

Bill as Introduced

HB 1334 - AS INTRODUCED

2010 SESSION

10-2083

08/05

HOUSE BILL

1334

AN ACT

relative to penalties for unpaid fines concerning hazardous materials accidents.

SPONSORS:

Rep. DeJoie, Merr 11

COMMITTEE:

Criminal Justice and Public Safety

ANALYSIS

This bill establishes a penalty for unpaid fines concerning hazardous materials and accidents.

This bill is a request of the state fire marshal.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to penalties for unpaid fines concerning hazardous materials accidents.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subparagraph; Penalty for Non-Payment; Hazardous Materials Accidents. Amend
2 RSA 154:8-a, II-a by inserting after subparagraph (g) the following new subparagraph:

3 (h) A nonpayment penalty of \$1,000 plus 10 percent of the amount billed shall be
4 assessed for each day of nonpayment starting the 15th day after the due date and continuing up to 30
5 days followed by an increase to 25 percent of the amount billed per day for each day until the
6 payment is received. If the responsible party is not readily identifiable the cost shall be the
7 responsibility of the operator of the hazardous materials' firm.

8 2 Liability Concerning Hazardous Materials Accidents. Amend RSA 154:8-a, II-a(b) to read as
9 follows:

10 (b) Any person whose act or omission caused the actual or threatened discharge of
11 hazardous materials or toxic wastes which resulted in the reasonable and proportionate response of
12 police, fire, emergency preparedness, or emergency response equipment shall be responsible for
13 payment of the personnel costs of police, fire, public safety, and municipal personnel, including
14 mutual aid standby personnel, directly involved in the emergency response~~[-except that costs for on-~~
15 ~~duty paid personnel who have responded to the emergency involving the discharge of hazardous~~
16 ~~materials during their assigned duty shift shall not be costs eligible for reimbursement].~~

17 3 Liability Concerning Hazardous Material Accidents. Amend RSA 154:8-a, II-a(f) to read as
18 follows:

19 (f) If no appeal is filed within 30 days after receipt of the bill, the person responsible for
20 the ~~[equipment contamination]~~ ***hazardous materials response*** shall be deemed to have waived all
21 rights to appeal and shall be liable to the municipality, organization, or mutual aid district for the
22 total amount billed.

23 4 Effective Date. This act shall take effect 60 days after its passage.

Amendments

Amendment to HB 1334

1 Amend RSA 154:8-a, II-a (h) as inserted by section 1 of the bill by replacing it with the following:

2

3 (h) A nonpayment penalty of \$1,000 plus 10 percent of the amount billed may be
4 assessed for each day of nonpayment starting the 15th day after the due date and continuing up to 30
5 days followed by an increase to 25 percent of the amount billed per day for each day until the
6 payment is received. If the responsible party is not readily identifiable the cost shall be the
7 responsibility of the operator of the hazardous materials' firm.

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9 Amend RSA 154:8-a, II-a(b) as inserted by section 2 of the bill by replacing it with the following:

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11 (b) Any person whose act or omission caused the actual or threatened discharge of
12 hazardous materials or toxic wastes which resulted in the reasonable and proportionate response of
13 police, fire, emergency preparedness, or emergency response equipment shall be responsible for
14 payment of ***any court costs and legal fees resulting from an actual or threatened discharge***
15 ***of hazardous material or toxic wastes and*** the personnel costs of police, fire, public safety, and
16 municipal personnel, including mutual aid standby personnel, directly involved in the emergency
17 response[~~except that costs for on duty paid personnel who have responded to the emergency~~
18 ~~involving the discharge of hazardous materials during their assigned duty shift shall not be costs~~
19 ~~eligible for reimbursement].~~

Speakers

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1334

BILL TITLE: relative to penalties for unpaid fines concerning hazardous materials accidents.

DATE: January 21, 2010

LOB ROOM: 204 **Time Public Hearing Called to Order:** 10:08 a.m.

Time Adjourned: 11:15 a.m.

(please circle if present)

Committee Members: Reps. Shurtleff, Pantelakos, Derube, Robertson, Movsesian, Burrige, Cushing, Rodd, Chandley, B. McCarthy, M. Ryder, Welch, Charron, Fesh, Wears, Stevens, Villeneuve, Gagne, Swinford and Willette.

Bill Sponsors: Rep. DeJoie, Merr 11

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Rhodes - For the prime sponsor.

- Requested by N. H. Fire Chiefs and N. H. Fire Marshals office.

Bill Degnan - Fire Marshall (In support)

- Creates a penalty to those who don't pay fines and provides an appeal process.

***Chief Richard Todd** - Amherst Fire Department (In support)

- Provided written testimony.

Rep. O'Brien - (In support)

- This bill helps taxpayers.

Chief Bill Weinhold - Hazmat Teams of New Hampshire (In support)

- Provided copy of Interim Report on Hazmats.
- Provided handout on Hazardous Materials.

***Frank Fraitze** - Milford Fire Chief (In support)

- Provided written testimony


HB 1334 Page Two Continued

Scott Wiggin - President N. H. Firearm's Association (In support)

- Spoke to litigation aspect of bill.

**Subcommittee: Rep. Laura Pantelakos, Chair
Rep. David Welch
Rep. Everett Weare**

Respectfully Submitted:



Rep. Stanley E. Stevens, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1334

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* Use asterisk if written testimony and/or amendments are submitted.

1334
HB 1384

21 Jan 2010

Start : 10:08
Finish : 11:15

Rep Rhodes for the prime sponsor

- requested by NH. Fire Chiefs and NH. Fire Marshals office.

Bill Deegan Fire Marshal (in support)

- creates a penalty to those who don't pay fines and provides an appeal process.

Chief Richard Fodd Amherst Fire Dept. (in support)

- provided written testimony.

Rep O'Brien (in support)

- this bill helps taxpayers

Chief Bill Weinhold Hazmat Teams of NH (in support)

- provided copy of Interim Report on Hazmat.
- provide handbook on Hazardous Materials.

(2)

Frank Traitzge Dufford Fire Chief

(in support)

o provided written testimony.

Scott Weggen Pres. NH Firemans Assn.

(in support)

o spoke to litigation aspect of bill.

Rep Panabaker, Welch, Weare.

Sub-Committee Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

**SUBCOMMITTEE WORK SESSION ON HB 1334
Recessed to February 9, 2010 at 9:45 a.m.**

BILL TITLE: relative to penalties for unpaid fines concerning hazardous materials accidents.

DATE: February 1, 2010

Subcommittee Members: Reps. Pantelakos, Weare and Welch

Attending: Bill Degnan, State Fire Marshal, Susan Ellsworth, Municipal Government

Comments and Recommendations: Suggestion we make to change Line 3 – Change “shall” to “may”. Line 13 – include Court cost and legal fees after municipal personnel
Recessed until February 9, 2010 at 9:45 a.m.

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Laura A. Pantelakos, Chair
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY
SUBCOMMITTEE WORK SESSION ON HB 1334

BILL TITLE: relative to penalties for unpaid fines concerning hazardous materials accidents.

DATE: 2-1-10

Subcommittee Members: Reps. Pantidakos, Weare, + Welch

Comments and Recommendations:

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep.
Subcommittee Chairman/Clerk

H.B. 1334 Room 204

11:30

Members present Pantelakos, Weare &
Welch,

Public, Bill Hegman, State Fire Marshall
Susan Ellsworth, Municipal Government

Suggestion we made to change
Line 3 Change shall to may
Line 13 exclude Court cost and legal
fees after Municipal personnel.

Recess till Feb 9, 2010
at 9:45

Rep Susan Pantelakos

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON HB 1334

*RECONVENED, RECESSED FROM FEBRUARY 1, 2010 AT 11:30 A.M.

BILL TITLE: relative to penalties for unpaid fines concerning hazardous materials accidents.

DATE: February 8, 2010 @ 4:00 P.M.

Subcommittee Members: Reps.Pantelakos, Chair, Weare and Charron

Comments and Recommendations: Rep. Welch Amendment #0433h

PUBLIC PRESENT: Bill Degnan, State Marshal, Brendan, Perry, Susan Ellsworth, Beth Sargent and Doug

Adjourned at 4:15 p.m.

Amendments:

Sponsor: Rep. David A. Welch OLS Document #: 2010 0433h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Laura A. Pantelakos, Chair
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON HB 1334

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BILL TITLE: relative to penalties for unpaid fines concerning hazardous materials accidents.

DATE: February 8, 2010

Subcommittee Members: Reps. Pantelakos, Weare and ~~Welch~~

Chavon

Comments and Recommendations:

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Laura A. Pantelakos, Chair
Subcommittee Chairman/Clerk

HB 1334

Feb 8, 2010

4:00

Room 204

Members

Rep Pantelakos, Charron, Weare

Webb Amendment 0433 h

Charron & Weare

O/P 3-0

Public present Bill Neenan, State Marshal
Brendan, Perry Susan Ellworth
Beth Sargent, Doug

Adjourn 4:15

Rep. Pantelakos

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17 response[, ~~except that costs for on duty paid personnel who have responded to the emergency~~
18 ~~involving the discharge of hazardous materials during their assigned duty shift shall not be costs~~
19 ~~eligible for reimbursement].~~

Testimony

Rep. Rhodes

House Bill 1594-FN
Chapter 365:1, Laws of 2008

Findings, Issues and Concerns

1. The uncontrolled discharge or release of hazardous materials into the environment has the potential for creating significant harm to public health, both immediately and over an extended period of time. While there are a number of departments involved in programs and funds dedicated to hazardous waste and hazardous materials in state statute, the state has no single coordinated hazardous materials program. With the understanding that hazardous materials can be used as weapons by terrorists or terrorist organizations and the events that transpired on September 11, 2001, that poses a significant concern for the efficiency of current efforts. Due to the limited time available to the commission prior to this reporting deadline and the magnitude of the problem, the major focus of this report is dedicated to the issue of the operation and funding of the Regional Hazardous Materials Emergency Response (HazMat) teams.

2. The protection of public safety and containment of hazardous materials at an incident is the responsibility of the emergency response teams. Protecting the general public and emergency response personnel from harm during hazardous material incidents is their primary concern. Existing statutes place the burden of liability on entities that create hazardous materials incidents. Cleanup and mitigation operations are the responsibility of the entity responsible for the incident, supervised by the Department of Environmental Services (DES).

3. Those entities that produce, store, transport and use hazardous materials have the primary financial responsibility for mitigation of hazardous material incidents, usually thru voluntary or mandated insurance coverage. State statutes and regulations allow for the recovery of costs associated with the response to a hazardous material incident by local or regional emergency response units. The Department of Safety (DOS) establishes and monitors rules for cost recovery. There is a concern that those rules are not broad enough to accurately allow for the collection of costs and that more effort needs to be put into cost recovery.

4. Dedicated petroleum funds, created by state statutes, funded by import fees that are usually passed on to the consumer, are intended as excess liability insurance to protect the public health and the environment from the effects of hazardous material incidents and/or mitigate the effects of incidents involving the release of gasoline, fuel oil and motor oil from storage facilities. Legislation was passed in the 2008 session extending the life of the funds to more properly reflect the current backlog of necessary mitigation efforts, without providing any additional funding.

5. Regional HazMat teams have evolved since 1986 as specialized emergency response units providing advice, specialized equipment and trained personnel to backup the municipal emergency first response units. The specially trained personnel are existing municipal emergency responders. The teams were developed using the state approved mutual aid model allowing municipalities to pool their resources for greater efficiency. In



Chief Richard Todd
**TOWN OF AMHERST, NEW HAMPSHIRE
FIRE DEPARTMENT**

**P.O. Box 1199, 177 Amherst Street
Amherst, NH 03031
Phone (603) 673-1545 Fax (603) 672-3927
*Richard A. Todd, Fire Chief***

January 21, 2010

Stephen Shurtleff – Committee Chair
Criminal Justice and Public Safety
State of NH-House of Representatives
107 North Main Street,
Concord, New Hampshire, 03301

Good Morning Chairman Shurtleff and Committee Members,

I sit here before you in support of HB 1334.

Over the last two years the Town of Amherst has had two major hazardous material incidents where the town has outstanding unpaid bills totaling approximately \$50,000 for all costs associated with these incidents.

As RSA 154:8 is currently adopted it does not have a penalty clause to assist the effected cities and towns in recovering cost paid out by communities for the replenishment of supplies and additional personnel cost associated with Hazardous Material incidents.

On January 17 2008, the Town of Amherst had a 2000 Gallon propane truck collide with another vehicle on NH Route 101. The propane truck rolled over. Propane was leaking; the driver of the car was severely trapped. This incident required the response of 23 different emergency response agencies. These agencies included: State Local and Private. This incident was mitigated some 12 Hours after the initial alarm. This incident cost the community approximately \$18,000 dollars to mitigate. No reimbursement has been made.

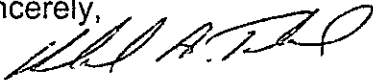
On August 28 2008, the Town of Amherst Emergency Services responded to Orchard View Drive for a Chemical Release. This incident required the need for a multiple agency response. This was due to the fact that we not only had a chemical release; we also had multiple victims exposed to an unknown chemical. This required the activation of multiple EMS units for treatment and transport, as well as area fire departments to set up a decontamination station. Because of its Chemical Nature, the Souhegan Mutual Aid Hazardous Material Team responded to assist in identifying the numerous chemicals involved. During the identification process it was found that a highly volatile/explosive chemical was located on the property. The NH State Fire Marshal's Office and NH State Police Bomb Squad was contacted to assist us in controlling this

extremely dangerous situation. The incident took some 11 Hours to mitigate after utilizing the expertise of all involved including the NH State Police Bomb Squad to detonate the unstable chemicals. The Town of Amherst has repeatedly tried to contact the owner of the chemicals but to no avail. Since the incident the owner of the home has sold the home and moved out of the area. This incident cost the Town of Amherst alone in the area of \$13,000 Dollar, which has not been recovered.

The cities and towns of New Hampshire need this additional wording to prevent the taxpayers of the state from being burdened by others as is happening now in our community. Please support the passage of HB 1334.

Thank you for your time and attention.

Sincerely,

A handwritten signature in black ink, appearing to read "R. A. Todd", written in a cursive style.

Richard A. Todd
Chief of Department

Chief Weinhold
House Bill 1594-FN
Chapter 365:1, Laws of 2008

**Commission to Study the Current Methods of
Funding the Hazardous Waste and Hazardous
Materials Programs in New Hampshire**

INTERIM REPORT

The Commission established to study the current methods of funding the hazardous waste and hazardous materials programs in New Hampshire, having duly met, offers the following interim report:

Introduction

This Commission was charged with studying the sources of funding and expenditures related to programs for hazardous waste and hazardous materials in New Hampshire, as currently defined in statute, and to continue the work of previous legislative committees that studied the operation and funding of the Regional Hazardous Materials Emergency Response (HazMat) teams.

The Commission, composed of members of the legislature, state departments and administrators, representatives from local municipalities, regional HazMat emergency response members and representatives from a broad spectrum of the business community, held six meetings during August, September and October 2008, gathering data, listening to testimony and extensively reviewing, discussing, questioning and debating what they heard and saw.

As New Hampshire grows, there are increasing numbers of businesses and organizations that produce, use, store or transport hazardous materials and create hazardous waste. Properly monitored and controlled, these activities are a necessary part of a modern industrialized society and provide significant economic and societal benefit. However, hazardous material incidents involving the actual or potential release or discharge of hazardous materials into the environment in quantities sufficient to cause a threat to the public safety, whether done accidentally or deliberately, are a significant concern for our state and the public safety, requiring that the monitoring and control mechanisms are kept current and effective.

House Bill 1594-FN

Chapter 365:1, Laws of 2008

Findings, Issues and Concerns

1. The uncontrolled discharge or release of hazardous materials into the environment has the potential for creating significant harm to public health, both immediately and over an extended period of time. While there are a number of departments involved in programs and funds dedicated to hazardous waste and hazardous materials in state statute, the state has no single coordinated hazardous materials program. With the understanding that hazardous materials can be used as weapons by terrorists or terrorist organizations and the events that transpired on September 11, 2001, that poses a significant concern for the efficiency of current efforts. Due to the limited time available to the commission prior to this reporting deadline and the magnitude of the problem, the major focus of this report is dedicated to the issue of the operation and funding of the Regional Hazardous Materials Emergency Response (HazMat) teams.
2. The protection of public safety and containment of hazardous materials at an incident is the responsibility of the emergency response teams. Protecting the general public and emergency response personnel from harm during hazardous material incidents is their primary concern. Existing statutes place the burden of liability on entities that create hazardous materials incidents. Cleanup and mitigation operations are the responsibility of the entity responsible for the incident, supervised by the Department of Environmental Services (DES).
3. Those entities that produce, store, transport and use hazardous materials have the primary financial responsibility for mitigation of hazardous material incidents, usually thru voluntary or mandated insurance coverage. State statutes and regulations allow for the recovery of costs associated with the response to a hazardous material incident by local or regional emergency response units. The Department of Safety (DOS) establishes and monitors rules for cost recovery. There is a concern that those rules are not broad enough to accurately allow for the collection of costs and that more effort needs to be put into cost recovery.
4. Dedicated petroleum funds, created by state statutes, funded by import fees that are usually passed on to the consumer, are intended as excess liability insurance to protect the public health and the environment from the effects of hazardous material incidents and/or mitigate the effects of incidents involving the release of gasoline, fuel oil and motor oil from storage facilities. Legislation was passed in the 2008 session extending the life of the funds to more properly reflect the current backlog of necessary mitigation efforts.
5. Regional HazMat teams have evolved since 1986 as specialized emergency response units providing advice, specialized equipment and trained personnel to backup the municipal emergency first response units. The specially trained personnel are existing municipal emergency responders. The teams were developed using the state approved mutual aid model allowing municipalities to pool their resources for greater efficiency. In

House Bill 1594-FN

Chapter 365:1, Laws of 2008

the years following the events of 9-11 federal funding was substantially increased by providing grants to improve the response capabilities of the emergency community. Federal grant funding was targeted primarily for the establishment of the HazMat teams thru the purchase of capital equipment and training and never included operational costs. Existing federal grant funding dollars are trending downwards. The burden of operational costs has been borne largely by a subset of the larger local municipalities. The increasing costs to those municipalities and its effect on their local property tax rates has created pressure to reduce local efforts, threatening the viability of the regional HazMat teams.

6. There are currently nine HazMat teams providing coverage to the majority of the state, with the exception of a large area in and around Grafton County. An additional team is in the process of organizing to fill in most of the uncovered area. The current area coverage evolved based on geography, response times and risk factors, but was also influenced by the simple economics of who was willing to participate. Coverage of the entire state and a review of the criteria for establishing the coverage areas to improve both the effectiveness and the efficiency of the teams is considered a priority. When responding to hazardous materials incidents, there is a clear understanding of the well defined "top-down authority/ local responsibility" organizational structure, chain of command and use of mutual aid districts and agreements within and between the federal government, state government, regional HazMat teams and local municipalities to protect public safety. The organizational structure for accounting, cost recovery and funding is much less clear and appears to have evolved more from political considerations and expediency than a rational business model, resulting, as an example, in an inability to easily capture and report an overall picture of revenues and expenditures. The team's first responsibility is to public safety and their membership is located at the municipal level. Administrative costs related to team activities, including cost recovery, frequently is done on a volunteer basis or buried in local budgets. A better method of accounting and auditing for the actual revenues and expenditures of the HazMat teams, on a consistent basis, should be encouraged. A closer formal association with DOS and a clearer definition of administrative roles and responsibilities should be considered. A cost/benefit comparison between our regional HazMat team organizational and operational structure and the organizational and operational structures in other New England states should also be done.

7. A stable source of funding for the regional HazMat teams is vitally important. There is a broad consensus that, in addition to maximizing cost recovery efforts, the federal government, state government, local municipalities, businesses and consumers all need to share the costs in some fair and rational manner. Previous studies and proposed legislation have suggested the imposition of fees associated with Tier II reporting. Tier II reporting is a federal Emergency Planning and Community Right-to-Know Act (EPCRA) administered by the Environmental Protection Agency (EPA) that requires commercial users of hazardous materials to provide local emergency response units with information on the type, amount and location of hazardous materials within their facility. It is critical that emergency response units have this information when responding to an incident, to be able to effectively manage their response without endangering the public or

House Bill 1594-FN

Chapter 365:1, Laws of 2008

themselves.

8. There were a number of issues and concerns raised by the proposed Tier II reporting legislation. The EPCRA statute has specific reporting thresholds based on the quantity of hazardous material. Under the law, states may and previously proposed legislation did, propose lowered threshold quantities for some hazardous materials because of their risk factor. This was a concern because it meant that a number of entities not now required to report, would have had to start reporting. The EPA estimated that approximately half of the entities currently required, by law, to do Tier II reporting are not doing so. This implied that the costs would be disproportionately borne by that portion of the entities that produce, store, transport and use hazardous materials that are complying with the law. The EPA/OSHA can impose significant fines for not reporting and has indicated that they are in the process of increasing their enforcement activities in New England. There was also significant opposition to the additional administrative burden on entities required to report.

9. An alternative source of funding was also proposed in the 2008 session. The Fire Standards and Training Academy provides training to local emergency response personnel and is funded, in large part, by a dedicated fund that receives fees that are paid to DOS by insurance companies and other organizations and individuals requesting automobile registration information. It was proposed to use monies from that fund for an interim period to fund the HazMat teams. Testimony from DOS indicated that the fund was in a negative cash flow position, with the fund balance projected to go negative by 2010, based on current and planned costs associated with two significant facility capital improvement projects. A number of years ago, the legislature increased the fee and increased the programs paid out of the fund. Because the fund had received an inordinately large amount of revenue in one of the preceding years, the revenue cash flow projections were skewed high and the expenditure cash flows were correct. The fund has had an annual declining fund balance since that point. The academy also provides HazMat training and the fund has benefited from revenue from federal grants for that HazMat training.

RECOMMENDATIONS

Continue the work of the Commission

The work of the commission should continue with the current membership mix and charge. Meetings should be held on a regular, but less frequent basis.

1. Extend the "Commission to Study the Current Methods of Funding the Hazardous Waste and Hazardous Materials Programs in New Hampshire" with its current membership and direct the commission to meet on a regular basis until completion of its duties.

House Bill 1594-FN

Chapter 365:1, Laws of 2008

Regional HazMat Team Funding

Legislation should be reintroduced to fund the regional HazMat teams, including additional DOS HazMat specific administrative responsibilities, based on the following guidelines.

Accounting, Administration and Cost Recovery

1. Establish one point of contact between DOS, DES, the Department of Health and Human Services (HSS), Homeland Security, EPA, the New Hampshire Municipal Association (NHMA), local municipalities, the regional HazMat teams (individually or through the HazMat Collaborative) and the business community required to report under EPCRA to provide coordinated advice and assistance to regional teams with the goal of increasing cooperation, coordination, communications, data sharing and program efficiency. Give them the additional responsibility for coordinating cost recovery efforts and make it a priority.
2. Amend RSA 154:8-a, II (d) to give the affected municipality, organization or District Fire Mutual Aid System the statutory authority to collect legal fees and court costs as part of hazardous materials incident response cost recovery.
3. Work with the Department of Revenue Administration (DRA) to standardize local accounting rules to get consistent detailed municipal revenue and expense data and to properly separate HazMat revenue and expense data from other Public Safety data.
4. For budgetary purposes, identify a maximum number of Regional HazMat teams and an average number of members of the HazMat teams that will be funded for the purpose of physicals, training and operational costs with state funding.
5. Require HazMat teams seeking funding to be organized as a governmental unit under NH law so as to ensure transparency and accountability in the use of public funds.
6. Review current regional HazMat team coverage areas with a view toward potential geographic consolidation and to ensure coverage to towns not participating in a District Future Municipal Aid System. Work to enhance coordination with and support of Local Emergency Response Coordinators (LERC) formed under EPRCA.
7. Determine how many NH firefighters (either fully employed or volunteer) are currently trained to meet either operations and/or certified technician levels (as defined by OSHA 1910.120 Hazardous Waste Operations and Emergency Response Standards) and in which municipality they are located.
8. Inventory existing regional team capital and ancillary hazardous material response equipment to determine ownership, age, capability, maintenance requirements and

House Bill 1594-FN

Chapter 365:1, Laws of 2008

physical location.

9. Provide a mechanism for periodic audit of regional HazMat teams income and expenses including equipment, personnel (hours and number of personnel), training, medical, overtime, backfill and any other expenses to ensure transparency and accountability in the use of public funds.

Cost Sharing

1. To the extent possible, costs should be shared by the federal government, the state and local municipalities.

2. Maximize the use of the existing federal grant money for capital equipment purchases and training to establish the team scheduled to cover the Grafton County area.

3. Assist teams in the pursuit of additional federal and state grant funding sources to enhance capital reserve accounts. Demonstrate how use of RSA 53:A structure lends itself to increased eligibility for grant monies.

4. Work with our congressional delegation to establish the concept of funding HazMat specific physicals with Homeland Security grant money.

5. Audit Fire Standards and Training And Emergency Medical Services funds established under RSA 21-P:12-d to determine whether funds exist that could supplement locally underwritten hazardous material response training and training equipment maintenance. Set course charges for FSTEMS at levels to ensure financial viability and autonomy of training programs.

5. Recommend increasing the fee charged by DOS for copies of motor vehicle records to cover the costs of training associated with HazMat teams and dedicate the entire additional revenue generated by those fees to the FSTEMS Fund. Prohibit diversion of these funds from the FSTEMS Fund.

Tier II Reporting

1. Implement reporting to DOS effective not later than 12/31/09 to ensure reporting requirements will start in 2010.

2. Use the most up-to-date EPCRA definition of hazardous materials and threshold reporting standards for the purpose of Tier II filings.

3. Consider establishing a standard fee/facility and grant DOS authority to administer a fine of up to \$1,000 for non-compliance with federal Tier II reporting requirements. This fine will be separate from the EPA fine structure, administered by DOS. Proceeds will go directly into the Fire Standards and Training and Emergency Medical Services

House Bill 1594-FN

Chapter 365:1, Laws of 2008

(FSTEMS) Fund. Prohibit diversion of these funds from the FSTEMS Fund.

4. Establish DOS as the responsible “one-stop shopping” agency for collecting and distributing the data in accordance with EPA rules.

5. Expand interagency coordination between DOS & DES in order to avoid development of duplicative programs and services. Develop databases of reported Tier II materials and petroleum products that can be exchanged electronically between DOS, DES the LERC’s and hazardous material response personnel and to ensure consistent data and eliminate redundancies in reporting requirements.

Conclusion

The legislature has been studying the issue of funding Hazardous Materials Emergency Response teams since the 2006 legislative session. The danger to public safety associated with a hazardous material incident, accidental or deliberate, has been clearly evident for all that time. The commission, composed of representative stakeholders from all the relevant areas affected by the issue, many of whom have been involved in past deliberations and legislative efforts, believes that we have reached a consensus for action that addresses the concerns raised in the past. We respectfully suggest that waiting any further to take action opens the door to the possibility of an incident significant enough to warrant action by funding the teams from the General Fund.

Respectfully submitted,

Rep. Richard H. Snow
CHAIR
Rockingham District One

November 1, 2008

Chief Weenhold

HAZARDOUS MATERIAL
IN
NEW HAMPSHIRE

HAZARD ANALYSIS

More than 250 million tons of chemicals produced in this country every year. Today, over four billion tons of hazardous materials are moved in 90 million shipments on highways, waterways, airways and pipelines. The materials are moved throughout the country by 40 thousand carriers from 100 thousand shipping locations.

New Hampshire has more than 21 hundred reporting facilities with product inventories exceeding the threshold of 10 thousand pounds and as many with no reporting requirements. There are approximately 500 licensed haulers of hazardous materials in New Hampshire. The products are transported over 15 thousand miles of highway, 400 miles of railways, 12 hundred miles of pipeline, three major airports and the Piscataqua River terminals. Hazardous Materials are found in transportation (not inclusive of the reported facilities), manufacturing, storage (wholesaler and retailers), waste water systems, drinking water systems, refrigeration systems, utilities, medical facilities, laboratories, school, workplace and home.

Statewide, we have experienced approximately 12 hundred reported incident in the last three years involving products of all hazard classes. Of the 12 hundred incidents, 74 percent occurred at fixed facilities and 26 percent occurred in transportation, with releases to air, land and water. Of the material released, 73 percent involved petroleum products (gasoline, heating oils and motor oils) and the remaining 27 percent involved chemicals of all other classes.

The potential hazards from having hazardous materials in our communities are fire, sudden pressure release, reactivity, acute health hazard and chronic health hazard. Incidents occurred in all counties of the state and varied in size and magnitude of impact to the environment, property and health. Of the total incidents statewide, 9 percent occurred in Belknap County, 5 percent in Carroll, 3 percent in Coös, 6 percent in Cheshire, 8 percent in Grafton, 20 percent in Hillsborough, 15 percent in Merrimack, 22 percent in Rockingham, 8 percent in Strafford and 4 percent in Sullivan.

RESPONSE

Hazardous material response in New Hampshire covers a wide spectrum of capability ranging from marginal to fully capable depending on the geographical location of the affected community. Initial response to all incidents is handled by the local fire, police, EMS and public works departments of the community, with hazmat assistance coming from local, regional and/or state resources.

The State of New Hampshire does not have an organized Level A hazmat response team to respond statewide, but does have limited individual agency resources within agencies having statutory responsibility for specific regulatory programs. The nucleus for state response lies within a few agencies, which have been actively involved due to their level of expertise and related duties. The agencies providing technical and operational hazmat response assistance are NHOEM and DES.

Actual mitigation of a hazmat incident is accomplished by trained response teams, located throughout the state, organized around established fire mutual aid districts, and funded by local assessments. The only additional funding currently available to assist these teams comes from the Office of Emergency Management to support training, planning, exercises and special projects. No funding is currently available to support regional teams equipment acquisition, response cost or maintenance activities

There are currently eight regional hazmat teams covering portions of the state of NH encompassing approximately two-thirds of the state's population. The six teams cover only 146 of the 234 communities in the state. Communities not covered by one of the six teams rely on the limited resources of state agencies. The attached map illustrates the current coverage areas.

The local/regional teams were developed to compensate for the unavailability of resources to handle hazmat incidents. The state has supported their efforts by providing technical resource and through funding of eligible programs. The State Emergency Response Commission, established in 1986 serves as the state focal point for planning, training, reporting and coordination of the regional hazmat teams. The teams, through the coordination of the NHOEM, have developed a recognized coordination group that meet on a quarterly basis to address items of common interest relating to equipment, planning, training, response and coordination. Four of the teams have signed a memorandum of understanding to facilitate response outside covered areas.

The teams were all organized after 1986, most have been in existence for ten years and their membership consist of individuals from communities within their service areas. Team resources were secured through community assessments, fundraisers, donations and recovered cost from parties responsible for spills. The current response to anthrax incidents has no recoverable cost due to the inability to identify a responsible party. The teams are capable of providing response to incidents with moderate hazards and would require assistance to operate in large-scale events of higher complexity and duration. They possess fully encapsulated suits, a variety of monitoring equipment, resource libraries, self-contained breathing apparatus, plugging and diking equipment, absorbents, tools and equipment to support operations, decontamination equipment, communications equipment, analytical and computer equipment and vehicles. The capability is based on traditional chemical response and is in need of enhancement to accommodate response to the biological and non-traditional military grade chemicals. The teams also have access to resources owned by local fire departments in their coverage areas without compensation to the communities for purchase, utilization or maintenance.

The number of communities covered by the regional teams range from one to fifty-three covering a diverse area of population and hazards. The 8 existing regional hazmat teams are:

- *Central New Hampshire Hazmat Team (CNHHMT)
- *Southeastern New Hampshire Hazmat Team (SENHHMMAD)
- *Souhegan Mutual Aid Response Team (SMART)
- *Keene Fire Hazmat Team (KFHMT)
- *Seacoast Technical Assistance Response Team (START)
- *Manchester Fire/Hazmat Team (MFHMT)
- *Midwest Hazmat Team (Lebanon area)
- *North Country Hazmat Team (Gorham)

Membership is on a voluntary basis due to the time constraints required for training, refresher courses, drills, exercises and actual events. The team membership varies from 30-to-90 members depending on the coverage area. The districts supported by call and volunteer personnel experience a large turnover due to the demands of hazmat work.

There is a large geographical area requiring coverage with no funding available, limited personnel, limited equipment and no single point of contact to expedite the process. The established teams should be reimbursed for cost incurred in response to the current events and funded to compensate for enhancement of their current capabilities. The state should aggressively look a ways to improve coordination with the teams and enhance its own capabilities to support the regional teams as requested or required by state laws.

The regional teams are to be commended for their time, effort, sacrifice and dedication to serving the public without much notice until the September 11, 2001 and the events of that have followed

PROGRAM MILESTONES

In the fall of 1986, the State of New Hampshire began implementing the Superfund Amendments and Reauthorization Act (SARA) established by Congress and administered by the U.S. Environmental Protection Agency, through the leadership of the NHOEM. The program was formally recognized by Executive Order #92-6 by the governor in 1992.

Program highlights include annual inventory reporting by facilities, development of state and local plans, incident reporting, training and planning grant administration, oversight of "Right to Know" request and response planning. A major milestone of the response planning efforts is the development and coordination of the regional hazmat teams.

Training of first responders has been ongoing since 1986 in coordination with most state agencies. Specialized training has also been developed in the area of terrorism, Incident Command System (ICS), decontamination and Computer-aided Management of Emergency Operations (CAMEO). The appropriate state agencies have participated in curriculum development, federal/state/local workshops, exercises and other related

activities. A major demonstration of the hazmat capability was demonstrated during the national TOPOFF exercise held in Portsmouth just a year and a half ago.



Chief Fraitzl
Town of Milford
FIRE DEPARTMENT

Testimony on House Bill 1334

An ACT relative to penalties for unpaid fines concerning hazardous materials accidents

January 21, 2009

The Honorable Representative Stephen Shurtleff, Chairman
Criminal Justice and Public Safety Committee

Re: House Bill 1334 – An ACT relative to penalties for unpaid fines concerning hazardous materials accidents.

39 School Street
Milford, NH 03055-4544
(603) 673-3136
Fax (603) 673-0657
www.milford.nh.gov

Francis X. Fraitzl, III
Chief of Department

Good morning Mr. Chairman and Members of the Committee. My name is Frank Fraitzl. I am the Fire Chief in the Town of Milford as well as the 2nd vice president with the NH Association of Fire Chief's (NHAFC). I am here today to in support of HB 1334 and will speak both as the Fire Chief in Milford and as chair of the NHAFC's legislative committee on behalf of the over 200 fulltime, combination, and volunteer members of the NHAFC in support of this legislation.

Currently NH RSA 154:8a, II allows a community to charge any person whose act or omission causes a discharge of hazardous materials for a reasonable and proportionate response by police, fire, and emergency preparedness personnel to a hazardous materials accident. However, it has been my experience as fire chief, that the responsible parties have taken the stance that if the don't pay it, it will go away! In fact, presently the Town of Milford has three incidents with bills outstanding which total approximately \$27,000. One of which involves a trucking company from the mid-west who has limited ties to NH.

The addition of the language in HB 1334 to RSA 154:8 will clearly indicate that such bills can not be summarily dismissed, as well as the addition of a significant penalty to the responsible party will hopefully minimize the time and effort that we are currently spending in collection of legally billable incidents. Further, it will help us minimize the financial impact of such responses on our communities and place the burden on the party responsible for the hazardous materials accident.

Thank you for your time and consideration of this matter, I would be happy to respond to any questions you may have.

Respectfully,

Francis X. Fraitzl, III CFO
Fire Chief
2nd Vice President NHAFC

Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 1334

BILL TITLE: relative to penalties for unpaid fines concerning hazardous materials accidents.

DATE: February 9, 2010

LOB ROOM: 204

Amendments:

Sponsor: Rep. David A. Welch OLS Document #: 2010 0433h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, QTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Laura C. Pantelakos

Seconded by Rep. David A. Welch

Vote: 18-1 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

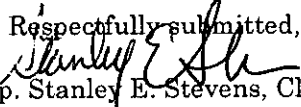
Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 18-1

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Stanley E. Stevens, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 1334

BILL TITLE: relative to penalties for unpaid fines concerning hazardous materials accidents.

DATE: 2-9-10

LOB ROOM: 204

Amendments:

Sponsor: Rep. ~~David~~ Welch OLS Document #: 0433h
Sponsor: Rep. Panizabos OLS Document #:
Sponsor: Rep. 17-2 OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Panizabos

Seconded by Rep. Welch

Vote: 18-1 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

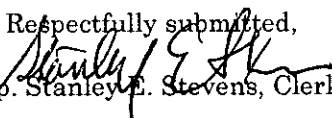
Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 18-1

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Stanley E. Stevens, Clerk

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB 1334 Title: Relative to penalties for unpaid fines concerning hazardous materials accidents.

PH Date: 01/21/2010

Exec Session Date: 2/9/0

Motion: Amendment

Amendment #: 0433h.

MEMBER	YEAS	NAYS
Shurtleff, Stephen J, Chairman	✓	
Pantelakos, Laura C, V Chairman	✓	
Berube, Roger R	✓	
Robertson, Timothy N		✓
Movsesian, Lori A	✓	
Burridge, Delmar D	✓	
Cushing, Robert R	✓	
Rodd, Beth	✓	
Chandley, Shannon E	✓	
McCarthy, Barbara A	✓	
Ryder, Mark R		
Welch, David A	✓	
Charron, Gene P	✓	
Fesh, Robert M	✓	
Weare, Everett A	✓	
Stevens, Stanley E, Clerk	✓	
Villeneuve, Moe	✓	
Gagne, Larry G	✓	
Swinford, Elaine B		✓
Villette, Robert F	✓	
	17	2
TOTAL VOTE:		

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB 1334 Title: Relative to penalties for unpaid fines concerning hazardous materials accidents.

PH Date: 01/21/2010

Exec Session Date: 02/09/10

Motion: _____ Amendment #: _____

MEMBER	YEAS	NAYS
Shurtleff, Stephen J, Chairman	✓	
Pantelakos, Laura C, V Chairman	✓	
Berube, Roger R	✓	
Robertson, Timothy N		✓
Movsesian, Lori A	✓	
Burrige, Delmar D	✓	
Cushing, Robert R	✓	
Rodd, Beth	✓	
Chandley, Shannon E	✓	
McCarthy, Barbara A	✓	
Ryder, Mark R		
Welch, David A	✓	
Charron, Gene P	✓	
Fesh, Robert M	✓	
Weare, Everett A	✓	
Stevens, Stanley E, Clerk	✓	
Villeneuve, Moe	✓	
Gagne, Larry G	✓	
Swinford, Elaine B	✓	
Willette, Robert F	✓	
	18	1
TOTAL VOTE:		

Committee Report

CONSENT CALENDAR

February 17, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY to which was referred HB1334,

AN ACT relative to penalties for unpaid fines concerning hazardous materials accidents. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Laura C Pantelakos

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	CRIMINAL JUSTICE AND PUBLIC SAFETY
Bill Number:	HB1334
Title:	relative to penalties for unpaid fines concerning hazardous materials accidents.
Date:	February 9, 2010
Consent Calendar:	YES
Recommendation:	OUGHT TO PASS WITH AMENDMENT

STATEMENT OF INTENT

The committee was told the towns and cities were having a problem collecting the money for clean up of hazardous materials. This bill puts a penalty for each day the claim is not paid. It also includes court cost and legal fee so that the cities or town is not responsible.

Vote 18-1.

Rep. Laura C Pantelakos
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB1334, relative to penalties for unpaid fines concerning hazardous materials accidents. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Laura C Pantelakos for **CRIMINAL JUSTICE AND PUBLIC SAFETY**. The committee was told the towns and cities were having a problem collecting the money for clean up of hazardous materials. This bill puts a penalty for each day the claim is not paid. It also includes court cost and legal fee so that the cities or town is not responsible. **Vote 18-1.**

Original: House Clerk
Cc: Committee Bill File

HB 1334 relative to penalties for unpaid fines concerning hazardous materials accidents.

The committee was told the towns and cities were having a problem collecting the money for clean up of hazardous materials. This bill puts a penalty for each day the claim is not paid. It also includes court cost and legal fee so that the cities or town is not responsible.

**Rep. Laura A. Pantelakos
For the Committee
18-1 OTP/A 2010-0433h CC**



COMMITTEE REPORT

COMMITTEE: Criminal Justice and Public Safety

BILL NUMBER: HB 1334

TITLE: Relative to penalties for unpaid fines concerning hazardous materials accidents.

DATE: _____ CONSENT CALENDAR YES NO _____

_____ OUGHT TO PASS

OUGHT TO PASS WITH AMENDMENT

_____ INEXPEDIENT TO LEGISLATE

_____ RE-REFER

_____ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

**STATEMENT OF INTENT
(Include Committee Vote)**

The committee was told the towns and cities were having a problem collecting the money for clean up of hazardous materials. This bill puts a penalty for each day the claim is not paid. It also includes court cost and legal fee. So that the cities or town is not responsible.

Vote. 18-1

Rep. George C. Pantelakos
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file



USE ANOTHER REPORT FOR MINORITY REPORT