
Committee Report

CONSENT CALENDAR

April 17, 2018

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Resources, Recreation and Development to which was referred SB 444,

AN ACT relative to cutting timber near certain waters and public highways. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.

Rep. John Mullen

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Resources, Recreation and Development
Bill Number:	SB 444
Title:	relative to cutting timber near certain waters and public highways.
Date:	April 17, 2018
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

Under current law, no more than 50 percent of the basal area of trees may be cut within 150 feet of a public highway. This bill would remove that restriction as it applies to Class VI highways. Class VI highways are roads that are no longer maintained. It is not unusual for a Class VI highway to have forest land on both sides, sometimes owned by the same person, and, in fact, be overgrown itself. Existing law creates a wide swath that cannot be adequately harvested. It brings into question the ability to even maintain the road itself, an unintended consequence. This bill was supported by many foresters, the Timberland Owners Association, and the Division of Forests and Lands, NH Department of Natural and Cultural Resources.

Vote 18-0.

Rep. John Mullen
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Resources, Recreation and Development

SB 444, relative to cutting timber near certain waters and public highways. **OUGHT TO PASS.**

Rep. John Mullen for Resources, Recreation and Development. Under current law, no more than 50 percent of the basal area of trees may be cut within 150 feet of a public highway. This bill would remove that restriction as it applies to Class VI highways. Class VI highways are roads that are no longer maintained. It is not unusual for a Class VI highway to have forest land on both sides, sometimes owned by the same person, and, in fact, be overgrown itself. Existing law creates a wide swath that cannot be adequately harvested. It brings into question the ability to even maintain the road itself, an unintended consequence. This bill was supported by many foresters, the Timberland Owners Association, and the Division of Forests and Lands, NH Department of Natural and Cultural Resources. **Vote 18-0.**

Original: House Clerk

Cc: Committee Bill File

Voting Sheets

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on SB 444

BILL TITLE: relative to cutting timber near certain waters and public highways.

DATE: April 17, 2018

LOB ROOM: 305

MOTIONS: OUGHT TO PASS

Moved by Rep. Mullen

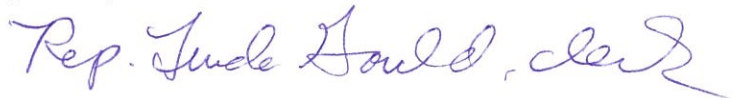
Seconded by Rep. Christensen

Vote: 18-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Rep. Linda Gould, Clerk". The signature is written in a cursive style with a long, sweeping tail.

Rep Linda Gould, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on SB 444

BILL TITLE: relative to cutting timber near certain waters and public highways.

DATE: 4/17/2018

LOB ROOM: 305

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. Mullen Seconded by Rep. Christensen Vote: 18-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR:

YES NO

Minority Report? Yes _____ No _____ If yes, author, Rep: Perotto Motion _____

Respectfully submitted: Rep Linda Gould, Clerk
Rep Linda Gould, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/5/2018 10:31:42 AM
Roll Call Committee Registers
Report

2018 SESSION

RR&D

Bill #: 444 Title: rel. to cutting timber near eastern water & public highways
PH Date: 3/20/2018 Exec Session Date: 2/17/2018
Motion: OTR Amendment #: _____

MEMBER	YEAS	NAYS
Christensen, Chris Chariman	✓	
Mullen, John A. Vice Chairman	✓	
Renzullo, Andrew	✓	
Gould, Linda Clerk	✓	
McConnell, James W.	✓	
Christie, Rick	✓	
Schleien, Eric T. <u>David Pierce</u>	✓	
Zaricki, Nick <u>Kurt Wuelper</u>	✓	
Horgan, James F. <u>A</u>		
Johnson, Tiffany	✓	
Rimol, Bob <u>Carolyn Matthews</u>	✓	
Smith, Suzanne J.	✓	
Spang, Judith J. <u>Karen Ebel</u>	✓	
Parkhurst, Henry A. L. <u>A</u>		
Thomas, Yvonne D.	✓	
Gottling, Suzanne H.	✓	
Maes, Kevin G.	✓	
Grassie, Chuck	✓	
Farnham, Betsey M.	✓	
Lisle, David	✓	
TOTAL VOTE:	18	0

Hearing Minutes

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON SB 444

BILL TITLE: relative to cutting timber near certain waters and public highways.

DATE: March 20, 2018

LOB ROOM: 305

Time Public Hearing Called to Order: 11:00

Time Adjourned: 11:35

Committee Members: Reps. Christensen, Mullen, Gould, Renzullo, McConnell, Christie, Vose, T. Johnson, Suzanne Smith, Y. Thomas, Maes, Grassie and Lisle

Bill Sponsors:

Sen. Giuda
Rep. Chandler
Rep. Theberge

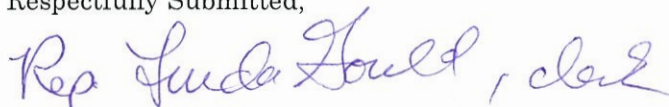
Sen. Innis
Rep. Richardson

Sen. Bradley
Rep. Pearl

TESTIMONY

- 1) Rep Gene Chandler, Presenting bill, An owner, may own both sides of a V1 road and can't do what they need to. Bill makes sense from a forestry standpoint, roads have been abandoned and should be able to be taken care of properly.
- *2) Brad Simpkins & Will Guinn, NH DNCR, Support, Dept enforces this
- *3) Jason Stock, Timberland Owners Assoc., Supports, Photos too
- 4) Tom Christensen- Tree Farmer, Lyndeborough, Supports, Tree farmer should have same ability as a regular "farmer".
- 5) Ron Klemarczyk, Self, Oppose as presented, manages forests for 6 towns it is an aesthetic issue as these roads are used for recreational purposes.
- *6) Dennis McKenney, Land Owner, Supports, This present law is outdated.
- *7) Shaun Lagueux, Self/NHFOA, Consultant in forestry law does not affect forest area along bodies of water. Thinks people now would tend to cut valuable trees. Stonewalls belong to landowners.
- 8) Stuart Bevin, Stillwater Forestry LLC, Supports, Consultant Supports bill because of efficiency. A person who owns the property should be able to do basically what he wants with proper practices.
- 9) Karla Allen, Gaeland Lumber, Supports Bill

Respectfully Submitted,



Rep Linda Gould, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON SB 444

BILL TITLE: relative to cutting timber near certain waters and public highways.

DATE: March 20, 2018

ROOM: 305

Time Public Hearing Called to Order: 11:00

Time Adjourned: 11:35

(please circle if present)

Committee Members: Reps. Christensen, Mullen, Gould, Renzullo, McConnell, Christie, Schleien, Zaricki, Vose, T. Johnson, Rimol, Suzanne Smith, Spang, Parkhurst, Y. Thomas, Gottling, Maes, Grassie, Farnham and Lisle

Bill Sponsors:

Sen. Giuda
Rep. Chandler
Rep. Theberge

Sen. Innis
Rep. Richardson

Sen. Bradley
Rep. Pearl

TESTIMONY

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

* Rep. Chandler - presenting bill

An owner may own both sides of a VI road & can't do what they need to. Bill makes sense from a forestry standpoint roads have been abandoned & should be able to be taken care of properly.

* Brad Simpkins - NH DNCR

Dept enforces this

* Jason Stock - Timberland ^{owners} assoc.

Photos too

supports Bill

② Tom Christenton - tree farmer, Lyndeborough.
supports

* tree farmer should have same ability as
a regular "farmer"

* Ron Klemarczyk - opposes as presented
manages forests for 6 towns

— it is an aesthetic issue as these
roads used for recreational purposes

— wants to amend it to 50' not 150'

* Dennis McKenney
Thinks present law is outdated

* Sharon Laqueux - consultant in forestry
law does not affect basal area along
bodies of water
Thinks people now would tend to cut valuable
trees
Strewalls belong to landowner

Stuart Bevin - consultant
supports bill because of efficiency
A person who owns the property should be able
to do basically what ^{he} wants with proper
practices

Karla Allen
supports bill

Testimony

**TITLE XIX-A
FORESTRY
CHAPTER 227-J
TIMBER HARVESTING**

*For Use With
SB 444*

Section 227-J:9

227-J:9 Cutting of Timber Near Certain Waters and Public Highways of the State; Penalty. –

I. Within a 12-month period, no more than 50 percent of the basal area of trees shall be cut or otherwise felled, leaving a well distributed stand of healthy, growing trees:

(a) Within 150 feet of:

- (1) Any great pond;
- (2) Any standing body of water 10 acres or more in area;
- (3) Any fourth order or higher stream; or
- (4) Any public highway; or

(b) Within 50 feet of:

- (1) Any stream, river, or brook not included in subparagraph (a)(3) which normally flows throughout the year; or
- (2) Any standing body of water less than 10 acres in area associated with a stream, river, or brook which normally flows throughout the year.

This paragraph shall not apply if the person who pushes over, cuts, saws, or operates upon, or causes to be pushed, cut, sawed, or operated upon, any trees described in subparagraphs (a) or (b), obtains the prior written consent of the director, or of the director's agents in accordance with paragraph V.

II. Timber cutting for land conversion purposes, other than timber growing and forest uses, shall be exempt from this section if those persons intending to convert the use of the land have secured all required local permits including, but not limited to, building, subdivision or zoning permits, excavation permits, or site plan approval necessary for the use to which the land will be converted, and are able to furnish proof of such permits.

III. No person shall clear land of natural vegetation on a given lot, tract, or parcel proposed for subdivision pursuant to RSA 485-A:32, unless such subdivision plan has been submitted and approved in accordance with the requirements of RSA 485-A.

IV. Timber cutting for land conversion purposes, other than timber growing and forest uses, that does not require any local permits shall be exempt from this section if conversion occurs within 180 days of exceeding the provisions in paragraph I, or there has been prior written consent to extend the 180-day period from the director or the director's agents in accordance with paragraph V.

V. (a) Before the director grants a request to exceed the limits established in this section, the landowner or authorized agent shall demonstrate that it is necessary to exceed such limits and that any and all actions are consistent with the purposes of this chapter. The director shall provide a standard request form for this purpose. This form shall be submitted to the director or the director's agents at least 30 days prior to commencing the timber cutting operation.

(b) Failure of the division to act upon the request within 30 days shall serve as automatic approval.

VI. (a) Any person who violates the provisions of this section shall be guilty of a misdemeanor.

(b) Each 200 linear feet or fraction thereof of frontage on the affected great pond, any standing body of water 10 acres or more in area, fourth order stream or higher, or public highway, or any other stream, river or brook which normally flows throughout the year or standing body of water less than 10 acres in size associated with a stream, river or brook which normally flows throughout the year, from which trees are cut in excess of limits prescribed in this section shall constitute a separate offense.

VII. This section shall be enforceable by the municipality in which the land is situated; provided, however, that before initiating any enforcement action, the municipality shall notify the director, who shall take action to the extent the director deems necessary to ensure uniform statewide enforcement. If, within 10 days of notification to the director, no enforcement action has been taken by the director or the director's agent, the municipality may

proceed with actions necessary to ensure compliance with the law.

VIII. Forest management not associated with shoreland development nor land conversion and conducted in compliance with the provisions of this section shall be exempt from the provisions of RSA 483-B.

Source. 1995, 299:1. 1996, 86:1, eff. Jan. 1, 1997.

.....

TITLE XX TRANSPORTATION

CHAPTER 229 HIGHWAY SYSTEM IN THE STATE

Section 229:5

229:5 Classification. –

Highways of the state shall be divided into 7 classes as follows:

I. Class I highways shall consist of all existing or proposed highways on the primary state highway system, excepting all portions of such highways within the compact sections of the cities and towns listed in RSA 229:5, V, provided that the portions of the turnpikes and the national system of interstate and defense highways within the compact sections of these cities and towns shall be class I highways.

II. Class II highways shall consist of all existing or proposed highways on the secondary state highway system, excepting all portions of such highways within the compact sections of the cities and towns listed in RSA 229:5, V.

III. Class III highways shall consist of all recreational roads leading to, and within, state reservations designated by the legislature.

III-a. Class III-a highways shall consist of new boating access highways from any existing highway to any public water in this state. All class III-a highways shall be limited access facilities as defined in RSA 230:44. Class III-a highways shall be subject to the layout, design, construction, and maintenance provisions of RSA 230:45-47 and all other provisions relative to limited access facilities, except that the executive director of the fish and game department shall have the same authority for class III-a highways that is delegated to the commissioner of the department of transportation for limited access facilities. A class III-a highway may be laid out subject to the condition that it shall not be maintained during the winter months. A class III-a highway may be laid out subject to gates and bars or restricted to the accommodation of persons on foot, or certain vehicles, or both, if federal funds are not used. The executive director of fish and game may petition the governor and council to discontinue any class III-a highway.

IV. Class IV highways shall consist of all highways within the compact sections of cities and towns listed in RSA 229:5, V. The compact section of any such city or town shall be the territory within such city or town where the frontage on any highway, in the opinion of the commissioner of transportation, is mainly occupied by dwellings or buildings in which people live or business is conducted, throughout the year and not for a season only. Whenever the commissioner reclassifies a section of a class I or class II highway as a class IV highway, the commissioner shall prepare a statement of rehabilitation work which shall be performed by the state in connection with the turnback. No highway reclassification from class I or II to class IV shall take effect until all rehabilitation needed to return the highway surface to reputable condition has been completed by the state.

Rehabilitation shall be completed during the calendar year preceding the effective date of the reclassification. A copy of the commissioner's statement of work to be performed by the state shall be attached to the notification of reclassification to class IV, and receipt of said statement shall be acknowledged, in writing, by the selectmen of the town, or the mayor of the city, affected by the reclassification.

V. The commissioner of transportation may establish compact sections in the following cities and towns:

Amherst Keene
Bedford Laconia
Berlin Lebanon
Claremont Londonderry
Concord Manchester
Derry Merrimack
Dover Milford
Durham Nashua
Exeter Pelham
Franklin Portsmouth
Goffstown Rochester
Hampton Salem
Hanover Somersworth
Hudson

VI. Class V highways shall consist of all other traveled highways which the town has the duty to maintain regularly and shall be

NEW ENGLAND FORESTRY CONSULTANTS, INC.

Shaun Lagueux
Consulting Forester
70 Overlook Drive
Bristol, New Hampshire 03222

Mobile: (603) 481-2549
E-mail: shaunlagueux@gmail.com

Rep. Chris Christensen, Chairman
N.H. House of Representatives Resources, Recreation, and Development Committee
Room 305, Legislative Office Building
Concord, NH, 03301

Dear Chairman Christensen,

I speak today in support of SB444 to remove the basal area restriction along Class VI roads.

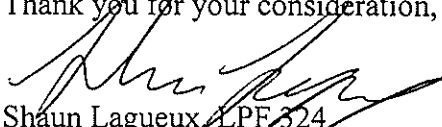
In my professional duties and as incoming president of the New Hampshire Timberland Owners Association, I have been very interested in this subject. I am often frustrated with this restriction as it limits professional and responsible options in this so-called beauty strip area. Basal area restrictions along wetlands and water bodies are based in science, while those along roads are based on a perception of what people think looks good. Professionals see the difference, especially along these remote, unmaintained roads.

This bill, if adopted would be beneficial in the following ways:

- It would reduce unnecessary regulatory burdens from small businesses and landowners.
- It would promote good forestry by allowing the same science based options being used on the rest of the property in the areas restricted by the current basal area law.
- It would actually reduce instances of high grading in these zones by removing the incentive to only cut the most valuable trees in these strips.
- This would take some of the workload off of the Division of Forests and Lands, which is in support of this bill.

This bill will not change the basal area law for maintained roads. It does not change the basal area restrictions along wetlands. This bill also does nothing to change any access to the public along these unmaintained roads.

Thank you for your consideration,


Shaun Lagueux, LPF 324

From: Scott Rineer [scott@wagnerforest.com]
Sent: Monday, March 19, 2018 4:42 PM
To: ~House Resources Recreation and Development
Subject: Support for Senate Bill 444

Representative Chris Christensen, Chairman N.H. House of Representatives Resources, Recreation and Development Committee Room 305, Legislative Office Building Concord, NH 03301

To all Representatives of the Resources, Recreation and Development Committee,

My name is Scott Rineer and I am a licensed forester from Errol, NH. I have worked for Wagner Forest Management, Ltd., for over 20 years, predominately in the northern half of the state, managing over 125,000 acres for several private landowners. Although many of the towns with vast acreage of timberland in the North Country are unincorporated, there are still large parcels of timberlands in towns like Shelburne, Milan, Bethlehem and Berlin which are accessed from town maintained roads. For this reason, I ask for your support of Senate Bill 444. I find this to be a common sense bill that will enable foresters throughout the state to work effectively to manage client lands, especially those adjacent to, or surrounding, unmaintained class VI roads. Often times, our silvicultural prescriptions along these roads are guided by aesthetic standards rather than proper forest management and wildlife habitat standards. Although a waiver process is available, my experience has been that NH Division of Forest & Lands staff is reluctant to issue such waivers, as it takes time and important resources to conduct these assessments. They typically do not want to "upset the apple cart" so to speak and grant such waivers, even though they fully see the intended need to harvest within these roadside buffers.

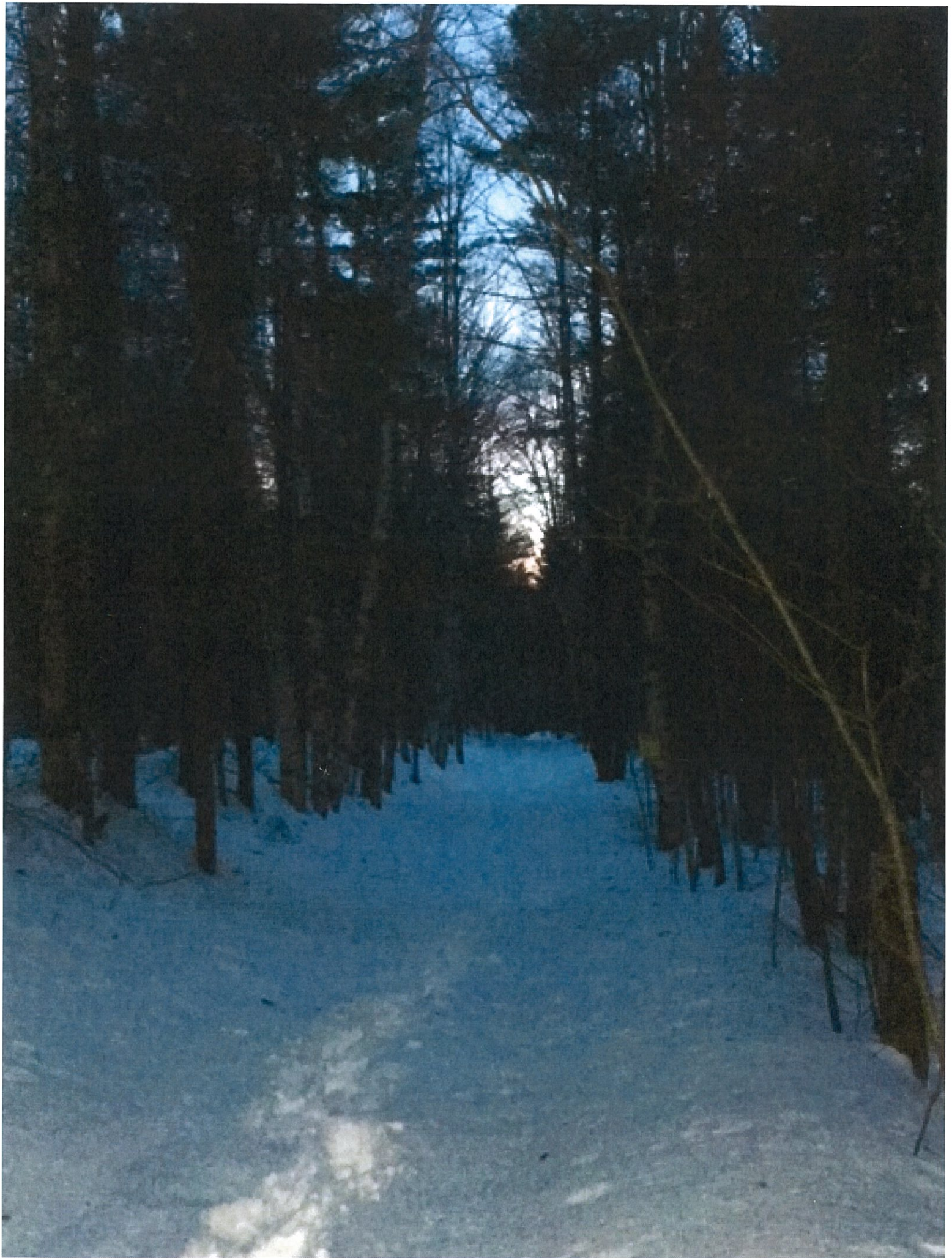
I have had a few cases where maintaining the roadside buffers along a class VI town road has led to an impact to my clients property. One such instance was in the town of Shelburne, where over-mature white pine later blew over in a wind event. Not only did this require the burden of a high-cost, low-volume salvage harvest, these pine blew over into the road and impeded access to my clients property as well as that of other adjacent landowners, some of whom had hunting camps. Another case in the town of Sandwich, involved extensive survey and deed research to properly locate the class VI town road on my clients property. Town records were so old and the road was unmaintained for so long that 10-12 inch trees were now growing in the old roadway. This class VI town road could only be used as a skid trail, but still required a buffer along either side, though it no longer was navigable by motorized vehicle.

Passing Senate Bill 444 would be a step in the right direction for the management of forests in our great state. I would like to thank you for your consideration and I ask for your support of Senate Bill 444.

Respectively,

Scott D. Rineer
Errol, NH resident
NH Licensed Forester # 344
Regional Manager - Wagner Forest Management, Ltd.





High Ridge Tree Farm

1999 New Hampshire Outstanding Tree Farmers

Tom & Ginny Chrisenton PO Box 121, Lyndeborough, NH 03082 (603) 554-7554

March 19, 2018

The Honorable Chris Christensen, Chairman
Resources, Recreation and Development Committee

Dear Representative Christensen, Chairman,

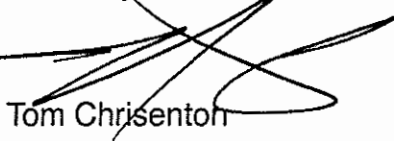
I am writing you in support of SB 444 now before your committee.

If all the forest management rules are followed there should be no reason why a landowner cannot manage their land to fit their forest management goals. After all, forestry and agricultural are all "farming" under state law. If a farmer can farm a crop without this limitation why should a tree farmer be limited?

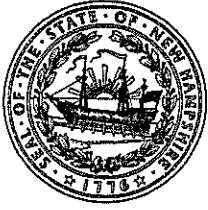
I see this issue as simple as that.

Thank you for your consideration and attention on this matter and feel free to contact me at any time.

Sincerely,



Tom Chrisenton



STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
DIVISION of FORESTS and LANDS

172 PEMBROKE ROAD CONCORD, NEW HAMPSHIRE 03301
PHONE: (603) 271-2214 FAX: (603) 271-6488 WWW.NHDFL.ORG

The Honorable Chris Christensen, Chairperson
New Hampshire House of Representatives
Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03302

March 20th, 2018

Re: SB 444-An act relative to cutting timber near certain waters and public highways.

Dear Chairperson Christensen and Members of the Committee,

Thank you for the opportunity to testify regarding HB 444, relative to cutting timber near certain waters and public highways. The Department of Natural and Cultural Resources, Division of Forests and Lands, supports this bill.

The Division of Forests and Lands is the state agency with primary statutory authority for the protection, management and conservation of our forest resources. One of the laws we enforce is the requirement to leave a certain buffer of standing, well-distributed trees along public highways and waterbodies (RSA 227-J:9). The law prohibits the removal of more than 50% of the basal area of trees in any given year. This bill would remove that requirement just along Class VI highways.

The division feels it is very important to maintain forested buffers along waterbodies from an environmental standpoint, such as maintaining water quality and temperature, wildlife corridors, etc. The requirement to maintain a forested buffer along public highways is primarily an aesthetic reason, not environmental. That said, one of our statutory purposes for maintaining forest cover is for "scenic values" (RSA 227-J:1), and tourism plays an important role in our economy. However, the division feels the requirement to maintain a forested buffer along Class VI highways, with their primitive and sometimes impassable condition, could be removed without any material impact to the purposes for which the law was originally developed.

This bill, in addition to removing a regulatory step for landowners, foresters and loggers, would reduce some staff time by not having to review and enforce basal area variance requests along Class VI highways.

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

Respectfully,

Brad W. Simpkins
Director

**New Hampshire Department of Natural and Cultural Resources
Division of Forests and Lands**

Basal Area Variances: 2016-2017

TOTAL NUMBER OF BASAL AREA VARIANCES REQUESTED/REVIEWED	79
NUMBER OF REQUESTS ALONG CLASS SIX ROADS	12
NUMBER APPROVED	11
NUMBER DENIED	1

Conditions Required to Exceed 50 Percent Basal Area (Res 5302.01)

One or more of the following conditions shall exist in order to qualify for approval to exceed 50 percent basal area:

- (a) Cutting up to and including 50 percent of the basal area of trees shall lead to substantial windthrow, mortality or other damage in the residual stand due to stand exposure, shallow or wet soils, stand age or species composition or a combination of these factors;
- (b) Salvage of timber is due to damage from fire, insects, diseases, ice, snow, wind or other such natural occurrences;
- (c) Public safety is of a prime consideration, due to heavy conifer cover on the south side of major travel routes causing serious icing conditions;
- (d) The location of clearings for log yards and truck routes within applicable areas is necessary due to terrain, wet soils, property boundaries, and other site conditions;
- (e) Cutting is for the purpose of improving wildlife habitat and can be demonstrated to be part of a long term forest management plan or strategy;
- (f) Cutting is for the purpose of a silvicultural strategy or forest management plan for the regeneration of certain forest types requiring removal of overstory trees;
- (g) Cutting is for the purpose of a scenic vista or view, providing the area remains in natural vegetation and the purpose is to provide a public benefit;
- (h) Cutting is for the purpose of removing vegetation or trees within 150 of an existing dwelling or permanent structure or within 75 feet of the edge of an active agricultural field or crop land, so long as it does not violate the provisions of RSA 483-B; and
- (i) Cutting is consistent with the purpose of RSA 227-J:1 as determined by the director.

Basal Area Law Enforcement: 2016 - 2017

YEAR	ROADSIDE CASES	STREAM/POND CASES	UNSPECIFIED CASES	TOTAL J:9 CASES
2017	2	4	4	10
2016	7	14	6	27
TOTAL CASES	9	18	10	37
AVERAGE	4.5	9	5	18.5

- Roadside cases are not broken down by highway class.
- Some cases did not reference roadside or stream side, and are listed under unspecified.



March 20, 2018

Representative Chris Christensen, Chairman
N.H. House of Representatives Resources, Recreation and Development Committee
Room 305, Legislative Office Building
Concord, NH 03301

RE: Senate Bill 444, *AN ACT relative to cutting timber near certain waters and public highways*

Dear Chairman Christensen and members of the Committee:

The New Hampshire Timberland Owners Association (NHTOA) appreciates the opportunity to speak in support of Senate Bill 444, *AN ACT relative to cutting timber near certain waters and public highways*.

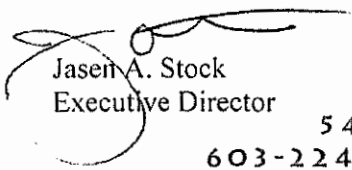
Founded in 1911, the NHTOA represents forest landowners and the forest products industry in New Hampshire. This sector of New Hampshire's economy represents the third-largest sector of manufacturing in the state. According to the North East *State Foresters Association's* 2013 report, The Economic Importance of New Hampshire's Forest-Based Economy, 2013 New Hampshire's forest products industry employs more than 7,700 people directly, and contributes \$1.394 billion dollars to the state's economy, which is supported by 4,638,230 acres of publicly and privately owned timberland.

Senate Bill 444 removes the state regulatory basal area (basal area is the cross-section of the standing timber measured at breast height) restriction adjacent to Class VI roads. Class VI roads are public rights of way subject to gates and bars. A right of way becomes a Class VI road either through a vote at Town Meeting or after five years of no municipal investment or maintenance. Because they are generally not maintained, Class VI roads are typically difficult to travel upon (in many cases impassable). But because a Class VI road is a "public highway" by definition, it is subject to New Hampshire's basal area laws. This law stipulates no more than half of the basal can be removed in any year within 150 feet.

The NHTOA is seeking this change to the basal area law because we do not believe it makes sense to maintain an aesthetic standard adjacent to a road that a town has decided it no longer wants to maintain and in many instances is impassable. Moreover, complying with this law hinders good forest management, since silvicultural prescriptions must be modified to meet the aesthetic standard as opposed to attaining forest regeneration and forest health goals.

Again, the NHTOA thanks you for the opportunity to speak in support of Senate Bill 444 and ask that you vote Ought To Pass (OTP) on this legislation.

Thank you,


Jason A. Stock
Executive Director

54 PORTSMOUTH ST., CONCORD, NH 03301
603-224-9699 • FAX 603-225-5898 • WWW.NHTOA.ORG

Growing Leadership for New Hampshire's Forests

NEW ENGLAND FORESTRY CONSULTANTS, INC.

Dennis D. McKenney, Gabe Horton & Daniel D. Reed
Consulting Foresters and Land Surveyor
569 North Bennington Road
Bennington, New Hampshire 03442-4505

Telephone (603) 588-2638 voice and fax E-mail: dennis_mckenney@comcast.net; dreed@cforesters.com
Internet: www.cforesters.com

March 20, 2018

To: House Resources, Recreation and Development Committee
From: Dennis D. McKenney, Licensed Professional Forester, NH #61

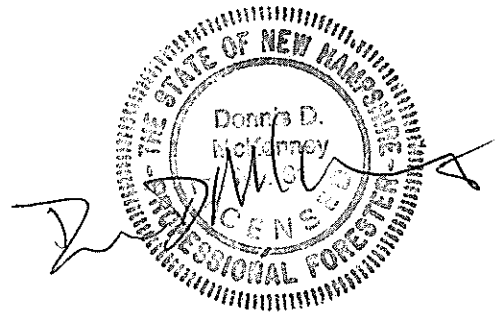
Re: SB 444—relative to cutting timber near certain waters and public highways

Thank you for your service to the citizens of New Hampshire and the opportunity to provide testimony in favor of Senate Bill 444.

I support passage of the bill for the following reasons:

1. This bill is timely as the basal area provision along all highways but in this case Class VI highways in an anachronism.
2. The present law encourages me to cut the best trees and leave poorer quality or trees that area a challenge to remove to comply with the letter of the law.
3. I believe the present law creates or encourages the retention of many roadside trees that are a hazard to our utility infrastructure. While this is not often the case on a Class VI highway, it typically is along other public highways. Thus, my contention that the law is generally out of date.
4. I do not expect the revision under your consideration would materially affect the scenic values along Class VI highways or the recreational enjoyment of those traveling these particular public highways.

Again, thank you for your service to the citizens of NH and your careful deliberation as regards this specific legislation.



Ronald J. Klemarczyk
24 Spring Street, PO Box 161
Contoocook NH 03229

March 20, 2018

Dear Committee Members,

Since I began my forestry career over forty years ago, I have noticed that forest recreation has played an ever increasing role in my work. Starting in the late 1980's, I began to acquire cities and towns as clients and helped them manage their Town and City Forests. A lot of my work of late has involved laying out and constructing hiking trails as well as multiple-use trails, often incorporating logging roads and Class VI roads.

Senate Bill #444 was introduced to eliminate the basal area restriction for timber harvesting along Class VI Roads. Basal area is the surface measurement of the cross-section of a tree four feet from the ground. Currently, a landowner is allowed to cut only 50% of the basal area along a public streets, road and highways, including Class VI roads for a depth of 150 feet off of the road. In other words, if all the trees were the exact same size, a landowner could only cut half of them. Few forests are like that so a landowner usually has the choice of either cutting a few big trees and leaving a lot of smaller ones, or cutting a lot of smaller ones and leaving the big ones, or doing a combination of both. Either way, they could only cut half of the total basal area, though there is a variance procedure if a heavier cut is truly warranted.

As you may know, Class VI roads are heavily used for recreational trails, especially in the southern part of the State where woodlots are smaller; the land is more developed; and public access to land is somewhat limited. Many of the Class VI roads are lined with stone walls and old, sometimes ancient, trees making for an aesthetically pleasing walk. Numerous Town and City Forests that I manage are solely accessed by Class VI Roads. My fear is that if the basal area requirement on Class VI roads is eliminated, it will allow landowners to clear-cut the forest right up to the road as well as trees within the public right-of-way. This could also disturb or destroy the stone walls along the road as well as increasing the chance of skidding trees on the roadbed itself. I am not saying that this will automatically be a widespread problem, but it has the potential to create severe aesthetic issues along some of the States Class VI roads and become a detriment to the State's tourism industry. I understand why the bill was introduced, but feel that the public benefit of having the aesthetics protected along Class VI roads, many of which are considered historic, outweigh the few extra dollars a landowner may make by clear-cutting along them.

I strongly recommend that your committee amend the bill to reduce basal area requirement from 150 feet to just 50 feet off of a Class VI road instead of eliminating it. That way, the landowner can cut more of their timber, yet the stone walls and some of the trees along the road will still be protected.

Thank you for your time and consideration. I can be reached by phone at 603-746-4846 or by E-mail at ronklem1@gmail.com if you have any questions.

Sincerely,



Ronald J. Klemarczyk
Licensed Professional Forester #116

Bill as
Introduced

SB 444 - AS INTRODUCED

2018 SESSION

18-2741
08/03

SENATE BILL **444**

AN ACT relative to cutting timber near certain waters and public highways.

SPONSORS: Sen. Giuda, Dist 2; Sen. Innis, Dist 24; Sen. Bradley, Dist 3; Rep. Chandler, Carr. 1; Rep. Richardson, Coos 4; Rep. Pearl, Merr. 26; Rep. Theberge, Coos 3

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill makes an exception to the restriction of the amount of trees that may be cut by certain highways.

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 Eighteen

AN ACT relative to cutting timber near certain waters and public highways.

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

1 1 Cutting of Timber Near Certain Public Highways. Amend RSA 227-J:9, I(a)(4) to read as
2 follows:

3 (4) Any public highway, *except class VI highways, as defined in RSA 229:5,*
4 *VII;* or

5 2 Effective Date. This act shall take effect January 1, 2019.