

Bill as Introduced

HB 293 - AS INTRODUCED

2019 SESSION

19-0814
04/01

HOUSE BILL **293**

AN ACT relative to employee credit privacy.

SPONSORS: Rep. Cushing, Rock. 21; Rep. King, Hills. 33; Rep. D. Ley, Ches. 9; Rep. Rogers, Merr. 28; Rep. O'Brien, Hills. 36; Rep. Mangipudi, Hills. 35; Rep. Berch, Ches. 1; Sen. Feltes, Dist 15; Sen. Cavanaugh, Dist 16; Sen. Fuller Clark, Dist 21

COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill prohibits employers from using credit history in employment decisions.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to employee credit privacy.

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

1 1 New Subdivision; Employee Credit Privacy. Amend RSA 275 by inserting after section 77 the
2 following new subdivision:

3 Employee Credit Privacy

4 275:78 Definitions. In this subdivision:

5 I. "Credit history" means any written or other communication of any information about the
6 employee's or prospective employee's credit score, credit account balances, payment history, savings
7 or checking account balances, or savings or checking account numbers by a consumer reporting
8 agency as defined in RSA 359-B:3, VI.

9 II. "Employer" means an individual or entity that permits one or more individuals to work
10 or that accepts applications for employment or is an agent of such individual or entity. "Employer"
11 shall not include:

12 (a) Any bank holding company, financial holding company, bank, savings bank, savings
13 and loan association, credit union, or trust company, or any subsidiary or affiliate thereof, that is
14 chartered by any state or the United States.

15 (b) Any state or local government agency which requires use of the employee's or
16 applicant's credit history or credit report.

17 (c) Any individual or entity that is required by federal law or regulation to obtain an
18 employee's or applicant's credit history or credit report.

19 III. "Substantially related to the employee's current or potential job" means the information
20 contained in the credit history is related to the position for which the employee or prospective
21 employee who is the subject of the report is being evaluated because the position:

22 (a) Is a managerial position which involves setting the direction or control of a business,
23 division, unit, or agency of a business;

24 (b) Involves access to customers', employees', or the employer's personal or financial
25 information other than information customarily provided in a retail transaction;

26 (c) Involves a fiduciary responsibility to the employer, including, but not limited to, the
27 authority to issue payments, collect debts, transfer money, or enter into contracts; or

28 (d) Provides an expense account or corporate debit or credit card.

29 275:79 Use of Credit History Prohibited. No employer, labor organization, or employment
30 agency shall use or request information in the credit history of a job applicant or employee in
31 connection with or as a criterion for employment decisions related to hiring, termination,

HB 293 - AS INTRODUCED

- Page 2 -

1 promotion, demotion, discipline, compensation, or the terms, conditions, or privileges of employment
2 unless the employer is required by state or federal law to use individual credit history for
3 employment purposes, or the employer has a bona fide purpose for requesting or using information
4 in the credit history report that is substantially related to the employee's current or potential job
5 and the employer complies with the notice and consent requirements of the Federal Fair Credit
6 Reporting Act, 15 U.S.C. section 1681 et seq.

7 275:80 Penalty. Any employer violating any provision of this subdivision shall be subject to a
8 civil penalty, to be imposed by the labor commissioner in accordance with the procedures
9 established in RSA 273:11-a. An employer aggrieved by the commissioner's assessment of such
10 penalty may appeal in accordance with RSA 273:11-c.

11 2 Effective Date. This act shall take effect January 1, 2020.

HB 293 - FINAL VERSION

2019 SESSION

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HOUSE BILL **293**

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21 employee who is the subject of the report is being evaluated because the position:

22 (a) Is a managerial position which involves setting the direction or control of a business,
23 division, unit, or agency of a business;

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25 information other than information customarily provided in a retail transaction;

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HB 293 - FINAL VERSION

- Page 2 -

1 demotion, discipline, compensation, or the terms, conditions, or privileges of employment unless the
2 employer is required by state or federal law to use individual credit history for employment
3 purposes, or the employer has a bona fide purpose for requesting or using information in the credit
4 history report that is substantially related to the employee's current or potential job and the
5 employer complies with the notice and consent requirements of the Federal Fair Credit Reporting
6 Act, 15 U.S.C. section 1681 et seq.

7 275:80 Penalty. Any employer violating any provision of this subdivision shall be subject to a
8 civil penalty, to be imposed by the labor commissioner in accordance with the procedures established
9 in RSA 273:11-a. An employer aggrieved by the commissioner's assessment of such penalty may
10 appeal in accordance with RSA 273:11-c.

11 2 Effective Date. This act shall take effect January 1, 2020.

12

13 VETOED July 10, 2019

14 Veto Sustained September 18, 2019

Amendments

Sen. Cavanaugh, Dist 16
April 22, 2019
2019-1587s
04/10

Amendment to HB 293

1 Amend RSA 275:78, II as inserted by section 1 of the bill by inserting after subparagraph (c) the
2 following new subparagraph:

3

4 (d) Any sales finance company or retail seller licensed by the New Hampshire banking
5 department under RSA 361-A:2.

UNAPPROVED

Committee Minutes

SENATE CALENDAR NOTICE

Commerce

Sen Kevin Cavanaugh, Chair
Sen Jon Morgan, Vice Chair
Sen Donna Soucy, Member
Sen Chuck Morse, Member
Sen Harold French, Member

Date: April 5, 2019

HEARINGS

Thursday	04/11/2019	
(Day)	(Date)	
Commerce	SH 100	1:00 p.m.
(Name of Committee)	(Place)	(Time)

Note: The Committee will meet at 1:00 pm or 30 minutes following the end of Session.

1:00 p.m.	HB 211	relative to inquiries by prospective employers concerning salary history.
1:15 p.m.	HB 253	relative to criminal records checks in the employee application process.
1:30 p.m.	HB 272	relative to temporary workers.
1:45 p.m.	HB 293	relative to employee credit privacy.
2:00 p.m.	HB 406	relative to reporting and investigation of serious injuries and death in the workplace.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 211

Rep. J. Schmidt

Rep. Klee

HB 253

Rep. Cahill

Rep. Ley

HB 272

Rep. J. Schmidt

HB 293

Rep. Cushing

Rep. O'Brien

Sen. Cavanaugh

HB 406

Rep. McBeath

Rep. Klee

Rep. King

Rep. Mangipudi

Sen. Fuller Clark

Rep. Ley

Rep. Berch

Rep. Rogers

Sen. Feltes

Laura Bryant 271-1403

Kevin Cavanaugh
Chairman

Senate Commerce Committee
Laura Bryant 271-1403

HB 293, relative to employee credit privacy.

Hearing Date: April 11, 2019

Time Opened: 1:45 p.m.

Time Closed: 1:58 p.m.

Members of the Committee Present: Senator Cavanaugh, Soucy, Morgan and Morse

Members of the Committee Absent : Senator French

Bill Analysis: This bill prohibits employers from using credit history in employment decisions.

Sponsors:

Rep. Cushing

Rep. King

Rep. Ley

Rep. Rogers

Rep. O'Brien

Rep. Mangipudi

Rep. Berch

Sen. Feltes

Sen. Cavanaugh

Sen. Fuller Clark

Who supports the bill: Glenn Brackett with the NH AFL-CIO, Rep. Renny Cushing, Rep. Michael Cahill

Who opposes the bill: Aubrey Freedman

Who is neutral on the bill: Lexie Rojas with NH DOL, Dan Bennett with the NH Auto Dealers Association

Summary of testimony presented:

Rep. Renny Cushing, Rockingham 20:

- Cushing said that this is a bill that has come before the body before, it passed both bodies in the 2013 session, then died in conference committee.
- Cushing stated that the basic concept is that there should be some limits on the ability of an employer to invade the privacy of a person.
- He said that this Legislature has passed bills in the past to protect the privacy of employees.
- He highlighted that this bill went through an extensive vetting process.

Lexie Rojas with the NH DOL:

- Rojas stated that the department is neutral, and that they can implement this bill. She also mentioned that reports filed in regard to violations of this bill will be mainly complaint driven.

Aubrey Freedman:

- Freedman said this bill features vague carve outs as to who can ask about an employees credit history.
- He said this bill has a lot of exceptions, which is good, but these exceptions need to apply for everyone.
- He added that something like credit history gives a good insight to the content of a potential employees character.

Dan Bennett with the NH Auto Dealers Association:

- Bennett said that the association consists of 14,000 employees and 25% of the state's retail sales.
- Bennett requested an amendment to the bill for the finance and insurance departments of auto dealerships.
- He voiced concern about potential negative impacts for dealers' finance and insurance departments, because those departments help customers secure indirect financing, of which nationwide 85% of vehicles are indirectly financed.
- He explained that in this bill banks are exempt because they provide direct financing and because auto dealers provide indirect financing, they should have similar exceptions.

LHB

Date Hearing Report completed: April 12, 2019

Speakers

Senate Commerce Committee

SIGN-IN SHEET, Public Hearing HB 293

Date: 4/11/19

Time: 1:45 p.m

Name/Representing (please print neatly)

Name/Representing (please print neatly)	Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
✓ Lexie Rojas NH DOL	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ Aubrey Freedman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ Glenn Brackett NH AFL-CIO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
✓ Dan Bennett NH Auto Dealers Association	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ Rep Renny Cushing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ Rep Mitchell (Cahill)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
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Voting Sheets

Senate Commerce Committee
EXECUTIVE SESSION RECORD
2019-2020 Session

HB
 Bill # 293

Hearing date: 4/11/19

Executive Session date: 5/19/19

Motion of: ITL Vote: 2-2

Committee Member	Made by	Second	Yes	No
Sen. Cavanaugh, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Morgan, V- Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. French	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Morse	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. Cavanaugh, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morgan, V- Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. Cavanaugh, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morgan, V- Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Cavanaugh

NR

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Tuesday, May 21, 2019

THE COMMITTEE ON Commerce

to which was referred **HB 293**

AN ACT relative to employee credit privacy.

Having considered the same, the committee recommends that the Bill

HAS NO RECOMMENDATION

BY A VOTE OF: 2-2

Senator Kevin Cavanaugh
For the Committee

Laura Bryant 271-1403

COMMERCE

HB 293, relative to employee credit privacy.

No Recommendation, Vote 2-2.

Senator Kevin Cavanaugh for the committee.

General Court of New Hampshire - Bill Status System

Docket of HB293

Docket Abbreviations

Bill Title: relative to employee credit privacy.*Official Docket of HB293.:*

Date	Body	Description
1/8/2019	H	Introduced 01/02/2019 and referred to Labor, Industrial and Rehabilitative Services HJ 2 P. 44
2/12/2019	H	Public Hearing: 02/20/2019 11:00 am LOB 305-307
2/26/2019	H	Executive Session: 03/06/2019 10:00 am LOB 307
3/7/2019	H	Majority Committee Report: Ought to Pass for 03/19/2019 (Vote 12-7; RC) HC 16 P. 28
3/7/2019	H	Minority Committee Report: Inexpedient to Legislate
3/20/2019	H	Lay on Table (Rep. Flanagan): MF RC 145-212 03/20/2019 HJ 11 P. 9
3/20/2019	H	Ought to Pass: MA VV 03/20/2019 HJ 11 P. 9
3/29/2019	S	Introduced 03/28/2019 and Referred to Commerce; SJ 12
4/5/2019	S	Hearing: 04/11/2019, Room 100, SH, 01:45 pm; the committee will meet at 1:00 p.m. or 30 minutes following the end of session; SC 17A
5/21/2019	S	Committee Report: No Recommendation, 05/30/2019; SC 24
5/30/2019	S	Sen. Cavanaugh Moved Ought to Pass; 05/30/2019; SJ 18
5/30/2019	S	Ought to Pass: RC 13Y-11N, MA; OT3rdg; 05/30/2019; SJ 18
6/18/2019	S	Enrolled (In recess 06/13/2019); SJ 21
6/18/2019	H	Enrolled 06/13/2019 HJ 19 P. 18
7/11/2019	H	Vetoed by Governor Sununu 07/10/2019
9/18/2019	H	Veto Sustained 09/18/2019: RC 221-158 Lacking Necessary Two-Thirds Vote HJ 21 P. 19

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 293

Senate Committee: Commerce

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # 1587 - amendment # _____

- amendment # _____ - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

- amendment # _____ - amendment # _____

- amendment # _____ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s)

Governor's Veto Message

All available versions of the bill: {Clerk's Office}

as amended by the senate as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Committee Aide

Date

Senate Clerk's Office AK