

Committee Report

CONSENT CALENDAR

February 21, 2018

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Executive Departments and Administration to which was referred HB 1742-FN,

AN ACT relative to food service licensure inspections.

Having considered the same, report the same with the

following resolution: RESOLVED, that it is

INEXPEDIENT TO LEGISLATE.

Rep. Daniel Sullivan

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Executive Departments and Administration
Bill Number:	HB 1742-FN
Title:	relative to food service licensure inspections.
Date:	February 21, 2018
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This well intentioned bill would allow certain franchised restaurants to be exempt from state inspection requirements, and instead rely on corporate franchise inspectors to ensure these establishments are clean, up to code and operating in a safe manner. The sponsor reported that the bill as written was impractical, and suggested an amendment which would have established a study commission with members representing the stakeholders on this issue. Such an amendment was never presented. The majority of the committee agreed that this bill was impractical to implement as written.

Vote 13-1.

Rep. Daniel Sullivan
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Executive Departments and Administration

HB 1742-FN, relative to food service licensure inspections. **INEXPEDIENT TO LEGISLATE.**

Rep. Daniel Sullivan for Executive Departments and Administration. This well intentioned bill would allow certain franchised restaurants to be exempt from state inspection requirements, and instead rely on corporate franchise inspectors to ensure these establishments are clean, up to code and operating in a safe manner. The sponsor reported that the bill as written was impractical, and suggested an amendment which would have established a study commission with members representing the stakeholders on this issue. Such an amendment was never presented. The majority of the committee agreed that this bill was impractical to implement as written. **Vote 13-1.**

Simmons, Miriam

Apparel

[Blurb]

From: Carol McGuire <mcguire4house@gmail.com>
Sent: Wednesday, February 21, 2018 4:16 PM
To: Simmons, Miriam; Sullivan, Dan
Subject: Fwd: HB1742 blurb
Attachments: HB1742 blurb.docx
Categories: Green Category

1742

HB1742-FN Rep. Daniel J. Sullivan

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ITL, 13-1

----- Forwarded message -----

From: Sullivan, Dan <Dan.Sullivan@leg.state.nh.us>
Date: Wed, Feb 21, 2018 at 4:06 PM
Subject: HB1742 blurb
To: "McGuire, Carol" <carol@mcguire4house.com>
Cc: "Simmons, Miriam" <Miriam.Simmons@leg.state.nh.us>

Here is my blurb. Feel free to edit as you see fit. Thanks, DS

Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 1742-FN

BILL TITLE: relative to food service licensure inspections.

DATE: February 21, 2018

LOB ROOM: 306

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. D. Sullivan

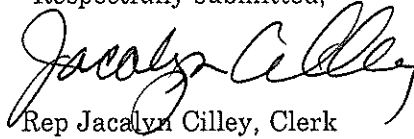
Seconded by Rep. Goley

Vote: 13-1

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Jacalyn Cilley".

Rep Jacalyn Cilley, Clerk



2018 SESSION

ED&A

Bill #: 1742

Title: Relative to food service 2/21

PH Date: 2/11/18

Exec Session Date: 2/20/18

Motion: ITK

Amendment #: _____

MEMBER	YEAS	NAYS
McGuire, Carol M. Chariman	✓	
Sytek, John Vice Chairman	✓	
Hansen, Peter T.	✓	
Beaudoin, Steven P.	✓	
Proulx, Mark L.		
Hoell, J.R.		
Kaczynski, Thomas L.	1	✓
Woitkun, Steven J.		
Brewster, Michael A.	✓	
Marsh, Henry A.		
Smith, Ryan D.		
Gagnon, Raymond G.	✓	
Schmidt, Peter B.	✓	
Jeudy, Jean L.		
Sullivan, Daniel J.	✓	
Goley, Jeffrey P.	✓	
Cilley, Jacalyn L. Clerk	✓	
Roberts, Carol R.	✓	
Schuett, Dianne E.	✓	
Schultz, Kristina	✓	
TOTAL VOTE:		

13 - 1

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 1742-FN

BILL TITLE: relative to food service licensure inspections.

DATE: 2/20/18 (2/21 circled)

132

LOB ROOM: 306

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. Sullivan Secoded by Rep. Steve Goley Vote: 13-1

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Secoded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Secoded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Secoded by Rep. _____ Vote: _____

CONSENT CALENDAR: _____ YES _____ NO

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Consent Calendar per Green log sheet

Respectfully submitted: Jacalyn Cilley Rep Jacalyn Cilley, Clerk

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 1742-FN

BILL TITLE: relative to food service licensure inspections.

DATE: February 1, 2018

LOB ROOM: 306 Time Public Hearing Called to Order: 11:03 a.m.

Time Adjourned: 11:20 a.m.

Committee Members: Reps. McGuire, Sytek, Cilley, Hansen, Proulx, Brewster, H. Marsh, R. Smith, Gagnon, Jeudy, D. Sullivan, Schuett and Schultz

Bill Sponsors:

Rep. Weyler

Rep. John T. O'Connor

Rep. LeBrun

TESTIMONY

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

***Rep. Ken Weyler, Rockingham 13** - submitted written testimony on the bill. He says that this legislation is a result of an audit by LBA on Food Safety Laws. He reviewed his points in his written testimony. Please review that document for a full overview of Rep Weyler's testimony.

At the conclusion of his comments, he *requests that the committee to turn this bill into a study commission with membership from relevant stakeholders* so that the concept underlying the bill could be more fully developed and implemented with broad support.

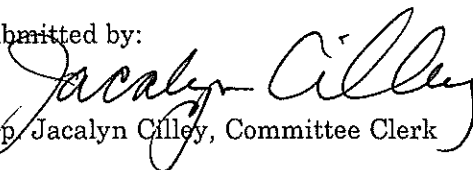
Rep. John T. O'Connor, Derry - in support of bill and amendment.

He has been in the dairy industry for more than 30 years and has served on the FDA Board that set standards for across the country.

The audit pointed out certain gaps that should have been filled. However, the funds for addressing this did not show up in the Governor's budget. One way to address this is to shift some of these responsibilities to third party providers.

He is in support of the bill and of the amendment. The work of the commission, however, needs to be completed by the fall of 2018 so that the results can be used as a foundation for any adjustments to the Governor's budget in the upcoming biennium.

Submitted by:


Rep. Jacalyn Cilley, Committee Clerk

Thursday, February 1, 2018

HB 1742

Start time: 11:03 a.m.

Rep. Ken Weyler, Rockingham 13

Cilley's original draft minutes

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End start: 11:20 a.m.

Submitted by: Jacalyn Cilley

Testimony

HB 1742
Remarks by Rep. Ken Weyler
Executive Departments and Administration Committee
February 1, 2018

1. As a result of an LBA Audit on Food Safety Laws, we had a study committee on rewriting said laws. Our discussions disclosed several facts; a. Food Service is not the only agency inspecting kitchens where food is prepared for group consumption; b. the federal FDA thinks that our state should be doing more inspections than they presently do.
2. Two of us, who were members of the aforementioned committee, had experience with governments designating members of the corporation being inspected, as official inspectors.
3. We felt that if Food Service would use a similar way to designate people who were already doing inspections as official state inspectors, that we could then increase the number of food inspections on file and overall increase the food safety in our state without increasing the budget.
4. Another thought was that the inspections done by other state agencies, such as those inspecting Summer Camps, hospitals, nursing homes, temporary fairs, and so on, should all be using a common standard,
5. The Food Service would have to set up a training program for the other state inspectors and the corporate franchise inspectors. The fee for the training and the designation as "official inspectors" could pay for the costs of training and licensing. State inspectors would also do no-notice inspections on designees.
6. In researching the concept, we were only able to find one other state that designated third party food inspectors to do state inspections. That state was Rhode Island.
7. Although I believe that this proposal could bring benefits to our state and an increase in food safety to our population, it initially places a large burden on a small department to accomplish all these things in a timely way.
8. After consultation with Food Safety and HHS, I am supporting an amendment that is attached to this page that would instead turn this bill into a study commission with membership from the stake holders, so that this concept could be more fully developed and implemented with broad support.

Proposed Amendment for HB 1742

The Department has considered this bill and acknowledges that we have fewer inspectors than needed to do the frequency of inspections of licensed New Hampshire food establishments that is recommended by the US Food and Drug Administration. The goal would be to improve food safety by developing a systematic structure that would move the private "third party" inspections already occurring in franchised food establishments towards greater consistency with the Food Protection Services (FPS) state inspections.

However, turning the state inspection role over to private inspectors hired by the franchised food establishments present several challenges that will require further study and planning, including:

- a. Consistency between what the state and private inspectors do, with the standards being set by the state and followed by the private inspections;
- b. Verification and a workable structure to assure that private inspections are being completed to a level equal to what is currently done within FPS;
- c. Review of compliance and inspection data to determine what the current baseline difference is in compliance with food safety practices when comparing franchised vs. non-franchised food establishments;
- d. Administrative resources needed to set up and manage the new program, initially as a planning and pilot phase. This would include planning, program development, rules development, training, oversight and monitoring;
- e. Transparency of the third party inspection process and results, including posting of inspection results on a publicly accessible website - which all licensed food establishments are currently exposed to as a component of the state inspection process;
- f. Memorandums of agreement establishing the expected process for inspection and notification where third party inspectors are permitted to provide food safety inspections as a substitute for state inspections;
- g. Description of the structure, resources, agreements and time frames for a pilot program, evaluation of the first year pilot, and then the threshold for a full roll-out of the third party inspection program.

DHHS/DPHS recommends convening a study Commission be formed to review, assess and plan for the development of a third party inspection program component. The study Commission would be assembled with representatives from the following:

1. Two state representatives and two senators with regulatory knowledge of the food industry;
2. Two food inspection administrators or inspectors from the self-inspecting communities which do their own food inspections and licensing of food establishments. *There are 16 communities in NH that are self-inspecting, including all cities and 5 towns.*
3. A staff person from the NH Grocers Association;
4. A staff person from the NH Lodging and Restaurant Association;
5. Two administrators from two different third party inspection companies;
6. The administrator from the state Food Protection program; and
7. The Commissioner of DHHS or a designee

The committee will convene as of June 1, 2018 and meet regularly (at least monthly). By January 1, 2019, the study Commission will provide a report and recommendations to the NH HHS Oversight Committee regarding the option of third party inspectors being utilized in conjunction with state resources. The report will address each of the areas listed in items a-g (above) and include a detailed recommended process to achieve assurance of adequate and improved food safety utilizing third party inspectors. The recommendations will address the feasibility and resources needed to develop a consistent comparable food safety inspection and reporting process using third party inspectors that is verifiable as equivalent to the state food inspection requirements. Any fiscal impact that requires new staffing or IT resources will be noted in the report and addressed through the state fiscal year 2020/2021 budget process. The roll-out of this program component will be contingent upon adding the recommended resources identified in the Commission report.

Bill as
Introduced

HB 1742-FN - AS INTRODUCED

2018 SESSION

18-2694
08/10

HOUSE BILL

1742-FN

AN ACT

relative to food service licensure inspections.

SPONSORS:

Rep. Weyler, Rock. 13; Rep. John T. O'Connor, Rock. 6; Rep. LeBrun, Hills. 32

COMMITTEE:

Executive Departments and Administration

ANALYSIS

This bill allows certain franchise restaurants to be exempt from state inspection requirements.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough.]~~

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 Eighteen

AN ACT relative to food service licensure inspections.

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

1 . 1 New Paragraph; Food Licensure; Inspection. Amend RSA 143-A:5 by inserting after
2 paragraph IX the following new paragraph:

3 X. Franchise food service establishments and franchise retail food stores subject to routine
4 inspection by an agent of the national franchise organization.

5 2 Effective Date. This act shall take effect 60 days after its passage.

LBAO
18-2694
11/16/17

HB 1742-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to food service licensure inspections.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2019	FY 2020	FY 2021	FY 2022
Appropriation	\$0	\$0	\$0	\$0
Revenue	Indeterminable	Indeterminable	Indeterminable	Indeterminable
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0

METHODOLOGY:

This bill adds certain franchise restaurants to the list of entities exempted from state inspection requirements, as long as those restaurants are subject to routine inspections by the national chain. The bill may result in reduced workload for the Department of Health and Services Food Protection Unit, as well as in reduced state revenue, since the exempted restaurants would no longer pay licensing fees to the state. The extent of these impacts is indeterminable, as the bill does not define "franchise food service establishments and franchise retail food stores," making it difficult to determine the number of entities that would be exempted. RSA 143-A:6 allows the Department to budget up to \$300,000 per year of such revenue as restricted revenue to support licensing and inspection activities under the chapter, with additional revenue deposited into the state general fund. Accordingly, any revenue reduction would likely impact the state general fund.

AGENCIES CONTACTED:

Department of Health and Human Services