

Bill as
Introduced

HB 353 - AS INTRODUCED

2013 SESSION

13-0493

10/01

HOUSE BILL

353

AN ACT

relative to the regulation of private investigators and security guards.

SPONSORS:

Rep. Burrige, Ches 16

COMMITTEE:

Executive Departments and Administration

ANALYSIS

This bill makes various changes to the licensing and regulation of private investigators, security guard services, and bail recovery agents by the commissioner of safety.

This bill is a request of the advisory board to review complaints and licensing issues relative to private investigative agencies and security services.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Thirteen

AN ACT relative to the regulation of private investigators and security guards.

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

1 1 Enforcement. Amend RSA 106-F:3, II to read as follows:

2 II. The commissioner of safety *or the commissioner's designee* shall have the authority to
3 enforce the provisions of this chapter, which authority shall not be restricted by RSA 106-B:15. *The*
4 *commissioner may request the assistance of local or county law enforcement in*
5 *investigations of violations of this chapter.*

6 2 Advisory Board; Membership. Amend RSA 106-F:3-a to read as follows:

7 106-F:3-a Advisory Board.

8 I. There is hereby established an advisory board to review complaints and licensing issues
9 relative to private investigative agencies and security services. Each *appointed* member shall be
10 appointed by the governor and approved by the council. A member, *other than an ex officio*
11 *member*, shall continue to serve until a successor is appointed by the governor and council.
12 Members of the board shall serve without compensation. *Appointed* members shall each serve a
13 term of 3 years. No appointed member shall be eligible to serve more than 3 full consecutive terms,
14 provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term
15 shall be deemed a full term. Initial appointments made by the governor shall be staggered for terms
16 of one, 2, or 3 years.

17 II. The board shall consist of:

18 (a) Three members licensed in New Hampshire as investigators and who have been so
19 licensed for the last 5 years, one of whom shall be engaged in the practice of accident reconstruction
20 or the practice of bail recovery.

21 (b) Two members of the general public who are not and have never been licensed in
22 New Hampshire or another jurisdiction as investigators and who are not the spouse of any such
23 person and who do not have and never have had a material interest in either provision of private
24 investigation services or an activity directly related to private investigation, including representation
25 of the board or profession for a fee at any time during the 5 years preceding their appointments.

26 (c) One member of the law enforcement community.

27 (d) *One member licensed in New Hampshire as a security guard and who has*
28 *been so licensed for the last 5 years.*

29 (e) The commissioner of the department of safety, or designee.

30 III. The board shall elect a chairperson from its members. [~~The board shall hold its first~~
31 ~~meeting no later than 90 days after the effective date of this section.~~]

1 3 Definition; Private Investigator. Amend RSA 106-F:4, XI and XII to read as follows:

2 XI. "Private investigator" means a person not excluded by RSA 106-F:2 engaged in
3 conducting investigations, including but not limited to:

- 4 (a) Unsolved crimes.
5 (b) Insurance claims or matters for attorneys in anticipation of civil litigation.
6 (c) Clandestine surveillance.
7 (d) Locating missing persons.
8 (e) Locating lost, concealed, or stolen property.
9 (f) Locating escaped felons or wanted persons subject to reward for capture.
10 (g) *Character, reputation, or fitness for employment.*

11 XII. "Private investigative agency" means the business, within or from the state of
12 New Hampshire, of offering or providing by legal means, for a fee or other compensation, to other
13 persons or businesses, the service of *researching or* collecting information on the identity, character
14 and characteristics, reputation, conduct, background history, movements, whereabouts, affiliations,
15 or transactions of any other living person or any business or legal entity or organization, for a fee,
16 hire, or reward information on the identity, conduct, movements, whereabouts, affiliations,
17 transactions, reputation, or character of any person, or otherwise making inquiries or collecting
18 evidence, for a private rather than a public interest. This shall not preclude a licensee under this
19 chapter from pursuing investigation of matters arising in this state in, another state, or political
20 subdivision except as provided by the law of the other state or political subdivision.

21 4 Application for License. Amend RSA 106-F:6, VII(d) to read as follows:

22 (d) Except for employees, possess:

23 (1) A minimum of 4 years' experience as a full-time law enforcement officer with a
24 federal, state, county, college or university, or municipal police department, director *or head of*
25 security [~~or senior officer~~] of a company or corporation, or licensed security service, full-time adjuster,
26 risk manager, or claims investigator for an insurance carrier or adjusting company; or

27 (2) An associate of science degree or bachelor of science degree in criminal justice or
28 fire service from an accredited college or university, certification from the American Society for
29 Industrial Security as a certified professional investigator, or certification from the National
30 Association of Legal Investigators as a certified legal investigator and employment as a full-time
31 investigator for a private investigative agency for at least 2 years; or

32 (3) A minimum of 4 years' employment as a full-time investigator for a licensed
33 private investigator or private investigative agency; or

34 (4) A minimum of 4 years' experience as a full-time firefighter and certification by
35 the International Association of Arson Investigators; or

36 (5) Certification by the American Society for Industrial Security in security
37 operations, and 2 years experience providing such services; or

1 (6) Certification by the American Society for Industrial Security in executive
2 protection, and 2 years experience providing such services[-] *or*

3 (7) *National or international recognized certification as determined by the*
4 *commissioner of safety on a case-by-case basis.*

5 5 License Application Fees. Amend RSA 106-F:8, I to read as follows:

6 I. The fee for a private investigative agency license [ø], a security guard service license, *or a*
7 *bail recovery agency license* shall be \$150 for an agency or service employing one person licensed
8 under this chapter and \$500 for an agency or service employing more than one such person. A
9 person may hold one or more types of license at any given time, provided that a separate fee shall be
10 paid for each license so held. Licenses shall be valid for 2 years after the date of issue and shall be
11 renewed every 2 years thereafter, upon application and payment of the fee and submission of
12 certified evidence that the surety bond remains in force. The application for renewal shall be
13 submitted at least 15 days before the expiration of the previously granted license.

14 6 Firearm Proficiency. Amend RSA 106-F:8-a, I to read as follows:

15 I. All armed security guards, armed private investigators, and armed bail enforcement
16 agents shall meet minimum requirements in the proficiency in the use of firearms at least once per
17 year. The requirements shall be as follows:

18 (a) The practical police course or the tactical revolver course, with a minimum
19 qualification score of 75 percent.

20 (b) Shotgun familiarization course required for all security officers, *private*
21 *investigators*, and bail enforcement agents whose employers issue, or have as part of their
22 equipment, shotguns.

23 (c) *Rifle familiarization course required for all security officers, private*
24 *investigators, and bail enforcement agents whose employers issue, or have as part of their*
25 *equipment, rifles.*

26 (d) Four hours of instruction, to include firearms techniques and safety, laws on the use
27 of deadly force, and the moral and ethical use of force. Only qualified firearms instructors shall be
28 used to certify the successful completion of the requirements.

29 7 Effective Date. This act shall take effect 60 days after its passage.

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- Page 2 -

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HB 353 - AS AMENDED BY THE HOUSE

- Page 3 -

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31 7 Effective Date. This act shall take effect 60 days after its passage.

Amendments



Amendment to HB 353

1 Amend the bill by inserting after section 2 the following and renumbering the original sections 3-6 to
2 read as 4-7, respectively:

3

4 3 Definition; Private Investigator. Amend RSA 106-F:4, XI and XII to read as follows:

5 XI. "Private investigator" means a person not excluded by RSA 106-F:2 engaged in
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Committee Minutes

**SENATE CALENDAR NOTICE
EXECUTIVE DEPARTMENTS AND ADMINISTRATION**

- ✓ Senator Sharon Carson Chairman
- ✓ Senator Sam Cataldo V Chairman
- ✓ Senator John Reagan
- ✓ Senator Donna Soucy
- ✓ Senator David Watters

*9:30 open
close 9:45 AM*

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: April 17, 2013

HEARINGS

Wednesday

4/24/2013

EXECUTIVE DEPARTMENTS AND ADMINISTRATION	SH 100	9:00 AM
(Name of Committee)	(Place)	(Time)

EXECUTIVE SESSION MAY FOLLOW

- | | | |
|---------|-------|--|
| 9:00 AM | HB686 | (New Title) relative to approval of liquor commission contracts. |
| 9:20 AM | HB353 | relative to the regulation of private investigators and security guards. |
| 9:40 AM | HB453 | repealing the prospective repeal of the information and analysis center. |

Sponsors:

HB686

Rep. Lynne Ober
Sen. Chuck Morse

Rep. Peter Leishman
Sen. John Reagan

Rep. Mary Nelson

Rep. Cindy Rosenwald

HB353

Rep. Delmar Burridge

HB453

Rep. Neal Kurk

**SENATE
EXECUTIVE DEPARTMENTS AND ADMINISTRATION
COMMITTEE**

Deb Chroniak, Legislative Aide

HB 353 – relative to the regulation of private investigators and security guards.

Hearing Date: 4-24-13

Time Opened: 9:30 a.m.

Time Closed: 9:48 a.m.

Members of the Committee Present: Senators Carson, Cataldo, Reagan, Soucy, and Watters

Members of the Committee Absent: No one

Bill Analysis: This bill makes various changes to the licensing and regulation of private investigators, security guard services, and bail recovery agents by the commissioner of safety.

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Sponsors: Rep. Burridge, Ches 16

Who supports the bill: Rep. Lucy Weber, Chair, House ED & A Committee; Rep. Delmar Burridge, prime sponsor; Rep. Dianne Schuett, House ED & A Committee; Sgt. Sean Haggerty, Department of Safety and New Hampshire State Police, Vinnie Baiocchetti, NH Private Investigative Advisory Board.

Who opposes the bill: No one.

Summary of testimony presented in support:

- **Rep. Delmar Burridge** opened and stated that he brought this bill forward for Assistant Commissioner Earl Sweeney.
- The legislation was requested by the Advisory Board on Private Investigative Agencies.
- Stated others would be speaking to address specific issues.

Senator Watters stated that on Page 2, it sets a license fee. He asked who chose the fee, was it chosen because it concurs with other state's fees and, how was the fee amount determined. **Rep. Burridge** was not aware of how it was determined, but that others testifying could speak to that.

Sargent Sean Haggerty, Department of Safety, NH State Police (in support) (testimony provided):

- Unit Commander at the Department of Transportation, Division of Licensing discussed testimony provided by Assistant Commissioner Earl Sweeney.

- Stated that the purpose of the legislation was to clean up the language which was placed in law a few years back.

- In answer to the question regarding fee setting, he stated that in the original law there were no fees set for bail enforcement agents. This legislation will set a standard fee, which is in line with other sections.

- Attention needed in Section 1, the Commissioner of Safety, an ex-officio member of the Private Detective and Security Guard Advisory Committee did not include language to give the Commissioner ability to appoint a designee to the board. This language now gives him that authority to appoint a replacement.

- Section 2 clears up the appointment process and adds another member to the Advisory committee. Presently, the law states that the Commissioner is appointed to the board by the Governor and Council. The new language states that an ex-officio member does not have to be appointed because the law requires him, by virtue of office, to be a member.

- The addition of one licensed security guard representative to the committee. Other members of the committee believe, out of fairness, security guards should have a seat at the table seeing they are discussed by the committee.

- In the original Section 3 covering the definitions of security guards, private investigators, sets the standard of definitions. This section was deleted from the legislation by the House. This deletion occurred because of language in a small section which expanded the definition of private investigator to include "researching". Putting Section 3 (Definitions) back would be prudent and highly recommended by the Department of Safety.

- Section 4, language which gave a senior official of a corporation the ability to apply and obtain an agency license. Sargent Haggerty stated that there are many requirements to obtain an agency license. The language as previously written included a loop-hole where someone, without experience in these areas, could obtain a license without experience (he mentioned that this occurred at least twice). New language would eliminate that problem. It would allow those currently licensed to be covered because of their experience in running a security, private investigator or bail enforcement agency.

- Section 6, deals with being armed, and includes rifle requirements.

- Cleans up language requirements for armed security guards, armed private investigators, and armed bail enforcement agents, and standardizes those requirements.

Senator Watters asked about Section 5 with the issue of rifle or shotgun familiarization course. Subparagraph (d) states four hours of instruction by qualified instructors. He asked who offers the rifle familiarization course. **Sargent Haggerty** stated that there would be qualifying standards for the instructors as with hand gun instructors. The instructor's information is on file in his office. **Senator Watters** asked if it did not make sense to require who offers the familiarization courses. **Sargent Haggerty** stated that the language covers the requirements for instructors. **Senator Watters** stated that it only references four hours of instruction to include firearms techniques and safety. Would it not make sense to reference all here in this section, and not have to go back and reference (b) and (c) (combine in to one reference). **Sargent Haggerty** stated that the standards, as they are now, would be individuals considered for qualification who successfully complete one of the following courses (which are listed), as well as the Standard Police Training course. This is governed by RSA 106-F:8-a Firearm Proficiency.

Vinnie Baiocchetti, Vice Chair of the New Hampshire Private Detective and Security Guard Advisory Committee and, Law Enforcement Representative from this Committee (in support of changes, with Section (3) Definitions added back in to the legislation).

- The Advisory Committee is comprised of six members; three from security, two from the public, and one from law enforcement appointed by the Governor and Council to serve their terms.
- Since 2011, the committee began working on refining bills that deal with private security, private investigators, and security guards.
- Have gone through laws and cleaned up.
- All of the recommendations, with the exception of the "definition change", were brought on by them.
- As a board, one thing of concern is the elimination of private investigative agency under the definitions, which deals with character, reputation, or fitness for employment.
- Under Section 10, under definitions for private investigative agency was "service of researching." Searches can be completed on-line and there is a lot of information you can receive.
- The House eliminated this section because they thought it was far reaching.
- Asking the Senate to reinstitute that definition to include the service of researching or collecting information on the identity, character and characteristics of people.
- Stated that anyone could get on a computer, anyone can type in a name, find information, and then do with it what they wish.
- Private investigators are held by standards, and held by law, and should be regulated as well. Private investigators were also requesting this.
- Law enforcement agrees with the regulation.
- By removing the definition, he believes it will cause more problems.

- Need to have a definition of what a private investigative agency is. **Senator Carson** asked in relation of the section removed. Looking at the bill as introduced in the House, in relation to Section 3 (Definitions) (g) character, reputation, or fitness for employment. She asked if private investigators would investigate someone for fitness for employment. **Mr. Baiocchetti** stated that would be if you hired a company to do background checks on perspective employees and/or clients. She went on to ask if this was about security clearances for employment. **Mr. Baiocchetti** stated that security clearances are usually done by the government, but they are also contracted out to other agencies.

Summary of testimony presented in opposition: No one.

Fiscal Note: N/A

Future Action: Senator Watters motioned OTP on Amendment, seconded by Senator Cataldo. The vote was 4-0 in favor. Senator Watters motioned OTP/A which was seconded by Senator Cataldo. The vote was 4-0 in favor. Senator Watters will bring the bill to the Floor.

dac

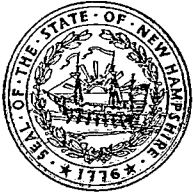
Date hearing report completed: 4-26-13

[file: HB 0353 report]

Speakers

Testimony

#1



State of New Hampshire

DEPARTMENT OF SAFETY
JAMES H. HAYES BLDG. 33 HAZEN DR.
CONCORD, N.H. 03305
603/271-2559

JOHN J. BARTHELMES
COMMISSIONER OF SAFETY

NH DEPARTMENT OF SAFETY

EARL M. SWEENEY
ASSISTANT COMMISSIONER

LEGISLATIVE POSITION PAPER

HB 353 SB ____ AS INTRODUCED () AMENDMENT NO. ____

This bill was requested by the Advisory Board on Private Investigative Agencies and Security Services established by the Legislature 2 years ago and the Department of Safety, who licenses and regulates private investigators, security guards and bail recovery agents. Much of it is simply clean-up language, but there are a few more actual changes to this relatively new law.

Section 1 deals with the Commissioner of Safety who is an ex-officio member of the Private Detective and Security Guard Advisory Committee. When the law established the Committee, due to a drafting error unlike other Committees and Commissions he is represented on, this law does not allow him to send a designee when he cannot come personally. He sits ex-officio on a number of these groups and this change will simply allow him to designate a subordinate to represent him whenever he cannot attend.

Section 2 clears up the appointment process and adds another member to the Advisory Committee. The law says the Commissioner is an ex-officio member, yet the way it is worded, he would have to be appointed to the Committee by the Governor and Council, even though the law requires him by virtue of office to be a member. This change simply says an ex-officio member does not have to be appointed because the law has already done that. It also adds one licensed security guard to the Committee, who has been in the business for at least 5 years. Out of fundamental fairness, the other members of the group suggest that the Security Guards should have a seat at the table, since the Committee is talking about them and making recommendations concerning them.

The House amended the bill by deleting section 3. If you look at amendment 0613h you will note that there is no longer a section 3 in the bill. It was removed by the House, but apparently Legislative Services when they drafted the amendment failed to renumber the existing sections. We recommend that you renumber section 4 in the bill as amended and continue numbering from there, so that the Effective Date will be section 6 instead of section 7. The section 3 that the House removed would have added to the definition of who is considered a private investigator, to add persons who investigate persons' character, reputation, or fitness for employment. The Private Investigators felt that these persons should be licensed as PI's but the House Executive Departments and Administration Committee felt this was over-reaching, since many of the people who do this accomplish it by searching public records online, so they deleted this section. The Department has no issue with what the House did.

Section 4 corrects something in the law that was passed a couple of years ago that the Private Investigators do not believe is what the Legislature intended. It says that the senior officer of a company or corporation doing private investigator or security

guard work does not have to be licensed himself and can still do the job, even though he has absolutely no education or training in the field. The bill as introduced removed "senior officer" those people would have to pass the same qualifications as any other private investigator or security guard. For full disclosure we told the House Committee that this could affect several people that were already licensed under this new law and advised them that they might want to consider whether they should "grandfather" them or not. The House amendment handles this by allowing such persons to be licensed if they are the head of security of a business that provides private investigation or security guard services, risk manager or claims adjustment services.

Section 4 also, out of a sense of fairness, in addition to recognizing as qualifications for a license, membership in and certification by the American Society for Industrial Security, allows the Commissioner on a case-by-case basis, to allow as qualifications someone who is a member of some other national or internationally recognized certification as an investigative or security professional.

The current law requires the Department to license Bail Recovery Agents (think of "Dog, the Bounty Hunter") but imposes no license fee, an obvious oversight. Section 5 of the bill sets an annual fee of \$150 per agent and \$500 for an agency employing more than one agent.

Section 6 of the bill requires that armed guards, bail enforcement agents, and investigators that carry rifles as part of their equipment must pass the same rifle familiarization course as police officers are required to pass, once a year.

It also requires that if private investigators are equipped with shotguns that they; just like security guards and bail enforcement agents and police officers are required to do must pass a shotgun familiarization course.

Section 7 is simply the effective date. As we mentioned, these sections need to be renumbered so that it would be section 6, due to the removal by the House of section 3.

We recommend passage of this bill.

APPROVED:

Earl M. Sweeney

Assistant Commissioner

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: April 24, 2013

THE COMMITTEE ON Executive Departments and Administration
to which was referred House Bill 353

AN ACT relative to the regulation of private investigators and
security guards.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 4-0

AMENDMENT # 1390 s

Senator David H. Watters
For the Committee

Deb Chroniak 271-1403

New Hampshire General Court - Bill Status System

Docket of HB353

Docket Abbreviations

Bill Title: relative to the regulation of private investigators and security guards.*Official Docket of HB353:*

Date	Body	Description
1/3/2013	H	Introduced 1/3/2013 and Referred to Executive Departments and Administration; HJ 12 , PG.192
1/23/2013	H	Public Hearing: 1/29/2013 10:00 AM LOB 306
2/6/2013	H	Executive Session: 2/12/2013 1:30 PM LOB 306 ==RECESSED==
2/21/2013	H	Continued Executive Session: 2/26/2013 1:30 PM LOB 306 ==RECESSED==
2/26/2013	H	Subcommittee Work Session: 2/28/2013 10:30 AM LOB 306
2/27/2013	H	Continued Executive Session: 3/5/2013 1:00 PM LOB 306
3/6/2013	H	Committee Report: Ought to Pass with Amendment #0613h for Mar 13 (Vote 20-0; CC); HC 22 , PG.506
3/6/2013	H	Proposed Committee Amendment #2013-0613h ; HC 22 , PG.545
3/13/2013	H	Amendment #0613h: AA VV; HJ 26 , PG.757
3/13/2013	H	Ought to Pass with Amendment #0613h: MA VV; HJ 26 , PG.757
3/14/2013	S	Introduced and Referred to Executive Dept. & Admin
4/17/2013	S	Hearing: 4/24/13, Room 100, SH, 9:20 a.m.; SC17
4/25/2013	S	Committee Report: Ought to Pass with Amendment #2013-1390s , 5/2/13; SC18
5/2/2013	S	Committee Amendment 1390s, AA, VV;
5/2/2013	S	Ought to Pass with Amendment 1390s, MA, VV; OT3rdg;
5/29/2013	H	House Non-Concurs with Senate AM #1390s and Requests C of C (Rep Weber): MA VV; HJ45 , PG.1510
5/29/2013	H	Speaker Appoints: Reps Weber, C.McGuire, P.Schmidt, and M.Nelson; HJ45 , PG.1510
6/6/2013	S	Sen. Carson Moved Accede to House Request for Committee of Conference, MA, VV
6/6/2013	S	President Appoints: Senators Reagan, Carson, Soucy
6/11/2013	H	Committee of Conference Meeting: 6/13/2013 1:00 PM LOB 306 ==TIME CHANGE==
6/20/2013	S	Conference Committee Report, Not Signed Off

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

H/B 353 ORIGINAL REFERRAL _____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT

CALENDAR NOTICE

HEARING REPORT

HANDOUTS FROM THE PUBLIC HEARING

PREPARED TESTIMONY AND OTHER SUBMISSIONS

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 13905 _____ - AMENDMENT # _____
_____ - AMENDMENT # _____ _____ - AMENDMENT # _____

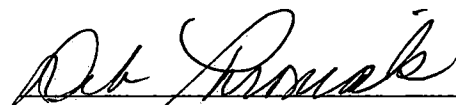
ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED AS AMENDED BY THE HOUSE
_____ FINAL VERSION AS AMENDED BY THE SENATE

_____ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): _____

DATE DELIVERED TO SENATE CLERK

7-26-13



BY COMMITTEE AIDE