

HB 507-FN - AS INTRODUCED

2023 SESSION

23-0669

02/10

HOUSE BILL ***507-FN***

AN ACT relative to unauthorized practice in occupational and professional licensing and certification.

SPONSORS: Rep. Santonastaso, Ches. 18

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill clarifies that penalties for the unlicensed practice of a profession regulated under the office of professional licensure and certification do not apply so long as the person practicing does not hold themselves out as being licensed or certified and discloses the fact that he or she is not licensed or certified.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to unauthorized practice in occupational and professional licensing and certification.

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

1 1 Office of Professional Licensure and Certification; Penalties. Amend the introductory
2 paragraph of RSA 310-A:1-m, VIII to read as follows:

3 VIII. Whoever, not being licensed or otherwise authorized to practice according to the laws
4 of this state, shall advertise oneself as engaging in a profession licensed or certified by the office of
5 professional licensure and certification~~[, shall engage in activity requiring professional licensure, or~~
6 ~~in any way hold oneself out as qualified to do so,]~~ or call oneself a licensed professional, or whoever
7 does such acts after receiving notice that such person's license to practice has been suspended or
8 revoked, is engaged in unlawful practice. ***Nothing in this section shall prevent an unlicensed***
9 ***person engaged in providing services of any profession regulated by the office of***
10 ***professional licensure and certification under this chapter as long as the person does not***
11 ***advertise or hold themselves out as being licensed. Any person who practices an***
12 ***occupation or profession regulated under this section without obtaining a license or***
13 ***certification shall prominently disclose the fact that he or she is not licensed or certified***
14 ***before providing services or before asking a client to sign a contract for services.*** After
15 hearing and upon making an affirmative finding of unlawful practice, the board, council, or
16 commission may take action in any one of the following ways:

17 2 Effective Date. This act shall take effect January 1, 2024.

**HB 507-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to unauthorized practice in occupational and professional licensing and certification.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Office of Professional Licensure and Certification Fund			

METHODOLOGY:

This bill states that unlicensed persons engaging in providing services of any profession regulated by the Office of Professional Licensure and Certification shall not be penalized for being unlicensed or uncertified as long as the person practicing does not hold themselves out as being licensed or certified and discloses the fact that he or she is not licensed or certified.

The Office of Professional Licensure and Certification (OPLC) notes the language essentially states it is illegal to practice without a license, however, nothing within the language will prevent an individual from doing so. Assuming the language works as intended, OPLC states it would essentially make all licensure by OPLC optional, as long as certain conditions were met. The OPLC indicates they do believe certain professions, such as doctors and nurses, would still likely seek licensure as conditions of employment, although there may be other service providers who would not for various reasons. Because OPLC is unable to determine how many penalties would not be assessed that would have been previously assessed on unlicensed or uncertified persons or how many people would not become licensed or certified due to the change in law, the fiscal impact is indeterminable.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

REGULAR CALENDAR

March 8, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Executive Departments and Administration to which was referred HB 507-FN, relative to unauthorized practice in occupational and professional licensing and certification.

WITHOUT RECOMMENDATION

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	Executive Departments and Administration
Bill Number:	HB 507-FN
Title:	relative to unauthorized practice in occupational and professional licensing and certification.
Date:	March 8, 2023
Consent Calendar:	Regular Calendar
Recommendation:	WITHOUT RECOMMENDATION

Statement in support of Ought to Pass: This bill is a crucial step towards recognizing the principle of voluntary interaction between consenting individuals. By allowing unlicensed individuals to provide services in regulated professions as long as they disclose their lack of licensure to their clients, this bill empowers individuals to make informed decisions about the services they receive. Additionally, the bill creates an incentive for existing unlicensed individuals to come forward and disclose their status, which will increase transparency in the market and help prevent fraudulent activity. It's important to note that this bill does not eliminate the need for state licensing in regulated professions. Employers, customers, insurance providers, and other market forces will continue to demand state licensing as a means of ensuring quality and accountability. However, this bill does recognize that individuals should have the freedom to choose whether or not to engage with licensed professionals and provides a legal framework for unlicensed individuals to provide their services in a transparent manner. This bill allows the state to continue to provide public safety through licensing while not creating protectionism. Passing this bill will promote competition, increase transparency, and empower individuals to make informed decisions about the services they receive. It's time for the New Hampshire legislature to recognize the importance of voluntary interaction between consenting individuals and pass this bill into law.

Amendment:

Rep. Matthew Santonastaso

Statement in support of Inexpedient to Legislate: This bill repeals the requirement that individuals need licensure to provide a service as long as they prominently disclose the fact that they are not licensed. Licensure currently is required for professional occupations such as doctors, nurses, therapists, cosmetologists, electricians, plumbers, pharmacists and optometrists to protect the public from harm. Licensure allows the public, who would have little redress otherwise, to address their complaints, and can result in disciplinary actions preventing further harm to the public. Licensure is required for bonding, an important factor in contract performance. Licensure is required for liability insurance protecting the public from injury, performance of service, and fraud. Licensure requires continuing education that assures up to date performance standards by an industry. Most municipalities require licensure for services conducted in the building trades. For these reasons and others, we recommend inexpedient to legislate.

Amendment:

Rep. Jaci Grote

Original: House Clerk
Cc: Committee Bill File

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Executive Departments and Administration

HB 507-FN, relative to unauthorized practice in occupational and professional licensing and certification. **WITHOUT RECOMMENDATION**

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Rep. Jaci Grote

Original: House Clerk

Cc: Committee Bill File

✓

1871-1872

✓

1873-1874

✓

1875-1876

✗

1877-1878

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 507-FN

BILL TITLE: relative to unauthorized practice in occupational and professional licensing and certification.

DATE: February 9, 2023

LOB ROOM: 306-308 **Time Public Hearing Called to Order:** 11:30 a.m.

Time Adjourned: 11:50 a.m.

Committee Members: Reps. C. McGuire, Simon, T. Lekas, Sirois, Bailey, Santonastaso, True, T. Dolan, Abare, Gerhard, Grote, P. Schmidt, Goley, Schuett, O'Brien, Wilhelm, F. Davis, Fitzpatrick and S. Gould

Bill Sponsors:
Rep. Santonastaso

TESTIMONY

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

- Rep. Santonastaso
 - Cheshire 18
 - Explained how the voluntary system will improve things. Expressed wanting to remove penalty for doing unlicensed work.
- Lyndsey Courtney
 - OPLC
 - Spoke against “voluntary licensure.”
- Sara Holland
 - NH Realtors
 - Against the bill. States that licensure is to protect people.
- *Ian Underwood*
 - Self
 - In support of bill and voluntary licensing. Feels a license is used as leverage by local government. Explains how mandatory licensing is unconstitutional.

Respectfully Submitted,

Rep Shane Sirois, Clerk

House Remote Testify

Executive Departments and Administration Committee Testify List for Bill HB507 on 2
Support: 9 Oppose: 2 Neutral: 0 Total to Testify: 0

[Export to Excel](#)

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>9</u>
Anderson, Violet	Manchester, NH vimanderson@yahoo.com	A Member of the Public	Myself	Oppose	No	No	2
Smith, Julie	Nashua, NH cantdog@comcast.net	A Member of the Public	Myself	Support	No	No	2
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Support	No	No	2
Rogers, Mary	Winchester, NH tiplady2001@yahoo.com	A Member of the Public	Myself	Support	No	No	2
Medeiros, Jesse	Plainfield, NH bgtrck458@gmail.com	A Member of the Public	Myself	Support	No	No	2
Wikstrom, Kathleen	Exeter, NH kjkwikstrom@gmail.com	A Member of the Public	Myself	Support	No	No	2
Karney, Stephen	Amherst, NH stephenakarney@gmail.com	A Member of the Public	Myself	Support	No	No	2
White, Nick	Bath, NH nickdwhite@gmail.com	A Member of the Public	Myself	Support	No	No	2
White, Amber	Bath, NH alwhite5285@gmail.com	A Member of the Public	Myself	Support	No	No	2
PELLETIER, DAVID	HOOKSETT, NH pelletierd@ualu131.org	A Member of the Public	Plumbers and Pipefitters Local 131	Oppose	No	No	2
Alleman, Bill	Weare, NH gencourt@allemanse.com	A Member of the Public	Myself	Support	No	No	2

Violet Anderson

Please oppose this bill. These professional fields are regulated by the Office of Professional Licensure and Certification to protect the public. If this bill passes, the public will not be treated by professionals with the training and knowledge to protect them from harm. All of these professions require multiple years of training to initially obtain their license or Certificate along with continuing training to maintain them. Scams are on the rise in our country already, I hate to think this would make it legal to scam the public more.

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 507-FN

BILL TITLE: relative to unauthorized practice in occupational and professional licensing and certification.

DATE: March 8, 2023

LOB ROOM: 306-308

MOTIONS: OUGHT TO PASS

Moved by Rep. Santonastaso

Seconded by Rep. T. Lekas

Vote: 10-10

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Santonastaso

Seconded by Rep. T. Lekas

Vote: 10-10

WITHOUT RECOMMENDATION

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Shane Sirois, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/5/2023 1:25:09 PM
Roll Call Committee Registers
Report

2023 SESSION

Executive Departments and Administration

Bill #: 507 Motion: OTP - IFL AM #: _____ Exec Session Date: 3-8-23

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
McGuire, Carol M. Chairman	✓	✓	
Simon, Matthew J. Vice Chairman	✓	✓	
Lekas, Tony	✓	✓	
Bailey, Glenn	✓	✓	
Santonastaso, Matthew	✓	✓	
True, Chris	✓	✓	
Dolan, Tom	✓	✓	
Abare, Kimberly L	✓	✓	
Gerhard, Jason	✓	✓	
Sirois, Shane A	✓	✓	
Grote, Jaci L.	✓	✓	
Schmidt, Peter B.	✓	✓	
Goley, Jeffrey P.	✓	✓	
Schuett, Dianne E.	✓	✓	
O'Brien, Michael B.	✓	✓	
Wilhelm, Matthew B. <u>SOUCY</u>	✓	✓	
Davis, Fred E.	✓	✓	
Fitzpatrick, Daniel W	✓	✓	
Gould, Sherry L	✓	✓	
Smith, Juliet L <u>TREALEVAN</u>	✓	✓	
TOTAL VOTE:			

10-10 OTP
10-10 IFL