

Bill as Introduced

HB 303 - AS AMENDED BY THE HOUSE

24Feb2021... 0189h

2021 SESSION

21-0421
04/06

HOUSE BILL **303**

AN ACT relative to required pay.

SPONSORS: Rep. Seaworth, Merr. 20

COMMITTEE: Labor, Industrial and Rehabilitative Services

AMENDED ANALYSIS

This bill exempts ski and snowboard instructional employees at ski resorts from receiving required pay from an employer, provided that such employees receive other compensation that is at least equal to their rate of pay.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 303 - AS AMENDED BY THE HOUSE

24Feb2021... 0189h

21-0421
04/06

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to required pay.

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

- 1 1 Payment of Wages; Required Pay. Amend RSA 275:43-a to read as follows:
2 275:43-a Required Pay. On any day an employee reports to work at an employer's request, he or
3 she shall be paid not less than 2 hours' pay at his or her regular rate of pay; provided, however, that
4 this section shall not apply to employees of counties or municipalities [~~or ski and snowboard~~
5 ~~instructional employees at ski resorts, provided that these employees receive other compensation~~
6 ~~that is at least equal to their rate of pay, and provided further that]. ***This section shall also not***
7 ***apply to ski and snowboard instructional employees at ski resorts, provided that these***
8 ***employees receive other compensation that is at least equal to their rate of pay.*** No employer
9 who makes a good faith effort to notify an employee not to report to work shall be liable to pay wages
10 under this section. However, if the employee reports to work after the employer's attempt to notify
11 him or her has been unsuccessful or if the employer is prevented from making notification for any
12 reason, the employee shall perform whatever duties are assigned by the employer at the time the
13 employee reports to work.
14 2 Effective Date. This act shall take effect 60 days after its passage.~~

CHAPTER 23
HB 303 - FINAL VERSION

24Feb2021... 0189h

2021 SESSION

21-0421
04/06

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HB 303 - FINAL VERSION

24Feb2021... 0189h

21-0421
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11 him or her has been unsuccessful or if the employer is prevented from making notification for any
12 reason, the employee shall perform whatever duties are assigned by the employer at the time the
13 employee reports to work.~~

23:2 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 06, 2021
Effective Date: July 05, 2021

Committee Minutes

**AMENDED TIME CHANGE
SENATE CALENDAR NOTICE
Commerce**

Sen Harold French, Chair
Sen Bill Gannon, Vice Chair
Sen Jeb Bradley, Member
Sen Donna Soucy, Member
Sen Kevin Cavanaugh, Member

Date: March 16, 2021

HEARINGS

Tuesday	03/23/2021	
(Day)	(Date)	
Commerce	REMOTE 000	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m.	HB 95-FN	relative to milk pasteurization.
9:10 a.m.	HB 258	permitting wage and hour records to be approved and retained electronically.
9:20 a.m.	HB 303	relative to required pay.

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/95761120839>
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 1-646-558-8656, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-9128
3. Or iPhone one-tap: 13017158592,,95761120839# or 13126266799,,95761120839#
4. Webinar ID: **957 6112 0839**
5. To view/listen to this hearing on YouTube, use this link:
<https://www.youtube.com/channel/UCjBZdtrjRnQdmg-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 95-FN

Rep. Allard

Rep. Steven Smith

HB 258

Rep. Yokela

HB 303

Rep. Seaworth

Rep. Marsh

Rep. Deshaies

Rep. Aron

Rep. A. Lekas

Rep. Woodcock

Aaron Jones 271-4063

Harold F. French
Chairman

Senate Commerce Committee

Aaron Jones 271-4063

HB 303, relative to required pay.

Hearing Date: March 23, 2021

Time Opened: 9:57 a.m.

Time Closed: 10:03 a.m.

Members of the Committee Present: Senators French, Gannon, Bradley, Soucy and Cavanaugh

Members of the Committee Absent : None

Bill Analysis: This bill exempts ski and snowboard instructional employees at ski resorts from receiving required pay from an employer, provided that such employees receive other compensation that is at least equal to their rate of pay.

Sponsors:

Rep. Seaworth

Who supports the bill: Representative Brian Seaworth, Deputy Commissioner Rudolph Ogden (NH DOL), Bruce Berke (Ski New Hampshire)

Who opposes the bill: Please see sign-in sheets

Who is neutral on the bill: No one

Summary of testimony presented in support:

Representative Brian Seaworth

- At the request of the New Hampshire Department of Labor, this bill was filed to help clarify the language contained within RSA 275:43-a.
- Last session, this change also was recommended by the Committee to Study Certain Labor Statutes, which Representative Seaworth was a member of.
- RSA 275:43-a has been in effect for at least 35 years.
 - Under this statute, an employer is required to pay an employee for at least 2 hours if they reported to work at their employer's request. They would be paid regardless of whether they worked 2 hours, less than 2 hours, or didn't work at all.
 - However, there are two industries exempted from this statute: municipal and county employees, and ski and snowboard instructors.

- Municipal and county employees have been exempted since the passage of the original bill.
- In contrast, ski and snowboard instructors were added more recently.
- Ski and snowboard instructors can be compensated in a nonmonetary manner as long as it's at least equal to their rate of pay.
- As currently written, the two exempted industries can be mixed up, which has led some municipal or county employees to contact the New Hampshire Department of Labor asking for free ski lift tickets.
- The original intent of the bill was to never mix these two exemptions together; therefore, this bill rewords the statute, so that the exemptions are clear and distinct.
- Representative Seaworth said this bill wouldn't change any substantive policy or how the department interprets the statute.
- The House Labor, Industrial, & Rehabilitative Services Committee passed this bill unanimously and it was placed on the consent calendar.

Rudolph Ogden, Deputy Commissioner, New Hampshire Department of Labor

- Deputy Commissioner Ogden said the department has never understood what "other compensation" would be for municipal and county employees.
- In the case of ski and snowboard instructors, it would mean they could receive passes or something similar in nature. For municipal and county workers, however, there isn't a similar product or compensation available.
- Deputy Commissioner Ogden reiterated that the department has gotten inquiries from municipal and county employees asking about what type of compensation they're entitled to, which is why the department asked for clarification within the statute.

Summary of testimony presented in opposition: None

Neutral Information Presented: None

AJ

Date Hearing Report completed: March 23, 2021

Speakers

Commerce Committee Testify List for Bill HB303 on 2021-03-23

Support: 3 Oppose: 30 Neutral: 0 Total to Testify: 1

Name	Email Address	Phone	Title	Representing	Position	Testifying
Seaworth Brian	brian.seaworth@leg.state.nh.us	Not Given	An Elected Official	Prime Sponsor	Support	No
Torpey Jeanne	jtorp51@comcast.net	Concord	A Member of the Public	Myself	Oppose	No
Reed Barbara D.	moragmcp83@outlook.com	603.352.5015	A Member of the Public	Myself	Oppose	No
Taylor Gale	galeforcefacilitators@gmail.com	603.321.7160	A Member of the Public	Myself	Oppose	No
Goldwater Catherine	cathy.goldwater@gmail.com	603.860.3756	A Member of the Public	Myself	Oppose	No
BERK BRUCE	bruce.berk.nh@gmail.com	Not Given	A Member of the Public	Myself	Oppose	No
Keeler Margaret	peg5keeler@gmail.com	603-491-4689	A Member of the Public	Myself	Oppose	No
Spielman Kathy	jspielman@comcast.net	603.397.7879	A Member of the Public	Myself	Oppose	No
Graham Nancy	nancygraham806@gmail.com	425.765.6921	A Member of the Public	Myself	Oppose	No
Jachim Nancy	Not Given	Not Given	A Member of the Public	Myself	Oppose	No
Weber Jill	jill@frajilfarms.com	603.978.1263	A Member of the Public	Myself	Oppose	No
Kelly Fran	Not Given	Not Given	A Member of the Public	Myself	Oppose	No
Johnson Susan	susanj1511@yahoo.com	Not Given	A Member of the Public	Myself	Oppose	No
Jones Andrew	arj11718@yahoo.com	Not Given	A Member of the Public	Myself	Oppose	No
Perencevich Ruth	Not Given	Not Given	A Member of the Public	Myself	Oppose	No
Corell Elizabeth	Elizabeth.j.corell@gmail.com	603.545.9091	A Member of the Public	Myself	Oppose	No
Carter Lilian	lcarter0914@gmail.com	Not Given	A Member of the Public	Myself	Oppose	No
Burr Emily	revemilyburr@gmail.com	Not Given	A Member of the Public	Myself	Oppose	No
Ogden Rudolph	rudolph.ogden@dol.nh.gov	603.271.8496	State Agency Staff	New Hampshire Dept of Labor	Support	Yes
Brennan Nancy	burningnan14@gmail.com	Not Given	A Member of the Public	Myself	Oppose	No
Petrucelli Maxine	maxinepet@gmail.com	Not Given	A Member of the Public	Myself	Oppose	No
Gordon Laurie	Lmgord23@gmail.com	Not Given	A Member of the Public	Myself	Oppose	No
Petrucelli Charles	chasmxpet@gmail.com	Not Given	A Member of the Public	Myself	Oppose	No
Gordon Margaret	Megordon98@gmail.com	Not Given	A Member of the Public	Myself	Oppose	No
Ellermann Maureen	Not Given	Not Given	A Member of the Public	Myself	Oppose	No
Berke Bruce	bberke@sheehan.com	603.496.8092	A Lobbyist	Ski New Hampshire	Support	No
St Germain Diane	Not Given	Not Given	A Member of the Public	Myself	Oppose	No
Lindpaintner Lyn	lynlin@bluewin.ch	Not Given	A Member of the Public	Myself	Oppose	No
Rettew Annie	abrettew@gmail.com	Not Given	A Member of the Public	Myself	Oppose	No

Commerce Committee Testify List for Bill HB303 on 2021-03-23

Support: 3 Oppose: 30 Neutral: 0 Total to Testify: 1

Name	Email Address	Phone	Title	Representing	Position	Testifying
Hackmann Kent	hackmann@uidaho.edu	16039343225	A Member of the Public	Myself	Oppose	No
Blanchard Sandra	sandyblanchard3@gmail.com	603.724.3768	A Member of the Public	Myself	Oppose	No
Platt Elizabeth-Anne	lizanneplatt09@gmail.com	603-715-8191	A Member of the Public	Myself	Oppose	No
Clark Denise	denise.m.clark03055@gmail.com	603.213.1692	A Member of the Public	Myself	Oppose	No

Voting Sheets

Senate Commerce Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # HB 303

Hearing date: 3/23/21

Executive Session date: 3/23/21

Motion of: OPP Vote: 5-0

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

Motion of: CONSENT Vote: 5-0

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

Motion of: _____ Vote: _____

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

Tuesday, March 23, 2021

THE COMMITTEE ON Commerce

to which was referred **HB 303**

AN ACT relative to required pay.

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 was filed at the request of the New Hampshire Department of Labor. Under RSA 275:43-a, an employer must pay an employee for at least 2 hours of work. Municipal and county employees as well as ski and snowboard instructors are exempted from the existing statute as long as they're provided with other compensation that's at least equal to their rate of pay. For ski and snowboard instructors, other compensation could be free lift tickets; however, the department is unsure of what type of other compensation could be provided to municipal or county employees. This bill would clarify the language of the existing statute by making ski and snowboard instructors the only employees that can be provided with other compensation.

Aaron Jones 271-4063

FOR THE CONSENT CALENDAR

COMMERCE

HB 303, relative to required pay.

Ought to Pass, Vote 5-0.

Senator Kevin Cavanaugh for the committee.

This bill was filed at the request of the New Hampshire Department of Labor. Under RSA 275:43-a, an employer must pay an employee for at least 2 hours of work. Municipal and county employees as well as ski and snowboard instructors are exempted from the existing statute as long as they're provided with other compensation that's at least equal to their rate of pay. For ski and snowboard instructors, other compensation could be free lift tickets; however, the department is unsure of what type of other compensation could be provided to municipal or county employees. This bill would clarify the language of the existing statute by making ski and snowboard instructors the only employees that can be provided with other compensation.

Docket of HB303

Docket Abbreviations

Bill Title: relative to required pay.*Official Docket of HB303.:*

Date	Body	Description
1/9/2021	H	Introduced (in recess of) 01/06/2021 and referred to Labor, Industrial and Rehabilitative Services HJ 2 P. 42
1/21/2021	H	Public Hearing: 01/28/2021 09:30 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/96195399441 / 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: 02/11/2021 01:00 pm Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/98476278055
2/17/2021	H	Committee Report: Ought to Pass with Amendment #2021-0189h (Vote 20-0; CC) HC 12 P. 9
2/24/2021	H	Amendment #2021-0189h : AA VV 02/24/2021 HJ 3 P. 13
2/24/2021	H	Ought to Pass with Amendment 2021-0189h: MA VV 02/24/2021 HJ 3 P. 13
3/4/2021	S	Introduced 03/04/2021 and Referred to Commerce; SJ 7
3/16/2021	S	Remote Hearing : 03/23/2021, 09:20 am; Links to join the hearing can be found in the Senate Calendar; SC 16
3/23/2021	S	Committee Report: Ought to Pass, 04/01/2021; Vote 5-0; CC; SC 17
4/1/2021	S	Ought to Pass : RC 23Y-1N , MA; OT3rdg; 04/01/2021; SJ 10
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 23; Eff: 07/05/2021

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 303

Senate Committee: Commerce

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

Final docket found on Bill Status

Bill Hearing Documents: (Legislative Aides)

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

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

Hearing Report

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

Committee Action Documents: (Legislative Aides)

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

___ - amendment # _____ ___ - 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:

Aaron Jones
Committee Aide

7/21/21
Date

Senate Clerk's Office [Signature]