

Guidance on HB 230

Amendment to Health Officer Authority



[HB 230](#), which goes into effect on August 1, 2025, modifies the language of RSA 147:1 by removing the language “and such other regulations relating to the public health.” The statute will now read, “The health officers of towns may make regulations for the prevention and removal of nuisances...” This raises a question of whether this change to the language of the statute alters the ability of local health officers to make regulations. Unfortunately, the statute does not include a definition of the term “nuisance” despite the fact that this term is used throughout Chapter 147. Without a statutory definition, it is unclear what the legal difference is between the term “nuisance” and “other regulations relating to the public health.”

Throughout RSA Chapter 147, the term “nuisance” is used several more times and is almost always coupled with the term “public health.” Here are a few examples:

147:3 Investigations and Complaints. – Health officers of towns, and each of them, shall inquire into all nuisances and other causes of danger to the public health...

147:4 Removal, Notice. – The health officers may notify the owner or occupant of any building, vessel, premises, or property to remove or destroy any nuisance or other thing therein deemed by them, on examination, to be injurious to the public health...

147:10 Nuisances; When; Regulations. – No privy, toilet, sink, drain, cesspool, septic tank, or the discharges from such facilities, and no pen or sty for swine, shall be erected or continued in such place or condition as, in the judgment of the health officers, to be a nuisance or injurious to the public health...

It would appear from how the term “nuisance” is used throughout the statute that it is synonymous with something that is related to public health, or perhaps even inclusive of public health concerns while also expanding beyond issues solely related to public health. When a statute fails to provide a statutory definition of a term or word, we generally turn to either a dictionary definition of that word or we look for a judicial interpretation through case law.

To start, the dictionary definition of “nuisance” is as follows: 1. An obnoxious or annoying person, thing, condition, practice, etc. and 2. Something offensive or annoying to individuals or to the

community, especially in violation of their legal rights.¹ While this definition provides some context, the term nuisance has long been used in a legal context, and a legal definition of the term, derived from case law, may be more relevant. In the law, the term nuisance has generally been bifurcated into two categories: public or private nuisance. The New Hampshire Supreme Court has cited these definitions as follows:

Prior decisions of this court make it clear that a private nuisance may be defined as an activity which results in an unreasonable interference with the use and enjoyment of another's property. *See Webb v. Rye*, 108 N.H. 147, 230 A.2d 223 (1967); *Urie v. Franconia Paper Co.*, 107 N.H. 131, 218 A.2d 360 (1966); *Proulx v. Keene*, 102 N.H. 427, 158 A.2d 455 (1960); *Lane v. Concord*, 70 N.H. 485, 49 A. 687 (1900). *See generally* 6-A American Law of Property s. 28.22 (A.J. Casner ed. 1954); Prosser, Torts s. 89 (4th ed. 1971); Restatement (Second) of Torts s. 822, at 22 (Tent. Draft No. 17, 1971). **A public nuisance**, on the other hand, is "an unreasonable interference with a right common to the general public." Restatement (Second) of Torts, *supra* s. 821B(1), at 3. **It is behavior which unreasonably interferes with the health, safety, peace, comfort or convenience of the general community.** 6-A American Law of Property, *supra* s. 28.23, at 68. *Robie v. Lillis*, 112 N.H. 492, (1972).

Bottom Line: This definition of public nuisance seems to support the fact that a “nuisance” both encompasses and expands upon issues related to public health and safety. This definition is also supported by fact that the term “nuisance” is coupled with the term “public health” throughout the rest of RSA 147. Therefore, it would be reasonable to take the position that even with the change in statutory language, health officers are still able to adopt regulations related to issues of public health. As a result, HB 230 does not alter the existing authority of health officers to adopt public health regulations.

Statute Amended: RSA 147:1
Effective Date: August 1, 2025

¹ <https://www.dictionary.com/browse/nuisance>