

Rep. Thomas, Coos 4
Rep. Moody, Rock. 12
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2010-0495h
08/03

Amendment to HB 1676-FN

1 Amend the bill by replacing sections 1-2 with the following:

2
3 1 New Chapter; Salt Application Controls. Amend RSA by inserting after chapter 488 the
4 following new chapter:

5 CHAPTER 489

6 SALT APPLICATION CONTROLS

7 489:1 Definitions. In this chapter:

8 I. "Apply salt" means to apply salt or a salt alternative to the ground or any paved surface,
9 such as roadways, parking lots, or sidewalks, for the purpose of winter maintenance.

10 II. "Commercial applicator" means any individual who applies or supervises others who
11 apply salt but shall not include any municipal or state employees.

12 III. "Commissioner" means the commissioner of environmental services.

13 IV. "Department" means the department of environmental services.

14 V. "Salt" means sodium chloride, calcium chloride, magnesium chloride, or any other
15 substance containing chloride.

16 VI. "Salt alternative" means any substance not containing chloride used for the purpose of
17 de-icing or anti-icing surfaces.

18 489:2 Certification Required. Commercial applicators shall be annually certified by the
19 department. Applicator certificates shall be issued and fees shall be collected by the department.
20 Businesses with multiple commercial applicators shall have the option to obtain a master certificate
21 for the owner or chief supervisor with all commercial applicators employed by the business obtaining
22 certificates to qualify under the master certificate. The holder of the master certificate shall ensure
23 that all commercial applicators operating under his or her master certificate receive the required
24 training and shall provide the required record keeping on behalf of all commercial applicators
25 operating under his or her master certificate. Annual fees for certificates obtained under a master
26 certificate shall be significantly less than the fees for a master certificate.

27 489:3 Authority. The commissioner shall adopt rules pursuant to RSA 541-A, relative to:

28 I. Policies and goals relative to applying salt.

29 II. Receiving and allocating federal grants and other funds or gifts for the purpose of
30 carrying out any of the functions of this chapter.

31 III. The types and frequency of training programs required for certification.



1 IV. Procedures for commercial applicators to obtain certification.

2 V. Setting and collecting fees to cover the cost of program implementation.

3 VI. Recordkeeping required for commercial applicators to maintain certification.

4 VII. Exemptions from the certification requirements of this chapter for individuals who
5 apply salt in de minimis amounts, including private homeowners.

6 489:4 Application for Certification.

7 I. Applications for certification shall be on a form prescribed by the department and shall
8 include the following:

9 (a) The full name and address of the person applying for the certification.

10 (b) The name and address of a person whose domicile is in the state, and who is
11 authorized to receive and accept services of summonses and legal notice of all kinds for the applicant.

12 (c) The type of apparatus used to apply salt whether liquid or dry.

13 (d) Any other information deemed necessary by the department.

14 II. Fees collected from applicants for certification as commercial applicators under this
15 chapter shall be deposited in the salt application fund.

16 III. There is hereby established the salt application fund. This nonlapsing, revolving fund
17 shall be used to carry out the implementation of the certification of commercial applicators as
18 specified by this chapter. Certification fees collected by the department shall be deposited with the
19 state treasurer to the credit of said fund and may be invested as provided by law. Interest received
20 on such investment shall also be credited to the fund.

21 489:5 Prohibited Acts. It shall be unlawful for any commercial applicator to apply salt without
22 holding a valid and current applicator certificate.

23 489:6 Administration and Enforcement.

24 I. The commissioner shall arrange for the administration and enforcement of the provisions
25 of this chapter and the administrative rules of the department.

26 II. The department may issue an order to any person in violation of any provision of this
27 chapter, an applicator certificate issued under this chapter, or a rule adopted under this chapter, to
28 cease and desist from any act in violation of such provision, certification, or rule. Orders of the
29 department under this section shall be effective immediately.

30 III. The commissioner, after notice and hearing pursuant to RSA 541-A, shall impose an
31 administrative fine of up to \$5,000 for each offense upon any person who violates this chapter.
32 Rehearings and appeals relating to such fines shall be governed by RSA 541.

33 2 New Section; Limited Liability for Winter Maintenance by Private Parking Lot Owners.
34 Amend RSA 508 by inserting after section 21 the following new section:

35 508:22 New Section; Liability Limited; Winter Maintenance.

36 I. No commercial applicator, as defined in RSA 489:1, I, and in compliance with RSA 489 or
37 owner, occupant, or lessee of land shall be liable for damages arising from insufficiencies or hazards



1 on any premises owned, occupied, maintained, or operated by them, even with actual notice thereof,
2 when such hazards are caused solely by snow or ice, and the commercial applicator, owner, occupant,
3 or lessee's failure or delay in removing or mitigating such hazards is the result of its implementation,
4 absent gross negligence or reckless disregard of the hazard, of best management practices for winter
5 road, parking lot and sidewalk maintenance published jointly by the department of transportation
6 and the department of environmental services. All commercial applicators, owners, occupants, or
7 lessees who adopt such best management practices shall be presumed to be acting pursuant to the
8 best management practices in the absence of proof to the contrary.

9 II. In order to receive the liability protection provided in paragraph I, a commercial
10 applicator, owner, occupant, or lessee of land shall keep a written record describing its winter road,
11 parking lot, and property maintenance practices. The written record shall include the type and rate
12 of application of de-icing materials used, the dates of treatment, and the weather conditions for each
13 event requiring de-icing. Such records shall be kept for a period of 3 years.

14
15 Amend the bill by replacing section 4 with the following:

16
17 4 Effective Date.

18 I. RSA 489:5 as inserted by section 1 of this act shall take effect July 1, 2011.

19 II. The remainder of this act shall take effect July 1, 2010.