



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

March 15, 2016

The Honorable Robert Rowe, Chair
House Judiciary Committee
Legislative Office Building, Room 208
Concord, New Hampshire 03301

SUBJECT: HB 1298, An act relative to damage to private property

Dear Chair Rowe and Members of the Committee:

Thank you for the opportunity to provide testimony on House Bill 1298. This bill would provide landowners whose property has been damaged by dumping of solid waste or hazardous materials, or by the use of off-highway recreational vehicles (OHRVs), with a right of action to address such damage. The New Hampshire Department of Environmental Services (NHDES) supports this bill. This position of support is focused on the provisions of the bill that address illegal dumping. NHDES has not evaluated the provisions of the bill related to damage caused by OHRVs, and does not take a position on that section of the bill.

There are thousands of acres of open land in our beautiful state, many of which are criss-crossed with "woods roads." While these lands provide ample opportunity for recreation and enjoyment of nature, they can also be an attractive target for illegal dumpers. As the state agency that regulates the management of solid waste, hazardous waste, and petroleum products, NHDES often receives reports of incidents of illegal dumping of such materials on these open lands. Anecdotally, we are also aware that many incidents of dumping, particularly of solid waste, are not reported to NHDES. When we receive a report, we often work with local authorities and the landowner to address any hazards and investigate the incident. Sometimes, it is difficult or impossible to determine the identity of the responsible party. Other times, through information obtained by the landowner or our own investigative efforts, we are able to identify the perpetrator. In either case, landowners who fall victim to these dumping incidents often find themselves incurring significant inconvenience, cost, and damage to or devaluation of their property.

This bill would provide landowners with a right of action to address incidents of illegal dumping, and provide a strong disincentive to would-be illegal dumpers. The New Hampshire Timberland Owners Association (NHTOA) approached NHDES in the fall of 2015 to discuss the provisions of the bill related to illegal dumping. NHDES expressed support for the bill in principle, and provided input regarding several technical and legal concerns that it had with the bill, as introduced. NHTOA and its counsel worked with NHDES, and the bill has been amended to address these concerns. Relative to the issue of illegal dumping, NHDES believes that the bill, as amended, fills a significant gap in existing law.

The Honorable Robert Rowe, Chair
House Judiciary Committee
HB 1298 – March 15, 2016
Page 2 of 2

Thank you for the opportunity to comment on this bill. If you have questions or need additional information, please contact Michael Wimsatt, Director of the Waste Management Division at (603) 271-2905 Michael.Wimsatt@des.nh.gov, or me.

Sincerely,

A handwritten signature in black ink that reads "Thomas S. Burack". The signature is written in a cursive style with a large, stylized initial "T".

Thomas S. Burack, Commissioner
Department of Environmental Services

cc: Sponsors of HB 1298: Reps. Chandler, Sanders, Theberge; Sens. Bradley, Forrester

