CONSENT CALENDAR

February 2, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Commerce and Consumer Affairs to which was referred HB 1591-FN,

AN ACT eliminating the enforcement division of the liquor commission. Having considered the same, report the same with the recommendation that the bill be REFERRED FOR INTERIM STUDY.

Rep. John Hunt

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Commerce and Consumer Affairs**
Bill Number:	**HB 1591-FN**
Title:	**eliminating the enforcement division of the liquor commission.**
Date:	**February 2, 2022**
Consent Calendar:	**CONSENT**
Recommendation:	**REFER FOR INTERIM STUDY**

STATEMENT OF INTENT

Elimination of the enforcement division of the Liquor Commission would be dramatic and complicated. Given that the bill had to be done early, the committee felt, to do justice to the intent of the bill, it would need much more study and work.

Vote 19-0.

Rep. John Hunt
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Commerce and Consumer Affairs

HB 1591-FN, eliminating the enforcement division of the liquor commission. **REFER FOR INTERIM STUDY.**

Rep. John Hunt for Commerce and Consumer Affairs. Elimination of the enforcement division of the Liquor Commission would be dramatic and complicated. Given that the bill had to be done early, the committee felt, to do justice to the intent of the bill, it would need much more study and work. **Vote 19-0.**

Original: House Clerk
Cc: Committee Bill File

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1591-FN

BILL TITLE: eliminating the enforcement division of the liquor commission.

DATE: February 2, 2022

LOB ROOM: 302-304

MOTIONS: REFER FOR INTERIM STUDY

Moved by Rep. Hunt Seconded by Rep. Potucek Vote: 19-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Keith Ammon, Clerk

OFFICE OF THE HOUSE CLERK

1/10/2022 8:55:58 AM
Roll Call Committee Registers Report

2022 SESSION

Commerce and Consumer Affairs

Bill #: HB 587 Motion: IS AM #: _____ Exec Session Date: 2/2/2022

Members	YEAS	Nays	NV
Hunt, John B. Chairman	19		
Potucek, John M. Vice Chairman	1		
Osborne, Jason M.	2		
Ammon, Keith M. Clerk	3		
~~Abramson, Max~~ Burns	4		
Ham, Bonnie D.	5		
Depalma IV, Joseph	6		
Greeson, Jeffrey	7		
Johnson, Dawn M.	8		
Terry, Paul A.	9		
Bartlett, Christy D.	10		
Abel, Richard M.	11		
Herbert, Christopher J.	12		
~~Van Houten, Constance~~ Dutey	13		
~~Fargo, Kristina M.~~ Leflamme	14		
Weston, Joyce	15		
Beaulieu, Jane E.	16		
Burroughs, Anita D.	17		
McAleer, Chris R.	18		
TOTAL VOTE:	19	0	

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 1591-FN

BILL TITLE: eliminating the enforcement division of the liquor commission.

DATE: 11/26/22

Subcommittee Members: Reps. Hunt, Beaulieu, Van Houten, Potucek and Abramson
Bartlett Greeson

Comments and Recommendations:

H Matt Colvin ch Loiselman is okay with interim study

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)
(Please circle one)

Moved by Rep. _____ Seconded by Rep. _____ AM Vote: _____

Adoption of Amendment # _____

Moved by Rep. Hunt Seconded by Rep. Potucek Vote: 5-0

_____ Amendment Adopted _____ Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)
(Please circle one)

Moved by Rep. _____ Seconded by Rep. _____ AM Vote: _____

Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

Respectfully submitted,

Rep. _____
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 1591-FN

BILL TITLE: eliminating the enforcement division of the liquor commission.

DATE: January 26, 2022

Subcommittee Members: Reps. Hunt, Beaulieu, Potucek, Bartlett and Greeson

Comments and Recommendations: Lt. Matt Culver is okay with interim study

MOTIONS: **REFER FOR INTERIM STUDY**

Moved by Rep. Rep. Hunt | Seconded by Rep. Rep. Potucek | Vote: 5-0

Respectfully submitted,

Rep. John Hunt
Subcommittee Chairman

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1591-FN

BILL TITLE: **eliminating the enforcement division of the liquor commission.**

DATE: **January 12, 2022**

LOB ROOM: **302-304** **Time Public Hearing Called to Order:** **10:50 a.m.**

Time Adjourned: **10:58 a.m.**

Committee Members: Reps. Hunt, Potucek, Ammon, Greeson, Johnson, Terry, Bartlett, Abel, Weston, Beaulieu and McAleer

Bill Sponsors:

Rep. Leishman	**Rep. Emerick**	**Rep. G. Griffin**
Rep. M. Smith	**Rep. Hatch**	**Rep. Walz**

TESTIMONY

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

Ian Freeman

I'm Ian Freeman, uh, minister with the Shire free church support the bill. Um, I think that the liquor commission probably just on its own shouldn't exist, but to get rid of the enforcement division. I certainly think is a good idea. Um, the enforcement division basically exists to generate revenue for, uh, the state by going and punishing, uh, business owners and other people for violating whatever the rules are that, uh, the division has come up with adults are certainly able to handle themselves when it comes to, uh, using alcohol. Some of them aren't, uh, but putting those people, you know, under criminal charges is not making their lives any better. It doesn't help people. And all it does is it makes the liquor division more of a, uh, a presence in people's lives. And it shouldn't be there at all because prohibition doesn't work. And we learned that a hundred years ago, uh, that was undone, but unfortunately it just changed forms. And now we have regulation, which is just prohibition by another name. Uh, that's all have, and thanks for listening. I support the bill.

Rep Bartlett

Q: What is your proposal as to how liquor laws should be enforced?

A: I don't think they should exist. Has that ever stopped people from drinking underage? I think that, uh, people will make their own decisions in the marketplace and they should be free to make those choices. I, uh, don't want to see people get hurt, but we already know that people make bad decisions as is, and no amount of laws have stopped that from happening when it comes to, uh, when it comes to alcohol. So, let's make people, make their choices and suffer, whatever their consequences are. If they actually put other people in danger, then there should be some sort of a prosecution. I think that makes sense. Uh, but otherwise, you know, leave them alone. Isn't that the new, New Hampshire way?

Rep Terry

Q: Just so I can understand how this would, how this might play out. So, if, uh, if a couple 12 year olds or 11 year olds went into a liquor store and wanted to buy a bottle of liquor, um, and the store owner didn't want to sell to them, um, would, would you have it that that would be the end of it or that the liquor store owner could sell to the two 11 year olds? And that would be fine? And if, if the,

if the case were to be that the store owner or the clerk did not want to sell to the two 11 year olds or 12 year olds or 10 year olds, um, could there, do you see that charges could be brought against the owner of the liquor store because he refused to make a sale he would make to, and it would be made to anybody else? I just, if you could just speak to those, I'd be interested to see what your thoughts are, of course. Cause I understand, I understand where you're coming from.

A: I support a free market and, uh, that also includes people's ability to boycott. Uh, so if that store owner sold to those two that you're talking about that might upset people in the community and they may not want to patronize that person's store. So, there can be consequences for actions that don't involve state criminal charges. On the other hand, if you chose not to sell to those, uh, to those two kids there shouldn't of course there should not be any sort of criminal charges for that. I think a store owner should be free to discriminate on the basis of whatever me, uh, me, you know, whether it's age or whatever they feel like, like you shouldn't even be able to come in my store if you're, you know, 12 years old or whatever, people should be able to make those choices and let's let the market decide.

Rep Beaulieu

Q: Are you representing yourself or the church?

A: Both

Rep McAleer

Q: I have a, uh, a hypothetical question. So, um, there's an adult bartender and an adult customer are, and the, uh, adult customer is, is visibly drunk. Um, two choices. The bartender can serve him again, or the individual who's drunk can make that adult decision of not to buy a, uh, another drink, but let's suppose he does and goes out and immediately cause accident who, whose fault is that? Is that the bartender's fault or is that the adult who is visibly drunk's fault?

A: It's the person who got behind the wheels fault every time.

Q: So, the bartender could legally just keep serving this guy all day long, even though he's visibly drunk?

A: I don't think that they should, but I so don't think that they should be put in a prison cell for that.

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1591-FN Date 1/19/22

Committee Commerce

** Please Print All Information **

Name	Address	Phone	Representing	(check one) Pro	Con
Rep. Vanessa Sheehan	70 Amherst St	603-320-6111	Hillsborough 23		X
MARK ARMAGNAGUAN			NHLC-EMF		X
Danielle Ellston			NHLC-EMF		X
Matthew Culver			NHLC-EMF		X
Rep Gerald Griffin			Nashua 5	X	
Rep Ken Weyler			Rock 13	X	
Peter Leishman			Hillsboro 24	X	
Elizabeth Sargent, NH Assoc of Chiefs of Police					X
[illegible] Hallyn			Goffstown	X	
David Goldstein	5 Hancock Terr	603-934-2534	Franklin NH Citizens		a
Rep David Love			Rock 6		X

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1591-FN Date 1/12/2022

Committee Commerce

** Please Print All Information **

Name	Address	Phone	Representing	(check one) Pro	Con
Tom Prasol	72 No. Main St. Concord, NH		NH Wine + Spirits Brokers Assn		X
Mark Armagnian			NH Liq Comm		X
Rep. Jeanine Notter		Hills 21			X
Kate Frey	100 N Main St Concord		New Futures		X
Rich Parsons	One Capital Plaza, Concord NH		NH Brokers Assoc.		X
~~Mark Sorgas~~					X
DHHS					
Katherine Heck	Concord		NHMA		X
Bonnie Kruse	Keene		Decriminalize Nature	✓	
Sarah Reed	Concord			✓	

House Remote Testify

Commerce and Consumer Affairs Committee Testify List for Bill HB1591 on 2022-01-19

Support: 63 Oppose: 4 Neutral: 0 Total to Testify: 0

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane	Signed Up
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Support	No	No	1/16/2022 5:22 PM
Long, Cora	Rochester, NH clong@goodwinch.org	A Member of the Public	Myself	Oppose	No	No	1/17/2022 10:51 AM
MacDonald, Kate	LONDONDERRY, NH KATEMACDONALD@CATSNH.ORG	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:46 AM
Daniels, Amy	Bow, NH adaniNH@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 9:00 AM
Clark, Celeste	RAYMOND, NH rcclark-4@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/18/2022 9:07 AM
Turcotte, Pamela	Raymond, NH pamturcotte@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 11:57 AM
Cauchon, Patricia	Hollis, NH cauchonpmusic@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 3:12 PM
Byrnes, Margaret	Concord, NH mbyrnes@nhmunicipal.org	A Lobbyist	NH Municipal Association	Oppose	No	No	1/18/2022 3:49 PM
Burns, Scott	Franklin, NH scottaburns.2020@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 3:51 PM
Ravitch, Nicolas	Portsmouth, NH nzr1001@wildcats.unh.edu	A Member of the Public	Myself	Oppose	No	No	1/18/2022 5:03 PM
Leavitt, Deborah	Dover, NH daleavitt77@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:38 PM
Chester, Russan	Bedford, NH russan.chester@gmail.com	A Member of the Public	Myself	Support	No	No	1/19/2022 7:30 AM
Baiocchetti, Vinnie	Gilmanton Iron Works, NH vbaiocchetti@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 7:53 AM

Trottier, Douglas	Belmont, NH doug.wmstc@metrocast.net	An Elected Official	District 6	Oppose	No	No	1/19/2022 8:08 AM
REYNOLDS, Charles	Dover, NH REYNOLDS.CHARLES@COMCAST.NET	A Member of the Public	Myself	Oppose	No	No	1/19/2022 8:09 AM
Tarleton, Matthew	Merrimack, NH jonsered910@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 8:12 AM
Rollo, Michael	Hopkinton, NH mike.rollo@cancer.org	A Lobbyist	American Cancer Society Cancer Action Network	Oppose	No	No	1/19/2022 8:37 AM
Levesque, Brian	Manchester, NH blevesque@merrimacknh.gov	A Member of the Public	Myself	Oppose	No	No	1/19/2022 8:42 AM
Coronis, Kimberly	Manchester, NH kcoronis@breathenh.org	A Lobbyist	Breathe New Hampshire	Oppose	No	No	1/19/2022 9:33 AM
Lord, Brian	Deering, NH blord@antrimpolice.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 10:01 AM
Osgood, Bradley	Londondery, NH bradleyosgood@msn.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 10:12 AM
Grote, Jaci	Rye, NH Jaci.Grote@leg.state.nh.us	An Elected Official	Myself	Support	No	No	1/19/2022 10:24 AM
Marquis, Eric	Weare, NH hnk@gsinet.net	A Member of the Public	Myself	Oppose	No	No	1/19/2022 10:44 AM
Alleman, Bill	Weare, NH gencourt@allemanse.com	A Member of the Public	Myself	Support	No	No	1/19/2022 11:15 AM
Murray, Kate	New Castle, NH dr.karma2000@gmail.com	An Elected Official	Myself	Support	No	No	1/19/2022 1:53 PM
Laurent, Tara	Nottingham, NH tlaurent@greenlandpd.us	A Member of the Public	NH Assoc of Chiefs of Police & Greenland Police Dept	Oppose	No	No	1/19/2022 2:42 PM

House Remote Testify

Commerce and Consumer Affairs Committee Testify List for Bill HB1591 on 2022-02-02

Support: 0 Oppose: 0 Neutral: 0 Total to Testify: 0

Export to Excel

House Remote Testify

Commerce and Consumer Affairs Committee Testify List for Bill HB1591 on 2022-01-12

Support: 1 Oppose: 26 Neutral: 0 Total to Testify: 0

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane	Signed Up
Dargie, Paul	Milford, NH pauldargie@gmail.com	An Elected Official	Myself	Oppose	No	No	1/7/2022 3:18 PM
Johnson, Neil	Framington, NH neilj@Inbox.com	An Elected Official	Myself	Oppose	No	No	1/7/2022 4:27 PM
Warnock, Laurie	Hampstead, NH Lwarnock62@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/8/2022 8:35 PM
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Support	No	No	1/10/2022 12:57 PM
Vaughan, Nancy	Manchester, NH nancy.vaughan@heart.org	A Lobbyist	American Heart Association	Oppose	No	No	1/10/2022 2:07 PM
Daniels, Amy	Bow, NH adaniNH@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/10/2022 4:13 PM
Burnett, Jamie	Concord, NH jamie@sight-line.us	A Lobbyist	Wine Institute	Oppose	No	No	1/10/2022 11:45 PM
Naro, Debra	Plymouth, NH debran1955@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/11/2022 10:04 AM
Love, Rep.David	Derry, NH davidlove4rep@gmail.com	An Elected Official	Rockingham 6	Oppose	No	No	1/11/2022 10:12 AM
Ebner, Maureen	Plymouth, NH maureenebner@gmail.com	An Elected Official	Myself	Oppose	No	No	1/11/2022 10:28 AM
Moore, Aidan	Concord, NH aidan.moore@liquor.nh.gov	State Agency Staff	Myself	Oppose	No	No	1/11/2022 10:29 AM
MacDonald, Kate	Londonderry, NH katemmacd@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/11/2022 10:29 AM
Hering, Kris	Bridgewater, NH khering123@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/11/2022 10:39 AM

Roberts, Sarah	Meredith, NH sarahroberts.nh@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/11/2022 12:09 PM
Dion, Leslie	BRISTOL, NH bccfun@metrocast.net	A Member of the Public	Myself	Oppose	No	No	1/11/2022 12:22 PM
Brochu, Elizabeth	Campton, NH ejnbrochu@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/11/2022 12:41 PM
Bryfonski, John	Bedford Police Chief, NH jbryfonski@bedfordnh.org	A Member of the Public	Myself	Oppose	No	No	1/11/2022 12:44 PM
Lovett, Elizabeth	Holderness, NH ttevol2002@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/11/2022 12:45 PM
Provencher, Andrew	Concord, NH andrew@bfreshconsulting.com	A Lobbyist	New Hampshire Brewers Association	Oppose	No	No	1/11/2022 2:16 PM
Rivera, Eliezer	Keene, NH ERIVERA@CO.CHESHIRE.NH.US	An Elected Official	Myself	Oppose	No	No	1/12/2022 9:10 AM
Hoebeke, Joseph	Hollis, NH jhoebeke@hollisnh.org	A Member of the Public	NH Association of Chiefs of Police	Oppose	No	No	1/12/2022 9:11 AM
Parsons, John	Grantham, NH jwporp@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/12/2022 9:12 AM
Wright, William	Belmont, NH wwright@belknapcounty.org	An Elected Official	Belknap County Sheriff's Office	Oppose	No	No	1/12/2022 9:16 AM
Levesque, Brian	Manchester, NH blevesque@merrimacknh.gov	A Member of the Public	Myself	Oppose	No	No	1/12/2022 9:26 AM
Neves, Kirsten	Conway, NH kirsten@tuckermanbrewing.com	A Member of the Public	Tuckerman Brewing, Conway, NH	Oppose	No	No	1/12/2022 9:28 AM
REYNOLDS, CHARLES	Dover, NH REYNOLDS.CHARLES@COMCAST.NET	A Member of the Public	Myself	Oppose	No	No	1/12/2022 9:58 AM
Reams, Mark	Amherst, NH mreams@amherstnh.gov	A Member of the Public	Myself	Oppose	No	No	1/12/2022 10:44 AM

Archived: Tuesday, April 5, 2022 2:26:13 PM
From: katemacdonald@catsnh.org
Sent: Tuesday, January 18, 2022 8:59:27 AM
To: ~House Commerce Committee
Subject: HB 1591 - oppose
Importance: Normal

Dear House of Commerce and Consumer Affairs,

My name is Kate MacDonald, resident of Londonderry, NH. I am writing in opposition of HB 1591- Eliminating the enforcement division of the liquor commission. If this bill were to pass, it would jeopardize the safe operations of licensed vaping and alcohol establishments and the Division's ability to protect vulnerable aged youth.

Sincerely,
Kate

Kate MacDonald, MPH | Substance Misuse Prevention Coordinator
South Central Public Health Network
an initiative of Granite United Way
Serving: Atkinson, Chester, Danville, Derry, Hampstead, Londonderry, Plaistow, Salem, Sandown and Windham
603-505-7216| prevention@Southcentralphn.org

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Archived: Thursday, May 19, 2022 12:44:47 PM
From: Marjorie Smith
Sent: Tuesday, January 18, 2022 9:29:23 PM
To: ~House Commerce Committee
Cc: Michael Kane; Christopher Shea; William Hatch; Peter Leishman
Subject: HB 1591
Importance: Normal

STATEMENT BY REPRESENTATIVE MARJORIE SMITH ON HB 1591

Mr. chair, and members of the committee, it is with regret that I am not able to appear before you in person during your consideration of what I believe to be one of the most important bills in the legislature this year.

About 15 years ago the legislature decided that since the state relied so significantly on income from the liquor commission, it should free the liquor commission from some normal restrictions faced by other departments. Sadly, the liquor commission interpreted that change in organization as a license to do whatever they chose to do recognizing little or no accountability to the legislature and to the state.

I believe that each of you has been given a copy of the February 2021 performance audit report prepared by the LBA. Knowing of the committee's workload, I can imagine that not many of you have been able to work your way through this lengthy, detailed report. For some of you this might be your introduction to the outstanding work done by the office of the legislative budget assistant. If you have time for nothing else, I suggest that you read the executive summary, and then the last few pages of the report starting on page 365. These two sections of the report will give you a clear understanding of how the liquor commission has refused to be accountable for its actions and has repeatedly thwarted the will of the legislature and the best interests of the people of the state. For a number of these years I was chair of the finance committee and the fiscal committee and saw first hand the inappropriate actions of the commission. The time is long since passed when the legislature must bring the commission to account.

As you will see in appendix G, out of 21 prior audit observations over 15 years, the liquor commission has resolved only one.

The 2021 audit details 47 observations where..." the commission lacked adequate management controls to ensure the division of enforcement and licensing achieved expected outcomes. The commission lacked a risk based, data informed strategy upon which to base its strategy and plans, and lacked adequate rules to regulate the alcoholic beverage industry. The practices were neither objectively shown to be capable of producing expected outcomes nor able to demonstrate what albums were actually produced.

The division was constituted as the regulatory agency intended to enforce liquor laws and rules. However the division's enforcement scope was knowingly expanded and bypassed, weakening the ability to carry out their primary duties. Instead they carried out extra jurisdictional tasks that were not in the interests of the agency, or the state

As you read the 47 recommendations, you will see again and again that the agency concurs in whole or in part. But we have 15 years that demonstrate a complete lack of understanding of the agency responsibilities and an unwillingness to correct frequently documented violation of law and rule. To say they concur does not demonstrate any willingness to take the steps necessary to bring reach concurrence in fact.

The examples of poor management are myriad. But this legislation focuses on one of the most egregious violations. While nowhere in any legislation is the commission given general law enforcement authority, it has reverse engineered itself into a law enforcement agency.

Over the years equipment and uniforms appropriate for a paramilitary organization have become the norm and the members of the division have taken action which should only be taken by a fully licensed and accredited safety organization.

The violations are egregious, but there is a very easy and appropriate solution available to the legislature. By virtue of the pending legislation we can remove law enforcement from the liquor commission and move it to where it belongs in the department of safety where rules, regulations and accountability to the public are observed and respected. I urge you to move this legislation forward.

And as an added benefit, I hope this report will Introduce all the committee members and the public to the quality of work done by the LBA on behalf of the legislature. If you visit their website, I believe you will be amazed by the depth and breadth of their quality work product. All legislative committees should be paying more attention to these resources.

Again, I apologize for my absence and for any typographical errors caused by one hand typing.

Archived: Thursday, May 19, 2022 12:44:42 PM
From: Catharine S. Newick
Sent: Tuesday, February 1, 2022 8:38:59 AM
To: ~House Commerce Committee
Subject: I OPPOSE HB1591
Importance: Normal

Dear Committee Members
I am writing in opposition to the above Bill. If we have not learned anything from the opioid crisis, we should at least acknowledge that establishments that sell alcohol and vaping devices need oversight.--It saves lives-particularly of our vulnerable youth.

Catharine Newick
68 Burrough Rd
Canterbury

Opposition of HB 1591

January 12, 2022

Members of the House Commerce and Consumer Affairs Committee:

My name is CJ Haines and I'm the Executive Director of the New Hampshire Brewers Association (NHBA). The NHBA represents 86 independent craft breweries in New Hampshire, many of which are small and family-owned business.

We are writing today in **opposition of HB 1591**.

We fear that passage of HB 1591 will create unintended consequences that will negatively affect our industry.

Chief among these would be the creation of a scenario by which our membership must conform to varying opinions and interpretations of statue by each town's police or local officials as opposed to working with one single state agency.

We believe that our state's current license structure is already far too complex and moving enforcement and prosecution of these statutes to hundreds of different people across the state is very worrisome.

Additionally, downshifting enforcement responsibilities to local municipalities will add additional workload and costs to the communities we operate in.

Thank you for the opportunity to submit this testimony and our membership is more than happy to answer any questions that you might have.

Thank you,

CJ Haines
Executive Director
New Hampshire Brewers Association

PO Box 2216
Concord, NH 03302

334-603-BEER (2337) • info@nhbrewers.org

Archived: Thursday, May 19, 2022 12:44:33 PM
From: Moore, Aidan
Sent: Tuesday, January 11, 2022 1:43:10 PM
To: ~House Commerce Committee
Cc: Mollica, Joseph; Armaganian, Mark; Culver, Matthew
Subject: Position on HB 1039 and HB 1591
Importance: Normal

Good Day Chairman Hunt and members of the House Committee on Commerce and Consumer Affairs,

My apology for not being with you in person today. I am not feeling well and prefer not to expose you to whatever symptoms I have.

I have registered my positions on HB 1039 and 1591 through the legislative website and I am watching the hearing remotely.

Chief Mark Armaganian, Lt. Matt Culver and Lt. Danielle Ellston will be providing you with information on these two bills and answering any questions you might have.

HB 1039 – We would like support this bill and the amendment that has been provided to you by Lt. Culver. Lt. Culver will provide you with information on the bill and the rationale for the amendment.

HB 1595 – We oppose this bill as drafted and as amended. I have attached bullet points that I believe to be important in your consideration of the bill. Chief Armaganian and his staff have a comprehensive document for your consideration in addition to their in person testimony.

Thank you for your time and I wish you a healthy 2022.

Sincerely,

Aidan

Aidan J. Moore, Esq.
Legal Coordinator | NH Liquor Commission
50 Storrs St. | Concord, NH 03301
(603) 931-0222 | www.liquorandwineoutlets.com
Please drink responsibly.

Statement of Confidentiality: The contents of this message are confidential. Any unauthorized disclosure, reproduction, use or dissemination (either whole or in part) is prohibited. If you are not the intended recipient of this message, please notify the sender immediately and delete the message from your system.

Testimony in Opposition to HB 1591
A Bill Eliminating the Division of Enforcement
Offered by Aidan J. Moore
Legal Coordinator, NHLC

FISCAL IMPACT NOT REALIZED

- The bill eliminates 20 law enforcement officer positions effective 1/1/2023. The projected cuts would amount to a savings of approximately $2,552,907.
- The Division provides licensing, education and support for over 5,800 licensees and collected over $18M in revenue in FY20
- Liquor Investigator have dual responsibilities in the area of issuing licenses as well as law enforcement responsibilities. By eliminating these positions the bill will remove both licensing and enforcement personnel. The functions are intertwined
- The majority of the 20 positions are assigned to the field and provide timely customer service to existing businesses and new businesses. The elimination of these positions would leave no personnel in field thereby diminishing the ability of the commission to provide services to the 4,524 businesses holding licenses within the State and the 1,348 licensed direct shipper licensees.
- Given that HB 1591 has not provided any guidance on how to operate in the elimination of these 20 position we would request authority to hire 20 new people to fulfill our financial responsibilities to the State of New Hampshire, to the licensed community and to serve our industry partners and your constituents (see attached organizational chart)
- The savings of approximately $2,500,000 will not be a recognized fiscal savings as new positions would need to be established for the commission to ensure the revenues of the commission are not disrupted.
- The Division is also the primary enforcement responsibility for Chapter 126-K Youth Access to and Use of Tobacco Products. Law Enforcement authority is essential to regulating youth access to tobacco products.
- The bill does not explore or indicate the loss of federal funding to NH to agencies such as NHDHHS who obtain millions of dollars in funding based upon law enforcement data generated by the commission division of enforcement.
- The bill does not contemplate additional revenues that would need to be appropriated to fund local law enforcement and communities who would be expected to assume the law enforcement mission once this function is removed from the liquor commission.
- This bill removes enforcement 20 positions from the budget but does not provide any comprehensive information or direction on how these duties will be carried out moving forward creating a void in this highly regulated industry with an indeterminable loss in general fund revenue to the State.

COMPREHENSIVE STATEWIDE POLICY AT RISK

- The legislature has chosen to adopt a comprehensive, statewide approach, to the licensing and regulation of alcohol. This provision of HB 1591 seeking to eliminate the 20 enforcement positions within the liquor commission is the first step in dismantling this comprehensive statewide system.

Testimony in Opposition to HB 1591
A Bill Eliminating the Division of Enforcement
Offered by Aidan J. Moore
Legal Coordinator, NHLC

- The bill removes any criminal powers from the liquor commission and leaves a purely administrative structure to address violations of state law. A number of provisions of Title XIII carry criminal penalties for violations of these laws and it remains unclear whether local and state law enforcement agencies will step in an enforce these statutory provisions having historically relied upon the liquor commission's division of enforcement to perform these specialized functions.
- There are 234 municipalities in NH with law enforcement agencies. By eliminating law enforcement personnel from the commission it has the potential to bring about an indeterminable number of approaches to the enforcement of Title XIII.
- In our conversations with local and state law enforcement we believe that local and state law enforcement will not want to engage in the enforcement of Title XIII statutes until and unless there is funding to train their officers and money to fund these activities.

ELIMINATING UNIFORM REGULAION

- Under existing law liquor commission investigators and local and state law enforcement officers have the ability to arrest and prosecute offenses committed under Title XIII.
- It is unclear under this bill how violations of Title XIII will be reported to the liquor commission and how local law enforcement will obtain training in this specialized area of New Hampshire law.
- This bill removes 20 enforcement positions from the budget but does not provide any comprehensive information or direction on how these duties will be carried out moving forward creating a void in this highly regulated industry with an indeterminable loss in general fund revenue to the State.
- The commission and the New Hampshire alcohol beverage industry believes the termination of a uniform state enforcement mission will bring about inconsistent interpretation and enforcement of Title XIII laws across the state as cities and towns attempt to apply Title XIII laws with no experience or expertise.
- Without comprehensive statewide regulation, opponents of the current system will eventually seek to remove other controls and challenge the existing system. This erosion will place the alcohol beverage revenues at risk creating an unpredictable situation that could be very costly to the State.
- The Division is also the primary enforcement responsibility for Chapter 126-K Youth Access to and Use of Tobacco Products. Law Enforcement authority is essential to regulating youth access to tobacco products.
- Investigators conduct complex investigations regarding the distribution of tobacco products to minors. Law enforcement authority is essential to the proper prosecution of people selling tobacco products to minors.
- Moreover no changes have been made to Chapter 126-K; so essentially the commission is still the primary enforcement agency but has no authority to enforce these laws.

Testimony in Opposition to HB 1591
A Bill Eliminating the Division of Enforcement
Offered by Aidan J. Moore
Legal Coordinator, NHLC

- The impact would include inconsistent interpretation and application of Title XIII laws. This would bring about a divisive uncertainty as the alcohol industry relies upon a uniform and consistent application of the laws. This inconsistency will create problems for businesses in this highly regulated industry.
- Law enforcement personnel at the liquor commission primarily rely upon the administrative process to prosecute violations of Title XIII. We envision traditional law enforcement will use criminal prosecution to resolve Title XIII violations as opposed to the commission's balanced approach using administrative and criminal process to resolve violations.
- The potential absence of a uniform enforcement approach in local communities caused by the elimination of the commission's law enforcement mission will bring about a significant increase in criminal cases brought before the courts. This may create an increased fiscal and operational burden on the court system as they handle an increase in alcohol related cases.
- Because Title XIII offenses include violations, misdemeanors and felonies we believe the County Attorney's will see increased activities as cases that might have previously be handled administratively are now brought for criminal prosecution.
- Under existing law liquor commission investigators and local and state law enforcement officers have the ability to arrest and prosecute offenses committed under Title XIII.
- It is unclear under this bill how violations of Title XIII will be reported to the liquor commission and how local law enforcement will obtain training in this specialized area of New Hampshire law.

This information is submitted by Aidan J. Moore, Legal Coordinator for the NH liquor Commission in opposition to HB 1591 as introduced and as amended by the sponsor.

Archived: Thursday, May 19, 2022 12:44:49 PM
From: Andrew P. Provencher
Sent: Tuesday, January 11, 2022 2:17:02 PM
To: John Hunt; ~House Commerce Committee
Cc: CJ White
Subject: Testimony In Support of HB 1039 and Opposition to HB 1591
Importance: Normal

Chairman Hunt and Honorable Members of House Commerce and Consumer Affairs,

Please accept the following written testimony on behalf of the New Hampshire Brewers Association in support of HB 1039 and in opposition to HB 1591.

Thank you,

Andrew P. Provencher

Principal
b-fresh Consulting LLC

Cell: 603-377-6994
Email: andrew@bfreshconsulting.com

HB 1591-FN - AS INTRODUCED

2022 SESSION

22-2256
08/04

HOUSE BILL ***1591-FN***

AN ACT eliminating the enforcement division of the liquor commission.

SPONSORS: Rep. Leishman, Hills. 24; Rep. Emerick, Rock. 21; Rep. G. Griffin, Hills. 5; Rep. M. Smith, Straf. 6; Rep. Hatch, Coos 6; Rep. Walz, Merr. 23

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill eliminates the enforcement division of the liquor commission.

- -

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.

22-2256
08/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT eliminating the enforcement division of the liquor commission.

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

1 Liquor Commission; Division of Enforcement and Licensing Renamed Division of Education and Licensing. Amend RSA 176:8 to read as follows:

176:8 Divisions and Directors. The commission shall have 3 divisions under the direction of unclassified division directors. The directors shall be nominated by the commissioner for appointment by the governor with the consent of the council and shall serve for terms of 4 years dependent upon maintaining good behavior and competence. There shall be a division of marketing, merchandising, and warehousing, a division of administration, and a division of [~~enforcement~~] ***education*** and licensing. The director of the division of [~~enforcement~~] ***education*** and licensing shall be subject to a background check by the state police prior to appointment.

2 Liquor Commission; Liquor Investigator Renamed Liquor Specialist. Amend RSA 176:9 to read as follows:

176:9 Liquor [~~Investigator~~] ***License Specialists***; Training.

I. The commission may, subject to rules adopted by the director of personnel, employ and dismiss liquor [~~investigators~~] ***license specialists***. Liquor [~~investigators~~] ***license specialists*** shall, under the direction of the commission, investigate any or all matters arising under this title.

II. [~~Any new liquor investigator employed by the commission under this section after August 13, 1985, shall, within 6 months of employment, satisfactorily complete a preparatory police training program as provided by RSA 106-L:6, unless he or she has already completed such a program.~~

~~III.~~] The commissioner, deputy commissioner, assistant, or liquor [~~investigator~~] ***license specialist*** may enter any place where liquor, beverages, tobacco products, e-cigarettes are sold or manufactured, [~~at any time~~] ***during business hours***, and may examine any license or permit issued or purported to have been issued under the terms of this title. They shall make complaints for violations of this title.

3 Closing of State Stores; Enforcement and Licensing Division Renamed. Amend RSA 177:2, II to read as follows:

II. In order to properly reflect the operating expenses of each state store, the commission shall prepare annually an indirect cost allocation plan for all indirect operating expenses of the commission. All such expenses of the commission, with the exception of the [~~enforcement~~] ***education*** and licensing division operating expenses, shall be included in the plan and allocated to all state stores on a consistent, rational basis. No later than 30 days following the closure of any

state liquor store, the commission shall submit a revised indirect cost allocation plan to the fiscal committee of the general court and the governor and council for approval.

4 Liquor/Wine/Beverage Warehouse License; Division of Enforcement and Licensing Renamed. Amend RSA 178:11, V to read as follows:

V. Liquor/wine/beverage warehousers shall submit a monthly report both to the liquor commission [~~enforcement~~] ***education*** and licensing division and the marketing, merchandising, and warehousing division of the commission by the tenth day of the following month indicating the quantity, type, size, and brands of all product received, stored, or shipped on their premises.

5 On-Premises Cocktail Lounge Licenses; Enforcement and Licensing Division Renamed. Amend RSA 178:22,V(h)(12) to read as follows:

(12) Violations of subparagraph ***(h)***(11) [~~of this subparagraph~~] shall be investigated by the [~~enforcement~~] ***education*** division of the liquor commission and directed to the department of justice for examination of issues unrelated to this title.

6 Alcohol Consultant; Enforcement and Licensing Division Renamed. Amend the introductory paragraph of RSA 178:27-a, VI to read as follows:

VI. Alcohol consultants shall register each educational event with the liquor commission-division of [~~enforcement~~] ***education*** and licensing. The commission shall adopt rules, pursuant to RSA 541-A, relative to:

7 Fees; Expiration Dates; Enforcement and Licensing Division Renamed. Amend RSA 178:29, VIII(b) to read as follows:

(b) After one year, a licensee may select the anniversary month in which to renew a license. A licensee may change the anniversary renewal month of a license once by making a written request to the director of [~~enforcement~~] ***education*** and licensing. A licensee who changes the anniversary renewal month of a license shall not change the anniversary renewal month for a period of 3 years from the selected month. Nothing in this paragraph shall be construed to be contrary to the provisions of RSA 178:3 or commission rules.

8 Transportation of Beverages and Wine; Liquor Investigators Renamed. Amend RSA 179:15, V to read as follows:

V. Every person operating such a vehicle, when engaged in such transportation or delivery, shall carry a copy of the license in the vehicle so operated, and shall carry such evidence as the commission by rule may prescribe showing the origin and destination of the beverages and wines being transported or delivered. Upon demand of any [~~law enforcement officer, investigator,~~] ***liquor license specialist*** or employee of the commission, the person operating such vehicle shall produce for inspection a copy of the license and the evidence required by this section. Failure to produce such license or evidence shall constitute prima facie evidence of unlawful transportation. Except as otherwise provided, beverages and wines may be transported within the state only by a railroad or steamboat corporation or by a person regularly and lawfully conducting a general express or

trucking business, and in each case holding a valid carrier's license issued by the commission. Nothing in this section shall prohibit individual retail licensees from arranging for the delivery of wine products to a location central for the parties involved.

9 Retention of Invoices and Sale and Delivery Slips; Liquor Investigators Renamed. Amend RSA 179:35 to read as follows:

179:35 Retention of Invoices and Sale and Delivery Slips. All invoices, sales slips and delivery slips, current and covering a period of 60 days prior to the current date pertaining to purchases of beverages and liquor shall be retained by the licensee on the premises or be readily available for examination by the commission or its liquor [~~investigators~~] ***license specialists***.

10 Prosecutions; Liquor; January 1, 2023. RSA 179:59 is repealed and reenacted to read as follows:

179:59 Prosecutions. Any person violating the provisions of any law under Title XIII may be prosecuted by county or city attorneys, or by sheriffs or their deputies, or by police officials of towns.

11 Interference with Liquor Investigators; Renamed Liquor License Specialists. Amend RSA 179:60 to read as follows:

179:60 Interference With Liquor [~~Investigators~~] ***License Specialists***. It shall be unlawful to [~~resist or attempt to resist arrest by a liquor investigator~~], or to obstruct, or to intimidate or interfere with a liquor [~~investigator~~] ***license specialist*** in the performance of his ***or her*** duty. Any person who violates any of the provisions of this section shall be guilty of a misdemeanor.

12 Enforcement and Licensing Renamed. Amend RSA 21-J:14, V(d)(9) to read as follows:

(9) An officer or employee of the division of enforcement of the liquor commission, pursuant to an agreement for exchange of information between the department and the division of [~~enforcement~~] ***education and licensing***, for the purposes of, and only to the extent necessary for, the administration and enforcement of RSA 78:16. Officers or employees of the division of [~~enforcement~~] ***education and licensing*** having any confidential and privileged department information obtained from the department pursuant to the exchange agreement authorized under this subparagraph shall be subject to the provisions of this section.

13 Enforcement and Licensing Division Renamed. Amend RSA 94:1-a, I(a) GG to read as follows:

GG Liquor commission director of [~~enforcement~~] ***education*** and licensing

14 Enforcement and Licensing Division Renamed. Amend RSA 179:13, V to read as follows:

V. Each wholesale distributor, brew pub licensee, nano brewery, or beverage manufacturer shall notify any retailer reported to the commission pursuant to RSA 179:13, I who is delinquent in making payment of accounts. Notification shall be delivered in writing to the licensee by a representative of the wholesaler, brew pub licensee, nano brewery, or beverage manufacturer. Proof of notification shall be forwarded to the commission, whose [~~enforcement~~] ***education and licensing*** division shall issue an administrative notice for a violation of the provisions of RSA 179:13, I and

shall forward a report of violation for administrative action. Any license issued to any business violating the provisions of RSA 179:13, I may be suspended by the commission for nonpayment of accounts which are delinquent more than 15 days from the date of the wholesale distributor's, brew pub licensee's, nano brewery's, or beverage manufacturer's notification, providing the requirements of this section have been met.

15 Effective Date.

I. Section 10 of this act shall take effect January 1, 2023.

II. The remainder of this act shall take effect July 1, 2022.

LBA
22-2256
12/14/21

HB 1591-FN- FISCAL NOTE
AS INTRODUCED

AN ACT eliminating the enforcement division of the liquor commission.

FISCAL IMPACT: [X] State [ ] County [ ] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	[X] General [ ] Education [ ] Highway [X] Other - Liquor Fund			

COUNTY:

Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

LOCAL:

Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill eliminates the enforcement division of the liquor commission. The New Hampshire Liquor Commission offers the following information and assumptions concerning the fiscal impact of this bill:

- The bill does not eliminate liquor investigator positions but appears to reclassify them into the category of liquor license specialist, labor grade 18. Under State personnel rules, because the reclassification is being made through legislation, the liquor investigators reclassified to liquor licensing specialist must be paid at the liquor investigator rate for a period of 2 years. Therefore the reclassifications may not result in salary and benefit savings for 2 years.
- The bill could result in a loss of federal funding to the Department of Health and Human Services that obtains federal funds based upon law enforcement data generated by the Commission's division of enforcement.

- The Commission assumes the State would be obligated to provide funds to support local law enforcement who would be expected to assume the enforcement division activities once this function is removed from the Liquor Commission. Based on communications with local and state law enforcement, the Commission assumes local and state law enforcement will not engage in the enforcement of the Liquor statutes unless there is funding to train their officers and money to fund these activities.
- The Commission assumes most liquor investigators would leave Commission employment rather than accept the position changes and the change in their retirement benefits. This would result in an indeterminable loss of revenue to the general fund as there would be fewer people performing licensing and enforcement functions. The Commission cannot predict how long the replacement/hiring process would take or predict the impact on the licensed community.
- The Enforcement Division has primary enforcement responsibility for Chapter 126-K Youth Access to and Use of Tobacco Products. Investigators conduct investigations regarding the distribution of tobacco products to minors. Without changes made to Chapter 126-K, the commission would still be the primary enforcement agency but without authority to enforce these laws.
- Because Title XIII offenses include violations, misdemeanors and felonies, the County Attorney's would see increased activities as cases previously handled administratively by the Commission would now be brought for criminal prosecution by county prosecutors.

The Department of Health and Human (DHHS) services indicates federal law (Public Law 102-321, Sec 1926, USC 300x-6, the "Synar Amendment") requires all states and territories to enact and enforce laws prohibiting the sale of tobacco to minors. This mandate's requirements must be met and documented in order for a State to be awarded the Substance Abuse Block Grant (SABG). The State receives $12 million under the SABG to support the delivery of services and supports for prevention, treatment and recovery. In New Hampshire, DHHS has a memorandum of understanding with the Liquor Enforcement Division providing the Division with $50,000 to fulfill this requirement. The Department states the Enforcement Division has the resources, staffing, expertise and experience to meet the deliverables of the Synar Amendment. The Department assumes if it were to contract with local police departments for enforcement and compliance there would be additional costs to contract with multiple agencies, to recruit and retain a dedicated enforcement officer, train the officer, to recruit, train and compensate underage buyers, and to implement policies and procedures, and meet the reporting requirements. The Department indicates these costs are indeterminable, but expects they would be significant.

The New Hampshire Municipal Association states it is likely additional costs will be borne by municipalities, particularly municipal police departments. Local police will likely see an increased volume of calls related to potentially intoxicated drivers, assaults or other physical or verbal altercations, and other types of calls related to intoxicated individuals. Under current law, such calls may otherwise be handled by Liquor Enforcement either directly through enforcement of the criminal law, or indirectly by working with liquor serving establishments to ensure compliance with state regulations. There would be no impact on municipal revenues.

The Department of Safety indicated this bill would have no fiscal impact on the State Police.

AGENCIES CONTACTED:

Departments of Safety, Administrative Services and Health and Human Services, Liquor Commission and New Hampshire Municipal Association