

# Bill as Introduced

HB 1268-FN - AS INTRODUCED

2010 SESSION

10-2506  
01/03

HOUSE BILL

***1268-FN***

AN ACT prohibiting the use of a person's occupation when obtaining insurance coverage.

SPONSORS: Rep. Hatch, Coos 3

COMMITTEE: Commerce and Consumer Affairs

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ANALYSIS

This bill prohibits the use of a person's occupation when obtaining insurance coverage.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Ten*

AN ACT prohibiting the use of a person's occupation when obtaining insurance coverage.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1       1 New Paragraph; Unfair Insurance Practices; Occupation. Amend RSA 417:4 by inserting after  
2 paragraph XXII the following new paragraph:

3           XXIII. OCCUPATION. Requesting information concerning a person's occupation and using  
4 such information to rate or underwrite insurance coverage.

5           2 Effective Date. This act shall take effect January 1, 2011.

LBAO  
10-2506  
11/10/09

**HB 1268-FN - FISCAL NOTE**

AN ACT prohibiting the use of a person's occupation when obtaining insurance coverage.

**FISCAL IMPACT:**

The Insurance Department states this bill will increase state general fund revenue, state expenditures, county expenditures, and local expenditures by an indeterminable amount in FY 2011 and each year thereafter. There is no fiscal impact on county and local revenue.

**METHODOLOGY:**

The Insurance Department states this bill prohibits requesting information on a person's occupation to rate or underwrite insurance coverage. The Department states the use of a person's occupation is a critical element to establish the premium for workers' compensation insurance, is considered in the pricing of many products for commercial lines of business, and is used by a small number of property and casualty insurers for personal auto insurance. Prohibiting the use of information of a person's occupation to rate or underwrite insurance coverage will result in increased premium costs and increased premium tax revenues. The Department does not have the information to project the increase in costs or revenue.

# Speakers



# Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1268-FN

**BILL TITLE:** prohibiting the use of a person's occupation when obtaining insurance coverage.

**DATE:** 2-1-10

**LOB ROOM:** 302      **Time Public Hearing Called to Order:** 1402

**Time Adjourned:** 1513

(please circle if present)

**Committee Members:** Reps. Butler, DeStefano, Kopke, McEachern, Hammond, Nord, Winters, Meador, Gidge, Schlachman, D. Eaton, Hunt, Quandt, Belanger, D. Flanders, R. Holden, Dowling, Headd, Nevins and Palfrey, Keans.

**Bill Sponsors:** Rep. Hatch, Coos 3

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

**Rep. William Hatch, sponsor** – Introduced bill. Believes occupation and education credit scores, etc. should not be used. Bartenders are the only ones I can think of that might make sense. I know for instance when two people lived in the same town; drove the same kind of vehicle and same distance to work; one was a lawyer, the other a dishwasher. The dishwasher was charged \$300-\$400 more.

**Q: Rep. Frank Holden** – How do they define risk; have you gotten an actuarial model?

**A:** I have reviewed a lot of data. Profiling is not allowed so they use other criteria such as education. we can't use socio-economic criteria.

**Deb Stone, NH Insurance Dept.** – Opposes the bill. Actuary. Restaurants would have higher fine risk than banks. Workers' Compensation we need to use occupation. It's not usually used in personal line, but it is central in Worker's Comp. and commercial lines.

**Q: Rep. Rip Holden** – What is moral hazard?

**A:** It involves a situation where an insured would destroy property to collect on a claim; burn his own house down.

**Q: Rep. Donna Schlachman** – If we passed this law would we lose auto carriers?

**A:** No I don't think we'd loose any companies. If my hurt current insurers as they companies with the largest number of people in a certain occupational risk; would be subsidizing the risk in other companies.



Q: Looking for data?

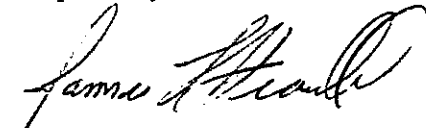
A: We can look into it to see what we can. Models do change over time and a lot of information is proprietary.

Mike McLaughlin, PCIAA – Oppose the bill. Attorney. Handed out written testimony and discussed same. He discussed a family from New Jersey (stacked ) GEICO.

George Roussos, ACLI/NHADIC – Opposes bill. Bill is very broad in it application. Life insurance and Workers Compensation would both be affected. The sponsor should narrow the scope of the proposal. There are very few companies that use occupation in their underwriting process. As long as you have 200 competing. We have a good system.

Paula Rogers, Anthem BC/BS Assn. – Opposes bill as written. This bill does seem to cover all lines of insurance. I thought it was applicable to auto and homeowners but the way it was written it also applies to health insurance. In health policies we use industry in the rating process; very close to occupation.

Respectfully Submitted,



James F., Headd, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

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**Bill Sponsors:** Rep. Hatch, Coos 3

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

Rep Hatch - introduced bill - believes occupation EDU etc credit scores etc should not be used -

Ben Flanders are the only ones I can think of that it might make sense - I know for instance when 2 people lived in the same town. Dave the son of of Schuck + some distance toward - am. was a lawyer he own a dishwasher. - the dishwasher was charge 300/yr more -

Q Holden - How do they define risk - Have you gotten an actuarial model - ?

A. I have received a lot of data - Profiling is not allowed so they ~~used~~ used other criteria -  
EDUCATION - I don't use socio economic criteria

Del. Stone - N.H. I.D. - Attorney  
opposes bill -  
Restaurants would have higher  
fire risk than Banks  
Worked long we need to use  
Occupation

It is not usually used in personal  
life but it is central in  
we all commercial lines

Q Holden - what is moral Hazard  
it involves a situation where an  
individual would destroy property to collect  
on a claim. - Burn his own house  
down.

Q Subsection - if we passed this law  
would we lose auto carriers?

A - No I don't think we'd  
lose any companies -

If my best current insurers  
as they rate companies with the largest  
number of people in a certain occupational  
risk would be subsidizing the poorer  
risk in other companies

H 3 HB 1264

Q Schlachman looking for Data -  
A - we can look into it to see  
what we can - Models do change,  
and timing of what of imp is prioritizing

#3

Mike McLaughlin - atty &  
P & C IAA

Opposes Bill -  
handed out written testimony  
and discussed same -

He discussed a family from New  
Jersey (stacked) IFTCO -

#4

George Rousso - ORR + Reno  
Opposes all  
Regroup Act I -

Bill is very broad in its application  
life for - we would both be  
affected - The sponsor should narrow  
the scope of the proposal -

There are very few companies that use  
occupation in ~~the~~ their underwriting ~~process~~  
process. As long as you have ~~good~~  
competency we have a good system

#4

HB 1265

#5

Paula Rogers - Southern BCWS  
opposes bill as written.

The bill does seem to cover  
all forms of injuries - I thought it  
was applicable to Part 2 HCB but  
~~that~~ the way it was written it also  
applies to health care. →

in Health Policy we use industry  
in the rating process - very direct  
occupation →

# Testimony

## CONCLUSION

While occupation and education factors – and, indeed, several other factors with apparent differential effect – are permitted under current insurance statutes, public policy concerns about resulting socio-economic impacts may warrant a comprehensive analysis of potential different approaches to insurance company rating systems.

Because of its complexity, a full consideration of the issue, including by the Legislature, Administration, interested parties and the academic community, would be necessary to fully understand the impact of any proposed new approach on consumers, the insurance industry and by extension the State's economy.

The consequences of any regulatory change in New Jersey for the progress of the auto reforms of 2003, which continue to favorably unfold, is an important consideration. The Department hopes to continue to attract new companies – and thus new capital investment – to the State, further expanding the availability of coverage and improving price, service and product offerings. The predictability and stability of the regulatory system is of concern to potential new entrants to any marketplace.

The Department further notes the various indications, outlined in this report, that low-income and minority consumers are in fact benefiting from the marketplace improvements spurred by the current regulatory system. The potential for unintended, negative consequences from regulatory changes on these consumers must likewise be considered.

To briefly summarize the conclusions of this report:

- The Department's various approvals of automobile insurance rating systems employing occupation and education factors, including the 2004

approval of GEICO's rating system, are consistent with New Jersey statutes and regulations then and currently in effect. The Department has had no legal basis on which to disapprove such filings, and disapprovals would have been unlikely to withstand legal challenge.

- GEICO's rating system expanded but by no means introduced the use of occupation and education factors in automobile insurance in New Jersey. The occupation and educational attainment of applicants has had an impact on premium and company placement in this State for decades, both through the existence of membership companies with special acceptance criteria and rates for eligible groups (typically members of a specific profession or trade association); and through the long standing practice of providing "Good Student Discounts."
- The use of such factors is likewise common throughout the United States. The large majority of states approve such factors (so long as they are actuarially supported) under the ubiquitous, half-century-old regulatory standard that rates be neither excessive, inadequate nor unfairly discriminatory between risks involving the same hazards. In practice, this has meant approval of these factors in general (and GEICO's use of them in particular) in at least 44 jurisdictions.
- Few states proactively address the use of occupation or education in their insurance statutes or regulations. In practice, those states that do have such provisions nonetheless generally approve the use of occupation and education factors in one form or another.
- Across the country and in New Jersey, where insurance regulators have examined the issue they have found that such factors are predictive of losses and are thus actuarially justified to support pricing differences.
- The re-entry of GEICO into New Jersey after a 28 year absence, as well as the entry of other new insurers and the resulting increase in competition for New Jersey consumers, was made possible by a package of regulatory reforms in 2003 that resolved an insurance availability crisis, prompted widespread rate reductions and greatly increased consumers' satisfaction with auto insurers.



- The use of these factors naturally results in lower premiums for some customers than for others. However, the difference is not as large as that portrayed in a February, 2007 report issued by citizen watchdog group New Jersey Citizen Action (NJCA). That report contained methodological flaws that exaggerated occupation and education rating differentials and led to the incorrect conclusion that drivers with blue-collar jobs and low educational attainment were ineligible for the best rating tiers and placement in preferred companies. In actuality, these factors are just two of many, and other characteristics are also important for determining rate and company placement.
- An analysis of the rates of multiple insurers demonstrates that the use of these factors has not created higher overall premiums for drivers with lesser occupational and educational attainment. Indeed, GEICO's New Jersey rates for these consumers are often lower than the rates of competing companies where such factors are not used.
- Allowing insurers to use a wider variety of rating factors has contributed to overall improvement in the marketplace for many kinds of drivers and in all regions of the State.
- The Department found no evidence that such factors are used as a proxy for race or income. U.S. Census data and common sense indicate that, on average, these factors have a differential effect on low-income and minority drivers, in that such drivers are less likely than average to have professional jobs and college degrees. However, such groups are not singled out, as the range of education and occupation is great in every category. For example, most Whites would fail to qualify for the best possible rates. Still, on average, minority and low-income drivers are less likely than White drivers and drivers with professional occupations to benefit from the lowest rates available from a company that uses occupation and education factors.
- It is problematical, from an insurance regulatory perspective, to "pick and choose" between all of the factors with the potential for differential effect on the basis of race or income. This is especially the case because all of

these factors are equally permitted by current insurance statutes. Because there is no actuarial basis or regulatory theory under which an insurance regulator could reasonably discern between "acceptable" factors with a differential effect and "unacceptable" factors with a differential effect, the question is ill-suited for resolution by the Department.

Further examination of the impact of the use of a variety of rating factors on the affordability of auto insurance may be appropriate. If that determination is made the Department will be a willing and active participant in that evaluation.

# Voting Sheets

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1268

**BILL TITLE:** prohibiting the use of a person's occupation when obtaining insurance coverage.

**DATE:** 2-4-10

**LOB ROOM:** 302

**Amendments:**

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Schlachman

Seconded by Rep. Hammond

Vote: 16-2 (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE:** Consent or Regular (Circle One)

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. James F. Headd, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

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Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

*John L. Hancock*  
*Hammond*

Seconded by Rep.

Vote: 16-2 (Please attach record of roll call vote.)

*FTZ*

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. James F. Headd, Clerk

*Rep. James F. Headd*

COMMERCE AND CONSUMER AFFAIRS

Bill #: HB 1268 Title: Occupation in OBTAINING APP.

PH Date: 1/1/10 Exec Session Date: 2/4/10

Motion: ITL Amendment #: \_\_\_\_\_

MEMBER	YEAS	NAYS
Butler, Edward A, Chairman	/	
Schlachman, Donna L, V Chairman	/	
DeStefano, Stephen T	/	
Kopka, Angeline A	/	
Meador, David R	/	
McEachern, Paul	/	
Hammond, Jill Shaffer	/	
Nord, Susi		/
Winters, Joel F	/	
Keans, Sandra B		
Gidge, Kenneth N		
Hunt, John B	/	
Quandt, Matt J	/	
Belanger, Ronald J	/	
Flanders, Donald H	/	
Holden, Rip		/
Dowling, Patricia A	/	
Headd, James F, Clerk	/	
Nevins, Chris F		
Palfrey, David J	/	
	16	2
TOTAL VOTE:		

# Committee Report

**REGULAR CALENDAR**

**February 17, 2010**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

The Committee on COMMERCE AND CONSUMER  
AFFAIRS to which was referred HB1268-FN,

AN ACT prohibiting the use of a person's occupation  
when obtaining insurance coverage. Having considered  
the same, report the same with the following

Resolution: **RESOLVED**, That it is **INEXPEDIENT TO**  
**LEGISLATE**.

**Rep. Donna L Schlachman**

**FOR THE COMMITTEE**



## COMMITTEE REPORT

Committee:	COMMERCE AND CONSUMER AFFAIRS
Bill Number:	HB1268-FN
Title:	prohibiting the use of a person's occupation when obtaining insurance coverage.
Date:	February 5, 2010
Consent Calendar:	NO
Recommendation:	INEXPEDIENT TO LEGISLATE

### STATEMENT OF INTENT

The intent of this bill is to prohibit the use of occupation as a factor in setting insurance rates in the individual motor vehicle insurance market. As written, however, it would have been applied to all forms of insurance, including workers' compensation insurance where occupation is a critical aspect in setting rates. The committee heard again that occupation is used by only a few companies in New Hampshire in determining insurance rates but consumers should take time to shop for the best coverage at the best price. The New Hampshire Insurance Department's website provides a tool to help citizens comparison shop.

Vote 16-2.

Rep. Donna L Schlachman  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## **REGULAR CALENDAR**

### **COMMERCE AND CONSUMER AFFAIRS**

**HB1268-FN**, prohibiting the use of a person's occupation when obtaining insurance coverage.  
**INEXPEDIENT TO LEGISLATE.**

Rep. Donna L Schlachman for **COMMERCE AND CONSUMER AFFAIRS**. The intent of this bill is to prohibit the use of occupation as a factor in setting insurance rates in the individual motor vehicle insurance market. As written, however, it would have been applied to all forms of insurance, including workers' compensation insurance where occupation is a critical aspect in setting rates. The committee heard again that occupation is used by only a few companies in New Hampshire in determining insurance rates but consumers should take time to shop for the best coverage at the best price. The New Hampshire Insurance Department's website provides a tool to help citizens comparison shop. **Vote 16-2.**

Original: House Clerk  
Cc: Committee Bill File

**Stapler, Carol**

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**From:** EdoftheNotch@aol.com  
**Sent:** Friday, February 05, 2010 8:19 AM  
**To:** Stapler, Carol  
**Cc:** Schlachman, Donna  
**Subject:** Fwd: Blurbs

Carol,

These are OK.

Donna, I made a few minor changes. I thought that saying occupation is 'rarely used' was asking Rep. Hatch to defend his position on the floor (which he may do anyway). And I added a bit about inhaling vapors for the e-cigarette blurb.

Ed

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From: Donna.Schlachman@leg.state.nh.us  
To: edofthenotch@aol.com  
Sent: 2/4/2010 10:32:11 P.M. Eastern Standard Time  
Subj: Blurbs

Here are mine. I hope I got them all!  
I have sent a copy of 1429 to Rep. Trinka Russell to review. I am not sure I'll hear back from her in time for you to send them to Carol.  
Donna

Blurbs

HB 1191  
Interim Study 15-0 Consent Calendar  
Rep. Donna Schlachman  
The committee considered two bills concerning fire sprinklers in new or existing one, 2-, or 3-family dwellings. This bill prohibits the state building code review board, municipalities and local land use boards from adopting measures requiring fire sprinklers under the updated national building code. The committee elected to place this bill in Interim Study to consider all the aspects of mandating fire sprinklers in new or existing one, 2-, or 3-family dwellings rather than prohibiting them outright.

HB 1268  
ITL 16-2  
Rep. Donna Schlachman  
The intent of this bill is to prohibit the use of occupation as a factor in setting insurance rates in the individual motor vehicle insurance market. As written, however, it would have been applied to all forms of insurance, including workers' compensation insurance where occupation is a critical aspect in setting rates. The committee heard again that occupation is used by only a few companies in New Hampshire in determining insurance rates but consumers should take time to shop for the best coverage at the best price. The New Hampshire Insurance Department's website provides a tool to help citizens comparison shop.

HB 1429