



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

March 4, 2019

The Honorable Clyde Carson
Chair, Municipal and County Government Committee
Legislative Office Building, Room 301
Concord, NH 03301

RE: HB 559, AN ACT Enabling Municipalities to Ban Single-Use Sources of Plastic Pollution.

Dear Chair Carson and Members of the Committee:

Thank you for the opportunity to testify on HB 559. This bill would grant New Hampshire municipalities the authority to adopt ordinances to prohibit the sale, distribution and purchase of single-use plastic products that can contribute to plastic pollution in the environment. Though not taking a position on the bill, the New Hampshire Department of Environmental Services (NHDES) supports the concept of reducing the distribution of single-use plastics to reduce the quantity of waste disposed in New Hampshire. We do have concerns about certain aspects of this bill as proposed. We have communicated these concerns to Representative Judith Spang, the primary bill sponsor, and hereby submit them to the committee for consideration.

NHDES has two primary concerns with HB 559 as introduced:

First, the bill seeks to modify the definition of "refuse" in the Solid Waste Management Act (RSA 149-M) to include the term "plastic". This modification is unnecessary because the current definition of refuse in RSA 149-M already includes "trash, rubbish, litter" and "accumulated waste material, cans, containers, ... junk, or other such substances which may become a nuisance". Additionally, the definition of "solid waste" in RSA 149-M, which is central to applying the statute, not only includes the term refuse but also "...other discarded or abandoned material." Thus, the existing definitions in RSA 149-M capture all types of discarded, unwanted or litter material, whether it be composed of plastic or some other substance. Moreover, NHDES notes that the proposed text of HB 559 enabling municipalities to restrict distribution of plastic items does not actually use the term "refuse," so it would seem that modifying the term's definition is not critical to the substance of the bill. NHDES is concerned that modifying a defined term without clear necessity or purpose may have unintended consequences for NHDES' administration and interpretation of rules, permits, fact sheets, or other documents where the term may be referenced.

Second, and more importantly, NHDES has concerns about HB 559's general placement in RSA 149-M and the confusion that might result. RSA 149-M's primary purpose is to regulate the management of solid waste, not the distribution of products. Given that HB 559 would provide authority to municipalities to adopt ordinances, NHDES respectfully suggests that the bill propose to amend RSA 31, *Powers and Duties of Towns*. NHDES notes that HB 102, which is a bill with a purpose virtually

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identical to that of HB 559, has been proposed as an amendment to RSA 31:39. It may be worth consolidating aspects of HB 559 and HB 102 into one bill that amends RSA 31.

In summary, while not taking a position on the bill, NHDES supports the concept of reducing waste and controlling sources of plastic pollution. Notwithstanding, we believe there are some aspects of this bill that would benefit from further refinement.

Thank you again for the opportunity to comment on HB 559. Should you have further questions or need additional information, please feel free to contact either Michael Nork, Environmental Analyst in the Solid Waste Management Bureau (Michael.Nork@des.nh.gov, 271-2936) or Todd Moore, Solid Waste Management Bureau Administrator (Todd.Moore@des.nh.gov, 271-6467).

Sincerely,



Robert R. Scott
Commissioner

cc: Sponsors of *HB 559*: Representatives Spang, Gilman, Luneau; Senator Fuller Clark