

# Senate Energy and Natural Resources Committee

## Griffin Roberge 271-3042

**HB 99**, relative to seasonal platforms on public waters of the state.

**Hearing Date:** March 29, 2021.

**Time Opened:** 1:30 p.m.

**Time Closed:** 1:46 p.m.

**Members of the Committee Present:** Senators Avard, Giuda, Gray, Watters and Perkins Kwoka.

**Members of the Committee Absent:** None.

**Bill Analysis:** This bill requires that any person seeking to anchor a floating dock, seasonal platform, inflatable platform or float on public waters of the state adhere to requirements specified by the department of safety, division of marine patrol.

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**Sponsors:**

Rep. J. MacDonald

Rep. Marsh

Rep. Crawford

Sen. Bradley

Rep. Deshaies

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**Who supports the bill:** Captain Tim Dunleavy, NH Marine Patrol; Representative John MacDonald, Carroll - District 6; David Packard, Lakes Management Advisory Committee; Representative Andrew Renzullo, Hillsborough - District 37; Representative Suzanne Smith, Grafton - District 8; Michele Tremblay, Rivers Management Advisory Committee.

**Who opposes the bill:** Robin Vogt.

**Who is neutral on the bill:** None.

**Summary of testimony presented in support:**

*Representative John MacDonald – provided written testimony*

*Carroll – District 6*

- HB 99 is a reintroduction of HB 1609 (2020). The House Resources, Recreation, and Development Committee recommended HB 1609 “ought to pass with amendment” by a vote of 20-0. The recommendation was placed on the House consent calendar. HB 1609 passed the full House on a voice vote, but the bill was tabled in the Senate due to the suspension of legislative activity because of the COVID-19 pandemic.
- HB 99 comes at the request of both constituents and the NH Marine Patrol to address the growing problem of seasonal platforms on NH’s several hundred public water bodies.
- Seasonal platforms have been growing in both size and number on NH’s public water bodies. Regulation of these platforms are required as they can constitute a hazard to public safety, impede navigation, or cause an adverse effect on the environment.
- Currently, there are no regulations concerning the placement or location of seasonal platforms on public water bodies. HB 99 requires that any person seeking to anchor a floating dock, seasonal platform, inflatable platform, or float on public water bodies must adhere to requirements specified by the NH Marine Patrol. This bill ensures that NH Marine Patrol has the necessary tools to maintain the safety of the boating public and the pristine conditions of our lakes and their shorelines.

*Representative Suzanne Smith*  
*Grafton – District 8*

- HB 99 was recommended “ought to pass with amendment” by the House Resources, Recreation, and Development Committee by a vote of 20-0 and was placed on the House consent calendar. The full House supported the committee’s recommendation by a voice vote.
- The use of seasonal platforms has been growing over the years. HB 99 does not prohibit the use of seasonal platforms on NH’s public water bodies, but states that no person shall erect, install, maintain, or exercise control over an anchored seasonal platform on the state’s public waters who is not the legal owner of the adjacent shorefront property.
- The House Resources, Recreation, and Development Committee took a field trip with NH Marine Patrol and learned that seasonal platforms can be 20 to 30 feet long and can interfere with the public’s water access.
- HB 99 requires that any person’s seasonal platform shall bear their name and contact information. NH Marine Patrol has found discarded or misplaced seasonal platforms. Having contact information on a seasonal platform can also allow the NH Marine Patrol to contact the platform’s owner.
- HB 99 does include an exemption for any local, state or federal government agencies or conservation groups that are engaged in non-recreational duties such as law enforcement activities, bridge and road work, pollution control, the protection of fish and wildlife, or environmental duties.
- Senator Giuda questioned the exemption for conservation groups and government agencies. He asked if there was a reason why there was a less of a hazard for conservation groups and governmental agencies to erect, install, maintain, or exercise control over a seasonal platform.
  - Representative Smith said HB 99 was focused on recreational seasonal platforms. She noted her observations of seasonal platforms on Newfound Lake and Lake Winnepesaukee that obstructed public access to the water. The NH Department of Transportation (NHDOT) requested the exemption. NHDOT may need to work on a bridge over an inlet and need a barge. Without the exemption, NHDOT could not use the barge as HB 99 would require the barge to be adjacent to property NHDOT owns. Some conservation groups use seasonal platforms for loon observation. The House Resources, Recreation, and Development Committee felt the exemption was reasonable.
- Senator Gray referenced page 2, lines 31-32 that give the NH Marine Patrol the ability to adopt administrative rule relative to the use, design, weight or size, construction, lighting, placement including safe spacing, and required maintenance of individual anchored seasonal platforms, as well as the enforcement of the provisions of HB 99. HB 99 required an individual to include their name and contact information on their seasonal platform on page 1, lines 26-28. Senator Gray asked if it made sense to require contact information through the NH Marine Patrol’s administrative rulemaking process rather than mandating it in state statute.
  - Representative Smith said she would be fine with the change as long as an individual’s name and contact information was included on the seasonal platform.
- Senator Gray noted that administrative rulemaking could be more specific relative to an individual’s contact information than placing that requirement in state statute.
  - Representative Smith said she was fine with the change but encouraged Senator Gray to ask the NH Marine Patrol as they would be undertaking the administrative rulemaking process.
- Senator Giuda asked what the NH Marine Patrol does with seasonal platforms that are found and considered lost and abandoned.
  - Representative Smith asked Senator Giuda to direct his question to the NH Marine Patrol.

*Captain Tim Dunleavy*  
*Captain, NH Marine Patrol*

- NH Marine Patrol has seen a significant increase in the number of calls concerning anchored seasonal platforms. Seasonal platforms are completely unregulated. Individuals are accessing public water bodies via public access and installing seasonal platforms near private property, in right of ways, or in areas that are critical for navigation.
- HB 99 mirrors many of the provisions found in NH’s mooring law. HB 99 would allow the NH Marine Patrol to practice common sense discretion to the placement of seasonal platforms.
- Captain Dunleavy responded to Senator Giuda’s question about the exemption for conservation groups and government agencies from HB 99. Many of the devices or platforms used by those entities fall under the definitions in HB 99 and are often permitted, usually by the NH Department of Environmental Services or the US Army Corps of Engineers. The NH Marine Patrol offers permits to conservation groups for seasonal platforms for loon observations. These permits help ensure these platforms do not impact the public’s use of water bodies.

- Captain Dunleavy responded to Senator Gray’s question about requiring identification information through the administrative rulemaking process. The NH Marine Patrol would have no problem with that change. Such a change may provide a little more flexibility than the state statute would.
- Captain Dunleavy responded to Senator Giuda’s question about seasonal platforms that are found or recovered by the NH Marine Patrol. Many seasonal platforms that are recovered are because people do not remove them late in the year or they have been displaced due to a heavy storm. Seasonal platforms that are found adrift are considered lost or abandoned property. NH Marine Patrol is required to advertise those items on the Internet and in the newspaper to see if someone will recover them. If no one claims the seasonal platform, the item is auctioned off and the proceeds are placed in the General Fund. Some seasonal platforms cost \$10,000. Having contact information on a platform allows them to be returned to their rightful owner and saves that individual money.
- Senator Avard asked why money received from auction goes to the General Fund and not to the NH Marine Patrol.
  - Captain Dunleavy said state agencies are required to follow state statute. Any funds received from auctioning off lost or abandoned seasonal platforms are directed to the General Fund.
- Senator Gray referenced page 1, lines 23-25. HB 99 prevents any person from installing a seasonal platform who is not the legal owner of the adjacent shorefront property. Senator Gray asked if “or by permit from the NH Marine Patrol” could be added to capture everyone else.
  - Captain Dunleavy said the NH General Court allowed the NH Marine Patrol to issue permits for seasonal platforms in the past. However, the NH General Court repealed that statute within two years. HB 99 is an approach to regulate seasonal platforms without permits and fees.
- Senator Gray clarified his question. Page 1, lines 23-25 prevents any person from installing a seasonal platform who is not the legal owner of the adjacent shorefront property. However, HB 99 includes an exemption for conservation groups, such as the Loon Preservation Committee installing loon platforms. He wondered if there was a way to sanction other organizations like the Loon Preservation Committee to have a seasonal platform in a particular location.
  - Captain Dunleavy said such a change could be further discussed. However, the number of exemptions under HB 99 will be very minimal and temporary. Historically, the NH Marine Patrol has had no issues with those who are exempted under HB 99.
- Senator Gray had a concern with restricting the installation of seasonal platforms but creating exemptions for conservation groups and governmental agencies. If someone else owned shorefront property and a conservation group wanted to put in a platform for loons, then who owns the adjacent property or who controls where the platform goes? Giving NH Marine Patrol some level of control is something that the NH Marine Patrol may support.
  - Captain Dunleavy said it is something that could be done through administrative rulemaking.

**Summary of testimony presented in opposition:** None.

**Neutral Information Presented:** None.

GJR

Date Hearing Report completed: March 29, 2021.