

1 H.128

2 Introduced by Representatives Sims of Craftsbury, Birong of Vergennes,
3 Boyden of Cambridge, Buss of Woodstock, Demrow of
4 Corinth, Hango of Berkshire, Leavitt of Grand Isle, Lipsky of
5 Stowe, Noyes of Wolcott, Pajala of Londonderry, Pearl of
6 Danville, Priestley of Bradford, Surprenant of Barnard, and
7 Williams of Granby

8 Referred to Committee on

9 Date:

10 Subject: Conservation and development; land use; Act 250; primary
11 agricultural soils; wood products manufacturers; forestry; accessory
12 on-farm businesses; electric generation facilities

13 Statement of purpose of bill as introduced: This bill proposes to reduce the
14 amount of mitigation wood products manufacturers need to do for primary
15 agricultural soils. It proposes to exempt small forest product processors from
16 needing an Act 250 permit. It proposes to make changes to the definition of
17 accessory on-farm business and exempt those businesses from needing an Act
18 250 permit. It would require electric generation facilities with a capacity
19 greater than 500kW to get an Act 250 permit.

20 An act relating to removing regulatory barriers for working lands businesses

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

2 * * * Working Lands Business * * *

3 Sec. 1. FINDINGS

4 The General Assembly finds:

5 (1) Private and public forestlands:

6 (A) constitute unique and irreplaceable resources, benefits, and
7 values of statewide importance;

8 (B) contribute to the protection and conservation of wildlife habitat,
9 air, water, and soil resources of the State;

10 (C) mitigate the effects of climate change; and

11 (D) benefit the general health and welfare of the persons of the State.

12 (2) The forest products industry:

13 (A) is a major contributor to and is valuable to the State's economy
14 by providing nearly 14,000 jobs for Vermonters, generating \$2.1 billion in
15 annual sales, and supporting \$30.8 million in additional economic activity
16 from trail uses and seasonal tourism;

17 (B) is essential to the manufacture of forest products that are used
18 and enjoyed by the persons of the State; and

19 (C) benefits the general welfare of the persons of the State.

20 (3) Private and public forestlands and forestry operations are adversely
21 affected by the encroachment of urban, commercial, and residential land uses

1 throughout the State that result in forest fragmentation and conversion and
2 erode the health and sustainability of remaining forests.

3 (4) The encouragement, development, improvement, and preservation of
4 forestry operations will result in extant, intact, and functioning forests that will
5 provide a general benefit to the health and welfare of the persons of the State
6 and the State's economy.

7 (5) To strengthen, promote, and protect the Vermont forest products
8 industry, the State should modernize regulatory requirements for the forest
9 products sector.

10 Sec. 2. 10 V.S.A. § 6093 is amended to read:

11 § 6093. MITIGATION OF PRIMARY AGRICULTURAL SOILS

12 (a) Mitigation for loss of primary agricultural soils. Suitable mitigation for
13 the conversion of primary agricultural soils necessary to satisfy subdivision
14 6086(a)(9)(B)(iv) of this title shall depend on where the project tract is located.

15 * * *

16 (5) Wood products manufacturers. Notwithstanding any provision of
17 this chapter to the contrary, a conversion of primary agricultural soils by a
18 wood products manufacturer shall be allowed to pay a mitigation fee computed
19 according to the provisions of subdivision (1) of this subsection, except that it
20 shall be entitled to a ratio of 1:1 protected acres to acres of affected primary
21 agricultural soil.

1 * * *

2 Sec. 3. 10 V.S.A. § 6081 is amended to read:

3 § 6081. PERMITS REQUIRED; EXEMPTIONS

4 * * *

5 (y) No permit or permit amendment shall be required for either:

6 (1) a sawmill that produces three and one-half million board feet or less
7 annually; or

8 (2) an operation that involves the primary processing of forest products
9 of commercial value and that annually produces:

10 (A) 3,500 cords or less of firewood or cordwood; or

11 (B) 10,000 tons or less of bole wood, whole tree chips, or wood
12 pellets.

13 Sec. 4. REPEAL

14 10 V.S.A. § 6084(g) is repealed.

15 Sec. 5. FINDINGS

16 The General Assembly finds:

17 (1) Vermont agriculture is critical to the State’s heritage, local food
18 supply, economy, rural communities, environment, tourism, and future.

19 (2) Food is essential, and Vermont either grows and produces its food
20 locally or imports it—at significant environmental cost. The COVID-19
21 pandemic further emphasized the importance of our local food supply.

1 (3) Vermont is rapidly losing dairy farms, productive farmland, and
2 experienced farmers.

3 (4) New opportunities to keep farmland active exist. Farms that sell
4 agricultural products directly to consumers, host farm-based events that draw
5 visitors and Vermonters to their farms and products, or provide authentic
6 agritourism experiences can diversify and prosper. These farm activities can
7 also help attract new Vermonters, retain younger Vermonters, entice new
8 farmers, and develop vibrant rural communities with viable economic
9 opportunities.

10 (5) To strengthen, promote, and protect Vermont agriculture, the State
11 should modernize regulatory requirements.

12 Sec. 6. 24 V.S.A. § 4412(11) is amended to read:

13 (11) Accessory on-farm businesses. No bylaw shall have the effect of
14 prohibiting an accessory on-farm business at the same location as a farm.

15 (A) Definitions. As used in this subdivision (11):

16 (i) “Accessory on-farm business” means activity ~~that is accessory~~
17 ~~to~~ on a farm ~~and that~~ and that comprises one or both of the following:

18 (I) The storage, preparation, processing, and sale of qualifying
19 products, provided that more than 50 percent of the total annual sales or total
20 annual number of sold products are from qualifying products that are produced
21 on the farm ~~at which~~ where the business is located.

1 (II) Educational, recreational, or social events or farm stays that
2 feature agricultural practices or qualifying products, or both. ~~Such events may~~
3 ~~include tours of the farm, farm stays, tastings and meals featuring qualifying~~
4 ~~products, and classes or exhibits in the preparation, processing, or harvesting~~
5 ~~of qualifying products. As used in this subdivision (II), “farm stay” means a~~
6 ~~paid, overnight guest accommodation on a farm for the purpose of~~
7 ~~participating in educational, recreational, or social activities on the farm that~~
8 ~~feature agricultural practices or qualifying products, or both. A farm stay~~
9 ~~includes the option for guests to participate in such activities.~~

10 (ii) “Aggregator of farm products” means a person who buys or
11 collates qualifying products directly from the farms that grow or produce them
12 and sells or distributes those qualifying products to an accessory on-farm
13 business.

14 (iii) “Educational, recreational, or social events” may include
15 tours of the farm, farm stays, tastings and meals featuring qualifying products,
16 and classes or exhibits in the preparation, processing, or harvesting of
17 qualifying products.

18 ~~(ii)~~(iv) “Farm” means a parcel or parcels owned, leased, or
19 managed by a person, devoted primarily to farming, and subject to the RAP
20 rules. For leased lands to be part of a farm, the lessee must exercise control
21 over the lands to the extent they would be considered as part of the lessee’s

1 own farm. Indicators of such control include whether the lessee makes day-to-
2 day decisions concerning the cultivation or other farming-related use of the
3 leased lands and whether the lessee manages the land for farming during the
4 lease period.

5 ~~(iii)~~(v) “Farming” ~~shall have~~ has the same meaning as in
6 10 V.S.A. § 6001.

7 (vi) “Farm stay” means a paid, overnight guest accommodation on
8 a farm for the purpose of participating in educational, recreational, or social
9 activities on the farm. A farm stay includes the option for guests to participate
10 in those activities.

11 (vii) “To feature agricultural practices or qualifying products”
12 means a host farm’s agricultural practices or its qualifying products are a
13 substantial component of any educational, recreational, or social event the
14 accessory on-farm business hosts. For social or recreational events like
15 weddings or concerts that may have a purpose wholly independent of the host
16 farm’s activities, agricultural practices or qualifying products must be an
17 integral component of the event to satisfy the definition of an accessory on-
18 farm business. A farm that is exclusively serving as an event location is not
19 featuring agricultural practices or qualifying products.

20 ~~(iv)~~(viii) “Qualifying product” means a product grown or
21 produced on the farm where the accessory on-farm business is located or

1 purchased directly from another farm or an aggregator of farm products that is
2 wholly:

3 (I) an agricultural, horticultural, viticultural, or dairy
4 commodity, or maple syrup;

5 (II) livestock or cultured fish or a product thereof;

6 (III) a product of poultry, bees, an orchard, or fiber crops;

7 (IV) a commodity otherwise grown or raised on a farm; ~~or~~

8 (V) a product manufactured on one or more farms from
9 commodities wholly grown or raised on one or more farms; or

10 (VI) a product that names, describes, or promotes the farm or
11 accessory on-farm business, including merchandise or apparel that features the
12 farm or accessory on-farm business.

13 ~~(ix)~~ “RAP rules” means the rules on required agricultural
14 practices adopted pursuant to 6 V.S.A. chapter 215, subchapter 2.

15 (B) Eligibility. For an accessory on-farm business to be eligible for
16 the benefit of this subdivision (11), the business shall comply with each of the
17 following:

18 (i) The business is operated by the farm owner, one or more
19 persons residing on the farm parcel, or the lessee of a portion of the farm.

20 (ii) The farm meets the threshold criteria for the applicability of
21 the RAP rules as set forth in those rules.

1 (C) Use of structures or land. An accessory on-farm business may
2 take place inside new or existing structures or on the land.

3 (D) Review; permit. Activities of an accessory on-farm business that
4 are not exempt under section 4413 of this title may be subject to site plan
5 review pursuant to section 4416 of this title. A bylaw may require that such
6 activities meet the same performance standards otherwise adopted in the bylaw
7 for similar commercial uses pursuant to subdivision 4414(5) of this title.

8 (E) Less restrictive. A municipality may adopt a bylaw concerning
9 accessory on-farm businesses that is less restrictive than the requirement of this
10 subdivision (11).

11 (F) Notification; training. The Secretary of Agriculture, Food and
12 Markets shall provide periodic written notification and training sessions to
13 farms subject to the RAP rules on the existence and requirements of this
14 subdivision (11) and the potential need for other permits for an accessory on-
15 farm business, including a potable water and wastewater system permit under
16 10 V.S.A. chapter 64.

17 Sec. 7. 10 V.S.A. § 6001 is amended to read:

18 § 6001. DEFINITIONS

19 As used in this chapter:

20 * * *

1 (22) “Farming” means:

2 (A) the cultivation or other use of land for growing food, fiber,

3 Christmas trees, maple sap, or horticultural and orchard crops; ~~or~~

4 (B) the raising, feeding, or management of livestock, poultry, fish, or

5 bees; ~~or~~

6 (C) the operation of greenhouses; ~~or~~

7 (D) the production of maple syrup; ~~or~~

8 (E) the on-site storage, preparation, and sale of agricultural products

9 principally produced on the farm; ~~or~~

10 (F) the on-site storage, preparation, production, and sale of fuel or

11 power from agricultural products or wastes principally produced on the farm;

12 ~~or~~

13 (G) the operation of an accessory on-farm business as defined in

14 24 V.S.A. § 4412(11);

15 (H) the raising, feeding, or management of four or more equines

16 owned or boarded by the farmer, including training, showing, and providing

17 instruction and lessons in riding, training, and the management of equines; or

18 ~~(H)~~(I) the importation of 2,000 cubic yards per year or less of food

19 residuals or food processing residuals onto a farm for the production of

20 compost, provided that:

1 (i) the compost is principally used on the farm where it is
2 produced; or

3 (ii) the compost is produced on a small farm that raises or
4 manages poultry.

5 * * *

6 (45) “Principally produced” means, for the purposes of subdivision
7 (22)(E) of this section, that more than 50 percent of a raw agricultural
8 commodity or other agricultural product is grown or produced on the farm.
9 The majority percentage shall be determined over a consistent and reasonably
10 defined time period. The percentage of a raw agricultural commodity grown or
11 produced on the farm shall be determined by measuring the commodity’s
12 volume or weight. The percentage of an agricultural product grown or
13 produced on the farm shall be determined by measuring the volume or weight
14 of the product ingredients or materials, excluding water.

15 (46) “Agricultural products” means raw agricultural commodities or
16 processed or manufactured agricultural products.

17 * * * Electric Generation Projects * * *

18 Sec. 8. 10 V.S.A. § 6001 is amended to read:

19 § 6001. DEFINITIONS

20 As used in this chapter:

21 * * *

