

LEGISLATIVE COMMITTEE MINUTES

**SB85**

# Bill as Introduced

SB 85 - AS INTRODUCED

2013 SESSION

13-0415  
03/05

SENATE BILL

**85**

AN ACT

relative to commercial motor vehicle operation.

SPONSORS:

Sen. Rausch, Dist 19; Sen. Gilmour, Dist 12; Sen. Boutin, Dist 16

COMMITTEE:

Transportation

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ANALYSIS

This bill modifies various statutes relating to commercial motor vehicle operation, including clarification of penalties and requirements for registration and licensure.

This bill was requested by the department of safety.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to commercial motor vehicle operation.

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

1 1 Gross Combination Weight Rating. Amend RSA 259:38-a to read as follows:

2 259:38-a Gross Combination Weight Rating or GCWR. "Gross combination weight rating" or  
3 "GCWR" shall mean the value specified by the manufacturer as the maximum loaded weight of a  
4 combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR  
5 shall be determined by adding the GVWR of the power unit and the total weight of the towed unit  
6 and any load thereon [~~or registered weight rating, whichever is greater~~].

7 2 Gross Vehicle Weight Rating. Amend RSA 259:38-b to read as follows:

8 259:38-b Gross Vehicle Weight Rating or GVWR. "Gross vehicle weight rating" or "GVWR"  
9 shall, for the purposes of the commercial driver licensing statutes, mean the value specified by the  
10 manufacturer as the maximum loaded weight of a single vehicle [~~or registered gross weight rating,  
11 whichever is greater~~].

12 3 New Section; Words and Phrases Defined; Imminent Hazard. Amend RSA 259 by inserting  
13 after section 43-b the following new section:

14 259:43-c Imminent Hazard. "Imminent hazard" shall mean the existence of a condition that  
15 presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial  
16 endangerment to health, property, or the environment may occur before the reasonably foreseeable  
17 completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or  
18 endangerment.

19 4 Words and Phrases Defined; Serious Traffic Violation. Amend RSA 259:98-a, VIII-IX to read  
20 as follows:

21 VIII. Driving a commercial motor vehicle in violation of RSA 265:25; [~~or~~]

22 IX. Driving a commercial motor vehicle in violation of RSA 265:24, I; *or*

23 **X. *Driving a commercial motor vehicle in violation of RSA 265:105-a.***

24 5 Drivers' Licenses; Application by New Resident. Amend RSA 263:5-a, I to read as follows:

25 I. When a person who has established residency as provided in RSA 263:35 applies for a  
26 driver's license the director shall not issue a driver's license to the applicant until he *or she* has:

27 (a) Determined the validity of all licenses being surrendered; and

28 (b) Secured a certified copy of the motor vehicle record or records on file in [~~the~~] *any*  
29 jurisdiction or jurisdictions [~~of the licenses being surrendered~~] *in which the applicant has held a*  
30 *license within the past 10 years.*

31 6 Commercial License; Penalties. Amend RSA 263:94, VI to read as follows:

1 VI.(a) A person is disqualified from driving a commercial motor vehicle for a period of not  
2 less than 60 days if convicted of 2 serious traffic violations, as defined in RSA 259:98-a, or 120 days if  
3 convicted of 3 serious traffic violations, committed in a commercial motor vehicle arising from  
4 separate incidents occurring within a 3-year period. ***These penalties shall be imposed***  
5 ***consecutively and may not be served concurrently.***

6 (b) A person is disqualified from driving a commercial motor vehicle for a period of not  
7 less than 60 days if convicted of any combination of 2 serious traffic violations within a 3-year period  
8 while operating a noncommercial motor vehicle, provided the conviction results in the revocation,  
9 cancellation, or suspension of his or her driver's license, including a commercial driver license or  
10 commercial endorsement.

11 (c) A person is disqualified from driving a commercial motor vehicle for a period of not  
12 less than 120 days if convicted of any combination of 3 or more serious traffic violations within a 3-  
13 year period while operating a noncommercial motor vehicle, and the conviction results in the  
14 revocation, cancellation, or suspension of his or her driver's license, including a commercial driver  
15 license or commercial endorsement. ***This penalty shall be imposed in addition to and***  
16 ***consecutively to any penalty imposed under subparagraph VI(b).***

17 (d) ***A person is disqualified from driving a commercial motor vehicle for a***  
18 ***period of not less than 60 days if it is determined, in the check of an applicant's license***  
19 ***status and record prior to issuing a CDL, or at any time after the CDL is issued, that the***  
20 ***applicant has falsified information in the application process.***

21 (e) ***A person is disqualified from driving a commercial motor vehicle if that***  
22 ***person has been disqualified by the Federal Motor Carrier Safety Administration as a***  
23 ***result of being deemed an imminent hazard as defined in RSA 259:43-c.***

24 7 Notification of Traffic Violations. Amend RSA 263:97, I to read as follows:

25 I.(a) Within ~~[10]~~ 5 days after receiving a report of the conviction of any resident or  
26 nonresident holder of a commercial driver license of any violation of state law or local ordinance  
27 relating to motor vehicle traffic control, other than parking violations, committed in a commercial  
28 motor vehicle, the department shall notify the driver licensing authority in the licensing state of the  
29 conviction, and the commercial driver license information system.

30 ~~[(a)]~~ (b) Within ~~[10]~~ 5 days after the conviction of any resident or nonresident holder of a  
31 commercial driver license of any violation of state law or local ordinance relating to motor vehicle  
32 traffic control, other than a parking violation, committed in a commercial motor vehicle, the clerk of  
33 the court having jurisdiction shall notify the department of the conviction.

34 ~~[(b)]~~ (c) This notice shall contain such information as the commissioner requires by rules  
35 adopted under RSA 541-A.

36 8 Implied Consent Requirements for Commercial Motor Vehicle Drivers. Amend RSA 265-A:25,  
37 III(b) to read as follows:

1           (b) If the person has a prior refusal under subparagraph III(a) then, upon the second or  
2 subsequent refusal of such person to submit to a test or tests as administered by a law enforcement  
3 officer for the purposes of determining the person's alcohol concentration or the presence of other  
4 drugs, the director shall revoke his or her commercial license for [~~a period of not less than 10 years~~]  
5 *life, with an opportunity for a review after 10 years, as provided in RSA 263:94, IV.*

6           9 Effective Date. This act shall take effect January 1, 2014.

SB 85 – AS AMENDED BY THE HOUSE

22May2013... 1691h

2013 SESSION

13-0415

03/05

SENATE BILL 85

AN ACT relative to commercial motor vehicle operation.

SPONSORS: Sen. Rausch, Dist 19; Sen. Gilmour, Dist 12; Sen. Boutin, Dist 16

COMMITTEE: Transportation

ANALYSIS

This bill modifies various statutes relating to commercial motor vehicle operation, including clarification of penalties and requirements for registration and licensure.

This bill was requested by the department of safety.

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

1 Gross Combination Weight Rating. Amend RSA 259:38-a to read as follows:

259:38-a Gross Combination Weight Rating or GCWR. "Gross combination weight rating" or "GCWR" shall mean the value specified by the manufacturer as the maximum loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR shall be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon [~~or registered weight rating; whichever is greater~~].

2 Gross Vehicle Weight Rating. Amend RSA 259:38-b to read as follows:

259:38-b Gross Vehicle Weight Rating or GVWR. "Gross vehicle weight rating" or "GVWR" shall, for the purposes of the commercial driver licensing statutes, mean the value specified by the manufacturer as the maximum loaded weight of a single vehicle [~~or registered gross weight rating; whichever is greater~~].

3 New Section; Words and Phrases Defined; Imminent Hazard. Amend RSA 259 by inserting after section 43-b the following new section:

259:43-c Imminent Hazard. "Imminent hazard" shall mean the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.

4 Words and Phrases Defined; Serious Traffic Violation. Amend RSA 259:98-a, VIII-IX to read as follows:

VIII. Driving a commercial motor vehicle in violation of RSA 265:25; ~~or~~

IX. Driving a commercial motor vehicle in violation of RSA 265:24, I; *or*

*X. Driving a commercial motor vehicle in violation of RSA 265:105-a.*

5 Drivers' Licenses; Application by New Resident. Amend RSA 263:5-a, I to read as follows:

I. When a person who has established residency as provided in RSA 263:35 applies for a driver's license the director shall not issue a driver's license to the applicant until he *or she* has:

(a) Determined the validity of all licenses being surrendered; and

(b) Secured a certified copy of the motor vehicle record or records on file in ~~the~~ *any* jurisdiction or jurisdictions [~~of the licenses being surrendered~~] *in which the applicant has held a license within the past 10 years.*



6 Commercial License; Penalties. Amend RSA 263:94, VI to read as follows:

VI.(a) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of 2 serious traffic violations, as defined in RSA 259:98-a, or 120 days if convicted of 3 serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a 3-year period. *These penalties shall be imposed consecutively and may not be served concurrently.*

(b) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of any combination of 2 serious traffic violations within a 3-year period while operating a noncommercial motor vehicle, provided the conviction results in the revocation, cancellation, or suspension of his or her driver's license, including a commercial driver license or commercial endorsement.

(c) A person is disqualified from driving a commercial motor vehicle for a period of not less than 120 days if convicted of any combination of 3 or more serious traffic violations within a 3-year period while operating a noncommercial motor vehicle, and the conviction results in the revocation, cancellation, or suspension of his or her driver's license, including a commercial driver license or commercial endorsement. *This penalty shall be imposed in addition to and consecutively to any penalty imposed under subparagraph VI (b).*

*(d) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if it is determined, in the check of an applicant's license status and record prior to issuing a CDL, or at any time after the CDL is issued, that the applicant has falsified information in the application process.*

*(e) A person is disqualified from driving a commercial motor vehicle if that person has been disqualified by the Federal Motor Carrier Safety Administration as a result of being deemed an imminent hazard as defined in RSA 259:43-c.*

7 Notification of Traffic Violations. Amend RSA 263:97, I to read as follows:

I.(a) Within ~~[10]~~ 5 days after receiving a report of the conviction of any resident or nonresident holder of a commercial driver license of any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle, the department shall notify the driver licensing authority in the licensing state of the conviction, and the commercial driver license information system.

~~(a)~~ (b) Within ~~[10]~~ 5 days after the conviction of any resident or nonresident holder of a commercial driver license of any violation of state law or local ordinance relating to motor vehicle traffic control, other than a parking violation, committed in a commercial motor vehicle, the clerk of the court having jurisdiction shall notify the department of the conviction.

~~(b)~~ (c) This notice shall contain such information as the commissioner requires by rules

adopted under RSA 541-A.

8 Implied Consent Requirements for Commercial Motor Vehicle Drivers. Amend RSA 265-A:25, III(b) to read as follows:

(b) If the person has a prior refusal under subparagraph III(a) then, upon the second or subsequent refusal of such person to submit to a test or tests as administered by a law enforcement officer for the purposes of determining the person's alcohol concentration or the presence of other drugs, the director shall revoke his or her commercial license for ~~a period of not less than 10 years~~ *life, with an opportunity for a review after 10 years, as provided in RSA 263:94, IV.*

9 New Paragraph; Motor Carriers; Equipment; Exemptions. Amend RSA 266:72-a by inserting after paragraph III the following new paragraph:

III-a. Paragraph III shall not apply to intrastate transportation performed by the state, or any political subdivision of the state. However, nothing in this section shall prevent or inhibit any public employer from establishing internal policies making the motor carrier safety rules applicable to its vehicles and drivers.

10 Effective Date. This act shall take effect January 1, 2014.

CHAPTER 180  
SB 85 - FINAL VERSION

22May2013... 1691h

2013 SESSION

13-0415  
03/05

SENATE BILL

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5 shall be determined by adding the GVWR of the power unit and the total weight of the towed unit  
6 and any load thereon [~~or registered weight rating, whichever is greater~~].

7 180:2 Gross Vehicle Weight Rating. Amend RSA 259:38-b to read as follows:

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11 ~~whichever is greater~~].

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29 jurisdiction or jurisdictions [~~of the licenses being surrendered~~] *in which the applicant has held a*

CHAPTER 180  
SB 85 - FINAL VERSION  
- Page 2 -

1 *license within the past 10 years.*

2 180:6 Commercial License; Penalties. Amend RSA 263:94, VI to read as follows:

3 VI.(a) A person is disqualified from driving a commercial motor vehicle for a period of not  
4 less than 60 days if convicted of 2 serious traffic violations, as defined in RSA 259:98-a, or 120 days if  
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6 separate incidents occurring within a 3-year period. *These penalties shall be imposed*  
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10 while operating a noncommercial motor vehicle, provided the conviction results in the revocation,  
11 cancellation, or suspension of his or her driver's license, including a commercial driver license or  
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26 180:7 Notification of Traffic Violations. Amend RSA 263:97, I to read as follows:

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29 relating to motor vehicle traffic control, other than parking violations, committed in a commercial  
30 motor vehicle, the department shall notify the driver licensing authority in the licensing state of the  
31 conviction, and the commercial driver license information system.

32 [~~(a)~~] (b) Within [~~10~~] 5 days after the conviction of any resident or nonresident holder of a  
33 commercial driver license of any violation of state law or local ordinance relating to motor vehicle  
34 traffic control, other than a parking violation, committed in a commercial motor vehicle, the clerk of  
35 the court having jurisdiction shall notify the department of the conviction.

36 [~~(b)~~] (c) This notice shall contain such information as the commissioner requires by rules

CHAPTER 180  
SB 85 - FINAL VERSION  
- Page 3 -

1 adopted under RSA 541-A.

2 180:8 Implied Consent Requirements for Commercial Motor Vehicle Drivers. Amend RSA 265-  
3 A:25, III(b) to read as follows:

4 (b) If the person has a prior refusal under subparagraph III(a) then, upon the second or  
5 subsequent refusal of such person to submit to a test or tests as administered by a law enforcement  
6 officer for the purposes of determining the person's alcohol concentration or the presence of other  
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9 180:9 New Paragraph; Motor Carriers; Equipment; Exemptions. Amend RSA 266:72-a by  
10 inserting after paragraph III the following new paragraph:

11 III-a. Paragraph III shall not apply to intrastate transportation performed by the state, or  
12 any political subdivision of the state. However, nothing in this section shall prevent or inhibit any  
13 public employer from establishing internal policies making the motor carrier safety rules applicable  
14 to its vehicles and drivers.

15 180:10 Effective Date. This act shall take effect January 1, 2014.

16 Approved: July 2, 2013

17 Effective Date: January 1, 2014

# Committee Minutes

**SENATE CALENDAR NOTICE  
TRANSPORTATION**

Senator Jim Rausch Chairman  
 Senator Peggy Gilmour V Chairman  
 Senator David Boutin  
 Senator Nancy Stiles  
 Senator David Watters

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: January 29, 2013**

**HEARINGS**

**Tuesday**

**2/5/2013**

TRANSPORTATION

LOB 103

1:00 PM

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

1:00 PM	SB84	relative to road toll administration and relative to motor vehicles carrying property for hire.
1:15 PM	SB85	relative to commercial motor vehicle operation.
1:45 PM	SB103	establishing a committee to study the definition of houseboats and mooring and beaching regulation for houseboats.
2:15 PM	SB115	naming a bridge in the town of Whitefield.

**Sponsors:**

**SB84**

Sen. Jim Rausch  
 Rep. David Campbell

Sen. Peggy Gilmour  
 Rep. John Graham

Sen. David Boutin  
 Rep. Gene Chandler

Sen. Nancy Stiles

**SB85**

Sen. Jim Rausch

Sen. Peggy Gilmour

Sen. David Boutin

**SB103**

Sen. Jeb Bradley  
 Rep. Mark McConkey

Sen. Bob Odell  
 Rep. Harry Merrow

Sen. Sam Cataldo  
 Rep. Christopher Ahlgren

Sen. Martha Fuller Clark

**SB115**

Sen. Jeff Woodburn  
 Rep. Herbert Richardson

Rep. Gene Chandler

Rep. Leon Rideout

Rep. Ralph Doolan



# SENATE TRANSPORTATION COMMITTEE

*Jennifer Horgan, Legislative Aide*

**SB 85 – relative to commercial motor vehicle operation.**

Hearing Date: February 5, 2013

Time Opened: 1:15pm

Time Closed: 1:25pm

**Members of the Committee Present:** Senators Rausch, Gilmour, Boutin, Stiles, Watters

**Members of the Committee Absent:** None

**Bill Analysis:** This bill modifies various statutes relating to commercial motor vehicle operation, including clarification of penalties and requirements for registration and licensure. This bill was requested by the department of safety.

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**Sponsors:** Sen. Rausch, Dist 19; Sen. Gilmour, Dist 12; Sen. Boutin, Dist 16

**Who supports the bill:** Senator Rausch, Senator Boutin, Senator Gilmour, Rick Bailey (Director, DMV), Bob Sculley (NHMTA)

**Who opposes the bill:** No one

**Summary of testimony presented in support:**

**Director Bailey**

- Housekeeping bill focused on commercial drivers, to put current statutes in line with federal regulations.
- Changes the definitions on gross vehicle weight by removing “or registered weight rating”. The manufacturers have requirements to determine the registered weight rate of the vehicle to meet federal regulations. If a driver tries to register at that weight, but maintains a higher weight it can be unsafe and if they register at a lower weight then there is no way to determine if they actually maintain that and are cheating on the fees owed. This change would prevent that.
- Sections 4, 5 and 6 adds text messaging as a serious violation, clarifies the requirements on driver history when applying for a NH license and clarifies that penalties cannot be server concurrently, but must be served consecutively.
- Section 6 also addresses falsified information, not necessarily fraudulent, on a CDL license application and requires that their license be suspended. On line 21,

it allows the disqualification of a driver if they are found to be an imminent hazard, by recognizing an event that has happened in another state through the FMCSA. Also changes the amount of time a driver has to report their convictions. And finally, regarding a suspension for an alcohol related event with a conviction, the suspension is for life, with the opportunity to have it lifted after 10 years.

**Summary of testimony presented in opposition:**

◦ None

**Fiscal Note:** N/A

**Future Action:** The Committee took the bill under advisement

JCH

Date hearing report completed: 02/07/13

[file: SB84 report]

# Speakers



# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE  
FOR THE CONSENT CALENDAR

Date: 02/06/13

THE COMMITTEE ON Transportation

to which was referred Senate Bill 85

AN ACT relative to commercial motor vehicle operation.

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

**OUGHT TO PASS**

BY A VOTE OF: 5-0

CONSENT CALENDAR VOTE: 5-0

Senator David R. Boutin for the Committee

This bill is at the request of the Department of Safety, modifying various statutes relating to commercial motor vehicle operation, including clarification of penalties and requirements for registration and licensure. It has the full support of the motor transit industry and the Committee requests that it move forward.

Jennifer Horgan 271-3091

## New Hampshire General Court - Bill Status System

**Docket of SB85**

Docket Abbreviations

**Bill Title:** relative to commercial motor vehicle operation.*Official Docket of SB85:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/3/2013	S	<b>Introduced</b> and Referred to Transportation; <b>SJ 4</b>
1/29/2013	S	Hearing: 2/5/13, Room 103, LOB, 1:15 p.m.; <b>SC7</b>
2/7/2013	S	Committee Report: Ought to Pass, 2/14/13; Vote 5-0; CC; <b>SC8</b>
2/14/2013	S	<b>Ought to Pass:</b> MA, VV; OT3rdg; <b>SJ 5</b>
3/27/2013	H	Introduced and Referred to Transportation; <b>HJ31</b> , PG.1074
4/8/2013	H	Public Hearing: 4/23/2013 1:45 PM LOB 203
5/1/2013	H	Executive Session: 5/14/2013 10:45 AM LOB 203
5/15/2013	H	Committee Report: Ought to Pass with Amendment #1691h for May 22 (Vote 15-1; CC); <b>HC39</b> , PG.1262
5/15/2013	H	Proposed Committee Amendment <b>#2013-1691h</b> ; <b>HC39</b> , PG.1280
5/22/2013	H	Amendment #1691h: AA VV; <b>HJ43</b> , PG.1471
5/22/2013	H	<b>Ought to Pass with Amendment</b> #1691h: MA VV; <b>HJ43</b> , PG.1471
6/6/2013	S	Sen. Rausch Moved Concur with House Amendment 1691h, MA, VV
6/12/2013	H	Enrolled, Recess of 6/5/13; <b>HJ49</b> , PG.1654
6/12/2013	S	Enrolled
7/3/2013	S	Signed by the Governor on 07/02/2013; Chapter 0180; Effective 01/01/2014

NH House

NH Senate

# Other Referrals



# COMMITTEE REPORT FILE INVENTORY

3385 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 # \_\_\_\_\_      \_\_\_\_\_ - 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 7/23/13

  
BY COMMITTEE AIDE