

1 H.31

2 Introduced by Representative Bongartz of Manchester

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; aquatic nuisance control; permits;
6 moratorium

7 Statement of purpose of bill as introduced: This bill proposes to establish a
8 moratorium on the issuance of an aquatic nuisance control permit by the
9 Secretary of Natural Resources that authorizes the use or application of
10 pesticides, chemicals other than pesticides, or biological controls until one year
11 after completion of an assessment by a study committee of how the
12 environmental and public health effects of the use of pesticides, chemicals
13 other than pesticides, or biological controls compare to their efficacy in
14 controlling aquatic nuisances.

15 An act relating to aquatic nuisance control

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

17 Sec. 1. MORATORIUM; AQUATIC NUISANCE CONTROL PERMITS

18 (a) Except as provided under subsection (b) of this section, beginning on
19 January 1, 2023, the following shall be prohibited until one year after
20 completion of an assessment under Sec. 2 of this act of how the environmental

1 and public health effects of the use of pesticides, chemicals other than
2 pesticides, or biological controls compare to their efficacy in controlling
3 aquatic nuisances:

4 (1) issuance by the Secretary of Natural Resources of any new aquatic
5 nuisance control permit under 10 V.S.A. § 1455 that authorizes the use or
6 application of a pesticide, a chemical other than pesticides, or a biological
7 control; and

8 (2) application of a pesticide, a chemical other than pesticides, or a
9 biological control under an aquatic nuisance control permit issued by the
10 Secretary of Natural Resources under 10 V.S.A. § 1455 prior to the effective
11 date of this act.

12 (b) Notwithstanding the moratorium under subsection (a) of this section,
13 the Secretary of Natural Resources may authorize the use or application of a
14 pesticide, a chemical other than a pesticide, or a biological control to control an
15 aquatic nuisance in a lake or pond upon a determination that:

16 (1) the application is necessary to control lampreys in Lake Champlain;
17 or

18 (2)(A) there is an exigent threat from an aquatic nuisance to the water
19 quality, fish or wildlife, or infrastructure within a lake or pond;

20 (B) the Commissioner of Fish and Wildlife and the Commissioner of
21 Environmental Conservation jointly determine that the use of a pesticide, a

1 chemical other than a pesticide, or a biological control is the sole effective
2 method to control the threat posed by the aquatic nuisance; and

3 (C) the proposed control cannot be delayed until after the repeal of
4 the moratorium established under subsection (a) of this section because the
5 potential harm posed by the aquatic nuisance is irreversible or of a significance
6 that requires immediate action.

7 (c) As used in this section:

8 (1) “Aquatic nuisance” has the same meaning as in 10 V.S.A. § 1452.

9 (2) “Pesticide” has the same meaning as “economic poison” in 6 V.S.A.
10 § 911.

11 Sec. 2. AQUATIC NUISANCE CONTROL STUDY COMMITTEE;

12 REPORT

13 (a) Creation. The Aquatic Nuisance Control Study Committee is created to
14 assess the environmental and public health effects of the use of pesticides,
15 chemicals other than pesticides, and biological controls in comparison to the
16 efficacy of their use in controlling aquatic nuisances.

17 (b) Membership. The Aquatic Nuisance Control Study Committee shall be
18 composed of the following members:

19 (1) two current members of the House of Representatives, who shall be
20 appointed by the Speaker of the House;

1 (2) two current members of the Senate, who shall be appointed by the
2 Committee on Committees;

3 (3) the Secretary of Natural Resources or designee;

4 (4) a scientist from the Department of Fish and Wildlife, appointed by
5 the Commissioner of Fish and Wildlife; and

6 (5) a scientist from the Department of Environmental Conservation,
7 appointed by the Commissioner of Environmental Conservation.

8 (c) Powers and duties. The Aquatic Nuisance Control Study Committee
9 shall submit to the Vermont General Assembly recommendations regarding
10 whether and when pesticides, chemicals other than pesticides, or biological
11 controls should be used to control aquatic nuisances in Vermont. The
12 recommendations of the Committee shall include:

13 (1) a summary of the use of pesticides, chemicals other than pesticides,
14 and biological controls in the lakes and ponds of Vermont since January 1,
15 2000, including the types of pesticides, chemicals other than pesticides, and
16 biological controls approved for use and why they were approved instead of
17 nonchemical controls;

18 (2) a summary of the safety, potential public health effects, and
19 environmental effects of the pesticides, chemicals other than pesticides, and
20 biological controls approved by the Agency of Natural Resources since
21 January 1, 2000 and whether there has been no undo adverse impact on the

1 ecosystem or fish and wildlife since January 1, 2000 from the use pesticides,
2 chemicals other than pesticides, and biological controls;

3 (3) an assessment of whether the use of pesticides, chemicals other than
4 pesticides, or biological controls were successful in the management of aquatic
5 nuisance species in the lakes and ponds where they were approved, including
6 whether the lakes and ponds where the controls were used continue to be listed
7 by the Agency of Natural Resources as altered because aquatic habitat or other
8 designated uses in the lake or pond are not supported due to the extent of an
9 aquatic nuisance;

10 (4) a recommendation of whether pesticides, chemicals other than
11 pesticides, or biological controls should continue to be authorized for use in the
12 control of aquatic nuisances in lakes and ponds in Vermont and if continued
13 use is recommended, the criteria or conditions for approval for use; and

14 (5) an assessment of the use of pesticides, chemicals other than
15 pesticides, or biological controls on the nontarget environment or nontarget
16 species.

17 (d) Assistance. The Aquatic Nuisance Control Study Committee shall have
18 the administrative, technical, and legal assistance of the Agency of Natural
19 Resources.

20 (e) Report. On or before December 15, 2023, the Aquatic Nuisance
21 Control Study Committee shall submit a written report to the House

1 Committee on Environment and Energy and the Senate Committee on Natural
2 Resources with its findings and recommendations, including any
3 recommendations for legislative action.

4 (f) Meetings.

5 (1) The Secretary of Natural Resources shall call the first meeting of the
6 Aquatic Nuisance Control Study Committee to occur on or before July 31,
7 2023.

8 (2) The Committee shall select a chair from among its members at the
9 first meeting.

10 (3) A majority of the membership shall constitute a quorum.

11 (4) The Aquatic Nuisance Control Study Committee shall cease to exist
12 on April 1, 2024.

13 (g) Compensation and reimbursement.

14 (1) For attendance at meetings during adjournment of the General
15 Assembly, a legislative member of the Aquatic Nuisance Control Study
16 Committee serving in the member's capacity as a legislator shall be entitled to
17 per diem compensation and reimbursement of expenses pursuant to 2 V.S.A.
18 § 23 for not more than eight meetings. These payments shall be made from
19 monies appropriated to the General Assembly.

20 (2) Other members of the Aquatic Nuisance Control Study Committee
21 shall be entitled to per diem compensation and reimbursement of expenses as

1 permitted under 32 V.S.A. § 1010 for not more than eight meetings. These
2 payments shall be made from monies appropriated to the Agency of Natural
3 Resources.

4 (h) As used in this section:

5 (1) “Aquatic nuisance” has the same meaning as in 10 V.S.A. § 1452.

6 (2) “Pesticide” has the same meaning as “economic poison” in 6 V.S.A.

7 § 911.

8 Sec. 3. REPEAL OF MORATORIUM

9 The moratorium on the issuance of an aquatic nuisance control permit under
10 10 V.S.A. § 1455 that authorizes the use or application of pesticides, chemicals
11 other than pesticides, or biological controls shall be repealed on December 15,
12 2024 or 365 days after actual submission by the Aquatic Nuisance Control
13 Study Committee of the report required under Sec. 2 of this act, whichever
14 occurs later.

15 Sec. 4. EFFECTIVE DATE

16 This act shall take effect on passage.