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H.50

Introduced by Representatives Sullivan of Burlington and McCarthy of  
St. Albans City

Referred to Committee on

Date:

Subject: Conservation and development; water quality; expanded polystyrene  
foam

Statement of purpose of bill as introduced: This bill proposes to require that  
when a person installs a buoy, dock, or floating structure on the waters of the  
State, expanded polystyrene foam used for flotation shall be encapsulated by a  
protective covering or shall be designed to prevent the expanded polystyrene  
foam from disintegrating into the water. The bill also would prohibit a person  
from selling, distributing, or using certain expanded polystyrene foam products  
in or on the waters of the State or within 250 feet of a water of the State if the  
product is not encapsulated.

An act relating to the use of expanded polystyrene foam in waters of the  
State

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. FINDINGS.

3 The General Assembly finds that:

4 (1) Expanded polystyrene foam, often referred to as Styrofoam, is a  
5 petroleum-based material commonly used in flotation devices, food service  
6 containers, and packing material.

7 (2) Expanded polystyrene foam is lightweight, floats, and can break  
8 down into smaller pieces in water;

9 (3) Improper disposal, littering, and use of flotation devices causes  
10 expanded polystyrene foam to enter the waters of the State.

11 (4) The lifetime of expanded polystyrene foam in water is unknown, but  
12 some argue that it may never fully disappear from water.

13 (5) Expanded polystyrene foam is manufactured using the chemical  
14 styrene, which the U.S. Department of Health and Human Services' National  
15 Toxicology Program lists as reasonably anticipated to be a human carcinogen.

16 (6) Measures, such as encapsulating expanded polystyrene foam  
17 flotation devices or using readily available food service alternatives to  
18 expanded polystyrene foam, can limit the introduction of expanded polystyrene  
19 foam into the waters of the State.

20 (7) Multiple jurisdictions limit the use of expanded polystyrene foam in  
21 or near public waters.

1           (8) To prevent the further pollution of waters of the State while also  
2           reducing potential harmful effects to human health and the environment, the  
3           General Assembly should limit the use of expanded polystyrene foam in, on, or  
4           in proximity to the waters of Vermont.

5           Sec. 2. 10 V.S.A. chapter 47, subchapter 2B is added to read:

6                           Subchapter 2B. Expanded Polystyrene Foam

7           § 1321. DEFINITIONS

8           As used in this subchapter:

9           (1) “Buoy” means any float or marker that is attached to a mooring  
10           anchor and either is suitable for attachment to a boat through the use of a  
11           pennant or other device or facilitates the attachment of the boat to the mooring  
12           anchor.

13           (2) “Dock” means an unenclosed structure secured to land, land under  
14           waters, a mooring, or a floating structure that is used for mooring boats or for  
15           recreational activities, such as a swimming, fishing, or sunbathing platform. A  
16           dock includes a structure that is partially enclosed or has two or more levels.

17           (3) “Expanded polystyrene foam” means a thermoplastic petrochemical  
18           material utilizing the styrene monomer that is processed according to multiple  
19           techniques including fusion of polymer spheres, injection molding, form  
20           molding, and extrusion-blow molding

1           (4) “Floating structure” means a structure constructed on or in a water of  
2           the State that is supported by flotation and is secured in place by a piling or  
3           mooring anchor, including boathouses, fueling structures, floating homes,  
4           marinas, walkways, or boarding platforms.

5           (5) “Mooring anchor” means any anchor or weight that is designed to:

6           (A) rest on the land under water or to be buried in the land under  
7           water;

8           (B) be attached to a buoy or floating structure by a chain, rope, or  
9           other mechanism; and

10          (C) be left in position permanently or on a seasonal basis.

11          § 1322. INSTALLATION OF BUOYS, DOCKS, OR FLOATING  
12          STRUCTURES

13          (a) Encapsulation required. When a person installs a buoy, dock, or  
14          floating structure on the waters of the State, any expanded polystyrene foam  
15          used for flotation shall be encapsulated by a protective covering or shall be  
16          designed to prevent the expanded polystyrene foam from disintegrating into  
17          the water.

18          (b) Methods of encapsulation.

19          (1) Encapsulation of a buoy, dock, or floating structure required under  
20          subsection (a) shall completely cover or be a physical barrier between the  
21          expanded polystyrene foam and the water. Small gaps up to 0.75 inch

1 diameter ballast holes are permitted in the physical barrier or covering  
2 provided they are 0.1 percent or less of the square footage of the buoy, dock, or  
3 floating structure.

4 (2) All materials and methods of encapsulation shall provide an  
5 effective physical barrier between the expanded polystyrene foam and the  
6 water for a period not less than ten years. Any fasteners used to hold  
7 encapsulation materials together shall be effectively treated or be of a form  
8 resistant to corrosion and decay.

9 (c) Removal from water. Unused or replaced polystyrene foam shall be  
10 removed from the waters of the State and shall be recycled or disposed of in an  
11 approved manner.

12 § 1323. USE OF EXPANDED POLYSTYRENE FOAM IN PROXIMITY  
13 TO WATER

14 No person shall offer for sale, distribute, or use any of the following  
15 products in or on the waters of the State or within 250 feet of a water of the  
16 State if the product is composed entirely or in part from expanded polystyrene  
17 foam unless the product is encapsulated by a protective covering or is designed  
18 to prevent the expanded polystyrene foam from disintegrating into the water:

19 (1) coolers, ice chests, or similar containers;

20 (2) pool toys, beach toys, or swimming aids;

21 (3) buoys; or

1           (4) flotation for docks or floating structures.

2           § 1324. RULEMAKING

3           The Secretary may adopt rules to implement the requirements of this  
4           subchapter, including:

5           (1) methods or materials for encapsulation of expanded polystyrene  
6           foam; or

7           (2) exemptions from the requirements under this chapter to encapsulate  
8           expanded polystyrene foam.

9           Sec. 3. EFFECTIVE DATES

10           (a) This section and Sec. 1 (findings) shall take effect on passage.

11           (b) Sec. 2 (expanded polystyrene foam requirements) shall take effect  
12           July 1, 2020, except that 10 V.S.A. § 1324 (ANR rulemaking) shall take effect  
13           on passage.