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H.391

Introduced by Representatives Dolan of Waitsfield, Lefebvre of Newark,
McCullough of Williston, and Squirrell of Underhill

Referred to Committee on

Date:

Subject: Conservation and development; transportation; road and bridge
standards; town highway aid; municipal highway access

Statement of purpose of bill as introduced: This bill proposes to require the
Agency of Transportation to revise the town road and bridge standards to
include best management practices for management of access by private
driveways and private roads to town highways. Municipalities that adopt the
best management practices for management of access by private driveways and
private roads to town highways would receive a higher State share of town
highway and bridge funding.

An act relating to municipal highway access standards for private roads and
surfaces

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) Under 19 V.S.A. § 1111, a person is required to obtain a permit from
5 a municipality to “develop, construct, regrade, or resurface any driveway,
6 entrance, or approach, or build a fence or building, or deposit material of any
7 kind within, or to in any way affect the grade of a highway right-of-way, or
8 obstruct a ditch, culvert, or drainage course that drains a highway, or fill or
9 grade the land adjacent to a highway so as to divert the flow of water onto the
10 highway right-of-way”.

11 (2) The Vermont League of Cities and Towns (VLCT) has issued a
12 model town highway access policy to assist municipalities in complying with
13 the requirements of 19 V.S.A. § 1111.

14 (3) Many towns have adopted the VLCT model town highway access
15 policy, but many towns have not, and some towns are not enforcing the
16 requirements for a permit for activities in the town highway right-of-way.

17 (4) Failure to properly permit or regulate activities within the town
18 highway right-of-way can have significant effects, including increased threats
19 to highway infrastructure, increased stormwater runoff, destruction of
20 wetlands, and increased threats of flooding.

1 (5) To provide guidance on the proper management of activities within
2 the town highway right-of-way, the State should require the Agency of
3 Transportation (AOT), after consultation with the Agency of Natural
4 Resources, to amend the town road and bridge standards to include minimum
5 requirements for access to town highways.

6 (6) To incentivize municipal adoption of the AOT standards for access
7 to town highways, the State should require those municipalities that fail to
8 adopt the AOT standards for access to town highways to provide an increased
9 amount of funding as match in order to receive town highway aid.

10 Sec. 2. 19 V.S.A. § 996 is amended to read:

11 § 996. HIGHWAY CONSTRUCTION, MAINTENANCE, AND REPAIR

12 BEST MANAGEMENT PRACTICES

13 (a) The ~~agency of transportation~~ Agency of Transportation shall work with
14 municipal representatives to revise the ~~agency of transportation's~~ Agency of
15 Transportation's town road and bridge standards in order to incorporate a suite
16 of practical and cost-effective best management practices, as approved by the
17 ~~agency of natural resources~~ Agency of Natural Resources, for the construction,
18 maintenance, and repair of all existing and future ~~state~~ State and town
19 highways and for management of access by private driveways and private
20 roads to town highways. These best management practices shall address
21 activities ~~which~~ that have a potential for causing pollutants to enter the

1 groundwater and waters of the ~~state~~ State, including stormwater runoff and
2 direct discharges to ~~state~~ State waters. The best management practices shall
3 not supersede any requirements for stormwater management already set forth
4 in 10 V.S.A. §§ ~~§ 1264 and 1264a~~ § 1264 that apply to ~~state~~ State and town highways.
5 ~~The agency of transportation shall report to the house and senate committees~~
6 ~~on transportation, the house committee on fish, wildlife and water resources,~~
7 ~~and the senate committee on natural resources and energy by January 15, 2011,~~
8 ~~on the best management practices to be incorporated into the agency of~~
9 ~~transportation's town road and bridge standards.~~

10 (b) Beginning on January 15, ~~2013~~ 2020, and every four years thereafter,
11 the ~~secretary~~ Secretary, in consultation with municipal representatives and with
12 approval from the ~~agency of natural resources~~ Agency of Natural Resources,
13 shall review and revise, as appropriate, town road and bridge standards in order
14 to ensure the standards are protective of water quality.

15 Sec. 3. 19 V.S.A. § 309b is amended to read:

16 § 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

17 (a) Notwithstanding subsection 309a(a) of this title, grants provided to
18 towns under the Town Highway Structures Program shall be matched by local
19 funds sufficient to cover 20 percent of the project costs, unless the town has:
20 adopted road and bridge standards, including best management practices for
21 management of access by private roads and private driveways to town

1 highways; has completed a network inventory; and has submitted an annual
2 certification of compliance for town road and bridge standards to the ~~secretary~~
3 Secretary, in which event the local match shall be sufficient to cover 10
4 percent of the project costs. The ~~secretary~~ Secretary may adopt rules to
5 implement the Town Highway Structures Program. Town highway structures
6 projects receiving funds pursuant to this subsection shall be the responsibility
7 of the applicant municipality.

8 (b) Notwithstanding subsection 309a(a) of this title, grants provided to
9 towns under the Class 2 Town Highway Roadway Program shall be matched
10 by local funds sufficient to cover 30 percent of the project costs, unless the
11 town: has adopted road and bridge standards, including best management
12 practices for management of access by private roads and private driveways to
13 town highways; has completed a network inventory; and has submitted an
14 annual certification of compliance for town road and bridge standards to the
15 ~~secretary~~ Secretary, in which event the local match shall be sufficient to cover
16 20 percent of the project costs. The ~~secretary~~ Secretary may adopt rules to
17 implement the Class 2 Town Highway Roadway Program. Class 2 town
18 highway roadway projects receiving funds pursuant to this subsection shall be
19 the responsibility of the applicant municipality, and a municipality shall not
20 receive a grant in excess of \$175,000.00.

21 * * *

1 Sec. 4. REPORT; BEST MANAGEMENT PRACTICES FOR
2 MANAGEMENT OF ACCESS TO TOWN HIGHWAYS

3 On or before January 15, 2020, the Secretary of Transportation, after
4 consultation with the Secretary of Natural Resources, shall report to the House
5 Committees on Transportation and on Natural Resources, Fish, and Wildlife
6 and the Senate Committees on Transportation and on Natural Resources and
7 Energy regarding implementation of the requirement of 19 V.S.A. § 996 to
8 incorporate into the Agency of Transportation's town road and bridge
9 standards best management practices for management of access to town
10 highways by private roads and private driveways. The report shall include the
11 proposed or adopted best management practices for access to town highways
12 by private roads and private driveways and a general timeline for adoption or
13 implementation by municipalities.

14 Sec. 5. EFFECTIVE DATE

15 This act shall take effect on passage.