

1

S.100

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Introduced by Senators Galbraith, Ashe, Ayer, Benning, Campbell,

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Cummings, Doyle, Fox, French, Hartwell, Kitchel,

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McCormack, Mullin, Pollina, Sears, Starr, Westman, White,

5

and Zuckerman

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Referred to Committee on

7

Date:

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Subject: Conservation and development; Act 250; natural resources; forests;

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wildlife habitat

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Statement of purpose of bill as introduced: This bill proposes to preserve the

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integrity of Vermont's forests by setting a state policy against fragmentation

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and by amending Act 250 to expand its jurisdiction to include development

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within a forest of 1,000 acres or more and to modify the Act 250 criteria to

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protect forest integrity.

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An act relating to forest integrity

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

1 Sec. 1. FINDINGS

2 The General Assembly finds:

3 (1) Vermont's forests are a unique resource that provides habitat for
4 wildlife, a renewable resource for human use, and jobs for Vermonters in
5 timber and other forest-related industries.

6 (2) Large areas of contiguous forest are essential for quality wildlife
7 habitat, to implement best practices in forest management, and to preserve
8 Vermont's scenic qualities.

9 (3) The division of forests into lots for house sites or other construction
10 fragments Vermont's forests and reduces their value as wildlife habitat, for
11 forest industries, and to Vermont's tourist economy.

12 Sec. 2. 10 V.S.A. § 2601a is added to read:

13 § 2601a. POLICY; FOREST INTEGRITY; NONFRAGMENTATION

14 (a) The State of Vermont shall preserve Vermont's forests in large
15 contiguous blocks without permanent roads, buildings, or other construction in
16 order to:

17 (1) provide habitat for wildlife, especially animals that range over large
18 areas of land, including bear, moose, bobcat, lynx, and deer;

19 (2) protect the watersheds and Vermont's streams and rivers so as to
20 maintain the quality of Vermont's waters and to reduce the risk
21 of flooding; and

1 (3) preserve the scenic qualities of the Vermont landscape.

2 (b) The State of Vermont shall implement the policy stated in this section
3 through all agencies whose activities affect the State's publicly and privately
4 owned forests, including the Department as set forth in this chapter, and
5 through its political subdivisions pursuant to 24 V.S.A. chapter 117 (municipal
6 and regional planning and development).

7 Sec. 3. 10 V.S.A. § 6001(3)(A) is amended to read:

8 (3)(A) "Development" means each of the following:

9 (i) The construction of improvements on a tract or tracts of land,
10 owned or controlled by a person, involving more than 10 acres of land within a
11 radius of five miles of any point on any involved land, for commercial or
12 industrial purposes in a municipality that has adopted permanent zoning and
13 subdivision bylaws.

14 (ii) The construction of improvements for commercial or
15 industrial purposes on more than one acre of land within a municipality that
16 has not adopted permanent zoning and subdivision bylaws.

17 (iii) The construction of improvements for commercial or
18 industrial purposes on a tract or tracts of land, owned or controlled by a person,
19 involving more than one acre of land within a municipality that has adopted
20 permanent zoning and subdivision bylaws, if the municipality in which the

1 proposed project is located has elected by ordinance, adopted under 24 V.S.A.
2 chapter 59 ~~of Title 24~~, to have this jurisdiction apply.

3 (iv) The construction of housing projects such as cooperatives,
4 condominiums, or dwellings, or construction or maintenance of mobile homes
5 or trailer parks, with 10 or more units, constructed or maintained on a tract or
6 tracts of land, owned or controlled by a person, within a radius of five miles of
7 any point on any involved land, and within any continuous period of five years.

8 (v) The construction of improvements on a tract of land involving
9 more than 10 acres that is to be used for municipal, county, or state purposes.

10 In computing the amount of land involved, land shall be included that is
11 incident to the use such as lawns, parking areas, roadways, leaching fields, and
12 accessory buildings.

13 (vi) The construction of improvements for commercial, industrial,
14 or residential use above the elevation of 2,500 feet.

15 (vii) Exploration for fissionable source materials beyond the
16 reconnaissance phase or the extraction or processing of fissionable source
17 material.

18 (viii) The drilling of an oil and gas well.

19 (ix) The construction of a building, structure, or permanent road,
20 including a driveway, any portion of which is within a forest that, as of the

1 effective date of this subdivision (ix), consists of 1,000 acres or more of
2 contiguous forestland.

3 Sec. 4. 10 V.S.A. § 6001(35) is added to read:

4 (35) “Fragmentation of forestland” means the separation of forestlands
5 by buildings, roads, or other physical structures or by other human-made
6 alterations to land such as clearing.

7 Sec. 5. 10 V.S.A. § 6086 is amended to read:

8 § 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

9 (a) Before granting a permit, the district commission shall find that the
10 subdivision or development:

11 * * *

12 (9) Is in conformance with a duly adopted capability and development
13 plan, and land use plan when adopted

14 * * *

15 (C) Productive forest soils; forest integrity. A permit will be granted
16 for ~~the~~ a development or subdivision ~~of productive forest soils~~ only when it is
17 demonstrated by the applicant that, in addition to all other applicable criteria,
18 ~~either, the subdivision or development~~ each of the following is met:

19 (i) If the application involves the development or subdivision of
20 productive forest soils, the development or subdivision either will not result in
21 any reduction in the potential of those soils for commercial forestry; or:

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Senator Galbraith moves that the bill be amended as follows:

First: In Sec. 3, 10 V.S.A. § 6001(3)(A), by striking out subdivision (ix) and inserting in lieu thereof a new subdivision **(xi)** to read:

(xi) The construction of a building, structure, or permanent road, including a driveway, any portion of which is located more than 1,000 feet from a building, structure, or permanent road, including a driveway **but excluding a permanent road used solely for forestry purposes, that was in existence as of the effective date of this subdivision (xi)** and is located within a forest that, as of the effective date of this subdivision **(xi)**, consists of 1000 acres or more of contiguous forestland. However, this subdivision **(xi)** shall not apply to the construction of a building, structure, or permanent road that is below the elevation of 2,500 feet and is to be used solely for farming, logging, or forestry purposes or, in the case of a road, public safety purposes, including fire suppression.

Second: In Sec. 5, 10 V.S.A. § 6086(a)(9)(C), by striking out subdivision (ii) and inserting in lieu thereof a new subdivision (ii) to read:

(ii) The development or subdivision will not contribute to the fragmentation of forestland; or

(I) The development or subdivision cannot practicably be relocated on the site or to another site owned or controlled by the applicant or reasonably available to satisfy the basic project purpose;

1 (II) If the proposed development or subdivision cannot practicably
2 be relocated, all practicable measures have been taken to avoid adverse impacts
3 caused by the development’s or subdivision’s fragmentation of forestland;

4 (III) If avoidance of adverse effects caused by the development’s
5 or subdivision’s fragmentation of forestland cannot be practically achieved, the
6 development or subdivision has been planned to minimize those adverse effects
7 and to preserve connection among the forestlands to be separated in a manner that
8 supports wildlife; and

9 (IV) the applicant will permanently conserve an area of forestland
10 that is of comparable or greater biological value and at least four times greater in
11 area than the forestland fragmented by the development or subdivision.