

Committee Report

REGULAR CALENDAR

February 9, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on Commerce and Consumer Affairs to which was referred HB 475,

AN ACT prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business. Having considered the same, report the same with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Christopher Herbert

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

| | |
|-------------------|---|
| Committee: | Commerce and Consumer Affairs |
| Bill Number: | HB 475 |
| Title: | prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business. |
| Date: | February 9, 2021 |
| Consent Calendar: | REGULAR |
| Recommendation: | INEXPEDIENT TO LEGISLATE |

STATEMENT OF INTENT

This bill prohibits businesses from requiring the production of a driver's license or non-driver's picture identification card as a condition of conducting certain transactions. A bipartisan majority of the Commerce and Consumer Affairs Committee found this prohibition to be an unworkable and unenforceable intrusion into legitimate business dealings, such as those involving car or apartment rentals.

Vote 16-1.

Rep. Christopher Herbert
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Commerce and Consumer Affairs

HB 475, prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Christopher Herbert for the **Majority** of Commerce and Consumer Affairs. This bill prohibits businesses from requiring the production of a driver's license or non-driver's picture identification card as a condition of conducting certain transactions. A bipartisan majority of the Commerce and Consumer Affairs Committee found this prohibition to be an unworkable and unenforceable intrusion into legitimate business dealings, such as those involving car or apartment rentals. **Vote 16-1.**

REGULAR CALENDAR

February 9, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on Commerce and Consumer Affairs to which was referred HB 475,

AN ACT prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business. Having considered the same, and being unable to agree with the Majority, report with the recommendation that the bill OUGHT TO PASS.

Rep. Max Abramson

FOR THE MINORITY OF THE COMMITTEE

MINORITY COMMITTEE REPORT

| | |
|-------------------|---|
| Committee: | Commerce and Consumer Affairs |
| Bill Number: | HB 475 |
| Title: | prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business. |
| Date: | February 9, 2021 |
| Consent Calendar: | REGULAR |
| Recommendation: | OUGHT TO PASS |

STATEMENT OF INTENT

The minority felt that the need to protect privacy was already well established by the recent passage of an amendment to the New Hampshire Constitution's Bill of Rights, Article 2-b. The adoption of this article was an indication by the voters that their own personal information had value and should be protected. None of the businesses that raised concerns about this bill had a problem if it were amended to ensure that they could make a copy of a driver's license. As identity theft has become a growing problem, the minority concluded that those businesses taking a copy of your driver's license should have a policy in place to prevent your home address, medical information, photo, and other information from becoming unlawfully obtained.

Rep. Max Abramson
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Commerce and Consumer Affairs

HB 475, prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business. **OUGHT TO PASS.**

Rep. Max Abramson for the **Minority** of Commerce and Consumer Affairs. The minority felt that the need to protect privacy was already well established by the recent passage of an amendment to the New Hampshire Constitution's Bill of Rights, Article 2-b. The adoption of this article was an indication by the voters that their own personal information had value and should be protected. None of the businesses that raised concerns about this bill had a problem if it were amended to ensure that they could make a copy of a driver's license. As identity theft has become a growing problem, the minority concluded that those businesses taking a copy of your driver's license should have a policy in place to prevent your home address, medical information, photo, and other information from becoming unlawfully obtained.

Archived: Thursday, April 22, 2021 12:53:53 PM
From: JOHN HUNT
Sent: Thursday, March 11, 2021 11:24:49 AM
To: Carrie Morris
Cc: Pam Smarling
Subject: Fwd: HB 475
Importance: Normal

ok,
JBH

Begin forwarded message:

From: Chris Herbert <herbertchris65@gmail.com>
Subject: HB 475
Date: March 11, 2021 at 11:19:06 AM EST
To: JBHunt@prodigy.net

This bill prohibits businesses from requiring production of a driver's license or nondriver's picture identification card as a condition of conducting certain transactions. A bi-partisan majority of the Commerce Committee found this prohibition an unworkable and unenforceable intrusion into legitimate business dealings, such as those involving car or apartment rentals. The motion of ITL was supported by the majority.

Archived: Wednesday, May 5, 2021 2:34:58 PM

From: JOHN B HUNT

Sent: Tuesday, February 9, 2021 8:24:42 PM

To: Pam Smarling; Carrie Morris

Subject: Fwd: minority report on HB475, prohibiting the distribution of driver's license images

Importance: Normal

Approve,

I do not dare to change anything.

JBH

Begin forwarded message:

From: Max Abramson <MaxAbramson@gmx.com>

Subject: minority report on HB475, prohibiting the distribution of driver's license images

Date: February 9, 2021 at 6:28:49 PM EST

To: John Hunt <jbhunt@prodigy.net>

The minority felt that the need to protect privacy was already well established by the recent passage of an amendment to the New Hampshire Constitution's Bill of Rights, Article 2-b, was indication by the voters that their own personal information had value and should be protected. None of the businesses that raised concerns about the bill had a problem if it were amended to ensure that they could take a driver's license. As identity theft has become a growing problem, the minority concluded that those businesses taking a copy of your driver's license should have a policy in place to prevent your home address, medical information, photo, and other information from becoming a commodity on the Russian black market.

Rep. Max Abramson

Free Chad Evans. There is justice in Heaven, and there is justice in Hell. Both are therefore a law abider's utopia's compared to this monstrosity that our taxpayers are compelled to prop up.

"The problem isn't that Johnny can't read. The problem isn't even that Johnny can't think. The problem is that Johnny doesn't know what thinking is; he confuses it with feeling."

--Thomas Sowell

"It is better to take refuge in the Lord than to trust in man." --Psalms 118:8

Voting Sheets

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 475

BILL TITLE: prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business.

DATE: February 9, 2021

LOB ROOM: Remote

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Herbert

Seconded by Rep. Potucek

Vote: 16-1

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Keith Ammon, Clerk

HOUSE COMMITTEE ON COMMERCE

EXECUTIVE SESSION ON HB HB475

BILL TITLE: prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business

DATE: Feb. 9, 2021

LOB ROOM: ZOOM

MOTION: (Please check one box)

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

Moved by Rep. Chris Herbert Seconded by Rep. John Potucek Vote: 16-1

MOTION: (Please check one box)

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

Moved by Rep. _____ Seconded 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. _____ Seconded 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. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR? _____ Yes X No

Minority Report? X Yes _____ No If yes, author, Rep.: Abramson Motion: OTP

Respectfully submitted, Rep. Ammon, Clerk



2021 SESSION

Commerce and Consumer Affairs

Bill #: HB475 Motion: ITL AM #: _____ Exec Session Date: 2/9/2021

| <u>Members</u> | <u>YEAS</u> | <u>Nays</u> | <u>NV</u> |
|--------------------------------|-------------|-------------|-----------|
| Hunt, John B. Chairman | X | | |
| Potucek, John M. Vice Chairman | X | | |
| Osborne, Jason M. | | | |
| Ammon, Keith M. Clerk | X | | |
| Abramson, Max | | X | |
| Ham, Bonnie D. | X | | |
| Depalma IV, Joseph | | | |
| Greeson, Jeffrey | X | | |
| Johnson, Dawn M. | X | | |
| Terry, Paul A. | X | | |
| Bartlett, Christy D. | X | | |
| Abel, Richard M. | X | | |
| Herbert, Christopher J. | X | | |
| Van Houten, Constance | X | | |
| Fargo, Kristina M. | X | | |
| Weston, Joyce | X | | |
| Beaulieu, Jane E. | X | | |
| Burroughs, Anita D. | X | | |
| McAleer, Chris R. | X | | |
| TOTAL VOTE: | 16 | 1 | |

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 475

BILL TITLE: prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business.

DATE: January 26, 2021

LOB ROOM: 302 **Time Public Hearing Called to Order:** 10:56 am

Time Adjourned: 11:10 am

Committee Members: Reps. Hunt, Potucek, Ammon, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

Bill Sponsors:
Rep. Ulery

TESTIMONY

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

Rep. Jorden Ulery

Hillsborough 37. Bill was introduced because drivers licenses were being collected by businesses and used for advertising. Key section is line 9 pp c. If they're going to look at your license then they have to provide driver privacy protection act of the business. Federal law requires business to protect privacy of the information on a driver's license. Information is considered private personal information. They have to keep it secure. Pharmacy demands person provide driver license picking up drugs but they copy it or scan it in. When confronted, they said Nashua police instructed them to do it. Maybe Nashua police needs instruction in

Neal Kurk submitted written testimony.

Rep Hunt

Q: Anyone could use the license but they'd have to have a policy to use it. I ask for licenses when I rent my castle. I like to make sure I know who's living in my house. We have an age requirement, at least 30, and I'd like to make sure they're 30.

Rep Abramson

Q: Wouldn't it make sense to limit the amount of time they could keep it, 90 days?

A: Not objecting to that at all. I am against them scanning the license because some of that information is law enforcement oriented. Key thing, businesses and law enforcement need to understand that there are existing laws protecting this information. If they want to use the info, they should respect those protections.

Q: This only applies to reproduction or copying. Doesn't apply to just looking at the license?

A: Correct. He broke his ribs and had to pick up medication and show license.

Rep Burroughs

Q: How extensive is this problem, other than anecdotal?

A: Had several people contact me, pharmacies in Nashua. This has become common practice. They're circumventing existing law. This clarifies but doesn't place an excessive burden on businesses. Open to suggestions in improving the bill.

Rep Johnson

Q: How does this effect going into registering to vote and showing ID?

A: Not at all. They're not copying the information.

Respectfully Submitted,

Rep Ammon, Commerce Clerk

HOUSE COMMITTEE ON COMMERCE & CONSUMER AFFAIRS

PUBLIC HEARING on Bill # HB475

BILL TITLE:

DATE: Jan 26, 2021

ROOM: Zoom

Time Public Hearing Called to Order: 10:56 AM

Time Adjourned: 11:10 AM

(please bold if present)

Committee Members: Reps. Hunt, Potucek, Ammon, Osborne, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

TESTIMONY

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

Rep. Jordan Ulery

Hillsborough 37. Bill was introduced because drivers licenses were being collected by businesses and used for advertising. Key section is line 9 pp c. If they're going to look at your license then they have to provide driver privacy protection act of the business. Federal law requires business to protect privacy of the information on a driver's license. Information is considered private personal information. They have to keep it secure. Pharmacy demands person provide driver license picking up drugs but they copy it or scan it in. When confronted, they said Nashua police instructed them to do it. Maybe Nashua police needs instruction in

Neal Kurk submitted written testimony.

Rep Hunt

Q: Anyone could use the license but they'd have to have a policy to use it. I ask for licenses when I rent my castle. I like to make sure I know who's living in my house. We have an age requirement, at least 30, and I'd like to make sure they're 30.

Rep Abramson

Q: Wouldn't it make sense to limit the amount of time they could keep it, 90 days?

A: Not objecting to that at all. I am against them scanning the license because some of that information is law enforcement oriented. Key thing, businesses and law enforcement need to understand that there are existing laws protecting this information. If they want to use the info, they should respect those protections.

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A: Correct. He broke his ribs and had to pick up medication and show license.

Rep Burroughs

Q: How extensive is this problem, other than anecdotal?

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Rep Johnson

Q: How does this effect going into registering to vote and showing ID?

A: Not at all. They're not copying the information.

House Remote Testify

Commerce and Consumer Affairs Committee Testify List for Bill HB475 on 2021-01-26

Support: 12 Oppose: 5 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> |
|-------------------|--------------------------------|--------------|------------------------|--|-----------------|-------------------|--------------------|
| Ulery, Rep Jordan | repulery@comcast.net | 603.231.7867 | An Elected Official | Myself | Support | Yes (0m) | 1/25/2021 5:12 PM |
| Garrigan, John | john.w.garrigan@doj.nh.gov | 603.271.1252 | State Agency Staff | Attorney General's Office | Neutral | Yes (0m) | 1/26/2021 9:16 AM |
| Grimbilas, Jodi | jodi@jgstrategies.com | 603.496.2638 | A Lobbyist | CVS Health | Neutral | Yes (0m) | 1/26/2021 10:04 AM |
| Mobley, Marty | martha.v.mobley@ins.nh.gov | 2712805 | State Agency Staff | Insurance Department | Neutral | No | 1/22/2021 1:54 PM |
| Rathbun, Eric | ericrathbun@gmail.com | 860.912.3751 | A Member of the Public | Myself | Support | No | 1/22/2021 10:49 PM |
| Ulery, Rep Jordna | repulery@comcast.net | 603.231.7867 | An Elected Official | Myself | Support | No | 1/25/2021 6:20 PM |
| Gould, Rep. Linda | lgouldr@myfairpoint.net | 603.472.3877 | An Elected Official | Myself | Support | No | 1/25/2021 6:42 PM |
| Sanderson, Paul | paul.sanderson@wildlife.nh.gov | 603.271.1136 | State Agency Staff | NH Fish & Game Department | Oppose | No | 1/26/2021 8:20 AM |
| Ploszaj, Tom | tom.ploszaj@leg.state.nh.us | 603.279.9965 | An Elected Official | Myself | Support | No | 1/24/2021 8:28 PM |
| Barry, Curtis | curtis@barrygr.com | 603.496.4564 | A Lobbyist | N.H. Retail Association | Oppose | No | 1/25/2021 4:14 PM |
| Bennett, Dan | dbennett@nhada.com | 603.545.4535 | A Lobbyist | New Hampshire Automobile Dealers Association | Oppose | No | 1/25/2021 4:29 PM |

Testimony

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business.

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

1 New Paragraph; Consumer Protection; Acts Unlawful. Amend RSA 358-A:2 by inserting after paragraph XVII the following new paragraph:

XVIII. Requiring as a condition of conducting business the production, copying, or other use of a driver's license or nondriver's picture identification card, provided that:

(a) This paragraph shall not apply to businesses selling alcoholic beverages, tobacco products, or other goods or services that are restricted by law to persons over a certain age limit.

(b) A person may voluntarily provide his or her driver's license or nondriver's picture identification card for viewing.

(c) Any person that lawfully requires production of a driver's license or nondriver's picture identification card pursuant to subparagraph (a) shall provide the owner of such license or nondriver's picture identification card with a copy of either the driver privacy protection policy of the business or a statement from the business that attests the information contained on the license or nondriver's picture identification card is not being retained or shared with any third party and that the information is being used solely for the transaction at hand.

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

Written Testimony of **Assistant Attorney General John W. Garrigan** on behalf of the **New Hampshire Department of Justice – Consumer Protection and Antitrust Bureau (“CPB”)** on **HB 475** submitted to the New Hampshire House of Representatives’ Commerce and Consumer Affairs Committee:

The Attorney General takes a neutral position on this bill, though wishes to address the enforceability aspect of the bill and to recommend some changes to objectively make this bill, any similar bill that the Committee may consider, more effectively enforceable by CPB and private individuals.

Broadly speaking, disclosure-type consumer protections are most effective where there is a requirement of proof or acknowledgement that the consumer received and understood the disclosure. The reason this is important is that the Attorney General, or a private individual, will need to be able to produce evidence in court in order to enforce the provisions of this bill.

The bill, as written, only requires an authorized business to provide a copy of their “driver policy protection policy,” or some other statement, asserting that the information will not be retained or shared. The bill does not require that the customer sign the policy or statement. The bill does not require that the business retain a copy of the signed policy or statement. Importantly, this means that there may be no tangible proof that the customer ever received, or understood, the terms of the policy. A consumer may contact our office and complain that a business has required the production of his or her driver’s license without providing a copy of their policy in contravention of this statute. The business may respond to say that they did indeed provide a copy of their policy. There is no way to verify the provision of the policy or statement through documentary evidence. Such a situation presents a very difficult enforcement action as there is no documentary evidence that the State or the private plaintiff could offer as evidence to the court to support their claim.

There are several similar consumer-disclosure statutes that are effective in requiring consumers to sign or acknowledge written disclosures. The Sale of Unsafe Motor Vehicles statute (RSA 358-F) requires car dealers to provide a written disclosure to every consumer to whom the dealer is selling a car that the dealer knows will not pass inspection. The consumer keeps a copy, the dealer keeps a copy, and a copy is sent to the Department of Safety – Division of Motor Vehicles. The Land Sales Full Disclosure Act (RSA 356-A) and the Condominium Act (RSA 356-B) both require sellers of certain subdivision and condominium projects to provide prospective buyers with a Public Offering Statement that discloses a wide-range of information about the developer and the project. The consumer is required to acknowledge receipt of that statement in writing, though no copy of the acknowledgment is forwarded to a state agency.

In each of the instances mentioned above, the State can investigate alleged violations by requiring a business to produce a copy of the customer’s acknowledgement. The business’s failure to produce a signed acknowledgement, or their production of an acknowledgment with a forged signature, would represent significant evidence of a violation of the statute. Conversely, the business’s production of a credibly-signed customer acknowledgement would provide significant mitigating evidence against a violation of the statute. Either way, a signature

requirement would provide weighty information to the State or a private litigant as to whether to pursue, or not pursue, an enforcement action against a business. On the other side, a signature requirement could provide a significant defense to a business accused of violating this provision. HB 475, as written, does not allow for such documentation.

On a final technical note, Rep. Ulery referenced RSA 260:14 as the statutory provision that prohibits scanning or retaining driver's license information. That statute defines "personal information" as it relates to the information contained on a driver's license. However (and with the deepest respect to Rep. Ulery), RSA 263:12, X is the statute that prohibits any person from knowingly scanning or retaining such information.

I am more than happy to take any questions from Committee members, or to participate in any further hearings or working sessions on this bill if the Committee so wishes.

Respectfully submitted,

NEW HAMPSHIRE DEPARTMENT OF JUSTICE

GORDON J. MACDONALD
ATTORNEY GENERAL

By:



John W. Garrigan
Assistant Attorney General
Consumer Protection and Antitrust Bureau
New Hampshire Department of Justice
33 Capitol Street
Concord, NH 03301
Office: 603-271-1252
Cell: 603-333-5157
john.w.garrigan@doj.nh.gov

Dated: January 26, 2021

Archived: Wednesday, April 14, 2021 11:00:19 AM

From: [Curtis Barry](#)


Sent: Tuesday, February 2, 2021 2:52:44 PM

To: ~House Commerce Committee

Subject: HB 475 - prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business - NH Retail Association

Importance: Normal

Attachments:

[SB 475 - drivers license - letter to commerce.pdf](#) 

Folks, attached is a statement on HB 475, prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business, from Nancy Kyle, President of the NH Retail Association. Please reach out with questions.


Thank you for considering these points,

Curtis J. Barry

603-496-4564 (mobile)

www.linkedin.com/in/curtisjbarry

<https://lobbylinx.com/profile.php?profileid=3111115>

Archived: Wednesday, April 14, 2021 11:00:19 AM
From: [Garrigan, John](#)
Sent: Tuesday, January 26, 2021 1:05:01 PM
To: ~House Commerce Committee
Cc: [Garod, Brandon](#)
Subject: HB 475 - Written Testimony from Department of Justice
Importance: Normal
Attachments:
[HB 475 Testimony of Assistant Attorney General John W Garrigan.pdf](#) 

Chairman Hunt and members of the committee,

I registered to testify at the Committee's hearing this morning on HB 475. However, it appeared that my name did not make it through to the committee chair to be called on to speak, nor did my "raised hand" make it through. Unquestionably, this was a technological problem that often plagues the modern Zoom-world. In lieu of that in-person testimony, I am submitting the attached written statement on behalf of the Department of Justice's Consumer Protection and Antitrust Bureau.

I am more than happy to take questions from Committee members or to participate in any further hearings or working sessions on this bill if the Committee so wishes.

Sincerely,

John W. Garrigan
Assistant Attorney General
Consumer Protection and Antitrust Bureau
New Hampshire Department of Justice
33 Capitol Street
Concord, NH 03301
Office: 603-271-1252
Cell: 603-333-5157
john.w.garrigan@doj.nh.gov

STATEMENT OF CONFIDENTIALITY

The information contained in this electronic message and any attachments may contain confidential or privileged information and are intended for the exclusive use of the addressee(s). Please notify the Attorney General's Office immediately at 603-271-3658 or reply to justice@doj.nh.gov if you are not the intended recipient and destroy all copies of this electronic message and any attachments.

Archived: Wednesday, April 14, 2021 11:00:19 AM

From: Sanderson, Paul

Sent: Tuesday, January 26, 2021 8:34:50 AM

To: ~House Commerce Committee

Cc: LaBonte, Kathy; Jordan, Kevin J; Mason, Scott

Subject: HB 475, testimony of NH Fish and Game

Importance: Normal

Attachments:

[Testimony HB 475 1-25-21.docx](#) 

Please find the testimony of the NH Fish and Game Department on this bill. I have not asked to speak, because the NH Fish and Game Commission is meeting at the time of the hearing. We are certainly willing to discuss the issue with the sponsor or the committee to see if there is a solution to the issue presented.

Paul G. Sanderson
Legal Coordinator
NH Fish and Game

Archived: Wednesday, April 14, 2021 11:00:19 AM

From: [Rep ULERY](#)

Sent: Monday, January 25, 2021 6:35:49 PM

To: [~House Commerce Committee](#)

Subject: HB 475

Importance: Normal

Attachments:

[hb 475 Language from Pharmacy Association.pdf](#) 

In conversation via email with the pharmacy association some corrective language was proposed regarding IDs at pharmacies. I support this as an amendment to mandate that the pharmacies actually comply with both existing NH law and federal Driver Privacy Protection Act requirements. It also would block pharmacies from using driver information for sale and marketing purposes.

Thank you for considering this Amendment suggestion.

Jordan Ulery
Hudson & Pelham
Seated on Ways & Means
Member Hillsborough County Executive Board
POB 15
Hudson, NH 03051-0015

Archived: Wednesday, April 14, 2021 11:00:19 AM

From: [Paul Phillips](#)

Sent: Friday, February 5, 2021 8:23:41 AM

To: ~[House Commerce Committee](#)

Subject: HB 475 (Prohibiting the Production of a Driver's License as a Condition of Conducting Business) - Comments of Insurance Auto Auctions, Inc. in Opposition

Importance: Normal

Chairman Hunt and Members of the Committee:

I'm writing on behalf of Insurance Auto Auctions (IAA) with regard to HB 475, which had a hearing on January 26th in House Commerce and Consumer Affairs and is awaiting further action. HB 475 would declare it an unlawful and unfair trade practice (under RSA Chapter 358-A) for a business to require production of a driver's license as a condition of conducting its business. IAA was not able to attend the committee hearing but opposes HB 475 for the reasons described below.

IAA is a nationwide business primarily engaged in the sale of salvage and theft-recovered motor vehicles on behalf of the insurance industry. IAA is headquartered in Illinois, with facilities in all 50 states, including a substantial operations center in Salem, New Hampshire. HB 475, if enacted, would prohibit or impinge upon the following prudent business practices that IAA presently engages in:

- **Buyer Registration** - As an integral part of its operations, IAA registers vehicle buyers who are then authorized to bid on vehicles at auction. These buyers are located in the United States and around the world. Many of these buyers buy vehicles in more than one state. Some states require driver's license information with respect to salvage buyers. Under HB 475, a New Hampshire buyer would be unable to buy salvage vehicles in these states.
- **Tower Verification** - When a buyer is the successful bidder for a salvage vehicle, the buyer typically sends a tow company to pick up the vehicle purchased. IAA reviews the tower's driver's license to ascertain identity before releasing the vehicle. If HB 475 is enacted, this prudent business practice would be prohibited in New Hampshire.
- **Compliance with federal Office of Foreign Asset Control and Anti-Money Laundering Regulations** – Driver's license information is used to assure compliance with these federal requirements.

For these reasons, IAA opposes HB 475 as presently drafted. If you have further questions, my contact information is below, with my cell phone number highlighted in red.

Many thanks,
Paul Phillips

Paul J. Phillips | Attorney at Law

PRIMMER PIPER EGGLESTON & CRAMER PC

900 Elm Street, 19th Floor, P.O. Box 3600, Manchester, NH 03101-3600

Direct Dial: 603 626 3306 | **Cell: 802 249 2948*** | Fax: 603 626 0997
pPhillips@primmer.com | www.primmer.com | [Attorney Profile](#)

***(Please contact me by cellphone if you need to speak with me during the current state of emergency.)**

Burlington, VT Office:

30 Main Street, Suite 500 | P.O. Box 1489, Burlington, VT 05402
Reception: 802 864 0880 | Fax: 802 864 0328



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Archived: Wednesday, April 14, 2021 11:00:19 AM
From: [Dan McGuire](#)
Sent: Monday, January 25, 2021 8:03:11 PM
To: [~House Commerce Committee](#)
Cc: [Jordan Ulery](#)
Subject: HB 475
Importance: Normal

To members of the House Commerce Committee:

Tomorrow you will have a public hearing for [HB475](#), prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business, sponsored by Rep. Ulery. As a privacy advocate I would urge you to support the bill with changes.

This bill would restrict businesses from "Requiring as a condition of conducting business the production, copying, or other use of a driver's license or nondriver's picture identification card..." The key part of that sentence is the restriction against copying (and storage) of IDs. One can imagine legitimate reasons for businesses to ask to see someone's ID to make sure of the identity of the customer, for example when administering a drug test or delivering a prescription.

However, copying and storage of ID images can lead to identity theft. [According to the FTC](#) there were over 650,000 instances of identity theft in the United States in 2019 up from fewer than 300,000 ten years ago. This translates to roughly 3,000 such cases in New Hampshire annually. Keeping images of driver's licenses out of business files and databases would help to curtail this serious problem.

Please vote HB 475 OTP with amendment.

Yours,
Dan McGuire
Epsom NH
603-782-4918
danmcguire@gmail.com

Archived: Wednesday, April 14, 2021 10:59:05 AM
From: [Dan McGuire](#)
Sent: Monday, January 25, 2021 8:03:11 PM
To: [~House Commerce Committee](#)
Cc: [Jordan Ulery](#)
Subject: HB 475
Importance: Normal

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STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
DIVISION of PARKS and RECREATION
172 Pembroke Road Concord, New Hampshire 03301
Phone: (603) 271-3556 Fax: (603) 271-3553
Web: www.nhstateparks.org

February 9, 2021

The Honorable John Hunt
and the Commerce & Consumer Affairs Committee
Legislative Office Building, Room 302
Concord, NH 03301

RE: HB 475 prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business.

Dear Chair Hunt and Members of the Committee,

Please accept this information on behalf of the Department of Natural and Cultural Resources, Division of Parks and Recreation ("Division") regarding HB 475. **The Division does not take a position on this legislation, but we want you to be aware of how this bill may impact state park operations and park guests.**

Pursuant to RSA 218:5-c, the Division grants to any person who, upon proper identification, is a resident of this state and who has attained the age of 65, free admission to state parks, historical sites, and state-operated ski areas. As proof of age and residency, the NH senior presents his/her drivers' license or nondrivers' picture ID to the state park tollbooth staff to enjoy this benefit.

We respectfully request clarification as to whether this legislation will exempt the Division and enable NH seniors to continue to present their drivers' license or nondrivers' photo ID as a condition of providing free entry to state parks. We need to be able to ensure that we have a process to treat all our guests equitably.

Thank you for the opportunity to submit this information related to HB 475. Please let me know if I can answer questions or provide any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip A. Bryce".

Philip A. Bryce, Director

Cc: Sarah L. Stewart, Commissioner



48 Grandview Road, Suite #2
Bow, NH 03304
603 225 9748
www.retailnh.com
shop@retailnh.com

TO: House Commerce Committee Members
FROM: Nancy C. Kyle, President, NH Retail Association
RE: Opposition to HB 475, prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business.
DATE: February 1, 2021

I write to register the opposition of the New Hampshire Retail Association to HB 475.

A retailer, particularly one that sells larger items like furniture or appliances, will take drivers license information as part of an application for financing or extended warranty. This includes situations where the financing is a store-branded credit card or it is financing offered by a third party. The bill's prohibition seems to impact a retailer's ability to continue this practice.

Retailers also take drivers license information to confirm that the right person is picking up merchandise. There is a scheme used with increasing frequency where someone will order merchandise using stolen credit card information, and someone posing as the person whose name is on the credit card appears at the store to pick up the item. Requiring a drivers license at that time deters fraud in this manner, and can prevent it outright. With curbside pickup necessary being offered by even the smallest retailers right now, and potentially continuing as a service retailers wish to offer outside of a pandemic, this bill may put in place an unnecessary burden.

Lastly, the bill does not seem to be clear regarding the retention of drivers license information in employment / contracting engagements.

I thank you for considering these issues and ask the Commerce Committee to not pass HB 475.

About the New Hampshire Retail Association

The New Hampshire Retail Association is a statewide, nonprofit trade association representing over 700 businesses in the state, from large chains to small independent retailers. Formed in 1966, we serve as the voice of retailing in New Hampshire and concentrate on preserving the state's strong retail climate. Over 95% of our members are New Hampshire based businesses. Our mission is to advocate for, promote, and support New Hampshire retailers.

For more information on the NH Retail Association, check our website at www.retailnh.com, email us at shop@retailnh.com, or call our offices at 603-225-9748. The NH Retail Association is represented legislatively by Curtis Barry; Curtis@BarryGR or 603-496-4564.



New Hampshire Fish and Game Department

HEADQUARTERS: 11 Hazen Drive, Concord, NH 03301-6500
(603) 271-3421
FAX (603) 271-1438

www.WildNH.com
e-mail: info@wildlife.nh.gov
TDD Access: Relay NH 1-800-735-2964

**New Hampshire Fish and Game Department
House Commerce and Consumer Affairs Committee
January 26, 2021
Testimony**

We write to respectfully express the position of the NH Fish and Game Commission and Department to oppose this bill as written, because it would have negative impacts upon our operations in the following ways.

The NH Fish and Game Department issues many different licenses for hunting, fishing and trapping, and also acts to register Off Highway Recreational Vehicles (OHRV) and snowmobiles. Whether or not the applicant is a resident of the State of New Hampshire is a key factor in determining if the applicant qualifies for the license, and also affects the price charged for these products. These licenses and registrations are issued by both state licensing staff in our department locations, and through a statewide network of 175 OHRV Agents and 180 License Agents. While some of these agents for registrations are municipal clerks, many of the licensing and registration agents are in fact private business concerns that are regulated under RSA 358-A. These include retailers of hunting and fishing gear and dealers of OHRV and snowmobiles, and they range in size and sophistication from national store chains down to small single location retailers.

Pursuant to RSA 214:11-a, and the administrative rules of the department found in Fis 1100 and in Fis 1500, these agents are required by law to use driver's licenses or nondriver picture identification cards issued by New Hampshire or other states or provinces in order to determine whether the applicant/registrant qualifies to receive the license, ora New Hampshire resident rate for the item being purchased. This sales activity does not appear to be exempt from the reach of the changes proposed in the bill, even though it is undertaken by the concern as an agent of the State of New Hampshire.

It would not be possible for the agent to produce a driver privacy protection policy of that individual agent for these sales, because as an agent they are subject to the driver privacy protection policy of the NH Fish and Game Department, which is set forth in our Agent Agreement as follows:

“15. CONFIDENTIALITY OF DATA AND INFORMATION

The Agent shall maintain in strict confidence all State of New Hampshire Fish and Game customer data and/or information provided by the Department to facilitate license sales and any data and/or information that becomes available to the Agent in connection with its services under this agreement. Use of customer data or information shall only be used for providing services under the scope of this Agreement. The Agent shall not use or access any data or information for any other purpose. All Department data and information acquired or developed by the Agent in performance of this Agreement shall be and remain the property of the State of New Hampshire Fish and Game Department.

REGION 1

629B Main Street
Lancaster, NH 03584-3612
(603) 788-3164
FAX (603) 788-4823
email: reg1@wildlife.nh.gov

REGION 2

PO Box 417
New Hampton, NH 03256
(603) 744-5470
FAX (603) 744-6302
email: reg2@wildlife.nh.gov

REGION 3

225 Main Street
Durham, NH 03824-4732
(603) 868-1095
FAX (603) 868-3305
email: reg3@wildlife.nh.gov

REGION 4

15 Ash Brook Court
Keene, NH 03431
(603) 352-9669
FAX (603) 352-8798
email: reg4@wildlife.nh.gov

This section shall survive the termination of this Agreement.”

In addition to the inability to comply with statute, there would be additional negative impacts from the proposed language.

- Law enforcement agencies would not have the information required to verify the name, date of birth, and residency of holders of annual sportsman licenses or OHRV registrations.
- Special permanent licenses issued by the Department would be impacted, such as Lifetime licenses, free age based milestone licenses, Special Disabled Veteran licenses available to NH residents only, Newborn lifetime licenses, and licenses issued to Active duty military members.
- Moose lottery applications are distributed by a percentage based on issuance of resident vs nonresident hunting licenses. The tracking of Moose Lottery Points is done by driver’s license number.
- The driver’s license is also used to verify age, for both regular multiform hunting and fishing licenses, senior discounted rate licenses and all lifetime licenses.
- OHRV registrations can only be issued to those aged 18 or over, which is verified by the license.
- The issuance of a hunting license is not only a legal document for NH, but can be used to verify completion of required hunter education in all other states. The driver’s license is needed to verify the applicant’s name, address and date of birth for this purpose.
- The driver’s license is used within our databases to verify a record, including the purchase of a license, and to support issuance of duplicate or replacement documents, as required by law.

Therefore, we respectfully request that this bill not be approved as presented. We would be glad to work with the sponsor to resolve these concerns, if possible.

Dated: January 26, 2021

Paul G. Sanderson
Legal Coordinator
NH Fish and Game Department
Paul.sanderson@wildlife.nh.gov
603-271-1136

Bill as
Introduced

HB 475 - AS INTRODUCED

2021 SESSION

21-0652

11/04

HOUSE BILL **475**

AN ACT prohibiting the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business.

SPONSORS: Rep. Ulery, Hills. 37

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill prohibits businesses from requiring production of a driver's license or nondriver's picture identification card as a condition of conducting certain transactions.

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 the production of a drivers' license or nondrivers' picture identification card as a condition of conducting certain business.

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

1 1 New Paragraph; Consumer Protection; Acts Unlawful. Amend RSA 358-A:2 by inserting after
2 paragraph XVII the following new paragraph:

3 XVIII. Requiring as a condition of conducting business the production, copying, or other use
4 of a driver's license or nondriver's picture identification card, provided that:

5 (a) This paragraph shall not apply to businesses selling alcoholic beverages, tobacco
6 products, or other goods or services that are restricted by law to persons over a certain age limit.

7 (b) A person may voluntarily provide his or her driver's license or nondriver's picture
8 identification card for viewing.

9 (c) Any person that lawfully requires production of a driver's license or nondriver's
10 picture identification card pursuant to subparagraph (a) shall provide the owner of such license or
11 nondriver's picture identification card with a copy of either the driver privacy protection policy of the
12 business or a statement from the business that attests the information contained on the license or
13 nondriver's picture identification card is not being retained or shared with any third party and that
14 the information is being used solely for the transaction at hand.

15 2 Effective Date. This act shall take effect 60 days after its passage.