

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 * * * Wakeboats; Home Lake; Registration * * *

8 Sec. 1. 10 V.S.A. § 1422 is amended to read:

9 § 1422. DEFINITIONS

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

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

12 * * *

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

14 (4) “Navigable water” or “navigable waters” means Lake Champlain,
15 Lake Memphremagog, the Connecticut River, all natural inland lakes within
16 Vermont, and all streams, ponds, flowages, and other waters within the
17 territorial limits of Vermont, including the Vermont portion of boundary
18 waters, that are boatable under the laws of this State.

19 * * *

1 (D) educates owners or operators of vessels about aquatic nuisance
2 species; and

3 (E) conducts inspection of vessels for aquatic nuisance species; and

4 (F) removes and disposes of aquatic nuisance species found on
5 vessels.

6 (22) “Boat washing unit” means portable equipment capable of cleaning
7 the exterior of a vessel entering or exiting a lake or other water with
8 pressurized water from hoses, but not hot water.

9 (23) “Decontamination service provider” means a site that:

10 (A) is owned or operated by a private entity or business or by a State
11 agency;

12 (B) has access to electric power and hot water of over 140 degrees
13 Fahrenheit;

14 (C) is designed to remove or prevent the spread of aquatic nuisance
15 species through the use of high pressure and hot water; and

16 (D) is located in a way to collect runoff or to prevent runoff to
17 surface waters or wetlands.

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

19 (25) “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. 2. 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 the vessel registration or validation form
9 required under 23 V.S.A. § 3305 annually or biennially identify a home lake
10 for the wakeboat for the calendar years for which the registration or validation
11 is valid. A wakeboat’s home lake is the only lake on which that wakeboat
12 shall be used in Vermont for the calendar year, unless the wakeboat is
13 decontaminated according to the requirements of subsection (c) of this 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. Boat washing stations shall not be considered an Agency-approved
19 decontamination service provider unless approved by the Agency as meeting
20 the criteria for a decontamination service provider and provided that the

1 decontamination services do not interfere with or prevent operation of the boat
2 washing services.

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

8 (3) When a wakeboat is operating on a lake authorized by the
9 Department for wakeboat use, law enforcement may require the owner or
10 operator of the wakeboat to produce the following in order to demonstrate
11 compliance with the requirements of this section:

12 (A) A current certificate of registration designating the home lake of
13 a wakeboat;

14 (B) Proof of decontamination of the wakeboat at an Agency-
15 approved decontamination service if the wakeboat is registered out of state or
16 the wakeboat has been operated in another lake other than the designated home
17 lake.

18 (4) A person staffing an authorized aquatic nuisance species inspection
19 station is authorized to inform a person who owns or controls a wakeboat
20 whether wakeboats are authorized for use on a lake. Information provided by a

1 person staffing an authorized aquatic nuisance species inspection station shall
2 not be considered an exercise of law enforcement authority.

3 (5) A private entity or business or a State agency shall not operate a
4 decontamination service provider without first obtaining an approval from the
5 Secretary of Natural Resources. An applicant for approval of a
6 decontamination service provider shall apply on a form provided by the
7 Secretary and shall submit information demonstrating that the proposed site of
8 the decontamination service provider satisfies all of the criteria set forth in
9 subdivision 1422(23) of this title.

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

17 Sec. 3. 4 V.S.A. § 1102(b) is amended to read:

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

19 * * *

20 (19) Violations of 10 V.S.A. § 1424b or rules adopted under 10 V.S.A.
21 § 1424, relating to the use of public waters.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

* * *

Sec. 4. 10 V.S.A. § 1453 is amended to read:

§ 1453. AQUATIC NUISANCE CONTROL PROGRAM

(a) The Agency of Natural Resources shall establish and maintain an aquatic nuisance control program.

(b) The aquatic nuisance control program shall perform the following services:

- (1) receive and respond to aquatic nuisance complaints;
- (2) work with municipalities, local interest organizations, private individuals, and agencies of the state to develop long-range programs regarding aquatic nuisance controls;
- (3) work with federal, state, and local governments to obtain funding for aquatic nuisance control programs;
- (4) implement an aquatic species rapid response program under this chapter;
- (5) administer a grant-in-aid program under section 1458 of this title;
- (6) place a sign at least two feet by two feet in size that states that the water is infected with an aquatic nuisance and that a person transporting the nuisance in violation of section 1454 of this title may be subject to a penalty of up to \$1,000.00 pursuant to 23 V.S.A. § 3317, so that the sign is easily visible

1 from a ramp used to launch vessels at any fish and wildlife access area on a
2 body of water infected with an aquatic nuisance;

3 (7) include on any signage posted under this section the requirements of
4 section 1424b of this title regarding the operation and decontamination of
5 wakeboats; and

6 ~~(7)~~(8) provide the Commissioner of Fish and Wildlife and the
7 Commissioner of Motor Vehicles with written educational information about
8 aquatic nuisances that can be included in an envelope containing a boat
9 registration and in a Department of Fish and Wildlife publication pertaining to
10 fishing and boating.

11 Sec. 5. 10 V.S.A. § 1454(d) is amended to read:

12 (d) Draining of vessel; transport.

13 (1)(A) ~~When~~ Immediately before or immediately after leaving a water
14 of the State and prior to transport away from the area where the vessel left the
15 water, a person operating a vessel shall drain the vessel, trailer, and other
16 equipment of water, including water in live wells, ballast tanks, and bilge
17 areas. A person is not required to drain:

18 (i) baitboxes when authorized under 10 App. V.S.A. § 122(5) to
19 transport bait in a baitbox away from a water; or

20 (ii) vehicles and trailers specifically designed and used for water
21 hauling.

1 (B) A person operating a vessel shall drain the vessel, trailer, and
2 other equipment of water in a manner to avoid a discharge to the water of the
3 State. This subdivision (d)(1) does not authorize a person to discharge waste,
4 as defined in section 1251 of this title, to waters of the State. A person shall
5 dispose of waste in the manner required by law.

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

12 Sec. 6. 23 V.S.A. § 3302 is amended to read:

13 § 3302. DEFINITIONS

14 As used in this chapter, ~~unless the context clearly requires a different~~
15 ~~meaning:~~

16 * * *

17 (6) “Motorboat” means any vessel equipped with machinery capable of
18 propelling the vessel, whether or not such machinery is the principal source of
19 propulsion.

20 * * *

1 (a) An individual shall not operate a motorboat on the public waters of this
2 State unless the motorboat has a valid marine document issued by U.S.
3 Customs and Border Protection or any successor federal agency or is registered
4 in accordance with this chapter.

5 (b) Annually or biennially, the owner of each motorboat required to be
6 registered by this State shall file an application for a number with the
7 Commissioner of Motor Vehicles on forms approved by ~~him or her~~ the
8 Commissioner. The application shall be signed by the owner of the motorboat
9 and shall be accompanied by an annual fee of \$31.00, or a biennial fee of
10 \$57.00, for a motorboat in class A; by an annual fee of \$49.00, or a biennial
11 fee of \$93.00, for a motorboat in class 1; by an annual fee of \$80.00, or a
12 biennial fee of \$155.00, for a motorboat in class 2; or by an annual fee of
13 \$153.00, or a biennial fee of \$303.00, for a motorboat in class 3. Upon receipt
14 of the application in approved form, the Commissioner shall enter the
15 application upon the records of the Department of Motor Vehicles and issue to
16 the applicant a registration certificate stating the number awarded to the
17 motorboat and the name and address of the owner. The owner shall paint on or
18 attach to each side of the bow of the motorboat the identification number in
19 such manner as may be prescribed by rules of the Commissioner in order that it
20 may be clearly visible. The registration shall be void one year from the first
21 day of the month following the month of issue in the case of annual

1 registrations or void two years from the first day of the month following the
2 month of issue in the case of biennial registrations. A motorboat of less than
3 10 horsepower used as a tender to a registered motorboat shall be deemed
4 registered, at no additional cost, and shall have painted or attached to both
5 sides of the bow the same registration number as the registered motorboat with
6 the number “1” after the number. The number shall be maintained in legible
7 condition. The registration certificate shall be pocket size and shall be
8 available at all times for inspection on the motorboat for which issued,
9 whenever the motorboat is in operation. A duplicate registration may be
10 obtained upon payment of a fee of \$3.00 to the Commissioner. Registration
11 fees shall be allocated in accordance with section 3319 of this title.

12 * * *

13 (d)(1) Registration of a motorboat ends when the owner transfers title to
14 another. The former owner shall immediately return directly to the
15 Commissioner the registration certificate previously assigned to the transferred
16 motorboat with the date of sale and the name and residence of the new owner
17 endorsed on the back of the certificate.

18 (2) When a person transfers the ownership of a registered motorboat to
19 another, files a new application, and pays a fee of \$6.00, ~~he or she~~ the person
20 may have registered in his or her name another motorboat of the same class for
21 the remainder of the registration period without payment of any additional

1 registration fee. However, if the fee for the registration of the motorboat
2 sought to be registered is greater than the registration fee for the transferred
3 motorboat, the applicant shall pay the difference between the fee first paid and
4 the fee for the class motorboat sought to be registered.

5 * * *

6 (k) The application forms that the Commissioner of Motor Vehicles
7 provides for the registration of vessels under subsection (b) of this section shall
8 include a checkbox for an owner to designate a motorboat as a wakeboat. If
9 the owner designates a motorboat a wakeboat, the owner shall designate the
10 home lake of the wakeboat on the application form. The Commissioner of
11 Motor Vehicles annually shall compile the number of motorboats registered as
12 wakeboats and the home lake designations of wakeboats and annually shall
13 submit the compiled information to the Secretary of Natural Resources.

14 Sec. 8. 23 V.S.A. § 3317(b) is amended to read:

15 (b) Penalty or fine; \$300.00 or \$1,000.00 maximum. A person who
16 violates a requirement under 10 V.S.A. § 1454 or § 1424b shall be subject to
17 enforcement under 10 V.S.A. § 8007 or 8008 or a fine under this chapter,
18 provided that the person shall be assessed a penalty or fine of not more than
19 \$1,000.00 for each violation. A person who violates a rule adopted under 10
20 V.S.A. § 1424 shall be subject to enforcement under 10 V.S.A. chapter 201 or
21 a fine under this chapter, provided that the person shall be assessed a penalty of

1 not more than \$300.00 for each violation. A person who violates any of the
2 following sections of this title shall be subject to a penalty of not more than
3 \$300.00 for each violation:

4 § 3306(e) marine toilet

5 § 3312a operation of personal watercraft

6 Sec. 9. PUBLIC OUTREACH REGARDING WAKEBOAT USE AND
7 DECONTAMINATION

8 The Agency of Natural Resources and the Department of Motor Vehicles
9 shall provide education and outreach to the public regarding the requirements
10 under 10 V.S.A. § 1424b that a wakeboat shall only operate on a lake
11 authorized for wakeboat use and shall only operate if the lake is designated on
12 the wakeboat’s current registration as the wakeboat’s home lake or upon proof
13 by the owner or operator of decontamination of the wakeboat at an Agency of
14 Natural Resources-approved decontamination service provider according to the
15 requirements of 10 VS.A. § 1424b(c). To fulfill the education and outreach
16 requirements of this section:

17 (1) when the Agency of Natural Resources is posting signage or
18 replacing signage at a State fishing access area or other known public point of
19 access to a lake or pond in the State, the Agency shall include information on
20 the signage regarding the requirements for the operation and decontamination
21 of wakeboats under 10 V.S.A. § 1424b;

1 nuisance species and section 1424b of this title regarding the operation and
2 decontamination of a wakeboat. ~~These~~ The rules also shall permit the
3 launching of all nonmotorized vessels not used for commercial purposes and
4 the parking of vehicles and boat trailers used by these vessels.

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

20 (c) The Commissioner shall keep account of funds, including private
21 donations and State appropriations, that are deposited into the Fish and

1 Wildlife Fund for the purpose of building and maintaining access areas and
2 shall annually, on or before January 15, report to the House Committee on
3 Environment, the Senate Committee on Natural Resources and Energy, and the
4 Senate and House Committees on Appropriations, concerning the use of those
5 funds in the past year and plans for use of the funds for the coming year. The
6 provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply
7 to the report to be made under this subsection.

8 (d) The ~~Board~~ Commissioner of Fish and Wildlife shall allow the
9 Commissioner of Environmental Conservation to post aquatic nuisance signs
10 in access areas pursuant to ~~subdivision~~ subdivisions 1453(b)(6) and (7) of this
11 title.

12 (e)(1) A fishing access area may be used by an approved aquatic nuisance
13 inspection station in order to allow for the implementation of the requirements
14 of section 1454 of this title regarding the inspection of vessels entering lakes
15 and the removal of aquatic nuisance species from vessels.

16 (2) Any use of an access area by an aquatic nuisance inspection station
17 shall comply with the requirements of 50 C.F.R. Part 80 and the conditions of
18 a permit issued by the Commissioner of Fish and Wildlife. Consistent with the
19 federal regulation, if the aquatic nuisance inspection station interferes with the
20 authorized used of an access area, the aquatic nuisance inspection station shall
21 relocate or modify its activities until the interference is remediated.

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

5 (A) decontaminate a wakeboat under section 1424b of this title; or

6 (B) inspect a vessel for aquatic nuisance species and drain a vessel
7 under section 1454 of this title.

8 (f) The Commissioner of Fish and Wildlife, in coordination with the
9 Commissioner of Environmental Conservation, shall collaborate with any local
10 or State entity that proposes to establish, operate, and maintain an aquatic
11 nuisance inspection station at any Department of Fish and Wildlife-controlled
12 access area.

13 Sec. 11. 10 App. V.S.A. § 115 is amended to read:

14 § 115. USE OF STATE CONTROLLED FISHING ACCESS AREAS

15 1.0 Authority 1.1 This rule is adopted pursuant to 10 V.S.A. § 4145(a)
16 which authorizes the board to make rules to “regulate the use by the public of
17 access areas, landing areas, parking areas or of other lands or waters acquired
18 or maintained pursuant to 10 V.S.A. § 4144.”

19 1.2 This rule applies to use of ~~state~~ State controlled fishing access areas
20 and to persons, businesses, or entities that use the fishing access areas.

1 2.0 Purpose

2 The purpose of this rule is to:

3 2.1 Ensure current and future uses are orderly, sustainable, and in
4 accordance with ~~state~~ State and federal statutes and guidelines.

5 2.2 Manage conflict between users by clarifying authorized and
6 prohibited activities and ensuring users share in the burdens and benefits of
7 use.

8 2.3 Protect the fishing access areas for statutorily approved uses.

9 3.0 Definitions 3.1 Commercial Activity is any activity or service that
10 produces income to any entity or individual.

11 3.2 Nonprofit Charitable Organization means an entity organized and
12 operated exclusively for exempt purposes set forth in Section 501(c)(3) of the
13 Internal Revenue Code.

14 3.3 Picnicking includes but is not limited to any activity that involves,
15 cooking, grilling, food preparation, and; set-up associated with eating
16 (including setting blankets or table cloths laid on the ground).

17 3.4 Camping includes any activity using a tent, camper, or motor home,
18 any activity involving preparation of an area for sleeping or, any overnight
19 sleeping.

20 3.5 Group use is use actually or potentially involving 10 or more people
21 or two or more vehicles at a time.

1 3.6 Parking is the leaving of motor vehicles or trailers unattended in an
2 access area.

3 3.7 Motor vehicles are all vehicles propelled or drawn by power other
4 than muscle power.

5 3.8 Vessel means motor boats, boats, kayaks, canoes and sail boats.

6 4.0 Authorized Activities

7 The following are authorized activities in order of priority:

8 4.1 Angling, ice fishing and the launching of any vessel to be used for
9 fishing and parking of vehicles and trailers necessary for and contemporaneous
10 with these purposes. Activities allowed under this subdivision include access
11 by ATVs and snowmobiles when being used solely for the purposes of ice
12 fishing.

13 4.2 The launching of inboard and outboard motorboats engaging in any
14 activity and parking of vehicles and trailers necessary for and
15 contemporaneous with that purpose.

16 4.3 Trapping, hunting and parking of vehicles and boat trailers
17 necessary for and contemporaneous with that purpose.

18 4.4 Launching of all non-motorized vessels not used for commercial
19 purposes and parking of vehicles and boat trailers necessary for and
20 contemporaneous with that purpose. Users shall launch from the designated
21 non-motorized launch site, when such a site is identified. Authorized

1 nonmotorized vessels include canoes, kayaks, row boats, and standup
2 paddleboards.

3 4.5 ~~ATV's and snowmobiles when being used solely for the purposes of~~
4 ~~ice fishing~~ Approved aquatic nuisance inspection stations to allow for the
5 implementation of the requirements of 10 V.S.A. § 1454 regarding the
6 inspection of vessels entering lakes and the removal of aquatic nuisance
7 species from vessels.

8 4.6 Permitted special uses.

9 5.0 Prohibited Activities 5.1 Discarding of bottles, glass, cans, paper,
10 junk, litter, food, or any other garbage or trash.

11 5.2 Discarding of dead fish, wildlife or portions thereof.

12 5.3 Washing or cleaning of vehicles and equipment other than for the
13 purpose of removing aquatic plants and organisms.

14 5.4 Washing or cleaning of fish or wildlife.

15 5.5 Camping.

16 5.6 Picnicking.

17 5.7 Making or maintaining fire of any kind.

18 5.8 Water skiing.

19 5.9 Swimming.

20 5.10 Use of snowmobiles and ATVs, except for those being utilized
21 solely for the purpose of ice fishing.

1 5.11 Parking of vehicles and or trailers while the vehicle owner or user
2 is not present at the access area or on the adjacent public waters except as
3 otherwise permitted by the Commissioner.

4 5.12 Storage of vehicles and or trailers or placing of vehicles or trailers
5 for sale.

6 5.13 Withdrawal of water except as authorized under paragraph 6.0.

7 5.14 Parking in excess of 72 consecutive hours except that the
8 Commissioner may issue permits for longer parking when the Commissioner
9 determines that there will be no adverse impact on authorized uses found in 4.0
10 above.

11 5.15 Commercial activity except as authorized by paragraph 7.0 below.

12 5.16 Activity that interferes with a priority use, such as, but not limited
13 to the mooring or beaching of boats, using the ramp to rig a boat or boats thus
14 obstructing use of the ramp, and the storing of boats or trailers at an access
15 area.

16 5.17 Group use not specifically authorized by the Commissioner.

17 5.18 Launching and recovery of ~~sailboards~~, rafts, snow kites, and the
18 parking of vehicles and trailers supporting these activities.

19 5.19 All other activity that is not specifically permitted by this rule
20 unless specifically authorized by the Commissioner.

21 6.0 Authorized Users.

1 6.1 Any person who is engaged in any authorized activity.

2 6.2 Any group that has received approval for group use in accordance
3 with this rule.

4 6.3 Fire departments that have executed a Memorandum Of Agreement
5 (MOA) with the Commissioner for the installation and use of a dry hydrant.
6 And then, only in accordance with their MOA. Fire departments may also use
7 Access Areas without dry hydrants as emergency water sources to fight fires
8 and will notify the local warden as soon as practicably possible.

9 6.4 Individuals participating in a fishing tournament permitted under
10 10 V.S.A. § 4613.

11 7.0 Limited Commercial Activity 7.1 Commercial activity at fishing
12 access areas is limited to entities and persons taking part in activities
13 authorized by 4.1, 4.2 and 4.3 above.

14 8.0 Special Permits 8.1 The Commissioner may authorize special permits
15 for entities or persons to use an access area for group use when the
16 Commissioner determines that there will be no adverse impact on authorized
17 priority uses.

18 8.2 The Commissioner may authorize the use of access areas by an
19 educational institution or a nonprofit charitable organization conducting a
20 fundraising event of limited duration, provided that the event will not conflict
21 with a priority use of the access area.

1 (2) The Department of Fish and Wildlife shall not issue a permit if the
2 inland lake on which the tournament is proposed serves a public water system
3 and the source protection area for the inland lake prohibits fishing on the
4 inland lake.

5 (3) As used in this section, “inland lake” means all natural inland lakes,
6 ponds, flowages, and reservoirs within the territorial limits of Vermont,
7 including the impoundments of the Connecticut River within the territorial
8 limits of Vermont upstream to the first barrier to navigation. “Inland lake”
9 does not mean Lake Champlain, Lake Memphremagog, or Wallace Pond.

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

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

