

Inching closer to shoreline rights bill, R.I. experts settle on 10 feet of dry sand

By [Brian Amaral](#) Globe Staff, Updated March 3, 2022, 6:26 p.m.



Bobby Kelly walked to the end of the accessible portion of Green Hill Beach in South Kingstown, where a property owner piled rocks down into the water, cutting off further lateral access. Coastal regulators with the Rhode Island Coastal Resources Management Council are tasked with protecting public beach access, often a contentious issue as private landowners seek to limit visitors. LANE TURNER/GLOBE STAFF

PROVIDENCE — For months, a 12-member panel of experts and legislators convened by the state House of Representatives has been kicking around ideas on how to improve shoreline access. Along the way they've delved into Roman law and pondered the width of an ox, or two oxen, or two oxen with a yoke.

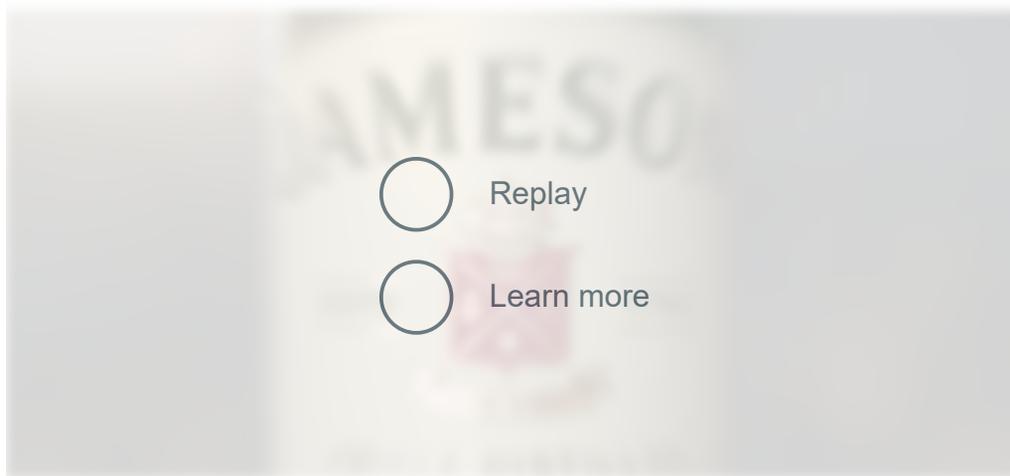
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On Thursday, they began in earnest to put pen to paper, developing a draft legislative proposal that would give people rights to always have access to dry sand along the shore — 10 feet from what’s sometimes called the wrack line. In some places, that could mean 60 or 70 more feet of access all along the shore.

“Today was a victory,” said Cynthia Zerquera-Martin, who is on Narragansett’s coastal access improvement committee and attended the meeting, held at the State House in Providence. Zerquera-Martin called the use of the recognizable high tide “reasonable and consistent with historic uses.”

The draft would declare that Rhode Islanders’ rights and privileges of the shore can be exercised up to the “recognizable high tide line.” The recognizable high tide line would be 10 feet from the wrack line, which is determined by a line of oil or scum, a continuous deposit of shell or debris, or the throw of things like seaweed. The proposal would also include something of a preamble setting out what the problem is now, and why they’re trying to fix it. That’s not typical for Rhode Island laws.

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The proposal is just that: A proposal. Anything would have to be approved by the state House of Representatives, the Senate and then signed by the governor, and also survive legal challenges.

Everyone expects lobbyists and lawyers to get involved on a proposal that waterfront homeowners oppose. Study commissions are often the place where good ideas go to die. But just as meteorological spring began, green shoots of optimism abounded that the legislation this

group had developed — which could come as early as the next few days — could finally make a difference.

“This is the first time I’ve seen a glimmer of hope that our General Assembly will fix a problem that’s been with us for a long time,” said commission member Dennis Nixon, a professor emeritus at the University of Rhode Island.

The panel, which includes attorneys, environmentalists, state officials and real estate interests, was tasked last year with figuring out how to solve the age-old problem of shoreline access in Rhode Island. A proposal to decriminalize trespassing 10 feet within the most recent high tide failed to pass, so instead, this study commission was assembled.

They’ve taken testimony ranging from scientific wave action to Justinian law. And to a person, all 12 people by Thursday were convinced the way things are now is in conflict with fundamental Rhode Island rights.

“This has been good work,” said state Rep. Terri Cortvriend, a Democrat of Portsmouth who chairs the panel. “And I want to take the opportunity to publicly thank all of you, again. I’ve learned a lot.”

Here’s some of what they learned: Under the Rhode Island constitution, the people have rights including but not limited to passage along the shore, swimming, fishing and collecting seaweed. But a 1982 state Supreme Court decision case called [State v. Ibbison](#) said people could exercise their shore rights below what’s called the mean high tide line, which is an obscure and invisible line that provides [much less access than people think](#). Under Ibbison, if the police could prove you knew where that line was and intentionally trespassed across it, you could be convicted of criminal trespassing.

After nine meetings, the group came to a consensus: The mean high tide line had to go. A better boundary for people to exercise their rights was the wrack line. The legislation does so directly, declaring that people can exercise their rights within a certain distance of it. Because people shouldn’t have to walk through seaweed, most members also wanted to give an extra few feet beyond the wrack line to access. How many? Four? 10?

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State Rep. Blake Filippi, the House minority leader, said he walked with his girlfriend along the beach while holding hands this weekend. Side by side, they took up 4 1/2 feet.

“We should provide enough room for two couples hand in hand to pass each other on the beach, and that’s nine to 10 feet,” Filippi said.

Others, like Coastal Resources Management Council Executive Director Jeffrey Willis, pointed to the days when people took ox carts down to the shore. Oxen are pretty wide, Willis noted, and in the photos he’s seen, each cart has two oxen. That doesn’t even count the yoke. Willis, too, agreed with 10.

That was enough to convince a few holdouts, and that’s what the group settled on. But it was not unanimous. David Splaine, a commissioner who’s a member of the Rhode Island Realtors Association, balked at adding as much as 10 feet from the wrack line.

“I honestly hope it works to minimize conflict,” Splaine said afterward. “That was the whole goal of the commission. But I do think it’s potentially going to cause conflict.”

Another important step for coastal access advocates is what the proposal does not say: It does not prohibit people from sitting down, or setting up chairs, nor does it imply that rights are limited in some way to merely passage along the shore. The commission’s leaders said Thursday they were only defining where people could exercise their rights, not what those rights are.

That had been a main [point of contention](#) for some activists, who felt the panel was focusing too much on the right to a walk at the beach, rather than the right to stick around and enjoy the view. One member of the commission had proposed saying people could not set down things like chairs and stay indefinitely, but neither that nor any limitation to just “passage” made its way into the draft proposal for discussion Thursday.

“That’s a huge success,” said Scott Keeley, a Charlestown resident who was arrested in 2019 while collecting seaweed.

A further-developed draft, with some more tweaks, could be introduced in the General Assembly in the coming days. That will just be the beginning of the battle, Cortvriend and Filippi both said. Cortvriend encouraged members of the commission to testify, and Filippi said

the public should contact their senators and representatives in support of the proposal.

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