

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 struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

CHAPTER 18
HB 117 - FINAL VERSION

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

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CHAPTER 18
HB 117 - FINAL VERSION

21-0053
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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 18:1 The Militia; National Guard Facilities. Amend RSA 110-B:28, I to read as follows:

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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 18:2 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 18:3 The Militia; Trespassers and Disturbers; Camp Regulations. Amend RSA 110-B:68, II to
24 read 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

CHAPTER 18
HB 117 - FINAL VERSION
- Page 2 -

18:4 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 06, 2021

Effective Date: July 05, 2021

Committee Minutes

SENATE CALENDAR NOTICE

Executive Departments and Administration

Sen Sharon Carson, Chair
Sen John Reagan, Vice Chair
Sen Denise Ricciardi, Member
Sen Kevin Cavanaugh, Member
Sen Suzanne Prentiss, Member

Date: March 17, 2021

HEARINGS

Wednesday	03/24/2021	
(Day)	(Date)	
Executive Departments and Administration	REMOTE 000	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m.	HB 117	relative to the use of force at New Hampshire national guard facilities.
9:15 a.m.	HB 377	relative to the authority of the state fire marshal to grant an exemption from fire code requirements to recovery houses.
9:30 a.m.	HB 356	relative to the city of Manchester employees' contributory retirement system.
9:45 a.m.	HB 318	proclaiming the daring jumping spider to be the state spider of New Hampshire.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/97478051865>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: +13017158592,,97478051865# or +13126266799,,97478051865#
4. Webinar ID: **974 7805 1865**
5. To view/listen to this hearing on YouTube, use this link:
<https://www.youtube.com/channel/UCiBZdtriRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:
<http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 117

Rep. Graham

Sen. Giuda

HB 377

Rep. Connors

Rep. Cornell

Rep. Goley

Rep. Snow

Sen. D'Allesandro

HB 356

Rep. Long

HB 318

Rep. McGhee

Cameron Lapine 271-2104

Sharon M Carson
Chairman

Senate Executive Departments and Administration Committee

Cameron Lapine 271-2104

HB 117, relative to the use of force at New Hampshire national guard facilities.

Hearing Date: March 24, 2021

Time Opened: 9:04 a.m.

Time Closed: 9:09 a.m.

Members of the Committee Present: Senators Carson, Reagan and Prentiss

Members of the Committee Absent: Senators Ricciardi and Cavanaugh

Bill 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.

Sponsors:

Rep. Graham

Sen. Giuda

Who supports the bill: Kevin Grady (State Veterans Advisory Committee), Warren Perry (Department of Military Affairs and Veterans Services), Lucinda Hope, Senator Bob Giuda (Senate District 2), Ruth Larson, Nikki Fordey, and Richard DeMark.

Who opposes the bill: Ronald Garnett.

Who is neutral on the bill: None.

Summary of testimony presented in support:

Senator Sharon Carson

Senate District 14

- Senator Carson introduced HB 117 on behalf of Representative John Graham, who was unable to attend the hearing.

Kevin Grady

State Veterans Advisory Committee (SVAC)

- Mr. Grady said that SVAC takes positions on bills affecting veterans.
- Mr. Grady said that HB 117 was originally HB 1420 (2020), which passed the House but died on the table in the Senate, before it was rolled in omnibus HB 1234 (2020) and was vetoed.
- Mr. Grady said that HB 117 is not gun legislation or force protection policy. He said that the Adjutant General sets the force protection policy and it is confidential.
- Mr. Grady said that HB 117 aligns the language in statute with existing federal guidance and SVAC unanimously supports HB 117, as it did with HB 1420 (2020).
- Mr. Grady said that there is a nationwide movement for total integration between active forces, guard forces, and reserve forces. He said that HB 117 is a step towards everyone training to the same level.

Summary of testimony presented in opposition: None.

Neutral Information Presented: None.

cml

Date Hearing Report completed: March 25, 2021

Speakers

Senate Remote Testify

Executive Departments and Administration Committee Testify List for Bill HB117 01

Support: 7 Oppose: 1 Neutral: 0 Total to Testify: 2

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>
Grady, Kevin	jaws15@hotmail.com	603674063	A Member of the Public	State Veterans Advisory Committee	Support	Yes
PERRY, WARREN	warren.m.perry.nfg@mail.mil	603 225 1302	State Agency Staff	The Dept of Military Affairs and Veterans Services	Support	Yes
Hope, Lucinda	lmhope46@gmail.com	Not Given	A Member of the Public	Myself	Support	No
Giuda, Bob	bob.giuda@leg.state.nh.us	603-271-3042	An Elected Official	NH Senate District 2	Support	No
garnett, ronald	soup31314@yahoo.com	603.236.1637	A Member of the Public	Myself	Oppose	No
Larson, Ruth	ruthlarson@msn.com	Not Given	A Member of the Public	Myself	Support	No
Fordey, Nikki	nikkif610@gmail.com	Not Given	A Member of the Public	Myself	Support	No
DeMark, Richard	demarknh114@gmail.com	603.520.5582	A Member of the Public	Myself	Support	No

Testimony

March 22, 2021

To the Members of the Executive Departments and Administration 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
Deputy Adjutant General

Cameron Lapine

From: Sharon Carson
Sent: Wednesday, March 24, 2021 6:49 AM
To: Cameron Lapine
Subject: FW: HB

Importance: High

From: J A Graham <graham4rep@hotmail.com>
Sent: Tuesday, March 23, 2021 6:18 PM
To: Sharon Carson <Sharon.Carson@leg.state.nh.us>
Subject: HB

Sen. Carson,

As the sponsor of HB117 I was planning on introducing the bill tomorrow (Wed).

However, a change in a doctors appointment makes this impossible.

What I would like you and the committee to recall is that this bill passed the House and Senate a year ago, but was then bundled into a omnibus bill that was vetoed. The Adjutant General's office can explain the details and rationale for the bill.

Thanks,

John,

Rep. John A. Graham

Voting Sheets

**Senate Executive Departments and
Administration Committee
EXECUTIVE SESSION RECORD
2021 Session**

Bill # HB 117

Hearing date: 3-24-21

Executive Session date: 3-31-21

Motion of: OTP Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: Consent Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sen. Cavanaugh

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Wednesday, March 31, 2021

THE COMMITTEE ON Executive Departments and Administration

to which was referred **HB 117**

AN ACT

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

Having considered the same, the committee recommends that the Bill

ought to pass

BY A VOTE OF: 5-0

Senator Kevin Cavanaugh
For the Committee

This bill specifies circumstances for the use of force at New Hampshire National Guard facilities and is a request of the Adjutant General. HB 117 is a simple piece of legislation to align the New Hampshire National Guard's policies with federal guidance, as well as a national trend towards integration between active duty soldiers, National Guard soldiers, and the reserve force. HB 117 is a re-file of HB 1420 (2020), which passed the House on a voice vote before dying in the Senate during the COVID-19 pandemic.

Cameron Lapine 271-2104

FOR THE CONSENT CALENDAR

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 117, relative to the use of force at New Hampshire national guard facilities.

Ought to Pass, Vote 5-0.

Senator Kevin Cavanaugh for the committee.

This bill specifies circumstances for the use of force at New Hampshire National Guard facilities and is a request of the Adjutant General. HB 117 is a simple piece of legislation to align the New Hampshire National Guard's policies with federal guidance, as well as a national trend towards integration between active duty soldiers, National Guard soldiers, and the reserve force. HB 117 is a re-file of HB 1420 (2020), which passed the House on a voice vote before dying in the Senate during the COVID-19 pandemic.

General Court of New Hampshire - Bill Status System

Docket of HB117

Docket Abbreviations

Bill Title: relative to the use of force at New Hampshire national guard facilities.*Official Docket of HB117.:*

Date	Body	Description
1/4/2021	H	Introduced (in recess of) 01/06/2021 and referred to State-Federal Relations and Veterans Affairs HJ 2 P. 35
1/20/2021	H	Public Hearing: 01/29/2021 09:30 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/95866113093 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
2/3/2021	H	Executive Session: 02/12/2021 09:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/93009507127
2/16/2021	H	Committee Report: Ought to Pass (Vote 19-0; CC) HC 12 P. 12
2/24/2021	H	Ought to Pass: MA VV 02/24/2021 HJ 3 P. 17
3/4/2021	S	Introduced 03/04/2021 and Referred to Executive Departments and Administration; SJ 7
3/17/2021	S	Remote Hearing: 03/24/2021, 09:00 am; Links to join the hearing can be found in the Senate Calendar; SC 16
3/31/2021	S	Committee Report: Ought to Pass, 04/08/2021; Vote 5-0; CC; SC 18
4/8/2021	S	Ought to Pass: RC 23Y-1N, MA; OT3rdg; 04/08/2021; SJ 11
4/29/2021	S	Enrolled RC 24Y-0N , MA, (In recess of 04/22/2021); SJ 13
4/29/2021	H	Enrolled (in recess of) 04/09/2021 HJ 7 P. 101
5/10/2021	H	Signed by Governor Sununu 05/06/2021; Chapter 18; Eff: 07/05/2021

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 117

Senate Committee: ED+A

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 # _____ ___ - 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:

Cameron M. Lapine
Committee Aide

7/20/11
Date

Senate Clerk's Office AK