

CHAPTER 208
SB 146-FN - FINAL VERSION

03/18/2021 0791s
4Jun2021... 1573h
06/24/2021 2037CofC
06/24/2021 2072EBA

2021 SESSION

21-0255
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SENATE BILL ***146-FN***

AN ACT adopting omnibus legislation relative to the environment.

SPONSORS: Sen. Watters, Dist 4

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill adopts legislation relative to:

I. Establishing the coastal program administered by the department of environmental services.

II. Establishing a statewide solid waste disposal reduction goal.

III. The prevention of zoonotic disease transmission.

IV. Tidal waters.

V. Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.

VI. Public use of coastal shorelands.

VII. Addressing impacts to other water users from new sources of water for community water systems.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struck through]~~.
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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28 COASTAL PROGRAM AND FUND

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1 485-I:1 Statement of Policy. The water and related land resources of New Hampshire's coastal
2 and estuarine environments have significant ecological, commercial, cultural, and recreational
3 values for the state and its citizens. Therefore, it is the policy of the state to ensure the continued
4 viability and improved resiliency of these environments and communities in which they are located
5 as valued ecologic, economic, public health and safety, and social assets for the benefit of current and
6 future generations.

7 485-I:2 Program Established. There is established within the department of environmental
8 services the New Hampshire coastal program to implement 16 U.S.C. section 1452, the Coastal Zone
9 Management Act. It is the intent of the state to encourage and assist state and federal agencies and
10 coastal zone municipalities in the sustainable use of the land and water resources of the coastal zone
11 giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for
12 compatible economic development. The coastal program should encourage and assist to support:

13 I. The protection of natural resources, including wetlands, floodplains, coastal and
14 estuarine waters, beaches, sand dunes, and fish and wildlife and their habitat within the coastal
15 zone.

16 II. The management of coastal development to minimize the loss of life and property caused
17 by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas
18 and in areas likely to be affected by or vulnerable to sea level rise, ground water rise, and saltwater
19 intrusion, and by the destruction of natural protective features such as beaches, sand dunes, and
20 wetlands.

21 III. The management of coastal development to improve, safeguard, and restore the quality
22 of coastal waters, and to protect natural resources and existing uses of those waters.

23 IV. Public access to the coasts for recreation purposes.

24 V. The redevelopment of deteriorating urban waterfronts and ports, and sensitive
25 preservation and restoration of historic, cultural, and esthetic coastal features.

26 VI. The coordination and simplification of procedures in order to ensure expedited
27 governmental decision making for the management of coastal resources.

28 VII. Continued consultation and coordination with, and the giving of adequate
29 consideration to the views of affected state and federal agencies.

30 VIII. The giving of timely and effective notification of, and opportunities for, public and
31 local government participation in coastal management decision making.

32 IX. Comprehensive planning, conservation, and management for living marine resources,
33 including planning for the siting of pollution control and aquaculture facilities within the coastal
34 zone, and improved coordination between state and federal coastal zone management agencies and
35 state and wildlife agencies.

36 X. The study and development of plans for addressing the adverse effects upon the coastal
37 zone in accordance with the updating of storm surge, sea-level rise, precipitation and other relevant

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1 projections recommending in the coastal risks and hazards commission 2014 report "Sea-Level Rise,
2 Storm Surges, and Extreme Precipitation in Coastal New Hampshire: Analysis of Past and Projected
3 Trends" in RSA 483-B:22, I.

4 485-I:3 Federal Consistency. The coastal program established under this chapter shall be the
5 entity charged with implementing 16 U.S.C section 1456 and 15 C.F.R. Part 930.

6 485-I:4 Coastal Fund.

7 I. There is hereby established in the state treasury the coastal fund which shall be kept
8 distinct and separate from all other funds. All moneys in the fund shall be nonlapsing and
9 continually appropriated to the department of environmental services for the purposes of this
10 chapter.

11 II. The commissioner may apply for and accept, from any source, gifts; donations of money;
12 grants; federal, local, private, and other matching funds and incentives; and interests in land for the
13 purposes of this chapter. The moneys collected under this paragraph shall be deposited in the fund
14 established under paragraph I.

15 III. The commissioner shall adopt rules relative to the distribution of money from the
16 coastal fund for the New Hampshire coastal program established in RSA 485-I:2.

17 2 Effective Date. Part I of this act shall take effect July 1, 2021.

18 **PART II**

19 Extending the deadline for the PFAS firefighting foam take-back program.

20 1 Extending the Deadline for PFAS Firefighting Foam Take-Back Program. Amend RSA 154:8-
21 b, VIII to read as follows:

22 VIII. The department shall survey municipalities throughout the state on the quantitative
23 stock of legacy foams and determine the cost of instituting a take-back program for the purpose of
24 safe and contained disposal. The development and processing of the survey shall be subject to rules
25 adopted by the commissioner of the department of environmental services pursuant to RSA 541-A.
26 On or before December 1, 2020, the department shall submit a report of its findings and any
27 recommendations for proposed legislation to the president of the senate, the speaker of the house of
28 representatives, the senate clerk, the house clerk, the governor, and the state library. Beginning on
29 July 1, ~~[2021]~~ **2023**, the department shall institute a take-back program of legacy foams for the
30 purpose of safe and contained disposal.

31 2 Effective Date. Part II of this act shall take effect upon its passage.

32 **PART III**

33 Relative to the prevention of zoonotic disease transmission.

34 1 Findings. The general court finds:

35 I. Zoonotic disease can spread from animals to humans, with an estimated 3 out of 4 new or
36 emerging diseases being zoonotic in nature. Evidence indicates that many of the worst epidemics
37 and pandemics in recent decades have been zoonotic in origin, including COVID-19, ebola virus,

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1 avian influenza, swine influenza, Middle East respiratory syndrome, human immunodeficiency
2 virus, and severe acute respiratory syndrome.

3 II. Wildlife trafficking and trade has been shown to contribute to the transmission and
4 pervasiveness of zoonotic diseases. The COVID-19 pandemic has underscored the immense loss of
5 human life and economic disruption that zoonotic disease can cause. The COVID-19 pandemic has
6 spurred other states to introduce legislation to ban the importation of wildlife and live animal
7 markets, which could shift those activities to New Hampshire.

8 III. New Hampshire needs to prepare for the emergence and management of novel zoonotic
9 pathogens that may threaten public health, food security, biological diversity and economic security.

10 2 New Section; Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission.
11 Amend RSA 207 by inserting after section 14-b the following new section:

12 207:14-c Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission. The
13 fish and game department shall monitor available information on animals and fish, not currently
14 restricted under state and federal wildlife trafficking laws, that if transported into the state, will
15 risk zoonotic disease transmission. The department may consult as needed with the department of
16 health and human services, the state veterinarian, and scientific and educational institutions. The
17 department shall make recommendation to the legislature on any legislation or rules needed for
18 import or other restrictions on identified species, and to the governor if an executive order is deemed
19 necessary.

20 3 Effective Date. Part III of this act shall take effect January 1, 2022.

21 **PART IV**

22 Establishing the coastal program administered by the department of environmental services.

23 1 Tidal Waters. Amend RSA 485-A:8, V to read as follows:

24 V. Tidal waters utilized for swimming purposes shall contain not more than either a
25 geometric mean based on at least 3 samples obtained over a 60-day period of 35 enterococci per 100
26 milliliters, or 104 enterococci per 100 milliliters in any one sample, unless naturally occurring.
27 Those tidal waters used for growing or taking of shellfish for human consumption shall,~~in addition~~
28 ~~to the foregoing requirements, be in accordance with the criteria recommended under the National~~
29 ~~Shellfish Program Manual of Operation, United States Department of Food and Drug~~
30 ~~Administration]~~**not exceed a geometric mean most probable number (MPN) of 14 organisms**
31 **per 100 ml for fecal coliform, nor shall more than 10 percent of the samples exceed an MPN**
32 **of 28 per 100 ml for fecal coliform, or other values of equivalent protection based on**
33 **sampling and analytical methods used by the department of environmental services**
34 **shellfish program and approved in the latest revision of the National Shellfish Sanitation**
35 **Program, Guide For The Control of Molluscan Shellfish.**

36 2 Effective Date. Part IV of this act shall take effect 60 days after its passage.

37 **PART V**

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1 Establishing a surcharge on certain saltwater licenses and
2 establishing a fund for derelict fishing gear and coastal cleanup.

3 1 New Subparagraph; Application of Receipts; Derelict Fishing Gear and Coastal Cleanup Fund
4 Established. Amend RSA 6:12, I(b) by inserting after subparagraph (364) the following new
5 subparagraph:

6 (365) Moneys deposited into the derelict fishing gear and coastal cleanup fund
7 established in RSA 211:77.

8 2 New Paragraph; Litter Control Law; Penalties. Amend RSA 163-B:4 by inserting after
9 paragraph I the following new paragraph:

10 I-a. Any fines collected under this section for littering in coastal waters or beaches and for
11 abandoning fishing gear shall be credited to the derelict fishing gear and coastal cleanup fund
12 established in RSA 211:77.

13 3 New Paragraph; Lobsters and Crabs; Surcharge Added. Amend RSA 211:18 by inserting
14 after paragraph III-b the following new paragraph:

15 III-c. The executive director shall establish a surcharge on each class of license issued under
16 paragraph III-a of not more than \$25 nor less than \$10 to be deposited in the derelict fishing gear
17 and coastal cleanup fund, established in RSA 211:77, and shall adopt rules for implementing and
18 collecting the surcharge. Any person who satisfactorily demonstrates to the executive director that
19 he or she is participating in a coastal cleanup program shall not be required to pay the surcharge.
20 The executive director shall adopt rules pursuant to RSA 541-A to determine satisfactory
21 participation in a coastal cleanup program and to account for licensees who are exempt from the
22 surcharge each year.

23 4 Nonresident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-a, II to
24 read as follows:

25 II. The fee for an annual license shall be set by the executive director pursuant to RSA
26 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
27 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
28 by diving. ***The executive director shall establish a surcharge on each license issued under***
29 ***this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing***
30 ***gear and coastal cleanup fund established in RSA 211:77, and shall adopt rules for***
31 ***implementing and collecting the surcharge. Any person who satisfactorily demonstrates to***
32 ***the executive director that he or she is participating in a coastal cleanup program, or the***
33 ***sea urchin or scallop fishery, shall not be required to pay the surcharge. The executive***
34 ***director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in***
35 ***a coastal cleanup program and to account for licensees who are exempt from the surcharge***
36 ***each year.***

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1 5 Resident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-b, II to read
2 as follows:

3 II. The fee for such annual license shall be set by the executive director pursuant to RSA
4 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
5 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
6 by diving. ***The executive director shall establish a surcharge on each license issued under***
7 ***this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing***
8 ***gear and coastal cleanup fund established in RSA 211:77, and shall adopt rules for***
9 ***implementing and collecting the surcharge. Any person who satisfactorily demonstrates to***
10 ***the executive director that he or she is participating in a coastal cleanup program, or the***
11 ***sea urchin or scallop fishery, shall not be required to pay the surcharge. The executive***
12 ***director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in***
13 ***a coastal cleanup program and to account for licensees who are exempt from the surcharge***
14 ***each year.***

15 6 Aquaculture; Surcharge Added. Amend RSA 211:62-e, II-b to read as follows:

16 II-b. The executive director shall adopt rules, pursuant to RSA 541-A, for the issuance of 5-
17 year licenses under this section to oyster aquaculture operations in the Great Bay estuary, and the
18 fees, terms, and conditions therefor as authorized under paragraph II-a. ***The executive director***
19 ***shall establish a surcharge on each license issued under this section of not more than \$25***
20 ***nor less than \$10 to be deposited in the derelict fishing gear and coastal cleanup fund***
21 ***established in RSA 211:77, and shall adopt rules for implementing and collecting the***
22 ***surcharge. Any person who satisfactorily demonstrates to the executive director that he or***
23 ***she is participating in a coastal cleanup program shall not be required to pay the***
24 ***surcharge. The executive director shall adopt rules pursuant to RSA 541-A to determine***
25 ***satisfactory participation in a coastal cleanup program and to account for licensees who***
26 ***are exempt from the surcharge each year.***

27 7 New Subdivision; Derelict Fishing Gear and Coastal Cleanup Fund. Amend RSA 211 by
28 inserting after section 76 the following new subdivision:

Derelict Fishing Gear and Coastal Cleanup Fund

29 211:77 Derelict Fishing Gear and Coastal Cleanup Fund Established. There is hereby
30 established a separate fund to be known as the derelict fishing gear and coastal cleanup fund. The
31 fund shall be administered by the executive director and shall be nonlapsing and continually
32 appropriated to the executive director for the purposes of this section. The executive director shall
33 credit to this fund all federal moneys, state funds appropriated, fines or settlements for derelict
34 fishing gear or other items, and fines for littering in coastal waters or beaches collected under RSA
35 163-B:4. The executive director may accept and expend all funds, including any gifts, grants, or
36 donations made to the fund. The moneys in the fund shall be used to establish and support new and
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existing programs to retrieve and dispose of derelict fishing gear, to conduct periodic coastal cleanup programs for the removal of derelict fishing gear and marine trash, and to support recycling efforts for fishing gear and other marine trash. In this section, "derelict fishing gear" means lost, discarded, or abandoned fishing gear.

8 Effective Date.

I. Sections 3-6 of part V of this act shall take effect January 1, 2022.

II. The remainder of part V of this act shall take effect upon its passage.

PART VI

Relative to public use of coastal shorelands.

1 Public Trust Shorelands; Mean High Tide Line. Amend RSA 483-C:1, V to read as follows:

V. The high water mark which bounds the shoreward extent of the public trust shorelands in New Hampshire, excluding abnormal storm events, means ~~[the furthest landward limit reached by the highest tidal flow, commonly referred to as the highest spring or highest "syzygy" tide occurring during the 19-year Metonic cycle]~~ **the average height of all the high waters over a complete tidal cycle commonly referred to as the mean high tide line.** The landward trace of the high water mark in New Hampshire is established by the tidal station data within the contemporary 19-year "National Tidal Datum Epoch" for Portland, Maine, Casco Bay (NOS MAINE 841 8150) as that data is transposed to New Hampshire tidal stations by the "differences" tidal constant established by the National Ocean Service (NOS) of the National Oceanic and Atmospheric Administration (NOAA) for New Hampshire tidal stations and published in the annual "Tide Tables High and Low Water Predictions, East Coast of North and South America, Including Greenland". The contemporary 19-year National Tidal Datum Epoch is the national tidal database maintained by NOS of NOAA.

2 Effective Date. Part VI of this act shall take effect upon its passage.

PART VII

Addressing impacts to other water users from new sources of water for community water systems.

1 New Section; Small Groundwater Withdrawals. Amend RSA 485-C by inserting after section 25 the following new section:

485-C:26 Groundwater Withdrawals Less than 57,600 Gallons Over Any 24-Hour Period for Community Water Systems. The department shall adopt rules pursuant to RSA 541-A specifying criteria and procedures to ensure a groundwater withdrawal less than 57,600 gallons over any 24-hour period from a new source of water for a community water system as defined by RSA 485:1-a and subject to RSA 485:8 does not cause an unmitigated impact to an existing private water supply well in accordance with RSA 485-C:21, V-c(a) or RSA 485-C:21, V-c(c).

2 Effective Date. Part VII of this act shall take effect 60 days after its passage.

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Approved: August 10, 2021

Effective Date:

Pt. I eff. July 1, 2021

Pt. II eff. August 10, 2021

Pt. III eff. January 1, 2022

Pt. IV eff. October 9, 2021

Pt. V eff. I. Sec. 3-6 eff January 1, 2022

II. Rem. eff August 10, 2021

Pt. VI eff. August 10, 2021

Pt. VII eff: October 9, 2021

