

# Bill as Introduced

SB 104 - AS AMENDED BY THE SENATE

03/09/11 0461s

2011 SESSION

11-0976  
08/03

SENATE BILL **104**

AN ACT relative to certain agricultural operations and certain bonds for excavation and driveways.

SPONSORS: Sen. Odell, Dist 8; Rep. Theberge, Coos 4; Rep. Chandler, Carr 1; Rep. Sanders, Rock 7

COMMITTEE: Public and Municipal Affairs

---

AMENDED ANALYSIS

This bill:

I. Requires bonds for restoration of municipal highways after excavations be equitably and reasonably applied to all bonded vehicles using the municipal highway and prohibits the type of commodity carried by a vehicle from being the determining factor in either the requirement of such bond or fixing the dollar amount of such bond.

II. Allows zoning ordinances to be designed to protect agricultural operations.

III. Prohibits planning boards from regulating timber harvesting operations that are not part of a subdivision application or a development project subject to a site plan review.

---

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eleven*

AN ACT relative to certain agricultural operations and certain bonds for excavation and driveways.

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

1 1 Bond; Application to Vehicles Carrying Commodities. Amend RSA 236:10 to read as follows:  
 2 236:10 Regulations; Bond. The person or entity giving such written permission may make rules  
 3 and regulations to govern the excavation and restoration of such highway and may require that a  
 4 bond satisfactory to such person or entity be furnished to the state, city, or town providing for the  
 5 satisfactory restoration of the highway. *The bond requirements shall be equitably and*  
 6 *reasonably applied to other bonded vehicles using the highway. The type of commodity*  
 7 *being transported shall not be the determining factor for requiring a bond or the dollar*  
 8 *amount of the bond.* The person or entity providing the bond shall determine the type of bond  
 9 furnished and it may be in the form of cash, letter of credit from a bank or lending institution  
 10 licensed in New Hampshire and acceptable to the person giving written permission, or a bond  
 11 furnished by an insurance company. The person or entity granting permission shall not arbitrarily  
 12 withhold funds from any cash bond or letter of credit, but shall first make a good faith effort to  
 13 resolve any differences with the contractor doing the excavation or restoration.

14 2 Agricultural Operations; Zoning Ordinances. Amend RSA 674:17, I(i) to read as follows:  
 15 (i) To encourage the preservation of agricultural lands and buildings *and the*  
 16 *agricultural operations described in RSA 21:34-a supporting the agricultural lands and*  
 17 *buildings;* and

18 3 Duties of the Planning Board. Amend RSA 674:1, VI to read as follows:  
 19 VI. In general, the planning board may be given such powers by the municipality as may be  
 20 necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes  
 21 of this title. *Such powers shall not include regulating timber harvesting operations that are*  
 22 *not part of a subdivision application or a development project subject to site plan review*  
 23 *under this chapter.*

24 4 Effective Date. This act shall take effect 60 days after its passage.

# Speakers



# Hearing Minutes

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON SB 104

**BILL TITLE:** (New Title) relative to certain agricultural operations and certain bonds for excavation and driveways.

**DATE:** April 19, 2011

**LOB ROOM:** 301      **Time Public Hearing Called to Order:** 10:00 am

**Time Adjourned:** 10:55 am

(please circle if present)

**Committee Members:** Reps. Ferrante, Sterling, B. Patten, Lockwood, Accornero, Belanger, Burt, Coffey, Copeland, Moore, Munch, Shackett, Stroud, DeStefano, Roberts, Hoopes and Tatro.

**Bill Sponsors:** Sen. Odell, Dist 8; Rep. Theberge, Coos 4; Rep. Chandler, Carr 1; Rep. Sanders, Rock 7.

TESTIMONY

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

\*Rep. Theberge – Speaking for Sponsor – [Reads testimony]

**Jasen Stock** – NH Timber Owners Association- Support. We requested this legislation. This rose from attempts of some communities to regulate the industry. We have no problem with road bonds per se but we are seeing automatic imposition of bonds from intent to cut filings but not from anyone else. My bond is the only one at risk if the road is damaged.

The second piece of the bill is about logging as an agricultural operation. If logging is not, it runs counter to the intent of the laws.

Thirdly, we are seeing Planning Boards attempting to regulate logging operations. A patchwork of regulations work against the interests of the property owners. Current system of regulation is envy of neighboring states. This bill makes it crystal clear that Planning Boards are not empowered to regulate logging.

Ans. Have wrangled with issue of identifying other road users; roads could be posted so that if it is fragile enough to require bonding the Town could prohibit other users. The bill forces a contemplation of the issue other than an automatic process. This improves the current situation.

Ans. In N.H. Timber harvesting is regulated at the state level by DRED and DES not at the local level.

Ans. Average logging truck weight is set by the number of axles not the commodity. It doesn't matter what is being hauled, they have to have the same weight per axle.

Ans. We don't believe local ordinances regulating timber harvesting is currently legal. Want the law to make it clearer that local government does not have the authority to regulate timber operations.

For existing ordinances, court is the only recourse of the harvester. Most will not be able to go to court because of the cost. Planning Board never had the authority to regulate harvesting.

**Cordell Johnston** – NHMA – Neither support or oppose. Bill clarifies what the existing law is which does not allow local regulation. Issue is more that Planning Boards are adopting stand alone regulations over timber harvesting operations than adopting ordinances such as the Zoning Ordinance. Town could possibly adopt an ordinance governing something like clear cutting ridge-lines. Zoning ordinances are supposed to encourage agriculture.

Ans. For example, some towns have ordinances that require a harvesting plan for certain sized operations.

Ans. Can't say if the Exeter Ordinance is legal without looking at the specific law. There is some gray area in there.

Ans. This would include Class 6 roads. Would apply to the town administering the road, not where the cut is.

**\*Brad Simpkins** – Interim Director of Division of Forests and Lands – Support. Are the state agency responsible for all forestry in the state outside the White Mountains National Park. Provides much economic activity in the state. Many regulations have unintended consequences. We are the primary enforcement agency. Last year we investigated 500+ complaints. Regulations should be uniform across the state. Believe road bonding should be applied equitably.

**\*Jeffery C. Eames** – Owns the Fort Mountain Company - Support – Have seen some unreasonable bonding requirements that often come after the agreement to cut is made by the property owner. Have seen discrimination. When I have a construction project I don't need to post a bond but when I haul logs, I do. Almost all of our stumpage is privately owned. We are being asked for information that can only can be given by a soil scientist or surveyor. We have five agencies that monitor us besides the towns.

Ans. Typical logging truck loaded weighs about 65,000# and a tractor-trailer can be 80,000# or 99,000# with a special permit. Maximum weight for a six-axle truck can be 99,000#.

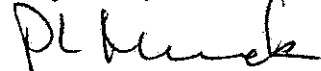
Ans. In 25 years, have had only one claim but never had bond pulled.

**Will Abbott** – Society for the Protection of New Hampshire Forests – Support. Many of our forests cross municipal boundaries and if we had to track 95 ordinances we would have to have a person to track all of them. Current statute intends for timber regulation to be state wide. Voluntary operations manual based on the assumption that the land owner will manage their own land.

**Robert Johnson II** – NH Farm Bureau – Support. We see section 2 of the bill as a clarification of intent.

Rep. Theberge (continued) This is a step in the right direction. In our area we are very careful about operations when the conditions are not correct.

Respectfully submitted,



Rep. Philip Munck  
Clerk



HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON SB 104

**BILL TITLE:** (New Title) relative to certain agricultural operations and certain bonds for excavation and driveways.

**DATE:** 4-19-11

**LOB ROOM:** 301

**Time Public Hearing Called to Order:**

10:00

**Time Adjourned:**

(please circle if present)

**Committee Members:** Reps. Ferrante, Sterling, B. Patten, Lockwood, Accornero, Belanger, Burt, Coffey, Copeland, Moore, Munch, Shackett, Stroud, DeStefano, Roberts, Hooper and Tatro.

**Bill Sponsors:** Sen. Odell, Dist 8; Rep. Theberge, Coos 4; Rep. Chandler, Carr 1; Rep. Sanders, Rock 7.

TESTIMONY

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

Municipal and County Government Committee  
April 19, 2011

SB 104

\*Rep. Theberge – Speaking for Sponsor – [Reads testimony]

Jasen Stock – NH Timber Owners Association- Support. We requested this legislation. This rose from attempts of some communities to regulate the industry. We have no problem with road bonds per se but we are seeing automatic imposition of bonds from intent to cut filings but not from anyone else. My bond is the only one at risk if the road is damaged. The second piece of the bill is about logging as an agricultural operation. If logging is not, it runs counter to the intent of the laws.

Thirdly, we are seeing Planning Boards attempting to regulate logging operations. A patchwork of regulations work against the interests of the property owners. Current system of regulation is envy of neighboring states. This bill makes it crystal clear that Planning Boards are not empowered to regulate logging.

Ans. Have wrangled with issue of identifying other road users; roads could be posted so that if it is fragile enough to require bonding the Town could prohibit other users. The bill forces a contemplation of the issue other than an automatic process. This improves the current situation.

Ans. In N.H. Timber harvesting is regulated at the state level by DRED and DES not at the local level.

Ans. Average logging truck weight is set by the number of axles not the commodity. It doesn't matter what is being hauled, they have to have the same weight per axle.

Ans. We don't believe local ordinances regulating timber harvesting is currently legal. Want the law to make it clearer that local government does not have the authority to regulate timber operations. For existing ordinances, court is the only recourse of the harvester. Most will not be able to go to court because of the cost. Planning Board never had the authority to regulate harvesting.

Cordell Johnston – NHMA – Neither support or oppose. Bill clarifies what the existing law is which does not allow local regulation. Issue is more that Planning Boards are adopting stand alone regulations over timber harvesting operations than adopting ordinances such as the Zoning Ordinance. Town could possibly adopt an ordinance governing something like clear cutting ridge-lines. Zoning ordinances are supposed to encourage agriculture.

Ans. For example, some towns have ordinances that require a harvesting plan for certain sized operations.

Ans. Can't say if the Exeter Ordinance is legal without looking at the specific law. There is some gray area in there.

Ans. This would include Class 6 roads. Would apply to the town administering the road, not where the cut is.

\*Brad Simpkins – Interim Director of Division of Forests and Lands – Support. Are the state agency responsible for all forestry in the state outside the White Mountains National Park. Provides much economic activity in the state. Many regulations have unintended consequences. We are the primary enforcement agency. Last year we investigated 500+ complaints. Regulations should be uniform across the state. Believe road bonding should be applied equitably.

Jeffery C. Eames – Owns the Fort Mountain Company - Support – Have seen some unreasonable bonding requirements that often come after the agreement to cut is made by the property owner. Have seen discrimination. When I have a construction project I don't need to post a bond but when I haul logs, I do. Almost all of our stumpage is privately owned. We are being asked for information that can only can be given by a soil scientist or surveyor. We have five agencies that monitor us besides the towns.

Ans. Typical logging truck loaded weighs about 65,000# and a tractor-trailer can be 80,000# or 99,000# with a special permit. Maximum weight for a six-axle truck can be 99,000#.

Ans. In 25 years, have had only one claim but never had bond pulled.

Will Abbott – Society for the Protection of New Hampshire Forests – Support. Many of our forests cross municipal boundaries and if we had to track 95 ordinances we would have to have a person to track all of them. Current statute intends for timber regulation to be state wide. Voluntary operations manual based on the assumption that the land owner

will manage their own land.

Robert Johnson II -- NH Farm Bureau -- Support. We see section 2 of the bill as a clarification of intent.

Rep. Theberge (continued) This is a step in the right direction. In our area we are very careful about operations when the conditions are not correct.

# Testimony

April 19, 2011

Written Testimony / Rep. Robert L. Th  berge / Co  s, District 4

Re: SB 104 : an act relative to certain agricultural operations and certain bonds for excavation and driveways.

Committee: Municipal and County Government

Madame Chair, members of the committee;

SB104 is presented before you in three parts. 1) Road Bonding, 2) Zoning Ordinance and, 3) Duties of the Planning Board Relative to Road Bonding.

### **1. Road Bonding**

As you are well aware, road bonding is an important tool municipalities use to protect roads from heavy vehicles causing damage. The legislation before you is seeking equity when it comes to road usage and bonding by providing an affirmative statement which when a road bond is required, it is for the protection of the road by any and all heavy vehicles and not exclusively by logging or wood-chips trucks. SB104 is crucial and important to many small logging businesses and mills which find themselves financially at risk when a municipality seeks a bond on logging operations but does not recognize that other heavy vehicles also may use the road which has been bonded. In such situations, it is the small logging business' bond which is in jeopardy should another operation, such as construction vehicles, damage the road.

Therefore, it is the responsibility of the road agent and the selectmen that bonding be done in an equitable manner.

### **2. Zoning Ordinance**

This section of the bill makes a distinction between a Planning Board's efforts to protect agricultural buildings and land as well as the need to protect agricultural operations which make these lands and buildings possible as part of our cultural heritage. For numerous land owners throughout the state, the sole income which they can derive from their property is through the harvesting of trees. Kindly note, as defined in RSA 21:34-a, if the harvesting of trees, as an agricultural operation is no longer possible, property owners can no longer justify continued ownership of the land. What will our future landscape look like if this were to occur. Not allowing the harvesting of trees by an land owner is no different then telling a farmer that he/she can no longer grow crops, raise cattle, chickens, *etc.*

April 19, 2011

Théberge/SB104/p.2 of 2.

### **3) Duties of the Planning Board**

This section of SB104 reaffirms that Planning Boards do not have regulatory nor review authority over timber harvests. Arguably this is already in law ( RSA 674:1 VI ), however, several recent incidences have occurred when Planning Bards are attempting to regulate timber harvesting. The law needs reaffirmation and clarity. Such clarification will deter property owners from filling lawsuits which would be the only recourse a landowner would have in repealing such an ordinance. Hence, legal actions would be quite costly, and small land owners do not have the financial means required. Therefore, clarification in the law is paramount.

In summary, in addition to clarification, SB104 would help prevent what would be a real problem for the forest products industry - a regulatory patchwork across New Hampshire. Current law and regulatory framework works. Multiple state agencies ( NHDES, DRED's Division of Forest and Lands and, DRA ) all oversee and regulate forestry operations. These agencies provide consistent regulatory oversight and more importantly, a level playing field, regardless of the municipality. Although not all forestry operations are aesthetically pleasing, however, trying to regulate, base on aesthetics will only lead to problems when it comes to trying to manage land for future timber growth or wildlife habitat.



STATE OF NEW HAMPSHIRE  
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT  
DIVISION OF FORESTS AND LANDS  
172 Pembroke Road P.O. Box 1856 Concord, New Hampshire 03302-1856

603-271-2214  
FAX: 603-271-6488  
www.nhdf.org

April 19, 2011

The Honorable Beverly Ferrante, Chairperson  
New Hampshire House of Representatives  
Municipal and County Government Committee  
Legislative Office Building, Room 301  
Concord, NH 03301

**Re: SB 104 – relative to certain agricultural operations and certain bonds for excavation and driveways**

Dear Chairperson Ferrante and Members of the Committee:

Thank you for the opportunity to testify in support of SB 104, relative to certain agricultural operations and certain bonds for excavation and driveways, as amended by the Senate.

RSA 227-G:3 states that the Department of Resources and Economic Development, Division of Forests and Lands is statutorily responsible to “execute all matters pertaining to forestry, forest management, and forestlands within the jurisdiction of the state.” The forests of New Hampshire are vital to the State’s economy. Supporting a landowner’s ability to manage their working forests is essential to keeping New Hampshire’s forests intact.

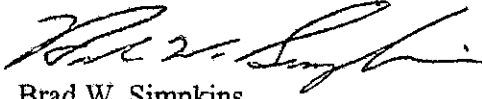
The Division of Forests and Lands believes that road bonds, if required, should be equitably and reasonably applied, regardless of the commodity being transported. Transportation of forest products should not be singled out over the transport of other products.

The Division also supports prohibiting planning boards from regulating timber harvesting operations that are not part of a subdivision application or a development project. The division is the primary agency responsible for enforcement of timber harvest laws. This is accomplished primarily through our state Forest Rangers. In 2010 our forest rangers responded to 575 calls for timber harvest enforcement. This enforcement becomes difficult when individual towns adopt ordinances that are inconsistent with state laws. We believe timber harvest law enforcement should be fair and equitable across the state and should encourage, not hinder a landowner’s ability to sustainably manage their forest land.



Thank you for the opportunity to testify. If we can provide any additional information, please let us know.

Respectfully,

A handwritten signature in black ink, appearing to read "Brad W. Simpkins". The signature is fluid and cursive, with a prominent initial "B" and "S".

Brad W. Simpkins  
Interim Director

cc: George M. Bald, Commissioner, DRED  
Ken Desmarais, Forest Management Bureau, DRED



STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: February 22, 2011

THE COMMITTEE ON Public and Municipal Affairs  
to which was referred Senate Bill 104

AN ACT                   relative to certain agricultural operations.

Having considered the same, the committee recommends that the Bill:  
**OUGHT TO PASS WITH AMENDMENT**

BY A VOTE OF:   5-0

AMENDMENT # 0461s

Senator David R. Boutin  
For the Committee

Debra Martone 271-3092

REVISED

**PUBLIC AND MUNICIPAL AFFAIRS COMMITTEE**  
**FLOOR REMARKS – SENATOR BOUTIN**  
**SB 104 – MARCH 9, 2011**

Thank You, Mr. President. I move Senate Bill 104 “Ought to Pass with Amendment”.

This bill prohibits a town or city from requiring road maintenance bonds as a prerequisite for signing an intent to cut. It allows zoning ordinances to be designed to protect agricultural operations. And it prohibits planning boards from regulating timber harvesting operations that are not part of a subdivision application, or a development project subject to a site plan review.

During the course of the hearing a question arose concerning the town’s selectmen choosing which parties would be required to post a bond. The stakeholders put together an amendment that would require the posting of a bond be equitably and reasonably applied to those using the municipal highway. The amendment prohibits the type of commodity carried by a vehicle, for example, logs or heating oil, from being the determining factor in either the requirement of such a bond or fixing the dollar amount of such a bond.

Therefore, the Public and Municipal Affairs Committee recommends Senate Bill 104 be adopted as amended, and asks for your support. Thank you, Mr. President.

# Public and Municipal Affairs Committee

## Hearing Report

**TO:** Members of the Senate

**FROM:** Deb Martone, Legislative Aide

**RE:** Hearing report on SB 104 – relative to certain agricultural operations.

**HEARING DATE:** February 8, 2011

**MEMBERS OF THE COMMITTEE PRESENT:** Senators Barnes, Forrester, Merrill, Boutin and Stiles.

**MEMBERS OF THE COMMITTEE ABSENT:** No one.

**Sponsor(s):** Senator Odell; Representatives Theberge, Chandler and Sanders.

**What the bill does:** (1) Prohibits a town or city from requiring road maintenance bonds as a prerequisite for signing an intent to cut; (2) Allows zoning ordinances to be designed to protect agricultural operations; (3) Prohibits planning boards from regulating timber harvesting operations that are not part of a subdivision application or a development project subject to a site plan review.

**Who supports the bill:** Senator Odell; Representatives Theberge, Chandler, and Sanders; Brad Simpkins, DRED-Forest and Lands Division; Jeff Eames, Fort Mountain Companies; Jason Stock, NH Timberland Owners Association; Tom Thomson, Thomson Tree Farm; Jeremy Turnor, Meadowsend Timberlands; Ken Desmarais, DRED-Forest Management Bureau; Paul Morin, NH Home Builders and Remodelers; Robert Sculley, NH Motor Transport Association; Robert Johnson, NH Farm Bureau; David Scanlon.

**Who opposes the bill:** No one.

**Summary of testimony received:**

• Senator Odell introduced the bill, relative to certain agricultural operations, and explained how Jason Stock of the NH Timberland Owners

Association and two timber operators came to Unity on a very cold day a few months ago to show him graphically what this bill is all about. And it is community efforts to delay obtaining an intent to cut certificate, and some other issues dealing with logging trucks being treated inequitably versus other trucks that use these roads. The issue shouldn't be complicated; it's become more complicated. He has an amendment, #2011-0219s, that will replace Section 1 of the bill.

- Representative Saunders co-sponsored the bill. She's not a logger, but is involved with the management of Danville's town forest, approximately 500 acres. She reviewed RSA 672:1 III-c, enabling legislation from 1989. Important point: "...forestry activities, including the harvest and transport of forest products, shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers."

- Brad Simpkins, Interim Director of the Division of Forests and Lands, spoke in favor. Their agency, under RSA 227-G:3 is the agency statutorily responsible for executing "all matters pertaining to forestry, forest management and forestlands within the jurisdiction of the state". NH forests are vital to the state's economy, and they support a landowner's ability to manage their forests.

- Recent DRED statistics:

- \* NH forests generate \$2.26 billion for the state's economy;

- \* They supply over 19,000 jobs;

- \* Landowners received over \$30 million in revenue from timber sale receipts in the last few years.

- They support the amendment that would replace Section 1 with language that requires road bonds to be equitably and reasonably applied, regardless of the commodity being transported. Want to make sure forest products are not singled out over other commodities through road bonding. Also support prohibiting planning boards from regulating timber harvesting operations that are not in conjunction with a subdivision application or a development project.

- Any type of enforcement or laws should be made equitably across the state. They're aware of at least 16 towns that have adopted ordinances. Need to preserve a landowner's ability to manage their forests.

- Senator Forrester questioned other trucks being bonded, such as gravel or fuel trucks. Who is responsible? How would that happen? The logger's intent to cut sort of kicks off the process and makes towns aware. What would happen with other trucks?

- Simpkins indicated other trucks, heavy trucks, are using the same roads as loggers. And yet the loggers are being singled out. It's kind of discriminatory. These other trucks might be causing damage, but because the bond is attached to the logger, they're the ones held responsible. Not quite sure how the town would be aware if a fuel delivery truck is using that very same road.
- Senator Boutin asked about the definition of "commodity" and "bonded vehicle".
- The road doesn't care what's being carried over it. It's the weight and the type of the truck. It needs to be a fair and level playing field for all heavy trucks that may be damaging the roads.
- Senator Boutin expressed concern about opening up a Pandora's box. Are you going to require a bond for a truck traveling through town with turf, headed to a nursery? For trucks that are pulling tractors? Trailers that are driven to a site? The amendment is far worse than the bill itself. "Be careful what you wish for."
- Senator Merrill questioned Section 2 of the bill, specifically RSA 21:34, which defines agriculture. It appears this section of the bill is subject to timber harvesting operations on farms, correct? Mr. Simpkins indicated that was his understanding.
- Ken Desmarais, Administrator of the Forest Management Bureau described a problem with bonding during a state land timber sale in Annett State Forest in Rindge. The logger was told he didn't need a bond due to the time of year (November) but once he started harvesting, the town of New Ipswich required a \$5,000 bond. The logger obtained a letter of credit rather than the bond, which the Select Board rejected. It then required a \$75,000 surety bond. The logger consulted an attorney, who then met with the town's attorney. They learned no other entity had been required to post a bond. The logger again offered the letter of credit and the town accepted. The situation opened up a host of other issues. The \$75,000 surety bond would have cost the logger an additional \$7,500, which was unnecessary.
- Tom Thomson, a tree farmer from Orford, explained he and his family own 2,600 acres in New Hampshire. He informed the committee that all timber cut in New Hampshire must pay a timber tax to the town. The money goes to pay for the maintenance of roads and bridges. Landowners harvesting timber already have oversight by the Division of Forests and Lands and DRA, once an intent to cut is filed.
- Landowners open and share their lands with the general public and the state of New Hampshire. The state is making billions off the backs of

landowners, who are willing to open and share their lands, for example, with snowmobilers. This industry generates \$1.2 billion every year.

- Mr. Thomson feels log trucks are an easy target for towns to go after. He supports the bill and the amendment. He doesn't want to see planning boards continue to target logging trucks, or continue with the requirement of posting a bond.
- Senator Boutin asked whether or not the amendment by itself would accomplish what the supporters of the bill want. He understands Sections 1 and 3 of the bill, but feels Section 2 doesn't fit.
- Jasen Stock of the NH Timberland Owners Association explained how the bill does 3 things: (1) it deals with an issue they are encountering regarding road bonding and transporting forest products; (2) Section 2 clarifies a point in the zoning ordinances regarding agricultural operations; (3) it talks about planning boards and their authority.
- Mr. Stock doesn't have a problem protecting a town's roads and posting a bond. But what about the other vehicles using the road and putting his bond at risk? Not fair. There are mechanisms the town can take, such as road posting in the spring. A logger may have to post a bond to haul across the town road when the weight is restricted. But what about other trucks who don't file an intent to cut? Section 1 tries to get at this issue. It's trying to put road agents on notice that their role is to protect the road whether it's a log truck or a gravel truck.
- Section 2 is the agricultural operations. When zoning ordinances are developed, there is a provision in statute that they are to encourage the preservation of agricultural lands and buildings. The agricultural operation is really the support for that land and that building. Section 2 tries to make the linkage between just the pastoral view that you get driving down the road, and the operation that's really behind it. It's no different than a factory building. It's really the operation within. It's that building or that operation that allows that building to maintain there. And that is the backbone. Timberland owners' factory, or business, is managing open space, managing land.
- Section 3 gets at the point that you have planning boards at various levels of sophistication that try to regulate timber harvesting. Some towns go as far as requiring a cutting plan be approved by a forester. It may have to be approved or certified by the town before that landowner can begin to cut their wood. This not only adds to the bureaucratic aspects of timber harvesting, it adds to the cost. It's questionable if that level of oversight really adds to the process.

- A planning board's responsibility does not include the management or review of approval of a specific timber harvesting. They look at subdivisions, they do site plan review and develop zoning ordinances. It's not the purview of the board to require a cutting plan and review it and make a determination.
- Often times it's unclear what a town really wants. When you're a timber harvester or own land in several towns, you end up with this patchwork of regulatory hurdles across the landscape. You want consistency across the state, across these town jurisdictions. There needs to be that consistency.
- Senator Merrill referred back to Section 2. Was this language motivated by particular problems with timber harvesting on farms or associated with farms? Mr. Stock indicated it was a good question. Not a farm in the sense that it happens to have woodland associated. But there have been instances with tree farms. The thinking behind this section is that they need to be thinking about the operation, whether it's a tree farm, or a dairy farm that happens to have timberland associated with it. If it's an agricultural operation under RSA 21:34-a, they need to be thinking about how they can preserve that business, that operation, that in turn provides that open space, the land and the buildings.
- Senator Merrill inquired if this provision mostly has to do with tree farms. Mr. Stock indicated that it did, and that is how they view the world. RSA 21:34-a is an agricultural definition. And timber harvesting and agriculture really are one and the same, due in large part to RSA 21:34-a.
- Senator Stiles questioned the amendment and indicated she always stops and thinks whenever she sees the word, "equitably". She wondered if instead of the bolded language, if the language said, "not solely applying to logging trucks". Would this accomplish what supporters want to happen? She is concerned about the enforcement, but it would do the same thing. And not have to consider the fact that it had to be "equitably" done.
- Mr. Stock indicated Sen. Stiles' suggestion would address his concern. But he mentioned that Bob Sculley of the NH Motor Transport Association had relayed that he had instances where he had seen this problem occur with other commodities. The issue gets down to picking favorites. At the end of the day, that road is the town's asset. The road agent's responsibility is to protect it. All commodities need to be treated on an equitable basis. Posting and bonding must be equitable among all.
- Senator Barnes indicated that although towns had put money into roads for years and years, it was now being cut due to the economy and a lack of money. And the roads are getting worse and worse. Might this be a way for

the towns to get their roads fixed up? Mr. Stock commented that he didn't have any documented proof.

- Senator Forrester revisited her earlier question. How does the road agent know when to ask a fuel truck for that bond? How does the enforcement happen with other trucks? Mr. Stock indicated that it becomes the responsibility of the trucker using the road to contact the road agent and file a bond, if there is a weight posting on the road. It's an assurance that the town's asset will not be abused. Forrester questioned the fact that the responsibility is not really on the road agent. It is on the delivery truck to go to the particular town? Mr. Stock indicated it was.

- Senator Boutin indicated he does like logging trucks. Unfortunately, they had a situation in Hooksett that blindsided them. He isn't going to make that mistake twice by supporting this amendment. He thinks the bill could be significantly shortened. He doesn't think it needs the agricultural section in it, as the Department of Safety already has requirements for agricultural vehicles. The larger picture is that all of these vehicles that travel our town roads, state roads or the interstate, they pay fuel taxes, registration fees. They're already paying towards the use of the road. What about all the cars that travel the road everyday? Are you going to bond them? He can support the idea of some municipalities and planning boards not having the right to require bonds for any reason. That's bad policy. That's why he can't support the amendment. He can support the bill if you keep Sections 1 and 3.

- Jeff Eames of Fort Mountain Companies owns a forest-related business with a landowner-assistance program. They have 7 trucks on the road in a harvesting situation. There is an act of discrimination with road bonds. He works very hard with road agents, but he could be responsible for other people's damage, which isn't really fair. He also owns an insurance business with his wife. He indicated to obtain a \$75,000 road bond would probably eliminate approximately 80 percent of the contractors in this state.

- Senator Barnes asked about the cost to obtain a \$75,000 bond. Mr. Eames indicated it was probably 10 percent, \$7,500. But at the same time, the logger would have to pledge some unpledged assets. Many contractors don't have that equity to pledge. That's the problem with town inconsistencies.

- If someone has a hidden agenda on a planning board, it could alter the operations by not granting approval. It can also be a problem time-wise, getting on the agenda of a planning board, sometimes taking up to two months depending upon the time of year.

- Mr. Eames wondered who is going to enforce some of these regulations. Is the Code Enforcer going to do it? Is he going to come out and give you a



“cease and desist”? In such an activity, who’s going to be responsible for the down time I incur?

- Towns often ask about wetlands. Mr. Eames can’t define wetlands. He has to hire a scientist for such a subject. More regulations and higher expenditures kind of take the spirit out of being an entrepreneur. He encourages support for the bill.

- Jeremy Turner is a Forest Manager for a private company out of New London, NH. The company owns approximately 12,000 acres of land in the state. They also provide a consulting business for forestry to another 29,000 acres in NH. They work in 63 different towns, and engage with municipalities on all levels. The subject of roads repeatedly comes up. Regulations certainly need to be standardized. Local zoning needs to encourage operations and endorse them, whether they are sugar mapling or harvesting timber. These operations need to be supported by the town. He generally supports the bill.

- Judy Silva of the NHMA indicated support for the amendment. They don’t believe that logging trucks should be singled out. They worked with Mr. Stock to develop the language so that the concept is out there that if the town is going to require bonds for the protection of the use of its roads, they need to include everybody. What the language doesn’t encompass as easily is the through traffic. Everyone needs to be reasonable. Also, bonds are not a way to get poor roads fixed up. There is the obligation to return the road to the condition it was before the road was crossed.

**Action:** Committee members felt they needed additional time to work with interested parties to develop a compromise.

dam

[file: SB 104 report]

Date: February 11, 2011

Amendment to SB 104

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to certain agricultural operations and certain bonds for excavation and  
4 driveways.  
5

6 Amend the bill by replacing section 1 with the following:

7

8 1 Bond; Application to Vehicles Carrying Commodities. Amend RSA 236:10 to read as follows:

9 236:10 Regulations; Bond. The person or entity giving such written permission may make rules  
10 and regulations to govern the excavation and restoration of such highway and may require that a  
11 bond satisfactory to such person or entity be furnished to the state, city, or town providing for the  
12 satisfactory restoration of the highway. *The bond requirements shall be equitably and*  
13 *reasonably applied to other bonded vehicles using the highway. The type of commodity*  
14 *being transported shall not be the determining factor for requiring a bond or the dollar*  
15 *amount of the bond.* The person or entity providing the bond shall determine the type of bond  
16 furnished and it may be in the form of cash, letter of credit from a bank or lending institution  
17 licensed in New Hampshire and acceptable to the person giving written permission, or a bond  
18 furnished by an insurance company. The person or entity granting permission shall not arbitrarily  
19 withhold funds from any cash bond or letter of credit, but shall first make a good faith effort to  
20 resolve any differences with the contractor doing the excavation or restoration.

2011-0461s

AMENDED ANALYSIS

This bill:

I. Requires bonds for restoration of municipal highways after excavations be equitably and reasonably applied to all bonded vehicles using the municipal highway and prohibits the type of commodity carried by a vehicle from being the determining factor in either the requirement of such bond or fixing the dollar amount of such bond.

II. Allows zoning ordinances to be designed to protect agricultural operations.

III. Prohibits planning boards from regulating timber harvesting operations that are not part of a subdivision application or a development project subject to a site plan review.

**Martone, Debra**

---

**From:** Judy Silva [jsilva@nhlgc.org]  
**Sent:** Wednesday, February 09, 2011 1:06 PM  
**To:** Martone, Debra  
**Subject:** RE: SB 104, relative to certain agricultural operations  
**Attachments:** SB 104--Road Bonding Statutes.doc

Thanks Deb! I am attaching the statutes relative to road bonding authority which the Senator inquired about at the hearing.

Judy A. Silva  
Deputy Director for Legal Services and Government Affairs  
NHMA/LGC  
PO Box 617  
Concord, NH 03302-0617  
603-224-7447 ext 384  
800-852-3358

---

**From:** Martone, Debra [mailto:Debra.Martone@leg.state.nh.us]  
**Sent:** Wednesday, February 09, 2011 12:57 PM  
**To:** Tom Thomson; brad.simpkins@dred.state.nh.us; jstock@nhtoa.org; Judy Silva; rjsculley@nhmta.org  
**Subject:** SB 104, relative to certain agricultural operations  
**Importance:** High

Gentlemen:

We have arranged a work session on the above bill for Thursday, February 17th at noon in LOB 103. We invite you to join Senators Boutin, Forrester and Stiles at that time in hopes that we can develop language to everyone's satisfaction.

Deb Martone  
Legislative Aide, Public and Municipal Affairs Committee  
271-3092  
LOB 102-A

2/9/2011

## Road Bonding Statutes Relative to SB 104

### Section 236:3-a

**236:3-a Exclusion From Seasonal Highway Weight Limit for Certain Vehicles.** – Notwithstanding any provision of law or rule to the contrary, the following vehicles shall be excluded from the seasonal highway weight limit regulations with the approval of the district engineer, department of transportation:

- I. Heating fuel delivery vehicles.
- II. Trucks delivering processed milk products.

[Paragraph III added by 2010, 126:1, effective January 1, 2011, is repealed by 2010, 126:2, effective January 1, 2013.]

- III. Any truck weighing less than 1/2 of its permissible limit under RSA 266:18-a.

### Section 236:9

**236:9 Excavation; Permit; Emergency.** – It shall be unlawful to excavate or disturb the shoulders, ditches, embankments or the surface improved for travel of any class I or class III highway or state-maintained portion of any class II highway for any purpose whatever without written permission from the commissioner of transportation or his district engineer, or any other highway without written permission from the selectmen or highway agent of the town, or the mayor and aldermen or street commissioner of the city; provided that in cases of emergency where the public health or safety is endangered such immediate action as may be necessary may be taken without such permission, but in such cases the person directing or taking such action shall at once notify the official empowered to give written permission.

**Source.** 1917, 96:1. PL 91:1. RL 107:1. 1945, 188:1, part 19:8. 1950, 5:1, part 9:1, par. 2. RSA 249:13. 1981, 87:1. 1985, 402:6, I(b)(7). 1990, 39:1, eff. May 22, 1990.

### Section 236:10

**236:10 Regulations; Bond.** – The person or entity giving such written permission may make rules and regulations to govern the excavation and restoration of such highway and may require that a bond satisfactory to such person or entity be furnished to the state, city, or town providing for the satisfactory restoration of the highway. The person or entity providing the bond shall determine the type of bond furnished and it may be in the form of cash, letter of credit from a bank or lending institution licensed in New

Hampshire and acceptable to the person giving written permission, or a bond furnished by an insurance company. The person or entity granting permission shall not arbitrarily withhold funds from any cash bond or letter of credit, but shall first make a good faith effort to resolve any differences with the contractor doing the excavation or restoration.

**Source.** 1917, 96:2. PL 91:2. RL 107:3. 1945, 188:1, part 19:9. RSA 249:14. 1981, 87:1. 2006, 177:1, eff. July 24, 2006.

### **Section 236:11**

**236:11 Restoration.** – Any person, entity, or corporation who excavates or disturbs the shoulders, ditches, embankments, or the surface improved for travel of any highway shall restore such highway to a condition at least equal to the condition that was present before the excavation or disturbance.

**Source.** 1945, 188:1, part 19:10. RSA 249:15. 1981, 87:1. 2006, 177:2, eff. July 24, 2006.

### **Section 236:12**

**236:12 Exception.** – The foregoing provisions shall not apply to railroads when making necessary repairs or improvements within their rights-of-way at points where the same are crossed by a highway; but no such repairs or improvements, if they involve excavating or disturbing the surface of any highway, shall be made without written permission from the department of transportation.

**Source.** 1917, 96:4. PL 91:4. RL 107:6. 1945, 188:1, part 19:11. RSA 249:16. 1981, 87:1. 1990, 39:2, eff. May 22, 1990.

**CHAPTER 20      TIMBER CUTTING ORDINANCE**

## 2000 Purpose and Jurisdiction

## 2001 Purpose

The purpose of this ordinance is to develop minimum standards for forest cutting practices within the Town of Exeter and a process for review of such practices in order to insure that the following values of interest are not jeopardized:

- (a) The protection of landowners and abutting landowner;
- (b) The protection of the aesthetic character of the Town;
- (c) The conservation of water;
- (d) The maintenance of water and air quality;
- (e) The prevention of floods and soil erosion;
- (f) The improvement of conditions for outdoor recreation and wildlife;
- (g) The protection of a continuing and increasing supply of forest products.

This ordinance defines and clarifies the administration of the law by establishing standard definitions and uniform procedures by which landowners, harvesters of forest product, and the Town can carry out their responsibilities.

## 2002 Jurisdiction

- (a) Areas subject to the Ordinance: All land devoted to forest growth owned or administered by private persons, corporations, or organizations, or by any federal, state, county, municipal or other public agency.
- (b) Activities subject to the ordinance: Any private or commercial cutting of forest products which encompass an area of two (2) acres or more within the Town of Exeter.
- (c) Activities exempt under the ordinance: Any party proposing to cut forest products who believes the operation is exempt under this ordinance may request exemption from the ordinance in writing when the notice of Intent to Cut is filed with the Town pursuant to NH RSA 79:10

## 2003 General Regulations

- (a) Notice of Intent to Cut: Pursuant to RSA 79:10 a "Notice of Intent to Cut" must be filed with the Town of Exeter prior to the operation commencing.
- (b) Plan to Cut: Every owner or agent responsible for the operation who intends

to cut forest products over an area of two (2) acres or greater must submit a "Plan of Cut" to the Town of Exeter Planning Department. The Plan of Cut must be prepared by a professional forester registered with the Town of Exeter. A list of registered foresters may be found at the Exeter Planning Department office.

The Planning Department will review the Plan of Cut, and, at their discretion, request review by an appropriate person or agency at the expense of the applicant, determine the amount of the bond to be posted, and make its recommendations to the Exeter Board of Selectmen.

- (c) Bond: All cutting operations of two (2) acres or greater will be required to post a bond in the amount sufficient to cover the estimated yield tax due to commencement of the operation.
- (d) Town Cut Permit: All operations in compliance with a, b, and c above will be issued a "Town Cut Permit" to be posted in full view upon the site of the operation. Such permit shall be valid for one (1) year from the date of issuance.
- (e) Report of Cut: Pursuant to RSA 79:11, a "Report of Cut" must be filed with the Town of Exeter immediately upon the completion or termination of the cutting referred to in the "Notice of Intent to Cut."
- (f) Statement of Compliance: The professional forester must file a "Statement of Compliance" upon the completion or termination of cutting which states that the original, or Town-approved amended Plan of Cut, was correctly executed. To insure compliance, the forester should monitor and supervise the cutting. Any noncompliance should be reported to the Town.
- (g) List of Registered Foresters and Loggers: Any forester and/or logger who wishes to operate within the town limits of Exeter must register with the Planning Department. A record will be kept of each operation by the Town. Any forester or logger found to be in deliberate violation of this ordinance will be removed from the list and shall not be permitted to operate within the town limits for a period of one (1) year. At that time, the offending party may re-apply for inclusion in the list.

#### 2004 Enforcement

- (a) The Town of Exeter and its agents shall administer and enforce this ordinance, and shall have the right to stop any operation in violation of its provisions.
- (b) Officials responsible for the enforcement of this ordinance may enter upon any lands for which a Town Cut Permit has been issued or upon which they believe may have an operation in violation of this ordinance, for the purposes



of inspection.

2010 Penalties

If any person shall violate the provisions of this ordinance, he shall be guilty of a misdemeanor, and subject to any and all applicable state and local penalties.



# OFFICE OF SELECTMEN

Post Office Box 487

Marlborough, New Hampshire 03455-0487

Telephone (603) 876-3751  
Fax (603) 876-3313  
e-mail: marlborough@monad.net

Office Hours  
Monday Nights 7 to 9

7-8-04

July 20, 2004

Mr. Donald Hardwick,  
DH Hardwick & Sons Inc.  
PO Box 430  
Antrim, NH 03440

RE: Intent to Cut for Property located on Laurel Street, Map 3 Lot 017

Dear Mr. Hardwick,

We have received your intent to cut for the above-mentioned property. Because your timber yield will exceed 100,000 feet you are required to appear before the Planning Board for a site plan review. A copy of the site plan regulations is attached. Also, enclosed is an application you will need to complete and return to the Town Clerk's Office with the appropriate fee to get an appointment at the next Planning Board meeting. The fee is \$35 plus \$3.50 for each abutter. Deadlines are as follows:

- To appear on the September 14<sup>th</sup> agenda – deadline is August 20<sup>th</sup>
- To appear on the October 12<sup>th</sup> agenda - deadline is September 17<sup>th</sup>

Additional information may be obtained from the Town Clerk's Officer or from Ken Kerber, the Chairman of the Planning Board.

Sincerely,

  
John Northcott  
Chairman, Board of Selectmen

TOWN OF MARLBOROUGH  
P.O. Box 487, 236 East Main Street  
Marlborough, NH 03455-0487

SITE PLAN REVIEW REGULATIONS

Effective June 11th, 1996

SECTION 1: GENERAL INFORMATION

A. Intent: The purpose of this regulation is to provide for the safe and attractive development of a site and guard against such conditions as would involve danger or injury to health, safety, or prosperity of the community. It also provides for the harmonious and aesthetically pleasing development of the community and its environs. This includes such aspects as groundwater protection, all types of pollution, site configuration and layout, and the need for on site sanitary facilities.

B. When Required: Site Plan Review is required for-

1. The development or change or expansion of use of tracts for nonresidential uses or for multi-family dwelling units, which are defined as any structures containing more than two dwelling units, whether or not such development includes a subdivision or resubdivision of the site. Change or expansion is defined as any project that has an estimated total cost over \$5,000.00.

2. Major subdivisions (four or more lots) even if not multi-family or nonresidential.

3. All uses allowed in the Zoning Ordinance as special exceptions after approval by the Zoning Board of Adjustment.

4. The cutting and removal of timber, for other than personal use, yielding more than 100,000 board feet or more than 100 cords of cordwood or involving the harvesting of more than fifty (50) acres during any twelve month period. Appendix V contains specific requirements for timber cutting and removal.

5. The cutting or removal of trees, or the tearing down or destruction of stone walls, or portion thereof, on any road designated as Scenic Roads listed in Appendix VII.

## APPENDIX V

## REQUIREMENTS FOR TIMBER CUTTING AND REMOVAL

Pursuant to Section I, paragraph (B)(4) of this Regulation, the Planning board requires that the following information be included as part of your application to cut and remove timber from your property, for other than personal use and yielding more than 100,000 board feet or more than 100 cords of cordwood or involving the harvesting or more than fifty acres, during any twelve month period. The Planning Board may, at its discretion, waive any of the following requirements.

1. A copy of the intent-to-cut application filed with the Board of Selectmen.
2. A black-on-white map or sketch showing the lot or lots on which the proposed cuttings will occur with detail indicating:
  - a. Tax map and lot number(s).
  - b. Owner(s) of record, per Town of Marlborough records.
  - c. Name and address of person/firm who prepared map/sketch and date of preparation.
  - d. Total acreage of lot(s), the scale of the map, north arrow and vicinity of Town.
  - e. Within the lot(s), identify wetland areas; slopes of 15% grade or more; intermittent and perennial streams, marshes, lakes and ponds; existing boundary stone walls; existing buildings; existing roadways; timber stand boundaries; proposed cutting and no-cut areas; existing and proposed skid trails, haul roads, log landings and wetland crossings; existing power lines and utility rights-of-way; and proposed buffer zones along the property boundaries.
  - f. Names and mailing addresses of abutting property owners.
3. The name, mailing address, and telephone number of the District Forest Ranger, supervising forester, and the logger will be provided.
4. Identification of areas of potential erosion problems and soil and erosion control plan to assure that erosion will be minimized.
5. Your objectives for the property, e.g., "to improve the stand", "thin out trees", "upgrade the property" or some other reason.

## APPENDIX V (CONTINUED)

6. Your schedule of operations, to include:
  - a. Approximate starting and ending dates. Note: Project shall be completed within 1 year from the date of approval or the applicant must file for an extension regardless of intent-to-cut requirements.
  - b. Days of week: such as Monday to Friday and Saturday morning.
  - c. Hours of cutting, hauling and trucking operations. Note: Operating between the hours of 8:00 P.M. and 7:00 A.M. is prohibited.
  - d. Conditions under which operations will be suspended. Note: Skidding and hauling on rainy days or during wet period is prohibited.
  - e. Inspection schedule of supervising forester.
7. Type of cutting proposed: clear or selective (indicate percent of existing stand to be cut.)
8. Equipment to be used, such as skidder, horse, etc.
9. Restoration plans, including the rebuilding of any boundary stone walls disturbed by the logging operations.
10. Copy of driveway permit from either the NH Department of Transportation (DOT #4) for State roads or from Town of Marlborough Road Agent for Town roads.
11. Copy of wetlands permit, if applicable.
12. Plans for treatment and/or disposal of slash.
13. The Planning Board may, at its discretion, require that the applicant submit documentation providing ownership of the property to be logged.
14. A bond or irrevocable letter of credit to assure compliance with these Regulations and the conditions of approval of the application may be required.

TOWN OF MARLBOROUGH  
236 East Main Street  
P.O. Box 487  
Marlborough, N.H. 03455-0487

APPLICATION FOR PLANNING/ZONING BOARD ACTION

SECTION I: BASIC INFORMATION.

Date: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_ Phone #: \_\_\_\_\_

Address: \_\_\_\_\_

Legal Owner of Property:  Same as above  Other (as stated below)

*(Note: If you are not the legal owner of this property, a statement is required from the owner indicating their awareness of this application.)*

Property address or location: \_\_\_\_\_

Tax Map #: \_\_\_\_\_ Lot #: \_\_\_\_\_ Zone: \_\_\_\_\_ Flood Plain: Yes No

**Abutter List:** The name(s) and mailing address of all abutters (legal owners only), all professionals whose seal appears on any plan submitted to the Board (i.e., engineers, architects, surveyors, soil scientists, etc.) and all holders of conservation, preservation, or agricultural preservation restrictions must be listed on the reverse side of this sheet or by separate attachment to this application.

Application is for:  Zoning Board of Adjustment (Complete Section II and IV)  
 Planning Board (Complete Section III and IV)  
 Joint hearing of both Boards (Complete all Sections)

FOR TOWN CLERK'S USE ONLY

Date Received: \_\_\_\_\_ Check No. \_\_\_\_\_ Initials \_\_\_\_\_

Time Received: \_\_\_\_\_ Amount: \_\_\_\_\_

FOR LAND USE BOARD OFFICIAL ONLY

Date Received by Planning or Zoning Board \_\_\_\_\_ Initials \_\_\_\_\_

**SECTION II: ZONING BOARD OF ADJUSTMENT ACTION**

Request is for: Consultation (no fee) \_\_\_\_\_ Special Exception \_\_\_\_\_ Variance \_\_\_\_\_  
Rehearing \_\_\_\_\_ Equitable Waiver \_\_\_\_\_ Appeal: (A special form is required to be  
completed and submitted if an appeal is that of a decision of an  
administrative official.)

What is the section/paragraph of the Ordinance that applies to this request?

\_\_\_\_\_

Describe the conflict and indicate what sections of the Ordinance require action:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What is the justification for your request? (See considerations indicated in Section  
11.3 of the Zoning Ordinance as criteria applicable to this response)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SECTION III: PLANNING BOARD ACTION**

- Conceptual consultation with the Board (no fee)**
- Boundary Line Adjustment or Merger of Lots**
- Subdivision:  Preliminary  Final**  
(See Subdivision Regulations for rules)
- Site Plan Review (See Site Plan Review Regulations for rules)**
  - Preliminary Review Phase**
  - Design Review Phase**
  - Final Site Plan Review**
  - Excavation Permit (See Excavation Regulation for rules)**

**What do you propose to do with this property?** \_\_\_\_\_

\_\_\_\_\_

**Please describe any structures on this property?** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Does the owner of record own or have any interest in a partnership or corporation on the abutting property? Yes \_\_\_ No \_\_\_ If yes, please describe:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**If applicable, have plans been submitted to the N.H. Water Supply and Pollution Control Commission: Yes \_\_\_ No \_\_\_, or Wetland Board: Yes \_\_\_ No \_\_\_**

**Please provide the following information as it applies to your case:**

**Name of Sanitary Engineer:** \_\_\_\_\_

**Name of N.H. Licensed Surveyor:** \_\_\_\_\_

**Name of N.H. Licensed Soil Scientist:** \_\_\_\_\_

-----

**SECTION IV:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(Signature of Applicant)

- Attachments are:  **Attorney/Agent/Owner Proof**
- List of Abutters**
- At least 3 copies of plot plan**
- Waiver request - if any**

- Mylar of plot plan**
- Reclamation Plan**
- Other (list on reverse)**
- List holders of any conservation and preservation restrictions**



### 3.17 Forestry:

- (1). Purpose: The Town of Auburn acknowledges the statement by the New Hampshire Legislature that forestry, when practiced in accord with accepted silvicultural principles, constitutes a beneficial and desirable use of New Hampshire's forest resource. The Town of Auburn also acknowledges the importance of its forested area and wetlands in preserving the rural and open character of the Town. Poor forestry practices can damage wetlands and degrade the quality of the watershed.
- (2). Planning Board Review: Prior to the commencement of timber harvesting, the landowner or designated agent shall submit a written plan to the Town of Auburn Planning Board identifying any wetlands that will be impacted by the timber harvesting and outlining any site restoration and wetlands protection that will be necessary in order to protect the impacted wetlands. The owner or designated agent shall then meet with the Planning Board for the purpose of reviewing and discussing site restoration and wetlands protection. The meeting shall take place prior to the commencement of timber harvesting activity.
- (3). The Building Inspector shall be authorized to enforce this provision, to issue cease and desist orders, and to pursue all available legal remedies in the event the applicant fails to honor the site restoration and wetlands protection plan.
- (4). The provisions of the section shall not apply to timber harvesting activities of two (2) acres or less.

### 3.18 Excavation and Soil Removal

Excavation and soil removal is permissible as a commercial and industrial activity provided that a permit is issued pursuant to the Town of Auburn Excavation Regulations and that site plan approval is secured from the Planning Board. No permit or site plan approval shall be issued without independent studies confirming that the activity will have no negative impact on the surrounding area, which may be evidenced by, but not limited to: diminution in surrounding property values; unreasonable change in the character of the neighborhood; unreasonable acceleration in the deterioration of highways; creation of health or safety hazards; negative impact on water supplies, (including aquifers and aquifer recharge areas); and/or negative impact on wetlands or other natural environmental conditions. In addition, no permit or site plan approval shall be issued where the activity would create a general nuisance.

### 3.19 The Use and Disposal of Sewage Sludge and Septage

#### (1). Purpose and Intent

The purpose of this Ordinance is to promote the public health and safety of the citizens of the Town by imposing additional requirements for the land application and surface disposal of sewage sludge, as well as requirements which are more stringent than the requirements set forth in 40 United States Code of Federal Regulations 503.1, et seq. See 40 C.F.R. 503.5(b). If at any time the Federal Government, State of New Hampshire, or the County of Rockingham adopts a more stringent requirement than the corresponding requirement of this Ordinance, the more stringent requirement shall control. The words and terms of this Ordinance shall be defined as set forth in the 1994 edition of 40 C.F.R. 503.1, et seq.

## 20. Enforcement of Approved, Recorded Subdivisions and Site Plans

### 20.01 Purpose

The purpose of this part is to enact locally, the administrative and enforcement procedures set forth in RSA 676 of the existing planning and land use statutes.

### 20.02 Penalties and Remedies for Enforcement

- 1) Any violation of the requirements of this Regulation, or of plans approved hereunder, shall be subject to the enforcement procedures detailed in RSA 676. RSA 676 authorizes the following penalties and remedies for enforcement of the provisions of this Regulation:
  - a) Injunctive relief in accordance with RSA 676:15;
  - b) Fines and penalties in accordance with RSA 676:17;
  - c) Issuance of a cease and desist order in accordance with RSA 676:17-a; and
  - d) Pleas by mail for local land use citations in accordance with RSA 676:17-b.

### 20.03 Responsible Officer

Unless otherwise noted, the Code Enforcement Officer shall be responsible for the enforcement of the provisions of this Regulation.

### 20.04 Enforcement Procedures

- 1) **Written Notice of Violation** – A written notice of violation shall be issued to the property owner by registered mail from the Code Enforcement Officer, if the Planning Board's Consulting Engineer determines that conditions at the site are in violation of any of the requirements of this Regulation or plans approved under this Regulation and that the violation is not an immediate threat to public health or safety.

This notice of violation shall:

- a) Specify the actions or conditions, which violate the requirements of this Regulation or plans, approved under this Regulation.
  - b) Identify what needs to be done to correct the violation(s).
  - c) Specify a reasonable time frame within which the violation(s) will be corrected.
  - d) Be provided to the property owner with a copy to be kept in the official records of the Planning Board.
- 2) **Cease and Desist Order** – A cease and desist order may be issued to the property owner by the Code Enforcement Officer, if the Code Enforcement Officer, Town Planner, or the DPW Director determine that conditions at the

# LOGGING OPERATION AGREEMENT CLASS VI ROAD BOND

Agreement made this \_\_\_\_\_ by and between the Town of Unity, a municipal corporation with a mailing address of 13 Center Road, Charlestown, NH 03603 (hereinafter "Town") and \_\_\_\_\_ address of \_\_\_\_\_ (hereinafter "user").

Whereas the Selectmen have authority to regulate the use of all public highways pursuant to RSA 41:11 and RSA 47:17, VII concerning transportation of certain loads on town highways (hereinafter "regulated hauling").

Whereas the landowners, \_\_\_\_\_ have filed an intent to cut wood and timber on map and lot \_\_\_\_\_.

Whereas the user has requested permission to engage in regulated hauling operations on Town roads as follows: \_\_\_\_\_

Whereas the road in question, which has adequate strength and stability for normal traffic experienced to date including occasional use by heavily loaded trucks, is vulnerable to damage by intensive traffic of heavily loaded trucks, especially when the roadbed is thawed or water-saturated.

Whereas the Selectmen are willing to grant permission to the User to utilize the Town road referred to above in accordance with Town regulations and with the agreement:

It is hereby agreed as follows:

1. The User is granted permission to use the Town road referred to above.
2. To guarantee discharge of the User's responsibilities detailed in RSA 236:39, the User shall maintain liability insurance in full force and effect with an insurance carrier licensed to do business in the State of New Hampshire in an amount of not less than \$300,000.00 throughout the term of this agreement. The User shall provide the Town with a certificate of insurance to verify that the insurance is in effect.
3. The User shall immediately repair and restore all roads, drainage structures, bridges and other structures which may be damaged as a result of User's operations covered by this agreement as shall not at any time interfere with the right of the public to safe use of Town roads. To secure then obligation to repair and restore the road and structures referred to above the User shall file with the Board of Selectmen prior to the commencement of hauling security in the amount of \$ \_\_\_\_\_ Security shall be a bank check or a Surety Restoration Bond in substantially the following form:

KNOW ALL MEN BE THESE PRESENTS that \_\_\_\_\_ of \_\_\_\_\_ in the county of \_\_\_\_\_ and State of \_\_\_\_\_, hereinafter referred to as "Surety" are held firmly bound unto the Town of Unity, NH, a municipal corporation, the county of Sullivan and State of New Hampshire, hereinafter referred to as "Town", in the sum of \$ \_\_\_\_\_ lawful money of the United States payment of which is made herewith to be held by said Town upon the following conditions.

The condition of this obligation is such that whereas principal has undertaken hauling operations within said Town, and in accordance with Town regulations, has agreed to repair and damage to Town roads including

Class VI, Class V and seasonal resulting from such operations, as determined by the Town's Road Agent, said obligation to be completed on or before the last day of March.

NOW THEREFORE, if said principal shall well and truly perform in all respects its obligations hereunder in strict accordance with the requirements of its agreement herein, and shall save said Town harmless from all loss, costs or damage by reason of its failure to complete its agreement herein, then this obligation shall be void and fully terminated and all payments hereunder shall be returned to Principal. Upon failure of Principal to perform its agreements herein, payment hereunder shall be retained by said Town.

IN WITNESS WHEREOF the parties have hereunto caused their hands and seal to be affixed this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Surety

The User's permission to use the Town road listed above pursuant to this agreement shall expire March 31, 2006, unless it is extended by agreement of both parties. The road shall be inspected by the Town's Road Agent before monies secured by this agreement are released. **NO USE OF LOG SKIDDERS ON TOWN ROADS.** IN WITNESS WHEREOF, the parties set their hands this \_\_\_\_\_ day of \_\_\_\_\_ 2006.

Witness  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Town of Unity  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Town of Unity**  
**August 25, 2006**

**Office of the Board of Selectmen**  
13 Center Rd. Unit #3      Office Hours:  
Charlestown, NH 03603      Mon Evenings  
Tel: 603-543-3102      Tues & Wed: 9-5  
Fax: 603-542-5922      Thurs-Sun: Closed  
E-Mail: [unitynh@valley.net](mailto:unitynh@valley.net)

Ross D'elia, President  
HHP Inc.  
PO Box 489  
Henniker NH 03242

Mr. D'Elia,

We are returning your Intent to Cut. We need two Intents, one for each lot. We also need a Road Bond. The forms are enclosed. The cost of the Road Bond is \$5 per foot. If you have any questions, don't hesitate to contact us.

Sincerely,  
Mary 'L Gere, Chair  
Willard M Hathaway  
Jason A LeMere  
Board of Selectmen, Town of Unity

I am in support of SB 104.

**Growing concern about timber harvesting and transportation whether for forest management or land development have created a concern about local ordinances. Increased local regulation could threaten the “working forest”.**

**In 1989, the New Hampshire legislature recognized the importance of forestry through an amendment to the local planning and zoning enabling legislation RSA 672:1, III, c as follows.**

**TITLE LXIV  
PLANNING AND ZONING**

**CHAPTER 672  
GENERAL PROVISIONS 672:1 Declaration of Purpose. –**

III-c. The general court hereby finds and declares that: III-c. Forestry, when practiced in accordance with accepted silvicultural principles, constitutes a beneficial and desirable use of New Hampshire's forest resource. Forestry contributes greatly to the economy of the state through a vital forest products industry; and to the health of the state's forest and wildlife resources through sustained forest productivity, and through improvement of wildlife habitats. New Hampshire's forests are an essential component of the landscape and add immeasurably to the quality of life for the state's citizens.

Because New Hampshire is a heavily forested state, forestry activities, including the harvest and transport of forest products, are often carried out in close proximity to populated areas.

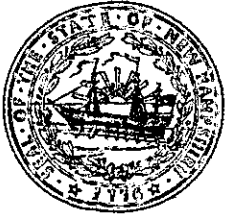
Further, the harvesting of timber often represents the **only income** that can be derived from property without resorting to development of the property for more intensive uses, and,

pursuant to RSA 79-A:1, the state of New Hampshire has declared that it is in the public interest to encourage preservation of open space by conserving forest and other natural resources.

**Therefore, forestry activities, including the harvest and transport of forest products, shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers;**

III-d. For purposes of paragraphs III-a, III-b, III-c, and III-e, "unreasonable interpretation" includes the failure of local land use authorities to recognize that agriculture, forestry, renewable energy systems, and commercial and recreational fisheries, when practiced in accordance with applicable laws and regulations, are traditional, fundamental and accessory uses of land throughout New Hampshire, and that a prohibition upon these uses cannot necessarily be inferred from the failure of an ordinance or regulation to address them;

***Submitted by Representative Elisabeth Sanders, Rockingham 7***



STATE OF NEW HAMPSHIRE  
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT  
DIVISION OF FORESTS AND LANDS

172 Pembroke Road P.O. Box 1856 Concord, New Hampshire 03302-1856

603-271-2214  
FAX: 603-271-6488  
www.nhdf.org

February 8, 2011

The Honorable John S. Barnes, Jr., Chairman  
New Hampshire Senate  
Public and Municipal Affairs Committee  
Legislative Office Building Room 103  
Concord, NH 03301

**Re: HS 104 – relative to certain agricultural operations**

Dear Chairman Barnes and Members of the Committee:


Thank you for the opportunity to testify in support of SB 104, relative to certain agricultural operations with an amendment.

RSA 227-G:3 states that the Department of Resources and Economic Development, Division of Forests and Lands is statutorily responsible to “execute all matters pertaining to forestry, forest management, and forestlands within the jurisdiction of the state.” The forests of New Hampshire are vital to the states economy and supporting a landowner’s ability to manage their forests as working forests is essential to keeping New Hampshire’s forests as forests.

The Division of Forests and Lands supports an amendment to this bill that would replace the proposed new paragraph IV and replace it with language that requires road bonds to be equitably and reasonably applied, regardless of the commodity being transported. Transportation of forest products should not be singled out over the transport of other products.

The Division also supports prohibiting planning boards from regulating timber harvesting operations that are not part of a subdivision application or a development project. The division is the primary agency responsible for enforcement of timber harvest laws. This is accomplished primarily through our state Forest Rangers. In 2010 our forest rangers responded to 575 calls for timber harvest enforcement. This enforcement becomes difficult when individual towns adopt ordinances that are inconsistent with state laws. We believe timber harvest law enforcement should be fair and equitable across the state and should encourage, not hinder a landowner’s ability to sustainably manage their forest land.



TDD ACCESS: RELAY NH 1-800-735-2964  recycled paper

DIVISION OF FORESTS AND LANDS 603-271-2214

Thank you for the opportunity to testify. If we can provide any additional information, please let us know.

Respectfully,



Brad W. Simpkins  
Interim Director

cc: George M. Bald, Commissioner, DRED  
Ken Desmarais, Forest Management Bureau, DRED



Amendment to SB 104

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to certain agricultural operations and certain bonds for excavation and  
4 driveways.  
5

6 Amend the bill by replacing section 1 with the following:

7

8 1 Bond; Application to Vehicles Carrying Commodities. Amend RSA 236:10 to read as follows:  
9 236:10 Regulations; Bond. The person or entity giving such written permission may make rules  
10 and regulations to govern the excavation and restoration of such highway and may require that a  
11 bond satisfactory to such person or entity be furnished to the state, city, or town providing for the  
12 satisfactory restoration of the highway. *The bond requirements shall be equitably and*  
13 *reasonably applied to other bonded vehicles using the highway. The type of commodity*  
14 *being transported shall not be the determining factor for requiring a bond or the dollar*  
15 *amount of the bond.* The person or entity providing the bond shall determine the type of bond  
16 furnished and it may be in the form of cash, letter of credit from a bank or lending institution  
17 licensed in New Hampshire and acceptable to the person giving written permission, or a bond  
18 furnished by an insurance company. The person or entity granting permission shall not arbitrarily  
19 withhold funds from any cash bond or letter of credit, but shall first make a good faith effort to  
20 resolve any differences with the contractor doing the excavation or restoration.

Amendment to SB 104

- Page 2 -

2011-0219s

AMENDED ANALYSIS

This bill:

I. Requires bonds for restoration of municipal highways after excavations be equitably and reasonably applied to all bonded vehicles using the municipal highway and prohibits the type of commodity carried by a vehicle from being the determining factor in either the requirement of such bond or fixing the dollar amount of such bond.

II. Allows zoning ordinances to be designed to protect agricultural operations.

III. Prohibits planning boards from regulating timber harvesting operations that are not part of a subdivision application or a development project subject to a site plan review.





**SENATE CALENDAR NOTICE  
PUBLIC AND MUNICIPAL AFFAIRS**

*ATTENDANCE*

- ✓ Senator John Barnes, Jr. Chairman
- ✓ Senator Jeanie Forrester V Chairman
- ✓ Senator David Boutin
- ✓ Senator Amanda Merrill
- ✓ Senator Nancy Stiles

*START: 10:35 AM  
STOP: 11:38 AM*

For Use by Senate Clerk's Office ONLY

Bill Status

Docket

Calendar

Proof:  Calendar  Bill Status

Date: February 1, 2011

**HEARINGS**

**Tuesday**

**2/8/2011**

**PUBLIC AND MUNICIPAL AFFAIRS**

**LOB 101**

**9:00 AM**

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

- |          |            |  |
|----------|------------|--|
| 9:00 AM  | SB140-FN   | relative to the disposition of military justice fines.   |
| 9:15 AM  | SB94       | relative to state certification of community residences in municipalities with zoning ordinances which accommodate certified community residences. |
| 10:00 AM | SB104      | relative to certain agricultural operations.   |
| 10:15 AM | SB127-FN   | relative to the city of Manchester's contributory retirement system.   |
| 10:30 AM | SB135-FN-A | relative to election returns and election records.   |

**Sponsors:**

**SB140-FN**

Sen. John Barnes, Jr.

Sen. Amanda Merrill

Sen. David Boutin

**SB94**

Sen. Jeb Bradley

Rep. Christopher Ahlgren

Rep. J. David Knox

**SB104**

Sen. Bob Odell

Rep. Robert Theberge

Rep. Gene Chandler

Rep. Elisabeth Sanders

**SB127-FN**

Sen. Lou D'Allesandro

Rep. Daniel Sullivan

Rep. Benjamin Baroody

Rep. Jeffrey Goley

**SB135-FN-A**

Sen. Sharon Carson

Sen. John Barnes, Jr.

Rep. Kathleen Hoelzel

Debra Martone 271-3092

Sen. John Barnes, Jr.

Chairman

SB 104 - AS INTRODUCED

2011 SESSION

11-0976  
08/03

SENATE BILL        **104**

AN ACT            relative to certain agricultural operations.

SPONSORS:        Sen. Odell, Dist 8; Rep. Theberge, Coos 4; Rep. Chandler, Carr 1; Rep. Sanders, Rock 7

COMMITTEE:       Public and Municipal Affairs

---

ANALYSIS

This bill:

I. Prohibits a town or city from requiring road maintenance bonds as a prerequisite for signing an intent to cut.

II. Allows zoning ordinances to be designed to protect agricultural operations.

III. Prohibits planning boards from regulating timber harvesting operations that are not part of a subdivision application or a development project subject to a site plan review.

---

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 Eleven*

AN ACT                   relative to certain agricultural operations.

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

1           1 New Paragraph; Intent to Cut; Road Bond. Amend RSA 79:10 by inserting after paragraph III  
2 the following new paragraph:

3           IV. The city or town shall not require a bond for the purposes of road maintenance and  
4 repair as a pre-requisite for signing or otherwise approving the intent to cut.

5           2 Agricultural Operations; Zoning Ordinances. Amend RSA 674:17, I(i) to read as follows:

6           (i) To encourage the preservation of agricultural lands and buildings ***and the***  
7 ***agricultural operations described in RSA 21:34-a supporting the agricultural lands and***  
8 ***buildings; and***

9           3 Duties of the Planning Board. Amend RSA 674:1, VI to read as follows:

10           VI. In general, the planning board may be given such powers by the municipality as may be  
11 necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes  
12 of this title. ***Such powers shall not include regulating timber harvesting operations that are***  
13 ***not part of a subdivision application or a development project subject to site plan review***  
14 ***under this chapter.***

15           4 Effective Date. This act shall take effect 60 days after its passage.

Forest Products Road Manual:  
A Handbook for Municipal Officials  
and  
The Forest Products Industry



## ACKNOWLEDGMENTS

This publication was prepared by:

Hunter Carbee, NH Timberland Owners Association  
Sarah Smith, UNH Cooperative Extension



UNIVERSITY of NEW HAMPSHIRE  
COOPERATIVE EXTENSION

We wish to thank the following individuals, organizations and companies for their participation and review of this publication:

Jeff Eames, Fort Mountain Land & Timber  
Susan Slack, New Hampshire Local Government Center  
Dave Fluharty, UNH Technology Transfer Center  
Ken Kyle, NH Department of Transportation  
Barbara Lucas, Town of New Hampton  
Dan Keniston, Keniston Trucking & Logging  
John Caveney, Cersosimo Lumber Co., Inc.  
Mary T. Berry-Spartos, The Dunlap Corporation  
Terri Rubeor, The Hanover Insurance Company

Printing was provided by: University of New Hampshire Cooperative Extension with support from:

NH Sustainable Forestry Initiative  
USDA, U.S. Forest Service, Economic Action Program

*The University of New Hampshire Cooperative Extension programs and policies are consistent with pertinent Federal and State laws and regulations on non-discrimination regarding race, color, national origin, sex, sexual orientation, age, handicap or veteran's status. College of Life Sciences and Agriculture, County Governments, NH Department of Resources and Economic Development, NH Fish and Game, USDA and US Fish and Wildlife Services cooperating.*

January 2006



# Table of Contents

Introduction.....	1
Communication.....	2
Road Access.....	3
Temporary Driveway Permits.....	7
Road Bonds.....	9
Weight Limits.....	10
Conclusion.....	11
Appendix	
NH City and Town Clerk Offices.....	12
NH Department of Transportation, District Offices.....	15

# Introduction

Commissioner Carol A. Murray, NH Department of Transportation

New Hampshire's first European colonists arrived almost 400 years ago. In search of a new way of life, these new settlers cleared the forest, tilled the land and established communities which grew to become our present-day cities and towns.

Transportation in those early days was difficult and slow. Goods were moved by water or by horse-drawn (or oxen) wagons on dirt tracks cut through the thick forest. Today, with New Hampshire's population at 1.3 million people and growing, the network of public roadways is critical to the movement of people, the delivery of goods, and for access by emergency services. Each public agency—town, state or federal—has its own specifications for construction, use and maintenance of roads all with the goal of protecting the public's rights-of-way.

The forest products industry is a vital component of the New Hampshire economy. Forest-based manufacturing is the third largest manufacturing industry in the state. The contribution of the forest industry and forest-related tourism to the New Hampshire economy is more than \$2 billion each year. Direct payment of the timber tax to municipalities averages \$4 million each year. In addition, the registration of logging trucks, trailers and other equipment contributes hundreds of thousands of dollars each year to the State of New Hampshire and its municipalities.

This manual is a guide for both municipal officials and the forest products industry to improve understanding of the laws which govern public roadways.



## Communication

As with any business transaction communicating intent and clarifying expectations is important to a successful outcome. For a timber harvest the communication process begins when a landowner, forester, logger or trucker files a NH Department of Revenue Administration (DRA) Intent to Cut form at the town office. The town acknowledges the intent by signing it within thirty days if the following criteria have been met:

1. All owners of record have signed the Intent to Cut form
2. The land is not under the Current Use, "unproductive category"
3. The Intent to Cut form is complete and accurate
4. Any required timber tax bond has been received

Many New Hampshire municipalities have further requirements that impact logging operations unrelated to the DRA Intent to Cut. For example, a road bond may be required. The DRA Intent to Cut cannot be held up by town officials for more than thirty days for a road bond if the four criteria, mentioned above have been satisfied.

It is important to contact the town office in which the timber harvest is planned to find out what permits and restrictions may apply. A directory of municipal offices is located in Appendix I of this manual.

Successful timber harvests require frequent communication between landowner, forester, logger, trucker and sawmill. Communication with town officials, particularly road agents, is also critical to ensure safe and efficient transportation. Road agents have intimate knowledge of local road conditions, traffic patterns and hazards which could be of concern to those trucking wood products. It may be important for the road agent to know the intended hours of operation and/or trucking on a logging operation to coordinate with other town activity. For example, the town may be planning to mow or pave along a roadway which will be used during a timber harvest. The activity may be delayed or rescheduled. In any event, communication between the timber harvester and the municipality could prevent misunderstanding and inconvenience.

For a complete description of New Hampshire timber harvesting laws, contact UNH Cooperative Extension, Forestry Information Center (800)444-8978 or the NH Timberland Owners Association (603)224-9699 for a copy of "Guide to New Hampshire Timber Harvesting Laws." This document can also be downloaded from the UNH Cooperative Extension, Forestry and Wildlife website at:  
<http://www.ceinfo.unh.edu/Pubs/ForPubs/gtnhthl.pdf>.

# Road Access

## The NH Highway Classification System

The New Hampshire public highway classification system is outlined in RSA 229:5. The following is a summary of each level of classification. Each classification description outlines what authority (federal, state, local, or private) is responsible for construction, reconstruction, and maintenance of the road. It is important for the reader to understand the differences among the road designations and to identify where there may be confusion and where a quick phone call to the town office or the state district engineer could avoid a misunderstanding. For more information on the state highway system copy of "A Hard Road to Travel", can be obtained from the New Hampshire Local Government Center at (603) 224-7447.

### Class I - Primary State System

Class I roads include existing or proposed highways of the primary state highway system except those portions inside New Hampshire Department of Transportation (NH DOT) designated urban compact sections of cities and towns, as listed in RSA 229:5, V. However, within the urban compact areas, turnpikes and interstate highways are Class I highways. The State has full control of these Class I highways and pays the costs of construction, reconstruction and maintenance, including bridges.

### Class II - Secondary State System

Class II roads are the secondary state highways except for those portions located inside designated urban compact sections of cities and towns (RSA 229:5, II). The State assumes the costs of reconstruction and maintenance of all Class II highways that have been improved to the satisfaction of the New Hampshire Department of Transportation. Other Class II highways, those not improved to the NH DOT standards, are maintained by the city or town in which they are located. Towns and cities are eligible to use state aid funds, when available, to improve Class II roads.

### Class III - State Recreational Roads

Roads leading to and roads within state-owned reservations (such as campgrounds and parks) are designated by the legislature as Class III State Recreational Roads (RSA 229: III). The NH DOT is responsible for reconstructing and maintaining these roads once they are designated by the Commissioners of the NH Department of Resources and Economic Development as well as the NH DOT (RSA 233:8.) In addition, when authorized by the legislature and approved by governor and council, the Commissioner of Transportation may lay out and construct a public road to a private recreational area. Any class III public road that leads primarily to a private recreational area is maintained by the owner or operator unless other arrangements are made. Class III highways can be regulated by the Commissioner of the Department of Resources and Economic Development.

## **Class IV - Urban Compact Section Highways**

Class IV roads are all highways within the urban compact section of the cities and towns listed in the statute as designated by the NH DOT. The compact section is described as the area of the city or town where the frontage on any highway is primarily occupied by dwellings or buildings in which people live or business is conducted, throughout the year. Occasionally, these boundaries are marked with "Urban Compact" signs along the highway.

## **Class V - Town or City Roads and Streets**

Class V roads consist of all traveled highways other than Class IV that the town or city has a duty to maintain regularly. If a town or city spends money on a highway, it generally is a Class V highway. The only exception is an emergency lane. A Class V highway can be anything from a one-lane dirt track to a 6-lane boulevard. Occasionally the term "Class V road standards" is used. A town or city may create road standards for Class V roads. There is no set statewide standard for Class V roads.

## **Class VI**

Class VI roads are defined as all other existing public ways which are either discontinued subject to gates and bars or are roads not maintained by the town in suitable condition for travel for a period of at least five successive years. Class VI highways are full public highways in every sense except maintenance. Towns have no duty to maintain Class VI roads. (RSA 229:5, VI.) In fact, RSA 231:59 limits town highway expenditures to Class IV and V roads with an exception for an emergency lane (RSA 231:59-a). Even though they may be "subject to gates and bars," Class VI roads remain a public way and any gates or bars installed may not interfere with public travel.

There are two ways for a Class V road to become a Class VI road:

1. The road is discontinued subject to gates and bars (RSA 231:45 & 229:5, VII):
  - Requires a vote by the legislative body (town meeting or city council)
  - The warrant article should describe location and that road will be "subject to gates and bars".
2. Not maintained for a period of at least five successive years (RSA 229:5 & 231:45-a):
  - Most Class VI roads are a result of this provision.
  - Roads that were discontinued due to this provision can revert to Class V roads if they are maintained for at least 5 consecutive years (RSA 229:5, VI).

Can a private party maintain or repair a Class VI road?

Yes, with permission of the municipality (RSA 236:9). This provision prohibits excavating or disturbing ditches, embankments or the traveled surface without prior written permission of the municipality's governing body or the road agent. The municipality may also regulate the work and require a bond assuring the road is returned to a condition acceptable to the local authority (RSA 236:10 & RSA 236:11).

It is important to be aware of all New Hampshire timber harvesting laws that apply to roadside zones. For a copy of "NH Timber Harvesting Laws" contact NH Timberland Owners Association (603)224-9699 or UNH Cooperative Extension Forestry Information Center (800) 444-8978. The document may also be viewed on-line at <http://ceinfo.unh.edu/Pubs/ForPubs/gtnhthl.pdf>

## **Discontinued Roads**

A Class VI road which is discontinued subject to gates and bars is not the same as a road completely discontinued. A completely discontinued road results in the dissolution of the public right of way. The land is then returned to the control of the abutting land owners. Private easements, such as utility lines, that follow a public way remain intact.

The complete discontinuance of a local highway (Class IV, V or VI) requires a vote of the legislative body (RSA 231:43).

There are two important points to remember concerning discontinued roads:

- 1) Public highways cannot be lost by adverse possession unlike an owner of private property, who can lose ownership after 20 years of adverse possession by others (sometimes called "squatters' rights"). This provision does not apply to public property, including highways. So if a house is 100 years old and sits where a highway once ran, and that highway was never discontinued, the road cannot be barricaded. It is still a legal public highway.
- 2) Non-use of a road does not necessarily mean discontinuance and even though a highway has been physically abandoned it may continue to be a public right of way. The complete discontinuance of a local highway takes a vote of the legislative body (RSA 231:43). Action by the selectmen is not enough. The best evidence of a past discontinuance is a vote recorded by the clerk in the town report.

## **Scenic Roads**

New Hampshire's RSA 231:157 and 158 allow the establishment of scenic roads by a municipality. Scenic roads are local, town designations and are not specifically part of the statewide system. Class I or II roads cannot be designated scenic roads.

The statute states that any road in a town, other than a class I or class II highway, may be designated as a scenic road upon petition of 10 persons who are either voters of the town or who own land that abuts a road mentioned in the petition. All abutters of the road must be notified within 10 days of the filing of a scenic road petition. The voters of the town may designate the road as a scenic road at any annual or special town meeting. Similarly, scenic road designation may also be rescinded at any annual or special town meeting.

The Scenic road designation means that town repair, maintenance, and reconstruction of the road and utility company maintenance of equipment in the right of way may not

involve cutting or removal of trees (defined as 15 inches in circumference or more measured at 4 ½ feet above the ground) or destruction of stone walls without a prior public hearing and written consent of the planning board or board responsible for the local scenic roads program. There are exemptions for the prompt restoration of utility service and for trees that pose an "imminent threat" to the traveling public. Scenic road designation does not affect the rights of any abutting landowners to cut trees or remove stone walls on their own property. Scenic road designation does not affect the eligibility of the town to receive construction, maintenance or reconstruction aid.

## **Municipal Trails**

### **Class A and Class B Trails (RSA 231-A:1)**

A Class A Trail is a public right-of-way subject to public trail use restrictions. The Class A Trail is not a publicly approved street and cannot not be used for vehicular access to any new building or structure or for increased use of any existing building or structure. Class A Trails may be used by abutters for non-development uses such as forestry, agriculture or to access an existing structure. These owners are not subject to the public trail use restrictions except for time limits or seasonal restrictions imposed by the local governing body. The municipality has no responsibility to maintain a Class A trail for use by abutters. The abutting owners must obtain permission from the municipality prior to excavation, construction or disturbance to a Class A Trail.

A Class B Trail is more restrictive than a Class A Trail. A Class B trail cannot be used for vehicular access to any new or existing building or structure. In addition, a Class B Trail cannot be used by the owners of land served by or abutting the trail in any manner inconsistent with the public trail use restrictions.

Municipalities have the authority under RSA Chapter 231-A to reclassify local highways as Class A or Class B municipal trails. Once reclassified these trails retain public rights of way subject to trail use restrictions. A town meeting vote is required to reclassify Class V and Class VI roads as municipal trails. However, a road that is the sole access to a property cannot be reclassified as a Class B trail without written consent of the landowner.

Trail use restrictions can be imposed by a landowner as a condition of granting a trail easement to the municipality, or can be imposed by the municipality either by a vote of town meeting or adoption by the board of selectmen. Trail use restrictions can include a prohibition of motor vehicles

# Temporary Driveway Permits

## State Highways

(Office of the Commissioner, Declaratory Ruling No. 2000-01)

All access from a State highway for timber harvesting requires a temporary driveway permit and a bond unless access is granted through an existing permitted driveway that can safely handle the trucking. Bonding may be waived if the applicant has consistently conformed to previous permitting requirements. The Temporary Driveway Permit must also stipulate a time limit therefore a previously used entrance is not valid unless a new permit has been obtained from the NH DOT district engineer. Permission for a temporary driveway permit will not be granted on limited or controlled access highways unless under unusual circumstance or hardship.

A sign 36" by 36" with black letters on an orange background warning "Trucks Entering" must be placed if the drive sight distance is less than 500 feet or under special circumstances like a sharp curve. Specifications for signs are provided with the driveway application.

A Temporary Driveway Permit is required from the State of New Hampshire to assure:

- Sight distance (for safety)
- Drainage both along the edge of the highway and from the access,
- Protection of the edge of pavement – both for potential breakup of the pavement and tracking of mud and snow or other debris onto the pavement surface.
- Restoration of the ditch line, pavement, and drainage from the site at the end of timber cutting.

When planning a timber harvest it is important to remember that:

- The entire logging operation must be conducted outside of the highway right-of-way.
- The log landing and all loading or chipping operations must not occur on the pavement or shoulder of the highway, or adjacent to the pavement within the right-of-way.
- The minimum requirement for an all-season sight distance is 400'. Or, if 400' is not possible, the location that provides the best sight distance.
- The best driveway location for safe sight distances may not be the easiest or most economical location to construct an entrance.
- The NH DOT, district engineer can provide assist with the permitting process as well as make suggestions about the most appropriate access location and construction techniques to use.



Application forms may be obtained by visiting or calling the NH Department of Transportation, Highway District Office. A listing of the district offices is located in Appendix II.

### **Town Temporary Driveway Permits**

Most municipalities require driveway permits to access public highways from private property. The purpose, similar to the state's, is to prevent erosion, preserve highway drainage and to ensure adequate lines of sight. Some towns may require a temporary driveway permit to access timberlands for a logging operation. The process and standards vary depending on the municipality. Therefore, when preparing a timber sale, forestry professionals should call the town office to determine if a temporary driveway permit is needed (see town listing in Appendix I).

Even if a temporary driveway permit is not needed, forestry professionals should:

- Make sure there is adequate sight distance for oncoming traffic and trucks to safely see the approach.
- Place "Trucks Entering" signs that are easily seen from each side of the approach, if needed.
- Place an apron of crushed stone or wood chips to protect the pavement or road surface of the town highway.
- Install culverts where needed. Remember that these need to be included on a wetlands application if jurisdictional wetlands are being crossed, and that permission is required from the town before culverts are placed in the town right of way or road surface.
- When the timber operation is complete, pull culverts (if not permanent), clean out ditch lines, seed and return the access to its original condition.

## Road Bonds

Municipalities spend a hefty portion of the town's budget on road construction and maintenance. Therefore, it is in the town's best interest to protect roads from unnecessary wear and tear. Careless hauling with heavy trucks, particularly during certain times of year, can cause significant damage. As a result, towns may require that a bond be posted before logging can begin. These bonds are authorized under RSA 236:9 - 236:12 when permission is sought to disturb the ditches, shoulders, embankments or improved surface of a town road and under RSA 236:190 and 236:191 when permission is requested to exceed weight limits placed on the road.

A bond is a form of insurance that protects the town from unnecessary damage which may occur to the public highway. While the law authorizes the town official to require road bonds, these statutes do not include criteria or standards for determining reasonable bond amounts. This may create inconsistency from town to town regarding both the bond amount and how the bond is applied, however bond amounts depend largely upon the particular circumstances of each road. One size does not fit all. The UNH Technology Transfer Center is available to assist municipalities with road maintenance and repair. The center can be reached at 1-800-423-0060 or by email [t2.center@unh.edu](mailto:t2.center@unh.edu). You can also visit their web site at <http://www.t2.unh.edu>.

A municipality can require that the bond be either a surety bond or cash. (RSA 236:9-12 and RSA 236:190-191) To avoid confusion, municipal officials should establish clear criteria for assessing the necessary amount of the bond. The criteria should include the conditions under which the town will hold and release the bond. For example, the bond might be held in escrow and an inspection of road condition required before the bond is released. Photographs, videotape or other documentation of road conditions before and after a logging operation may be helpful. This may also sort out damage caused by other vehicles.

## Weight Limits

Mud season is familiar to any trucker in the northeast. From the middle of March until the end of April, while the frost moves out of the ground, trucking is curtailed to protect road surfaces. An unreasonable barrier to commerce may occur if road bans are posted on a set schedule regardless of actual road conditions.

During a road ban heavy trucks cannot travel on roads within the town unless the driver receives permission from the selectmen or road agent to exceed the posted weight limit (RSA 231:190 and 231:191). Towns may establish maximum weight limits, seasonal or otherwise, that are more restrictive than the weight limits established in RSA 226:17-26. The state statute requires that weight limit posting must be done "in accordance with currently acceptable practices and technology." Signs must be posted at all entrances to the restricted road.

It is against the law for any person to drive a vehicle in violation of maximum weight limits without permission from the board of selectmen or the road agent. Reasonable accommodation may be reached for those seeking permission to exceed the maximum weight limit. Municipal officials may establish "reasonable regulations for bonding and restoring the highway." The bonding requirement guarantees that damage done to the road will be repaired. A municipality has authority to require restoration of the road if town officials believe the damage or disturbance is attributable to vehicles or activities under such person's control or responsibility. Upon request, the municipality must provide the reasons, including any inspection reports.

No vehicle or business is exempt from the maximum weight limits simply because of prior use of the road. However, property owners or commercial enterprises who can demonstrate that the weight limits would entail practical difficulty or unnecessary hardship, and who comply with all conditions and regulations concerning bonding and restoration, can be granted an exemption unless the exemption would be detrimental to public safety. Unnecessary hardship includes weight limits that significantly interfere with a commercial enterprise or land use which existed prior to the weight limit posting. A business impacted by road weight restrictions may request a public hearing.

Often municipal road bonding decisions are made in consultation with the road agent. The road agent's experience and knowledge is important in determining when roads are in need of posting to prevent unreasonable damage or extraordinary expense. The road agent may recommend that trucks haul until mid-morning during the coldest part of the day (until the sun warms the pavement) and then wait until early the next day. This accommodation allows commerce to continue while protecting the local road from damage.

The University of New Hampshire, Technology Transfer Center developed a scientific method for assessing road conditions. To summarize, municipalities should consider the following factors when considering road restrictions:

- Surface thickness, if pavement is thinner than 2"
- Type of subgrade – fine-grained substrates (like silt and clay found in New Hampshire) are candidates for load restrictions.
- Local experience – site drainage, road behavior, age, location are all factors which local road agents have observed over many years.
- Surface deflections – if surface of road section deflects more than 40% from summer conditions.

To obtain a copy of "Guidelines for Spring Road Use Restrictions" contact the University of New Hampshire, Technology Transfer Center at (603)862-2826 or on line at [www.t2unh.edu](http://www.t2unh.edu).

## Conclusion

New Hampshire's road system is critical to the viability of the state's forest products industry. Logs, pulpwood, lumber, chips and bark mulch travel the network of roads from the woods to manufacturing facilities and ultimately, to customers. Safe and efficient highways are in the best interest of all users. Therefore, the laws, restrictions and permitting procedures summarized in this document are important to understand in order to protect and extend the life of our roads. Communication between all parties is important to a successful logging operation that contributes to the local and state economy.

For municipal officials

1. Use care and reason when assessing road impacts from forestry operations.
2. Consult the road agent or a professional engineer about potential road impacts.
3. Consider all road impact equitably.

For landowners, foresters, loggers and truckers

1. Call the town offices and set up a meeting with the road agent if possible.
2. Find out the road classification.
3. Find out what other permits may be required before beginning your timber harvest.
4. Continue communications with the road agent as your operation takes place.
5. Document before and after road conditions.
6. Complete your operation by leaving the access and road conditions in the original condition or better if possible.

The forest products industry is important to the state's economy. We hope the information and suggestions provided in this publication are useful for both truckers and municipal officials. Our goal is to improve the communication between both groups and to assure the investment in and safety of New Hampshire's roadways.

## Appendix I

### New Hampshire Town Offices

All numbers are area code 603

Acworth	835-6879	Cornish	675-5207
Albany	447-2877	Croydon	863-7830
Alexandria	744-3288	Dalton	837-2092
Allenstown	485-4276	Danbury	768-5448
Alstead	835-2242	Danville	382-8253
Alton	875-2101	Deerfield	463-8811
Amherst	673-0474	Deering	464-3224
Andover	735-5332	Derry	432-6105
Antrim	588-6785	Dixville Notch	255-3791
Ashland	968-4432	Dorchester	786-9476
Atkinson	362-4920	Dover	786-9431
Auburn	483-2281	Dublin	563-8859
Barnstead	269-4631	Dummer	449-3048
Barrington	664-5476	Dunbarton	774-3547
Bartlett	356-2300	Durham	868-5577
Bath	747-2454	East Kingston	642-8794
Bedford	472-3550	Easton	823-8017
Belmont	267-8302	Eaton	447-2840
Bennington	588-2189	Effingham	539-7551
Benton	787-6541	Ellsworth	726-3551
Berlin	752-2340	Enfield	632-5001
Bethlehem	869-2293	Epping	679-8288
Boscawen	753-9288	Epsom	736-4825
Bow	225-2683	Errol	482-3351
Bradford	938-2288	Exeter	778-0591
Brentwood	642-6400	Farmington	755-3657
Bridgewater	968-7911	Fitzwilliam	585-7791
Bristol	744-8478	Francestown	547-6251
Brookfield	522-3688	Franconia	823-5237
Brookline	673-8855	Franklin	934-3109
Campton	726-3223	Freedom	539-8269
Canaan	523-7106	Fremont	895-8693
Candia	483-5573	Gilford	527-4713
Canterbury	783-0153	Gilmanton	267-6726
Carroll	846-5494	Gilsum	357-0320
Center Harbor	253-4561	Goffstown	497-8990
Charlestown	826-5821	Gorham	466-2744
Chatham	694-2043	Goshen	863-5655
Chester	887-3636	Grafton	523-7270
Chesterfield	363-8071	Grantham	863-5608
Chichester	798-5808	Greenfield	547-2782
Claremont	542-7003	Greenland	431-7111
Clarksville	246-7751	Greenville	878-4155
Colebrook	237-5200	Groton	744-8849
Columbia	237-5255	Hamstead	329-4100
Concord	225-8500	Hampton	926-0406
Conway	447-3822	Hampton Falls	926-4618
		Hancock	525-4441
		Hanover	643-0701

Harrisville	827-5546	Nelson	847-9043
Harts Location	374-2436	New Boston	487-5571
No. Haverhill	787-6200	New Castle	431-6710
Hebron	744-7999	New Durham	859-0205
Henniker	428-3240	New Hampton	744-8454
Hill	934-3951	New Ipswich	878-3567
Hillsborough	464-5571	New London	526-4821
Hinsdale	336-5719	Newbury	763-5326
Holderness	968-7536	Newfields	772-5070
Hollis	465-2064	Newington	436-7640
Hooksett	485-9534	Newmarket	659-3073
Hopkinton	746-3180	Newport	863-2224
Hudson	886-6003	Newton	382-4096
Jackson	383-6248	North Hampton	964-6029
Jaffrey	532-7861	Northfield	286-4482
Jefferson	586-4553	Northumberland	636-1450
Keene	352-0133	Northwood	942-5586
Kensington	772-5423	Nottingham	679-9598
Kingston	642-3112	Orange	523-7054
Laconia	527-1265	Orford	353-4404
Lancaster	788-2306	Ossipee	539-2008
Landaff	838-6220	Pelham	635-2040
Langdon	835-2389	Pembroke	485-4747
Lebanon	448-3054	Peterborough	924-8000
Lee	659-2964	Piermont	272-4840
Lempster	863-3213	Pittsburg	538-6699
Lincoln	745-8971	Pittsfield	435-6773
Lisbon	838-2862	Meriden	469-3201
Litchfield	424-4045	Plaistow	382-8129
Littleton	444-3995	Plymouth	536-1732
Londonderry	432-1100	Portsmouth	431-2000
Loudon	798-4542	Randolph	466-5771
Lyman	838-6113	Raymond	895-4735
Lyme	795-2535	Richmond	239-6202
Lyndeborough	654-9653	Rindge	899-5181
Madbury	742-5131	Rochester	332-7509
Madison	367-9931	Rollinsford	742-2510
Manchester	624-6455	Roxbury	352-4903
Marlborough	876-4529	Rumney	786-2237
Marlow	446-2245	Rye	964-8562
Mason	878-2070	Salem	890-2116
Meredith	279-4538	Salisbury	648-2473
Merrimack	424-3651	Sanbornton	286-4034
Middleton	473-2134	Sandown	887-4870
Milan	449-3461	Sandwich	284-7113
Milford	673-3403	Seabrook	474-3152
Millsfield	482-7777	Sharon	924-9250
Milton	652-9414	Shelburne	466-3831
Monroe	638-2644	Somersworth	692-9511
Mont Vernon	673-9126	South Hampton	394-7696
Moultonborough	476-2347	Springfield	763-4805
Nashua	589-3010	Stark	636-2118

Stewartstown	246-3329
Stoddard	446-2203
Strafford	664-2192
Stratford	922-5598
Stratham	772-4741
Sugar Hill	823-8516
Sullivan	352-1495
Sunapee	763-2449
Surry	352-3075
Sutton	927-4575
Swanzey	352-7411
Tamworth	323-7971
Temple	878-3873
Thornton	726-4232
Tilton	286-4425
Troy	242-3845
Tuftonboro	569-4539
Unity	542-9665
Wakefield	522-6205

Walpole	756-3514
Warner	456-2298
Warren	764-5780
Washington	495-3667
Waterville Valley	236-4730
Weare	529-7575
Webster	648-2538
Wentworth	764-5244
Westmorland	399-7211
Whitefield	837-9871
Wilmot	526-9639
Wilton	654-9451
Winchester	239-6233
Windham	434-5075
Windsor	478-3292
Wolfboro	569-5328
Woodstock	745-8752

## Appendix II

### NH HIGHWAY DISTRICTS

#### District 1:

District Engineer  
641 Main Street  
Lancaster, NH 03584  
Tel: (603) 788-4641  
Loc: Rte 3, Lancaster, NH

#### District 2:

District Engineer  
P.O. Box 232  
Lebanon, NH 03766  
Tel: (603) 448-2654  
Loc: I-89, Exit 16, Enfield, NH

#### District 3:

District Engineer  
2 Sawmill Road  
Gilford, NH 03246  
Tel: (603) 524-6667  
Loc: 2 Sawmill Rd., Gilford, NH

#### District 4:

District Engineer  
19 Base Hill Rd.  
Swanzey, NH 03446-9998  
Tel: (603) 352-2302  
Loc: 19 Base Hill Rd. Swanzey, NH

#### District 5:

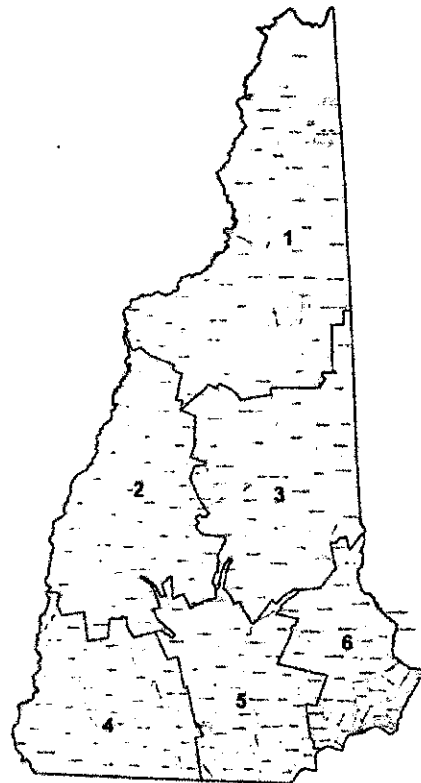
District Engineer  
PO. Box 16476  
Hooksett, NH 03106-6476  
Tel: (603) 485-9526  
Loc: I-93, Exit 11, Hooksett, NH

#### District 6:

District Engineer  
P.O. Box 740  
Durham, NH 03824  
Tel: (603) 868-1133  
Loc: 271 Main Street, Durham, NH

#### Turnpikes:

Turnpike Administrator  
P.O. Box 16418  
Hooksett, NH 03016-6418  
Tel: (603) 485-3806  
Loc: I-93, Exit 11, Hooksett, NH







# Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on SB 104

**BILL TITLE:** (New Title) relative to certain agricultural operations and certain bonds for excavation and driveways.

**DATE:** April 21, 2011

**LOB ROOM:** 301

**Amendments:**

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

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

Moved by Rep. Burt

Seconded by Rep. Ferrante

Vote: 17-0 (Please attach record of roll call vote.)

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

Moved by Rep.

Seconded by Rep.

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

**CONSENT CALENDAR VOTE:**  Yes  No (please circle one)

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

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. Philip Munck, Clerk

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on SB 104

BILL TITLE: (New Title) relative to certain agricultural operations and certain bonds for excavation and driveways.

DATE: 4-21-11

LOB ROOM: 301

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

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

Moved by Rep. Bert

Seconded by Rep. Ferrante

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

17-0

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

Moved by Rep.

Seconded by Rep.

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

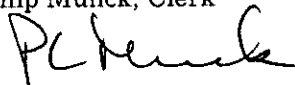
CONSENT CALENDAR VOTE  Yes  No (please circle one)

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Munck, Clerk



**MUNICIPAL AND COUNTY GOVERNMENT**

Bill #: SB104 Title: \_\_\_\_\_

PH Date: 4 / 19 / 11

Exec Session Date: 4 / 21 / 11

Motion: OT P

Amendment #: \_\_\_\_\_

MEMBER	YEAS	NAYS
Ferrante, Beverly A, Chairman	✓	
Sterling, Franklin W, V Chairman	✓	
Patten, Betsey L	✓	
Lockwood, Priscilla P	✓	
Accornero, Harry	✓	
Belanger, James P	✓	
Burt, John A	✓	
Coffey, James E	✓	
Copeland, Timothy D	✓	
Moore, Robert W	✓	
Munck, Philip L	✓	
Shackett, Jeffrey S	✓	
Stroud, Kathleen M	✓	
DeStefano, Stephen T	✓	
Roberts, Kris E	✓	
Hooper, Dorothea D	✓	
Tatro, Bruce L	✓	
TOTAL VOTE:	17	0
Printed: 1/4/2011		

# Committee Report

**CONSENT CALENDAR**

**April 21, 2011**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on MUNICIPAL AND COUNTY  
GOVERNMENT to which was referred SB104,**

**AN ACT (New Title) relative to certain agricultural  
operations and certain bonds for excavation and  
driveways. Having considered the same, report the  
same with the recommendation that the bill OUGHT TO  
PASS.**

**Rep. John A Burt**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>MUNICIPAL AND COUNTY GOVERNMENT</b>
Bill Number:	<b>SB104</b>
Title:	<b>(New Title) relative to certain agricultural operations and certain bonds for excavation and driveways.</b>
Date:	<b>April 21, 2011</b>
Consent Calendar:	<b>YES</b>
Recommendation:	<b>OUGHT TO PASS</b>

### STATEMENT OF INTENT

This bill does three things. It requires municipalities be equitable and reasonable when they require a business or individual post a bond to use a municipal road. This will help protect those businesses and individuals required to post such bonds by insuring they do not pay for someone else's damage to the road.

Secondly, Senate Bill 104 encourages municipalities to preserve agricultural operations when adopting zoning ordinances. Currently municipalities are encouraged to adopt zoning ordinances to preserve agricultural buildings and lands. Extending this to include the agricultural operation is important because it is the agricultural operation or business that ultimately supports the buildings and land.

Thirdly, Senate Bill 104 clarifies that Planning Boards do not have review or regulatory authority over timber harvests. Arguably this is already in law but due to a number of recent instances where Planning Boards are attempting to regulate timber harvesting the law needs to be clearer. Senate Bill 104 provides this clarity.

Senate Bill 104 was broadly supported by the New Hampshire Timberland Owners Association, New Hampshire Farm Bureau Federation, New Hampshire Municipal Association, New Hampshire Division of Forest and Lands and the Society for the Protection of New Hampshire's Forests.

Vote 17-0.

Original: House Clerk  
Cc: Committee Bill File



Rep. John A Burt  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

### MUNICIPAL AND COUNTY GOVERNMENT

**SB104**, (New Title) relative to certain agricultural operations and certain bonds for excavation and driveways. **OUGHT TO PASS.**

Rep. John A Burt for MUNICIPAL AND COUNTY GOVERNMENT. This bill does three things. It requires municipalities be equitable and reasonable when they require a business or individual post a bond to use a municipal road. This will help protect those businesses and individuals required to post such bonds by insuring they do not pay for someone else's damage to the road.

Secondly, Senate Bill 104 encourages municipalities to preserve agricultural operations when adopting zoning ordinances. Currently municipalities are encouraged to adopt zoning ordinances to preserve agricultural buildings and lands. Extending this to include the agricultural operation is important because it is the agricultural operation or business that ultimately supports the buildings and land.

Thirdly, Senate Bill 104 clarifies that Planning Boards do not have review or regulatory authority over timber harvests. Arguably this is already in law but due to a number of recent instances where Planning Boards are attempting to regulate timber harvesting the law needs to be clearer. Senate Bill 104 provides this clarity.

Senate Bill 104 was broadly supported by the New Hampshire Timberland Owners Association, New Hampshire Farm Bureau Federation, New Hampshire Municipal Association, New Hampshire Division of Forest and Lands and the Society for the Protection of New Hampshire's Forests. **Vote 17-0.**

Original: House Clerk  
Cc: Committee Bill File

# COMMITTEE REPORT

COMMITTEE: MC6  
BILL NUMBER: SB 104  
TITLE: relative to certain  
DATE: 4-21-11 CONSENT CALENDAR: YES  NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)

Amendment No.  
\_\_\_\_\_

**STATEMENT OF INTENT:**

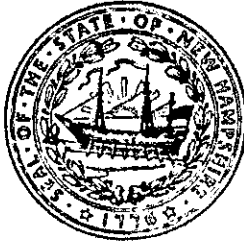
see attached paper (blurb)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COMMITTEE VOTE: 17-0

- Copy to Committee Bill File
- Use Another Report for Minority Report

RESPECTFULLY SUBMITTED,  
Rep. *John A. Burt*  
For the Committee



## Blurb SB 104

2011 Session

4/21/11

Rep. John A. Burt for the Majority of Municipal and County Government:

SB 104, AN ACT relative to certain agricultural operations and certain bonds for excavation and driveways. **OUGHT TO PASS.**

Senate Bill 104 does three things. It requires municipalities be equitable and reasonable when they require a business or individual post a bond to use a municipal road. This will help protect those businesses and individuals required to post such bonds by insuring they do not pay for someone else's damage to the road.

Secondly, Senate Bill 104 encourages municipalities to preserve agricultural operations when adopting zoning ordinances. Currently municipalities are encouraged to adopt zoning ordinances to preserve agricultural buildings and lands. Extending this to include the agricultural operation is important because it is the agricultural operation or business that ultimately supports the buildings and land.

Thirdly, Senate Bill 104 clarifies that Planning Boards do not have review or regulatory authority over timber harvests. Arguably this is already in law but due to a number of recent instances where Planning Boards are attempting to regulate timber harvesting the law needs to be clearer. Senate Bill 104 provides this clarity.

Senate Bill 104 was broadly supported by the New Hampshire Timberland Owners Association, New Hampshire Farm Bureau Federation, New Hampshire Municipal Association, New Hampshire Division of Forest and Lands and the Society for the Protection of New Hampshire's Forests. **Vote -**

Sincerely,

NH Representative  
John A. Burt

Goffstown, Weare, NH  
7 Bay Street  
Goffstown, NH 03045  
Tel: 603-624-5084  
Cell: 603-289-0792

Municipal and County  
Government Committee  
Room 301, LOB