

Committee Report

REGULAR CALENDAR

February 23, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on Municipal and County Government to which was referred HB 183,

AN ACT prohibiting municipalities from requiring a license for a lemonade stand operated by a person under the age of 18. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Tony Piemonte

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

| | |
|-------------------|---|
| Committee: | Municipal and County Government |
| Bill Number: | HB 183 |
| Title: | prohibiting municipalities from requiring a license for a lemonade stand operated by a person under the age of 18. |
| Date: | February 23, 2021 |
| Consent Calendar: | REGULAR |
| Recommendation: | OUGHT TO PASS WITH AMENDMENT 2021-0092h |

STATEMENT OF INTENT

While RSA 31:102-a does give cities and towns the right to license and regulate hawkers and peddlers, the majority of the committee does not find any need for the state of NH to grant to a local government the authority to control and regulate a child's lemonade stand. New Hampshire is a Dillon's rule state and thus NH defines what powers it will grant to local government. HB183 clearly states that a city or town MAY NOT claim that the RSA gives them the authority to demand licensing and regulations from some kids setting up a lemonade stand on their front lawn. The committee amendment simply changes 'a lemonade stand' to 'a soft drink stand'. The purpose of the committee amendment is to allow children to sell a more varied group of drinks.

Vote 10-9.

Rep. Tony Piemonte
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Municipal and County Government

HB 183, prohibiting municipalities from requiring a license for a lemonade stand operated by a person under the age of 18. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Tony Piemonte for the **Majority** of Municipal and County Government. While RSA 31:102-a does give cities and towns the right to license and regulate hawkers and peddlers, the majority of the committee does not find any need for the state of NH to grant to a local government the authority to control and regulate a child's lemonade stand. New Hampshire is a Dillon's rule state and thus NH defines what powers it will grant to local government. HB183 clearly states that a city or town MAY NOT claim that the RSA gives them the authority to demand licensing and regulations from some kids setting up a lemonade stand on their front lawn. The committee amendment simply changes 'a lemonade stand' to 'a soft drink stand'. The purpose of the committee amendment is to allow children to sell a more varied group of drinks. **Vote 10-9.**

Original: House Clerk

Cc: Committee Bill File

REGULAR CALENDAR

February 23, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on Municipal and County Government to which was referred HB 183,

AN ACT prohibiting municipalities from requiring a license for a lemonade stand operated by a person under the age of 18. Having considered the same, and being unable to agree with the Majority, report with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Marjorie Porter

FOR THE MINORITY OF THE COMMITTEE

MINORITY COMMITTEE REPORT

| | |
|-------------------|---|
| Committee: | Municipal and County Government |
| Bill Number: | HB 183 |
| Title: | prohibiting municipalities from requiring a license for a lemonade stand operated by a person under the age of 18. |
| Date: | February 23, 2021 |
| Consent Calendar: | REGULAR |
| Recommendation: | INEXPEDIENT TO LEGISLATE |

STATEMENT OF INTENT

Although well-intentioned, the minority finds this bill unnecessary. There are no instances in New Hampshire where a town has closed down a child's front-yard lemonade stand for lack of a license. In addition, there may be unintended consequences if it were to pass. What would then prevent a nefarious adult, wishing to avoid paying a license fee, from hiring a 17 year-old to operate his lemonade booth at the town fair? The bill prohibits a municipality from regulating a child's lemonade stand. If a child were to set up a stand in a dangerous spot, would the police or other town official then be prohibited from moving it? And finally, why only lemonade? What about bake sales? Things are working fine the way they are. The minority sees no reason for the government to interfere.

Rep. Marjorie Porter
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Municipal and County Government

HB 183, prohibiting municipalities from requiring a license for a lemonade stand operated by a person under the age of 18. **INEXPEDIENT TO LEGISLATE.**

Rep. Marjorie Porter for the **Minority** of Municipal and County Government. Although well-intentioned, the minority finds this bill unnecessary. There are no instances in New Hampshire where a town has closed down a child's front-yard lemonade stand for lack of a license. In addition, there may be unintended consequences if it were to pass. What would then prevent a nefarious adult, wishing to avoid paying a license fee, from hiring a 17 year-old to operate his lemonade booth at the town fair? The bill prohibits a municipality from regulating a child's lemonade stand. If a child were to set up a stand in a dangerous spot, would the police or other town official then be prohibited from moving it? And finally, why only lemonade? What about bake sales? Things are working fine the way they are. The minority sees no reason for the government to interfere.

Original: House Clerk

Cc: Committee Bill File

Amendment to HB 183

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT prohibiting municipalities from requiring a license for a soft drink stand operated by
4 a person under the age of 18.

5

6 Amend the bill by replacing section 1 with the following:

7

8 1 Hawkers, Peddlers, and Vendors; Exception. Amend the introductory paragraph of RSA
9 31:102-a to read as follows:

10 The governing board of a city, town or village district may adopt, by ordinance or regulation,
11 provisions for the licensure and regulation of itinerant vendors, hawkers, peddlers, traders, farmers,
12 merchants, or other persons who sell, offer to sell, or take orders for merchandise from temporary or
13 transient sales locations within a town or who go from town to town or place to place within a town
14 for such purposes. Any person who violates any provision of such ordinance or regulation shall be
15 guilty of a class B misdemeanor, and each continuing day of violation after notice shall constitute a
16 separate offense. A city, town, or village district shall be specifically prohibited, however, from
17 licensing or regulating a candidate for public office in the process of obtaining signatures on
18 nomination papers, who seeks to have the candidate's name placed on the ballot for the state general
19 election by submitting nomination papers under RSA 655:40. ***A city, town, or village district***
20 ***shall also be specifically prohibited from licensing or regulating a soft drink stand***
21 ***operated by a person under the age of 18.*** Provisions adopted under this section shall be in
22 addition to any requirements imposed by the state under either RSA 320 or RSA 321 and may
23 include, but shall not be limited to:

Amendment to HB 183
- Page 2 -

2021-0092h

AMENDED ANALYSIS

This bill prohibits a city, town, or village district from licensing or regulating a soft drink stand operated by a person under the age of 18.

Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 183

BILL TITLE: prohibiting municipalities from requiring a license for a lemonade stand operated by a person under the age of 18.

DATE: February 18, 2021

LOB ROOM: Hybrid

MOTIONS: MOTION TO RECONSIDER

Moved by Rep. Piemonte

Seconded by Rep. Lascelles

Vote: 10-9

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Piemonte

Seconded by Rep. Lascelles

AM Vote: 10-9

Amendment # 2021-0092h

Moved by Rep. Piemonte

Seconded by Rep. Lascelles

Vote: 10-9

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep John MacDonald, Clerk



2021 SESSION

Municipal and County Government

HB
Bill #: 183

Motion: Adopt Amendment 2021-0092H

AM #: _____

Exec Session Date: 2/9/21

| <u>Members</u> | <u>YEAS</u> | <u>Nays</u> | <u>NV</u> |
|------------------------------|-------------|-------------|-----------|
| Dolan, Tom Chairman | 18 | | |
| Piemonte, Tony Vice Chairman | 1 | | |
| MacDonald, John T. Clerk | 2 | | |
| Tripp, Richard P. | 3 | | |
| Guthrie, Joseph A. | 4 | | |
| Lascelles, Richard W. | 5 | | |
| McBride, Everett P. | 6 | | |
| Melvin, Charles R. | 7 | | |
| Ayer, Paul F. | | | |
| Pauer, Diane | 8 | | |
| Porter, Marjorie A. | 9 | | |
| Treleaven, Susan GS | 10 | | |
| Gilman, Julie D. | 11 | | |
| Maggiore, Jim V. | 12 | | |
| Stavis, Laurel | 13 | | |
| Mangipudi, Latha D. | 14 | | |
| Vann, Ivy C. | 15 | | |
| Klee, Patricia S. | 16 | | |
| Gallager, Eric B. | 17 | | |
| TOTAL VOTE: | 18 | 0 | |



2021 SESSION

Municipal and County Government

Bill #: HB 183 Motion: OTP WITH 2021-0092H AM #: _____ Exec Session Date: 2/9/21

| <u>Members</u> | <u>YEAS</u> | <u>Nays</u> | <u>NV</u> |
|------------------------------|-------------|-------------|-----------|
| Dolan, Tom Chairman | 8 | | |
| Piemonte, Tony Vice Chairman | 1 | | |
| MacDonald, John T. Clerk | 2 | | |
| Tripp, Richard P. | | 1 | |
| Guthrie, Joseph A. | 3 | | |
| Lascelles, Richard W. | 4 | | |
| McBride, Everett P. | 5 | | |
| Melvin, Charles R. | 6 | | |
| Ayer, Paul F. | | | |
| Pauer, Diane | 7 | | |
| Porter, Marjorie A. | | 2 | |
| Treleaven, Susan GS | | 3 | |
| Gilman, Julie D. | | 4 | |
| Maggiore, Jim V. | | 5 | |
| Stavis, Laurel | | 6 | |
| Mangipudi, Latha D. | | 7 | |
| Vann, Ivy C. | | 8 | |
| Klee, Patricia S. | | 9 | |
| Gallager, Eric B. | | 10 | |
| TOTAL VOTE: | | | |



2021 SESSION

Municipal and County Government

Bill #: HB 183 Motion: ITL AM #: 2021-C0924 Exec Session Date: _____

| <u>Members</u> | <u>YEAS</u> | <u>Nays</u> | <u>NV</u> |
|------------------------------|-------------|-------------|-----------|
| | | 7 | |
| Dolan, Tom Chairman | | | |
| Piemonte, Tony Vice Chairman | | 1 | |
| MacDonald, John T. Clerk | | 2 | |
| Tripp, Richard P. | 1 | | |
| Guthrie, Joseph A. | 2 | | |
| Lascelles, Richard W. | | 3 | |
| McBride, Everett P. | | 4 | |
| Melvin, Charles R. | | 5 | |
| Ayer, Paul F. | | | |
| Pauer, Diane | | 6 | |
| Porter, Marjorie A. | 3 | | |
| Treleaven, Susan GS | 4 | | |
| Gilman, Julie D. | 5 | | |
| Maggiore, Jim V. | 6 | | |
| Stavis, Laurel | 7 | | |
| Mangipudi, Latha D. | 8 | | |
| Vann, Ivy C. | 9 | | |
| Klee, Patricia S. | 10 | | |
| Gallager, Eric B. | 11 | | |
| TOTAL VOTE: | 11 | 7 | |

Public Hearing

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 183

BILL TITLE: (Second New Title) exempting persons under the age of 14, who are selling soft drinks on family owned or leased property, from city, town, or village district licensing requirements.

DATE: February 8, 2021

LOB ROOM: Hybrid **Time Public Hearing Called to Order:** 10:00 a.m.

Time Adjourned: 10:18 a.m.

Committee Members: Reps. Dolan, Piemonte, J. MacDonald, Tripp, Guthrie, Lascelles, McBride, Melvin, Ayer, Pauer, Porter, Treleaven, Gilman, Maggiore, Stavis, Mangipudi, Vann, Klee and Gallager

Bill Sponsors:

Rep. True

Rep. Piemonte

Rep. Abramson

Rep. Torosian

Rep. Greene

TESTIMONY

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

***Rep. True** - Prime sponsor of the bill. Does not know of any town shutting down lemonade stands in the bill. Up to committee to determine if they want to add other beverages. Will provide his testimony.

Rep. Gallagher: Why make it a bill if there have not been any issues? ANS: Lemonade manufacture has provided 10,000 dollars to represent kids who ran a lemonade stand. If the city of Nashua has ordinance for \$50.00 dollars a day, they could require a kid to pay a 51.00 a day fines,

Rep. Porter: Under the age of 18, I didn't want to pay the fee. Could I hire a person under 17 to sell lemonade? ANS: Yes, you could do that. Under the provisions of this bill, could it be shutdown at a balloon fair? ANS: Depends on your town.

Rep. Stavis: If I were a child, could I also have a bake sale? ANS: It is specific to lemonade.

Rep. MacDonald: Why to the age under 18? ANS: Because you are still a child being under 18. They (towns) would still be able to regulate Hawken's and Peddler Regulations.

Rep. Vann: Since cities and towns already have the authority, why do we have to regulate? ANS: In my opinion, there is a history of little kids selling up to 9 lemonade stands. This would stop cities and towns from charging fees. No instances in New Hampshire of anyone being fined.

Respectfully submitted,

Rep. John MacDonald
Clerk


House Remote Testify

Municipal and County Government Committee Testify List for Bill HB183 on 2021-02-08

Support: 8 Oppose: 1 Neutral: 0 Total to Testify: 1

| <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> |
|---------------------|-----------------------------|--------------|------------------------|---------------------|-----------------|-------------------|--------------------|
| true, chris | chris.true@leg.state.nh.us | 603.770.8403 | An Elected Official | Myself | Support | Yes (3m) | 2/3/2021 11:49 AM |
| Rathbun, Eric | ericrathbun@gmail.com | 860.912.3751 | A Member of the Public | Myself | Oppose | No | 2/7/2021 11:13 PM |
| Thomas, Nicholas | nicholas.w.thomas@uconn.edu | 734.355.3870 | A Member of the Public | Myself | Support | No | 2/7/2021 11:21 PM |
| Howland, Curtis | howland@priss.com | 603.512.3414 | A Member of the Public | Myself | Support | No | 2/7/2021 11:22 PM |
| Axelman, Elliot | aluxelman@gmail.com | 732.674.2355 | A Member of the Public | Myself | Support | No | 2/7/2021 11:30 PM |
| McGregor, Mary | moeandgretasmommy@gmail.com | 603.290.4572 | A Member of the Public | Myself | Support | No | 2/8/2021 12:09 AM |
| Mennella, Alexandra | amennella1@protonmail.com | 646.610.9858 | A Member of the Public | Myself | Support | No | 2/8/2021 6:14 AM |
| Pauer, Eric | secretary@BrooklineGOP.org | 202.241.3072 | A Member of the Public | Myself | Support | No | 1/30/2021 12:39 PM |
| Hoy, Daniel | hoy.dan@gmail.com | 603.988.5710 | A Member of the Public | Myself | Support | No | 2/3/2021 8:44 AM |

Testimony

Archived: Tuesday, April 20, 2021 9:33:26 AM
From: [Cordell Johnston](#)
Sent: Monday, February 8, 2021 8:27:45 AM
To: ~[House Municipal and County Govt](#)
Subject: HB 183--licensing or regulating lemonade stands
Importance: Normal
Attachments:
[LTR-HB-183-lemonade.docx](#) 

Dear Committee Members:

Please see the attached letter regarding HB 183, which the committee is hearing this morning.

Thank you.

Cordell Johnston
Government Affairs Counsel
New Hampshire Municipal Association
25 Triangle Park Drive
Concord, NH 03301
603-230-3323

Archived: Tuesday, April 20, 2021 9:33:26 AM
From: [Nancy Vaughan](#)
Sent: Tuesday, February 9, 2021 11:51:49 AM
To: ~House Municipal and County Govt
Subject: Comment on HB 183
Importance: Normal

Good afternoon. I would like to offer comment in opposition to HB 183, for which the Municipal and County Government Committee intends to hold an Executive Session today at 2:00pm.

This bill intends to prohibit New Hampshire municipalities from requiring a license for a lemonade stand operated by an underaged youth. However, the bill sponsor testified that this is not currently an issue or problem in our state.

If passed, this bill will further limit a municipality's current authority to pass ordinances or policies which the community determines is in the best interest of the health and safety of its residents or visitors. As there is no specific problem this bill seeks to solve, it may only serve to set a precedent for curtailing municipalities' authority on other issues which they currently have the authority to act upon should a local need arise or exist. For this reason I urge the committee to not pass HB 183.

Thank you for your consideration.



Nancy Vaughan
Government Relations Director
American Heart Association
Two Wall Street | Manchester | NH | 03101
O 603.263.8329 | M 603.566.5658



February 8, 2021

Hon. Tom Dolan, Chairman
House Municipal & County Government Committee
Legislative Office Building, Room 301
Concord, New Hampshire

Via Electronic Mail Only

Re: HB 183, prohibiting municipalities from requiring a license for a lemonade stand operated by a person under the age of 18

Dear Chairman Dolan:

I write to express the Municipal Association's opposition to HB 183, which would prohibit a municipality from "licensing or regulating" a lemonade stand operated by a person under age 18.

On one hand, it seems unnecessary to spend time on this bill. City and town officials have more pressing matters than trying to license kids' lemonade stands—I know of no instance in which this has happened—and the legislature surely has more pressing matters as well. The bill addresses a problem that does not exist.

On the other hand, precisely because the bill does not address a real problem, it seems to have no purpose other than to rebuke local officials. This is not the first such bill we've seen this year. We believe the relationship between the state and municipalities should be one of cooperation, not of antagonism.

The bill could, in fact, have unfortunate consequences. While no town is going to try to "license" a six-year-old's lemonade stand, one can imagine situations in which children operating a lemonade stand—or anything—would need correction. If a stand is set up too close to a busy street, or near the first-base line during a baseball game, or if it blocks an entire city sidewalk, a police officer might politely ask that it be moved a few feet. Or if a few 17-year-olds decide to sell "hard" lemonade outside the high school—easy enough to imagine—the police might want to get involved as well. A state ban on "regulating" lemonade stands would prohibit this.

Further, the selectmen or council have the right to regulate any activity on town-owned property, whether conducted by adults or children. That right should not be restricted by a law prohibiting "regulation" of lemonade stands.

N E W H A M P S H I R E M U N I C I P A L A S S O C I A T I O N

25 Triangle Park Drive • Concord, NH 03301 • Tel: 603.224.7447

NHMAinfo@nhmunicipal.org • governmentaffairs@nhmunicipal.org • legalinquiries@nhmunicipal.org

www.nhmunicipal.org

Hon. Tom Dolan, Chairman
February 8, 2021
Page 2 of 2

No municipality is looking to limit lemonade stands, but the rare occasion for a minor restriction may arise, and local officials have the good sense to deal with each situation in their discretion. A legislative decree that prohibits the exercise of that discretion is unwarranted.

I ask the committee to find HB 183 inexpedient to legislate.

Thank you very much for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Cordell A. Johnston". The signature is written in a cursive style with a large initial 'C' and a long, sweeping tail.

Cordell A. Johnston
Government Affairs Counsel

cc: committee members

Bill as
Introduced

HB 183 - AS INTRODUCED

2021 SESSION

21-0029

06/11

HOUSE BILL **183**

AN ACT prohibiting municipalities from requiring a license for a lemonade stand operated by a person under the age of 18.

SPONSORS: Rep. True, Rock. 4; Rep. Abramson, Rock. 37; Rep. Greene, Hills. 37; Rep. Piemonte, Rock. 4; Rep. Torosian, Rock. 14

COMMITTEE: Municipal and County Government

ANALYSIS

This bill prohibits a city, town, or village district from licensing or regulating a lemonade stand operated by a person under the age of 18.

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 prohibiting municipalities from requiring a license for a lemonade stand operated by a person under the age of 18.

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

1 1 Hawkers, Peddlers, and Vendors; Exception. Amend the introductory paragraph of RSA
2 31:102-a to read as follows:

3 The governing board of a city, town or village district may adopt, by ordinance or regulation,
4 provisions for the licensure and regulation of itinerant vendors, hawkers, peddlers, traders, farmers,
5 merchants, or other persons who sell, offer to sell, or take orders for merchandise from temporary or
6 transient sales locations within a town or who go from town to town or place to place within a town
7 for such purposes. Any person who violates any provision of such ordinance or regulation shall be
8 guilty of a class B misdemeanor, and each continuing day of violation after notice shall constitute a
9 separate offense. A city, town, or village district shall be specifically prohibited, however, from
10 licensing or regulating a candidate for public office in the process of obtaining signatures on
11 nomination papers, who seeks to have the candidate's name placed on the ballot for the state general
12 election by submitting nomination papers under RSA 655:40. ***A city, town, or village district***
13 ***shall also be specifically prohibited from licensing or regulating a lemonade stand***
14 ***operated by a person under the age of 18.*** Provisions adopted under this section shall be in
15 addition to any requirements imposed by the state under either RSA 320 or RSA 321 and may
16 include, but shall not be limited to:

17 2 Effective Date. This act shall take effect 60 days after its passage.