

1 S.218

2 Introduced by Senator Watson

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; water quality; protection from  
6 liability; salt application

7 Statement of purpose of bill as introduced: This bill proposes to require the  
8 Secretary of Natural Resources to establish the Chloride Contamination  
9 Reduction Program for the voluntary education, training, and certification of  
10 commercial salt applicators. A certified commercial salt applicator would have  
11 an affirmative defense against a claim for damages resulting from a hazard  
12 caused by snow or ice if the claimed damages were caused solely by snow or  
13 ice, and any failure or delay in removing or mitigating the hazard is the result  
14 of the certified commercial salt applicator's implementation of the best  
15 management practices of the Agency of Natural Resources (ANR) for the  
16 application of salt or salt alternatives. ANR also would be required to make  
17 the changes to the Vermont Local Roads curriculum needed to support  
18 municipal salt applicators, including training on best management practices for  
19 spreading salt or salt alternatives on roads, parking lots, and sidewalks. A  
20 municipal employee applying salt or salt alternatives would have an  
21 affirmative defense to claims for damages from a hazard caused by snow or ice

1 if the municipal employee completed the municipal salt applicator curriculum,  
2 the claimed damages were caused solely by snow or ice, and any failure or  
3 delay in removing or mitigating the hazard is the result of the applicator's  
4 implementation of the curriculum.

5 An act relating to reducing chloride contamination of State waters

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

7 Sec. 1. PURPOSE

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

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

14 Subchapter 3B. Chloride Contamination Reduction Program

15 § 1361. DEFINITIONS

16 As used in this subchapter:

17 (1) "Apply salt" or "application of salt" means to apply salt or a salt  
18 alternative to roadways, parking lots, or sidewalks for the purpose of winter  
19 maintenance or for summer dust control. "Apply salt" or "application of salt"

1 does not mean the application of salt to a transportation infrastructure  
2 construction project.

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

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

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

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

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

15 (7) “Transportation infrastructure construction project” means a project  
16 that involves the construction of roadways, parking lots, or sidewalks or other  
17 construction activities at transportation facilities or within transportation  
18 rights-of-way.

19 § 1362. CHLORIDE CONTAMINATION REDUCTION PROGRAM

20 (a) The Secretary of Natural Resources, after consultation with the  
21 Secretary of Transportation and other states with similar chloride

1 contamination reduction programs, shall establish the Chloride Contamination  
2 Reduction Program for the voluntary education, training, and certification of  
3 commercial salt applicators regarding the effective and efficient application of  
4 salt and salt alternatives to provide safe conditions for pedestrians and motor  
5 vehicles on traveled surfaces while also reducing the impacts of salt and salt  
6 alternatives on the quality of the waters of the State.

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

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

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

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

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

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

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

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

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

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

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

3           (c)(1) The Program shall offer training for commercial applicators in the  
4           implementation of the best management practices required under subsection  
5           (b) of this section. Upon completion of training, a commercial salt applicator  
6           shall be designated a certified commercial salt applicator. The term of a  
7           commercial salt applicator certification issued under the Program shall be for  
8           two years from the date of issuance of the certification.

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

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

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

20          (e) The Secretary may revoke a certification issued under this subchapter  
21          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 (f)(1) The Program shall include requirements for the certification of a  
4 master commercial salt applicator.

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

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

9 § 1363. AFFIRMATIVE DEFENSE; SALT APPLICATION

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

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

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

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

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

4       (d) In order to assert the affirmative defense provided under subsection (a)  
5       of this section, a certified commercial salt applicator or an owner, occupant, or  
6       lessee of real property maintained by a certified commercial salt applicator  
7       shall keep a record describing its road, parking lot, and property maintenance  
8       practices, consistent with the requirements determined by the Secretary under  
9       this subchapter. The record shall include the type and rate of application of  
10       salt and salt alternatives used, the dates of treatment, and the weather  
11       conditions for each event requiring deicing. Such records shall be retained by  
12       the applicator for a period of three years.

13       § 1364. ENFORCEMENT; PRESUMPTION OF COMPLIANCE; WATER  
14       QUALITY

15       (a) A certified commercial salt applicator or a commercial salt applicator  
16       employed by a certified master commercial salt applicator is entitled to a  
17       rebuttable presumption that the certified commercial salt applicator or  
18       commercial salt applicator is in compliance with the requirements of sections  
19       1263 and 1264 of this title when applying salt or salt alternatives according to  
20       the best management practices established under section 1362 of this title. The  
21       rebuttable presumption under this subsection shall not apply to the



1 requirements of a total maximum daily load plan required under this chapter or  
2 the requirements of a municipal separate storm sewer system permit required  
3 under section 1264 of this title.

4 (b) The Secretary may revoke a certification issued under this subchapter  
5 after notice and opportunity for a hearing for a violation of the requirements of  
6 this subchapter, the rules of this subchapter, or the provisions of a certification  
7 issued under this subchapter.

8 § 1365. EDUCATION AND OUTREACH

9 The Secretary of Natural Resources, through the staff of the Chloride  
10 Contamination Reduction Program, shall conduct education and outreach to  
11 inform:

12 (1) commercial salt applicators of the existence of the Chloride  
13 Contamination Reduction Program and the training and affirmative defense  
14 offered under the Program; and

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

1     Sec. 3. ANR REPORT ON MANAGEMENT OF SALT AND SAND  
2             STORAGE FACILITIES

3             On or before January 15, 2027, the Secretary of Natural Resources shall  
4             submit to the House Committees on Environment and on Transportation and  
5             the Senate Committees on Natural Resources and Energy and on  
6             Transportation a report regarding the management of State and municipal  
7             facilities (facilities) for the storage of salt, salt and sand mixtures, salt  
8             alternatives, and sand that is not mixed with salt. The report shall include:

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

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

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

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

16                (5) an estimate of the total cost to cover or move facilities for the  
17                storage of salt, salt and sand mixtures, salt alternatives, or sand that is not  
18                mixed with salt, including a proposed annual amount of funding that would be  
19                required to meet the timelines for covering or movement.

1       Sec. 4. MUNICIPAL SALT APPLICATORS; VERMONT LOCAL ROADS  
2               CURRICULUM; AFFIRMATIVE DEFENSE

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

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

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

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

1           (2) the claimed damages were caused solely by snow or ice; and  
2           (3) any failure or delay in removing or mitigating the hazard is the result  
3           of the municipal salt applicator's implementation of the best management  
4           practices learned under the Vermont Local Roads curriculum.

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

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

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

19       Sec. 5. FEE REPORT

20           On or before January 15, 2027, the Secretary of Natural Resources shall  
21           solicit interest from third-party vendors for training and certifying commercial

1 salt applicators under 10 V.S.A. chapter 47, subchapter 3B. The Secretary  
2 shall recommend to the House Committees on Environment and on Ways and  
3 Means and the Senate Committees on Natural Resources and Energy and on  
4 Finance a fee to be charged either by the State or by a third-party vendor for  
5 the certification of commercial salt applicators under 10 V.S.A. chapter 47,  
6 subchapter 3B. Any fee charged to commercial salt applicators by the State or  
7 a third-party vendor for certification under the Chloride Contamination  
8 Reduction Program shall be approved by the General Assembly.

9 Sec. 6. CONTINGENT IMPLEMENTATION; FUNDING

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

15 Sec. 7. EFFECTIVE DATE

16 This act shall take effect on passage.