

1 H.31

2 Introduced by Representative Bongartz of Manchester

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; aquatic nuisance control; permits;
6 moratorium

7 Statement of purpose of bill as introduced: This bill proposes to establish a
8 moratorium on the issuance of an aquatic nuisance control permit by the
9 Secretary of Natural Resources that authorizes the use or application of
10 pesticides, chemicals other than pesticides, or biological controls until one year
11 after completion of an assessment by a study committee of how the
12 environmental and public health effects of the use of pesticides, chemicals
13 other than pesticides, or biological controls compare to their efficacy in
14 controlling aquatic nuisances.

15 An act relating to aquatic nuisance control

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

17 ~~Sec. 1. MORATORIUM; AQUATIC NUISANCE CONTROL PERMITS~~

18 ~~(a) Except as provided under subsection (b) of this section, beginning on~~
19 ~~January 1, 2025, the following shall be prohibited until one year after~~

1 ~~completion of an assessment under Sec. 2 of this act of how the environmental~~
2 and public health effects of the use of pesticides, chemicals other than
3 pesticides, or biological controls compare to their efficacy in controlling
4 aquatic nuisances:

5 (1) issuance by the Secretary of Natural Resources of any new aquatic
6 nuisance control permit under 10 V.S.A. § 1455 that authorizes the use or
7 application of a pesticide, a chemical other than pesticides, or a biological
8 control; and

9 (2) application of a pesticide, a chemical other than pesticides, or a
10 biological control under an aquatic nuisance control permit issued by the
11 Secretary of Natural Resources under 10 V.S.A. § 1455 prior to the effective
12 date of this act.

13 (b) Notwithstanding the moratorium under subsection (a) of this section,
14 the Secretary of Natural Resources may authorize the use or application of a
15 pesticide, a chemical other than a pesticide, or a biological control to control
16 an aquatic nuisance in a lake or pond upon a determination that:

17 (1) the application is necessary to control lampreys in Lake Champlain;
18 or

19 (2)(A) there is an exigent threat from an aquatic nuisance to the water
20 quality, fish or wildlife, or infrastructure within a lake or pond,

1 ~~(B) the Commissioner of Fish and Wildlife and the Commissioner of~~
2 Environmental Conservation jointly determine that the use of a pesticide, a
3 chemical other than a pesticide, or a biological control is the sole effective
4 method to control the threat posed by the aquatic nuisance; and

5 (C) the proposed control cannot be delayed until after the repeal of
6 the moratorium established under subsection (a) of this section because the
7 potential harm posed by the aquatic nuisance is irreversible or of a significance
8 that requires immediate action.

9 (c) As used in this section:

10 (1) "Aquatic nuisance" has the same meaning as in 10 V.S.A. § 1452.

11 (2) "Pesticide" has the same meaning as "economic poison" in 6 V.S.A.
12 § 911.

13 **Sec. 2. AQUATIC NUISANCE CONTROL STUDY COMMITTEE;**

14 **REPORT**

15 (a) Creation. The Aquatic Nuisance Control Study Committee is created to
16 assess the environmental and public health effects of the use of pesticides,
17 chemicals other than pesticides, and biological controls in comparison to the
18 efficacy of their use in controlling aquatic nuisances.

19 (b) Membership. The Aquatic Nuisance Control Study Committee shall be
20 composed of the following members.

1 ~~(1) two current members of the House of Representatives, who shall be~~
2 ~~appointed by the Speaker of the House;~~

3 ~~(2) two current members of the Senate, who shall be appointed by the~~
4 ~~Committee on Committees;~~

5 ~~(3) the Secretary of Natural Resources or designee;~~

6 ~~(4) a scientist from the Department of Fish and Wildlife, appointed by~~
7 ~~the Commissioner of Fish and Wildlife; and~~

8 ~~(5) a scientist from the Department of Environmental Conservation,~~
9 ~~appointed by the Commissioner of Environmental Conservation.~~

10 ~~(c) Powers and duties. The Aquatic Nuisance Control Study Committee~~
11 ~~shall submit to the Vermont General Assembly recommendations regarding~~
12 ~~whether and when pesticides, chemicals other than pesticides, or biological~~
13 ~~controls should be used to control aquatic nuisances in Vermont. The~~
14 ~~recommendations of the Committee shall include:~~

15 ~~(1) a summary of the use of pesticides, chemicals other than pesticides,~~
16 ~~and biological controls in the lakes and ponds of Vermont since January 1,~~
17 ~~2000, including the types of pesticides, chemicals other than pesticides, and~~
18 ~~biological controls approved for use and why they were approved instead of~~
19 ~~nonchemical controls;~~

20 ~~(2) a summary of the safety, potential public health effects, and~~
21 ~~environmental effects of the pesticides, chemicals other than pesticides, and~~

1 biological controls approved by the Agency of Natural Resources since
2 January 1, 2000 and whether there has been no undo adverse impact on the
3 ecosystem or fish and wildlife since January 1, 2000 from the use pesticides,
4 chemicals other than pesticides, and biological controls;

5 (3) an assessment of whether the use of pesticides, chemicals other than
6 pesticides, or biological controls were successful in the management of aquatic
7 nuisance species in the lakes and ponds where they were approved, including
8 whether the lakes and ponds where the controls were used continue to be listed
9 by the Agency of Natural Resources as altered because aquatic habitat or other
10 designated uses in the lake or pond are not supported due to the extent of an
11 aquatic nuisance;

12 (4) a recommendation of whether pesticides, chemicals other than
13 pesticides, or biological controls should continue to be authorized for use in
14 the control of aquatic nuisances in lakes and ponds in Vermont and if
15 continued use is recommended, the criteria or conditions for approval for use;
16 and

17 (5) an assessment of the use of pesticides, chemicals other than
18 pesticides, or biological controls on the nontarget environment or nontarget
19 species.

1 ~~(d) Assistance. The Aquatic Nuisance Control Study Committee shall have~~
2 ~~the administrative, technical, and legal assistance of the Agency of Natural~~
3 ~~Resources.~~

4 ~~(e) Report. On or before December 15, 2023, the Aquatic Nuisance~~
5 ~~Control Study Committee shall submit a written report to the House~~
6 ~~Committee on Environment and Energy and the Senate Committee on Natural~~
7 ~~Resources with its findings and recommendations, including any~~
8 ~~recommendations for legislative action.~~

9 ~~(f) Meetings.~~

10 ~~(1) The Secretary of Natural Resources shall call the first meeting of the~~
11 ~~Aquatic Nuisance Control Study Committee to occur on or before July 31,~~
12 ~~2023.~~

13 ~~(2) The Committee shall select a chair from among its members at the~~
14 ~~first meeting.~~

15 ~~(3) A majority of the membership shall constitute a quorum.~~

16 ~~(4) The Aquatic Nuisance Control Study Committee shall cease to exist~~
17 ~~on April 1, 2024.~~

18 ~~(g) Compensation and reimbursement.~~

19 ~~(1) For attendance at meetings during adjournment of the General~~
20 ~~Assembly, a legislative member of the Aquatic Nuisance Control Study~~
21 ~~Committee serving in the member's capacity as a legislator shall be entitled to~~

1 ~~per diem compensation and reimbursement of expenses pursuant to 2 V.S.A.~~
2 § 23 for not more than eight meetings. These payments shall be made from
3 monies appropriated to the General Assembly.

4 (2) Other members of the Aquatic Nuisance Control Study Committee
5 shall be entitled to per diem compensation and reimbursement of expenses as
6 permitted under 32 V.S.A. § 1010 for not more than eight meetings. These
7 payments shall be made from monies appropriated to the Agency of Natural
8 Resources.

9 (h) As used in this section:

10 (1) “Aquatic nuisance” has the same meaning as in 10 V.S.A. § 1452.

11 (2) “Pesticide” has the same meaning as “economic poison” in 6 V.S.A.
12 § 911.

13 Sec. 3. REPEAL OF MORATORIUM

14 The moratorium on the issuance of an aquatic nuisance control permit
15 under 10 V.S.A. § 1455 that authorizes the use or application of pesticides,
16 chemicals other than pesticides, or biological controls shall be repealed on
17 December 15, 2024 or 365 days after actual submission by the Aquatic
18 Nuisance Control Study Committee of the report required under Sec. 2 of this
19 act, whichever occurs later.

20 Sec. 4. EFFECTIVE DATE

21 ~~This act shall take effect on passage.~~

Sec. 1. AQUATIC NUISANCE CONTROL STUDY COMMITTEE;

REPORT

(a) Creation. The Aquatic Nuisance Control Study Committee is created to assess the environmental and public health effects of the use of pesticides, chemicals other than pesticides, biological controls, and other controls in comparison to the efficacy of their use in controlling aquatic nuisances.

~~*(b) Membership. The Aquatic Nuisance Control Study Committee shall be composed of the following members:*~~

~~*(1) two current members of the House of Representatives, who shall be appointed by the Speaker of the House;*~~

~~*(2) two current members of the Senate, who shall be appointed by the Committee on Committees;*~~

~~*(3) the Commissioner of Health or designee;*~~

~~*(4) a scientist from the Department of Fish and Wildlife, appointed by the Commissioner of Fish and Wildlife; and*~~

~~*(5) a scientist from the Department of Environmental Conservation, appointed by the Commissioner of Environmental Conservation.*~~

(b) Membership. The Aquatic Nuisance Control Study Committee shall be composed of the following members:

(1) one current member of the House of Representatives, who shall be appointed by the Speaker of the House;

(2) one current member of the Senate, who shall be appointed by the Committee on Committees;

(3) the Commissioner of Health or designee;

(4) a scientist from the Department of Fish and Wildlife, appointed by the Commissioner of Fish and Wildlife;

(5) a scientist from the Department of Environmental Conservation, appointed by the Commissioner of Environmental Conservation; and

(6) two scientists or researchers from the University of Vermont, appointed by the President of the University of Vermont, one with expertise in the potential human health impacts related to invasives and control eradication and one with expertise in aquatic biology, including flora, fauna, and ecosystem health.

(c) Powers and duties. The Aquatic Nuisance Control Study Committee shall submit to the Vermont General Assembly recommendations regarding whether and when pesticides, chemicals other than pesticides, or biological controls should be used to control aquatic nuisances in Vermont. The recommendations of the Committee shall include:

(1) a summary of the use of pesticides, chemicals other than pesticides, and biological controls in the lakes and ponds of Vermont since January 1, 2000, including the types of pesticides, chemicals other than pesticides, and

biological controls approved for use and why they were approved instead of nonchemical controls;

(2) an assessment of the use of pesticides, chemicals other than pesticides, or biological controls on the nontarget environment or nontarget species; and

(3) recommended legislative changes to the aquatic nuisance control requirements under 10 V.S.A. chapter 50 to:

(A) implement the use of pesticides, chemicals other than pesticides, or biological controls in a more precautionary manner that ensures the protection of State waters and is designed to protect fish, reptiles, amphibians, and all other aquatic biota;

(B) establish the appropriate standard for approval of the use of pesticides, chemicals other than pesticides, and biological controls for aquatic nuisance control;

(C) amend the process for the application of an aquatic nuisance control permit in a manner that improves the opportunity for interested parties to participate in the permitting process and that ensures full transparency in the permitting process; and

(D) provide other changes that the Study Committee determines are necessary or appropriate for implementation of effective aquatic nuisance control in the State.

(d) Assistance. The Aquatic Nuisance Control Study Committee shall have the administrative, technical, and legal assistance of the Agency of Natural Resources.

(e) Report. On or before December 15, 2023, the Aquatic Nuisance Control Study Committee shall submit a written report to the House Committee on Environment and Energy and the Senate Committee on Natural Resources and Energy with its findings and recommendations.

(f) Meetings.

(1) The Commissioner of Environmental Conservation or designee shall call the first meeting of the Aquatic Nuisance Control Study Committee to occur on or before ~~July 31, 2023~~ September 1, 2023.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Aquatic Nuisance Control Study Committee shall cease to exist on April 1, 2024.

~~(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Aquatic Nuisance Control Study Committee serving in the member's capacity as a legislator shall be entitled to per diem compensation and reimbursement of~~

~~expenses pursuant to 2 V.S.A. § 23 for not more than eight meetings. These payments shall be made from monies appropriated to the General Assembly.~~

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Aquatic Nuisance Control Study Committee serving in the member's capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than eight meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Study Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than eight meetings. These payments shall be made from monies appropriated to the General Assembly.

(h) Definitions. As used in this section:

(1) "Aquatic nuisance" has the same meaning as in 10 V.S.A. § 1452.

(2) "Pesticide" has the same meaning as "economic poison" in 6 V.S.A. § 911.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.