

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 (3) “Aquatic plant” means a plant that naturally grows in water,
2 saturated soils, or seasonally saturated soils, including algae and submerged,
3 floating-leafed, floating, or emergent plants.

4 (4) “Biological controls” ~~mean~~ means multi-cellular organisms.

5 (5) “Board” ~~means the water resources panel of the natural resources~~
6 ~~board.~~ [Repealed.]

7 * * *

8 (9) “Secretary” means the ~~secretary of natural resources~~ Secretary of
9 Natural Resources.

10 (10) “Water resources” means the waters and the values inherent or
11 potential in waters and their uses.

12 (11) “Waters” means all rivers, streams, creeks, brooks, reservoirs,
13 ponds, lakes, and springs and all bodies of surface waters, artificial or natural,
14 ~~which~~ that are contained within, flow through, or border upon the ~~state~~ State or
15 any portion of it.

16 (12) “Baitbox” means a receptacle, not exceeding 25 cubic feet in
17 volume, used for holding or keeping baitfish alive for personal use.

18 (13) “Live well” means a well for keeping fish alive in a vessel by
19 allowing water to circulate through the well.

20 (14) “Ballast tank” means any tank or hold on a vessel used for carrying
21 ballast water, whether or not the tank or hold was designed for that purpose.

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. It shall be a violation of
7 this section for a person transporting a vessel to a water to not have the vessel,
8 the motor vehicle transporting the vessel, the trailer, and other equipment
9 inspected and, if determined necessary, decontaminated at an approved aquatic
10 nuisance species inspection station prior to launching the vessel 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)(A) When leaving a water of the State and prior to transport away
18 from the area where the vessel left the water, a person operating a vessel shall
19 drain the vessel, trailer, and other equipment of water, including water in live
20 wells, ballast tanks, and bilge areas. A person is not required to drain:

1 (i) baitboxes when authorized under 10 App. V.S.A. § 122(5) to
2 transport bait in a baitbox away from a water; or

3 (ii) vehicles and trailers specifically designed and used for water
4 hauling.

5 (B) A person operating a vessel shall drain the vessel, trailer, and
6 other equipment of water in a manner to avoid a discharge to the water of the
7 State. This subdivision (d)(1) does not authorize a person to discharge waste,
8 as defined in section 1251 of this title, to waters of the State. A person shall
9 dispose of waste in the manner required by law.

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

16 (e) Exceptions to transport prohibition. The Secretary may ~~grant~~
17 ~~exceptions to persons to~~ allow the transport of aquatic plants, ~~zebra mussels,~~
18 ~~quagga mussels,~~ aquatic plant parts, or other aquatic nuisance species for
19 scientific or purposes, educational purposes, or other purposes specifically
20 authorized by the Secretary. ~~When granting exceptions allowing the transport~~
21 of aquatic plants, aquatic plant parts, or aquatic nuisance species under this

1 subsection, the Secretary shall take into consideration both the value of the
2 scientific or educational purpose and the risk to Vermont surface waters posed
3 by the transport and ultimate use of the specimens. A letter from the Secretary
4 authorizing the transport must accompany the specimens during transport.

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

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

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

2 (a) ~~No~~ A person may shall not use pesticides, chemicals other than
3 pesticides, biological controls, bottom barriers, structural barriers, structural
4 controls, or powered mechanical devices in waters of the State to control
5 nuisance aquatic plants, insects, or other aquatic nuisances, including lamprey,
6 unless that person has been issued a permit by the ~~secretary~~ Secretary.

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

8 § 1461. AQUATIC NUISANCE INSPECTION STATIONS; TRAINING
9 PROGRAM

10 (a) The Secretary of Natural Resources shall establish a training program
11 regarding how to conduct inspection of vessels, motor vehicles, trailers, and
12 other equipment for the presence of aquatic plants, aquatic plant parts, and
13 aquatic nuisance species. The training program shall include online training,
14 recorded material, training manuals, or other material that allows a person to
15 complete training remotely.

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

1 (1) require a person operating aquatic nuisance decontamination
2 equipment to complete in-person training conducted by the Secretary or an
3 entity approved by the Secretary; and

4 (2) instruct participants regarding how to address noncompliance with
5 the requirements of section 1454 of this title, including how to report a
6 violation to law enforcement, if a violation needs to be reported, and how
7 operators of the inspection station do not have law enforcement authority to
8 mandate compliance with the requirements of section 1454 of this title.

9 (c) In order to establish an aquatic nuisance species inspection station for
10 the purposes of the vessel inspection and decontamination requirements of
11 subsection 1454(c) of this title, a lake association, municipality, or the
12 Commissioner of Environmental Conservation shall apply to the Secretary for
13 approval. As a condition of approval, a representative of an lake association or
14 municipality shall complete the training programs established under
15 subsections (a) and (b) of this section. A lake association or municipality
16 seeking to operate an aquatic nuisance species inspection station shall
17 designate a representative to complete the training programs established under
18 subsections (a) and (b) of this section. In order to operate an aquatic nuisance
19 species inspection station, a lake association or municipality shall own or
20 control aquatic nuisance decontamination equipment.

1 of not more than \$1,000.00 for each violation. A person who violates a rule
2 adopted under 10 V.S.A. § 1424 shall be subject to enforcement under
3 10 V.S.A. chapter 201, provided that the person shall be assessed a penalty of
4 not more than \$300.00 for each violation. A person who violates any of the
5 following sections of this title shall be subject to a penalty of not more than
6 \$300.00 for each violation:

7 § 3306(e) marine toilet

8 § 3312a operation of personal watercraft

9 Sec. 7. USE OF BOTTOM BARRIERS WITHOUT PERMIT

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

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

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

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

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

19 (B) unreasonably impede boating or navigation;

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

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

4 Sec. 8. REPEAL; BOTTOM BARRIERS

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

7 Sec. 9. AQUATIC NUISANCE CONTROL GENERAL PERMIT

8 On or before February 1, 2018, the Secretary of Natural Resources shall
9 issue a general permit for aquatic nuisance control activities. The general
10 permit shall allow for nonchemical aquatic nuisance control activities and any
11 other management or control measures that the Secretary considers appropriate
12 and for which the Secretary has general permit authority under 10 V.S.A.
13 chapter 50. The general permit shall authorize rapid response activities that an
14 individual or lake association may take to control aquatic nuisance species.
15 The provisions of 10 V.S.A. § 1456(a) and (c)–(f) related to the rapid response
16 permits for aquatic nuisance control shall apply to the rapid response activities
17 authorized in the permit required under this section.

18 Sec. 10. ANR PUBLIC OUTREACH REGARDING AQUATIC NUISANCE
19 SPECIES TRANSPORT AND INSPECTION REQUIREMENTS

20 Beginning on July 1, 2017, the Secretary of Natural Resources shall provide
21 education and outreach to the public regarding the transport and inspection

1 requirements in 10 V.S.A chapter 50 for the reduction of the spread of aquatic
2 nuisance species. The education and outreach shall include a notification in
3 the Department of Fish and Wildlife guides to hunting and fishing in Vermont
4 regarding the aquatic nuisance transport prohibition and the requirements to
5 inspect vessels for aquatic nuisance species when entering or leaving a water.

6 Sec. 11. ANR REPORT; AQUATIC NUISANCE TRANSPORT; LAKE

7 CHAMPLAIN

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

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

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

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

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

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

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

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

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

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

17 § 1264b. ~~STORMWATER-IMPAIRED WATERS RESTORATION~~

18 STORMWATER FUND

19 (a) A fund to be known as the ~~stormwater impaired waters restoration fund~~
20 Stormwater Fund is created in the ~~state treasury~~ State Treasury to be expended
21 by the ~~secretary of natural resources~~ Secretary of Natural Resources. The ~~fund~~

1 Fund shall be administered by the ~~secretary of natural resources through the~~
2 ~~facilities engineering division~~ Secretary of Natural Resources. The ~~fund~~ Fund
3 shall consist of:

4 (1) ~~Stormwater~~ stormwater impact fees paid by permittees ~~in order~~ to
5 meet applicable permitting standards for the discharges of regulated
6 stormwater runoff to the stormwater-impaired waters of the ~~state~~ State and
7 Lake Champlain and waters that contribute to the impairment of Lake
8 Champlain;

9 (2) ~~Such~~ such sums as may be appropriated or transferred to the ~~fund~~
10 Fund by the ~~general assembly, the state emergency board, or the joint fiscal~~
11 ~~committee~~ General Assembly, the State Emergency Board, or the Joint Fiscal
12 Committee during such times when the ~~general assembly~~ General Assembly is
13 not in session;

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

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

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

20 (b) The ~~fund~~ Fund shall maintain separate accounts for each stormwater-
21 impaired water and each phosphorus-impaired lake segment of Lake

1 Champlain and the monies in each account may only be used to fund offsets in
2 the designated water. Offsets shall be designed to reduce the sediment load,
3 phosphorus load, or hydrologic impact of regulated stormwater runoff in
4 ~~stormwater impaired waters~~ the receiving water. All balances in the ~~fund~~ Fund
5 at the end of any fiscal year shall be carried forward and remain a part of the
6 ~~fund~~ Fund. Interest earned by the ~~fund~~ Fund shall be deposited into the ~~fund~~
7 Fund.

8 (c) The ~~facilities engineering division~~ Secretary may authorize
9 disbursements from the ~~fund~~ Fund to offsets that meet the requirements of the
10 rule adopted pursuant to subsection ~~1264a(e)~~ 1264(f) of this title. The public
11 funds used to capitalize the ~~stormwater impaired waters restoration fund~~ Fund
12 shall:

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

15 (2) ~~Be~~ be disbursed only to reimburse a municipality or a governmental
16 subdivision, agency, or instrumentality for those funds provided by the
17 municipality or governmental subdivision, agency, or instrumentality to
18 complete or construct an offset.

19 (d) A municipality or governmental subdivision, agency, or instrumentality
20 may, on an annual basis, reserve capacity in an offset that the municipality or
21 governmental subdivision, agency, or instrumentality operates or owns and that

1 meets the requirements of ~~subsection 1264a(e)~~ the rule adopted pursuant to
2 subsection 1264(f) of this title. A municipality or governmental subdivision,
3 agency, or instrumentality reserving offset capacity shall inform the ~~secretary~~
4 ~~of natural resources~~ Secretary of the offset capacity for which the offset will
5 not receive disbursements from the ~~stormwater impaired waters restoration~~
6 ~~fund~~ Fund for nonmunicipal discharges. ~~A municipality that reserves capacity~~
7 ~~as an offset may receive disbursements from the fund to mitigate the~~
8 ~~uncontrolled sediment load or hydrologic impact in discharges for which the~~
9 ~~municipality is issued a permit for the discharge of regulated stormwater runoff~~
10 ~~under subdivision 1264a(b)(1) of this title.~~

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

16 (f) A discharger that pays a stormwater impact fee to the ~~stormwater-~~
17 ~~impaired waters restoration fund under section 1264a of this title~~ Fund in order
18 to receive a permit for the discharge of regulated stormwater runoff may
19 receive reimbursement of that fee if the discharger fails to discharge under the
20 stormwater discharge permit, if the discharger notifies the ~~secretary~~ Secretary
21 of the abandonment of the discharge permit, and if the ~~secretary~~ Secretary

1 determines that unobligated monies for reimbursement remain in the
2 ~~stormwater-impaired restoration fund~~ Fund.

3 Sec. 13. REPEAL; INTERIM STORMWATER PERMITTING

4 10 V.S.A. § 1264a(e) (interim stormwater permitting authority) is repealed.

5 Sec. 14. EFFECTIVE DATES

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

8 (b) Secs. 12 and 13 (stormwater management) shall take effect on July 1,
9 2017.

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15 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE