



# NEW ENGLAND BACKCOUNTRY HUNTERS AND ANGLERS

March 28, 2023

To Chairman Craven and the members of the House Judiciary Committee

Re: BHA Support for RI - 2023 – H5174 - An Act Related to Waters and Navigation

Backcountry Hunters & Anglers (BHA) seeks to ensure North America's outdoor heritage of hunting and fishing in a natural setting. Our members consider protecting access to public lands and waters a top priority, recognizing that access is one of the most important factors to our participation in, and the perpetuation of, our outdoor traditions.

With these things in mind we urge the Committee to **support H5174**, which seeks to establish a clear, identifiable boundary where “privileges of the shore” outlined in Article 1, Sections 17 of Rhode Island’s Constitution are protected in RI’s General Laws. Additionally, we urge the General Assembly to **amend H5174 and establish a boundary 10’ inland of the most recent high tide mark**, rather than the 6’ boundary that is currently proposed.

Under RI’s current legal standards, which are a result of the 1982 RI Supreme Court case “*State v. Ibbison*”, Rhode Islanders’ Constitutional rights are not secure. The application of the “mean high tide line”, which is defined as the average tidal elevation over 18.5 years projected onto the dynamic beachfront, is unworkable because it cannot be practically identified. As a result, those seeking to exercise Constitutional shoreline privileges cannot reasonably know where on the beach they’re allowed to be, and adjacent property owners seeking to exclude others from their property can’t exercise their rights either. Additionally, the lack of an identifiable boundary deters police from enforcing shoreline laws and regulations or intervening in disputes when they are summoned for assistance.

BHA’s support of H5174 relies upon two important facts. First, we recognize that H5174 reflects the recommendations made by a 2021-22 Legislative Study Commission, which consisted of a robust panel of legislators, stakeholders and legal experts. After approximately 8 months of deliberation the Commission published a Final Report and recommended the General Assembly establish a boundary **10’ inland of the most recent high tide mark** in RI General Laws. The Study Commission also spent considerable time analyzing how legal challenges might play out after a law was passed, and recommended a boundary they felt would withstand judicial scrutiny. Second, we recognize that passing H5174 would effectively implement the will of Rhode Island’s voters, who overwhelmingly approved the expansion of RI’s Constitution to further protect historical shoreline rights four years after the RI Supreme Court issued its decision in “*State v. Ibbison*”. Almost forty years have passed since RI’s 1986 Constitutional Convention, and neither the Legislature nor the Judiciary has taken action to put the changes approved by RI’s voters at that time into practical law.

Securing Constitutional rights is one of the General Assembly’s functions, and now is the time to act. H5174 is legally vetted and widely supported. The “mean high tide line” that currently delineates RI’s uplands and tidelands is not a workable boundary, and we urge the Committee, and ultimately the General Assembly, to **support H5174** and implement a clear, practical boundary along RI’s shores.

Thank you for your consideration.

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