

1 S.286

2 Introduced by Senator Starr

3 Referred to Committee on

4 Date:

5 Subject: Agriculture; land use; accessory on-farm businesses

6 Statement of purpose of bill as introduced: This bill proposes to provide that  
7 accessory on-farm businesses are not development that require a permit under  
8 Act 250.

9 An act relating to the regulation of accessory on-farm businesses

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

11 Sec. 1. 10 V.S.A. § 6001(3)(D) is amended to read:

12 (D) The word “development” does not include:

13 (i) The construction of improvements for farming, logging, or  
14 forestry purposes below the elevation of 2,500 feet.

15 \* \* \*

16 (ix) The construction of improvements for an accessory on-farm  
17 business located on a tract of land primarily devoted to farming, provided that:

18 (I) the proposed improvements are for an accessory on-farm  
19 business as defined by 24 V.S.A. § 4412(11);

1                   (II) the farming operation is subject to the Required  
2                   Agricultural Practices; and

3                   (III) the improvements constructed for the accessory on-farm  
4                   business do not physically alter more than one acre of land on the farm.

5                   Sec. 2. 24 V.S.A. § 4412(11) is amended to read:

6                   (11) Accessory on-farm businesses. No regional plan, municipal plan,  
7                   or municipal bylaw shall have the effect of prohibiting an accessory on-farm  
8                   business at the same location as a farm.

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

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

12                   (I) The storage, preparation, processing, and sale of qualifying  
13                   products, provided that more than 50 percent of the total annual sales are from  
14                   qualifying products that are produced on the farm at which the business is  
15                   located.

16                   (II) Educational, recreational, or social events that feature  
17                   agricultural practices or qualifying products, or both. Such events may include  
18                   tours of the farm, farm stays, tastings and meals featuring qualifying products,  
19                   and classes or exhibits in the preparation, processing, or harvesting of  
20                   qualifying products. As used in this subdivision (II), “farm stay” means a paid,  
21                   overnight guest accommodation on a farm for the purpose of participating in

1 educational, recreational, or social activities on the farm that feature  
2 agricultural practices or qualifying products, or both. A farm stay includes the  
3 option for guests to participate in such activities.

4 (ii) “Farm” means a parcel or parcels owned, leased, or managed  
5 by a person, devoted primarily to farming, and subject to the RAP rules. For  
6 leased lands to be part of a farm, the lessee must exercise control over the  
7 lands to the extent they would be considered as part of the lessee’s own farm.  
8 Indicators of such control include whether the lessee makes day-to-day  
9 decisions concerning the cultivation or other farming-related use of the leased  
10 lands and whether the lessee manages the land for farming during the lease  
11 period.

12 (iii) “Farming” shall have the same meaning as in 10 V.S.A.  
13 § 6001.

14 (iv) “Qualifying product” means a product that is wholly:

15 (I) an agricultural, horticultural, viticultural, or dairy  
16 commodity, or maple syrup;

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

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

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

1 (V) a product manufactured on one or more farms from  
2 commodities ~~wholly grown~~ principally produced or raised on one or more  
3 farms.

4 (v) “RAP rules” means the rules on required agricultural practices  
5 adopted pursuant to 6 V.S.A. chapter 215, subchapter 2.

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

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

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

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

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

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

4           (F) Notification; training. The Secretary of Agriculture, Food and  
5           Markets shall provide periodic written notification and training sessions to  
6           farms subject to the RAP rules on the existence and requirements of this  
7           subdivision (11) and the potential need for other permits for an accessory on-  
8           farm business, including a potable water and wastewater system permit under  
9           10 V.S.A. chapter 64.

10       Sec. 3. EFFECTIVE DATE

11       This act shall take effect on passage.