

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

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

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

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

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

1           (21) “Transport” means to move motor vehicles, vessels, personal  
2 watercraft, seaplanes, trailers, and other equipment over land, but does not  
3 include movement within the immediate area required for loading and  
4 preparing vehicles, vessels, personal watercraft, seaplanes, trailers, and other  
5 equipment prior to movement into or away from a body of water.

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

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

10           § 1454. TRANSPORT OF AQUATIC PLANTS AND AQUATIC

11                           NUISANCE SPECIES

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

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

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

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

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

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

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

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

18           (d) Draining of vessel; transport.

19           (1) When leaving a water of the State and prior to transport away from  
20           the area where the vessel left the water, a person operating a vessel shall drain  
21           the vessel, vehicle transporting the vessel, trailer, and other equipment of

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

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

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

1 scientific or educational purpose and the risk to Vermont surface waters posed  
2 by the transport and ultimate use of the specimens. A letter from the Secretary  
3 authorizing the transport must accompany the specimens during transport.

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

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

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

2       § 1455. AQUATIC NUISANCE CONTROL PERMIT

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

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

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

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

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

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

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

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





1 acceptable control products and methods for their use and issue permits  
2 pursuant to 6 V.S.A. § 1083(a)(5); and

3 (2) [Repealed.]

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

9 (n) The Secretary shall not require a permit under this section for the use of  
10 up to 15 bottom barriers on an inland lake to control aquatic nuisance species,  
11 provided that:

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

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

16 (3) the bottom barriers are not installed: in an area where they create a  
17 hazard to public health; or in area where they unreasonably impede boating or  
18 navigation;

19 (4) the lake association notifies the Secretary of the use of the barriers  
20 within three days of placement 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. 4. 10 V.S.A. § 1461 is added to read:

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

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

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

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

1 municipality shall complete the training programs established under  
2 subsections (a) and (b) of this section. A lake association or municipality  
3 seeking to operate an aquatic nuisance species inspection station shall  
4 designate a representative to complete the training programs established under  
5 subsections (a) and (b) of this section.

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

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

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

15 \* \* \*

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

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

19 (b) A person who violates a requirement under 10 V.S.A. § 1454 shall be  
20 subject to enforcement under 10 V.S.A. ~~chapter 201~~ § 8007 or 8008 or a fine  
21 under this chapter, provided that the person shall be assessed a penalty or fine

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. AQUATIC NUISANCE CONTROL GENERAL PERMIT

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

20 Sec. 8. ANR PUBLIC OUTREACH REGARDING AQUATIC NUISANCE

21 SPECIES TRANSPORT AND INSPECTION REQUIREMENTS

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

8        Sec. 9. ANR REPORT; AQUATIC NUISANCE TRANSPORT; LAKE  
9                CHAMPLAIN

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

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

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

20                (3) a proposal for siting boat decontamination facilities or other  
21        comparable aquatic nuisance control measures at boat launches, marinas, or

1 other areas on Lake Champlain, including where proposed facilities or other  
2 aquatic nuisance control measures would be located;

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

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

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

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

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

18 Sec. 10. REPEAL

19 10 V.S.A. § 1455(n) (bottom barriers for aquatic nuisance control) shall be  
20 repealed on March 1, 2018.

21 Sec. 11. EFFECTIVE DATE

1        This act shall take effect on passage.

2

3

4        (Committee vote: \_\_\_\_\_)

5

\_\_\_\_\_

6

Senator \_\_\_\_\_

7

FOR THE COMMITTEE