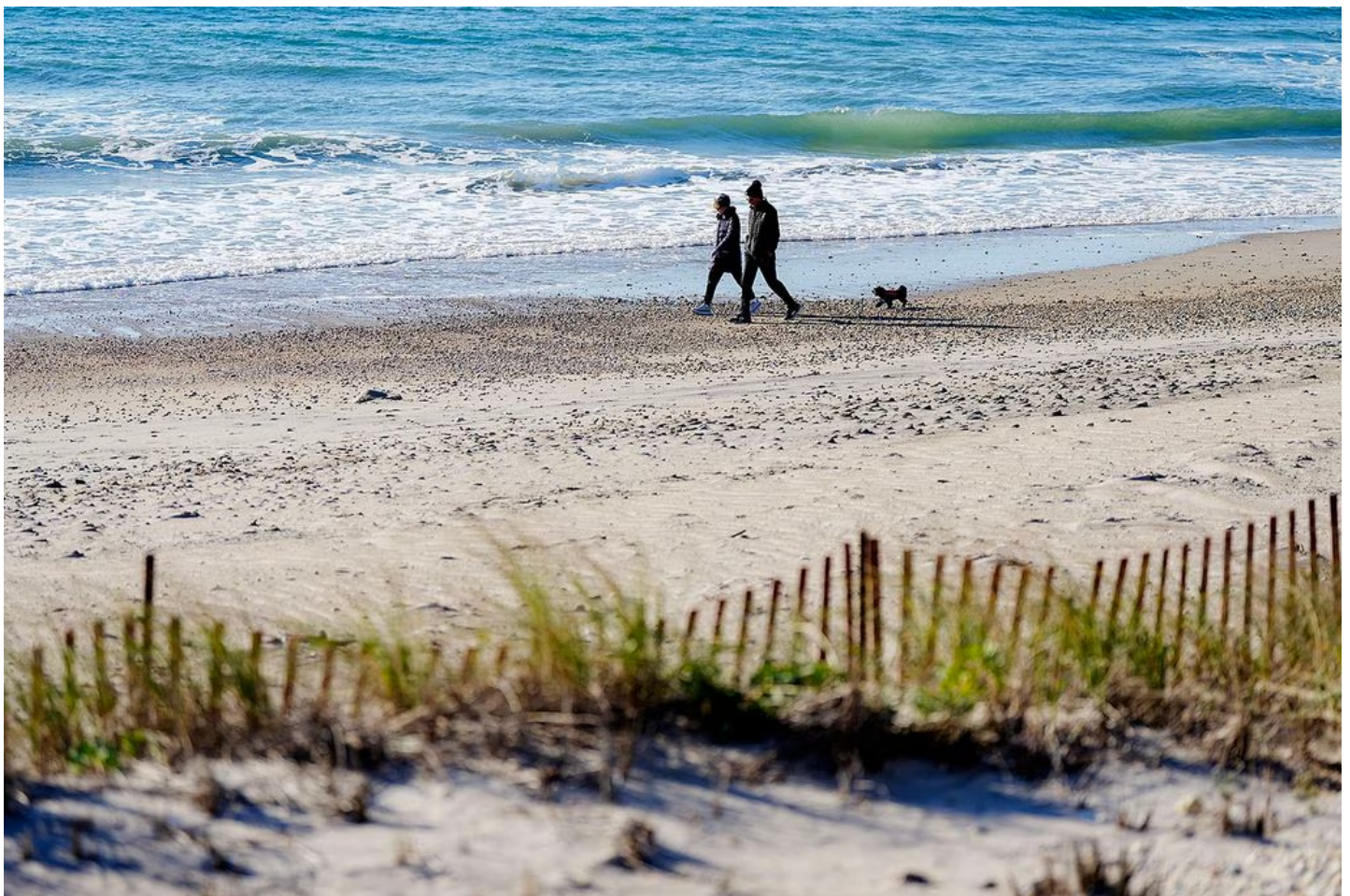


RI POLITICS

Shore access proposal in R.I. Senate goes further than bill House passed last year

The bill passed unanimously in the House last year would have allowed shore access below the recognizable high-tide line, plus a 6-foot landward barrier, whereas legislation newly proposed in the Senate would fix the line for access at the vegetation line

By [Brian Amaral](#) Globe Staff, Updated February 17, 2023, 4:41 p.m.



People walk the shore at East Matunuck State Beach in South Kingstown. GLENN OSMUNDSON

PROVIDENCE — A group of state senators on Thursday introduced [legislation](#) that would guarantee people's rights to access the shore up to the vegetation line.

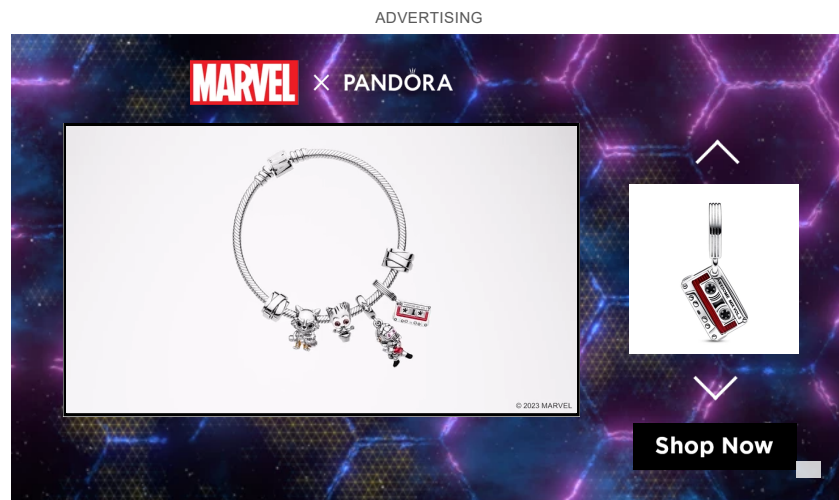
The Senate bill would greatly expand on shore access rights as they're generally enforced now, and goes significantly further than earlier proposals.

“We think Rhode Islanders deserve the full extent of use of the shore,” Senator Mark P. McKenney said Friday. “We want to restore that to them.”

The legislation still faces a long path before it could become law. For one thing, private shoreline property owners will lobby ferociously against it. Also, identical companion legislation hasn’t been introduced in the state House of Representatives. The House last year [passed](#) its own legislation fixing the line at six feet landward of what’s often called the wrack line or seaweed line. That wasn’t taken up in the Senate, which is now going a different route.

To even get to the governor’s desk for approval, the Senate would have to agree to the House’s, the House would have to agree to the Senate’s, or they’d have to come up with some sort of compromise. McKenney says there are reasonable people in both chambers.

“I would expect that there would be every effort made to try to find common ground, if you will,” McKenney said.



McKenney said more than 20 of the 38 members of the state Senate have signed onto the bill.

Democratic state Representative Terri Cortvriend, whose shore access bill the House passed unanimously last year and was introduced again in that chamber earlier this year, said she was “happy to see that Mark McKenney’s Senate bill is starting the process with such strong support.”

“We will be working in the House to expeditiously pass my bill again this year and hope that the Senate will also move legislation forward so we can undo the confusion caused by a bad RI Supreme Court case from 40 years ago, and affirm in statute the ‘privileges to the shore’ that our state constitution guarantees to all Rhode Islanders,” Cortvriend said Friday in a written message.

McKenney, a Democrat of Warwick who in November won a seat he’d previously held, had served on a House study commission last year on the issue of shore access. His views on issues of shore access evolved during the process, he said. McKenney, who lives in Old Buttonwoods, wasn’t originally convinced that the law needed to change.

After hearing from experts, the study commission — including McKenney — determined that the law as it’s generally enforced provides much less access to the beach than people think. A 1982 state Supreme Court decision fixed the

boundary between private property rights and public access at what's called the mean high tide line. That is an average of high tides taken over about two decades, rather than a visible line in the sand, and it's often underwater.

The study commission suggested passing legislation that would draw a new line for access: 10 feet landward from what it called the recognizable high tide line, or the visible place where the tide left deposits like seaweed. People who were below that line could exercise their shore access rights.

The state House of Representatives last year passed similar legislation, knocking the number back down to 6 feet from the recognizable high tide line instead of 10. But the bill, which was introduced well into the legislative session, didn't get introduced in the Senate.

McKenney's legislation would go even further than 10 feet, fixing the line for access at the vegetation line. If you were under that line, you'd have your constitutional rights to access the shore. (The bill doesn't specify what that includes and doesn't include, but McKenney emphasized that it doesn't mean you can throw a wild party.)

Rhode Island's Constitution guarantees the privileges of the shore, including collecting seaweed, passing along the shore, fishing from the shore, and leaving the shore to swim in the sea. Critics of the mean high tide line say those rights are difficult if not impossible to exercise when the line for access is under water for large chunks of the day. And some go so far as to say that the mean high tide line isn't the proper boundary at all — a later constitutional amendment, they argue, overturned it in 1986, they say.

McKenney said that although he respects what the House did, the right to access the "shore" should include everything that people naturally think of as the shore, up to the vegetation line.

The legislation would also give private property owners liability protections so they don't get sued if someone, say, gets injured on their property; and it would provide for education about access rights and signage at shoreline locations. It would also only guarantee shore access rights on passable rocky and sandy shores — not sea walls, rocky cliffs, or shoreline infrastructure. People couldn't walk on someone's riprap wall, for instance. In McKenney's own peninsular neighborhood of Old Buttonwoods, where erosion has taken away much of the actual sandy beach, it would have a negligible effect, McKenney said.

Meanwhile the private property owners who fought last year's legislation even at six feet are no less likely to do so again at the vegetation line. They will argue that like the House's attempt to draw a line last year, the vegetation line would be an impermissible "taking" of private property without just compensation.

"I think the analysis here is no different, it's just more egregious," said Daniel Procaccini, a lobbyist and attorney for a group that calls itself Shoreline Taxpayers Association for Respectful Traverse, Environmental Responsibility and Safety.

McKenney, though, says the proposed legislation is on solid legal ground.

"I don't see this as a taking," McKenney said. "I think it's a restoration to the people of the rights they had before Ibbison came down."

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