

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 House Bill No. 926 entitled “An act relating to changes to Act 250”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

7 * * * Trails * * *

8 Sec. 1. 10 V.S.A. § 6001 is amended to read:

9 § 6001. DEFINITIONS

10 * * *

11 (38) “Recreational trail” has the same meaning as “trails” in subdivision
12 442(3) of this title.

13 (39) “Vermont trails system trail” means a recreational trail recognized
14 by the Agency of Natural Resources pursuant to chapter 20 of this title. For
15 purposes of this chapter, the construction, operation, and maintenance of a
16 Vermont trails system trail shall be for a municipal, county, or State purpose.

17 Sec. 2. 10 V.S.A. § 442(3) is amended to read:

18 (3) “Trails” means land used for hiking, walking, bicycling, cross-country
19 skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other
20 similar activities. Trails may be used for recreation, transportation, and other
21 compatible purposes, but the primary purpose shall not be the operation of a

1 motor vehicle. As used in this subdivision, “motor vehicle” shall not include
2 all-terrain vehicles or snowmobiles.

3 Sec. 3. 10 V.S.A. § 6001(3)(A) is amended to read:

4 (3)(A) “Development” means each of the following:

5 * * *

6 (xi) The construction of improvements for a Vermont trails system
7 trail on a tract or tracts of land involving more than 10 acres.

8 (I) This subdivision (xi) shall be the exclusive mechanism for
9 determining jurisdiction over a recreational trail that is a Vermont trails system
10 trail and shall only apply to the construction of improvements made on or after
11 October 1, 2020.

12 (II) For purposes of this subdivision (xi), involved land
13 includes:

14 (aa) land that is physically altered, including any ground
15 disturbance and clearing that will occur; and

16 (bb) infrastructure that is incidental to the operation of the
17 trail, including restrooms, parking areas, shelters, picnic areas, kiosks, and
18 interpretive and directional signage.

19 (III) For purposes of this subdivision (xi), involved land does
20 not include land where no ground will be disturbed or cleared or any Vermont
21 trails system trail constructed before October 1, 2020.

1 Sec. 4. 10 V.S.A. § 6001(3)(C) is amended to read:

2 (C) For the purposes of determining jurisdiction under subdivision
3 (3)(A) of this section, the following shall apply:

4 * * *

5 (vi) Recreational trails. When jurisdiction over a trail has been
6 established pursuant to subdivision (A) of this subdivision (3), jurisdiction
7 shall extend only to the recreational trail and infrastructure that is incidental to
8 the operation of the trail. Jurisdiction shall not extend to the remainder of a
9 parcel or parcels where a recreational trail is located, unless otherwise
10 determined to be jurisdictional pursuant to another provision of this chapter.

11 Sec. 5. 10 V.S.A. § 6081 is amended to read:

12 § 6081. PERMITS REQUIRED; EXEMPTIONS

13 * * *

14 (y) No permit or permit amendment shall be required for the construction
15 of improvements on a tract of land that would provide access across a
16 recreational trail, provided that the access is not related to the use of the
17 permitted recreational trail and would not establish jurisdiction under this
18 chapter on its own.

19 (z) Notwithstanding 1 V.S.A. §§ 213 and 214, and until January 1, 2022,
20 no permit is required for a Vermont trails system trail recognized pursuant to
21 chapter 20 of this title if the trail was in existence prior to October 1, 2020.

1 Sec. 6. RECREATIONAL TRAILS RECOMMENDATIONS AND
2 REPORT

3 On or before January 15, 2021, the Agency of Natural Resources shall
4 report to the House Committee on Natural Resources, Fish, and Wildlife and to
5 the Senate Committee on Natural Resource and Energy with legislative
6 recommendations for a best management practices driven program for
7 Vermont trails system trails that is administered by the Agency of Natural
8 Resources. The report shall include recommendations for revisions to
9 10 V.S.A. chapter 20, including revisions to mapping, legislative authority to
10 administer the program, potential funding sources, staffing needs, and whether
11 to include other recreational trails. The Agency of Natural Resources shall
12 consult with stakeholders on the proposed program, including the Vermont
13 Trail Alliance, the Forest Partnership, and the Vermont Agency of
14 Transportation.

15 Sec. 7. PROSPECTIVE REPEAL

16 10 V.S.A. § 6001(3)(A)(xi) shall be repealed on January 1, 2022.

17 * * * Forest Blocks * * *

18 Sec. 8. 10 V.S.A. § 6001 is amended to read:

19 § 6001. DEFINITIONS

20 * * *

1 (40) “Connecting habitat” means land or water, or both, that links
2 patches of habitat within a landscape, allowing the movement, migration, and
3 dispersal of wildlife and plants and the functioning of ecological processes. A
4 connecting habitat may include features including recreational trails and
5 improvements constructed for farming, logging, or forestry purposes.

6 (41) “Forest block” means a contiguous area of forest in any stage of
7 succession and not currently developed for nonforest use. A forest block may
8 include features including recreational trails, wetlands, or other natural features
9 that do not themselves possess tree cover and improvements constructed for
10 farming, logging, or forestry purposes.

11 (42) “Habitat” means the physical and biological environment in which
12 a particular species of plant or wildlife lives.

13 Sec. 9. 10 V.S.A. § 6086(a)(8) is amended to read:

14 (8) Ecosystem protection; scenic beauty; historic sites.

15 (A) Will not have an undue adverse effect on the scenic or natural
16 beauty of the area, aesthetics, historic sites or rare and irreplaceable natural
17 areas.

18 ~~(A)~~(B) Necessary wildlife habitat and endangered species. A permit
19 will not be granted if it is demonstrated by any party opposing the applicant
20 that a development or subdivision will destroy or significantly imperil
21 necessary wildlife habitat or any endangered species; and

1 (i) the economic, social, cultural, recreational, or other benefit to
2 the public from the development or subdivision will not outweigh the
3 economic, environmental, or recreational loss to the public from the
4 destruction or imperilment of the habitat or species; or

5 (ii) all feasible and reasonable means of preventing or lessening
6 the destruction, diminution, or imperilment of the habitat or species have not
7 been or will not continue to be applied; or

8 (iii) a reasonably acceptable alternative site is owned or controlled
9 by the applicant ~~which~~ that would allow the development or subdivision to
10 fulfill its intended purpose.

11 (C) Will not have an undue adverse impact on forest blocks and
12 connecting habitat. A permit shall be granted only if impacts to forest blocks
13 and connecting habitat are avoided, minimized, and mitigated in accordance
14 with rules adopted by the Board. Mitigation of impacts on connecting habitat
15 shall not allow the habitat to be severed. After avoiding and minimizing any
16 impacts on connecting habitat, mitigation shall only be allowed in order to
17 maintain the functionality of the connecting habitat.

18 Sec. 10. CRITERION 8(C) RULEMAKING

19 (a) The Natural Resources Board (Board), in consultation with the Agency
20 of Natural Resources shall adopt rules pursuant to 3 V.S.A. chapter 25 to

1 implement the requirements for the administration of 10 V.S.A.

2 § 6086(a)(8)(C). Rules adopted by the Board shall include:

3 (1) How forest blocks and connecting habitat are further defined,
4 including their size, location, and function, which may include:

5 (A) information that will be available to the public to determine
6 where forest blocks and connecting habitat are located; or

7 (B) advisory mapping resources, how they will be made available,
8 how they will be used, and how they will be updated.

9 (2) Standards establishing how impacts can be avoided, minimized, or
10 mitigated, including how fragmentation of forest blocks or connecting habitat
11 is avoided or minimized, which may include steps to promote proactive site
12 design of buildings, roadways and driveways, utility location, and location
13 relative to existing features such as roads, tree lines, and fence lines. As used
14 in this subdivision, “fragmentation” means the division or conversion of a
15 forest block or connecting habitat by the separation of a parcel into two or
16 more parcels; the construction, conversion, relocation, or enlargement of any
17 building or other structure, or of any mining, excavation, or landfill; and any
18 change in the use of any building or other structure, or land, or extension of use
19 of land. However, fragmentation does not include the division or conversion
20 of a forest block or connecting habitat by a recreational trail or by

1 improvements constructed for farming, logging, or forestry purposes below the
2 elevation of 2,500 feet.

3 (3) Criteria to identify when a forest block or connecting habitat is
4 eligible for mitigation.

5 (4) Standards for how impacts to a forest block or connecting habitat
6 may be mitigated. Standards may include:

7 (A) appropriate ratios for compensation;

8 (B) appropriate forms of compensation such as conservation
9 easements, fee interests in land, and other forms of compensation; and

10 (C) appropriate uses of on-site and off-site mitigation.

11 (b) Prior to pre-filing with the Interagency Committee on Administrative
12 Rules, the Board shall convene a working group to gather input on the rule.

13 The working group shall ensure broad, inclusive, and transparent engagement
14 with the public, which shall include a broad range of stakeholders and
15 interested parties. The Board shall convene the working group on or before
16 March 15, 2021.

17 (c) The Board shall file a final proposed rule with the Secretary of State
18 and Legislative Committee on Administrative Rules on or before August 15,
19 2022.

20 Sec. 11. 10 V.S.A. § 127 is amended to read:

21 § 127. RESOURCE MAPPING

1 (a) ~~On or before January 15, 2013, the~~ The Secretary of Natural Resources
2 (~~the Secretary~~) shall complete and maintain resource mapping based on the
3 Geographic Information System (GIS) or other technology. The mapping shall
4 identify natural resources throughout the State, including forest blocks, that
5 may be relevant to the consideration of energy projects and projects subject to
6 chapter 151 of this title. The Center for Geographic Information shall be
7 available to provide assistance to the Secretary in carrying out the ~~GIS-based~~
8 resource mapping.

9 (b) The Secretary ~~of Natural Resources~~ shall consider the ~~GIS-based~~
10 resource maps developed under subsection (a) of this section when providing
11 evidence and recommendations to the Public Utility Commission under
12 30 V.S.A. § 248(b)(5) and when commenting on or providing
13 recommendations under chapter 151 of this title to District Commissions on
14 other projects.

15 (c) The Secretary shall establish and maintain written procedures that
16 include a process and science-based criteria for updating resource maps
17 developed under subsection (a) of this section. Before establishing or revising
18 these procedures, the Secretary shall provide opportunities for affected parties
19 and the public to submit relevant information and recommendations.

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* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

This act shall take effect on October 1, 2020, except that Sec. 9, 10 V.S.A.
§ 6086(a)(8), shall take effect on September 1, 2022.

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE