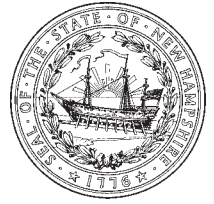


STATE OF NEW HAMPSHIRE

Web Site Address: www.gencourt.state.nh.us

SENATE JOURNAL 15 (*Cont.*)



May 8, 2003

Out of Recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

HB 57, relative to the use of inhalers by pupils and campers with asthma.

HB 59, relative to court reporting.

HB 92, relative to the use of epinephrine auto-injectors by pupils and campers with severe allergies.

SB 104, relative to state administration of medicaid benefits and services for individuals who are deaf or hard of hearing.

Senator D'Allesandro moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 34, relative to independent living retirement communities.

SB 36-FN, relative to protective custody of a person impaired by drugs and establishing a committee to study the issue of the applicability of the administrative license suspension laws to driving while under the influence of controlled drugs and ways to address the speed with which such cases are adjudicated in the district court.

SB 39, relative to the results of a preliminary breath test as evidence in court.

SB 48, exempting housing for older persons from certain age discrimination laws.

SB 52, relative to a voluntary certification program for police dogs and handlers.

SB 56-FN, relative to parking for persons with disabilities.

SB 57-FN, relative to certain accounts within the fish and game fund.

SB 66-FN-A-L, limiting the exemption from the meals and rooms tax for sales of alcoholic beverages by voluntary nonprofit organizations operating under one-day licenses from the liquor commission.

SB 79-FN-L, relative to penalties for the exhibition of fighting animals.

SB 91, extending the committee to study eminent domain proceedings and adding certain duties.

SB 129, relative to the board of tax and land appeals and eminent domain cases.

SB 138-FN, clarifying the exemption from the interest and dividends tax for distributions from qualified tuition savings programs.

SB 145-FN-A, relative to the duties of the board of trustees of the department of regional community-technical colleges.

SB 165, relative to the voluntary dissolution of nondepository trust companies.

SB 166, establishing a committee to study methods for the state to create incentives for school districts to provide mentoring for beginning teachers.

SB 171, regulating non-agricultural activities which may cause the introduction and spread of infectious wildlife diseases.

SB 173, relative to certain historical and recreational facilities.

SB 190, relative to community living facilities.

SB 198, relative to a certain highway sign in Concord.

SB 219, relative to superior court notice to health care regulatory boards of felony convictions of health care providers.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 18-FN, relative to vehicle stops at railroad grade crossings.

SB 33-FN, establishing a putative fathers' registry in the department of health and human services.

SB 96-FN, establishing a pharmacy discount program for seniors and disabled persons and making an appropriation therefor.

SB 147, establishing a committee to study alternative strategies to relieve the property tax burden on private educational institutions and to encourage scholarships to New Hampshire students.

SB 172-FN, increasing certain fees charged by the secretary of state.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in its amendments to the following entitled House Bill sent down from the Senate:

HB 127, establishing a committee to study the effectiveness and fairness of county government.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 77, establishing a committee to study the process of de novo appeals from the district courts.

HB 179, establishing a committee to study enhancement of laws relating to vehicle pursuits.

HB 212, defining "terrorize" for the purpose of criminal threatening.

HB 244, establishing a committee to study landowner liability for owners providing public access to snow-mobile trails.

HB 253, relative to the design build concept for certain projects.

HB 436, relative to the acquisition of Connecticut Valley Electric Company and electric utility restructuring and relative to the real estate and personal property tax exemption.

HB 831, adding duties to the oversight committee on health and human services.

LATE SESSION

Senator Clegg moved that the Senate adjourn from the late session.

Adopted.

Adjournment.

SENATE JOURNAL 16

May 15, 2003

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend David P. Jones, Chaplain to the Senate, offered the prayer.

Send us Your wisdom great God from high above our heads and from deep within our hearts, that we may know what to do, how to do it, and ask that You might continually craft within each life here, character to be followed, destinations that inspire and an all pervasive aroma of respect that ever reflects Your disposition toward each one of us.

Amen.

Senator Martel led the Pledge of Allegiance.

INTRODUCTION OF GUESTS COMMITTEE REPORTS

HB 619-FN-A, expanding opportunities for dropout prevention and dropout recovery. Education Committee. Ought to pass with amendment, Vote 3-0. Senator O'Hearn for the committee.

Senate Education
May 8, 2003
2003-1546s
04/03

Amendment to HB 619-FN-A

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

AN ACT expanding opportunities for dropout prevention and dropout recovery, and making an appropriation therefor.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Appropriation. The department of education shall expend a sum not to exceed \$350,000 in the fiscal year ending June 30, 2004, and a sum not to exceed \$350,000 in the fiscal year ending June 30, 2005, from funds appropriated to the No Community Left Behind program in PAU 06, 03, 02, 02, 04, 92, to implement the dropout prevention and dropout recovery program established in this act in the 5 high schools which, in each of the fiscal years 2004 and 2005, are determined by the department of education to have the highest dropout rates.

2003-1546h

AMENDED ANALYSIS

This bill establishes a dropout prevention and dropout recovery program in the department of education to provide a variety of services to high school students and requires that funds appropriated to the No Community Left Behind program be expended to implement the program in fiscal years 2004 and 2005.

Amendment adopted.

Question is on the adoption of the bill as amended.

A roll call was requested by Senator Barnes.

Seconded by Senator Sapareto.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Below, Green, Flanders, Odell, Roberge, Peterson, O'Hearn, Foster, Larsen, Gatsas, Barnes, Martel, Sapareto, D'Allesandro, Estabrook, Morse, Prescott, Cohen.

The following Senators voted No: Clegg.

Yeas: 22 - Nays: 1

Adopted.

Referred to the Finance Committee (Rule #26).

HB 737-FN-A, relative to the state conservation committee and making an appropriation therefore. Environment Committee. Ought to Pass, Vote 3-1. Senator Cohen for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 738-FN-A-L, permitting aid to public water systems to be used for forming or improving regional water systems and making an appropriation therefor. Environment Committee. Ought to Pass, Vote 4-0. Senator Johnson for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 293, establishing a commission to identify medical errors and their causes. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-0. Senator Prescott for the committee.

Senate Executive Departments and Administration

May 8, 2003

2003-1559s

01/03

Amendment to HB 293

Amend paragraph I of section 2 of the bill by replacing it with the following:

I. The members of the commission shall be as follows:

(a) Three members of the house of representatives, at least one of whom shall be from the house health, human services and elderly affairs committee, appointed by the speaker of the house of representatives.

(b) One member of the senate, appointed by the president of the senate.

(c) Two representatives of hospitals, appointed by the New Hampshire Hospital Association.

(d) Two pharmacists, appointed by the New Hampshire pharmacy board.

(e) Two physicians, appointed by the New Hampshire Medical Society.

(f) Two nurses, appointed by the New Hampshire Nurses Association.

(g) Two attorneys, appointed by the New Hampshire Bar Association, one of whom shall be a member of the New Hampshire Trial Lawyers Association.

(h) The commissioner of the department of insurance, or designee.

(i) Three public members, appointed by the governor.

(j) Two members of the New Hampshire Association for Healthcare Quality, appointed by such association.

MOTION TO TABLE

Senator Prescott moved to have **HB 293** laid on the table.

Adopted.

LAIID ON THE TABLE

HB 293, establishing a commission to identify medical errors and their causes.

HB 389, relative to victim impact statements and deleting the prohibition on funding certain positions in the office of victim/witness assistance with funds from the victims' assistance fund. Executive Departments and Administration Committee. Ought to Pass, Vote 3-0. Senator Peterson for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 564-FN, relative to access to information in proceedings of the judicial conduct commission. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Peterson for the committee.

Senate Executive Departments and Administration

May 8, 2003

2003-1558s

09/05

Amendment to HB 564-FN

Amend RSA 494-A:11-a, I as inserted by section 1 of the bill by replacing it with the following:

I. Notwithstanding any other provision of law to the contrary, a person subject to the code of judicial conduct may provide to the members of the judicial conduct commission, its staff and agents, and in the performance of its official duties the judicial conduct commission may review, any tapes, transcripts, records of proceedings, information, files, and other documents which would otherwise be confidential. No member, staff, or agent of the judicial conduct commission shall disclose such information except in the course of official duty.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 164-FN-A, increasing the gross premiums tax on insurance provided by certain unlicensed companies. Insurance Committee. Ought to Pass, Vote 3-0. Senator Flanders for the committee.

Adopted.

Ordered to third reading.

HB 287, establishing a professional malpractice claims study commission. Insurance Committee. Ought to pass with amendment, Vote 3-0. Senator Martel for the committee.

Insurance
May 8, 2003
2003-1561s
01/09

Amendment to HB 287

Amend paragraph I of section 2 of the bill by replacing it with the following:

I. The members of the commission shall be as follows:

- (a) Three members of the house of representatives, appointed by the speaker of the house.
- (b) One member of the senate, appointed by the president of the senate.
- (c) Two dentists, appointed by the New Hampshire Dental Society.
- (d) Two physicians, appointed by the New Hampshire Medical Society.
- (e) Two attorneys, appointed by the New Hampshire Trial Lawyers Association.
- (f) Two members of the public, appointed by the governor.
- (g) One representative of the Medical Liability Insurance Carriers, appointed by the insurance commissioner.
- (h) One representative of the Joint Underwriters Association, appointed by the insurance commissioner.
- (i) Two representatives of the New Hampshire Hospital Association, appointed by such association.
- (j) One superior court clerk, appointed by the chief justice of the superior court.

Amendment adopted.

Senator Prescott offered a floor amendment.

Sen. Prescott, Dist. 23
May 15, 2003
2003-1651s
01/09

Floor Amendment to HB 287

Amend the bill by replacing section 1 with the following:

1 Commission Established. There is established a commission to study professional malpractice claims under RSA 519-A and to identify medical errors and their causes.

Amend the bill by replacing section 3 with the following:

3 Duties. The commission shall study professional malpractice claims under RSA 519-A. The commission's study shall include an examination of the panel established pursuant to RSA 519-A and determine how this panel can become a tool to be utilized in keeping the cost of liability insurance down. The commission shall also identify medical errors and their causes and shall determine methods relative to fixing such causes.

2003-1651s**AMENDED ANALYSIS**

This bill establishes a commission to study professional malpractice claims. The commission shall also identify medical errors and their causes.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 460-FN, relative to property and casualty insurance. Insurance Committee. Ought to Pass, Vote 3-0. Senator Roberge for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 591-FN, allowing a certain former state employee to apply for accidental disability benefits. Insurance Committee. Ought to Pass, Vote 3-0. Senator Flanders for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 639-FN-L, relative to receiving legislative body approval through warrant articles before a municipality may continue a program initiated under a grant. Internal Affairs Committee. Ought to Pass, Vote 3-0. Senator Flanders for the committee.

Adopted.

Ordered to third reading.

HB 109-FN, relative to telemarketing practices. Interstate Cooperation Committee. Ought to pass with amendment, Vote 3-0. Senator Estabrook for the committee.

Interstate Cooperation**May 7, 2003****2003-1537s****05/04****Amendment to HB 109-FN**

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

AN ACT prohibiting telemarketers from contacting customers on a federal do-not-call registry.

Amend the bill by replacing all after section 2 with the following:

3 New Subdivision; Telemarketing Sales Calls. Amend RSA 359-E by inserting after section 6 the following new subdivision:

Telemarketing Sales Calls

359-E:7 Definitions. In this subdivision:

I. "Bureau" means the consumer protection bureau of the office of the attorney general.

II. "Customer" means any natural person who is a resident of this state and who is or may be required to pay for or to exchange consideration for goods and services offered through telemarketing.

III. "Do-not-call list" means a list of residential telephone subscribers who have notified the list administrator of their desire not to receive telemarketing sales calls.

IV. "Doing business in this state" means conducting telephonic sales calls from a location:

(a) In this state; or

(b) Outside of this state to consumers residing in this state.

V. "Established business relationship" means an established business relationship as defined by the Federal Trade Commission Telemarketing Sales Rule, 68 Fed. Reg. 19,4669 (2003) (to be codified at 16 C.F.R. part 310, section 310.2(n)), as amended.

VI. "Goods and services" means any goods and services, and shall include any real property or any tangible personal property as well as time share estates and licenses or services of any kind.

VII. "List administrator" means the Federal Trade Commission or other federal agency, or, if necessary, the Direct Marketing Association, Inc., Farmingdale, New York, or its successor organization, designated by contract entered into by the department of justice that accepts individual names, addresses, and telephone numbers of customers who do not wish to receive telemarketing sales calls.

VIII. "Person" means any natural person, association, partnership, firm, corporation and its affiliates or subsidiaries or other business entity.

IX. "Telemarketer" means any person who, for financial profit or commercial purposes in connection with telemarketing, makes telemarketing sales calls to a customer when the customer is in this state or any person who directly controls or supervises the conduct of a telemarketer or causes to be made a telemarketing call on such seller's own behalf or through a salesperson. For the purposes of this subdivision, "commercial purposes" shall mean the sale or offer for sale of goods or services.

X. "Telemarketing" means any plan, program, or campaign which is conducted to induce payment or the exchange of any other consideration for any goods or services by use of one or more telephones and which involves more than one telephone call by a telemarketer in which the customer is located within the state at the time of the call. Telemarketing shall not include the solicitation of sales through media other than by telephone calls.

XI. "Telemarketing sales call" means a telephone call made by a telemarketer to a customer for the purpose of inducing payment or the exchange of any other consideration for any goods or services or for the purpose of soliciting an extension of credit for consumer goods or services, or for the purpose of obtaining information that may be used for the direct solicitation of a sale of consumer goods or services or an extension of credit for such purposes. A telemarketing sales call shall not include a call made:

- (a) In response to an express written or verbal request of the customer called.
- (b) In connection with an established business relationship.
- (c) In which the sale of goods or services is not completed, and payment or authorization of payment is not required, until after a face-to-face sales presentation by the seller.
- (d) On behalf of a nonprofit charity.
- (e) On behalf of a newspaper to build its own circulation, provided that the telemarketer making such call has used and observed with respect to such call the do-not-call list maintained by the Telephone Preference Service of the Direct Marketing Association, Inc., Farmingdale, New York, or its successor organization.
- (f) On behalf of a political campaign, except that a call made by or on behalf of a political campaign using automatic dialing equipment shall be deemed a telemarketing sales call under this chapter.

359-E:8 Prohibited Telemarketing Sales Calls. Telemarketers are prohibited from conducting telemarketing sales calls to any customer who has registered his or her name or telephone number with the do-not-call registry maintained by the list administrator or Federal Trade Commission. In the case of telemarketers regulated by the Federal Communications Commission, this chapter shall apply in a manner consistent with rules concerning a national do-not-call list developed by that agency.

359-E:9 Telemarketers' Obligation to Obtain Do-Not-Call List. Telemarketers making telemarketing sales calls to customers in the state of New Hampshire shall obtain from the list administrator quarterly listings of customers in the state who have registered with the list administrator for inclusion in its do-not-call list.

359-E:10 State Do-Not-Call List. If the Federal Trade Commission or other federal agency has not established a national do-not-call registry prior to January 1, 2004, the department of justice shall contract with the Telephone Preference Service of the Direct Marketing Association, Inc., Farmingdale, New York, or its successor organization to establish and maintain, as the list administrator, a state do-not-call list for New Hampshire. The department's obligation to contract with the Direct Marketing Association or its successor to establish and maintain a do-not-call list shall remain in effect until such time as a national registry is established.

359-E:11 Duties of List Administrator. The list administrator:

- I. Shall provide the bureau with a copy of each quarterly do-not-call list.
- II. Shall provide the bureau with the names and addresses of each telemarketer who purchases the do-not-call list.
- III. Except as directed by the bureau, shall be prohibited from disclosing or using in any way customer names, addresses, or telephone numbers obtained in the course of registering customers' telephone numbers on the do-not-call list.

359-E:12 Violations; Penalties.

I. The department of justice shall investigate any complaints received concerning violations of this subdivision. If, after investigating the complaint, the department finds that a person has violated any provision of this subdivision, the department shall impose a civil penalty of \$2,000 for each violation.

II. Notwithstanding paragraph I, a telemarketer shall not be held liable for violating this subdivision if the telemarketer can demonstrate by clear and convincing evidence that, as part of the telemarketer's routine business practice:

- (a) The telemarketer established and implemented written procedures to comply with this subdivision.
- (b) The telemarketer trained his or her personnel in the requirements of this subdivision.
- (c) The telemarketer uses a process to prevent telemarketing to any telephone number on any do-not-call list or registry referenced in this subdivision; maintains the current, quarterly version of the list or registry; and maintains records documenting this process.
- (d) The telemarketer monitors and enforces compliance with the procedures established under subparagraph (a).
- (e) The telemarketer uses a version of the do-not-call list obtained no more than 3 months prior to the date that any call is made.
- (f) Any subsequent call otherwise violating this subdivision is not part of a pattern of calls made in violation of this subdivision and is the result of a good faith error.

4 Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

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

2003-1537s

AMENDED ANALYSIS

This bill prohibits telemarketers from calling customers who have placed their names on a federal do-not-call registry or, until a federal registry is available, a state do-not-call list maintained by the Direct Marketing Association. The bill includes certain exemptions from the do-not-call requirements and establishes civil penalties for telemarketers' non-compliance.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

Senator Foster Rule #42 on HB 109-FN.

HB 633-FN, establishing the interstate compact for adult offender supervision. Interstate Cooperation Committee. Ought to Pass, Vote 3-0. Senator Clegg for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

TAKEN OFF THE TABLE

Senator Peterson moved to have **HB 278** taken off the table.

Adopted.

HB 278-FN, relative to certain acts of sexual assault.

Question is on the motion of ought to pass.

MOTION TO TABLE

Senator Gatsas moved to have **HB 278-FN** laid on the table.

Motion failed.

Question is on the motion of ought to pass.

Adopted.

Ordered to third reading.

HB 198, relative to the police powers of law enforcement officers called to respond to incidents in other jurisdictions. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Roberge for the committee.

Senate Judiciary

May 7, 2003

2003-1523s

09/10

Amendment to HB 198

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

AN ACT relative to the police powers of law enforcement officers called to respond to incidents in other jurisdictions and relative to the authority of the Maine marine patrol to perform certain law enforcement functions in the waters of New Hampshire.

Amend the bill by replacing all after section 1 with the following:

2 Purpose. Section 3 of this act is enacted for the purpose of enhancing the ability of Maine and New Hampshire law enforcement authorities on the Piscataqua River and Portsmouth Harbor to investigate potential terrorist activities by extending the authority of any duly certified Maine marine patrol officer to the waters of New Hampshire on the river and harbor, for the limited purpose of responding to and investigating suspected terrorist activities on the water.

3 New Section; Maine Marine Patrol. Amend RSA 270 by inserting after section 12-d the following new section:

270:12-e Maine Marine Patrol.

I. Any member of the state of Maine marine patrol who, in the course of patrolling the waters of the Piscataqua River or Portsmouth Harbor, observes activity that the officer reasonably suspects may result in loss of life, widespread injury, or widespread or severe property damage, shall have the same authority to enter New Hampshire to investigate, detain, and execute an arrest as any member of the New Hampshire marine patrol.

II. Whenever any member of the Maine marine patrol is engaged in New Hampshire in carrying out the purpose of this section, such member shall have all the same privileges and immunities as members of the New Hampshire marine patrol, in addition to privileges and immunities available under Maine law.

III. The provisions of this section shall not be valid unless the state of Maine enacts legislation that is substantially the same as this section and gives reciprocal authority to any member of the New Hampshire marine patrol.

4 Authority to Make Arrest; Boat Operators. Amend RSA 614:1 to read as follows:

614:1 Authority Granted to Make Arrest. Except as provided in RSA 614:1-a, any member of a duly organized state, county, or municipal peace unit of another state of the United States who enters this state in fresh pursuit, and continues within this state in such fresh pursuit, of a person in order to arrest him *or her* on the ground that he *or she* is believed to have committed a felony or to have driven a motor vehicle *or operated a boat* while under the influence of intoxicating liquor *or a controlled drug* in such other state, shall have the same authority to arrest and hold such person in custody as has any member of any duly organized state, county, or municipal peace unit of this state to arrest and hold in custody a person on the ground that he *or she* is believed to have committed a felony or to have driven a motor vehicle *or operated a boat* in this state while under the influence of intoxicating liquor *or a controlled drug*.

5 Reciprocity Requirement; Boat Operators. Amend RSA 614:1-a to read as follows:

614:1-a Reciprocity Requirement. The provisions of RSA 614 shall not authorize members of state, county or local peace units from other states to pursue persons driving or suspected of driving ***a motor vehicle or operating or suspected of operating a boat*** under the influence of intoxicating liquor ***or a controlled drug*** into New Hampshire unless the state of origin of such peace unit accords reciprocal authority to pursue such persons to members of duly authorized New Hampshire state, county or local peace units.

6 Fresh Pursuit; Boat Operators. Amend RSA 614:5 to read as follows:

614:5 What Constitutes Fresh Pursuit. The term "fresh pursuit" as used in this subdivision shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony or who is reasonably suspected of driving a motor vehicle ***or operating a boat*** while under the influence of intoxicating liquor ***or a controlled drug***. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit as used herein shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

7 Effective Date. This act shall take effect upon its passage.

2003-1523s

AMENDED ANALYSIS

This bill grants the authority to make arrests and full police powers to any law enforcement officer who is requested by certain authorities to respond to a mass critical incident in a jurisdiction other than the jurisdiction which employs such law enforcement officer.

The bill also authorizes members of the Maine marine patrol to perform certain law enforcement functions on the Piscataqua River and Portsmouth Harbor, provided that members of the New Hampshire marine patrol are extended reciprocal authority. It also authorizes an out-of-state peace officer to enter this state and make an arrest for driving under the influence of a controlled drug and for boating while under the influence of intoxicating liquor or a controlled drug.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 464-FN, establishing a criminal penalty for facilitating a drug or underage alcohol house party. Judiciary Committee. Inexpedient to Legislate, Vote 5-0. Senator Sapareto for the committee.

Motion failed.

Senator Sapareto moved to re-refer.

Adopted.

HB 464-FN is re-referred to committee.

HB 524-FN, relative to the annulment of certain domestic violence offenses. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Clegg for the committee.

Senate Judiciary

May 5, 2003

2003-1491s

04/09

Amendment to HB 524-FN

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

AN ACT requiring notice to the complainant of a petition for annulment of a domestic violence conviction.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Annulment of Criminal Records; Notice to Complainant. Amend RSA 651:6 by inserting after paragraph IX the following new paragraph:

IX-a. When a petition for annulment of a conviction pursuant to RSA 173-B:9, III is timely brought, the department of corrections shall cause the sheriff of the county in which the complainant was last known to reside, to serve the complainant with a copy of the petition for annulment. In addition to any other costs under this section, the petitioner shall reimburse the sheriff for costs related to service of process as set forth in RSA 104:31. In the event that the department is unable to locate the complainant, the report filed with the court pursuant to this section shall certify that the department made a good faith effort to locate the complainant, but was unable to do so.

2 Department of Justice; Rights of Criminal Victims. Amend RSA 21-M:8-k, II(d) to read as follows:

(d) The right to be notified of all court proceedings, *including annulment proceedings*.

3 Effective Date. This act shall take effect January 1, 2004.

2003-1491s

AMENDED ANALYSIS

This bill requires that a complainant in a domestic violence proceeding receive notice of a petition for annulment filed by the defendant.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 620-FN, providing a right to counsel for indigent parents and other protections in cases involving the guardianship of minors. Judiciary Committee. Re-refer to committee, Vote 4-1. Senator Sapareto for the committee.

Adopted.

HB 620-FN is re-referred to committee.

HB 630-FN, relative to enhanced penalties for assault on law enforcement officers, firefighters, emergency medical care providers, and national guard members. Judiciary Committee. Re-refer to committee, Vote 4-1. Senator Sapareto for the committee.

Adopted.

HB 630-FN is re-referred to committee.

HB 240, establishing a committee to study ways to prevent suicide among young people in New Hampshire. Public Institutions, Health and Human Services Committee. Ought to pass with amendment, Vote 4-1. Senator O'Hearn for the committee.

Public Institutions, Health and Human Services

May 7, 2003

2003-1534s

05/10

Amendment to HB 240

Amend the bill by replacing sections 2-5 with the following:

2 Membership and Compensation.

I. The committee shall be comprised of 3 members of the house of representatives, appointed by the speaker of the house of representatives.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall:

I. Collect and review information relative to the rate and cause of suicide among children and adolescents in New Hampshire.

II. Examine ways to develop and enhance state programs to reduce the incidence of suicide among young people, including the possibility of creating a local television campaign and establishing crisis hotlines for teen suicide prevention.

III. Develop a plan to create greater coordination among existing suicide prevention programs and initiatives.

IV. Research federal and private grants that may be available to the state in augmenting its suicide prevention programs.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named committee member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the house clerk, the governor, and the state library on or before November 1, 2003.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 663-FN-A-L, relative to county and state funding of long-term care medicaid programs. Public Institutions, Health and Human Services Committee. Ought to Pass, Vote 5-0. Senator Martel for the committee.

Senator O'Hearn offered a floor amendment.

Sen. O'Hearn, Dist 12

May 14, 2003

2003-1635s

10/01

Floor Amendment to HB 663-FN-A-LOCAL

Amend the bill by inserting after section 13 the following and renumbering the original section 14 to read as 15:

14 Personal Care Services; Consumer Choice. Amend RSA 161-I:3 to read as follows:

161-I:3 Consumer Choice. An eligible consumer in need of personal care services shall have the option to receive personal care services, including consumer-directed services, through a home health agency or other qualified agency. An individual not eligible for department programs shall have the option to receive personal care services, including consumer-directed services, through a ***personal care services provider; a*** home health care provider, ***other qualified provider*** or other facility licensed under RSA 151, or through a private arrangement between individuals. Such choice shall be subject to those limitations imposed by federal and state laws, rules, and regulations.

2003-1635s

AMENDED ANALYSIS

This bill:

I. Establishes a statutory county-state finance commission.

II. Extends and amends the payment provisions for counties relative to the nonfederal share of nursing home facility services.

III. Adds a county official to the health services planning and review board.

IV. Establishes a community mental health provider assessment, a nursing facility quality assessment, and a developmentally disabled provider assessment.

V. Clarifies consumer choice in personal care provider services.

Senator O'Hearn withdrew her floor amendment.

Question is on the committee report of ought to pass.

Adopted.

Referred to the Finance Committee (Rule #26).

TAKEN OFF THE TABLE

Senator Green moved to have **HB 690-FN** taken of the table.

Adopted.

HB 690-FN, relative to agricultural crop damage.

Question is on the adoption of the committee amendment (1367).

Amendment adopted.

Senator Green offered a floor amendment.

Sen. Green, Dist. 6

May 14, 2003

2003-1646s

08/10

Floor Amendment to HB 690-FN

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

AN ACT relative to agricultural crop damage and relative to agricultural liming materials.

Amend the bill by replacing all after section 1 with the following:

2 Agricultural Liming Materials. Amend RSA 431:24, V to read as follows:

V. "Marl" means a granular or loosely consolidated earthy material composed largely of seashell fragments, *eggshell fragments*, and calcium carbonate.

2 Effective Date. This act shall take effect January 1, 2004.

2003-1646s

AMENDED ANALYSIS

This bill provides civil and criminal penalties for intentionally damaging legal crops.

This bill also permits the use of eggshells as an agricultural liming material.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 210-FN-A, relative to passenger tramway registration fees and relative to carnival or amusement ride fees. Transportation Committee. Ought to pass with amendment, Vote 5-0. Senator Morse for the committee.

Senate Transportation

May 8, 2003

2003-1560s

03/01

Amendment to HB 210-FN-A

Amend the bill by replacing section 1 with the following:

1 Passenger Tramway Registration Fees. Amend RSA 225-A:16 to read as follows:

225-A:16 Fees. The application for registration shall be accompanied by the applicable annual fees [~~provided, however, that when an operator operates either a chair lift, skimobile, gondola, or aerial tramway during both a summer and winter season, the annual fee shall be 1 1/2 times the annual fee for the respective lift~~] **to cover the costs of administering this chapter.** The fees for registration shall be set by the board by rule adopted pursuant to RSA 541-A.

Amend the bill by replacing section 3 with the following:

3 Passenger Tramway Registration Fees; Expiration and Adoption of Rule. Notwithstanding any other provision of law, the passenger tramway safety board rule adopted pursuant to RSA 225-A:16 setting passenger tramway registration fees shall expire June 30, 2003. The passenger tramway safety board shall set new passenger tramway registration fees pursuant to RSA 225-A:16, as amended by this act. In developing the fees required by RSA 225-A:16, the passenger tramway safety board and the commissioner of safety shall act jointly to assure that the fees cover the costs of administering RSA 225-A.

2003-1560s**AMENDED ANALYSIS**

This bill:

I. Provides that passenger tramway registration fees shall cover the costs of administering the passenger tramway safety laws.

II. Requires that the commissioner of safety establish fees for carnival or amusement ride decals.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 419, establishing a committee to study issues related to the management of railroads operating with leases on state property. Transportation Committee. Ought to pass with amendment, Vote 5-0. Senator Flanders for the committee.

Senate Transportation

May 8, 2003

2003-1542s

06/10

Amendment to HB 419

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

AN ACT establishing a committee to study the bureau of rail and transit in the department of transportation and issues related to the management of railroads.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to study the bureau of rail and transit in the department of transportation and issues related to the management of railroads.

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall study the bureau of rail and transit in the department of transportation and issues relating to the management of railroads.

2003-1542s

AMENDED ANALYSIS

This bill establishes a committee to study the bureau of rail and transit in the department of transportation and issues related to the management of railroads.

MOTION TO TABLE

Senator Kenney moved to have **HB 419** laid on the table.

Adopted.

LAIID ON THE TABLE

HB 419, establishing a committee to study issues related to the management of railroads operating with leases on state property.

Senator Foster Rule #42 on HB 419.

HB 531, relative to off-site improvements imposed on applicants to a planning board. Transportation Committee. Inexpedient to Legislate, Vote 4-1. Senator Martel for the committee.

MOTION TO TABLE

Senator Larsen moved to have **HB 531** laid on the table.

Question is on the motion to table.

A roll call was requested by Senator Below.

Seconded by Senator Cohen.

The following Senators voted Yes: Below, Foster, Larsen, D'Allesandro, Estabrook, Cohen.

The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Sapareto, Morse, Prescott.

Yeas: 6 - Nays: 17

Motion failed.

Question is on the motion of inexpedient to legislate.

A roll call was requested by Senator Below.

Seconded by Senator Larsen.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Sapareto, Morse, Prescott.

The following Senators voted No: Below, Foster, Larsen, D'Allesandro, Estabrook, Cohen.

Yeas: 17 - Nays: 6

Committee report of inexpedient to legislate is adopted.

MOTION TO SUSPEND THE RULES

Senator Below moved that the Rules of the Senate be so far suspended as to allow for SB 209 to be removed from the table after the deadline.

Question is on the motion to suspend the Rules.

A roll call was requested by Senator Below.

Seconded by Senator Larsen.

The following Senators voted Yes: Below, Green, Foster, Larsen, D'Allesandro, Estabrook, Cohen.

The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Flanders, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Sapareto, Morse, Prescott.

Yeas: 7 - Nays: 16

Motion failed.

HB 724-FN-L, extending the effective date of the Skyhaven airport transfer plan. Transportation Committee. Ought to pass with amendment, Vote 5-0. Senator Kenney for the committee.

Senate Transportation

May 8, 2003

2003-1543s

06/09

Amendment to HB 724-FN-LOCAL

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

AN ACT extending the effective date of the Skyhaven airport transfer plan and the period for completing work under the wetlands permit.

Amend the bill by inserting after section 1 the following and renumbering the original sections 2-3 to read as 3-4 respectively:

2 Wetlands Permitting; Extended Period to Complete Required Work. The local public entity which receives the transfer of Skyhaven airport shall have 10 years from the date it accepts the transfer to complete any work required under the wetlands permit issued by the department of environmental services.

2003-1543s

AMENDED ANALYSIS

This bill extends the effective date of the Skyhaven airport transfer plan from July 1, 2003 to July 1, 2006 and extends the period for completion of work under the wetlands permit to 10 years.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

MOTION TO REMOVE FROM THE TABLE

Senator Prescott moved to have **HB 281-FN** removed from the table.

Adopted.

HB 281-FN, exempting automatic irrigation system installers from licensure by the electrician's board.

Question is on the adoption of the committee amendment (1396).

Senator Prescott moved to recommit.

Motion failed.

MOTION TO TABLE

Senator Prescott moved to have **HB 281-FN** laid on the table.

Adopted.

LAID ON THE TABLE

HB 281-FN, exempting automatic irrigation system installers from licensure by the electrician's board.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 41-FN, relative to the installation of airbags.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 41-FN, relative to the installation of airbags.

Senator Peterson moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as member of said Committee of Conference:

SENATORS: PETERSON, SAPARETO, FOSTER

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from the Senate:

HB 310, establishing a commission to study child support issues.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: ARNOLD, HALLYBURTON, BICKFORD, E. BLANCHARD

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 310, establishing a commission to study child support issues.

Senator Roberge moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: ROBERGE, PETERSON, FOSTER

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from the Senate:

HB 361-L, permitting municipalities to form regional water districts.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: BRUNDIGE, LOCKWOOD, BOYCE, N. JOHNSON

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 361-L, permitting municipalities to form regional water districts.

Senator Johnson moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: PRESCOTT, O'HEARN, COHEN

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from the Senate:

HB 418, relative to annulment of arrest records for defendants whose cases result in acquittal, dismissal, or failure to prosecute.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: THOLL, STEVENS, KNOWLES, FESH

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 418, relative to annulment of arrest records for defendants whose cases result in acquittal, dismissal, or failure to prosecute.

Senator Peterson moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: CLEGG, PETERSON, FOSTER

RESOLUTION

Senator Clegg moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that all bills and resolutions ordered to third reading be by this resolution read a third time and all titles be the same as adopted, and that they be passed at the present time

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 109-FN, relative to telemarketing practices.

HB 164-FN-A, increasing the gross premiums tax on insurance provided by certain unlicensed companies.

HB 198, relative to the police powers of law enforcement officers called to respond to incidents in other jurisdictions.

HB 240, establishing a committee to study ways to prevent suicide among young people in New Hampshire.

HB 278-FN, relative to certain acts of sexual assault.

HB 287, establishing a professional malpractice claims study commission.

HB 524-FN, relative to the annulment of certain domestic violence offenses.

HB 564-FN, relative to access to information in proceedings of the judicial conduct commission.

HB 639-FN-L, relative to receiving legislative body approval through warrant articles before a municipality may continue a program initiated under a grant.

HB 690-FN, relative to agricultural crop damage.

ANNOUNCEMENTS

Senator Johnson (Rule #44).

RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair for the sole purpose of receiving House Messages and processing Enrolled Bill Reports and Amendments, and that when we adjourn, we adjourn to the Call of the Chair.

Adopted.

In recess to the Call of the Chair.