1   H.139

2 Introduced by Representatives Masland of Thetford and Briglin of Thetford

3 Referred to Committee on

4 Date:

5 Subject: Municipal and county government; salvage yards; private right of

6   action

7 Statement of purpose of bill as introduced: This bill proposes to establish a

8 private right of action against unpermitted salvage yards.

9   An act relating to a private right of action against unpermitted salvage yards

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

11 Sec. 1. 24 V.S.A. § 2281 is amended to read:

12 § 2281. INJUNCTIVE RELIEF; OTHER REMEDIES; PRIVATE RIGHT OF

13   ACTION

14   (a) In addition to the penalty in section 2282 of this title, the legislative

15 body may seek a temporary restraining order, preliminary injunction, or

16 permanent injunction against the establishment, operation, or maintenance of a

17 salvage yard which is in violation of the relevant municipal requirements of

18 this subchapter and may obtain compliance with the relevant municipal

19 requirements of this subchapter and the terms of a certificate of approved

1   location issued under this subchapter by complaint to the Environmental

2   Division for the county in which the salvage yard is located.

3   (b) In addition to the penalty in section 2282 of this title, the Agency of

4   Transportation may seek appropriate injunctive relief in the Superior Court to

5   enforce the provisions of this subchapter within its regulatory authority.

6   (c) An owner of property abutting a salvage yard shall have a private right

7   of action for damages and injunctive relief against the owner or operator of the

8   salvage yard if:

9   (1) the owner or operator of the salvage yard does not hold the

10   certificates of approval and registration required by section 2242 of this

11   title; and

12   (2) the abutting property owner shows by a preponderance of the

13   evidence that the salvage yard caused a diminution in value of the abutting

14   property owner's property.

15   Sec. 2. EFFECTIVE DATE

16   This act shall take effect on passage.