Bill as Introduced

HB 206 – AS INTRODUCED

2003 SESSION

03-0368
09/01

HOUSE BILL ***206***

AN ACT relative to filing of complaints for violation-level offenses.

SPONSORS: Rep. Welch, Rock 79

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill allows for the filing of complaints for violation-level offenses without a police officer's signature or oath.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 206 – AS INTRODUCED

03-0368
09/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to filing of complaints for violation-level offenses.

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

1 Jurisdiction and Procedure; Complaints; Filings for Violation-Level Offenses. Amend RSA 592-A:7 to read as follows:

592-A:7 Complaints. Criminal proceedings before a district [~~or municipal~~] court shall be begun by complaint, signed and under oath, addressed to such court, briefly setting forth, by name or description, the party accused and the offense [~~with which he is~~] charged, ***provided that a complaint filed by a police officer, as defined in RSA 188-F:23, I, for a violation-level offense shall not require a signature or an oath.***

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

13feb03... 0156h

HB 206 – AS AMENDED BY THE HOUSE

2003 SESSION

03-0368
09/01

HOUSE BILL ***206***

AN ACT relative to filing of complaints for violation-level offenses.

SPONSORS: Rep. Welch, Rock 79

COMMITTEE: Criminal Justice and Public Safety

AMENDED ANALYSIS

This bill allows for the electronic filing of complaints for violation-level offenses without a police officer's signature or oath. The bill clarifies that the misdemeanor penalty for unsworn falsification applies to false electronic complaints.

- -

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 206 – AS AMENDED BY THE HOUSE

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03-0368
09/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

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2 Unsworn Falsification. Amend RSA 641:3 to read as follows:

641:3 Unsworn Falsification. A person is guilty of a misdemeanor if:

I. He ***or she*** makes a written false statement which he ***or she*** does not believe to be true, on or pursuant to a form bearing a notification authorized by law to the effect that false statements made therein are punishable; or

II. With a purpose to deceive a public servant in the performance of his ***or her*** official function, he ***or she***:

(a) Makes any written ***or electronic*** false statement which he ***or she*** does not believe to be true; or

(b) Knowingly creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading; or

(c) Submits or invites reliance on any writing which he ***or she*** knows to be lacking in authenticity; or

(d) Submits or invites reliance on any sample, specimen, map, boundary mark, or other object which he ***or she*** knows to be false.

III. No person shall be guilty under this section if he ***or she*** retracts the falsification before it becomes manifest that the falsification was or would be exposed.

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

Committee Minutes

Date: April 22, 2003
Time: 10:35 a.m.
Room: State House, Room 105

The Senate Committee on Judiciary held a hearing on the following:

HB 206 relative to filing of complaints for violation-level offenses.

Members of Committee present: Senator Peterson
Senator Foster
Senator Roberge
Senator Sapareto

The Chair, Senator Andrew R. Peterson, opened the hearing on HB 206 and called on Representative Tholl to introduce the bill.

Representative John E. Tholl, Jr.: Thank you, Mr. Chairman. Again, for the record, my name is John E. Tholl, Jr., representing Coos District 2. I appear at the request of Representative Welch, who is the prime sponsor of this bill.

HB 206 is almost identical to SB 40, which was passed by the Senate. The major difference in the two bills is, in the Senate version, it provides that any false statements made on the complaint shall be made under the penalty of perjury, where the House bill says basically that a notice shall be put on the complaint that any false statements on the complaint may result in criminal prosecution. I'm not really 100% that perjury is an appropriate penalty for this particular thing. It is a felony level offense where my reading of the statute, it has to be in a proceeding rather than just writing a traffic ticket. Perjury wouldn't occur until you got into court and testified on the offense or an administrative hearing or a legislative hearing. So, I'm not sure that perjury would actually apply.

I don't know whether we should kind of take both bills and put them into a conference committee and see if we can work something out in a conference committee or whether we should enact one or the other or both or how we should do it. But, that's basically the position. I think both are attempting to

address the same issue and I think that exactly how we resolve it, I'm not 100% sure.

Senator Andrew R. Peterson, D. 11: Thank you. Senator Sapareto?

Senator Frank V. Sapareto, D. 19: Thank you, Mr. Chairman. Did we make any changes in SB 40 regarding, we passed an amendment on that?

Senator Andrew R. Peterson, D. 11: Yes.

Senator Frank V. Sapareto, D. 19: Some of the changes were concerning which offenses and which allowed in testimony.

Senator Andrew R. Peterson, D. 11: Yes. Are you talking about the bill that we had that was very similar to this bill?

Senator Frank V. Sapareto, D. 19: SB 240. Is that the one?

Attorney Lehman: SB 40.

Senator Andrew R. Peterson, D. 11: We did amend it, but it wasn't about what was allowed in court. It was about having written notice on the ticket that indicated that it was made under the penalty of perjury, which I think reflects what is now done. The swearing that they do now at the end of the day. So, it is inappropriate. That is the first suggestion that I have heard of that. But, the point is well taken.

We've got two bills here and they are very similar and we ought to work on one or the other. However this issue gets resolved, you apparently have a situation where both the House and the Senate think the electronic filing is okay as long as you have some kind of appropriate notice right on the ticket that substitutes for the officer having to stay at the end of the day and maybe do overtime while they have someone swear to a number of violation complaints. So, I think we are clearly both together on that point, so that's where we stand.

Further questions? Seeing none, thank you for your testimony. Representative Kennedy, you didn't ask to speak.

Representative Richard Kennedy: My total support of what John had to say and furthermore, the cost to some of these towns has become prohibitive. In the small towns, it may be the only law enforcement officer. It's a matter of public safety.

Senator Andrew R. Peterson, D. 11: Thank you. Seeing no further persons wishing to testify on HB 206, I will close the hearing on 206.

Hearing concluded at 10:40 a.m.

Respectfully submitted,

L. Gail Brown
Senate Secretary
4/30/03

Judiciary Committee

Hearing Report

To: Members of the Senate

From: Susan Duncan
Senior Legislative Aide

Re: **HB 206**– *AN ACT relative to filing of complaints for violation-level offenses*

Hearing date: April 25, 2003

Members present: Senators Peterson, Foster, Roberge and Sapareto

Members absent: Senator Clegg

Sponsor(s): Representative Welch

What the bill does: This bill allows for the electronic filing of complaints for violation-level offenses without a police officer's signature or oath. The bill clarifies that the misdemeanor penalty for unsworn falsification applies to false electronic complaints.

Who supports the bill: Representative Tholl
Representative Kennedy

Who opposes the bill: No one spoke in opposition

Summary of testimony received:

- This legislation is almost identical to legislation already passed by the Senate, SB 40.
- Both pieces of legislation attempt to address the same matter.

Funding: No financial impact

Action: Senator Clegg moved ITL. Senator Sapareto seconded the motion. The committee voted 5 to 0 in support. Senator Clegg will report the bill out of committee.

sfd
[file: HB 206 report]
Date: April 25, 2003

Speakers

SENATE PUBLIC AFFAIRS COMMITTEE

Date: 04/22/03 Time: 10:15 a.m. Judiciary Hearing on 105-A **Bill#** HB 206

relative to filing of complaints for violation-level offenses.

Please check box(es) that apply.

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
☐	☒	☐	Rx R. Kennedy	Hillsborough 34
☒	☒	☐	Rep John Thomas V	Coos 2
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Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date:

THE COMMITTEE ON Judiciary

to which was referred House Bill 206

AN ACT relative to filing of complaints for violation-level offenses.

VOTE: 5-0

Having considered the same, report the same with the following resolution:
Resolved, that it is: **INEXPEDIENT TO LEGISLATE.**

Senator Robert Clegg, Jr.
For the Committee

HB206 Docket

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Bill Title: relative to filing of complaints for violation-level offenses.

Date	Body	Description
1/9/2003	**H**	Introduced and ref to Crim Just & PSfty; HJ8, p111
1/10/2003	**H**	Copy to Chairman on 1/10/2003
1/15/2003	**H**	Hearing Jan 22 11:30 RM204,LOB
1/22/2003	**H**	Subcom Work Session Jan 30 1:30 RM204,LOB
1/30/2003	**H**	Subcom Work Session Feb 4 9:55 RM204,LOB
2/6/2003	**H**	Maj Report OTP/AM for Feb 13 (Vote 20-0;CC)
2/6/2003	**H**	Prop Com Am{0156}; HC 13, p266
2/13/2003	**H**	Passed with Am; HJ 16, p342-343 + 353
3/27/2003	**S**	Introduced and Ref. to Judiciary; SJ 10, Pg.214
4/11/2003	**S**	Hearing; April 22, 2003, Room 105-A, SH, 10:30 a.m.; SC18
4/18/2003	**S**	Hearing; === TIME CHANGE === April 22, 2003, Room 105-A, SH, 10:15 a.m.
4/28/2003	**S**	Committee Report; Inexpedient to Legislate [05/08/03]; SC21
5/8/2003	**S**	Inexpedient to Legislate, MA, VV === KILLED ===; SJ 15, Pg.360

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Docket Abbreviations