

1 S.45

2 Introduced by Senator Rodgers

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; aquatic nuisance control; bottom
6 barriers

7 Statement of purpose of bill as introduced: This bill proposes to exempt the
8 use of up to 15 bottom barriers on a lake from aquatic nuisance permit
9 requirements.

10 An act relating to aquatic nuisance control

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

12 Sec. 1. 10 V.S.A. § 1455 is amended to read:

13 § 1455. AQUATIC NUISANCE CONTROL PERMIT

14 (a) No person may use pesticides, chemicals other than pesticides,
15 biological controls, bottom barriers, structural barriers, structural controls, or
16 powered mechanical devices in waters of the State to control nuisance aquatic
17 plants, insects, or other aquatic nuisances, including lamprey, unless that
18 person has been issued a permit by the ~~secretary~~ Secretary.

19 (b) Notwithstanding other requirements set forth in chapter 47 of this title
20 to the contrary, the Secretary may issue permits under this section.

1 (c) Persons desiring a permit under this section shall make application to
2 the Secretary on a form prescribed by the Secretary.

3 (d) The Secretary shall issue a permit for the use of pesticides in waters of
4 the State for the control of nuisance aquatic plants, insects, or other aquatic
5 life, including lamprey, when the applicant demonstrates and the Secretary
6 finds:

7 (1) there is no reasonable nonchemical alternative available;

8 (2) there is acceptable risk to the nontarget environment;

9 (3) there is negligible risk to public health;

10 (4) a long-range management plan has been developed which
11 incorporates a schedule of pesticide minimization; and

12 (5) there is a public benefit to be achieved from the application of a
13 pesticide or, in the case of a pond located entirely on a landowner's property,
14 no undue adverse effect upon the public good.

15 (e) A landowner applying to use a pesticide on a pond located entirely on
16 the landowner's property is exempt from the requirement of subdivision (d)(4)
17 of this section.

18 (f) The Secretary shall issue a permit for the control of aquatic nuisances
19 by biological controls, bottom barriers, structural barriers, structural controls,
20 powered mechanical devices, or chemicals other than pesticides when the
21 Secretary finds:

- 1 (1) there is acceptable risk to the nontarget environment;
- 2 (2) there is negligible risk to public health; and
- 3 (3) there is either benefit to or no undue adverse effect upon the
- 4 public good.

5 (g) The use of bottom barriers, structural barriers, structural controls,

6 powered mechanical devices, and copper compounds as an algaecide in waters

7 with a surface area of one acre or less located entirely on a person's property

8 and with an outlet where the flow can be controlled for at least three days is

9 exempt from the permit requirements of this section.

10 (h) The Secretary shall adopt procedures under 3 V.S.A. chapter 25 which

11 will provide an opportunity for public review and comment on permit

12 applications. The procedures shall classify permit applications by degree of

13 environmental risk involved and establish appropriate opportunities for public

14 notice and comment for each class.

15 (i) An aquatic nuisance control permit issued under this section shall:

16 (1) ~~specify~~ Specify in writing the Secretary's findings under subsection

17 (d) or (f) of this section;

18 (2) ~~specify~~ Specify the location, manner, nature, and frequency of the

19 permitted activity;

20 (3) ~~contain~~ Contain additional conditions, requirements, and restrictions

21 as the Secretary deems necessary to preserve and protect the quality of the

1 receiving waters, to protect the public health, and to minimize the impact on
2 the nontarget environment. Such conditions may include requirements
3 concerning recording, reporting, and monitoring;

4 (4) ~~be~~ Be valid for the period of time specified in the permit, not to
5 exceed five years for chemical control, and not to exceed ten years for
6 nonchemical control.

7 * * *

8 (1) No permit shall be required under this section for mosquito control
9 activities that are regulated by the Agency of Agriculture, Food and Markets,
10 provided that:

11 (1) ~~Prior~~ prior to authorizing the use of larvicides or pupacides in waters
12 of the State, the Secretary of Agriculture, Food and Markets shall designate
13 acceptable control products and methods for their use and issue permits
14 pursuant to 6 V.S.A. § 1083(a)(5); and

15 (2) [Repealed.]

16 (m) The Secretary may issue general permits for the use of nonchemical
17 aquatic nuisance control activities provided that the Secretary makes the
18 findings required in subsection (f) of this section. A general permit issued
19 under this subsection is not required to specify the exact location or the
20 frequency of the permitted activity.

1 (n) The Secretary shall not require a permit under this section for the use of
2 up to 15 bottom barriers on a lake, provided that:

3 (1) the bottom barriers are managed and controlled by a lake
4 association; and

5 (2) each bottom barrier shall be of no greater size than 14 feet
6 by 14 feet.

7 Sec. 2. EFFECTIVE DATE

8 This act shall take effect on passage.