Bill as Introduced

HB 313-FN – AS INTRODUCED

2001 SESSION

01-0459
05/09

HOUSE BILL ***313-FN***

AN ACT limiting access to certain business records.

SPONSORS: Rep. Dickinson, Carr 2; Rep. Sullivan, Carr 2; Rep. Kenney, Carr 6; Rep. Avery, Ches 8; Rep. Mock, Carr 3

COMMITTEE: Commerce

ANALYSIS

This bill limits the access of out-of-state, government tax collection agencies to New Hampshire business records.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 313-FN – AS INTRODUCED

01-0459
05/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand One

AN ACT limiting access to certain business records.

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

1 Purpose. Since one of our neighboring states has amended its revenue laws to allow the maximum collection of sales taxes under the Interstate Commerce Clause of the United States Constitution, New Hampshire businesses have come under increasing pressure to collect sales taxes for out-of-state revenue agencies. It is the intent of the general court to provide a means for New Hampshire businesses to protect themselves against unrestricted and aggressive collection efforts being made by these revenue agents.

2 New Chapter; Access to Business Records. Amend RSA by inserting after chapter 337-A the following new chapter:

CHAPTER 337-B

ACCESS TO BUSINESS RECORDS

337-B:1 Definitions. In this chapter:

I. "Business" means any corporation, partnership, limited liability company, proprietorship, association, or trust organized under the laws of this state.

II. "Records" or "business records" include books of account, vouchers, documents, canceled checks, payments, correspondence, records of sales, personnel, equipment, and production, reports relating to any or all such records, and other business papers.

337-B:2 Access to Business Records Limited. A New Hampshire business shall not be required to open its records to any employee or agent of any agency of another state which is responsible for the collection or regulation of sales taxes in such state unless a request for such disclosure is made in writing by certified mail. The business shall have 30 days to respond to such request by certified mail. If the business does not respond within 30 days, the business shall not have the protection of a court order described in this section. If a business refuses to comply with the written request for disclosure of records, the business shall not be required to open its books without a court order from the superior court in the county in which the business is located. The superior court shall not issue such an order unless the requesting party can prove by a preponderance of the evidence that the business had reasonable opportunity to defend itself against the imposition of the order. The requesting party shall be responsible for all legal and accounting costs incurred by the business if the court order is denied.

3 Effective Date. This act shall take effect January 1, 2002.

LBAO
01-0459
1/23/01

HB 313-FN - FISCAL NOTE

AN ACT limiting access to certain business records.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill as it is awaiting information from an agency.

LBAO
01-0459
Revised 2/28/01

HB 313 FISCAL NOTE

AN ACT limiting access to certain business records.

FISCAL IMPACT:

The Department of Revenue Administration, Secretary of State, and Administrative Office of the Courts state this bill will have no fiscal impact on state, county and local revenue or expenditures.

METHODOLOGY:

The Department of Revenue Administration states this bill will have no direct impact on taxes administered by the Department. This bill may cause other states to try to impede the Department's ability to examine out-of-state companies. Over 70% of the Business Profit Tax (BPT) & Business Enterprise Tax (BET) revenue is generated from businesses that have activities in more than this state.

The Secretary of State states there will be no fiscal impact on the Department.

The Administrative Office of the Courts does not anticipate this bill will have any fiscal impact on the Judicial Branch.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 313-FN Date 2-13-01

Committee Commerce

** Please Print All Information **

Name	Address	Phone	Representing	(check one) Pro	Con
Curtis J. Barry	Concord	228-3322	Retail Merchants Assoc. of NH	X	
Rep. Judith Sullivan				X	

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE

PUBLIC HEARING ON HB 313-FN

BILL TITLE: limiting access to certain business records.

DATE: February 13, 2001

LOB ROOM: 302 **Time Public Hearing Called to Order:** 1:15 pm

Time Adjourned: 1:50 pm

(please circle if present)

Committee Members: Reps. Hunt, L. Fraser, Francoeur, Tsiros, Belanger, Avery, Kenney, Langley, DiFruscia, Marshall, Marshall Quandt, D. Flanders, Spiess, M. Clark, Crosby, R. Russell, T. Reardon, Taylor, Keye and Batchelder.

Bill Sponsors: Reps. Dickinson, Sullivan, Kenney, Avery and Mock

TESTIMONY

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

Rep. Dickinson, prime sponsor – There was a similar version of this bill previously. This bill is the amendment of the last bill. He feels this is "just right". Out-of-staters send people into New Hampshire to check their books. He intends to protect NH residents from out-of-staters who are overly aggressive. Wants bill held in committee. Dept. of Revenue can tell out-of-staters offenders that NH has a bill in committee studying the issue. Read the bill and feels that it is "good stuff". D.A.R Commissioner would be well treated if he went to check books because he is the commissioner. Wants to make sure Massachusetts and Vermont do not start coming into the state checking books.

Rep. John Hunt –He replied that they already are. Commissioner would deem whatever they felt necessary should bill be kept.

Stanley Arnold, Commissioner DRA – Opposes the bill even though it is a better version of previous bill. ICC is a reality and rules must be applied. Cannot tamper with ICC without abusing the Constitution. Rules already in place as to what any Dept. of Revenue in any state can do. Cannot tax any company that only sells (no services). Gave details of how companies' operation in many states are prorated, i.e. income tax, property tax, sales tax. They have the right to appeal. System works well and he told how a group of aggressive people from Maine went into the Conway area. Other states are within their rights under the US Constitution to come into NH for such audits. We would use more common sense (than the State of Maine) should NH have a sales tax.

Bill Carr, NFIB/NH – He supports the bill. It would help in small business organization. There are 3300 members in NH and 37 small businesses. It is not just Maine, but Massachusetts and Vermont have also come in without due notice. Not one confirmation has been received from 1500 of his members when questioned if they had proper notice prior to an audit. He does not feel this violates the US Constitution. Audits are going on right now in the Keene area. Some companies keep two sets of books. He wants due process and proper notification.

Respectfully Submitted:

Jane S. Langley

Jane S. Langley, Clerk

Sub-Committee Minutes

INTERIM STUDY
SUBCOMMITTEE WORK SESSION

COMMITTEE: **COMMERCE**

BILL NUMBER: **HB 313-FN**

BILL TITLE: limiting access to certain business records.

DATE: October 15, 2002

ATTENDANCE: Reps. Belanger and Marshall (Absent: Rep. Keye)

Comments and Recommendations:

HB 313-FN (2001) is recommended for further legislation. It prevents out-of-state revenue agents from having access to New Hampshire business records without first securing a court order. In the past, New Hampshire businesses have had problems with out-of-state revenue agents demanding access to their records. By filing such legislation and holding it in the Commerce Committee, revenue agents from other states have shown remarkable restraint and consideration for our businesses. The committee wishes to continue this practice.

Vote: 2-0, Unanimous

Gene B. Marshall
Chairman/Clerk

Original: Committee Bill File

Interim Study

HB - 313

Present: Gene Marshall Ron Belanger
Absent: Harvey Keyé

Convened 11:00

Recommend: for further legislation. by

Vote: of 2/0 - unanimous.

Notes: Dickinson - "levy" concept
Mr. faces financial. Requested

"Recommend for further legislation.

Gene Marshall (603) 838-5148
e-mail gmarshal@Together.net
note single "l"

Testimony

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILD SUPPORT SERVICES
STATE OFFICE PARK SOUTH
129 PLEASANT STREET, CONCORD, NH 03301-3857
603-271-4429 FAX: 603-271-4771 TDD Access: 1-800-735-2964

Donald L. Shumway
Commissioner

Lloyd W. Peterson
IV-D Director

December 4, 2001

REPRESENTATIVE JOHN B. HUNT, CHAIRMAN
NEW HAMPSHIRE LEGISLATIVE OFFICE BUILDING
HOUSE COMMERCE COMMITTEE, ROOM 302
CONCORD, NH 03302

SUBJECT: HB 313-FN (limiting access to certain business records).

Dear Representative Hunt:

I am writing to you in regards to HB 313-FN (limiting access to certain business records) that is being sponsored by Representative Howard Dickinson and is currently in retained status before your committee. I apologize to you and to Representative Dickinson that the Department was not present at the full committee hearing on the bill on February 13, 2001. At the time, we did not know of the bill's possible unintended impact to child support agencies in other states. The bill is intended to limit the access of out-of-state, government [Department of Revenue] tax collection agencies to New Hampshire business records. Many IV-D child support agencies fall under their respective state's Department of Revenue such as the Commonwealth of Massachusetts. As written, the bill could be used as a shield by New Hampshire businesses not to release employment information to an out-of-state IV-D child support agency regarding a non-custodial parent, which is already mandated by state and federal law and is necessary to effectuate the purposes of establishing and enforcing child support obligations. The Department would ask that if the bill is to pass your committee that there be a carve-out exception for out-of-state child support agencies. The Department is available to assist with any drafting changes or proposed language to amending HB 313-FN. In the meantime, if you or Representative Dickinson have any questions, please feel free to contact me at your convenience.

Sincerely,

John L. Williams, Esquire
Division of Child Support Services
(603) 271-4759

cc: Representative Howard C. Dickinson
Kathleen G. Sgambati, Deputy Commissioner
Lloyd W. Peterson, Director, DCSS

Voting Sheets

HOUSE COMMITTEE ON COMMERCE

EXECUTIVE SESSION on HB 313

BILL TITLE: **limiting access to certain business records.**

DATE: March 14, 2001

LOB ROOM: 302

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study, (Retain) (Please circle one.)

Moved by Rep. Kenney

Seconded by Rep. Fraser

Vote: 11-3 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: {Type VOTE}

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Jane S. Langley, Clerk

COMMERCE

Bill #: 313 Title: _____

PH Date: 1/1/ Exec Session Date: 3/14/2001

Motion: Retain the Com Amendment #: _____

MEMBER	YEAS	NAYS
Hunt, John B, Chairman	No vote	
Fraser, Leo W, V Chairman	✓	
Francoeur, Sheila T	~~✓~~	✓
Tsiros, William	N blank	
Belanger, Ronald J	✓	
Avery, Stephen G	✓	
Kenney, Joseph D	✓	
Langley, Jane S	✓	
DiFruscia, Anthony R	✓	
Marshall, Gene B	✓	
Quandt, Marshall E	✓	
Flanders, Donald H	N	
Spiess, Paul D		✓
Clark, Martha Fuller	✓	
Crosby, Toni M	N	
Russell, Ronald G	N	
Reardon, Tara G		✓
Taylor, Kathleen N	✓	
Keye, Harvey	N	
Batchelder, Robert C	✓	

TOTAL VOTE: 18 3

Printed: 1/3/2001

HOUSE COMMITTEE ON COMMERCE

EXECUTIVE SESSION on HB 313-FN

BILL TITLE: **limiting access to certain business records.**

DATE: December 4, 2001

LOB ROOM: 302

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Belanger

Seconded by Rep. Avery

Vote: 17-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 17-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Jane S. Langley, Clerk

OFFICE OF THE HOUSE CLERK 2001 SESSION

COMMERCE

Bill #: HB 313-FN Title: _____

PH Date: ___/___/___ Exec Session Date: 12/04/01

Motion: Interim Study Amendment #: _____

MEMBER	YEAS	NAYS
Hunt. John B. Chairman		
Fraser. Leo W. V Chairman	✓	
Francoeur. Sheila T	✓	
Tsiros. William	N	
Belanger. Ronald J	✓	
Averv. Stephen G	✓	
Kennev. Joseph D	✓	
Langlev. Jane S	✓	
DiFruscia. Anthonv R	✓	
Marshall. Gene B. Clerk	✓	
Quandt. Marshall E	✓	
Flanders. Donald H	✓	
Spiess. Paul D	✓	
Clark. Martha Fuller	✓	
Crosbv. Toni M	✓	
Reardon. Tara G	✓	
Tavlor. Kathleen N	✓	
Keve. Harvev	✓	
Batchelder. Robert C	✓	
Slack. Pamela Russell	A	
TOTAL VOTE:	17	0

Printed: 11/9/2001

INTERIM STUDY
EXECUTIVE SESSION

COMMITTEE: **COMMERCE**

BILL NUMBER: **HB 313-FN**

BILL TITLE: **limiting access to certain business records.**

DATE: October 30, 2002

MOTION
(Please circle one)

RECOMMENDED **NOT RECOMMENDED**

Moved by: Rep. Gene B. Marshall

Seconded by: Rep. Ronald J. Belanger

Vote: 11-1

(Note: Attach record of roll call vote)

Rep. Gene B. Marshall
Clerk

Original: Committee Bill File

COMMERCE

Bill #: 313 **Title:** limiting access to certain business records

PH Date: / / **Exec Session Date:** 10 / 30 / 02

Motion: Recommended **Amendment #:**

MEMBER	YEAS	NAYS
Hunt. John B. Chairman		✓
Fraser. Leo W. V Chairman	✓	
Francoeur. Sheila T		
Tsiros. William		
Belanger. Ronald J	✓	
Averv. Stephen G	✓	
Kennev. Joseph D		
Langlev. Jane S	✓	
DiFruscia. Anthonv R		
Marshall. Gene B. Clerk	✓	
Quandt. Marshall E	✓	
Flanders. Donald H	✓	
Spiess. Paul D	✓	
Clark. Martha Fuller		
Crosbv. Toni M		
Reardon. Tara G	✓	
Tavlor. Kathleen N	✓	
Keve. Harvev		
Batchelder. Robert C	✓	
Slack. Pamela Russell		

Cleg & Gilman

TOTAL VOTE:	11	1

Printed: 11/9/2001

Committee Report

COMMITTEE REPORT

COMMITTEE: **Commerce**

BILL NUMBER: **HB 313-FN**

TITLE: limiting access to certain business records.

DATE: December 4, 2001 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☒ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

Although the committee would very much like to find a way to stop out-of-state sales tax bureaucrats from harassing New Hampshire business, this bill had too many problems. The committee unanimously agreed to refer the bill to Interim Study.

Vote 17-0.

Rep. Ronald J. Belanger
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Commerce

HB 313-FN, limiting access to certain business records. **REFER TO COMMITTEE FOR INTERIM STUDY**

Rep. Ronald J. Belanger for Commerce: Although the committee would very much like to find a way to stop out-of-state sales tax bureaucrats from harassing New Hampshire business, this bill had too many problems. The committee unanimously agreed to refer the bill to Interim Study. **Vote 17-0.**

Stapler, Carol

From: John Hunt [jbhunt@prodigy.net]
Sent: Thursday, December 06, 2001 7:00 PM
To: Stapler, Carol
Subject: Re: HB 313-FN

on 12/5/01 9:10 AM, Stapler, Carol at carol.stapler@leg.state.nh.us wrote:

> **Although the committee would very much like to find a way to stop out of state sales tax bureaucrats from harassing New Hampshire business, this bill had too many problems.** The committee unanimously agreed to refer the bill to Interim Study.
>
>
> Rep. Belanger

JBH

INTERIM STUDY
COMMITTEE REPORT

COMMITTEE: **Commerce**

BILL NUMBER: **HB 313-FN**

TITLE: limiting access to certain business records.

DATE: October 30, 2002

☒ RECOMMENDED

☐ NOT RECOMMENDED

STATEMENT OF INTENT
(may be handwritten)

This bill is recommended for further legislation. It prevents out-of-state revenue agents from having access to New Hampshire business records without first securing a court order. The filing and holding of such legislation in the Commerce Committee has produced remarkable restraint and consideration for our businesses by out-of-state revenue agents and the committee supports continuation of this process.

Vote: 11-1.
(Note: Attach record of roll call vote)

LSR Number:
(If legislation if already filed, please list LSR number)

Rep. John B. Hunt
Chairman/Clerk

Original: House Clerk
Copy: Committee Bill file

Commerce

HB 313-FN, limiting access to certain business records. **RECOMMENDED**

Rep. John B. Hunt for Commerce: This bill is recommended for further legislation. It prevents out-of-state revenue agents from having access to New Hampshire business records without first securing a court order. The filing and holding of such legislation in the Commerce Committee has produced remarkable restraint and consideration for our businesses by out-of-state revenue agents and the committee supports continuation of this process. **Vote 11-1.**

Commerce Committee Executive Session
HB-313-FN 10/30/02

HB-313-FN (2001) is recommended for further legislation. It prevents out-of-state revenue agents from having access to New Hampshire business records without first securing a court order. The filing and holding of such legislation in the Commerce Committee has produced ~~a good deal of restraint~~ remarkable ~~constraint~~ restraint and consideration for our businesses by out-of-state revenue agents and the committee supports continuation of this process.

Committee Vote: [redacted] 11-1 (JBH)