

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 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 bill be amended by striking out all after the enacting clause and
6 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 by
20 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6 ~~board.~~ [Repealed.]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 area in a vessel below a height of four
2 inches measured from the lowest point in the vessel where water can collect
3 when the vessel is in its static floating position.

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

7 (17) “Personal watercraft” shall have the same meaning as set forth in
8 23 V.S.A. § 3302.

9 (18) “Transport” means to move motor vehicles, vessels, personal
10 watercraft, seaplanes, trailers, and other equipment over land, but does not
11 include movement within the immediate area required for loading and
12 preparing vehicles, vessels, personal watercraft, seaplanes, trailers, and other
13 equipment prior to movement into or away from a body of water.

14 (19) “Vessel” means every description of watercraft used or capable of
15 being used as a means of transportation on water, including personal
16 watercraft.

17 (20) “Water access site” means a public access area regulated under
18 section 4145 of this title or another area at which a vessel can access a water of
19 the State.

20 (20) “Decontaminate” means a process used to kill, destroy, or remove
21 aquatic invasive species and other organic material that may be present in or on

1 a vessel. Decontamination may include washing a vessel thoroughly and with
2 water of a sufficient temperature so as to remove or kill all aquatic nuisance
3 species.

4 (21) “Lake association” means a lake protection organization registered
5 with the Vermont Secretary of State.

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

7 § 1454. TRANSPORT OF AQUATIC PLANTS AND AQUATIC
8 NUISANCE SPECIES

9 (a) ~~No~~ Transport of aquatic nuisance species; prohibition. A person shall
10 not transport an aquatic plant ~~or~~, aquatic plant part, ~~zebra mussels (Dreissena~~
11 ~~polymorpha), quagga mussels (Dreissena bugensis), or other aquatic nuisance~~
12 ~~species identified by the Secretary by rule to or from any Vermont waters on~~
13 ~~the outside of a vehicle, boat, personal watercraft, trailer, or other equipment~~
14 water. This section shall not restrict proper harvesting or other control
15 activities undertaken for the purpose of eliminating or controlling the growth
16 or propagation of aquatic plants, ~~zebra mussels, quagga mussels, or other~~
17 ~~aquatic nuisance species~~ nor shall it restrict the proper collection of water
18 samples for purposes of water quality monitoring.

19 (b) Inspection of vessel entering or leaving water. A person transporting a
20 vessel to or from a water shall, prior to launching the vessel and upon leaving a
21 water, have inspect the vessel, the motor vehicle transporting the vessel, the

1 trailer, and other equipment, and shall remove any aquatic plants, aquatic plant
2 parts, and aquatic nuisance species.

3 (c) Aquatic nuisance species inspection station. A person transporting a
4 vessel to a water shall, prior to launching the vessel, have the vessel, the motor
5 vehicle transporting the vessel, the trailer, and other equipment inspected and
6 washed , if necessary, decontaminated at an authorized aquatic nuisance
7 species inspection station if an aquatic nuisance species inspection station is
8 maintained for that water and at the access area, the aquatic nuisance species
9 inspection station is open for public use , and an individual operating the
10 aquatic nuisance species inspection station identifies the vessel for inspection
11 or decontamination because the vessel exhibits signs of contamination. If an
12 authorized aquatic nuisance species inspection station is closed or is otherwise
13 unavailable to the public, the person transporting the vessel shall visually
14 inspect the vessel, motor vehicle transporting the vessel, trailer, and other
15 equipment and shall remove any identified aquatic nuisance species.

16 (e) Inspection of vessel leaving water. When a vessel is leaving a water of
17 the State, the person operating the vessel shall, prior to transport of the vessel,
18 visually inspect the vessel, motor vehicle transporting the vessel, trailer, and
19 other equipment for aquatic plants, aquatic plant parts, and aquatic nuisance
20 species, and if any aquatic plants, aquatic plant parts, or aquatic nuisance
21 species is identified, it shall be removed.

1 (d) Draining of vessel; transport.

2 (1) When leaving a water of the State and prior to transport away from a
3 water access site, a person operating a vessel shall drain the vessel, vehicle
4 transporting the vessel, trailer, and other equipment of water, including water
5 in live wells, ballast tanks, and bilge areas. A person is not required to drain
6 baitboxes or vehicles and trailers specifically designed and used for water
7 hauling. A person operating a vessel shall drain the vessel, vehicle
8 transporting the vessel, trailer, and other equipment of water in a manner to
9 avoid a discharge to the water of the State. This subdivision does not authorize
10 a person to discharge waste, as defined in section 1251 of this title, to waters of
11 the State. A person shall dispose of waste in the manner required by law.

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

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

1 the Secretary. When ~~granting exceptions~~ allowing the transport of aquatic
2 plants, aquatic plant parts, or aquatic nuisance species under this subsection,
3 the Secretary shall take into consideration both the value of the scientific or
4 educational purpose and the risk to Vermont surface waters posed by the
5 transport and ultimate use of the specimens. A letter from the Secretary
6 authorizing the transport must accompany the specimens during transport.

7 (e)(f) Violations. A 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 is brought~~
16 in one body, the same violation shall not be brought in the other body.

17 Sec. 3. 10 V.S.A. § 1455 is amended to read:

18 § 1455. AQUATIC NUISANCE CONTROL PERMIT

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 (b) Notwithstanding other requirements set forth in chapter 47 of this title
4 to the contrary, the Secretary may issue permits under this section.

5 (c) Persons desiring a permit under this section shall make application to
6 the Secretary on a form prescribed by the Secretary.

7 (d) The Secretary shall issue a permit for the use of pesticides in waters of
8 the State for the control of nuisance aquatic plants, insects, or other aquatic
9 life, including lamprey, when the applicant demonstrates and the Secretary
10 finds:

11 (1) there is no reasonable nonchemical alternative available;

12 (2) there is acceptable risk to the nontarget environment;

13 (3) there is negligible risk to public health;

14 (4) a long-range management plan has been developed ~~which~~ that
15 incorporates a schedule of pesticide minimization; and

16 (5) there is a public benefit to be achieved from the application of a
17 pesticide or, in the case of a pond located entirely on a landowner's property,
18 there is no undue adverse effect upon the public good.

19 (e) A landowner applying to use a pesticide on a pond located entirely on
20 the landowner's property is exempt from the requirement of subdivision (d)(4)
21 of this section.

1 (f) The Secretary shall issue a permit for the control of aquatic nuisances
2 by biological controls, bottom barriers, structural barriers, structural controls,
3 powered mechanical devices, or chemicals other than pesticides when the
4 Secretary finds:

5 (1) there is acceptable risk to the nontarget environment;

6 (2) there is negligible risk to public health; and

7 (3) there is either benefit to or no undue adverse effect upon the
8 public good.

9 (g) The use of bottom barriers, structural barriers, structural controls,
10 powered mechanical devices, and copper compounds as an algaecide in waters
11 with a surface area of one acre or less located entirely on a person's property
12 and with an outlet where the flow can be controlled for at least three days is
13 exempt from the permit requirements of this section.

14 * * *

15 (i) An aquatic nuisance control permit issued under this section shall:

16 (1) ~~specify~~ Specify in writing the Secretary's findings under subsection
17 (d) or (f) of this section;

18 (2) ~~specify~~ Specify the location, manner, nature, and frequency of the
19 permitted activity;

20 (3) ~~contain~~ Contain additional conditions, requirements, and restrictions
21 as the Secretary deems necessary to preserve and protect the quality of the

1 receiving waters, to protect the public health, and to minimize the impact on
2 the nontarget environment. ~~Such conditions~~ Conditions may include
3 requirements concerning recording, reporting, and monitoring;

4 (4) ~~be~~ Be valid for the period of time specified in the permit, not to
5 exceed five years for chemical control, and not to exceed ten years for
6 nonchemical control.

7 (j) An aquatic nuisance control permit issued under this chapter may be
8 renewed from time to time upon application to the Secretary. The process of
9 permit renewal will be consistent with the requirements of this section.

10 * * *

11 (l) No permit shall be required under this section for mosquito control
12 activities that are regulated by the Agency of Agriculture, Food and Markets,
13 provided that:

14 (1) Prior to authorizing the use of larvicides or pupacides in waters of
15 the State, the Secretary of Agriculture, Food and Markets shall designate
16 acceptable control products and methods for their use and issue permits
17 pursuant to 6 V.S.A. § 1083(a)(5); and

18 (2) [Repealed.]

19 (m) The Secretary may issue general permits for the use of nonchemical
20 aquatic nuisance control activities, provided that the Secretary makes the
21 findings required in subsection (f) of this section. A general permit issued

1 under this subsection is not required to specify the exact location or the
2 frequency of the permitted activity.

3 ~~(n) The Secretary shall not require a permit under this section for the use of~~
4 ~~up to 15 bottom barriers on a lake, provided that:~~

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

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

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

10 § 1461. AQUATIC NUISANCE INSPECTION TRAINING PROGRAM

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

17 (b) The Secretary of Natural Resources shall establish a training program
18 regarding how to decontaminate vessels, motor vehicles, trailers, and other
19 equipment to prevent the spread of aquatic plants, aquatic plant parts, and
20 aquatic nuisance species. This training must be conducted by Agency staff and
21 must be completed in-person.

1 ~~(b c)~~ In order to ~~operate~~ **establish** an authorized aquatic nuisance species
2 inspection station for the purposes of the vessel inspection and
3 decontamination requirements of subsection 1454~~(b c)~~ of this title, a ~~person~~
4 lake association shall apply to the Secretary for approval. As a condition of
5 approval, the applicant a representative of the lake association shall complete
6 the training program established under subsections (a) and (b) of this section
7 and the lake association shall provide a plan, for the Secretary's approval,
8 demonstrating that the aquatic nuisance species inspection station will be
9 adequately staffed and will not unduly impede the public's access to the water.
10 A lake association seeking to operate an authorized aquatic nuisance species
11 inspection station shall designate a representative to complete the training
12 program established under subsection (a) of this section.

13 ~~(e d)~~ A ~~person~~ lake association approved to ~~operate~~ **establish** an authorized
14 aquatic nuisance species inspection station under subsection ~~(b)~~ (c) of this
15 section shall provide persons who will operate the authorized aquatic nuisance
16 species inspection station with training materials furnished by the Secretary
17 regarding how to conduct inspection of vessels, motor vehicles, trailers, and
18 other equipment for the presence of aquatic plants, aquatic plant parts, and
19 aquatic nuisance species. Persons operating an authorized aquatic nuisance
20 species inspection station shall not decontaminate vessels, motor vehicles,

1 trailers, and other equipment unless they have completed the training
2 established under subsection (b) of this section.

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

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

5 * * *

6 (27) Violations of 10 V.S.A. § 1454(a)-(d) relating to the transport of
7 aquatic plants and aquatic nuisance species.

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

9 (b) A person who violates a requirement under 10 V.S.A. § 1454 shall be
10 subject to enforcement under 10 V.S.A. ~~chapter 201~~ § 8007 or 8008 or a fine
11 under this chapter, provided that the person shall be assessed a penalty or fine
12 of not more than \$1,000.00 for each violation. A person who violates a rule
13 adopted under 10 V.S.A. § 1424 shall be subject to enforcement under 10
14 V.S.A. chapter 201, provided that the person shall be assessed a penalty of not
15 more than \$300.00 for each violation. A person who violates any of the
16 following sections of this title shall be subject to a penalty of not more than
17 \$300.00 for each violation:

18 § 3306(e) marine toilet

19 § 3312a operation of personal watercraft

1 Sec. 7. AQUATIC NUISANCE CONTROL GENERAL PERMIT

2 On or before ~~November 1, 2017~~ February 1, 2018, the Secretary of Natural
3 Resources shall issue a general permit for aquatic nuisance control activities.
4 The general permit shall allow for nonchemical aquatic nuisance control
5 activities and any other management or control measures that the Secretary
6 considers appropriate and for which the Secretary has general permit authority
7 under 10 V.S.A. chapter 50. The general permit shall authorize rapid response
8 activities that an individual or lake association may take to control aquatic
9 nuisance species and the provisions of 10 V.S.A. § 1456(a) and (c)-(f) shall
10 apply.

11 Sec. 8. ANR PUBLIC OUTREACH REGARDING AQUATIC NUISANCE
12 SPECIES TRANSPORT AND INSPECTION REQUIREMENTS

13 Beginning on July 1, 2018, the Secretary of Natural Resources shall provide
14 education and outreach to the public regarding the transport and inspection
15 requirements in 10 V.S.A chapter 50 for the reduction of the spread of aquatic
16 nuisance species. The education and outreach shall include:

17 (1) signage posted at water access sites regarding the aquatic nuisance
18 transport prohibition and the requirements to inspect vessels for aquatic
19 nuisance species when entering or leaving a water;

20 (2) a notification in the Department of Fish and Wildlife guides to
21 hunting and fishing in Vermont regarding the aquatic nuisance transport

1 prohibition and the requirements to inspect vessels for aquatic nuisance species
2 when entering or leaving a water.

3 Sec. 9. ANR REPORT; AQUATIC NUISANCE TRANSPORT; LAKE
4 CHAMPLAIN

5 (a) On or before ~~November~~ December 1, 2017, the Secretary of Natural
6 Resources shall submit to the Senate Committee on Natural Resources and
7 Energy and the House Committee on Natural Resources, Fish and Wildlife a
8 report regarding how to control the transport of aquatic nuisances to and from
9 Lake Champlain. The report shall include:

10 (1) an inventory of the boat ~~washing~~ decontamination facilities or other
11 aquatic nuisance control measures currently employed at boat launches,
12 marinas, or other areas on Lake Champlain;

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

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

19 (4) a summary of how proposed boat ~~washing~~ decontamination facilities
20 or comparable aquatic nuisance control measures would be staffed, including
21 whether staff would possess sufficient authority to inspect a vessel entering or

1 leaving Lake Champlain in order to require boat **washing decontamination** or
2 another aquatic nuisance control measure;

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

6 (6) draft legislation that the Secretary determines is necessary to
7 implement any boat **washing decontamination** facility or other aquatic nuisance
8 control measure proposed in the report.

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

11 Sec. 10. EFFECTIVE DATE

12 This act shall take effect on July 1, 2017.

13

14

15 (Committee vote: _____)

16

17

18

Senator _____

FOR THE COMMITTEE