

Bill as
Introduced

HB 614-FN - AS AMENDED BY THE HOUSE

20Mar2019... 0791h

2019 SESSION

19-0506
08/05

HOUSE BILL

614-FN

AN ACT

increasing penalties and fines for air pollution and water pollution.

SPONSORS:

Rep. Rung, Hills. 21; Rep. Backus, Hills. 19; Rep. Danielson, Hills. 7; Sen. Fuller
Clark, Dist 21

COMMITTEE:

Science, Technology and Energy

AMENDED ANALYSIS

This bill increases penalties and fines for air pollution and water pollution.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT increasing penalties and fines for air pollution and water pollution.

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

1 1 Air Pollution Control; Penalties. Amend RSA 125-C:15, I-b-IV to read as follows:

2 I-b. The commissioner of the department of environmental services, after notice and
3 hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed [~~\$2,000~~] **\$4,000**
4 for each offense upon any person who violates any provision of this chapter, any rule adopted
5 pursuant to this chapter, or any permit, compliance schedule, stop use order, or order of abatement,
6 issued pursuant to this chapter; or upon any person who makes or certifies a material false
7 statement relative to any document or information which is required to be submitted to the
8 department pursuant to this chapter or any rule adopted pursuant to this chapter. Rehearings and
9 appeals from a decision of the commissioner under this paragraph shall be in accordance with RSA
10 541. Any administrative fine imposed under this paragraph shall not preclude the imposition of
11 further penalties under this chapter. The proceeds of administrative fines imposed pursuant to this
12 paragraph shall be deposited in the general fund.

13 (a) Notice and hearing prior to the imposition of an administrative fine shall be in
14 accordance with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA
15 541-A:16.

16 (b) The commissioner shall determine fines based on the following:

17 (1) For a minor deviation from a requirement causing minor potential for harm, the
18 fine shall be not less than \$100 and not more than [~~\$1,000~~] **\$2,000**.

19 (2) For a minor deviation from a requirement causing moderate potential for harm,
20 the fine shall be not less than \$601 and not more than [~~\$1,250~~] **\$2,500**.

21 (3) For a minor deviation from a requirement causing major potential for harm, the
22 fine shall be not less than \$851 and not more than [~~\$1,500~~] **\$3,000**.

23 (4) For a moderate deviation from a requirement causing minor potential for harm,
24 the fine shall be not less than \$601 and not more than [~~\$1,250~~] **\$2,500**.

25 (5) For a moderate deviation from a requirement causing moderate potential for
26 harm, the fine shall be not less than \$851 and not more than [~~\$1,500~~] **\$3,000**.

27 (6) For a moderate deviation from a requirement causing major potential for harm,
28 the fine shall be not less than \$1,251 and not more than [~~\$1,750~~] **\$3,500**.

29 (7) For a major deviation from a requirement causing minor potential for harm, the
30 fine shall be not less than \$851 and not more than [~~\$1,500~~] **\$3,000**.

31 (8) For a major deviation from a requirement causing moderate potential for harm,

1 the fine shall be not less than \$1,251 and not more than [~~\$1,750~~] \$3,500.

2 (9) For a major deviation from a requirement causing major potential for harm, the
3 fine shall be not less than \$1,501 and not more than [~~\$2,000~~] \$4,000.

4 (c) The commissioner may assess an additional fine for repeat violations.

5 (d) *Each day of violation shall constitute a separate offense.*

6 II. Any violation of the provisions of this chapter, or of any rule adopted or order issued
7 under it, or of any condition in a permit issued under it, shall be subject to enforcement by
8 injunction, including mandatory injunction, issued by the superior court upon application of the
9 attorney general. Any such violation shall also be subject to a civil forfeiture to the state of not
10 more than [~~\$25,000~~] \$50,000 for each violation, and for each day of a continuing violation.

11 III. Any person who violates any of the provisions of this chapter, or any rule adopted or
12 order issued under this chapter, or any condition of a permit issued under this chapter shall be
13 guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

14 IV. Notwithstanding RSA 651:2, any person may, in addition to any sentence of
15 imprisonment, probation, or conditional discharge, be fined not more than [~~\$25,000~~] \$50,000 if
16 found guilty of any violation pursuant to RSA 125-C:15, III. Each day of violation shall constitute a
17 separate offense.

18 2 Acid Rain Control Act. Amend RSA 125-D:4 to read as follows:

19 125-D:4 Administrative Fines. The commissioner of the department of environmental services,
20 after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed
21 [~~\$2,000~~] \$4,000 for each offense upon any person who violates any provision of this chapter, any
22 rule adopted pursuant to this chapter, or any permit or order issued pursuant to this chapter; or
23 upon any person who makes or certifies a material false statement relative to any document or
24 information which is required to be submitted to the department pursuant to this chapter or any
25 rule adopted pursuant to this chapter. Rehearings and appeals from a decision of the commissioner
26 under this section shall be in accordance with RSA 541. Any administrative fine imposed under
27 this section shall not preclude the imposition of further penalties under this chapter. The proceeds
28 of administrative fines imposed pursuant to this section shall be deposited in the general fund.

29 I. Notice and hearing prior to the imposition of an administrative fine shall be in
30 accordance with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA
31 541-A:16.

32 II. The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b) *and*
33 (d).

34 III. The commissioner may assess an additional fine for repeat violations.

35 3 Air Toxic Control Act. Amend the introductory paragraph of RSA 125-I:3-a to read as follows:

36 The commissioner of the department of environmental services, after notice and hearing
37 pursuant to RSA 541-A, may impose an administrative fine not to exceed [~~\$2,000~~] \$4,000 for each
38 offense upon any person who violates any provision of this chapter, any rule adopted pursuant to

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- Page 3 -

1 this chapter, or any permit or order issued pursuant to this chapter; or upon any person who makes
2 or certifies a material false statement relative to any document or information which is required to
3 be submitted to the department pursuant to this chapter or any rule adopted pursuant to this
4 chapter. Rehearings and appeals from a decision of the commissioner under this section shall be in
5 accordance with RSA 541. Any administrative fine imposed under this section shall not preclude
6 the imposition of further penalties under this chapter. The proceeds of administrative fines
7 imposed pursuant to this section shall be deposited in the general fund.

8 4 Asbestos Management and Control; Administrative Penalties and Fines. Amend RSA 141-
9 E:16, I(a) to read as follows:

10 141-E:16 Administrative Fines.

11 I.(a) The commissioner, after notice and hearing pursuant to RSA 541-A, may impose an
12 administrative fine not to exceed [~~\$2,000~~] \$4,000 for each offense upon any person who violates any
13 provision of RSA 141-E:3 or any rule adopted by the commissioner under this chapter; or upon any
14 person who makes or certifies a material false statement relative to any document or information
15 which is required to be submitted to the department pursuant to this chapter or any rule adopted
16 pursuant to this chapter. Rehearings and appeals from a decision of the commissioner under this
17 paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this
18 paragraph shall not preclude the imposition of further penalties under this chapter. The proceeds
19 of administrative fines levied pursuant to this paragraph shall be deposited by the commissioner in
20 the fund established by RSA 141-E:12, II.

21 5 Oil Spills; Penalties. Amend RSA 146-A:14, II-a to read as follows:

22 II-a. Any person who discharges or spills oil into or onto the surface water or groundwater
23 of the state or in a land area where the oil will ultimately seep into such waters or any person who
24 violates any provision of this chapter or any rule adopted under the provisions of this chapter shall
25 be subject to a civil penalty not to exceed [~~\$10,000~~] \$20,000 for each violation. Each day of a
26 continuing violation shall count as a separate violation. Civil penalties for violation of any rule
27 adopted under the provisions of this chapter shall not accrue until the department provides
28 notification of such violation. The attorney general may bring an action for injunctive relief,
29 including a mandatory injunction.

30 6 Oil Discharge or Spillage in Surface Water or Groundwater. Amend the introductory
31 paragraph of RSA 146-A:15, I to read as follows:

32 I. The commissioner of the department of environmental services, after notice and hearing
33 pursuant to RSA 541-A, may impose an administrative fine not to exceed [~~\$2,000~~] \$4,000 for each
34 offense upon any person who violates any provision of this chapter including any rule adopted
35 under the provisions of this chapter *or any order or permit issued under this chapter. Each*
36 *day of the violation shall constitute a separate offense.* Rehearings and appeals from a
37 decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any
38 administrative fine imposed under this section shall not preclude the imposition of further penalties

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1 under this chapter. The commissioner shall adopt rules, under RSA 541-A, relative to:

2 7 New Hampshire Safe Drinking Water Act; Penalties. Amend RSA 485:58, IV-VII to read as
3 follows:

4 IV. Any person who violates any provision of this chapter or any rule adopted or any term
5 or condition of an approval, exemption, variance or order issued under this chapter shall be liable to
6 the state, upon suit brought by the attorney general, for a civil forfeiture in an amount not to
7 exceed [~~\$25,000~~] \$50,000 for each day of such violation.

8 V. The commissioner of environmental services, after notice and hearing pursuant to RSA
9 541-A, may impose an administrative fine not to exceed [~~\$2,000~~] \$4,000 for each offense upon any
10 person who violates any provision of this chapter including any rule adopted under the provisions of
11 this chapter *or any order or permit issued under this chapter. Each day of violation shall*
12 *constitute a separate offense.* Rehearings and appeals from a decision of the commissioner under
13 this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this
14 section shall not preclude the imposition of further penalties under this chapter. The proceeds of
15 administrative fines levied pursuant to this paragraph shall be deposited by the department in the
16 general fund. The commissioner shall adopt rules, under RSA 541-A, relative to:

17 (a) A schedule of administrative fines which may be imposed under this paragraph for
18 violations of this chapter as provided above.

19 (b) Procedures for notice and hearing prior to the imposition of an administrative fine.

20 VI. Any act or failure to act in violation of RSA 485:8, II; 31; 42; 43; 46; or 48; or any rule
21 adopted under RSA 485:2; 3; 4; 40; 41; 44; or 47 may be enjoined.

22 VII. Notwithstanding RSA 651:2, any person may, in addition to any sentence of
23 imprisonment, probation or conditional discharge, be fined not more than [~~\$25,000~~] \$50,000 if found
24 guilty of any violation of paragraph II or III of this section. The court may also order the person to
25 pay the costs of remediation. Each day of violation shall constitute a separate offense.

26 8 Groundwater Protection Act; Penalties and Fines. Amend RSA 485-C:18-19 to read as
27 follows:

28 485-C:18 Administrative Fines. The commissioner, after notice and hearing pursuant to RSA
29 541-A, may impose an administrative fine not to exceed [~~\$2,000~~] \$4,000 for each offense upon any
30 person who violates any provision of this chapter or any rule, permit or order adopted or issued
31 under this chapter. *Each day of violation shall constitute a separate offense.* Rehearings and
32 appeals from a decision of the commissioner under this section shall be in accordance with RSA 541.
33 Any administrative fine imposed under this section shall not preclude the imposition of further
34 penalties under this chapter. The commissioner shall adopt rules, under RSA 541-A, relative to:

35 I. A schedule of administrative fines which may be imposed under this section for violation
36 of this chapter.

37 II. Procedures for notice and hearing prior to the imposition of an administrative fine.

38 485-C:19 Penalties and Other Relief.

1 I. Any person who knowingly violates this chapter; or any rule, permit, or order adopted or
 2 issued under this chapter; or who knowingly or recklessly makes any material false statement in
 3 any document required to be filed or maintained pursuant to this chapter; or who knowingly or
 4 recklessly renders inaccurate, falsifies, or tampers with any monitoring device or method required
 5 under this chapter; or who knowingly fails, neglects, or refuses to obey any lawful order of the
 6 department, shall be guilty of a misdemeanor if a natural person, and a felony if any other person.
 7 Such person shall also be subject to a civil penalty not to exceed [~~\$25,000~~] \$50,000 for each violation
 8 or for each day of a continuing violation.

9 II. Any person who violates this chapter or a rule, permit, or order adopted or issued under
 10 this chapter, shall be subject to a civil penalty not to exceed [~~\$10,000~~] \$20,000 for each violation or
 11 for each day of a continuing violation. Such violation may also be enjoined by the superior court
 12 upon application of the attorney general.

13 9 Water Management; Penalties and Compliance. Amend RSA 488:7-8 to read as follows:

14 488:7 Compliance.

15 I. Registration and withdrawal of water under RSA 488:3 shall be deemed to grant
 16 permission to the department to enter onto the registered property to review compliance with the
 17 provisions of the registration.

18 II. Upon obtaining credible information that any person is not registered in accordance with
 19 RSA 488:3, I and is withdrawing, discharging, or transferring a cumulative amount of more than
 20 20,000 gallons of water per day, averaged over any 7-day period, or more than 600,000 gallons of
 21 water over any 30-day period, at a single real property or place of business, the department may
 22 obtain an administrative inspection warrant in accordance with RSA 595-B to determine compliance
 23 with the registration requirements.

24 *III. The commissioner may issue an order to any person who violates this chapter,*
 25 *or any rule or permit authorized under this chapter, and require such actions as may be*
 26 *necessary. Any order issued by the department pursuant to this chapter may be recorded*
 27 *in the registry of deeds for the county in which the subject facility or property is situated.*
 28 *A recorded order shall run with the land; provided, that an appropriate description of the*
 29 *land involved including the accurate name of the owner thereof is included in the order.*
 30 *No fee shall be charged for recording an order; however, a fee may be charged for*
 31 *discharging an order.*

32 *IV. If the department finds that an emergency exists requiring immediate action to*
 33 *protect the public safety, it may issue an order stating that an emergency exists and*
 34 *requiring that such action be taken as necessary to meet the emergency. Any person to*
 35 *whom such an order is directed shall comply immediately, but may appeal to the water*
 36 *council established under RSA 21-O:7.*

37 488:8 Administrative Fines.

38 I. The commissioner, after notice and hearing pursuant to RSA 541-A, may impose an

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1 administrative fine not to exceed [~~\$2,000~~] \$4,000 for each offense upon any person who knowingly:

2 (a) Violates any provision of this chapter or any rule or order adopted or issued under
3 it.

4 (b) Makes any material false statement in any document required to be filed or
5 maintained.

6 (c) Renders inaccurate, falsifies, or tampers with any monitoring device or method.

7 II. Rehearings and appeals from a decision of the commissioner under this section shall be
8 in accordance with RSA 541.

9 III. Any administrative fine imposed under this section shall not preclude the imposition of
10 further penalties under this chapter. The commissioner may assess additional fines upon any
11 person who has received written notification from the department regarding violations of the
12 provisions of this chapter or rules adopted pursuant to this chapter, if the violations have not been
13 mitigated within 30 days of receipt of notification.

14 *IV. Each day of violation shall constitute a separate offense.*

15 10 Effective Date. This act shall take effect January 1, 2020.

HB 614-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2019-0791h)

AN ACT increasing penalties and fines for air pollution and water pollution.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	\$0	\$0	\$0
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General Asbestos Fund	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill increases the penalties for air pollution. The Department of Environmental Services states this bill would double the maximum penalties established in RSA 125-C only. The Department indicates the Division of Air Resources has authority to impose penalties pursuant to several other statutes which reference the amounts in RSA 125-C. These include:

- RSA 125-D:4 (Acid Rain)
- RSA 125-I:3-a (Air Toxics)
- RSA 125-M:6 (Mercury)
- RSA 141-E:16 (Asbestos)

As amended by the House, the bill would also double the potential penalties established in RSA 146-A:14, II-a, RSA 146-A:15, and RSA 485-C:18-19 administered by the Department's Waste Management Division and penalties in RSA 485:58, IV-VII and RSA 488:7-8 administered by the Water Division. Money received from the penalties imposed under these laws is deposited into the general fund except for amounts received under RSA 141-E:16 which is deposited in the asbestos fund. The Department indicates, while the bill would double the maximum fine amounts, it is not necessarily the case that penalties actually imposed would double. Therefore

the amount of additional revenue that would be received by the general fund and the asbestos fund is indeterminable. In addition, the bill specifies that each day of violation shall constitute a separate offense which could significantly increase the amount of fines. The Department does not expect state expenditures or county and local revenue would be impacted by the bill. The number of potential violations attributable to county and local governments cannot be predicted, therefore the impact on county and local expenditures is indeterminable.

AGENCIES CONTACTED:

Department of Environmental Services

HB 614-FN - AS AMENDED BY THE SENATE

20Mar2019... 0791h
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HOUSE BILL ***614-FN***

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SPONSORS: Rep. Rung, Hills. 21; Rep. Backus, Hills. 19; Rep. Danielson, Hills. 7; Sen. Fuller
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COMMITTEE: Science, Technology and Energy

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3 pursuant to RSA 541-A, may impose an administrative fine not to exceed [~~\$2,000~~] **\$4,000** for each
4 offense upon any person who violates any provision of this chapter, any rule adopted pursuant to
5 this chapter, or any permit, compliance schedule, stop use order, or order of abatement, issued
6 pursuant to this chapter; or upon any person who makes or certifies a material false statement
7 relative to any document or information which is required to be submitted to the department
8 pursuant to this chapter or any rule adopted pursuant to this chapter. Rehearings and appeals from
9 a decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any
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4 fine shall be not less than \$1,501 and not more than [~~\$2,000~~] **\$4,000**.

5 (c) The commissioner may assess an additional fine for repeat violations.

6 (d) *Each day of violation shall constitute a separate offense.*

7 II. Any violation of the provisions of this chapter, or of any rule adopted or order issued
8 under it, or of any condition in a permit issued under it, shall be subject to enforcement by
9 injunction, including mandatory injunction, issued by the superior court upon application of the
10 attorney general. Any such violation shall also be subject to a civil forfeiture to the state of not more
11 than [~~\$25,000~~] **\$50,000** for each violation, and for each day of a continuing violation.

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13 order issued under this chapter, or any condition of a permit issued under this chapter shall be
14 guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

15 IV. Notwithstanding RSA 651:2, any person may, in addition to any sentence of
16 imprisonment, probation, or conditional discharge, be fined not more than [~~\$25,000~~] **\$50,000** if found
17 guilty of any violation pursuant to RSA 125-C:15, III. Each day of violation shall constitute a
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19 2 Acid Rain Control Act. Amend RSA 125-D:4 to read as follows:

20 125-D:4 Administrative Fines. The commissioner of the department of environmental services,
21 after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed
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23 adopted pursuant to this chapter, or any permit or order issued pursuant to this chapter; or upon
24 any person who makes or certifies a material false statement relative to any document or
25 information which is required to be submitted to the department pursuant to this chapter or any
26 rule adopted pursuant to this chapter. Rehearings and appeals from a decision of the commissioner
27 under this section shall be in accordance with RSA 541. Any administrative fine imposed under this
28 section shall not preclude the imposition of further penalties under this chapter. The proceeds of
29 administrative fines imposed pursuant to this section shall be deposited in the general fund.

30 I. Notice and hearing prior to the imposition of an administrative fine shall be in accordance
31 with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA 541-A:16.

32 II. The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b) *and (d)*.

33 III. The commissioner may assess an additional fine for repeat violations.

34 3 Air Toxic Control Act. Amend RSA 125-I:3-a to read as follows:

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12 4 Asbestos Management and Control; Administrative Penalties and Fines. Amend RSA 141-
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 25 accordance with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA 541-
 26 A:16.

27 (c) The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b) *and*
 28 (d).

29 (d) The commissioner may assess an additional fine for repeat violations.

30 II. Whenever a person licensed pursuant to RSA 141-E:10 or certified pursuant to RSA 141-
 31 E:11 fails to pay an administrative fine as required by this section, the commissioner, after notice
 32 and hearing pursuant to rules adopted under RSA 541-A, may deny, suspend, or revoke the license
 33 or certificate or may issue an appropriate order.

34 5 Oil Spills; Penalties. Amend RSA 146-A:14, II-a to read as follows:

35 II-a. Any person who discharges or spills oil into or onto the surface water or groundwater of
 36 the state or in a land area where the oil will ultimately seep into such waters or any person who
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26 *constitute a separate offense.* Rehearings and appeals from a decision of the commissioner under
27 this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this
28 section shall not preclude the imposition of further penalties under this chapter. The proceeds of
29 administrative fines levied pursuant to this paragraph shall be deposited by the department in the
30 general fund. The commissioner shall adopt rules, under RSA 541-A, relative to:

31 (a) A schedule of administrative fines which may be imposed under this paragraph for
32 violations of this chapter as provided above.

33 (b) Procedures for notice and hearing prior to the imposition of an administrative fine.

34 VI. Any act or failure to act in violation of RSA 485:8, II; 31; 42; 43; 46; or 48; or any rule
35 adopted under RSA 485:2; 3; 4; 40; 41; 44; or 47 may be enjoined.

36 VII. Notwithstanding RSA 651:2, any person may, in addition to any sentence of
37 imprisonment, probation or conditional discharge, be fined not more than [~~\$25,000~~] **\$50,000** if found

1 guilty of any violation of paragraph II or III of this section. The court may also order the person to
2 pay the costs of remediation. Each day of violation shall constitute a separate offense.

3 8 Groundwater Protection Act; Penalties and Fines. Amend RSA 485-C:18-19 to read as follows:

4 485-C:18 Administrative Fines. The commissioner, after notice and hearing pursuant to RSA
5 541-A, may impose an administrative fine not to exceed [~~\$2,000~~] **\$4,000** for each offense upon any
6 person who violates any provision of this chapter or any rule, permit or order adopted or issued
7 under this chapter. *Each day of violation shall constitute a separate offense.* Rehearings and
8 appeals from a decision of the commissioner under this section shall be in accordance with RSA 541.
9 Any administrative fine imposed under this section shall not preclude the imposition of further
10 penalties under this chapter. The commissioner shall adopt rules, under RSA 541-A, relative to:

11 I. A schedule of administrative fines which may be imposed under this section for violation
12 of this chapter.

13 II. Procedures for notice and hearing prior to the imposition of an administrative fine.

14 485-C:19 Penalties and Other Relief.

15 I. Any person who knowingly violates this chapter, or any rule, permit, or order adopted or
16 issued under this chapter; or who knowingly or recklessly makes any material false statement in any
17 document required to be filed or maintained pursuant to this chapter; or who knowingly or recklessly
18 renders inaccurate, falsifies, or tampers with any monitoring device or method required under this
19 chapter; or who knowingly fails, neglects, or refuses to obey any lawful order of the department,
20 shall be guilty of a misdemeanor if a natural person, and a felony if any other person. Such person
21 shall also be subject to a civil penalty not to exceed [~~\$25,000~~] **\$50,000** for each violation or for each
22 day of a continuing violation.

23 II. Any person who violates this chapter or a rule, permit, or order adopted or issued under
24 this chapter, shall be subject to a civil penalty not to exceed [~~\$10,000~~] **\$20,000** for each violation or
25 for each day of a continuing violation. Such violation may also be enjoined by the superior court
26 upon application of the attorney general.

27 9 Water Management; Penalties and Compliance. Amend RSA 488:7-8 to read as follows:

28 488:7 Compliance.

29 I. Registration and withdrawal of water under RSA 488:3 shall be deemed to grant
30 permission to the department to enter onto the registered property to review compliance with the
31 provisions of the registration.

32 II. Upon obtaining credible information that any person is not registered in accordance with
33 RSA 488:3, I and is withdrawing, discharging, or transferring a cumulative amount of more than
34 20,000 gallons of water per day, averaged over any 7-day period, or more than 600,000 gallons of
35 water over any 30-day period, at a single real property or place of business, the department may
36 obtain an administrative inspection warrant in accordance with RSA 595-B to determine compliance
37 with the registration requirements.

1 **III. The commissioner may issue an order to any person who violates this chapter,**
2 **or any rule or permit authorized under this chapter, and require such actions as may be**
3 **necessary. Any order issued by the department pursuant to this chapter may be recorded in**
4 **the registry of deeds for the county in which the subject facility or property is situated. A**
5 **recorded order shall run with the land; provided, that an appropriate description of the**
6 **land involved including the accurate name of the owner thereof is included in the order.**
7 **No fee shall be charged for recording an order; however, a fee may be charged for**
8 **discharging an order.**

9 **IV. If the department finds that an emergency exists requiring immediate action to**
10 **protect the public safety, it may issue an order stating that an emergency exists and**
11 **requiring that such action be taken as necessary to meet the emergency. Any person to**
12 **whom such an order is directed shall comply immediately, but may appeal to the water**
13 **council established under RSA 21-O:7.**

14 488:8 Administrative Fines.

15 I. The commissioner, after notice and hearing pursuant to RSA 541-A, may impose an
16 administrative fine not to exceed [~~\$2,000~~] **\$4,000** for each offense upon any person who knowingly:

17 (a) Violates any provision of this chapter or any rule or order adopted or issued under it.

18 (b) Makes any material false statement in any document required to be filed or
19 maintained.

20 (c) Renders inaccurate, falsifies, or tampers with any monitoring device or method.

21 II. Rehearings and appeals from a decision of the commissioner under this section shall be
22 in accordance with RSA 541.

23 III. Any administrative fine imposed under this section shall not preclude the imposition of
24 further penalties under this chapter. The commissioner may assess additional fines upon any
25 person who has received written notification from the department regarding violations of the
26 provisions of this chapter or rules adopted pursuant to this chapter, if the violations have not been
27 mitigated within 30 days of receipt of notification.

28 **IV. Each day of violation shall constitute a separate offense.**

29 10 Effective Date. This act shall take effect January 1, 2020.

HB 614-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2019-1990s)

AN ACT increasing penalties and fines for air pollution and water pollution.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	\$0	\$0	\$0
Funding Source:	<input checked="" type="checkbox"/> General Asbestos Fund	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill increases the penalties for air pollution. The Department of Environmental Services states this bill would double the maximum penalties established in RSA 125-C only. The Department indicates the Division of Air Resources has authority to impose penalties pursuant to several other statutes which reference the amounts in RSA 125-C. These include:

- RSA 125-D:4 (Acid Rain)
- RSA 125-I:3-a (Air Toxics)
- RSA 125-M:6 (Mercury)
- RSA 141-E:16 (Asbestos)

As amended by the House, the bill would also double the potential penalties established in RSA 146-A:14, II-a, RSA 146-A:15, and RSA 485-C:18-19 administered by the Department's Waste Management Division and penalties in RSA 485:58, IV-VII and RSA 488:7-8 administered by the Water Division. Money received from the penalties imposed under these laws is deposited into the general fund except for amounts received under RSA 141-E:16 which is deposited in the asbestos fund. The Department indicates, while the bill would double the maximum fine amounts, it is not necessarily the case that penalties actually imposed would double. Therefore

the amount of additional revenue that would be received by the general fund and the asbestos fund is indeterminable. In addition, the bill specifies that each day of violation shall constitute a separate offense which could significantly increase the amount of fines. The Department does not expect state expenditures or county and local revenue would be impacted by the bill. The number of potential violations attributable to county and local governments cannot be predicted, therefore the impact on county and local expenditures is indeterminable.

AGENCIES CONTACTED:

Department of Environmental Services

**HB 614-FN FISCAL NOTE
 AS AMENDED BY THE SENATE (AMENDMENT #2019-1990s)**

AN ACT increasing penalties and fines for air pollution and water pollution.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	\$0	\$0	\$0
Funding Source:	<input checked="" type="checkbox"/> General Asbestos Fund	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill increases the penalties for air pollution. The Department of Environmental Services states this bill would double the maximum penalties established in RSA 125-C only. The Department indicates the Division of Air Resources has authority to impose penalties pursuant to several other statutes which reference the amounts in RSA 125-C. These include:

- RSA 125-D:4 (Acid Rain)
- RSA 125-I:3-a (Air Toxics)
- RSA 125-M:6 (Mercury)
- RSA 141-E:16 (Asbestos)

As amended by the House, the bill would also double the potential penalties established in RSA 146-A:14, II-a, RSA 146-A:15, and RSA 485-C:18-19 administered by the Department's Waste Management Division and penalties in RSA 485:58, IV-VII and RSA 488:7-8 administered by the Water Division. Money received from the penalties imposed under these laws is deposited into

the general fund except for amounts received under RSA 141-E:16 which is deposited in the asbestos fund. The Department indicates, while the bill would double the maximum fine amounts, it is not necessarily the case that penalties actually imposed would double. Therefore the amount of additional revenue that would be received by the general fund and the asbestos fund is indeterminable. In addition, the bill specifies that each day of violation shall constitute a separate offense which could significantly increase the amount of fines. The Department does not expect state expenditures or county and local revenue would be impacted by the bill. The number of potential violations attributable to county and local governments cannot be predicted, therefore the impact on county and local expenditures is indeterminable.

AGENCIES CONTACTED:

Department of Environmental Services

CHAPTER 263
HB 614-FN - FINAL VERSION

20Mar2019... 0791h
05/15/2019 1990s

2019 SESSION

19-0506
08/05

HOUSE BILL ***614-FN***

AN ACT increasing penalties and fines for air pollution and water pollution.

SPONSORS: Rep. Rung, Hills. 21; Rep. Backus, Hills. 19; Rep. Danielson, Hills. 7; Sen. Fuller
Clark, Dist 21

COMMITTEE: Science, Technology and Energy

AMENDED ANALYSIS

This bill increases penalties and fines for air pollution and water pollution.

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.

CHAPTER 263
HB 614-FN - FINAL VERSION

20Mar2019... 0791h
05/15/2019 1990s

19-0506
08/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT increasing penalties and fines for air pollution and water pollution.

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

1 263:1 Air Pollution Control; Penalties. Amend RSA 125-C:15, I-b-IV to read as follows:

2 I-b. The commissioner of the department of environmental services, after notice and hearing
3 pursuant to RSA 541-A, may impose an administrative fine not to exceed [~~\$2,000~~] **\$4,000** for each
4 offense upon any person who violates any provision of this chapter, any rule adopted pursuant to
5 this chapter, or any permit, compliance schedule, stop use order, or order of abatement, issued
6 pursuant to this chapter; or upon any person who makes or certifies a material false statement
7 relative to any document or information which is required to be submitted to the department
8 pursuant to this chapter or any rule adopted pursuant to this chapter. Rehearings and appeals from
9 a decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any
10 administrative fine imposed under this paragraph shall not preclude the imposition of further
11 penalties under this chapter. The proceeds of administrative fines imposed pursuant to this
12 paragraph shall be deposited in the general fund.

13 (a) Notice and hearing prior to the imposition of an administrative fine shall be in
14 accordance with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA 541-
15 A:16.

16 (b) The commissioner shall determine fines based on the following:

17 (1) For a minor deviation from a requirement causing minor potential for harm, the
18 fine shall be not less than \$100 and not more than [~~\$1,000~~] **\$2,000**.

19 (2) For a minor deviation from a requirement causing moderate potential for harm,
20 the fine shall be not less than \$601 and not more than [~~\$1,250~~] **\$2,500**.

21 (3) For a minor deviation from a requirement causing major potential for harm, the
22 fine shall be not less than \$851 and not more than [~~\$1,500~~] **\$3,000**.

23 (4) For a moderate deviation from a requirement causing minor potential for harm,
24 the fine shall be not less than \$601 and not more than [~~\$1,250~~] **\$2,500**.

25 (5) For a moderate deviation from a requirement causing moderate potential for
26 harm, the fine shall be not less than \$851 and not more than [~~\$1,500~~] **\$3,000**.

27 (6) For a moderate deviation from a requirement causing major potential for harm,
28 the fine shall be not less than \$1,251 and not more than [~~\$1,750~~] **\$3,500**.

CHAPTER 263
HB 614-FN - FINAL VERSION

- Page 2 -

1 (7) For a major deviation from a requirement causing minor potential for harm, the
2 fine shall be not less than \$851 and not more than [~~\$1,500~~] **\$3,000**.

3 (8) For a major deviation from a requirement causing moderate potential for harm,
4 the fine shall be not less than \$1,251 and not more than [~~\$1,750~~] **\$3,500**.

5 (9) For a major deviation from a requirement causing major potential for harm, the
6 fine shall be not less than \$1,501 and not more than [~~\$2,000~~] **\$4,000**.

7 (c) The commissioner may assess an additional fine for repeat violations.

8 (d) *Each day of violation shall constitute a separate offense.*

9 II. Any violation of the provisions of this chapter, or of any rule adopted or order issued
10 under it, or of any condition in a permit issued under it, shall be subject to enforcement by
11 injunction, including mandatory injunction, issued by the superior court upon application of the
12 attorney general. Any such violation shall also be subject to a civil forfeiture to the state of not more
13 than [~~\$25,000~~] **\$50,000** for each violation, and for each day of a continuing violation.

14 III. Any person who violates any of the provisions of this chapter, or any rule adopted or
15 order issued under this chapter, or any condition of a permit issued under this chapter shall be
16 guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

17 IV. Notwithstanding RSA 651:2, any person may, in addition to any sentence of
18 imprisonment, probation, or conditional discharge, be fined not more than [~~\$25,000~~] **\$50,000** if found
19 guilty of any violation pursuant to RSA 125-C:15, III. Each day of violation shall constitute a
20 separate offense.

21 263:2 Acid Rain Control Act. Amend RSA 125-D:4 to read as follows:

22 125-D:4 Administrative Fines. The commissioner of the department of environmental services,
23 after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed
24 [~~\$2,000~~] **\$4,000** for each offense upon any person who violates any provision of this chapter, any rule
25 adopted pursuant to this chapter, or any permit or order issued pursuant to this chapter; or upon
26 any person who makes or certifies a material false statement relative to any document or
27 information which is required to be submitted to the department pursuant to this chapter or any
28 rule adopted pursuant to this chapter. Rehearings and appeals from a decision of the commissioner
29 under this section shall be in accordance with RSA 541. Any administrative fine imposed under this
30 section shall not preclude the imposition of further penalties under this chapter. The proceeds of
31 administrative fines imposed pursuant to this section shall be deposited in the general fund.

32 I. Notice and hearing prior to the imposition of an administrative fine shall be in accordance
33 with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA 541-A:16.

34 II. The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b) *and (d)*.

35 III. The commissioner may assess an additional fine for repeat violations.

36 263:3 Air Toxic Control Act. Amend RSA 125-I:3-a to read as follows:

CHAPTER 263
HB 614-FN - FINAL VERSION
- Page 3 -

1 125-I:3-a Administrative Fines. The commissioner of the department of environmental services,
2 after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed
3 [~~\$2,000~~] **\$4,000** for each offense upon any person who violates any provision of this chapter, any rule
4 adopted pursuant to this chapter, or any permit or order issued pursuant to this chapter; or upon
5 any person who makes or certifies a material false statement relative to any document or
6 information which is required to be submitted to the department pursuant to this chapter or any
7 rule adopted pursuant to this chapter. Rehearings and appeals from a decision of the commissioner
8 under this section shall be in accordance with RSA 541. Any administrative fine imposed under this
9 section shall not preclude the imposition of further penalties under this chapter. The proceeds of
10 administrative fines imposed pursuant to this section shall be deposited in the general fund.

11 I. Notice and hearing prior to the imposition of an administrative fine shall be in accordance
12 with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA 541-A:16.

13 II. The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b) *and* (d).

14 III. The commissioner may assess an additional fine for repeat violations.

15 263:4 Asbestos Management and Control; Administrative Penalties and Fines. Amend RSA
16 141-E:16 to read as follows:

17 141-E:16 Administrative Fines.

18 I.(a) The commissioner, after notice and hearing pursuant to RSA 541-A, may impose an
19 administrative fine not to exceed [~~\$2,000~~] **\$4,000** for each offense upon any person who violates any
20 provision of RSA 141-E:3 or any rule adopted by the commissioner under this chapter; or upon any
21 person who makes or certifies a material false statement relative to any document or information
22 which is required to be submitted to the department pursuant to this chapter or any rule adopted
23 pursuant to this chapter. Rehearings and appeals from a decision of the commissioner under this
24 paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this
25 paragraph shall not preclude the imposition of further penalties under this chapter. The proceeds of
26 administrative fines levied pursuant to this section shall be deposited in the general fund.

27 (b) Notice and hearing prior to the imposition of an administrative fine shall be in
28 accordance with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA 541-
29 A:16.

30 (c) The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b) *and*
31 (d).

32 (d) The commissioner may assess an additional fine for repeat violations.

33 II. Whenever a person licensed pursuant to RSA 141-E:10 or certified pursuant to RSA 141-
34 E:11 fails to pay an administrative fine as required by this section, the commissioner, after notice
35 and hearing pursuant to rules adopted under RSA 541-A, may deny, suspend, or revoke the license
36 or certificate or may issue an appropriate order.

37 263:5 Oil Spills; Penalties. Amend RSA 146-A:14, II-a to read as follows:

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HB 614-FN - FINAL VERSION

- Page 4 -

1 II-a. Any person who discharges or spills oil into or onto the surface water or groundwater of
2 the state or in a land area where the oil will ultimately seep into such waters or any person who
3 violates any provision of this chapter or any rule adopted under the provisions of this chapter shall
4 be subject to a civil penalty not to exceed [~~\$10,000~~] **\$20,000** for each violation. Each day of a
5 continuing violation shall count as a separate violation. Civil penalties for violation of any rule
6 adopted under the provisions of this chapter shall not accrue until the department provides
7 notification of such violation. The attorney general may bring an action for injunctive relief,
8 including a mandatory injunction.

9 263:6 Oil Discharge or Spillage in Surface Water or Groundwater. Amend the introductory
10 paragraph of RSA 146-A:15, I to read as follows:

11 I. The commissioner of the department of environmental services, after notice and hearing
12 pursuant to RSA 541-A, may impose an administrative fine not to exceed [~~\$2,000~~] **\$4,000** for each
13 offense upon any person who violates any provision of this chapter including any rule adopted under
14 the provisions of this chapter *or any order or permit issued under this chapter. Each day of*
15 *the violation shall constitute a separate offense.* Rehearings and appeals from a decision of the
16 commissioner under this paragraph shall be in accordance with RSA 541. Any administrative fine
17 imposed under this section shall not preclude the imposition of further penalties under this chapter.
18 The commissioner shall adopt rules, under RSA 541-A, relative to:

19 263:7 New Hampshire Safe Drinking Water Act; Penalties. Amend RSA 485:58, IV-VII to read
20 as follows:

21 IV. Any person who violates any provision of this chapter or any rule adopted or any term or
22 condition of an approval, exemption, variance or order issued under this chapter shall be liable to the
23 state, upon suit brought by the attorney general, for a civil forfeiture in an amount not to exceed
24 [~~\$25,000~~] **\$50,000** for each day of such violation.

25 V. The commissioner of environmental services, after notice and hearing pursuant to RSA
26 541-A, may impose an administrative fine not to exceed [~~\$2,000~~] **\$4,000** for each offense upon any
27 person who violates any provision of this chapter including any rule adopted under the provisions of
28 this chapter *or any order or permit issued under this chapter. Each day of violation shall*
29 *constitute a separate offense.* Rehearings and appeals from a decision of the commissioner under
30 this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this
31 section shall not preclude the imposition of further penalties under this chapter. The proceeds of
32 administrative fines levied pursuant to this paragraph shall be deposited by the department in the
33 general fund. The commissioner shall adopt rules, under RSA 541-A, relative to:

34 (a) A schedule of administrative fines which may be imposed under this paragraph for
35 violations of this chapter as provided above.

36 (b) Procedures for notice and hearing prior to the imposition of an administrative fine.

CHAPTER 263
HB 614-FN - FINAL VERSION

- Page 5 -

1 VI. Any act or failure to act in violation of RSA 485:8, II; 31; 42; 43; 46; or 48; or any rule
2 adopted under RSA 485:2; 3; 4; 40; 41; 44; or 47 may be enjoined.

3 VII. Notwithstanding RSA 651:2, any person may, in addition to any sentence of
4 imprisonment, probation or conditional discharge, be fined not more than [~~\$25,000~~] **\$50,000** if found
5 guilty of any violation of paragraph II or III of this section. The court may also order the person to
6 pay the costs of remediation. Each day of violation shall constitute a separate offense.

7 263:8 Groundwater Protection Act; Penalties and Fines. Amend RSA 485-C:18-19 to read as
8 follows:

9 485-C:18 Administrative Fines. The commissioner, after notice and hearing pursuant to RSA
10 541-A, may impose an administrative fine not to exceed [~~\$2,000~~] **\$4,000** for each offense upon any
11 person who violates any provision of this chapter or any rule, permit or order adopted or issued
12 under this chapter. *Each day of violation shall constitute a separate offense.* Rehearings and
13 appeals from a decision of the commissioner under this section shall be in accordance with RSA 541.
14 Any administrative fine imposed under this section shall not preclude the imposition of further
15 penalties under this chapter. The commissioner shall adopt rules, under RSA 541-A, relative to:

16 I. A schedule of administrative fines which may be imposed under this section for violation
17 of this chapter.

18 II. Procedures for notice and hearing prior to the imposition of an administrative fine.

19 485-C:19 Penalties and Other Relief.

20 I. Any person who knowingly violates this chapter, or any rule, permit, or order adopted or
21 issued under this chapter; or who knowingly or recklessly makes any material false statement in any
22 document required to be filed or maintained pursuant to this chapter; or who knowingly or recklessly
23 renders inaccurate, falsifies, or tampers with any monitoring device or method required under this
24 chapter; or who knowingly fails, neglects, or refuses to obey any lawful order of the department,
25 shall be guilty of a misdemeanor if a natural person, and a felony if any other person. Such person
26 shall also be subject to a civil penalty not to exceed [~~\$25,000~~] **\$50,000** for each violation or for each
27 day of a continuing violation.

28 II. Any person who violates this chapter or a rule, permit, or order adopted or issued under
29 this chapter, shall be subject to a civil penalty not to exceed [~~\$10,000~~] **\$20,000** for each violation or
30 for each day of a continuing violation. Such violation may also be enjoined by the superior court
31 upon application of the attorney general.

32 263:9 Water Management; Penalties and Compliance. Amend RSA 488:7-8 to read as follows:

33 488:7 Compliance.

34 I. Registration and withdrawal of water under RSA 488:3 shall be deemed to grant
35 permission to the department to enter onto the registered property to review compliance with the
36 provisions of the registration.

CHAPTER 263
HB 614-FN - FINAL VERSION

- Page 6 -

1 II. Upon obtaining credible information that any person is not registered in accordance with
2 RSA 488:3, I and is withdrawing, discharging, or transferring a cumulative amount of more than
3 20,000 gallons of water per day, averaged over any 7-day period, or more than 600,000 gallons of
4 water over any 30-day period, at a single real property or place of business, the department may
5 obtain an administrative inspection warrant in accordance with RSA 595-B to determine compliance
6 with the registration requirements.

7 *III. The commissioner may issue an order to any person who violates this chapter,*
8 *or any rule or permit authorized under this chapter, and require such actions as may be*
9 *necessary. Any order issued by the department pursuant to this chapter may be recorded in*
10 *the registry of deeds for the county in which the subject facility or property is situated. A*
11 *recorded order shall run with the land; provided, that an appropriate description of the*
12 *land involved including the accurate name of the owner thereof is included in the order.*
13 *No fee shall be charged for recording an order; however, a fee may be charged for*
14 *discharging an order.*

15 *IV. If the department finds that an emergency exists requiring immediate action to*
16 *protect the public safety, it may issue an order stating that an emergency exists and*
17 *requiring that such action be taken as necessary to meet the emergency. Any person to*
18 *whom such an order is directed shall comply immediately, but may appeal to the water*
19 *council established under RSA 21-O:7.*

20 488:8 Administrative Fines.

21 I. The commissioner, after notice and hearing pursuant to RSA 541-A, may impose an
22 administrative fine not to exceed [~~\$2,000~~] **\$4,000** for each offense upon any person who knowingly:

23 (a) Violates any provision of this chapter or any rule or order adopted or issued under it.

24 (b) Makes any material false statement in any document required to be filed or
25 maintained.

26 (c) Renders inaccurate, falsifies, or tampers with any monitoring device or method.

27 II. Rehearings and appeals from a decision of the commissioner under this section shall be
28 in accordance with RSA 541.

29 III. Any administrative fine imposed under this section shall not preclude the imposition of
30 further penalties under this chapter. The commissioner may assess additional fines upon any
31 person who has received written notification from the department regarding violations of the
32 provisions of this chapter or rules adopted pursuant to this chapter, if the violations have not been
33 mitigated within 30 days of receipt of notification.

34 *IV. Each day of violation shall constitute a separate offense.*

35 263:10 Effective Date. This act shall take effect January 1, 2020.

Approved: July 19, 2019

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HB 614-FN - FINAL VERSION
- Page 7 -

Effective Date: January 01, 2020

Amendments

Sen. Fuller Clark, Dist 21
May 15, 2019
2019-1990s
08/06

Floor Amendment to HB 614-FN

1 Amend the bill by replacing sections 3-4 with the following:

2

3 3 Air Toxic Control Act. Amend RSA 125-I:3-a to read as follows:

4 125-I:3-a Administrative Fines. The commissioner of the department of environmental
5 services, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to
6 exceed [~~\$2,000~~] **\$4,000** for each offense upon any person who violates any provision of this chapter,
7 any rule adopted pursuant to this chapter, or any permit or order issued pursuant to this chapter;
8 or upon any person who makes or certifies a material false statement relative to any document or
9 information which is required to be submitted to the department pursuant to this chapter or any
10 rule adopted pursuant to this chapter. Rehearings and appeals from a decision of the commissioner
11 under this section shall be in accordance with RSA 541. Any administrative fine imposed under
12 this section shall not preclude the imposition of further penalties under this chapter. The proceeds
13 of administrative fines imposed pursuant to this section shall be deposited in the general fund.

14 I. Notice and hearing prior to the imposition of an administrative fine shall be in
15 accordance with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA
16 541-A:16.

17 II. The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b) *and*
18 *(d)*.

19 III. The commissioner may assess an additional fine for repeat violations.

20 4 Asbestos Management and Control; Administrative Penalties and Fines. Amend RSA 141-
21 E:16 to read as follows:

22 141-E:16 Administrative Fines.

23 I.(a) The commissioner, after notice and hearing pursuant to RSA 541-A, may impose an
24 administrative fine not to exceed [~~\$2,000~~] **\$4,000** for each offense upon any person who violates any
25 provision of RSA 141-E:3 or any rule adopted by the commissioner under this chapter; or upon any
26 person who makes or certifies a material false statement relative to any document or information
27 which is required to be submitted to the department pursuant to this chapter or any rule adopted
28 pursuant to this chapter. Rehearings and appeals from a decision of the commissioner under this
29 paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this
30 paragraph shall not preclude the imposition of further penalties under this chapter. The proceeds
31 of administrative fines levied pursuant to this section shall be deposited in the general fund.

32 (b) Notice and hearing prior to the imposition of an administrative fine shall be in

Floor Amendment to HB 614-FN

- Page 2 -

1 accordance with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA
2 541-A:16.

3 (c) The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b)
4 *and (d)*.

5 (d) The commissioner may assess an additional fine for repeat violations.

6 II. Whenever a person licensed pursuant to RSA 141-E:10 or certified pursuant to RSA 141-
7 E:11 fails to pay an administrative fine as required by this section, the commissioner, after notice
8 and hearing pursuant to rules adopted under RSA 541-A, may deny, suspend, or revoke the license
9 or certificate or may issue an appropriate order.

Committee Minutes

SENATE CALENDAR NOTICE

Energy and Natural Resources

Sen Martha Fuller Clark, Chair
 Sen Dan Feltes, Vice Chair
 Sen David Watters, Member
 Sen Jeb Bradley, Member
 Sen Bob Giuda, Member

Date: April 9, 2019

HEARINGS

Tuesday

04/16/2019

(Day)

(Date)

Energy and Natural Resources

SH 103

8:30 a.m.

(Name of Committee)

(Place)

(Time)

8:30 a.m.	HB 495	establishing a commission on drinking water.
8:50 a.m.	HB 737	establishing a commission to investigate and analyze the environmental and public health impacts relating to releases of perfluorinated chemicals in the air, soil, and groundwater in Merrimack, Bedford and Litchfield.
9:10 a.m.	HB 614-FN	increasing penalties and fines for air pollution and water pollution.
9:30 a.m.	HB 707	relative to settlement money from actions pertaining to the contamination of groundwater or drinking water.
9:45 a.m.	HB 261	requiring the commissioner of the department of environmental services to revise rules relative to arsenic contamination in drinking water.
10:30 a.m.	HB 494	relative to removal or containment of contaminants from the Coakley Landfill.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 495

Rep. Cushing
 Rep. Loughman
 Rep. Le

Rep. Edgar
 Rep. Meuse
 Rep. Khan

Rep. Bushway
 Rep. Berrien
 Sen. Sherman

Rep. Janvrin
 Rep. Altschiller
 Sen. Fuller Clark

HB 737

Rep. Murphy
 Rep. Cushing
 Rep. L'Heureux
 Sen. Chandley

Rep. Meuse
 Rep. Knirk
 Rep. Mullen
 Sen. Watters

Rep. W. Thomas
 Rep. Salloway
 Sen. Bradley

Rep. Stack
 Rep. McMahon
 Sen. Sherman

HB 614-FN

Rep. Rung
HB 707
 Rep. Notter

Rep. Backus

Rep. Danielson

Sen. Fuller Clark

HB 261

Rep. Grassie

Rep. Adjutant

Rep. Cushing

Rep. Murphy

HB 494

Rep. Cushing
 Rep. Janvrin
 Rep. Altschiller

Rep. Edgar
 Rep. Le
 Rep. Meuse

Rep. Loughman
 Rep. Malloy
 Sen. Sherman

Rep. Bushway
 Rep. Grote

Griffin Roberge 271-7875

Martha Fuller Clark
 Chairman

Senate Energy and Natural Resources Committee
Griffin Roberge 271-7875

HB 614-FN, increasing penalties and fines for air pollution and water pollution.

Hearing Date: April 16, 2019.

Time Opened: 10:08 a.m.

Time Closed: 10:15 a.m.

Members of the Committee Present: Senator Bradley.

Members of the Committee Absent: Senators Fuller Clark, Feltes, Watters and Giuda.

Bill Analysis: This bill increases penalties and fines for air pollution and water pollution.

Sponsors:

Rep. Rung

Rep. Backus

Rep. Danielson

Sen. Fuller Clark

Who supports the bill: Susan Covert (Contoocook, NH), Carol R. Foss (NH Audubon), Representative Wendy Thomas (Hillsborough - District 21), Representative Robert Renny Cushing (Rockingham - District 21), Representative Nancy Murphy (Hillsborough - District 21), Representative Suzanne Smith (Grafton - District 8), John Tuthill (Acworth, NH), Melissa Hinebauch, Louise Spencer (Concord, NH), Deborah Jakabowski, Maura Willing (Concord, NH), Representative David Meuse (Rockingham - District 29).

Who opposes the bill: None.

Who is neutral on the bill: Michael Fitzgerald, Michael Wimsatt, & Sarah Pillsbury (NHDES).

Summary of testimony presented in support:

Representative Robert Renny Cushing
Rockingham - District 21

- Introduced HB 614-FN on behalf of the prime sponsor, Representative Rosemarie Rung.

Summary of testimony presented in opposition: None.

Neutral Information Presented:

Michael Fitzgerald

Assistant Director, Air Resources Division, NH Department of Environmental Services (NHDES)

- HB 614-FN as amended by the House is the product of deliberations between the House Science, Technology, and Energy (STE) Committee and the House Resources, Recreation, and Development (RRD) Committee.
 - o HB 614-FN as introduced doubled certain fines for air pollution violations. HB 614-FN went before the House STE Committee.
 - o HB 204 would have established a committee to review and update the penalties for contaminating drinking water and groundwater and was being heard by the House RRD Committee. Former

Representative Chris Christensen suggested HB 614-FN be amended to also double fines for drinking water and groundwater pollution, thus combining the goals of HB 614-FN and HB 204.

- NHDES took no position on HB 614-FN and did not request it, but offered suggested language changes to Representative Rung.
 - Changing the penalties and fines in certain statutes created conflicts with other statutes, so NHDES worked with Representative Rung to ensure there was consistency across all relevant statutes.
- HB 614-FN as amended doubles certain air and water pollution fines and penalties. Doing so was consistent with the consumer price index (CPI). The bill also stipulates that each day of violation shall constitute a separate offense.

GJR.

Date Hearing Report completed: April 16, 2019.

Speakers

Voting Sheets

Senate Energy & Natural Resources Committee
EXECUTIVE SESSION RECORD
2019-2020 Session

Bill # HB 614

Hearing date: 04/16/19

Executive Session date: 05/09/2019

Motion of: OT A Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Fuller Clark, Chair	✓			✓	
Sen. Feltes, Vice Chair	✓		✓	✓	
Sen. Watters	✓			✓	
Sen. Bradley	✓	✓		✓	
Sen. Giuda	✓			✓	

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Fuller Clark, Chair					
Sen. Feltes, Vice Chair					
Sen. Watters					
Sen. Bradley					
Sen. Giuda					

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Fuller Clark, Chair					
Sen. Feltes, Vice Chair					
Sen. Watters					
Sen. Bradley					
Sen. Giuda					

Reported out by: Watters

Notes: Work w/ NHDES on potential floor amendment.

Committee Report

ENERGY AND NATURAL RESOURCES

HB 614-FN, increasing penalties and fines for air pollution and water pollution.

Ought to Pass, Vote 5-0.

Senator David Watters for the committee.

Docket of HB614

Docket Abbreviations

Bill Title: (New Title) increasing penalties and fines for air pollution and water pollution.**Official Docket of HB614.:**

Date	Body	Description
1/16/2019	H	Introduced 01/03/2019 and referred to Science, Technology and Energy HJ 3 P. 22
1/30/2019	H	Public Hearing: 02/07/2019 01:00 pm LOB 210-211
2/20/2019	H	==RECESSED== Executive Session: 02/26/2019 10:15 am LOB 304
2/27/2019	H	==CONTINUED== Executive Session: 03/06/2019 10:30 am LOB 304
3/13/2019	H	Majority Committee Report: Ought to Pass with Amendment # 2019-0791h (NT) for 03/19/2019 (Vote 16-3; RC) HC 16 P. 34
3/13/2019	H	Minority Committee Report: Inexpedient to Legislate
3/20/2019	H	Amendment # 2019-0791h (NT): AA RC 293-57 03/20/2019 HJ 11 P. 36
3/20/2019	H	Ought to Pass with Amendment 2019-0791h (NT): MA RC 247-104 03/20/2019 HJ 11 P. 36
4/1/2019	S	Introduced 03/28/2019 and Referred to Energy and Natural Resources; SJ 12
4/10/2019	S	Hearing: 04/16/2019, Room 103, SH, 09:10 am; SC 18
5/9/2019	S	Committee Report: Ought to Pass, 05/15/2019; SC 22
5/15/2019	S	Sen. Fuller Clark Floor Amendment # 2019-1990s , AA, VV; 05/15/2019; SJ 16
5/15/2019	S	Ought to Pass with Amendment 2019-1990s, RC 19Y-5N, MA; OT3rdg; 05/15/2019; SJ 16
6/13/2019	H	House Concurs with Senate Amendment 1990s (Rep. Backus): MA VV 06/13/2019 HJ 19 P. 13
6/27/2019	S	Enrolled (In recess 06/27/2019); SJ 21
6/27/2019	H	Enrolled 06/27/2019 HJ 20 P. 53
7/24/2019	H	Signed by Governor Sununu 07/19/2019; Chapter 263; Eff: 01/01/2020

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 614-FN

Senate Committee: ENR

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

___ - amendment # ___ ___ - amendment # ___

___ - amendment # ___ ___ - amendment # ___

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

- amendment # 1990 ___ - amendment # ___

___ - amendment # ___ ___ - amendment # ___

Post Floor Action: (if applicable) {Clerk's Office}

___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

___ Enrolled Bill Amendment(s)

___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

___ as amended by the senate ___ as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Committee Aide

Date

Senate Clerk's Office JM