

HB 93-FN - AS INTRODUCED

2021 SESSION

21-0137

05/04

HOUSE BILL ***93-FN***

AN ACT relative to human trafficking and child exploitation prevention.

SPONSORS: Rep. Plett, Hills. 6

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill prohibits the manufacture, sale, or lease of an internet-enabled device unless the device includes a filter that blocks obscene material and establishes a fee for deactivating the filter. The bill also establishes a live adult entertainment admission fee. Both fees would be deposited in a human trafficking and child exploitation prevention grant fund, to be administered by the attorney general.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to human trafficking and child exploitation prevention.

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

1 1 Legislative Findings and Intent. The general court finds that:

2 I. The United States Supreme Court in *Ashcroft v. American Civil Liberties Union*, 542 U.S.
3 656 (2004) found that the legislative branch “may undoubtedly act to encourage the use of filters. It
4 could also take steps to promote their development by industry, and their use by parents,” which was
5 the Supreme Court’s way of signaling to the legislative branch to pass filter legislation that requires
6 consumers to opt-in to having access to obscene materials that are harmful to minors on Internet-
7 enabled devices, since filters are the least restrictive means.

8 II. The United States Supreme Court found in *Ginsberg v. New York*, 390 U.S. 629 (1968)
9 that a physical display state statute that required physical brick and mortar stores to put physical
10 obscene material behind a physical blinder rack was constitutional under First Amendment
11 heightened scrutiny, which means that a digital blinder rack statute that requires digital retailers to
12 put digital obscene material behind a digital blinder rack is also constitutional on the same legal
13 basis.

14 III. Because the Supreme Court of the United States in *Paris Adult Theatre I v. Slaton*, 413
15 U.S. 49 (1973) made it clear that the states have a compelling interest to uphold community
16 standards of decency, a statute requiring a filter deactivation fee regarding websites displaying
17 obscene material and an adult service business admission fee are constitutional for being rationally
18 related to a narrowly tailored compelling state interest.

19 IV. The Texas Supreme Court in *Combs v. Texas Entertainment Association, et al.*, 347
20 S.W.3d 277 (Sup. Ct. Tex. 2011), relying on federal Constitutional law, found that a statute that
21 required a \$5 admission fee to an adult service business that was to be remitted back to the state to
22 enable the state to uphold community standards of decency was constitutional under First
23 Amendment heightened scrutiny, which means that a one-time \$20 filter deactivation fee to enter
24 the digital strip club on Internet-enabled devices is Constitutional on the same legal basis, if
25 remitted to the state to be used in the same manner.

26 V. Sex trafficking has moved from the street corner to the smartphone, which means that
27 making websites that facilitate human trafficking and prostitution inaccessible by default on
28 Internet-enabled devices will do more to curb the demand for such offenses more so than any other
29 measure since the inception of the Internet.

30 VI. Live adult entertainment establishments contribute to a culture that tolerates the
31 sexual objectification and exploitation of women, and contribute to the need for community-based

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1 services to respond to victims of all forms of sexual exploitation, including sexual harassment,
2 trafficking, and sexual assault.

3 VII. Crime statistics show that the presence of live adult entertainment establishments may
4 result in an increase in prohibited secondary sexual activities, such as prostitution, and other crimes
5 in the surrounding community.

6 VIII. The legislature is generally opposed to online censorship unless the content is injurious
7 to children or promotes human trafficking - only then is the legislature for limited censorship.

8 IX. This state has a compelling interest in holding certain social media websites to higher
9 standards for having substantially created a digital public square.

10 X. This state has an interest in helping its citizens enjoy their free exercise rights in certain
11 semi-public forums commonly used for religious and political speech, regardless of which political
12 party or religious organization they ascribe to.

13 XI. Retailers of Internet-enabled devices market their products as being family-friendly
14 when they are often not, and major social media websites market themselves as being neutral and
15 free and open to all political and religious speech when they are often not, constituting unfair trade
16 practices.

17 2 New Chapter; Indecent Deceptive Trade Practice. Amend RSA by inserting after chapter 359-
18 R the following new chapter:

CHAPTER 359-S

INDECENT DECEPTIVE TRADE PRACTICE

21 359-S:1 Short Title. This chapter may be cited as the human trafficking and child exploitation
22 prevention act.

23 359-S:2 Purpose. The purpose of this chapter is to regulate indecent deceptive trade practices,
24 causing existing laws to catch up to modern technology, and to deter the erosion of contemporary
25 community standards of decency.

26 359-S:3 Definitions. In this chapter:

27 I. "Cellular telephone" means a communication device containing a unique electronic serial
28 number that is programmed into its computer chip by its manufacturer and whose operation is
29 dependent on the transmission of that electronic serial number along with a mobile identification
30 number, which is assigned by the cellular telephone carrier, in the form of radio signals through cell
31 sites and mobile switching stations.

32 II. "Child pornography" has the same meaning as defined under 18 U.S.C. section 2256 and
33 describes an offense under RSA 649-A.

34 III. "Computer" shall have the same meaning as in 18 U.S.C. section 1030 or RSA 649-A:2,
35 VII.

36 IV. "Consumer" means an individual, business, or entity that purchases or leases for
37 personal, family, household purposes, or any other reason an Internet-enabled device.

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1 V. "Data communications device" means an electronic device that receives electronic
2 information from one source and transmits or routes it to another, including, but not limited to, any
3 such bridge, router, switch, or gateway.

4 VI. "Filter" means a digital blocking capability, hardware or software that restricts or blocks
5 Internet access to websites, electronic mail, chat, or other Internet-based communications based on
6 category, site, or content, and the term means a digital blinder rack that can be deactivated by a
7 retailer upon the satisfaction of certain nominal conditions.

8 VII. "Disseminate" shall have the same meaning as in RSA 650:1, I.

9 VIII. "Human trafficking" means the offense of trafficking in persons described in RSA
10 633:7.

11 IX. "Internet" has the same meaning as in 31 U.S.C. section 5362.

12 X. "Internet-enabled device" means a cellular telephone, computer, data communications
13 device, or other product manufactured, distributed, or sold in this state that provides Internet access
14 or plays a material role in distributing content on the Internet.

15 XI. "Internet service provider" means a person engaged in the business of providing a
16 computer and communications facility through which a consumer may obtain access to the Internet.
17 The term does not include a common carrier if it provides only telecommunications service.

18 XII. "Live adult entertainment establishment" means a business in which, as the major
19 activity, customers congregate primarily for the purpose of viewing or associating with employees
20 who display anatomical areas designed to provide sexual stimulation or sexual gratification: human
21 genitals, the immediate pubic region, or pubic hair; buttocks to the extent of exposing the immediate
22 anal area; female breasts to points below the nipples; male genitals in a state of erection, even if
23 covered with opaque clothing; all of the above anatomical areas when covered only by transparent or
24 diaphanous clothing.

25 XIII. "Material" shall have the same meaning as in RSA 650:1, II.

26 XIV. "Minor" means a person under the age of 18.

27 XV. "Non-government group" means a nonprofit organization exempt from federal income
28 taxation under Section 501(c)(3), Internal Revenue Code of 1986, having as a primary purpose
29 ending sexual violence in this state, for programs for the prevention of sexual violence, outreach
30 programs, and technical assistance to and support of youth and rape crisis centers working to
31 prevent sexual violence. The term also includes individuals and or any group that is doing anything
32 to uphold community standards of decency.

33 XVI. "Obscene" shall have the same meaning as in RSA 650:1, IV, and shall include visual
34 representation. The term includes websites that:

35 (a) Are known to facilitate human trafficking or prostitution; and

36 (b) Display or depict images that are harmful to minors or that constitute
37 sadomasochistic abuse, sexually explicit conduct, or, revenge pornography.

1 XVII. "Personal identification information" means any information that identifies a person,
2 including an individual's photograph, social security number, driver identification number, name,
3 email address, address or telephone number.

4 XVIII. "Prostitution" shall have the same meaning as in RSA 645:2.

5 XIX. "Retailer" means any person who regularly engages in the manufacturing, sale, offer
6 for sale or lease of Internet-enabled devices or services in this state that make content accessible on
7 the Internet. The term includes Internet service providers and suppliers and manufacturers of
8 Internet-enabled devices that materially play a role in distributing content on the Internet or that
9 make content accessible that are subject to the jurisdiction of this state.

10 XX. "Revenge pornography" means the nonconsensual disclosure of private sexual images
11 under RSA 644:9-a.

12 XXI. "Sexually explicit conduct" shall have the same meaning as in RSA 649-A:2, III.

13 XXII. "Sexual conduct" shall have the same meaning as in RSA 650:1, VI.

14 XXIII. "Social media website" means an Internet website or application that enables users to
15 communicate with each other by posting information, comments, messages, or images and that
16 meets all of the following requirements:

- 17 (a) Is open to the public;
- 18 (b) Has more than 75 million subscribers;
- 19 (c) From its inception, has not been specifically affiliated with any one religion or
20 political party; and
- 21 (d) Provides a means for the website's users to report obscene materials and has in place
22 procedures for evaluating those reports and removing obscene material.

23 359-S:4 Continuing Duties of Retailers of Internet-enabled Devices.

24 I. A retailer that manufactures, sells, offers for sale, leases, or distributes an Internet-
25 enabled device shall ensure that the product is equipped with an active and operating filter prior to
26 sale that blocks by default websites that:

- 27 (a) Are known to facilitate human trafficking or prostitution; and
- 28 (b) Display child pornography, revenge pornography, or obscene material harmful to
29 minors.

30 II. A retailer that manufactures, sells, offers for sale, leases, or distributes an Internet-
31 enabled device shall:

- 32 (a) Make reasonable and ongoing efforts to ensure that the filter functions properly;
- 33 (b) Establish a reporting mechanism, such as a website or call center, to allow a
34 consumer to report unblocked websites displaying content described in paragraph I or to report
35 blocked websites that are not displaying content described in paragraph I;

1 (c) Report child pornography received through the reporting mechanism to the National
2 Center For Missing and Exploited Children's CyberTipline in accordance with 18 U.S.C. section
3 2258A;

4 (d) Not block access to websites that:

5 (1) Are social media websites that provide a means for the website's users to report
6 obscene materials and have in place procedures for evaluating those reports and removing obscene
7 material;

8 (2) Serve primarily as a search engine; or

9 (3) Display complete movies that meet the qualifications for a "G," "PG," "PG-13," or
10 "R" rating by the Classification and Ratings Administration, as those qualifications existed on
11 September 1, 2020.

12 III. Except as provided by paragraph IV, a retailer of an Internet-enabled device shall not
13 provide to a consumer, methods, source code, or other operating instructions for deactivating a
14 product's filter.

15 IV. A retailer of an Internet-enabled device shall deactivate the filter after a consumer:

16 (a) Requests that the capability be disabled;

17 (b) Presents personal identification information to verify that the consumer is 18 years
18 of age or older;

19 (c) Acknowledges receiving a warning regarding the potential danger of deactivating the
20 filter; and

21 (d) Pays a one-time \$20 filter deactivation fee to be remitted quarterly to the department
22 of revenue administration to be deposited into the New Hampshire human trafficking and child
23 exploitation prevention grant fund established under RSA 359-S:8, I.

24 V. The department of revenue administration shall prescribe the administration, payment,
25 collection and enforcement of the fee imposed by paragraph IV. The department of revenue
26 administration may annually adjust the one-time fee to account for inflation.

27 VI. Nothing in this chapter shall be construed to prevent a retailer of an Internet-enabled
28 device from charging a reasonable separate fee to deactivate the filter, which it may retain for profit.

29 VII. The attorney general shall prepare and make available to retailers a form that includes
30 all content that shall be in the warning described in subparagraph IV(c).

31 VIII. Nothing in this chapter shall be construed to require a retailer of an Internet-enabled
32 device to create a database or registry that contains the names or personal identification information
33 of adults who knowingly chose to deactivate a product's filter. A retailer of an Internet-enabled
34 device shall take due care to protect the privacy rights of adult consumers under this section and
35 shall not disclose the names or personal identification information of an adult consumer who decided
36 to deactivate a product's filter.

37 359-S:5 Quality Control, Civil Action, Unfair and Deceptive Trade Practice, Affirmative Defense.

1 I. Pursuant to RSA 359-S:4, II(b), if the filter blocks a website that is not displaying content
2 described in RSA 359-S:4, I, and the block is reported to a call center or reporting mechanism, the
3 website shall be unblocked within a reasonable time, but in no event later than 5 business days after
4 the block is first reported. A consumer may seek judicial relief to unblock a website that was
5 wrongfully blocked by the filter. The prevailing party in a civil litigation may seek attorney fees,
6 costs, and other forms of relief.

7 II. Pursuant to RSA 359-S:4, II(b), if a retailer of an Internet-enabled device is unresponsive
8 to a report of a website displaying content described in RSA 359-S:4, I, that have breached the filter,
9 the attorney general or a consumer may file a civil suit. The attorney general or a consumer may
10 seek damages of up to \$500 for each website that was reported but not subsequently blocked. The
11 prevailing party in the civil action may seek attorneys' fees, costs, and other forms of relief.

12 III. A retailer of an Internet-enabled device that fails to comply with a duty described in
13 paragraphs I and II has engaged in an unfair and deceptive trade practice in violation of RSA 358-
14 A:2 and shall be subject to the penalties for violating that chapter.

15 IV. It shall be an affirmative defense in a civil action to a charge of violating this section
16 that the dissemination of the content described in RSA 359-S:4, I, was limited to institutions or
17 organizations having scientific, educational, or other similar justifications for displaying the
18 material.

19 359-S:6 Unlawful Practices; Penalties.

20 I. A retailer of an Internet-enabled device is guilty of an offense if it knowingly:

21 (a) Sells an Internet-enabled device without activated blocking capability that at least
22 makes an attempt to block by default websites that display content described in RSA 359-S:4, I;

23 (b) Violates RSA 359-S:4, III;

24 (c) Fails to comply with the requirements of RSA 359-S:4, IV, before deactivating a
25 product's filter; and

26 (d) Discloses to a third party the name or the personal identification information of adult
27 consumers who have elected to deactivate a product's filter in violation of RSA 359-S:4, VIII, without
28 a court order directing otherwise.

29 II. Any right, remedy, or power set forth in RSA 358-A, including those set forth in RSA 358-
30 A:4, may be used to enforce the provisions of this chapter. Such remedies shall be in addition to any
31 other remedies provided by law or equity.

32 359-S:7 Exemptions.

33 I. This chapter shall not apply to:

34 (a) An occasional sale of an Internet-enabled device by a person that is not regularly
35 engaged in the trade business of selling Internet-enabled devices;

36 (b) Products produced or sold before the effective date of this chapter; and

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1 (c) Independent third-party routers that are not affiliated with an Internet service
2 provider.

3 II. This chapter shall not apply to a retailer of an Internet-enabled device that is not subject
4 to the jurisdiction of this state.

5 359-S:8 New Hampshire Human Trafficking and Child Exploitation Prevention Grant Fund.

6 I. There is established a special fund to be known as the New Hampshire human trafficking
7 and child exploitation prevention grant fund to be administered by the attorney general. The
8 nonlapsing fund shall be kept separate and distinct from all other funds and shall be continually
9 appropriated to the department of justice for the purposes of this section.

10 II. The purpose of the fund shall be:

11 (a) To promote the development throughout the state of locally-based and supported
12 nonprofit programs for the survivors of sexual-related offenses and to support the quality of services
13 provided;

14 (b) To empower any government and, especially, non-government groups working to
15 uphold community standards of decency, to protect children, to strengthen families, or to develop,
16 expand, or to prevent or offset the costs of sex-related offenses; and

17 (c) Not to promote a culture of perpetual victimhood but to maximize human flourishing
18 and to protect the public's safety, health, and welfare.

19 III. The purposes of the fund stated in paragraph II shall be interpreted broadly to meet the
20 evolving needs of the state.

21 IV. The fund shall consist of:

22 (a) Deactivation fees collected by the department of revenue administration from
23 retailers of Internet-enabled devices under RSA 359-S:4, IV(d);

24 (b) Admission fees collected by the department of revenue administration from live adult
25 entertainment establishments under RSA 359-S:9, I; and

26 (c) Any other appropriations, gifts, grants, donations, and bequests.

27 V. Money deposited into the fund shall be used only by:

28 (a) The attorney general for grants to public and private entities and individuals that
29 are working to uphold community standards of decency, to protect children, to strengthen families,
30 or to develop, expand, or strengthen programs for victims of human trafficking or child exploitation,
31 including providing grants for:

32 (1) The needs of any human trafficking task force or coalition based in New
33 Hampshire;

34 (2) The needs of victim compensation;

35 (3) Services to help women with substance abuse problems stay clean;

36 (4) Counselors and victim advocates who are trained to assist victims of domestic
37 violence and sexual abuse;

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(5) Shelters for women, particularly those who have been exposed to prostitution or sex trafficking;

(6) Research-based organizations;

(7) Faith-based organizations working to uphold community standards of decency and assisting victims of human trafficking or other sex offenses;

(8) Child advocacy centers;

(9) Organizations that provide legal advocacy to abused, neglected, and at-risk children;

(10) Physical and mental health services;

(11) Temporary and permanent housing placement;

(12) Employment, placement, education, training;

(13) Independent school districts;

(14) Family counseling and therapy;

(15) Law enforcement;

(16) Musical, writing, design, cinematic, or pictorial creative art projects that promote decency;

(17) Regional nonprofit providers of civil legal services to provide legal assistance for sexual assault victims;

(18) Grants to support technology in rape crisis centers;

(19) Sexual violence awareness and prevention campaigns;

(20) Scholarships for students demonstrating outstanding character or leadership skills; and

(21) Sexual assault examinations established under RSA 21-M:8-c or RSA 169-C:12-c.

(b) Any other state agency or organization for the purpose of conducting human trafficking enforcement programs or to uphold community standards of decency.

VI. Notwithstanding any law to the contrary, interest accruing on investments and deposits of the fund shall be credited to the fund shall not revert to the general fund, and shall be carried forward into the subsequent fiscal year.

VII. Any balance in the fund remaining unexpended at the end of a fiscal year shall not revert to the general fund but shall be carried forward into the subsequent fiscal year.

VIII. The attorney general shall evaluate activities conducted under this section each year and, on or before February 15, submit an annual report containing the evaluation to the senate president and the speaker of the house of representatives. The report shall include:

(a) The amount of filter deactivation fees received under RSA 359-S:4, IV(d);

(b) The amount of admission fees received under RSA 359-S:9, I;

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1 (c) The manner in which the funds in the account maintained under paragraph V, were
2 distributed; and

3 (d) The manner in which each entity receiving a grant under paragraph V used the
4 grant money.

5 IX. The attorney general or the attorney general's designee may adopt rules under RSA 541-
6 A to:

7 (a) Determine eligibility requirements for any grant awarded under this section;

8 (b) Require a grant recipient to offer minimum services for a period of time before
9 receiving a grant and to continue to offer minimum services during the grant period; and

10 (c) Require a grant recipient to submit financial and programmatic reports.

11 X. The attorney general shall not spend more than 10 percent of the available funds on the
12 administration of the fund.

13 359-S:9 Live Adult Entertainment Admission Fee.

14 I. A \$5 admission fee is imposed for each entry by each customer admitted to a live adult
15 entertainment establishment to be remitted quarterly to the department of revenue administration
16 and deposited into the New Hampshire human trafficking and child exploitation prevention grant
17 fund established under RSA 359-S:8, I. The department of revenue administration shall prescribe
18 the method of administration, payment, collection, and enforcement of the fee imposed by this
19 section.

20 II. Each live adult entertainment establishment shall record daily in the manner required
21 by the department of revenue administration the number of customers admitted to the business.
22 The business shall maintain the records for the period required by the department of revenue
23 administration and make the records available only for inspection and audit on request by the
24 department of revenue administration. The records shall not contain the names or personal
25 information of any of the customers.

26 III. This section shall not require a live adult entertainment establishment to impose a tax
27 on a customer of the business. A business has the discretion to determine the manner in which the
28 business derives the money required to pay the fee imposed under this section.

29 3 New Subparagraph; Dedicated Funds; New Hampshire Human Trafficking and Child
30 Exploitation Prevention Grant Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (364)
31 the following new subparagraph:

32 (365) Moneys deposited in the New Hampshire human trafficking and child
33 exploitation prevention grant fund established in RSA 359-S:8.

34 4 Contingency. This act shall take effect on the date that the attorney general certifies to the
35 secretary of state and the director of the office of legislative services that 4 other states have enacted
36 substantially similar legislation.

37 5 Effective Date. This act shall take effect as provided in section 4 of this act.

**HB 93-FN- FISCAL NOTE
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AN ACT relative to human trafficking and child exploitation prevention.

FISCAL IMPACT: ☒ **State** ☒ **County** ☐ **Local** ☐ **None**

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
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 - Human Trafficking and Child Expoitation Grant Fund			

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill prohibits the manufacture, sale, or lease of an internet-enabled device unless the device includes a filter that blocks obscene material and establishes a fee for deactivating the filter. The bill also establishes a live adult entertainment admission fee. Both fees would be deposited in a human trafficking and child exploitation prevention grant fund, to be administered by the attorney general. The bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2021	FY 2022
Violation Level Offense	\$53	\$53
Class B Misdemeanor	\$55	\$55
Class A Misdemeanor	\$78	\$78
Routine Civil Case	\$526	\$526
Complex Civil Case	\$794	\$794
Simple Criminal Case	\$309	\$309

Routine Criminal Felony Case	\$494	\$494
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2021 and FY 2022 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.		
Department of Corrections		
FY 2020 Average Cost of Incarcerating an Individual	\$47,691	\$47,691
FY 2020 Annual Marginal Cost of a General Population Inmate	\$6,407	\$6,407
FY 2020 Average Cost of Supervising an Individual on Parole/Probation	\$584	\$584
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

This legislation would require providers of “internet-enabled devices” to automatically include a filter that blocks obscene material and then charge consumers a fee to deactivate the filter. It further charges an additional fee to access establishments that provide “live adult entertainment.” Those fees are then deposited into a new special fund called the “New Hampshire Human Trafficking and Child Exploitation Prevention Grant Fund.” It would require the Department of Justice to produce a warning “regarding the potential danger of deactivating the filter,” grant the Department the authority to initiate civil suits for violations of the obscene content filter provisions as unfair and deceptive practices under the Consumer Protection Act, charge the Department with the administration of the new fund, and require the Department to submit annual reports regarding fees collected and funds expended.

The Department of Justice states this bill creates new offenses that would be handled by the Consumer Protection Bureau. It would likely increase the number of complaints filed with the Bureau, but it is not known how many additional complaints may be filed. This would likely increase the workload of the Consumer Protection Bureau. The bill also makes the Department responsible for administration of the new fund including monitoring the fund and reviewing grant applications and distributing from the fund. This would increase the work of the Department’s administrative and Grants Management Unit staff. The amount of revenue the law would generate and the increase in work are unknown. Therefore, the fiscal impact on the Department is indeterminate.

The Judicial Council indicates the indigent defense delivery system is rarely called on to provide representation to someone who violates laws governing business and industry. The Council assumes a bill that regulates commercial transactions would have no effect on the Judicial Council's expenditures for the defense of the indigent accused. If a retailer, as defined in the bill, were to be charged with violating this proposed legislation, the violation would take place in the context of his or her occupation, and it would be unlikely that he or she would meet the eligibility standards for the appointment of counsel established by RSA 604:A-2-c. It is likely that the business would defend or indemnify the employee or agent.

The Department of Revenue Administration is unable to calculate the fiscal impact of this bill. The fiscal impact is contingent upon four other states enacting substantially similar legislation and the Department does not know when or if that contingency will occur. Should the contingency be met, the Department has no basis to estimate the number of deactivation fees or adult entertainment admission fees that would be paid. If the bill becomes law, the Department believes it would incur additional general fund expenditures to incorporate administration of the new fees into the Revenue Information Management System (RIMS) and for staff costs to administer the fees.

AGENCIES CONTACTED:

Departments of Justice, Revenue Administration and Corrections, Judicial Branch, Judicial Council and New Hampshire Association of Counties