

1 S.218

2 An act relating to reducing chloride contamination of State waters

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

4 Sec. 1. PURPOSE

5 It is the purpose of this act to establish the accepted standards of care for the
6 application of salt and salt alternatives in an effective and efficient manner that
7 provides safe conditions for pedestrians and motor vehicles on traveled
8 surfaces while also reducing the impacts of salt and salt alternatives on the
9 quality of the waters of the State.

10 Sec. 2. 10 V.S.A. chapter 47, subchapter 3B is added to read:

11 Subchapter 3B. Chloride Contamination Reduction Program

12 § 1361. DEFINITIONS

13 As used in this subchapter:

14 (1) “Apply salt” or “application of salt” means to apply salt or a salt
15 alternative to roadways, parking lots, or sidewalks for the purpose of winter
16 maintenance or for summer dust control. “Apply salt” or “application of salt”
17 does not mean the application of salt to a transportation infrastructure
18 construction project.

19 (2) “Commercial salt applicator” means any individual who for
20 compensation applies salt or salt alternatives, but does not include municipal or
21 State employees.

1 (3) “Master commercial salt applicator” means any individual who
2 employs and is responsible for individuals who for compensation apply salt or
3 salt alternatives, but does not include municipal or State employees.

4 (4) “Salt” means sodium chloride, calcium chloride, magnesium
5 chloride, or any other substance containing chloride used for the purpose of
6 deicing, anti-icing, or dust control.

7 (5) “Salt alternative” means any substance not containing chloride used
8 for the purpose of deicing, anti-icing, or dust control.

9 (6) “Secretary” means the Secretary of Natural Resources.

10 (7) “Transportation infrastructure construction project” means a project
11 that involves the construction of roadways, parking lots, or sidewalks or other
12 construction activities at transportation facilities or within transportation
13 rights-of-way.

14 § 1362. CHLORIDE CONTAMINATION REDUCTION PROGRAM

15 (a) The Secretary of Natural Resources, after consultation with the
16 Secretary of Transportation and other states with similar chloride
17 contamination reduction programs, shall establish the Chloride Contamination
18 Reduction Program for the voluntary education, training, and certification of
19 commercial salt applicators regarding the effective and efficient application of
20 salt and salt alternatives to provide safe conditions for pedestrians and motor

1 vehicles on traveled surfaces while also reducing the impacts of salt and salt
2 alternatives on the quality of the waters of the State.

3 (b) As part of the Program, the Secretary of Natural Resources, on or
4 before July 1, 2027, shall adopt by rule best management practices for the
5 application of salt or salt alternatives by commercial salt applicators. The best
6 management practices may be based on practices currently implemented by the
7 Agency of Transportation or other entities. The best management practices
8 shall:

9 (1) establish measures or techniques to increase efficiency in the
10 application of salt or salt alternatives so that the least amount of salt or salt
11 alternatives is used while maintaining safe conditions for pedestrians and
12 motor vehicles on traveled surfaces;

13 (2) establish standards for when and how salt and salt alternatives are
14 applied in order to prevent salt or salt alternatives from entering the waters of
15 the State, including:

16 (A) salt alternatives that are cost-effective and less harmful to water
17 quality while maintaining safe conditions for pedestrians and motor vehicles
18 on traveled surfaces;

19 (B) whether and how to implement equipment to calibrate, monitor,
20 or meter the application of salt or salt alternatives; and

1 (C) when sand is an appropriate alternative to salt or salt alternatives
2 for deicing or dust control, particularly in regard to when the application of
3 sand will be less harmful to water quality;

4 (3) establish record-keeping requirements for commercial salt
5 applicators, including records of training and records describing the type and
6 rate of application of salt or salt alternatives, the dates of use, weather
7 conditions requiring the use of salt or salt alternatives, and any other factors
8 that the Secretary of Natural Resources deems necessary for the purposes of
9 the Program;

10 (4) create and circulate a model form for the record-keeping information
11 required under this section;

12 (5) establish requirements for certification under this subchapter,
13 including frequency of training and manner of training;

14 (6) establish a testing requirement for applicators to complete prior to
15 receiving an initial certification under the Program; and

16 (7) establish other requirements deemed necessary by the Secretary to
17 achieve the purposes of the Program.

18 (c)(1) The Program shall offer training for commercial applicators in the
19 implementation of the best management practices required under subsection
20 (b) of this section. Upon completion of training, a commercial salt applicator
21 shall be designated a certified commercial salt applicator. The term of a

1 commercial salt applicator certification issued under the Program shall be for
2 two years from the date of issuance of the certification.

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

9 (d)(1) A certified commercial salt applicator shall submit an annual
10 summary of total winter salt usage to the Secretary of Natural Resources.

11 (2) The Secretary of Natural Resources shall establish methods to
12 estimate and track the amount of salt applied by certified commercial salt
13 applicators.

14 (e) The Secretary may revoke a certification issued under this subchapter
15 after notice and opportunity for a hearing for a violation of the requirements of
16 this subchapter, the rules of this subchapter, or the provisions of a certification
17 issued under this subchapter.

18 (f)(1) The Program shall include requirements for the certification of a
19 master commercial salt applicator.

20 (2) The Program shall specifically exclude salt applications related to
21 transportation infrastructure construction projects.

1 (3) The Secretary may elect to implement the Program with State
2 agency staff or through a third-party vendor, or some combination.

3 § 1363. AFFIRMATIVE DEFENSE; SALT APPLICATION

4 (a) A certified commercial salt applicator or an owner, occupant, or lessee
5 of real property maintained by a certified commercial salt applicator shall have
6 an affirmative defense against a claim for damages resulting from a hazard
7 caused by snow or ice if:

8 (1) the claimed damages were caused solely by snow or ice; and

9 (2) any failure or delay in removing or mitigating the hazard is the result
10 of the certified commercial salt applicator's implementation of the best
11 management practices established under section 1362 of this title for the
12 application of salt or salt alternatives.

13 (b) The affirmative defense provided under subsection (a) of this section
14 shall not apply when the civil damages are due to gross negligence or reckless
15 disregard of the hazard.

16 (c) The affirmative defense provided under subsection (a) of this section is
17 not exclusive and is in addition to any other defenses or immunities provided
18 under State law.

19 (d) In order to assert the affirmative defense provided under subsection (a)
20 of this section, a certified commercial salt applicator or an owner, occupant, or
21 lessee of real property maintained by a certified commercial salt applicator

1 shall keep a record describing its road, parking lot, and property maintenance
2 practices, consistent with the requirements determined by the Secretary under
3 this subchapter. The record shall include the type and rate of application of
4 salt and salt alternatives used, the dates of treatment, and the weather
5 conditions for each event requiring deicing. Such records shall be retained by
6 the applicator for a period of three years.

7 § 1364. ENFORCEMENT; PRESUMPTION OF COMPLIANCE; WATER
8 QUALITY

9 (a) A certified commercial salt applicator or a commercial salt applicator
10 employed by a certified master commercial salt applicator is entitled to a
11 rebuttable presumption that the certified commercial salt applicator or
12 commercial salt applicator is in compliance with the requirements of sections
13 1263 and 1264 of this title when applying salt or salt alternatives according to
14 the best management practices established under section 1362 of this title. The
15 rebuttable presumption under this subsection shall not apply to the
16 requirements of a total maximum daily load plan required under this chapter or
17 the requirements of a municipal separate storm sewer system permit required
18 under section 1264 of this title.

19 (b) The Secretary may revoke a certification issued under this subchapter
20 after notice and opportunity for a hearing for a violation of the requirements of

1 this subchapter, the rules of this subchapter, or the provisions of a certification
2 issued under this subchapter.

3 § 1365. EDUCATION AND OUTREACH

4 The Secretary of Natural Resources, through the staff of the Chloride
5 Contamination Reduction Program, shall conduct education and outreach to
6 inform:

7 (1) commercial salt applicators of the existence of the Chloride
8 Contamination Reduction Program and the training and affirmative defense
9 offered under the Program; and

10 (2) members of the public who purchase salt or salt alternatives for use
11 on driveways, sidewalks, private roads, and other paved surfaces of the
12 potential harm to water quality, pets, and wildlife from the excessive
13 application of salt and salt alternatives and how to decrease the potential harm.

14 Sec. 3. ANR REPORT ON MANAGEMENT OF SALT AND SAND

15 STORAGE FACILITIES

16 On or before January 15, 2027, the Secretary of Natural Resources shall
17 submit to the House Committees on Environment and on Transportation and
18 the Senate Committees on Natural Resources and Energy and on
19 Transportation a report regarding the management of State and municipal
20 facilities (facilities) for the storage of salt, salt and sand mixtures, salt
21 alternatives, and sand that is not mixed with salt. The report shall include:

1 (1) an inventory of facilities in the State used for the storage of salt, salt
2 and sand mixtures, salt alternatives, or sand that is not mixed with salt;

3 (2) an estimate of the number of facilities that are currently covered;

4 (3) an estimate of the number of facilities that are not covered and are
5 within 100 yards of a surface water or drinking water source;

6 (4) an estimate of the number of facilities that are not covered and are
7 more than 100 yards from a surface water or drinking water source; and

8 (5) an estimate of the total cost to cover or move facilities for the
9 storage of salt, salt and sand mixtures, salt alternatives, or sand that is not
10 mixed with salt, including an estimate of the time necessary to cover or move
11 all facilities requiring cover or movement and an estimated annual amount of
12 funding that would be needed for cover or movement.

13 Sec. 4. MUNICIPAL SALT APPLICATORS; VERMONT LOCAL ROADS
14 CURRICULUM; AFFIRMATIVE DEFENSE

15 (a)(1) On or before November 1, 2027, the Secretary of Natural Resources,
16 in collaboration with the Secretary of Transportation, shall identify and make
17 the changes to the Vermont Local Roads curriculum needed to support
18 municipal salt applicators in meeting the purpose of this act, including training
19 on best management practices for spreading salt or salt alternatives on roads,
20 parking lots, and sidewalks.

1 (2) As used in this section, “municipal salt applicator” means any
2 individual who applies or supervises others who apply salt or salt alternatives
3 in the applicator’s capacity as an employee or agent of a town or a
4 municipality, but does not include State employees.

5 (b) Notwithstanding any provisions to the contrary of 24 V.S.A. § 901a to
6 the contrary, a municipal employee shall have an affirmative defense against a
7 claim for damages resulting from a hazard caused by snow or ice if:

8 (1) the municipal salt applicator completed the Vermont Local Roads
9 curriculum providing best management practices for spreading salt or salt
10 alternatives on roads, parking lots, and sidewalks in that calendar year;

11 (2) the claimed damages were caused solely by snow or ice; and

12 (3) any failure or delay in removing or mitigating the hazard is the result
13 of the municipal salt applicator’s implementation of the best management
14 practices learned under the Vermont Local Roads curriculum.

15 (c) The affirmative defense provided under subsection (b) of this section
16 shall not apply when the civil damages are due to gross negligence or reckless
17 disregard of the hazard.

18 (d) The affirmative defense provided under subsection (b) of this section is
19 not exclusive and is in addition to any other defenses or immunities provided
20 under State law.

1 (e) In order to assert the affirmative defense provided under subsection (b)
2 of this section, a municipality shall keep a record describing its road, parking
3 lot, and property maintenance practices, consistent with the requirements
4 determined by the Secretary under 10 V.S.A. chapter 47, subchapter 3B. The
5 record shall include the type and rate of application of salt and salt alternatives
6 used, the dates of treatment, and the weather conditions for each event
7 requiring deicing. Such records shall be retained by the applicator for a period
8 of three years.

9 Sec. 5. FEE REPORT

10 On or before January 15, 2027, the Secretary of Natural Resources shall
11 solicit interest from third-party vendors for training and certifying commercial
12 salt applicators under 10 V.S.A. chapter 47, subchapter 3B. The Secretary
13 shall recommend to the House Committees on Environment and on Ways and
14 Means and the Senate Committees on Natural Resources and Energy and on
15 Finance a fee to be charged either by the State or by a third-party vendor for
16 the certification of commercial salt applicators under 10 V.S.A. chapter 47,
17 subchapter 3B. The Secretary of Natural Resources, after consultation with the
18 Secretary of Transportation, shall recommend to the House Committees on
19 Environment and on Ways and Means and the Senate Committees on Natural
20 Resources and Energy and on Finance a fee to be charged either by the State or
21 by a third-party vendor for the certification of commercial salt applicators

1 under 10 V.S.A. chapter 47, subchapter 3B and a fee to be charged to
2 municipal salt applicators completing the salt applicator training set forth
3 under Sec. 4 of this act. Any fee charged to commercial salt applicators or
4 municipal salt applicators by the State or a third-party vendor for certification
5 under the Chloride Contamination Reduction Program or under the Vermont
6 Local Roads curriculum shall be approved by the General Assembly.

7 Sec. 6. CONTINGENT IMPLEMENTATION; FUNDING

8 The duty of the Agency of Natural Resources to implement Secs. 2
9 (Chloride Contamination Reduction Program), 4 (municipal salt applicators),
10 and 5 (fee report) of this act is contingent upon an appropriation from the
11 General Fund for the specific purposes described in Secs. 2, 4, and 5 of this
12 act.

13 Sec. 7. EFFECTIVE DATE

14 This act shall take effect on passage.