

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 Senate Bill No. 224 entitled “An act relating to the management of the State’s
4 lakes” respectfully reports that it has considered the same and recommends that
5 the bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

7 * * * Municipal Regulation of Public Water Sources * * *

8 Sec. 1. 10 V.S.A. § 1424 is amended to read:

9 § 1424. USE OF PUBLIC WATERS

10 (a) The Secretary may establish rules to implement the provisions of this
11 chapter, including:

12 (1) Rules to regulate the use of public waters of the State by:

13 (A) defining areas on public waters wherein certain uses may be
14 conducted;

15 (B) defining the uses ~~which~~ that may be conducted in the defined
16 areas;

17 (C) regulating the conduct in these areas, including the size of motors
18 allowed, size of boats allowed, allowable speeds for boats, and prohibiting the
19 use of motors or houseboats; or

20 (D) regulating the time various uses may be conducted.

* * *

1 (C) the municipality accepts the delegation by adopting a bylaw or
2 ordinance approved by the Secretary for the regulation of the use of the public
3 water.

4 (2) A municipality delegated authority to regulate the use of a public
5 water shall comply with and be at least as stringent as the State public water
6 supply requirements of chapter 56 of this title and rules adopted under that
7 chapter.

8 (3) Appeals from a final act of a municipality under a bylaw or
9 ordinance approved under this subsection shall be to the Environmental
10 Division.

11 (4) The Secretary may terminate a delegation under this subsection for
12 cause or without cause upon six months' notice to the municipality.

13 * * * Wakeboats; Home Lake * * *

14 Sec. 2. 10 V.S.A. § 1422 is amended to read:

15 § 1422. DEFINITIONS

16 In this chapter, ~~unless the context clearly requires otherwise:~~

17 (1) “Agency” means the Agency of Natural Resources.

18 * * *

19 (3) “Department” means Department of Environmental Conservation.

20 (4) “Navigable water” or “navigable waters” means Lake Champlain,
21 Lake Memphremagog, the Connecticut River, all natural inland lakes within

1 Vermont, and all streams, ponds, flowages, and other waters within the
2 territorial limits of Vermont, including the Vermont portion of boundary
3 waters, that are boatable under the laws of this State.

4 * * *

5 (6) “Public waters” means navigable waters excepting those waters in
6 private ponds and private preserves as set forth in sections 5204, 5205, 5206,
7 and 5210 of this title.

8 (7) “Secretary” means the Secretary of Natural Resources or the
9 Secretary’s duly authorized representative.

10 * * *

11 (11) “Lake” means a body of standing water, including a pond or a
12 reservoir, that may have natural or artificial water level control. Private ponds
13 as defined under section 5210 of this title, and reservoirs specifically
14 constructed for the following purposes shall not be considered lakes:
15 snowmaking storage, golf course irrigation, stormwater management, and fire
16 suppression.

17 * * *

18 (21) “Motorboat” has the same meaning as in 23 V.S.A. § 3302.

19 (22) “Wakeboat” means a motorboat that has one or more ballast tanks,
20 ballast bags, or other devices or design features used to increase the size of the
21 motorboat’s wake.

1 Sec. 3. 10 V.S.A. § 1424b is added to read:

2 § 1424b. WAKEBOATS; USE OF WATERS

3 (a) A person shall operate a wakeboat only on a lake authorized by the
4 Department under the Department of Environmental Conservation's Vermont
5 Use of Public Waters Rules and only in that area of the lake identified for use
6 by wakeboats.

7 (b) In order to operate a wakeboat in Vermont, the person who owns or
8 controls the wakeboat shall on a form provided by the Department of
9 Environmental Conservation identify a home lake for the wakeboat for the
10 given calendar year. A wakeboat's home lake is the only lake on which that
11 wakeboat shall be used in Vermont for the calendar year, unless the wakeboat
12 is decontaminated according to the requirements of subsection (c) of this
13 section.

14 (c)(1) Prior to entering a Vermont lake other than the wakeboat's home
15 lake, and prior to reentering a home lake after use of the wakeboat at any other
16 lake or waterbody, the person who owns or controls the wakeboat shall
17 decontaminate the wakeboat at an Agency-approved decontamination service
18 provider. Existing boat washing stations shall not be considered an Agency-
19 approved decontamination service provider unless approved by the Agency to
20 provide decontamination services.

1 (2) Prior to entering a lake, a law enforcement officer, an employee of
2 the Agency, or a person staffing an authorized aquatic nuisance species
3 inspection station may request that the person who owns, controls, or is using
4 the wakeboat provide proof of decontamination of the wakeboat by an Agency-
5 approved decontamination service provider.

6 (3) A person staffing an authorized aquatic nuisance species inspection
7 station is authorized to inform a person who owns or controls a wakeboat
8 whether wakeboats are authorized for use on a lake. Information provided by a
9 person staffing an authorized aquatic nuisance species inspection station shall
10 not be considered an exercise of law enforcement authority.

11 (d) All provisions of section 1454 of this title regarding aquatic nuisance
12 species inspection apply to wakeboats, and wakeboat users shall drain the
13 ballast tanks of their boats to the fullest extent practicable immediately before
14 or immediately after leaving a water of the State.

15 (e) Pursuant to 4 V.S.A. § 1102, a violation of this section may be brought
16 in the Judicial Bureau by any law enforcement officer, as that term is defined
17 in 23 V.S.A. § 3302(3), or, pursuant to section 8007 or 8008 of this title, a
18 violation of this section may be brought in the Environmental Division of the
19 Superior Court. If a violation of this section is adjudicated in the Judicial
20 Bureau or the Environmental Division, the violation shall not be addressed or
21 adjudicated a second time in the other court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

(19) Violations of 10 V.S.A. § 1424b or rules adopted under 10 V.S.A.

* * *

(d) Draining of vessel; transport.

(B) A person operating a vessel shall drain the vessel, trailer, and other equipment of water in a manner to avoid a discharge to the water of the State. This subdivision (d)(1) does not authorize a person to discharge waste,

1 as defined in section 1251 of this title, to waters of the State. A person shall
2 dispose of waste in the manner required by law.

3 (2) When a person transports a vessel, the person shall remove or open
4 the drain plugs, bailers, valves, and other devices that are used to control the
5 draining of water from ballast tanks, bilge areas, and live wells of the vessel,
6 trailer, and other equipment, except for vehicles and trailers specifically
7 designed and used for water hauling and emergency response vehicles and
8 equipment.

9 * * * Fish and Wildlife Access Areas * * *

10 Sec. 6. 10 V.S.A. § 4145 is amended to read:

11 § 4145. ACCESS, LANDING AREA RULES

12 (a) The ~~Board~~ Commissioner may adopt rules, under 3 V.S.A. chapter 25,
13 to regulate the use by the public of access areas, landing areas, parking areas,
14 or of other lands or waters acquired or maintained pursuant to section 4144 of
15 this title. ~~Such~~ The rules shall be posted in the areas affected and shall permit
16 the launching of all vessels that have a Vermont registration certificate
17 required by 23 V.S.A. chapter 29 and the parking of vehicles and boat trailers
18 used by these vessels. The rules shall not preclude the authorization to launch
19 vessels not registered in Vermont. ~~These~~ The rules also shall permit the
20 launching of all nonmotorized vessels not used for commercial purposes and
21 the parking of vehicles and boat trailers used by these vessels.

1 (b) The Commissioner may enter into agreements with owners of land,
2 which shall not involve payment to the landowner, in order to allow public
3 access for launching of nonmotorized vessels in public waters. The
4 Commissioner may agree to upgrade the land area in a minor way; for
5 example, the Commissioner may agree to build a footpath to the water, build
6 and maintain a small parking area, or perform minor grading to improve boat
7 access. The Commissioner may not agree to major upgrading, such as building
8 a launching ramp or paving a parking area. A landowner who enters into an
9 agreement under this subsection shall be afforded the landowner liability
10 protections of 12 V.S.A. § 5793. The Commissioner shall post signs in these
11 areas, inviting private contributions to the Fish and Wildlife Fund for the
12 purpose of building and maintaining nonmotorized vessel access areas; and
13 shall issue to any person contributing; a sticker that may be placed on a vessel
14 and that identifies the person as a contributor to the nonmotorized vessel
15 access area program.

16 (c) The Commissioner shall keep account of funds, including private
17 donations and State appropriations, that are deposited into the Fish and
18 Wildlife Fund for the purpose of building and maintaining access areas and
19 shall annually, on or before January 15, report to the House Committee on
20 Environment, the Senate Committee on Natural Resources and Energy, and the
21 Senate and House Committees on Appropriations; concerning the use of those

1 funds in the past year and plans for use of the funds for the coming year. The
2 provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply
3 to the report to be made under this subsection.

4 (d) The ~~Board shall allow the~~ Commissioner of Environmental
5 Conservation ~~to~~ shall post aquatic nuisance signs in access areas pursuant to
6 subdivision 1453(b)(6) of this title.

7 (e)(1) Upon issuance of a permit by the Commissioner of the Department of Fish
and Wildlife, fishing access areas may be used by approved aquatic nuisance
8 inspection stations in order to allow for decontamination of wakeboats under
9 section 1424b of this title or inspection of vessels entering lakes as required
10 under section 1454 of this title.

11 (2) Any use of an access area by an aquatic nuisance inspection station
12 shall comply with the requirements of 50 C.F.R. Part 80 and the conditions of a
13 permit issued by the Department of Fish and Wildlife. Consistent with the
14 federal regulation, if the aquatic nuisance inspection station interferes with the
15 authorized uses of the access area, ~~conflicts with a use of higher priority,~~ the aquatic
16 nuisance inspection station shall relocate or modify its activities until the conflict is
17 remediated.

18 (3) This section and any rules adopted under it shall not be construed to
19 mean that a conflict exists between an aquatic nuisance inspection station and a
20 higher priority use when an operator of an aquatic inspection station informs
21 the user of a vessel of the requirement to:

- 1 (A) decontaminate a wakeboat under section 1424b of this title; or
2 (B) inspect a vessel for aquatic nuisance species and drain a vessel
3 under section 1454 of this title.

4 Sec. 7. 10 App. V.S.A. § 115 is amended to read:

5 § 115. USE OF STATE CONTROLLED FISHING ACCESS AREAS

6 1.0 Authority 1.1 This rule is adopted pursuant to 10 V.S.A. § 4145(a)
7 which authorizes the board to make rules to “regulate the use by the public of
8 access areas, landing areas, parking areas or of other lands or waters acquired
9 or maintained pursuant to 10 V.S.A. § 4144.”

10 1.2 This rule applies to use of ~~state~~ State controlled fishing access areas
11 and to persons, businesses, or entities that use the fishing access areas.

12 2.0 Purpose

13 The purpose of this rule is to:

14 2.1 Ensure current and future uses are orderly, sustainable, and in
15 accordance with ~~state~~ State and federal statutes and guidelines.

16 2.2 Manage conflict between users by clarifying authorized and
17 prohibited activities and ensuring users share in the burdens and benefits of
18 use.

19 2.3 Protect the fishing access areas for statutorily approved uses.

20 3.0 Definitions 3.1 Commercial Activity is any activity or service that
21 produces income to any entity or individual.

1 3.2 Nonprofit Charitable Organization means an entity organized and
2 operated exclusively for exempt purposes set forth in Section 501(c)(3) of the
3 Internal Revenue Code.

4 3.3 Picnicking includes but is not limited to any activity that involves,
5 cooking, grilling, food preparation, and, set-up associated with eating
6 (including setting blankets or table cloths laid on the ground).

7 3.4 Camping includes any activity using a tent, camper, or motor home,
8 any activity involving preparation of an area for sleeping or, any overnight
9 sleeping.

10 3.5 Group use is use actually or potentially involving 10 or more people
11 or two or more vehicles at a time.

12 3.6 Parking is the leaving of motor vehicles or trailers unattended in an
13 access area.

14 3.7 Motor vehicles are all vehicles propelled or drawn by power other
15 than muscle power.

16 3.8 Vessel means motor boats, boats, kayaks, canoes and sail boats.

17 4.0 Authorized Activities

18 The following are authorized activities in order of priority:

19 4.1 Angling, ice fishing and the launching of any vessel to be used for
20 fishing and parking of vehicles and trailers necessary for and contemporaneous
21 with these purposes.

1 4.2 The launching of inboard and outboard motorboats engaging in any
2 activity and parking of vehicles and trailers necessary for and
3 contemporaneous with that purpose.

4 4.3 Trapping, hunting and parking of vehicles and boat trailers
5 necessary for and contemporaneous with that purpose.

6 4.4 Launching of all non-motorized vessels not used for commercial
7 purposes and parking of vehicles and boat trailers necessary for and
8 contemporaneous with that purpose. Users shall launch from the designated
9 non-motorized launch site, when such a site is identified. Authorized

10 nonmotorized vessels include canoes, kayaks, row boats, and standup
11 paddleboards.

12 4.5 ~~ATV's~~ ATVs and snowmobiles when being used solely for the
13 purposes of ice fishing.

14 ~~4.6 Approved aquatic nuisance inspection stations for boat washing or to~~
15 ~~decontaminate wakeboats pursuant to 10 V.S.A. § 1424b or inspection of~~
16 ~~vessels entering lakes pursuant to 10 V.S.A. § 1454.~~

17 ~~4.7 Permitted special uses, including the establishment of approved aquatic~~
18 ~~nuisance inspection stations for boat washing or to decontaminate wakeboats~~
19 ~~pursuant to 10 V.S.A. § 1424b or inspection of~~
20 ~~vessels entering lakes pursuant to 10 V.S.A. § 1454, as approved and permitted by the~~
21 ~~Commissioner.~~
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25 5.0 Prohibited Activities 5.1 Discarding of bottles, glass, cans, paper,
26 junk, litter, food, or any other garbage or trash.

1 5.2 Discarding of dead fish, wildlife or portions thereof.

2 5.3 Washing or cleaning of vehicles and equipment other than for the
3 purpose of removing aquatic plants and organisms.

4 5.4 Washing or cleaning of fish or wildlife.

5 5.5 Camping.

6 5.6 Picnicking.

7 5.7 Making or maintaining fire of any kind.

8 5.8 Water skiing.

9 5.9 Swimming.

10 5.10 Use of snowmobiles and ATVs, except for those being utilized
11 solely for the purpose of ice fishing.

12 5.11 Parking of vehicles and or trailers while the vehicle owner or user
13 is not present at the access area or on the adjacent public waters except as
14 otherwise permitted by the Commissioner.

15 5.12 Storage of vehicles and or trailers or placing of vehicles or trailers
16 for sale.

17 5.13 Withdrawal of water except as authorized under paragraph 6.0.

18 5.14 Parking in excess of 72 consecutive hours except that the
19 Commissioner may issue permits for longer parking when the Commissioner
20 determines that there will be no adverse impact on authorized uses found in 4.0

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1 5.15 Commercial activity except as authorized by paragraph 7.0 below.

2 5.16 Activity that interferes with a priority use, such as, but not limited
3 to the mooring or beaching of boats, using the ramp to rig a boat or boats thus
4 obstructing use of the ramp, and the storing of boats or trailers at an access
5 area.

6 5.17 Group use not specifically authorized by the Commissioner.

7 5.18 Launching and recovery of sailboards, rafts, snow kites, and the
8 parking of vehicles and trailers supporting these activities.

9 5.19 All other activity that is not specifically permitted by this rule
10 unless specifically authorized by the Commissioner.

11 6.0 Authorized Users.

12 6.1 Any person who is engaged in any authorized activity.

13 6.2 Any group that has received approval for group use in accordance
14 with this rule.

15 6.3 Fire departments that have executed a Memorandum Of Agreement
16 (MOA) with the Commissioner for the installation and use of a dry hydrant.
17 And then, only in accordance with their MOA. Fire departments may also use
18 Access Areas without dry hydrants as emergency water sources to fight fires
19 and will notify the local warden as soon as practicably possible.

20 6.4 Individuals participating in a fishing tournament permitted under
21 10 V.S.A. § 4613.

20 § 4613. FISHING TOURNAMENTS

1 (a)(1) No person or organization shall hold a fishing tournament on the
2 waters of the State without first obtaining a permit from the Department of
3 Fish and Wildlife. Tournaments held on the Connecticut River, excluding
4 Moore and Comerford Reservoirs, that do not utilize an access area in Vermont
5 are not required to obtain a permit from the Department of Fish and Wildlife.

6 (2) If the Department of Fish and Wildlife receives an application for a
7 fishing tournament on a water of the State that serves as a municipality's
8 public drinking water source and the municipality owns or controls all of the
9 land surrounding the water, the Department shall confirm that the legislative
10 body of the municipality approved use of the water for the tournament prior to
11 issuing the permit required under subdivision (1) of this subsection. The
12 Department of Fish and Wildlife shall not issue a permit if the legislative body
13 of the municipality did not approve the tournament.

14 (b) A fishing tournament means a contest in which anglers pay a fee to
15 enter and in which the entrants compete for a prize based on the quality or size
16 of the fish they catch. A contest may run multiple days, but the days must be
17 consecutive for that contest to be considered a single event. A tournament that
18 limits the entrants to ~~people~~ individuals below 15 years of age or a tournament
19 held as part of a Special Olympics program shall be exempt from paying the
20 fee required under subsection (d) of this section.

1 (c) The Commissioner shall adopt rules that establish the procedure for
2 implementation of this section. The rules shall include a provision that an
3 angler may not enter a fish that was caught and confined to an enclosed area
4 prior to the beginning of the tournament.

5 (d)(1) The Commissioner shall charge a fee based on the number of
6 participants for each permit issued under this section and shall deposit the fee
7 collected into the Fish and Wildlife Fund. Tournaments with up to 25
8 participants shall pay a fee of \$10.00; tournaments with 26 to 50 participants
9 shall pay a fee of \$30.00; and tournaments with more than 50 participants shall
10 pay a fee of \$100.00.

11 ~~(2) If the Commissioner under subsection (a) of this section approves a~~
12 ~~fishing tournament on a water of the State that serves as a public drinking~~
13 ~~water source for a municipality, the Commissioner shall require the applicant~~
14 ~~for the tournament to reimburse the municipality for the costs the municipality~~
15 ~~incurs in ensuring that the drinking water source is not contaminated if the~~
16 ~~municipality owns or controls all of the land surrounding the water.~~

~~(e) Applications to hold a fishing tournament on a water of the State which serve as a~~
~~public drinking water source for a municipality, and where the municipality owns or~~
~~controls all of the land surrounding the water, shall be submitted on a form issued by the~~
~~Commissioner. The form shall require the applicant to identify an access point to waters for~~
~~participants in the tournament and, if the access point is on a private right-of-way, the~~
~~application shall indicate whether the applicant has secured permission to use the right-of-~~

way for the proposed tournament.

17 Applications to hold a fishing tournament on the waters of the State

18 shall be submitted on a form issued by the Commissioner. The form shall

19 require the applicant to identify an access point to waters for participants in the

20 tournament and, if the access point is on a private right of way, whether the

1 ~~applicant has secured permission to use the right of way for the proposed~~
2 ~~tournament.~~

3 * * * Effective Date * * *

4 Sec. 9. EFFECTIVE DATE

5 This act shall take effect on passage.

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12 (Committee vote: _____)

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Senator _____

FOR THE COMMITTEE