



STATE OF NEW HAMPSHIRE  
DEPARTMENT of NATURAL and CULTURAL RESOURCES  
**DIVISION of PARKS and RECREATION**  
172 Pembroke Road Concord, New Hampshire 03301  
Phone: (603) 271-3556 Fax: (603) 271-3553  
Web: [www.nhstateparks.org](http://www.nhstateparks.org)

February 12, 2019

The Honorable Suzanne Smith  
and the Resources, Recreation and Development Committee  
Legislative Office Building, Room 305  
Concord, NH 03301

RE: **HB 139 prohibiting smoking in state parks.**

Dear Chair Smith and Members of the Committee,

Please accept this testimony on behalf of the Department of Natural and Cultural Resources, Division of Parks and Recreation regarding **HB 139 prohibiting smoking in state parks**. The Division supports the intent of this bill, but cannot support it as written. However, we offer the following for your consideration.

Under our current administrative rules:

“Res 7301.29 Smoking shall be prohibited on those portions of a beach that are posted as prohibited, in the interest of public health and safety under Res 7301.07(b)(3), and Res 7301.15, littering and sanitation, as determined by the department. For purposes of this provision, smoking shall mean having in one's possession a lighted cigarette, cigar, or pipe, or any device designed to produce the effect of smoking, pursuant to RSA 155:65, XV.” (Note: we would want to ensure that the rules cover vaping and hookahs.)

The authority for these rules provided in statute:

**“12-A:2-c Rulemaking; Administrative Fines. –**

I. The commissioner shall adopt rules under RSA 541-A governing use by the public of state forests, parks, or any other land or buildings operated by the department of natural and cultural resources. This shall include, but not be limited to, the commissioner's responsibilities under RSA 216 and 227-H.

II. Such rules shall include, but not be limited to:

(a) Conduct of persons using the property, including prohibitions or restrictions on use or transportation of any substances, articles, or other matter.”

We would suggest that it would be appropriate to establish clear legislative intent regarding smoking in state parks so that we could pursue further limitations on smoking when we update our administrative rules. For example, we would propose restricting smoking in playgrounds, in pavilions, on outdoor platforms and eating areas, in picnic areas and on inland day use fee beaches. In some cases, we would provide designated smoking areas and in other cases we would not.

We would not propose limiting smoking in campgrounds, on trails, or on our seacoast beaches at this time. Enforcement would be virtually impossible on the seacoast beaches where we have as many as

February 12, 2019

Suzanne Smith, Chair, Resources, Recreation and Development Committee

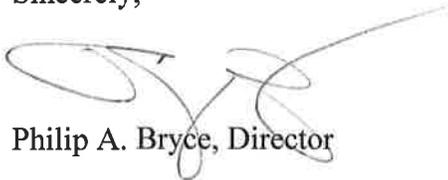
Page 2

80,000 people on the beaches and would take staff resources away from enforcement of other rules and laws.

Therefore, we would propose amending the legislation to restrict smoking in our state parks in accordance with the department's administrative rules. By doing this through administrative rules, we can account for the characteristics of each state park site.

Thank you for the opportunity to testify on **HB 139**. Please let me know if I can answer questions or provide any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip A. Bryce". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Philip A. Bryce, Director

Cc: Sarah L. Stewart, Commissioner

Attachment: DNCR administrative rules, Res 7301.29 Smoking & Res 7800 Fines

HB 139, 2019 Session – prohibit smoking in state parks.  
Attachment: DNCR administrative rules, Res 7301.29 Smoking & Res 7800 Fines

CHAPTER Res 7300 PARKS AND RECREATION

Statutory Authority: RSA 12-A:2-c, I, II, III and IV, RSA 215-A:3-b, I, RSA 215-C:3-a, I, and RSA 227-G:4, I.

PART Res 7301 RULES RELATING TO ALL PARKS AND DRED PROPERTIES

Res 7301.29 Smoking. Smoking shall be prohibited on those portions of a beach that are posted as prohibited, in the interest of public health and safety under Res 7301.07(b)(3), and Res 7301.15, littering and sanitation, as determined by the department. For purposes of this provision, smoking shall mean having in one's possession a lighted cigarette, cigar, or pipe, or any device designed to produce the effect of smoking, pursuant to RSA 155:65, XV.

CHAPTER Res 7800 ADMINISTRATIVE FINES PERTAINING TO VIOLATIONS OF RECREATIONAL USE RULES

Statutory Authority: RSA 12-A:2-c, I, II, III and IV; RSA 215-A:3-b, I; RSA 215-C:3-a, I; and RSA 227-G:4, V.

PART Res 7801 FINES RELATING TO ALL PARKS AND DRED PROPERTIES

Res 7802.04 Administrative Fine Amounts.

(a) The Tier 1 administrative fine amounts shall be \$25.00 for the first offense, \$50 for a second offense, \$100 for a third offense, and \$250 for each subsequent offense for violation of the following rules:

Table 7802-1 Administrative Rules with Tier 1 Fines

RULE	SUBJECT
Res 7301.29	Relative to smoking