1       (e) Eligible persons may apply for a grant from the ~~fund~~ Fund to design and  
2       implement an offset. The ~~fund~~ Fund may be used to match other public and  
3       private sources of funding for such projects. ~~The funds may also be used to~~  
4       ~~match federal funds otherwise available to capitalize the fund created by 24~~  
5       ~~V.S.A. § 4753(a)(8).~~

6       (f) A discharger that pays a stormwater impact fee to the ~~stormwater-~~  
7       ~~impaired waters restoration fund under section 1264a of this title~~ Fund in order  
8       to receive a permit for the discharge of regulated stormwater runoff may  
9       receive reimbursement of that fee if the discharger fails to discharge under the  
10      stormwater discharge permit, if the discharger notifies the ~~secretary~~ Secretary  
11      of the abandonment of the discharge permit, and if the ~~secretary~~ Secretary  
12      determines that unobligated monies for reimbursement remain in the  
13      ~~stormwater impaired restoration fund~~ Fund.

14      Sec. 13. REPEAL; INTERIM STORMWATER PERMITTING

15      10 V.S.A. § 1264a(e) (interim stormwater permitting authority) is repealed.

16      Sec. 14. EFFECTIVE DATES

17      (a) This section and Secs. 1–11 (aquatic nuisance species control) shall take  
18      effect on passage.

19      (b) Secs. 12 and 13 (stormwater management) shall take effect on July 1,  
20      2017.

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(Committee vote: \_\_\_\_\_)

\_\_\_\_\_

Representative \_\_\_\_\_

FOR THE COMMITTEE