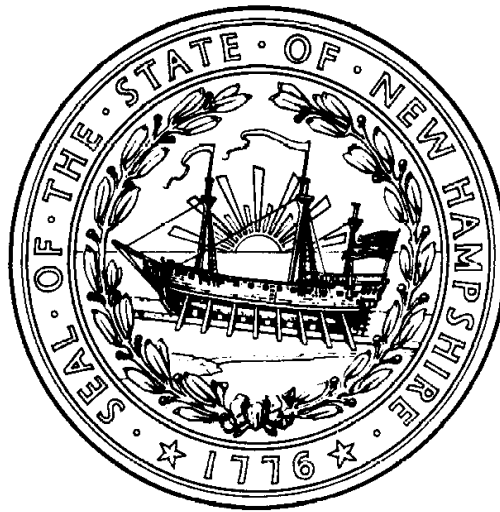


May 10, 2012  
No. 19A

# STATE OF NEW HAMPSHIRE

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Second Year of the 162<sup>nd</sup> Session of the New Hampshire General  
Court Legislative

## SENATE CALENDAR ADDENDUM

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**THE SENATE WILL MEET IN SESSION ON WEDNESDAY, MAY 16, 2012,  
AT 10:00 A.M.**

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## **REGULAR CALENDAR REPORTS**

### **JUDICIARY**

**HB 415**, relative to access to abuse and neglect investigation records pending a child custody dispute.

Interim Study, Vote 3-0.

Senator Groen for the committee.

**HB 1216**, relative to the authority for withholding or withdrawal of life-sustaining treatment.

Ought to Pass with Amendment, Vote 3-0.

Senator Groen for the committee.

**HB 1246**, permitting resident application for pistol or revolver licenses to be submitted to the state police or the sheriff's department.

Ought to Pass with Amendment, Vote 2-1.

Senator Forsythe for the committee.

**HB 1263**, relative to the termination of tenancy and repealing the requirement that landlords of restricted residential property provide service of process information.

Ought to Pass with Amendment, Vote 2-1.

Senator Forsythe for the committee.

**HB 1290**, relative to self-storage facility liens.

Ought to Pass with Amendment, Vote 3-0.

Senator Houde for the committee.

**HB 1332**, relative to the law enforcement authority of fish and game conservation officers.

Ought to Pass with Amendment, Vote 3-0.

Senator Forsythe for the committee.

**HB 1551**, clarifying the liability of landowners, lessees, and occupants of premises who allow other persons to use the premises for hunting, fishing, and other recreational purposes or to remove fuel wood, and relative to the losing party's payment of the prevailing party's costs in actions against such landowners, lessees, and occupants.

Ought to Pass with Amendment, Vote 3-0.

Senator Groen for the committee.

**HB 1597**, relative to taking by eminent domain for certain purposes.

Inexpedient to Legislate, Vote 3-0.

Senator Forsythe for the committee.

**HB 1718**, relative to judicial review of electoral districts.

Interim Study, Vote 3-0.

Senator Groen for the committee.

**HB 1722**, relative to disqualification of judges and lawyers from practicing in the circuit courts.

Ought to Pass, Vote 3-0.

Senator Houde for the committee.

## **AMENDMENTS**

Senate Judiciary

May 10, 2012

2012-2229s

09/04

### Amendment to HB 1216

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

1 Advance Directives; Withholding or Withdrawal of Life-Sustaining Treatment. Amend RSA 137-J:10, IV(b) to read as follows:

(b) The withholding or withdrawing of medically administered nutrition and hydration or life-sustaining treatment from a mentally incompetent or developmentally disabled person, unless such person has a validly executed advance directive or such action is authorized by an existing guardianship or other court order, or, ***in the absence of such directive, authorization, or order,*** such action is taken in accordance with the facility's standard protocol as applicable to its general patient population.

2 Effective Date. This act shall take effect January 1, 2013.

2012-2229s

### AMENDED ANALYSIS

This bill clarifies the protocol of the facility regarding authority for withholding or withdrawal of life-sustaining treatment from a mentally incompetent or developmentally disabled person.

Senate Judiciary

May 10, 2012

2012-2231s

04/09

### Amendment to HB 1246

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

AN ACT authorizing the county sheriff to issue pistol or revolver licenses under certain circumstances.

Amend the bill by replacing section 1 with the following:

1 Pistols and Revolvers; License to Carry. Amend RSA 159:6, I to read as follows:

I.(a) The selectmen of a town ~~[or]~~, the mayor or chief of police of a city or ~~[some]~~ a full-time police officer designated by them respectively, ***the county sheriff for a resident of an unincorporated place, or the county sheriff if designated by the selectmen of a town that has no police chief,*** upon application of any resident of such town ~~[or]~~, city, or ***unincorporated place, or*** the director of state police, or some person designated by such director, upon application of a nonresident, shall issue a license to such applicant authorizing the applicant to carry a loaded pistol or revolver in this state for not less than 4 years from the date of issue, if it appears that the applicant has good reason to fear injury to the applicant's person or property or has any proper purpose, and that the applicant is a suitable person to be licensed. Hunting, target shooting, or self-defense shall be considered a proper purpose. The license shall be valid for all allowable purposes regardless of the purpose for which it was originally issued.

(b) The license shall be in duplicate and shall bear the name, address, description, and signature of the licensee. The original shall be delivered to the licensee and the duplicate shall be preserved by the people issuing the same for 4 years. When required, license renewal shall take place within the month of the fourth anniversary of the license holder's date of birth following the date of issuance. The license shall be issued within 14 days after application, and, if such application is denied, the reason for such denial shall be stated in writing, the original of which such writing shall be delivered to the applicant, and a copy kept in the office of the person to whom the application was made. The fee for licenses issued to residents of the state shall be \$10, which fee shall be for the use of the law enforcement department of the town or city granting said licenses; the fee for licenses granted to out-of-state residents shall be \$100, which fee shall be for the use of the state. The director of state police is hereby authorized and directed to prepare forms for the licenses required under this chapter and forms for the application for such licenses and to supply the same to officials of the cities and towns authorized to issue the licenses. No other forms shall be used by officials of cities and towns. The cost of the forms shall be paid out of the fees received from nonresident licenses.

2012-2231s

#### AMENDED ANALYSIS

The bill authorizes the county sheriff to issue pistol or revolver licenses to residents of unincorporated places and, if designated by the board of selectmen, in towns that have no police chief.

Senate Judiciary

May 11, 2012

2012-2233s

04/09

#### Amendment to HB 1263

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

AN ACT relative to the termination of tenancy and relative to the requirement that landlords of restricted residential property provide service of process information.

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

1 New Subparagraph; Grounds for Termination of Tenancy; Expiration of Lease Term. Amend RSA 540:2, II by inserting after subparagraph (f) the following new subparagraph:

(g) Expiration or rightful termination of the term of a lease or other agreement of tenancy, or the rescission of any such lease or agreement entered into on or after January 1, 2013.

2 Landlord Agent Required. Amend RSA 540:1-b, I to read as follows:

I. ***If required by the municipality in which the property is located***, an owner of restricted property, as defined in RSA 540:1-a, II, who resides within the state of New Hampshire shall, within 30 days of becoming the owner or within 30 days of the effective date of this section, whichever occurs later, file a statement with the town or city clerk of the municipality in which the property is located that provides the name, address, and telephone number of a person within the state who is authorized to accept service of process for any legal proceeding brought against the owner relating to the restricted property. Such person authorized to accept service may be the owner of the premises.

3 New Subparagraph; Powers of Towns to Adopt Ordinances; Landlord Agent. Amend RSA 31:39, I by inserting after subparagraph (p) the following new subparagraph:

(q) Requiring the landlords of restricted residential property to provide service of process information to the town in accordance with RSA 540:1-b.

4 New Paragraph; Powers of City Councils to Adopt Bylaws and Ordinances; Landlord Agent. Amend RSA 47:17 by inserting after paragraph XIX the following new paragraph:

XX. LANDLORD AGENT. To require landlords of restricted residential property to provide service of process information to the city in accordance with RSA 540:1-b.

5 Effective Date.

I. Section 1 of this act shall take effect January 1, 2013.

II. Section 2 of this act shall take effect June 30, 2013.

III. The remainder of this act shall take effect upon its passage.

2012-2233s

#### AMENDED ANALYSIS

This bill:

I. Permits a lessor or owner of restricted property to terminate a tenancy upon the expiration, rightful termination, or rescission of the term of a lease or other agreement of tenancy.

II. Enables municipalities to require that landlords of restricted residential property provide service of process information to the municipality in which the property is located.

Senate Judiciary

May 10, 2012

2012-2230s

04/09

#### Amendment to HB 1290

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

AN ACT relative to notice of lien requirements.

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

1 New Paragraph; Self-Service Storage Facility Liens; Definition of Verified Mail Added.

Amend RSA 451-C:1 by inserting after paragraph VI the following new paragraph:

VII. "Verified mail" means any method of mailing that is offered by the United States Postal Service or any other carrier, and which provides evidence of mailing.

2 Self-Service Storage Facility Liens; Notice to Lienholder and Notice of Sale. Amend RSA 451-C:4 and 451-C:5 to read as follows:

451-C:4 Notice to Lienholder.

I. An owner shall inquire in writing, by ~~[certified mail return receipt requested]~~ **verified mail**, to determine from the division of motor vehicles and the secretary of state with regard to a motor vehicle, and from the secretary of state with regard to other personal property, whether a lien exists upon the title to said motor vehicle or other personal property. Any such written inquiry that requests information on financing statements filed under RSA 382-A shall be in the form, and subject to the fees, required by that chapter. If no lien is found, or in the case where the inquiry had

been made in writing and no response is received from the division of motor vehicles or the secretary of state within 14 days after such inquiry is ~~[mailed]~~ **sent by verified mail**, the owner may proceed to sell or otherwise dispose of such personal property as prescribed by this chapter.

II. If determination is made under the procedure described in paragraph I that a lien exists, a notice of sale under this chapter shall be sent by ~~[registered or certified]~~ **verified** mail to the last known address of each holder of a security interest or lienholder in accordance with RSA 382-A:9. The notice shall state the time and place of the sale, the property to be sold, and the amount of the rent, charges, fees, or expenses owed. The notice shall be sent at least 20 days prior to the date of the sale, except that in the case of a motor vehicle, notice shall be sent at least 30 days prior to the date of the sale. Notwithstanding any other provision of this chapter, any lienholder having a properly perfected lien or security interest shall be entitled to remove such personal property from the owner's possession or from the occupant's self-service storage facility unit within 20 days of the date of mailing of the notice of the sale, without attachment of the lien established under RSA 451-C:2 or any further obligation to the owner of the self-service storage facility. The lienholder's right to possession of the personal property is established under this chapter notwithstanding the lack of breach by the owner of such personal property under the debt instrument or security agreement creating the lien or security interest on such property. The owner shall not be responsible for determining priority as between any competing lienholders. If the owner and the lienholder who has received the notice agree to store the personal property at the facility, the lienholder shall pay the amount of the rent, charges, fees, or expenses due from and after the date of the notice to the lienholder, and pay the monthly rental fee until such personal property is removed from the facility.

451-C:5 Notice of Sale. A notice of the sale shall be served upon the occupant in person or by ~~[registered or certified]~~ **verified** mail at the last known address, no less than 14 days before the sale, stating the time and place of sale, the property to be sold, and the amount of the rent, charges, fees, or expenses owed.

3 Abandoned Vehicles; Notice to Director of Division of Motor Vehicles; Department of Safety. Amend RSA 262:2, III to read as follows:

III. An operator of a place of business for garaging, repairing, parking, or storing vehicles for the public, in which a vehicle remains unclaimed for a period of 30 days, shall within 5 days after the expiration of that period, report the vehicle as unclaimed to the director. A vehicle left by its owner whose name and address are known to the operator or his employee is not considered unclaimed. A person who fails to report a vehicle as unclaimed in accordance with this paragraph forfeits all claims and liens for its garaging, parking, or storing and shall be fined not more than \$25 for each day ~~[his]~~ **the failure to report continues. The report required under this paragraph shall be by verified mail, as defined in RSA 451-C:1, VII.**

4 Abandoned Vehicles; Disposal by Storage Company. Amend RSA 262:36-a, III to read as follows:

III. If the value of the vehicle is less than \$1,000 or the vehicle is so vandalized, damaged, or in disrepair as to be unusable as a motor vehicle and only fit for salvage as determined in good faith through the application of reasonable automotive industry standards, the storage facility may dispose of the vehicle in 15 days without the notice required by RSA 262:38 and RSA 444. If the last place of abode of the owner of such vehicle is known to or may be ascertained by such storage facility by the exercise of reasonable diligence, the storage facility shall give notice of the time and place of the sale to the owner by ~~[registered or certified]~~ **verified** mail **as defined in RSA 451-C:1, VII**, or in person, at least 10 days prior to the disposal and upon written notice to the director subject to such rules as the department shall adopt pursuant to RSA 541-A.

5 Statutory Liens on Personal Property; Notice to Lienholder. Amend RSA 444:4-a to read as follows:

444:4-a Notice to Lienholder. A lienholder under this chapter shall inquire by writing, by ~~[certified]~~ **verified** mail ~~[return receipt requested]~~ **as defined in RSA 451-C:1, VII**, to determine from the division of motor vehicles of the department of safety, the secretary of state, and the town clerk with regard to a motor vehicle and from the secretary of state, and the town clerk with regard to other personal property, whether a lien exists upon the title to said motor vehicle or other

personal property. Any such written inquiry that requests information on financing statements filed under RSA 382-A shall be in the form, and subject to the fees, required by that chapter. If no response is received by the lienholder from the department of safety, the secretary of state, or the town clerk within 14 days after such inquiry has been received, sale of the motor vehicle or personal property may proceed as prescribed by this chapter. If determination is made under the above procedure that a lien exists, a notice of the sale under this chapter shall be sent by ~~[certified]~~ **verified** mail ~~[return receipt requested]~~ **as defined in RSA 451-C:1, VII** to each lienholder having a recorded lien on said automobile or personal property. The notice shall be sent at least 14 days prior to the date of the sale and shall include the date, time, and place of said sale and the amount of the statutory lien claimed. Any lienholder having a recorded lien shall be entitled to redeem the personal property prior to the sale by payment of the amount of said statutory lien, and the lienholder shall have the right of possession from the individual or institution exercising said statutory lien.

6 Liens on Personal Property; Sale to Satisfy Debt. Amend RSA 451-B:3 to read as follows:

451-B:3 Sale to Satisfy Debt. If a debt for repair services remains unpaid for 60 days from the date that they are completed, the holder of the lien established by the previous section may sell the article at public sale in accordance with RSA 444:3, RSA 444:5, and, in the event a prior lienholder has been disclosed by the property owner, in accordance with the notice to lienholder provisions of RSA 444:4-a or RSA 450-A:4, as applicable, provided that the lienholder gives a 30-day written notice by ~~[certified]~~ **verified** mail, ~~[return receipt requested]~~ **as defined in RSA 451-C:1, VII**, to the owner of the article before such sale. The proceeds, after first paying the expense of sale, shall be applied in payment of the debt. After satisfying the requirements of RSA 444:5, the excess proceeds from such sale, if any, shall be paid over to the state treasurer in trust for the debtor.

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

2012-2230s

#### AMENDED ANALYSIS

This bill defines verified mail and permits self-storage facility owners and other lienholders to contact state and local officials by verified mail, rather than registered or certified mail, to determine whether the property is subject to a perfected security lien. The bill also permits certain lienholders to provide notice of sale by verified mail.

Senate Judiciary  
May 10, 2012  
2012-2227s  
10/04

#### Amendment to HB 1332

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

1 Fish and Game Conservation Officers; Powers. Amend RSA 206:26 to read as follows:

206:26 Powers. The executive director, if certified as a police officer in accordance with RSA 188-F:26, IV, and each conservation officer, shall have the power:

I. To enforce all laws, rules and regulations relating to all wildlife, and to go upon any property outside of buildings, posted or otherwise, in the performance of their duties;

II. To execute all warrants and search warrants, **based on probable cause**, for the violation of laws, rules and regulations relating to all wildlife;

III. To serve subpoenas issued for the trial of all offenses against the laws, rules and regulations relating to all wildlife;

IV. To carry firearms or other weapons, concealed or otherwise, in the performance of their duties;

V. To arrest without warrant, **but based on probable cause**, and on view any person found violating any law, rule or regulation relating to all wildlife, take such person before a court having jurisdiction for trial, and detain such person in custody at the expense of the state until trial;

VI. To stop and to search without a warrant and to examine in the field, in the highway, at an airbase or on the stream, any person, or any boat, conveyance, aircraft, vehicle, gamebag, game coat, creel, crate, box, locker or other receptacle, in the presence of the owner if reasonably possible, or any so-called fish house or bob-house, in the presence of the occupant, for all wildlife, when there is reasonable ~~cause~~ **and articulable suspicion** to believe that any wildlife, or any illegal apparatus subject to forfeiture, is concealed thereon or therein;

VII. To secure and execute search warrants, **based on probable cause**, and in pursuance thereof, to enter any building, enclosure, vehicle or car, and to break open any apartment, chest, locker, box, trunk, crate, basket, bag, package or container, and to examine the contents thereof;

VIII. To seize and take possession of all wildlife, which has been caught, taken or killed, or had in possession, or under control, or which has been shipped or is about to be shipped, at any time, in any manner, or for any purpose, contrary to the laws of this state and to dispose of all wildlife which has been confiscated, seized or picked up for any reason, in a manner prescribed by the executive director, **unless otherwise authorized by the court exercising proper jurisdiction**;

IX. To seize all fishing tackle, guns, shooting and hunting paraphernalia, hunting or fishing licenses, traps, boats, decoys or other appliances used in violation of any law or rule relating to all wildlife when making an arrest, or found in the execution of a search warrant, and hold the same at the owner's expense until the fine and costs imposed for the violation have been paid in full;

X. To caution persons of the danger from fires in the forests and to extinguish a fire left burning, to give notice to the forest fire warden and interested parties of fires threatening to extend beyond control, and assume all lawful powers of a fire warden pending the fire warden's arrival;

XI. To enforce the laws relating to snowmobiles, all terrain vehicles, trespass on posted lands, motor vehicles blocking private ways, vandalism and malicious damage to property and livestock, use and transportation of firearms for hunting, bob houses, boats, dogs at large, breaking and entering and larceny in remote areas, protection of the environment, littering and dumping;

XII. To conduct search and rescue operations in woodlands and inland waters and to provide security at the sites thereof, and to enforce recovery of expenses under RSA 206:26-bb;

XIII. In emergencies upon their requests, to cooperate with other law enforcement agencies;

XIV. To have and exercise the powers and privileges granted by RSA 594 as to matters within their jurisdiction under this section.

2 Marine Species; Search and Seizure. Amend RSA 211:75 to read as follows:

211:75 Search and Seizure. Any conservation officer shall have power:

I. To search without a warrant and examine any person or any boat, conveyance, vehicle, box, bag, locker, traps, crate or other receptacle or container for marine species, when ~~he~~ **the conservation officer** has reasonable ~~cause~~ **and articulable suspicion** to believe that marine species taken contrary to the provisions of this chapter are concealed thereon or therein.

II. To secure and execute search warrants, **based on probable cause**, and in pursuance thereof to enter any building, enclosure, vehicle or car and to break open any apartment, chest, locker, box, trunk, crate, basket, bag, package or container and to examine the contents thereof.

III. To seize and take possession of any marine species which have been caught, taken or killed or had in possession or under control or which have been shipped or are about to be shipped at any time, in any manner, or for any purpose, contrary to the laws of this state.

IV. To raise, lift or in any way examine any pot, trap, car or other contrivance that is set for the taking or holding of marine species and to seize all pots, traps, cars or other contrivances and the contents thereof used in violation of any law or rule relating to marine species, and to hold the same until the fine and costs imposed for such violation have been paid in full. Provided, that in case



such fine and costs are not paid within 60 days after imposition such pots, traps, cars or contrivances may be sold at public auction. Prior to such sale the department shall give notice to the owner, if known, by registered mail; otherwise a notice shall be published once in a newspaper of general circulation in the state, giving the time and place of such sale. If the owner shall appear and shall pay the fines and costs and shall reimburse said department for expenses incurred in connection therewith, the property shall be delivered to the owner; otherwise the same shall be sold and the proceeds of such sale shall be for the use of the department, ***unless otherwise authorized by the court exercising proper jurisdiction.***

V. To board any boat which is on public waters under the jurisdiction of this state with or without a warrant, if ~~he~~ ***the conservation officer*** has reasonable ~~cause~~ ***and articulable suspicion*** to believe that any provisions of the statutes, rules and regulations relating to the taking of marine species as defined in RSA 207:1 or 211:62 are being or have been violated thereon, for the purpose of enforcing such statutes, rules and regulations.

3 Effective Date. This act shall take effect January 1, 2013.

2012-2227s

#### AMENDED ANALYSIS

This bill clarifies the authority of fish and game conservation officers to conduct searches and seizures in enforcement of the fish and game laws.

Senate Judiciary  
May 10, 2012  
2012-2232s  
04/09

#### Amendment to HB 1551

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

AN ACT clarifying the liability of landowners, lessees, and occupants of premises who allow other persons to use the premises for hunting, fishing, and other recreational purposes or to remove fuel wood.

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

1 Duty of Care. RSA 212:34 is repealed and reenacted to read as follows:

212:34 Duty of Care.

I. In this section:

(a) "Charge" means a payment or fee paid by a person to the landowner for entry upon, or use of the premises, for outdoor recreational activity.

(b) "Landowner" means an owner, lessee, holder of an easement, occupant of the premises, or person managing, controlling, or overseeing the premises on behalf of such owner, lessee, holder of an easement, or occupant of the premises.

(c) "Outdoor recreational activity" means hunting, fishing, trapping, camping, horseback riding, bicycling, water sports, winter sports, snowmobiling as defined in RSA 215-C:1, XV, operating an OHRV as defined in RSA 215-A:1, V, hiking, sightseeing upon or removing fuel wood from the premises, or other outdoor recreational pursuits.

(d) "Premises" means the land owned, managed, controlled, or overseen by the landowner upon which the outdoor recreational activity subject to this section occurs.

II. A landowner owes no duty of care to keep the premises safe for entry or use by others for outdoor recreational activity or to give any warning of hazardous conditions, uses of, structures, or activities on such premises to persons entering for such purposes, except as provided in paragraph V.

III. A landowner who gives permission to another to enter or use the premises for outdoor recreational activity does not thereby:

- (a) Extend any assurance that the premises are safe for such purpose;
- (b) Confer to the person to whom permission has been granted the legal status of an invitee to whom a duty of care is owed; or
- (c) Assume responsibility for or incur liability for an injury to person or property caused by any act of such person to whom permission has been granted, except as provided in paragraph V.

IV. Any warning given by a landowner, whether oral or by sign, guard, or issued by other means, shall not be the basis of liability for a claim that such warning was inadequate or insufficient unless otherwise required under subparagraph V(a).

V. This section does not limit the liability which otherwise exists:

- (a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity;
- (b) For injury suffered in any case where permission to enter or use the premises for outdoor recreational activity was granted for a charge other than the consideration if any, paid to said landowner by the state;
- (c) When the injury was caused by acts of persons to whom permission to enter or use the premises for outdoor recreational activity was granted, to third persons as to whom the landowner owed a duty to keep the premises safe or to warn of danger; or
- (d) When the injury suffered was caused by the intentional act of the landowner.

VI. Except as provided in paragraph V, a person using the premises as provided in paragraph II or given permission as provided in paragraph III, shall not maintain an action against the landowner for any injury which resulted while on the premises.

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

2012-2232s

#### AMENDED ANALYSIS

This bill clarifies the liability of landowners, lessees, and occupants of premises who allow other persons to use the premises for hunting, fishing, and other recreational purposes or to remove fuel wood.