Bill as Introduced

HB 491 – AS INTRODUCED

2003 SESSION

03-0865
08/01

HOUSE BILL ***491***

AN ACT relative to unlawful discriminatory practices in public accommodations.

SPONSORS: Rep. Bruno, Hills 45

COMMITTEE: Judiciary

ANALYSIS

This bill clarifies that exercising civil rights guaranteed by the New Hampshire constitution cannot be used as a lawful reason to discriminate in public accommodations.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 491 – AS INTRODUCED

03-0865
08/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to unlawful discriminatory practices in public accommodations.

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

1 Public Accommodations; Unlawful Discriminatory Practices. Amend RSA 354-A:16 to read as follows:

354-A:16 Equal Access to Public Accommodations a Civil Right. The opportunity for every individual to have equal access to places of public accommodation without discrimination because of age, sex, race, creed, color, marital status, physical or mental disability or national origin is hereby recognized and declared to be a civil right. In addition, no person shall be denied the benefit of the rights afforded by this section on account of that person's sexual orientation ***or on account of exercising civil rights enumerated by part 1 of the New Hampshire constitution***.

2 Public Accommodations; Unlawful Discriminatory Practices. Amend RSA 354-A:17 to read as follows:

354-A:17 Unlawful Discriminatory Practices in Public Accommodations. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, because of the age, sex, race, creed, color, marital status, physical or mental disability or national origin of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof; or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of age, sex, race, creed, color, marital status, physical or mental disability or national origin; or that the patronage or custom thereat of any person belonging to or purporting to be of any particular age, sex, race, creed, color, marital status, physical or mental disability or national origin is unwelcome, objectionable or acceptable, desired or solicited. In addition, no person shall be denied the benefit of the rights afforded by this section on account of that person's sexual orientation ***or on account of exercising civil rights enumerated by part 1 of the New Hampshire constitution***.

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

Amendments

Rep. J. Wheeler, Hills. 47
March 18, 2003
2003-0835h
08/01

Amendment to HB 491

Not Adopted

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

1 Public Accommodations; Unlawful Discriminatory Practices. Amend RSA 354-A:16 to read as follows:

354-A:16 Equal Access to Public Accommodations a Civil Right. The opportunity for every individual to have equal access to places of public accommodation without discrimination because of age, sex, race, creed, color, marital status, physical or mental disability or national origin is hereby recognized and declared to be a civil right. In addition, no person shall be denied the benefit of the rights afforded by this section on account of that person's sexual orientation ***or on account of exercising rights enumerated by part 1, article 2-a of the New Hampshire constitution***.

2 Public Accommodations; Unlawful Discriminatory Practices. Amend RSA 354-A:17 to read as follows:

354-A:17 Unlawful Discriminatory Practices in Public Accommodations. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, because of the age, sex, race, creed, color, marital status, physical or mental disability or national origin of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof; or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of age, sex, race, creed, color, marital status, physical or mental disability or national origin; or that the patronage or custom thereat of any person belonging to or purporting to be of any particular age, sex, race, creed, color, marital status, physical or mental disability or national origin is unwelcome, objectionable or acceptable, desired or solicited. In addition, no person shall be denied the benefit of the rights afforded by this section on account of that person's sexual orientation ***or on account of exercising rights enumerated by part 1, article 2-a of the New Hampshire constitution***.

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

2003-0835h

AMENDED ANALYSIS

This bill clarifies that bearing arms cannot be used as a lawful reason to discriminate in public accommodations.

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 491

BILL TITLE: relative to unlawful discriminatory practices in public accommodations.

DATE: Mar. 10, 2003

LOB ROOM: 208 **Time Public Hearing Called to Order:** 10:10 a.m.

Time Adjourned: 11:19 a.m.

(please circle if present)

Committee Members: Reps. Mock, Rowe, Jacobson, Ford, Dudley, Soltani, Woods, Rice, Souza, Desmarais, Haytayan, Mooney, Morris, Sorg, J. Wheeler, Wall, J. Pratt, Craig, Lasky, Potter and Franklin.

Bill Sponsors: Rep. Bruno

TESTIMONY

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

Rep. Pierre Bruno, New Boston, Prime Sponsor- Supports. Effort to "bring Constitution back to life" to go into restaurants etc. Putting bill in precipitated by restaurants posting "no gun" signs- Constitution afford right to bear arms. Etc.

Q: Rep. Potter- What about no solicitation?

A: not in Part I of Constitution
If someone wants to go into a public place wants that to be done without discrimination when exercising their civil rights in Part I of Constitution (individual rights of ownership).

Q: Rep. Mock- Nudism as a religion. Art. 22 "free speech"
Q: Rep. Lasky- Question of civil rights of owners of establishments
Q: Rep. Mock- is crux of this issue, "firearms"?

A: Yes, and also clothing that might be banned. Feels in general have to get back to Constitution and rights afforded us in Constitution- who's enforcing Constitution?

Q: Rep. Woods- adding to equal access clause?

A: Doesn't change existing law.

Alan Rice, Londonderry Fish and Game Club, Nashua- Supports.
**Written testimony in file*
Need to end practice of discrimination vs. gun owners- Article 2a. Have right to carry firearm 24 hrs. a day. Seeks to codify in Statute Article 1 Part I. Have right to carry gun to church. Concealed

carry statute since 1923- no problems. NH one of highest in the country for those carrying concealed guns.

Q: Rep. Sorg- Why not just codify against "no gun"?

A: Need to protect all of Part I.

Q: Rep. Mock- re: concealed weapons, particularly rifles. Why not limit this to Article 1 Part IIa of Constitution?

A: Rep. Bruno wants other rights covered.

Henry Veilleux, NH Lodging and Restaurant Association, Concord- Opposes. Thinks existing law sufficient. Thinks this issue doesn't need to be addressed- if Constitutional rights are violated, can go to court on that basis.

Rep. Bruno- Used nudity as an example.

Questions:
Rep. Jacobson
Rep. Franklin
Rep. Potter
Rep. Woods +
Rep. Ford
Rep. Sorg

Respectfully Submitted,

Bette R Lasky

Rep. Bette R. Lasky for Rep. Terri C. Dudley, Clerk

Testimony

HOUSE JOURNAL No. 6

FILE

February 14, 2002

SPECIAL ORDER

HB 1129, relative to discriminatory practices by owners of public accommodations. **INEXPEDIENT TO LEGISLATE**

Rep. Peter R. Leishman for Judiciary: The proposed legislation was proposed to prohibit the practice of banning a person's entry in public accommodations based on their mode of transportation and/or clothing. The committee heard testimony that some restaurants and other public accommodation had refused entry based on a person's clothing and mode of transportation specifically motorcycles and leathers. The supporters of this bill felt strongly that this practice is discriminatory and the prohibition of this activity be added to the state discrimination statute. The committee, though sympathetic to the sponsor and supporters of the bill, felt strongly that the state should not elevate one's mode of transportation and clothing to the same level of importance enumerated in the discrimination statute's scope of prohibited conduct. Vote 11-0.

Adopted.

HB 1129 - AS INTRODUCED

2001 SESSION

01-2079

08/09

HOUSE BILL ***1129***

AN ACT relative to discriminatory practices by owners of public accommodations.

SPONSORS: Rep. Bruno, Hills 4

COMMITTEE: Judiciary

ANALYSIS

This bill prohibits owners of public accommodations from discriminatory practices against a person based on mode of transportation or attire, unless that person poses a risk to public safety or that person's clothing is obscene.

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.

01-2079

08/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand One

AN ACT relative to discriminatory practices by owners of public accommodations.

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

1 Unlawful Discriminatory Practices in Public Accommodations. Amend RSA 354-A:17 to read as follows:

354-A:17 Unlawful Discriminatory Practices in Public Accommodations.

I. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, because of the age, sex, race, creed, color, marital status, physical or mental disability or national origin of any person,

directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof; or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of age, sex, race, creed, color, marital status, physical or mental disability or national origin; or that the patronage or custom thereat of any person belonging to or purporting to be of any particular age, sex, race, creed, color, marital status, physical or mental disability or national origin is unwelcome, objectionable or acceptable, desired or solicited. In addition, no person shall be denied the benefit of the rights afforded by this section on account of that person's sexual orientation.

II. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, because of mode of transportation or clothing that displays the name or logo of a legal organization or association, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof.

III. The provisions of paragraph II shall not prohibit the restriction of access, admission, or usage to a person because that person poses a risk to the health and safety of another or to the property of another, or if that person's clothing is obscene.

2 Effective Date. This act shall take effect January 1, 2003.

3/10/03
HB 491

Alan M. Rice

P.O. Box 6189 ◆ Nashua, New Hampshire 03063 ◆ (603) 881-8767

FILE

Testimony to New Hampshire House of Representatives, Judiciary Committee on HB491, March 10, 2003

Mr. Chairman, members of the Judiciary Committee, thank you. For the record, my name is Alan Rice, I represent the 500 plus members of the Londonderry Fish and Game Club, Londonderry, NH. We support HB491.

When we first became aware of this legislation we looked at it and reviewed the relevant statutes and started to think about last year's much publicized attempt to prohibit lawful concealed carry during motorcycle week in Laconia. Recently, the Town of Deerfield has attempted to prohibit firearms in that jurisdiction by those licensed to carry concealed firearms in accordance with R.S.A. 159:6 from actually doing so within the town. I am credibly informed that at a recent town meeting in Deerfield they went so far as to frisk attendees and demand that they lock their firearm in a vehicle. These folks would not even consider putting up signs prohibiting blacks, Chinese or other ethnic minorities from entering.

It is our opinion that a license to carry is valid statewide, there is no statute that limits the use of such a license and there is no statute which allows towns such as the aforementioned, which are open to the public the ability to prohibit the lawful carrying of firearms. It was pointed out that New Hampshire is NOT a "home rule state"; the cities and towns ONLY have those powers specifically delegated to them by the General Court. Laconia relented at the eleventh hour, but this year, Deerfield is attempting to ban guns. I am credibly informed that Temple had a similar ordinance but repealed it when pressed on it's constitutionality. I suspect there are other towns with similar ordinances that we have not yet heard about.

These towns seem to have no reservations about people coming into their towns to spend money but yet, they seek to deprive these visitors of their civil rights guaranteed by the New Hampshire Constitution. Motorcycle week brings a lot of money to the state. HB491 would simply reinforce existing constitutional protections and statutes and provide an avenue for relief to those who are affected by these unlawful ordinances.

So you are all probably wondering, then why do we need HB491? We need HB491 for the same reasons that all of the other protected civil rights are enumerated in the New Hampshire Human Rights Law, it is another layer of protection for the law abiding to use to stop this blatant disregard for civil rights.

Some might wonder, why not leave the firearm in a vehicle? Representatives, I am a National Rifle Association Certified Firearms Instructor and Training Counselor, responsible for certifying new instructors. I have a background in safe firearms use and ownership. I will tell you that even if Manchester was as safe as some might believe, it is patently unsafe to load and unload a handgun in the confined space of a motor vehicle and then leave it in the vehicle. To do so is an accident waiting to happen. The safest place for a firearm is in a holster on a belt.

OVER PLEASE

Why would a person need to carry a firearm in one of these towns? Many of the members of the Londonderry Fish and Game Club routinely carry personal protection firearms, they may or may not need it. Everyone hopes they are prepared for the worst and at the same time will never need their firearm. I can tell you that these folks get dressed and put on their sidearm like a pair of glasses or a wallet; it is always there. Restaurant parking areas are generally dark and many visitors to motorcycle week dine late at night. The proposed but abandoned "no guns policy" of disarming these visitors would have made them easy victims for muggers and the like when they returned to their vehicles.

The aforementioned towns are only part of the problem. I have personally observed a handful of businesses in the Manchester area with signs in their windows prohibiting firearms. Under the law, the signs mean nothing, I have carried a concealed firearm into these places and will do so in the future. The uninformed either do not enter or leave their firearms in a vehicle. As I pointed out, this is unsafe.

We must end the practice of discrimination against the lawful carrying of firearms. Article 2a of the New Hampshire Constitution is clear:

> *"All persons have the right to keep and bear arms in defense of themselves, their families, their property and the state."*

While some might dislike this amendment and others might argue that it is an obsolete holdover from the Colonial Era, I must point out that Article 2a was enacted on December 1, 1982. In any event, the language is clear and sharp, there are no exceptions or qualifiers.

In my opinion, the protections afforded under Article 2a and the protections afforded under Article 2 have equal force:

> *"All men have certain natural, essential, and inherent rights - among which are, the enjoying and defending life and liberty; acquiring, possessing, and protecting, property; and, in a word, of seeking and obtaining happiness. Equality of rights under the law shall not be denied or abridged by this state on account of race, creed, color, sex or national origin."*

We do not tolerate racial, ethnic or sexual discrimination and the discrimination against firearms owners must end, this is a constitutionally protected right. We statutorily protect the classes enumerated in Article 2, we must protect the rights afforded by Article 2a as well. To do anything less is to endorse selective forms of discrimination.

Please vote HB491, "Ought to Pass", thank you for your time.

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 491

BILL TITLE: **relative to unlawful discriminatory practices in public accommodations.**

DATE: March 19, 2003

LOB ROOM: 208

Amendments:

Sponsor: Rep. Wheeler	OLS Document #:	0835h	Failed
Sponsor: Rep.	OLS Document #:		
Sponsor: Rep.	OLS Document #:		

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

Moved by Rep. Tony F. Soltani

Seconded by Rep. James E. Wheeler

Vote: 6-9 (Please attach record of roll call vote.) **FAILED**

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

Moved by Rep. James W. Craig

Seconded by Rep. Peter E. Franklin

Vote: 9-6 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: NO

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Terri C. Dudley, Clerk

OFFICE OF THE HOUSE CLERK 2003 SESSION

JUDICIARY

Bill #: H8491 Title: _____

PH Date: 03/10/03 Exec Session Date: 03/19/03

Motion: _____ Amendment #: 0835h

MEMBER	YEAS	NAYS
Mock, Henry P, Chairman		✓
Rowe, Robert H, V Chairman	–	
Jacobson, Alf E		✓
Ford, Nancy M		✓
Dudley, Terri C, Clerk	✓	
Soltani, Tony F	✓	
Woods, Phyllis L	✓	
Rice, Thomas E P	–	
Souza, Kathleen F	✓	
Desmarais, Vivian J		✓
Haytayan, Harry M	–	
Mooney, Maureen C	–	
Morris, Richard W	–	
Sorg, Gregory M	✓	
Wheeler, James E	✓	
Wall, Janet G		✓
Pratt, John		–
Craig, James W		✓
Lasky, Bette R		✓
Potter, Frances D		✓
Franklin, Peter E		✓
TOTAL VOTE:	6	9

Printed: 1/23/2003

OFFICE OF THE HOUSE CLERK 2003 SESSION

JUDICIARY

Bill #: HB491 Title: _____

PH Date: 03/10/03 Exec Session Date: 03/19/03

Motion: ITL Amendment #: _____

MEMBER	YEAS	NAYS
Mock, Henry P, Chairman	✓	
Rowe, Robert H, V Chairman	–	
Jacobson, Alf E	✓	
Ford, Nancy M	✓	
Dudley, Terri C, Clerk		✓
Soltani, Tony F		✓
Woods, Phyllis L		✓
Rice, Thomas E P	–	
Souza, Kathleen F		✓
Desmarais, Vivian J	✓	
Haytayan, Harry M	–	
Mooney, Maureen C	–	
Morris, Richard W	–	
Sorg, Gregory M		✓
Wheeler, James E		✓
Wall, Janet G	✓	
Pratt, John	–	
Craig, James W	✓	
Lasky, Bette R	✓	
Potter, Frances D	✓	
Franklin, Peter E	✓	
TOTAL VOTE:	9	6

Printed: 1/23/2003

Committee Report

COMMITTEE REPORT

COMMITTEE: **Judiciary**

BILL NUMBER: **HB 491**

TITLE: relative to unlawful discriminatory practices in public accommodations.

DATE: March 19, 2003 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)

This bill sought to amend the statute regarding the state commission for human rights which makes it unlawful to discriminate against people on the basis of age, sex, race, color, marital status, physical or mental disability, creed, national origin or sexual orientation. This bill would have included in that list the right to keep and bear arms as enumerated in Part 1, article 2-a of the New Hampshire Constitution. The majority believes that one has to balance the rights of the owners of public accommodations against the rights of their establishments. Nine members of the Judiciary Committee felt that these owners should not be forced to accept people bearing arms into their places of business. Finally, in these times of heightened prevention against terrorist activity, it is not good policy to mandate the right to have arms in places of public accommodations, which include restaurants, barber shops, theaters, golf courses, sports arenas, music halls and other public places.

Vote 9-6.

Rep. James W. Craig
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

Judiciary

HB 491, relative to unlawful discriminatory practices in public accommodations. **INEXPEDIENT TO LEGISLATE**

Rep. James W. Craig for Judiciary: This bill sought to amend the statute regarding the state commission for human rights which makes it unlawful to discriminate against people on the basis of age, sex, race, color, marital status, physical or mental disability, creed, national origin or sexual orientation. This bill would have included in that list the right to keep and bear arms as enumerated in Part 1, article 2-a of the New Hampshire Constitution. The majority believes that one has to balance the rights of the owners of public accommodations against the rights of their establishments. Nine members of the Judiciary Committee felt that these owners should not be forced to accept people bearing arms into their places of business. Finally, in these times of heightened prevention against terrorist activity, it is not good policy to mandate the right to have arms in places of public accommodations, which include restaurants, barber shops, theaters, golf courses, sports arenas, music halls and other public places. **Vote 9-6.**

ITL 9-6

HB 491 RE: PUBLIC ACCOMODATIONS: UNLAWFUL DISCRIMINATORY PRACTICES

THIS BILL SOUGHT TO AMEND THE STATUTE REGARDING THE STATE COMMISSION FOR HUMAN RIGHTS TO which MAKES IT UNLAWFUL TO DISCRIMINATE AGAINST people ~~PEOPLE BEARING ARMS IN PLACES OF PUBLIC~~ ACCOMODATION.

~~PRESENTLY THE STATUTE MAKES IT UNLAWFUL TO DISCRIMINATE ON~~ THE BASIS OF AGE, SEX, RACE, COLOR, MARITAL STATUS, PHYSICAL OR MENTAL DISABILITY, ~~[illegible]~~, CREED, NATIONAL ORIGIN, ~~OR SEXUAL ORIENTATION~~. This bill would ~~include in that list~~ have included ~~in that list those~~ added ~~the~~ the right to keep and bear arms as enumerated in part 1, article 2-a of the NH Const. The majority believes that one has to balance the rights of the owners of public accomodations against the rights of those who wish to carry guns into their establishments. 9 members of the judiciary committee felt that these owners should not be forced to accept people bearing arms ~~into their place~~ into their places of business.

Finally, in these times of heightened apprehension against terrorist activity, it is not good policy

to maintain the right to live across in "Force Public accomodations" which include restaurants, barbershops, theaters, golf courses, sports arenas and music halls of the public halls.

Ed Reilly