

Committee Report

CONSENT CALENDAR

February 12, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on State-Federal Relations and Veterans Affairs to which was referred HB 117,

AN ACT relative to the use of force at New Hampshire national guard facilities. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.

Rep. David Binford

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	State-Federal Relations and Veterans Affairs
Bill Number:	HB 117
Title:	relative to the use of force at New Hampshire national guard facilities.
Date:	February 12, 2021
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

This bill seeks to standardize how things are done between the branches and aligns state statute with the Department of Defense rules of force to ensure cohesiveness throughout New Hampshire's Department of Defense and National Guard facilities. Ultimately, aligning New Hampshire with federal regulations.

Vote 21-0.

Rep. David Binford
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

State-Federal Relations and Veterans Affairs

HB 117, relative to the use of force at New Hampshire national guard facilities. **OUGHT TO PASS.** Rep. David Binford for State-Federal Relations and Veterans Affairs. This bill seeks to standardize how things are done between the branches and aligns state statute with the Department of Defense rules of force to ensure cohesiveness throughout the state of New Hampshire's Department of Defense and National Guard facilities. Ultimately, aligning New Hampshire with Federal regulations. **Vote 21-0.**

Original: House Clerk

Cc: Committee Bill File

Voting Sheets

HOUSE COMMITTEE ON STATE-FEDERAL RELATIONS AND VETERANS AFFAIRS

EXECUTIVE SESSION on HB 117

BILL TITLE: relative to the use of force at New Hampshire national guard facilities.

DATE: February 12, 2021

LOB ROOM: 206/208

MOTIONS: OUGHT TO PASS

Moved by Rep. Binford

Seconded by Rep. Deshaies

Vote: 21-0

Respectfully submitted,

Rep Susan DeLemus, Clerk



2021 SESSION

State-Federal Relations and Veterans Affairs

 Bill #: HB 117 Motion: OTP AM #: 9:25 Exec Session Date: 2/12/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Baldasaro, Al P. Chairman	✓		
Moffett, Michael Vice Chairman	✓		
Lundgren, David C. <u>Dennis Acton</u>	✓		
Katsakiores, Phyllis M.	✓		
Rollins, Skip A.	✓		
DeLemus, Susan C. Clerk	✓		
Binford, David W.	✓		
Foster, William S.	✓		
Deshaies, Brodie S.	✓		
Harley, Tina L.	✓		
Leavitt, John A.	✓		
Massimilla, Linda A.	✓		
Piedra, Israel F.	✓		
Booras, Efstathia C.	✓		
Wilhelm, Matthew B.	✓		
Espitia, Manny	✓		
Griffith, Willis T. <u>Art Ellison</u>	✓		
Toll, Amanda Elizabeth	✓		
Labranche, Tony	✓		
Laughton, Stacie-Marie	✓		
Welkowitz, Lawrence	✓		

Public Hearing

House Remote Testify

State-Federal Relations and Veterans Affairs Committee Testify List for Bill HB117 on 2021-01-29

Support: 4 Oppose: 1 Neutral: 0 Total to Testify: 4

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Graham, John	graham4rep@hotmail.com	4724637	An Elected Official	Myself	Support	Yes (0m)	1/21/2021 9:52 AM
Grady, Kevin	jaws15@hotmail.com	603.674.0636	A Member of the Public	State Veterans Advisory Committee	Support	Yes (0m)	1/25/2021 11:18 AM
Perry, Warren	warren.m.perry.nfg@mail.mil	603.225.1302	State Agency Staff	Dept of Military Affairs and Veterans Services	Support	Yes (0m)	1/26/2021 8:12 AM
Chang, Jeffrey	jeffrey.s.chang.mil@mail.mil	603.227.1472	State Agency Staff	New Hampshire National Guard	Support	Yes (0m)	1/28/2021 1:44 PM
Rathbun, Eric	ericrathbun@gmail.com	860.912.3751	A Member of the Public	Myself	Oppose	No	1/29/2021 12:13 AM

Testimony

January 29, 2021

To the State-Federal Veterans Affairs Committee,

I am writing in support of House Bill 117 that, when passed, will bring RSA 110-B:28 into re-alignment with the intent of that statute concerning the Rules for the Use of Force (RUF). In relevant part, RSA 110-B:28(I) states:

Use of force by any member of the New Hampshire national guard [sic] in duty status, shall be in accordance with the applicable Department of Defense, United States Army, and United States Air Force directives and instructions on rules of engagement and use of force. If mission specific rules of engagement are issued, the specific rules shall be followed, to the degree they deviate from the existing rules, for as long as military members are carrying out duties related to the mission for which the specific rules were issued.

A plain reading of this statute shows its intent is for our state military forces to follow the same RUF as federal military forces. Due the particular specificity of the listed references (e.g. United Air Force directives and instructions), it would be a reasonable conclusion that the RUF for federal military forces were detailed in the specified directives or regulations at the time that the statute was enacted. At the present time, the U.S. Air Force does have a published regulation on this subject; however, the U.S. Army and the Department of Defense do not. Instead, the U.S. Army follows the RUF from a Chairman of the Joint Chiefs of Staff Instruction, which is not one of the regulations listed in the original language of RSA 110-B:28. The end result is that state military forces would follow two different RUF during a domestic operation. House Bill 117, when passed, would ensure that state military forces follow the same RUF. To provide further alignment of force protections measures, this bill also provides that state employees and contractor personnel will also follow the same RUF when conducting security functions at National Guard facilities. In sum, House Bill 117, when passed, will have positive impact on the operations of state military forces in our state.

In closing, the Department of Military Affairs and Veterans Services fully supports the House Bill 117.

Thank you for your favorable consideration.

Respectfully,

Warren M. Perry
Colonel (Ret.)
Deputy Adjutant General

Bill as
Introduced

HB 117 - AS INTRODUCED

2021 SESSION

21-0053

04/11

HOUSE BILL **117**

AN ACT relative to the use of force at New Hampshire national guard facilities.

SPONSORS: Rep. Graham, Hills. 7; Sen. Giuda, Dist 2

COMMITTEE: State-Federal Relations and Veterans Affairs

ANALYSIS

This bill specifies circumstances for the use of force at New Hampshire national guard facilities.

This bill is a request of the Adjutant General.

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 Twenty One

AN ACT relative to the use of force at New Hampshire national guard facilities.

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

1 1 The Militia; National Guard Facilities. Amend RSA 110-B:28, I to read as follows:

2 I. All armories, arsenals, camps, ranges, bases, airports, and other facilities owned, leased,
3 licensed, or maintained by the state or by the United States for the use of the New Hampshire
4 national guard and all activities conducted therein shall be under the general charge, control of, and
5 regulated by the adjutant general and no political subdivision of the state shall interfere with or
6 regulate such activities. The adjutant general may use the means necessary and required, including
7 the arming of trained personnel, to protect, guard, secure and defend and maintain all such
8 facilities. ~~[Use of force by any member of the New Hampshire national guard in duty status, shall be
9 in accordance with the applicable Department of Defense, United States Army, and United States
10 Air Force directives and instructions on rules of engagement and use of force. If mission specific
11 rules of engagement are issued, the specific rules shall be followed, to the degree they deviate from
12 the existing rules, for as long as military members are carrying out duties related to the mission for
13 which the specific rules were issued.]~~

14 2 New Section; The Militia; Rules for the Use of Force. Amend RSA 110-B by inserting after
15 section 28 the following new section:

16 110-B:28-a Rules for the Use of Force. Use of force by personnel, to include state employees and
17 contractor personnel while conducting security functions at National Guard facilities; and any
18 employee and member of the New Hampshire National Guard, in a duty status, shall be in
19 accordance with adjutant general issued guidance and procedures, which, except for mission specific
20 rules for the use of force, shall be consistent with applicable United States Department of Defense,
21 Chairman of the Joint Chiefs of Staff, United States Army, or United States Air Force unclassified
22 directives and instructions on the standing rules for use of force.

23 3 The Militia; Trespassers and Disturbers; Camp Regulations. Amend RSA 110-B:68, II to read
24 as follows:

25 II. The adjutant general or commanding officer of any armory, arsenal, camp, range, base, or
26 other facility of the New Hampshire national guard, or any place where any unit is performing
27 military duty, has the authority to limit access and activities in that place. This includes the
28 authority to take action necessary to protect, guard, secure, and defend the armory, arsenal, camp,
29 range, base, or other facility in accordance with RSA 110-B:28 **and RSA 110-B:28-a**.

30 4 Effective Date. This act shall take effect 60 days after its passage.