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S.81

Introduced by Senators McCormack, Bray, Chittenden, Gulick, Hardy and
White

Referred to Committee on

Date:

Subject: Conservation and development; water quality; salt application

Statement of purpose of bill as introduced: This bill proposes to require the
Secretary of Natural Resources to establish the Chloride Contamination
Reduction Program to train commercial salt applicators and municipal salt
applicators in best management practices to most efficiently apply salt or salt
alternatives and to prevent salt or salt alternatives from entering the waters of
the State. A certified commercial applicator shall be presumed to be in
compliance with water quality laws when applying salt or salt alternatives
according to the best management practices established by the Secretary.

An act relating to establishing the Chloride Contamination Reduction
Program at the Agency of Natural Resources

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

Sec. 1. 10 V.S.A. chapter 47, subchapter 3A is added to read:

Subchapter 3A. Chloride Contamination Reduction Program

§ 1351. DEFINITIONS

1 As used in this subchapter:

2 (1) “Apply salt” or “application of salt” means to apply salt or a salt
3 alternative to roadways, parking lots, or sidewalks for the purpose of winter
4 maintenance or for summer dust control.

5 (2) “Commercial salt applicator” means any individual who for
6 compensation applies or supervises others who apply salt but does not include
7 municipal or State employees.

8 (3) “Municipal salt applicator” means any individual who applies or
9 supervises others who apply salt in the applicator’s capacity as an employee or
10 agent of a town or a municipality but does not include State employees.

11 (4) “Salt” means sodium chloride, calcium chloride, magnesium
12 chloride, or any other substance containing chloride.

13 (5) “Salt alternative” means any substance not containing chloride used
14 for the purpose of de-icing or anti-icing.

15 § 1352. SALT APPLICATION PROGRAM

16 (a) The Secretary of Natural Resources, in consultation with the Secretary
17 of Transportation, shall establish a program for the education, training, and
18 certification of commercial salt applicators and municipal salt applicators in
19 the State. The program shall include best management practices for
20 application of salt or salt alternatives by commercial salt applicators and
21 municipal salt applicators. The best management practices shall:

1 (1) establish application measures or techniques to increase efficiency in
2 the use of salt or salt alternatives such that the least amount of salt or salt
3 alternatives are used while maintaining safe conditions for pedestrians and
4 motor vehicles on traveled surfaces;

5 (2) establish standards for when and how salt and salt alternatives are
6 applied in order to prevent salt or salt alternatives from entering waters of the
7 State;

8 (3) recommend salt or salt alternatives that are less harmful to water
9 quality while maintaining safe conditions for pedestrians and motor vehicles
10 on traveled surfaces;

11 (4) establish record-keeping requirements for commercial salt
12 applicators and municipal salt applicators, including records describing the
13 type and rate of application of salt or salt alternatives, the dates of use, and
14 weather conditions requiring use of salt or salt alternatives;

15 (5) establish requirements for application for certification under this
16 subchapter, including frequency of training, manner of training, and the form
17 and manner of application; and

18 (6) establish other requirements deemed necessary by the Secretary to
19 achieve the purposes of the program.

20 (b)(1) A commercial salt applicator or municipal salt applicator may apply
21 annually to the Secretary to be approved as a State-certified salt applicator.

1 (2) A business that employs multiple commercial salt applicators may
2 apply to the Secretary for certification of the business owner or other
3 designated employee as a master commercial salt applicator. A certified
4 master commercial salt applicator shall ensure that all employees of the
5 business are trained to comply with the best management practices established
6 under subsection (a) of this section.

7 (c) The Secretary of Natural Resources, in consultation with the Secretary
8 of Transportation, shall:

9 (1) determine the amount of salt annually imported into the State;

10 (2) determine the average amount of road salt applied on State roadways
11 annually for the years 2010 through 2020 from:

12 (A) each winter road management season between October and
13 April; and

14 (B) salt solutions applied to roads between May to September for
15 summer dust suppression;

16 (3) develop a publicly accessible record-keeping database system for
17 road salt purchases and applications within Vermont;

18 (4) develop road salt reduction targets to guide the Agency of
19 Transportation and Agency of Natural Resources in measurably reducing
20 chloride levels in surface waters and groundwater; and

1 (5) report to the Vermont General Assembly the Secretaries' findings as
2 an initial assessment of the nature, scope, and magnitude of associated impacts
3 of road salt and brine on surface waters and groundwater, public and private
4 lands, property, health, and infrastructure in the State of Vermont.

5 § 1353. SALT APPLICATION; LIMITED LIABILITY; PRESUMPTION OF
6 COMPLIANCE; ENFORCEMENT

7 (a) A certified commercial salt applicator, a certified municipal salt
8 applicator, or an owner, occupant, or lessee of real property maintained by a
9 certified commercial salt applicator or certified municipal salt applicator shall
10 not be liable for damages arising from hazards on real property owned,
11 occupied, maintained, or operated by that person when the hazards are caused
12 solely by snow or ice and any failure or delay in removing or mitigating the
13 hazards is the result of the certified commercial salt applicator or certified
14 municipal salt applicator's implementation of the best management practices
15 established under section 1352 of this title for application of salt or salt
16 alternatives, except when the damages are due to gross negligence or reckless
17 disregard of the hazard. All certified commercial salt applicators and certified
18 municipal salt applicators shall be presumed to be acting pursuant to the best
19 management practices for application of salt or salt alternatives in the absence
20 of proof to the contrary.

1 (b) A certified commercial salt applicator, a commercial salt applicator
2 employed by a certified master commercial salt applicator, or a certified
3 municipal salt applicator is presumed to be in compliance with the
4 requirements of this chapter when applying salt or salt alternatives according to
5 the best management practices established under section 1352 of this title.

6 (c) A certified commercial salt applicator or certified municipal salt
7 applicator that violates the requirements of this subchapter, the rules of this
8 subchapter, or the provisions of a certification issued under this subchapter
9 shall be subject to enforcement under chapter 201 of this title.

10 (d) The Secretary may revoke a certification issued under this subchapter
11 after notice and opportunity for a hearing for a violation of the requirements of
12 this subchapter, the rules of this subchapter, or the provisions of a certification
13 issued under this subchapter.

14 (e) In order to receive the liability protection provided in subsection (a) of
15 this section, a commercial salt applicator, a municipal salt applicator, or an
16 owner, an occupant, or a lessee of land shall keep a written record describing
17 its winter road, parking lot, and property maintenance practices. The written
18 record shall include the type and rate of application of de-icing materials used,
19 the dates of treatment, and the weather conditions for each event requiring de-
20 icing. Such records shall be kept for a period of three years.

1 § 1354. STORAGE AND DISPOSAL OF SALT

2 The Secretary of Natural Resources, in consultation with the Secretary of
3 Transportation, shall:

4 (1) require that all private, public, State, and municipal salt storage
5 facilities be mapped on the Agency of Natural Resources' Natural Resources
6 Atlas, and the types of materials stored and storage practices at facilities shall
7 be reported to the Agency of Natural Resources;

8 (2) establish best management practices and an education program for
9 the management of State-, town-, and privately owned salt storage facilities
10 and snow disposal practices to prevent runoff to surface and groundwater; and

11 (3) require that all salt and sand storage facilities be under cover by
12 2030, including facilities eligible for Agency of Transportation Municipal
13 Assistance Program grant funding through the Transportation Alternatives
14 Program and the Municipal Highway and Stormwater Mitigation Program.

15 Sec. 2. 10 V.S.A. § 1258 is amended to read:

16 § 1258. MANAGEMENT OF WATERS AFTER CLASSIFICATION;

17 ENFORCEMENT

18 (a) After the classification of any waters has been determined by the
19 Secretary, those waters shall be managed under the supervision of the
20 Secretary in order to obtain and maintain the classification established. The
21 Secretary may enforce a classification against any person affected thereby

1 who, with notice of the classification, has failed to comply. An action to
2 enforce a classification shall be brought in the Superior Court of the county
3 wherein the affected waters are located.

4 (b) The Secretary shall manage discharges to the waters of the State by
5 administering a permit program consistent with the National Pollutant
6 Discharge Elimination System established by Clean Water Act section 402 of
7 ~~Public Law 92-500~~, 33 U.S.C. § 1342, and with the guidelines promulgated in
8 accordance with Clean Water Act section 304(h)(2) of ~~Public Law 92-500~~,
9 33 U.S.C. § 1314(h)(2). The Secretary shall use the full range of possibilities
10 and variables allowable under these sections of ~~Public Law 92-500~~ the federal
11 Clean Water Act, 33 U.S.C. §§ 1251–1389, including general permits, as are
12 consistent with meeting the objectives of the Vermont Water Pollution Control
13 Program. The Secretary shall adopt a continuing planning process approvable
14 under Clean Water Act section 303(e) of ~~Public Law 92-500~~, 33 U.S.C.
15 § 1313(e). Neither the Secretary nor ~~his or her~~ a duly authorized representative
16 may receive or during the previous two years have received a significant
17 portion of ~~his or her~~ income directly or indirectly from permit holders or
18 applicants for a permit under this chapter.

19 (c) When assessing compliance of waters in the State with the Vermont
20 Water Quality Standards; when monitoring waters as required by Clean Water
21 Act section 303(d), 33 U.S.C. § 1313(d); and when a discharge to waters is

1 occurring, the Secretary shall monitor for compliance where the pollutant is
2 first discharged to or where runoff first enters a water or wetland of the State.

3 Sec. 3. IMPLEMENTATION; FEE REPORT

4 (a) The Secretary of Natural Resources, in consultation with the Secretary
5 of Transportation, may adopt the best management practices for commercial
6 application of salt or salt alternatives required under 10 V.S.A. § 1352 by
7 procedure or by rulemaking authority under 10 V.S.A. chapter 47. The
8 Secretary of Natural Resources shall adopt any procedure or rule establishing
9 the best management practices for commercial and municipal application of
10 salt or salt alternatives on or before November 1, 2024 for initial use beginning
11 on January 1, 2025.

12 (b) As part of the consolidated Executive Branch annual fee report required
13 under 32 V.S.A. § 605, the Governor shall recommend a fee for certification of
14 commercial applicators under 10 V.S.A. chapter 47, subchapter 3A.

15 Sec. 4. ANR ENHANCED MONITORING OF CHLORIDE LEVELS IN
16 SURFACE WATERS

17 (a) The Secretary of Natural Resources shall provide for more expansive
18 and consistent testing of surface waters for chloride levels than is currently
19 established in the Agency of Natural Resources' 2006 Field Methods Manual
20 Standard Operating Procedure. Any expanded testing may include testing by
21 watershed groups, conservation districts, and other organizations.

1 (b) When initial testing identifies a State water or water segment
2 contaminated by chloride levels that exceed the chronic or acute standards
3 established by the U.S. Environmental Protection Agency (EPA), the Secretary
4 of Natural Resources shall begin regular monitoring of the chloride levels in
5 that water or water segment and investigate potential acute and diffuse
6 contamination sources, such as impervious surfaces. If the source that is
7 causing chloride contamination levels that exceed EPA chronic or acute
8 standards is found, the Secretary of Natural Resources shall require monitoring
9 at the physical discharge point into a water of the State or into a hydrological
10 connection to a water of the State.

11 Sec. 5. APPROPRIATIONS

12 (a) In addition to any other funds appropriated to the Agency of Natural
13 Resources in fiscal year 2024, the following appropriations are made from the
14 General Fund to the Agency of Natural Resources:

15 (1) \$300,000.00 for the La Rosa Partnership Program to expand surface
16 water monitoring capacity by nongovernmental organizations; and

17 (2) \$260,000.00 for two full-time employees at the Department of
18 Environmental Conservation to assist in chloride monitoring of surface waters
19 and implementation of the Chloride Contamination Reduction Program under
20 10 V.S.A. chapter 47, subchapter 3A.

1 (b) In addition to any other funds appropriated to the Agency of
2 Transportation in fiscal year 2024, \$130,000.00 is appropriated from the
3 General Fund to the Agency for one full-time employee at the Agency of
4 Transportation to assist in chloride monitoring of surface waters and
5 implementation of the Chloride Contamination Reduction Program under
6 10 V.S.A. chapter 47, subchapter 3A.

7 (c) It is the intention of the General Assembly that the appropriations in
8 subsections (a) and (b) of this section shall be made annually for the identified
9 purposes.

10 Sec. 6. EFFECTIVE DATE

11 This act shall take effect on passage.