

# Senate Energy and Natural Resources Committee

*Max Taylor 271-1403*

**SB 299**, relative to penalties for contractors violating water pollution and waste disposal regulations.

**Hearing Date:** March 11, 2025

**Time Opened:** 9:00 a.m.

**Time Closed:** 9:12 a.m

**Members of the Committee Present:** Senators Avard, Pearl, McConkey, Watters and Rosenwald

**Members of the Committee Absent :** Senator McConkey

**Bill Analysis:** This bill imposes penalties on contractors who supervise or perform work in violation of the shoreland water quality protection act.

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**Sponsors:**

Sen. Pearl

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**Who supports the bill:** Senator Howard Pearl (District 17), Representative Rosemarie Rung (District 12)

**Who opposes the bill:** None.

**Who is neutral on the bill:** Darlene Forest (Wetland Bureau Administrator, Department of Environmental Services)

**Summary of testimony presented in support:**

**Senator Howard Pearl**

**Prime Sponsor, Senate District 17**

- Senator Pearl introduced SB 299 and explained its purpose is to close a loophole in the Shoreland Protection Act, ensuring contractors who violate shoreland regulations can be held accountable.
- Under RSA 483-B:18, DES can only impose penalties if a violation is not restored within a year after notification.
- Senator Pearl explained this creates an unfair situation where property owners bear the burden of correcting violations, while contractors face no penalties if the owner complies with restoration orders. Additionally, Senator Pearl

highlighted that irresponsible contractors gain an unfair advantage over reputable professionals by ignoring permit requirements.

- Senator Pearl emphasized that property owners may unknowingly hire the same contractor to complete the restoration work.
- Senator Pearl stated that SB 299 ensures DES can take enforcement action against contractors who violate the Shoreland Protection Act, even if the property owner complies with restoration.

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

**Neutral Information Presented:**

**Darlene Forest**

**Wetlands Bureau Administrator, New Hampshire Department of Environmental Services**

- Ms. Forest stated the Department of Environmental Services is neutral on SB 299. However, she emphasized that DES recognizes the enforcement issue within the Shoreland Protection Act.
- Ms. Forest stated DES frequently receives complaints from contractors who follow the law, only to see competitors gain an unfair advantage by working without the necessary shoreland permits.
- She explained the current law only allows DES to fine violators if site restoration is not completed within a year, leaving contractors who caused the violations unaccountable if the property owner complies with restoration.
- She stated SB 299 would ensure contractors can face enforcement action regardless of whether the landowner restores the site.
- Ms. Forest highlighted that many violations occur on waterfront properties owned by out-of-state or second-home owners, who trust contractors to follow regulations but later face consequences when violations are discovered.
- Senator Rosenwald asked why SB 299 was filed late.
  - Ms. Forest explained that discussions began in December, but due to a chaotic legislative session the bill was not filed earlier.
  - Senator Pearl also responded, stating DES approached him at the very end of the filing period, but he wanted to ensure all technical corrections were addressed before submitting it as a late-filed bill.
- Senator Watters asked how DES determines if someone is a repeat offender, and when would the enhanced fine apply.
  - Ms. Forest explained if a contractor commits another violation after being notified of an enforcement proceeding, DES could consider doubling the fine, depending on the severity and similarity of the repeat offense.

- Ms. Forest stated if violations occur before notification, the enhanced fine would not apply since the contractor was unaware of the first violation. Additionally, legal counsel would review case specifics before applying additional penalties.
- Senator Watters asked if someone could receive an enhanced fine before their first violation is fully adjudicated.
  - Ms. Forest stated legal counsel would prevent DES from issuing an enhanced fine if the first violation is still under appeal and has not been officially determined as illegal.
  - Senator Watters suggested adding language to clarify that an enhanced fine applies only after a final determination of a prior violation.
- Senator Rosenwald asked if both DES and the Superior Court could impose separate \$5,000 fines, leading to a \$10,000 penalty for a contractor.
  - Ms. Forest stated both penalties could apply simultaneously.

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Date Hearing Report completed: March 13, 2025