

Committee Report

CONSENT CALENDAR

March 10, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Resources, Recreation and Development to which was referred HB 184,

AN ACT relative to the operation of personal water craft around the marshlands or flats of the Rye estuary and the New Castle back channel. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.

Rep. Suzanne Smith

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Resources, Recreation and Development
Bill Number:	HB 184
Title:	relative to the operation of personal water craft around the marshlands or flats of the Rye estuary and the New Castle back channel.
Date:	March 10, 2021
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

This bill amends RSA 270:74-c, II which prohibits the use of personal water craft (PWCs) within 300 feet of any marshland or flat in the Hampton/Seabrook estuary to include the Rye estuary and the area within the New Castle Goat Island Back Channel Mooring Field. The boundaries of the Back Channel in this bill include only the most fragile areas of the Back Channel and do not prohibit access to Sagamore Creek. Marine Patrol testified that the boundaries outlined in the bill will facilitate enforcement. The bill also includes in the prohibited areas the tidal areas surrounding Berry's Brook, Seavey Creek, Witch Creek, Parson's Creek, and the Awcomin Marsh and Rye Harbor Marsh areas which flow into Rye Harbor. The bill exempts water craft operated by police, fire, or other emergency from the prohibition.

Vote 21-0.

Rep. Suzanne Smith
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Resources, Recreation and Development

HB 184, relative to the operation of personal water craft around the marshlands or flats of the Rye estuary and the New Castle back channel. **OUGHT TO PASS.**

Rep. Suzanne Smith for Resources, Recreation and Development. This bill amends RSA 270:74-c, II which prohibits the use of personal water craft (PWCs) within 300 feet of any marshland or flat in the Hampton/Seabrook estuary to include the Rye estuary and the area within the New Castle Goat Island Back Channel Mooring Field. The boundaries of the Back Channel in HB184 include only the most fragile areas of the Back Channel and do not prohibit access to Sagamore Creek. Marine Patrol testified that the boundaries outlined in the bill will facilitate enforcement. The bill also includes in the prohibited areas the tidal areas surrounding Berry's Brook, Seavey Creek, Witch Creek, Parson's Creek, and the Awcomin Marsh and Rye Harbor Marsh areas which flow into Rye Harbor. The bill exempts water craft operated by police, fire, or other emergency from the prohibition. **Vote 21-0.**

Original: House Clerk

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Resources, Recreation and Development Committee Report

HB184

Vote: 21-0 Consent Calendar

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Rep. Suzanne Smith

Voting Sheets

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 184

BILL TITLE: relative to the operation of personal water craft around the marshlands or flats of the Rye estuary and the New Castle back channel.

DATE: March 3, 2021

LOB ROOM: Hybrid

MOTIONS: OUGHT TO PASS

Moved by Rep. Suzanne Smith

Seconded by Rep. E. Kelley

Vote: 21-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Juliet Harvey-Bolia, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on

BILL TITLE: 1B4

DATE: 03/03/21

LOB ROOM: 306

MOTION: (Please check one box)

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

Moved by Rep. Smith Seconded by Rep. Kelley Vote: 21 / 0

MOTION: (Please check one box)

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

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

MOTION: (Please check one box)

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

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

MOTION: (Please check one box)

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

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

CONSENT CALENDAR: YES _____ NO

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

Respectfully submitted: [Signature]
Rep Juliet Harvey-Bolia, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



1/27/2021 9:56:53 AM
Roll Call Committee Registers
Report

2021 SESSION

Resources, Recreation and Development

Bill #: HB 184 Motion: OTP AM #: _____ Exec Session Date: 03/03/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Dutzy, Sherry	✓		
Renzullo, Andrew Chairman	✓		
Gunski, Michael D. Vice Chairman	✓		
Gould, Linda R.	✓		
Horgan, James F.	✓		
Harb, Robert D.	✓		
Creighton, Jim L.	✓		
Dodge, Dustin	✓		
Harvey-Bolia, Juliet Clerk	✓		
Healey, Robert V.	✓		
Mayville, Mary L.	✓		
Post, Lisa C.M.	✓		
Smith, Suzanne J.	✓		
Spang, Judith T.	✓		
Grassie, Chuck W.	✓		
Gottling, Suzanne H.	✓		
Cohen, Bruce L.	✓		
Connors, Erika F.	✓		
Vail, Suzanne M.	✓		
Kelley, Eamon P.	✓		
Moran, Melbourne R.	✓		
TOTAL VOTE:	21		

Hearing Minutes

RR & D Action Minutes
March 3, 2021

Members Present: Reps. Renzullo, Gunski, Harvey-Bolia, Gould, Horgan, Harb, Creighton, Dodge, Healey, Mayville, Post, Smith, Spang, Grassie, Gottling, Cohen, Connors, Vail, E. Kelley and Moran

The meeting was convened as a Zoom webinar at 9:02 a.m. by Rep. Renzullo as Chair, who proceeded to read the script prepared by Committee staff regarding authorization for the Committee to meet remotely in accordance with the Governor's Emergency Order #12 and pursuant to Executive Order 2020-4.

A roll call attendance was taken. Staff: Brad Greenland.
All members were remote except: Reps Renzullo, Gunski, Harvey-Bolia, Healey, and Creighton.

At 9:12 a.m., Rep Renzullo opened the hearing on HB 184 relative to the operation of personal water craft around the marshlands or flats of the Rye estuary and the New Castle back channel
HEARING CONTINUED FROM 1/27

Murray, Kate, an elected official, spoke in support.
Urbanek, Donna spoke in support.
Cook, Miles spoke against the bill.
Hearing Closed: 9:35 a.m.

At 9:35 a.m. a work session for HB 184 was opened relative to the operation of personal water craft around the marshlands or flats of the Rye estuary and the New Castle back channel. FULL COMMITTEE WORK SESSION.

Captain Tim Dunleavy, of NH Marine Patrol spoke to the bill, but took no position.
Deers from the DES, spoke in favor to the bill, but took no position.

At 10:13 Rep. Smith made a motion that HB 184 OTP, Rep. Kelley seconded.
A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Rep. Renzullo	X	
Rep. Gunski,	X	
Rep. Gould	X	
Rep. Horgan	X	
Rep. Harb	X	
Rep. Creighton	X	
Rep. Dodge	X	
Rep. Harvey-Bolia	X	
Rep. Healey	X	
Rep. Mayville	X	
Rep. Post	X	
Rep. Smith	X	
Rep. Spang	X	

Rep. Grassie	X
Rep. Gottling	X
Rep. Cohen	X
Rep. Connors.	X
Rep. Vail	X
Rep. Kelley	X
Rep. Moran	X
Rep. Dutzy	X

21 yays and 0 nays: Motion passed.

At 10:34, Rep Gunski made a motion of ITL for HB 229, an act defining “wake boat”, seconded by Rep. Mayville.

A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Rep. Renzullo	X	
Rep. Gunski,	X	
Rep. Gould	X	
Rep. Horgan	X	
Rep. Harb	X	
Rep. Creighton	X	
Rep. Dodge	X	
Rep. Harvey-Bolia	X	
Rep. Healey	X	
Rep. Mayville	X	
Rep. Post	X	
Rep. Smith		X
Rep. Spang		X
Rep. Grassie		X
Rep. Gottling		X
Rep. Cohen		X
Rep. Connors.		X
Rep. Vail		X
Rep. Kelley		X
Rep. Moran		X
Rep. Dutzy		X

13 yays and 8 nays: Motion passed.

10:58 session closed.

Worksession opened: 11:00 a.m. HB 397 relative to permitting fees under the shoreland protection act.

Rep. Howard Pearl spoke to: Amendment to HB 397 Amend the bill by replacing section 1 with the following: 1 New Paragraph; Shoreland Protection Act; Permitting Fees: Municipality, County, State, Federal Projects Exempt. Amend RSA 483-B:5-b by inserting after paragraph IX the following new paragraph: X. Permits for projects solely funded by municipal, county, state, or federal entities shall be exempt from the permitting fees of paragraph I. 0579H

Testimony

Archived: Thursday, April 22, 2021 11:24:25 AM
From: Kit Lord
Sent: Wednesday, January 27, 2021 11:34:40 AM
To: ~House Resources Recreation and Development
Subject: HB 184 - shoreline degradation
Importance: Normal

Here is some data about shoreline erosion which is related to the jetski restrictions in HB 184:

This quote is from page 8 of http://www.trpa.org/wp-content/uploads/2010-WI-Dept-of-Natural-Resources_UW-Boats-effects-on-ecosystems.pdf

Conclusions:

What do we know? Waves or wake produced by boats is the primary factor by which boats can influence shoreline erosion. Wave heights depend upon speed, size and draft of boat, but can reach heights of 40-50 cm (15-20 in.) equivalent to storm-induced waves. However, wave heights dissipate rapidly as they move away from the boat, while wind waves increase with larger distances. Therefore, **river systems, channels connecting lakes**, and small lakes are likely to be most influenced by boat-induced waves, as boats may operate relatively close to shore and wind-induced waves are reduced. **Shoreline erosion has been documented in river systems** and has been attributed to frequency and proximity of boat traffic. Loosely consolidated, steep, unvegetated banks are more susceptible to shoreline erosion. What don't we know? It is unclear what effect boat waves have on shoreline erosion or bank recession in lake or still water environments. All studies to date have been on river systems. Also unknown is the cumulative impacts that boat waves can have on shorelines, especially in combination with wind-induced waves. While equations exist to predict how much of a wake a given boat can produce, very little information is available to suggest how much boat traffic a given shoreline can sustain. Also, individual boat waves may dissipate quickly, but boat traffic often mixes waves from several boats and can create much bigger waves that persist for longer periods of time.

Sincerely,

Kit Lord
Northwood

From: Thrillcraft:

The Environmental Consequences of Motorized Recreation, 2008

The typical jet ski dumps an average of 3 gallons of gasoline directly in the water for every hour of operation. Indeed, jet skis release 8 times the amount of fuel as an equivalently horse powered motorboat.

An average two-hour "thrill" ride on a PWC can dump between 3 and 4 gallons of gas and oil into the water. The California Air Resources Board also reported that a day's ride on a 100 horsepower jet ski emits the same amount of smog-forming air pollution as driving 100,000 miles in a modern passenger car.

Besides the usual negative affects on water quality resulting from the use of two or even four stroke engines, PWC's also can operate in shallow, near-shore marine habitat, which is inaccessible to most conventional motorboats. Wake waves from PWC can create serious shoreline erosion, creating turbidity and sedimentation problems in shallow productive waters.

In addition, PWC have more serious negative impacts on birds, including interruption of normal feeding activity and repeated displacement from nesting areas, than conventional motorboats, cars, all-terrain vehicles and pedestrians.

The noise from thrillcraft can also affect habitat use by wildlife. In one study in Oregon, elk were found to respond to (by moving away) and avoiding thrillcraft use areas by more than a half mile, potentially removing a corridor of habitat up to a mile wide.

From: An Environmental Guide for Watercraft Operators put out by the Personal Watercraft Industry Association.

In shallow waters, boats may stir up the bottom and suspended sediments, which limit light penetration and deplete oxygen. This can affect fish and bird feeding.

Vegetation such as sea grasses are delicate nursery grounds where many of the fish in our waters originate. When possible, operate a fair distance from the shore because wildlife tends to inhabit the vegetation along the edge of the shore. The best way to avoid disturbing the local ecosystem is to stay in the marked channels and the deeper areas of a lake or river when possible.

Many migratory birds are easily stressed and are especially vulnerable during their migration periods. Birds will typically fly away from disturbing noises and any unnecessary expenditure of energy can harm a feeding or resting bird.

Excessive boat wakes may contribute to shoreline erosion, especially in narrow streams and inlets.

From: The University of Vermont

Widespread PWC use has a significant impact on the environment due to the two stroke engines which leak millions of gallons of unburned fuel into the waters each year (Pearce, 1998). Scientists estimate that 20 to 25 percent of the fuel used in personal watercraft and other watercraft with two stroke engines fail to combust, and is flushed out into the water as raw fuel vapor emissions (Pearce, 1998).

To illustrate the level of pollution, in Michigan, the 82,000 registered watercraft, if each rider expends a full 10-gallon tank, will expend more than 200,000 gallons of fuel into the water. If a watercraft carries four gallons of gas, then approximately one gallon will be directly leaked into the water (Pearce, 1998). Two hours of exhaust emissions from a Jet Ski is equivalent to the emissions created by driving a 1998 automobile 130,000 miles (Stienstra, 1998).

February 7, 2021

Dear Chair Renzullo and Committee members,

We are writing to support HB184 to ban the use of personal watercraft (PWC), more commonly known as jet skis, in the fragile waterways of New Castle and Rye, New Hampshire.

There are three areas of particular concern:

- safety
- protections of this delicately balanced ecosystem
- noise pollution.

1) Safety: These waters are routinely used by the communities of Rye, New Castle, Portsmouth, and beyond for swimming, paddle boarding and fishing. Kayaks and small sailing craft, including a summer sailing school for children as young as eight years of age, regularly use the New Castle Back Bay/Back Channel precisely because it is a calm, safe area.

According to a University of Vermont study, personal watercraft "are involved in 35 percent of all accidents with water vessels."

The presence of PWC in these waterways would put at risk all of these activities.

2) Protections of the Ecosystem: PWCs, especially those with two-stroke engines, threaten the fragile ecosystem of these waters because unburned fuel, which may include known carcinogens benzene and toluene, is released into the water. These pollutants detrimentally affect fish, aquatic invertebrates, and plants.

PWCs are also responsible for bank erosion and turbidity. Owing to their small size and jet drive systems, PWCs can enter areas that are not navigable by larger craft. Operating in extremely shallow water (as little as eight inches), they disturb waterway floors, resulting in turbidity that is detrimental to the fauna and flora of this fragile habitat. Operating so close to shore, they are also a cause of bank erosion.

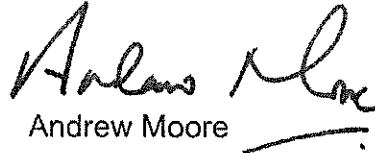
3) Noise Pollution: PWCs produce a loud, undulating noise that is, to many, a source of great irritation. The annoyance is made worse by the common practice of PWCs to travel in groups and to course back and forth in the same general area rather than moving from Point A to Point B. Such noise destroys the tranquility that has long drawn people to the New Hampshire Seacoast.

The effect of noise on wildlife is also serious. Sound travels four times faster, and much farther, in water than in air. Loud engine noise frightens aquatic vertebrates, and changes their behavior. Loud noise has also been shown to cause hearing damage in several fish species, including rockfish, herring and cod.

For all these reasons, we respectfully ask you to support this legislation.



Barbara Moore



Andrew Moore

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University of
New Hampshire

School of Marine Science and
Ocean Engineering

Jackson Estuarine Laboratory
85 Adams Point Road
Durham, NH 03824

V: 603.862.5127
F: 603.862.1101
TTY: 7.7.7 (Relay NH)

www.marine.unh.edu

February 5, 2021

Mr. Andrew Renzullo, Chair
Resources, Recreation, and Development Committee
NH Legislative Office Building, Room 305
Concord, NH 03301

Dear Ms. Smith,

I am writing today in support of House Bill HB 184 to restrict personal water craft from flats and marshlands of the Rye estuary and the New Castle back channel. As a UNH associate professor and restoration specialist of shorelines in general and marshlands in particular, I applaud the effort to remove the presence and influence of machines marketed to provide thrilling experiences while ignoring threats to personal safety and natural resources. Operation of personal water craft in and around salt marshes is another stressor to our natural environment. Erosive forces in marshlands and along our shores combined with long-term stressors like ditching and increasing sea levels are showing their effects. Marsh edges and unvegetated shorelines are eroding, and many landowners are taking steps to armor their property.

While I work with a small team to rebuild salt marshes and shorelines in the state, we need help from a wide variety of stakeholders. I appeal to the NH House to provide assistance with the restoration of our shorelines with a 'yea' vote on HB 184.

Sincerest thanks,

A handwritten signature in cursive script that reads "David M. Burdick".

David M. Burdick
Associate Research Professor
Director, Jackson Estuarine Laboratory
School of Marine Sciences and Ocean Engineering

Monday January 26, 2021

Testimony for HB 184 relative to the operation of personal water craft around marshlands or flats of the Rye estuary and the New Castle back channel.

Dear Chair Renzullo and members of the Resources, Recreation and Development Committee,

HB 184 is important to the towns of Rye and New Castle.

Rye is 65% wetland and is home to the Berry Brook and Bailey Brook watersheds that provide a source of water for the town. Rye Harbor is a commercial fishing harbor and an important means of income to the fisherman who reside in Rye and neighboring towns.

As a member of the Conservation Commission for Rye, I can confirm that significant effort is consistently made to protect the 100' wetland buffer that surround salt marshes, brooks, streams and vernal pools. Rye also budgets a portion of the Commission's budget to restore and monitor these important environmental assets of the town. A protective buffer filters out the pollutants from developed land and assures that these important water resources are preserved. Protecting the estuaries is as important as the buffer programs we have on our land. Estuaries are home to a diversity of fish, shellfish, aquatic plants and animals that nest, breed and feed in there. Estuaries filter pollutants from the water flowing through them such as pesticides, herbicides and heavy metals.

As an island, New Castle is also threatened by careless environmental damage, as unintended as it can be. A back channel is the smaller of the two arms of a river that forms an island. In this case, the back channel is part of the Piscataqua River, a river with a strong tide. The New Castle Conservation Commission recently restored the grasses in its back channel and the tide leaves the channel low in water. It is important that personal watercraft is prevented from entering that back channel.

I request your support for HB 184.

Respectfully yours,

Representative Jaci Grote, Rye

Bill as
Introduced

HB 184 - AS INTRODUCED

2021 SESSION

21-0048
08/10

HOUSE BILL **184**

AN ACT relative to the operation of personal water craft around the marshlands or flats of the Rye estuary and the New Castle back channel.

SPONSORS: Rep. K. Murray, Rock. 24

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill prohibits the operation of personal water craft within 300 feet of any marsh land or flat of the Rye estuary and the New Castle back channel.

.....

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 Twenty One

AN ACT relative to the operation of personal water craft around the marshlands or flats of
the Rye estuary and the New Castle back channel.

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

1 1 Personal Water Craft. Amend RSA 270:74-c, II to read as follows:

2 II. No person shall operate a personal water craft within 300 feet of any marsh land or flat
3 in the Hampton/Seabrook estuary, *within 300 feet of the Rye marsh areas to include Witch*
4 *Creek, Seavey Creek, Berry's Brook, Parson's Creek, Aucomin Marsh, and Rye Harbor*
5 *Marsh, or within the New Castle Goat Island Back Channel Mooring Field as defined in*
6 *rules adopted by the Pease Development Authority Pda 500, or that area marked between*
7 *Shapleigh Island and Goat Island to Red Nun #4 to the Wentworth Bridge, to include the*
8 *areas around Pest, Leaches, and Clampit Islands, without regard to tide height. This*
9 *paragraph shall not apply to water craft operated by police, fire, or other emergency*
10 *services.*

11 2 Effective Date. This act shall take effect upon its passage.