

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  
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6 ~~board.~~ [Repealed.]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~~ 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.

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

2 § 1454. TRANSPORT OF AQUATIC PLANTS AND AQUATIC  
3 NUISANCE SPECIES

4 (a) ~~No Transport of aquatic nuisance species; prohibition. A person shall~~  
5 ~~not transport an aquatic plant or, aquatic plant part, zebra mussels (*Dreissena*~~  
6 ~~*polymorpha*), quagga mussels (*Dreissena bugensis*), or other aquatic nuisance~~  
7 ~~species identified by the Secretary by rule to or from any Vermont waters on~~  
8 ~~the outside of a vehicle, boat, personal watercraft, trailer, or other equipment~~  
9 ~~water.~~ This section shall not restrict proper harvesting or other control  
10 activities undertaken for the purpose of eliminating or controlling the growth  
11 or propagation of aquatic plants, ~~zebra mussels, quagga mussels, or other~~  
12 ~~aquatic nuisance species.~~

13 (b) Inspection of vessel entering water. A person transporting a vessel to a  
14 water shall, prior to launching the vessel, have the vessel, the motor vehicle  
15 transporting the vessel, the trailer, and other equipment inspected and washed  
16 at an authorized aquatic nuisance species inspection station if an aquatic  
17 nuisance species inspection station is maintained for that water and the aquatic  
18 nuisance species inspection station is open for public use. If an authorized  
19 aquatic nuisance species inspection station is closed or is otherwise unavailable  
20 to the public, the person transporting the vessel shall visually inspect the

1 vessel, motor vehicle transporting the vessel, trailer, and other equipment and  
2 shall remove any identified aquatic nuisance species.

3 (c) Inspection of vessel leaving water. When a vessel is leaving a water of  
4 the State, the person operating the vessel shall, prior to transport of the vessel,  
5 visually inspect the vessel, motor vehicle transporting the vessel, trailer, and  
6 other equipment for aquatic plants, aquatic plant parts, and aquatic nuisance  
7 species, and if any aquatic plants, aquatic plant parts, or aquatic nuisance  
8 species is identified, it shall be removed.

9 (d) Draining of vessel; transport.

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

20 (2) When a person transports a vessel, the person shall remove or open  
21 the drain plugs, bailers, valves, and other devices that are used to control the

1 draining of water from ballast tanks, bilge areas, and live wells of the vessel,  
2 vehicle transporting the vessel, trailer, and other equipment, except for vehicles  
3 and trailers specifically designed and used for water hauling and emergency  
4 response vehicles and equipment.

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

15 ~~(e)(f)~~ Violations. A Pursuant to 4 V.S.A. § 1102, a violation of this section  
16 may be brought in the Judicial Bureau by any law enforcement officer, as that  
17 term is defined in 23 V.S.A. § 3302(2), or, pursuant to section 8007 or 8008 of  
18 this title, a violation of this section may be brought in the Environmental  
19 Division of the Superior Court. ~~When a violation is brought by an~~  
20 ~~enforcement officer other than an environmental enforcement officer employed~~  
21 ~~by the Agency of Natural Resources, the enforcement officer shall submit to~~

1 ~~the Secretary a copy of the citation for purposes of compliance with the public~~  
2 ~~participation requirements of section 8020 of this title. If a violation is brought~~  
3 ~~in one body, the same violation shall not be brought in the other body.~~

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

5 § 1455. AQUATIC NUISANCE CONTROL PERMIT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

(3) ~~contain~~ Contain additional conditions, requirements, and restrictions as the Secretary deems necessary to preserve and protect the quality of the receiving waters, to protect the public health, and to minimize the impact on the nontarget environment. ~~Such conditions~~ Conditions may include requirements concerning recording, reporting, and monitoring;

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

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

\* \* \*

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

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

5 (2) [Repealed.]

6 (m) The Secretary may issue general permits for the use of nonchemical  
7 aquatic nuisance control activities, provided that the Secretary makes the  
8 findings required in subsection (f) of this section. A general permit issued  
9 under this subsection is not required to specify the exact location or the  
10 frequency of the permitted activity.

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

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

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

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

18 **§ 1461. AQUATIC NUISANCE INSPECTION TRAINING PROGRAM**

19 **(a) The Secretary of Natural Resources shall establish a training program**  
20 **regarding how to conduct inspection of vessels, motor vehicles, trailers, and**  
21 **other equipment for the presence of aquatic plants, aquatic plant parts, and**

1 aquatic nuisance species. The training program shall include online training,  
2 recorded material, training manuals, or other material that allows a person to  
3 complete training remotely.

4 (b) In order to operate an authorized aquatic nuisance species inspection  
5 station for the purposes of the vessel inspection requirements of subsection  
6 1454(b) of this title, a person shall apply to the Secretary for approval. As a  
7 condition of approval, the applicant shall complete the training program  
8 established under subsection (a) of this section. A lake association seeking to  
9 operate an authorized aquatic nuisance species inspection station shall  
10 designate a representative to complete the training program established under  
11 subsection (a) of this section.

12 (c) A person approved to operate an authorized aquatic nuisance species  
13 inspection station under subsection (b) of this section shall provide persons  
14 who will operate the authorized aquatic nuisance species inspection station  
15 with training materials furnished by the Secretary regarding how to conduct  
16 inspection of vessels, motor vehicles, trailers, and other equipment for the  
17 presence of aquatic plants, aquatic plant parts, and aquatic nuisance species.

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

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

20 \* \* \*

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 10  
9           V.S.A. chapter 201, provided that the person shall be assessed a penalty of not  
10          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. AQUATIC NUISANCE CONTROL GENERAL PERMIT

16          On or before November 1, 2017, the Secretary of Natural Resources shall  
17          issue a general permit for aquatic nuisance control activities. The general  
18          permit shall allow for nonchemical aquatic nuisance control activities and any  
19          other management or control measures that the Secretary considers appropriate  
20          and for which the Secretary has general permit authority under 10 V.S.A.

1 chapter 50. The general permit shall authorize rapid response activities that an  
2 individual or lake association may take to control aquatic nuisance species.

3 Sec. 8. ANR PUBLIC OUTREACH REGARDING AQUATIC NUISANCE  
4 SPECIES TRANSPORT AND INSPECTION REQUIREMENTS

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

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

12 (2) a notification in the Department of Fish and Wildlife guides to  
13 hunting and fishing in Vermont regarding the aquatic nuisance transport  
14 prohibition and the requirements to inspect vessels for aquatic nuisance species  
15 when entering or leaving a water.

16 Sec. 9. ANR REPORT; AQUATIC NUISANCE TRANSPORT; LAKE  
17 CHAMPLAIN

18 (a) On or before November 1, 2017, the Secretary of Natural Resources  
19 shall submit to the Senate Committee on Natural Resources and Energy and  
20 the House Committee on Natural Resources, Fish and Wildlife a report

1 regarding how to control the transport of aquatic nuisances to and from Lake  
2 Champlain. The report shall include:

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

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

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

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

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

19 (6) draft legislation that the Secretary determines is necessary to  
20 implement any boat washing facility or other aquatic nuisance control measure  
21 proposed in the report.

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

3        Sec. 10. EFFECTIVE DATE

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

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7        (Committee vote: \_\_\_\_\_)

8

\_\_\_\_\_

9

Senator \_\_\_\_\_

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FOR THE COMMITTEE