HB 221 - AS AMENDED BY THE SENATE

16Mar2023... 0701h
06/01/2023 1996s
06/01/2023 2079s
06/01/2023 2068s
06/07/2023 2136s

2023 SESSION

23-0394
08/10

HOUSE BILL ***221***

AN ACT relative to the acquisition of agricultural land development rights and relative to advanced deposit account wagering and relative to the use of game cameras.

SPONSORS: Rep. Bixby, Straf. 13; Rep. Caplan, Merr. 8; Rep. Aron, Sull. 4

COMMITTEE: Environment and Agriculture

AMENDED ANALYSIS

This bill requires that agricultural land development rights purchased by the department of agriculture, markets and food shall be held in the name of the state of New Hampshire or the deed shall stipulate that the state has the right to enforce the terms of the deed. It also adds one voting member from the New Hampshire Land Trust Coalition to the agricultural lands preservation committee.

This bill also allows advanced deposit wagering on pari-mutuel betting on horse racing and authorizes the lottery commission to adopt rules governing the license and regulation of such wagers.

This bill adds a definition of "game camera" and permits the use of a game camera to take or attempt to take a game animal or fur-bearing animal.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to the acquisition of agricultural land development rights and relative to advanced deposit account wagering and relative to the use of game cameras.

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

1 Agricultural Lands Preservation Committee; Members, Appointment, Term. Amend RSA 432:19, II to read as follows:

II. The committee shall consist of [~~7~~] ***9*** voting members and 2 nonvoting members, to be appointed as follows:

(a) The commissioner of the department of agriculture, markets, and food who shall be chairman;

(b) The commissioner of the department of natural and cultural resources, or his designee;

(c) The director of the office of planning and development, or his designee;

(d) The secretary of the agricultural advisory board;

(e) [~~3~~] ***4*** members, [~~2~~] ***3*** of whom are owners and operators of farms in the state, who shall be appointed by the governor with the advice and consent of the council for 3 years. Of the initial appointees, one shall hold office for one year, one for 2 years and one for 3 years;

(f) One member from the New Hampshire Land Trust Coalition, appointed by the governor;

[~~(f)~~] ***(g)*** The dean of the college of life sciences and agriculture of the university system of New Hampshire, or his designee, who shall serve as a nonvoting member; and

[~~(g)~~] ***(h)*** The New Hampshire state conservationist of the United States Department of Agriculture Natural Resources Conservation Service, or his designee, who shall serve as a nonvoting member.

2 Procedure for Administration; Acquisition of Agricultural Land Development Rights; Terms of Deed. Amend RSA 432:22, II to read as follows:

II. The committee shall determine the amount due to the affected agricultural landowner and authorize the commissioner to pay such amount to the owner. Agricultural land development rights purchased pursuant to this section shall be held in the name of the state of New Hampshire ***or the deed shall stipulate that the state shall have the right to enforce the terms of the deed***.

3 Procedure for Administration. Amend RSA 432:22, IV to read as follows:

IV. The ***state's*** rights acquired pursuant to the purchase agreement shall not be sold or otherwise conveyed to a third party without consent of the landowner, nor does such purchase grant the public any right of access or right of use of the affected property.

4 Release. Amend RSA 432:24 to read as follows:

432:24 Release.

I. Agricultural preservation restrictions shall be in perpetuity except as released pursuant to this section and RSA 432:25 ***and as may be further set forth in the terms of the deed***. Agricultural restricted grants shall run in accordance with the agreement between a landowner and the department of agriculture, markets, and food except as terminated pursuant to this section and RSA 432:25. All customary rights and privileges of ownership shall be retained by the owner including the right to privacy and the right to carry out all regular agricultural practices which are not prohibited by RSA 432:18, II***, and the deed terms***.

II. [~~Agricultural~~] ***The state's interest in agricultural*** preservation restrictions and agricultural restricted grants may be released or terminated by the committee if the site is no longer suitable for agricultural purposes. An owner of an agricultural preservation site may request the committee's approval to release the restriction for the public good. Prior to the release of the ***state's interest in*** agricultural land development rights by the committee, a public hearing shall be conducted in the municipality in which the site is located. A notice of said hearing shall specify the grounds for the hearing as well as the date, time, and place, and at least 14 days' notice of the time and place of such hearing shall be published in a paper of general circulation in the municipality. A legal notice of the hearing shall also be posted in at least 3 public places in such city or town. The 14 days shall not include the day of publication nor the day of the meeting, but shall include any Saturdays, Sundays, and legal holidays within said period. At least 2 committee members shall sit on the hearing panel.

III. [~~Development~~] ***The state's interests in development*** rights of agricultural land purchased with public funds may be released upon repayment by the landowner of a reasonable value thereof which shall not be less than the difference between fair market value of such land at the time of such release and the fair market value of such land restricted for agricultural purposes at the time that development rights were acquired.

5 Development Rights Acquired By Public Bodies. Amend RSA 432:25, II to read as follows:

II. The restrictions may be released, in whole or in part, by the holder for consideration in an amount determined by the governmental body or charitable corporation or trust that purchased the development rights ***all consistent with the terms of the deed***. Prior to release of restriction by a governmental body, a public hearing shall be conducted in the municipality in which the site is located. A notice of said hearing shall specify the grounds for the hearing as well as the date, time and place, and at least 14 days' notice of the time and place of such hearing shall be published in a

paper of general circulation in the municipality. A legal notice of the hearing shall also be posted in at least 3 public places in such city or town. The 14 days shall not include the day of publication nor the day of the meeting, but shall include any Saturdays, Sundays and legal holidays within said period.

6 New Section; Pari-Mutuel Pools, and Distribution of Tax Thereon; Advanced Deposit Account Wagering. Amend RSA 284 by inserting after section 22-b the following new section:

284:22-c Advanced Deposit Account Wagering.

I. Advance deposit wagering is authorized for pari-mutuel betting on horse racing under this chapter if conducted in compliance with this section and the Interstate Horseracing Act of 1978, United States Code, Title 15, section 3001 et seq.

II. It is unlawful for any person or entity to accept an advance deposit wager from a New Hampshire resident unless the person or entity is a licensed advance deposit wagering provider in the state of New Hampshire.

III. Before accepting an advance deposit wager from a New Hampshire resident, a licensed advance deposit wagering provider shall demonstrate evidence of financial responsibility in a format prescribed by the commission through a surety bond executed and issued by an insurer authorized to issue surety bonds in this state, an irrevocable letter of credit, or other form of financial guarantee in an amount to be determined by the commission. The commission may also accept, as evidence of financial responsibility, a surety bond, an irrevocable letter of credit, or other form of financial guarantee in accordance with this subdivision filed with one or more states where the applicant is licensed as an advance deposit wagering provider. The commission may ask for additional evidence of financial responsibility at any time the commission deems necessary. Any surety bond, an irrevocable letter of credit, or other form of financial guarantee issued under this subdivision shall be in favor of this state and shall specifically authorize recovery by the commission for the payment of all revenues required by this chapter as well as payments due to New Hampshire resident account holders.

IV. The commission shall not license or authorize a person or entity to conduct advance deposit wagering under this section unless the person or entity has submitted, and the commission approved, a plan of operation for advance deposit wagering. At a minimum, the plan of operation shall provide for:

(a) Methods of resolving disputes with account holders;

(b) Procedures to protect the security of account holders' accounts and information;

(c) Methods to verify the identity of account holders and ensure that all account holders are natural persons who are at least 18 years of age;

(d) Procedures to ensure that wagers are only accepted from account holders who have sufficient funds on deposit and that no credit is extended by the person to an account holder;

(e) Procedures for keeping accurate records of all contests, wagers, and payouts;

(f) Annually contracting with an independent third-party to conduct a financial audit and submit the results of the audit to the commission;

(g) Annually contracting with an independent third-party cyber security audit and submit the results of the audit to the commission; and

(h) Other requirements established by the commission in rule.

V. The plan of operation may only be amended with the approval of the commission. The commission may withdraw approval of a plan of operation.

VI. Advanced deposit wagers from New Hampshire residents shall be subject to a revenue sharing plan. Licensees shall provide the commission payment in the amount of 2.25 percent of all wagers accepted from New Hampshire residents in a manner prescribed by the commission. The revenues received from the commission pursuant to this section, less the administrative costs of the commission, shall be deposited in the education trust fund established in RSA 198:39.

VII. Persons or entities that offered advanced deposit wagering services to New Hampshire residents as of July 1, 2022 may request permission from the commission to continue offering these services during the pendency of the licensing process. Any such person or entity shall make the request to continue offering services in writing detailing how the person or entity will meet the protections set forth in this section during the interim period before licensure. The commission may grant such request for unlicensed operation for a period not to exceed six months where the requestor has adequately documented acceptable financial responsibility and patron protection standards. In no event shall this permission extend past January 1, 2024.

7 Rulemaking. Amend RSA 284:12, IV to read as follows:

IV. The sale of pari-mutuel pools as authorized under RSA 284:22, RSA 284:22-a, [~~and~~] RSA 284:22-b***, and RSA 284:22-c***.

8 New Paragraph; General Provisions as to Fish and Game; Game Camera. Amend RSA 207:1 by inserting after paragraph XI the following new paragraph:

XI-a. Game Camera. Any device capable of recording and transmitting photographic or video data, with or without a wire, to a remote device, such as a computer, smartphone, or other viewing device. The term shall also include a device that merely records photographic or video data and stores such data for later use.

9 New Section; General Provisions as to Fish and Game; Use of Game Cameras. Amend RSA 207 by inserting after section 62 the following new section:

207:63 Game Cameras.

I. Any person taking or attempting to take a game animal or fur-bearing animal may use a game camera to locate, surveil, aid or assist in any attempt to locate or surveil any game animal or fur-bearing animal, provided that no person shall take a game animal or fur-bearing animal within the same calendar day of remotely viewing any image or video of that animal from a game camera in that area.

II.(a) No person shall place a game camera that records or transmits images or data of any kind while unattended outside on the private property of another without the consent of the property owner or the property owner has posted signage on his or her property allowing the placement of such camera as provided in this section. A game camera placed on state owned or managed lands, or on municipally owned property, shall be exempt from requiring landowner permission.

(b) A property owner may permit the placement of a game camera by posting signs of durable material with any words describing the physical activity permitted, such as "Game Cameras Allowed", printed with block letters no less than 2 inches in height, and with the name and contact information of the property owner. Such signs shall be posted at gates, bars and commonly used entrances. This section shall not prevent any property owner adding to the language required by this section.

(c) Any permission granted by a property owner under this section shall expire on December 31st of each calendar year, unless revoked or extended by the property owner or his or her designee.

III. A person who places a game camera on the private property of another, or on state owned or state managed property, shall label the camera with the name and contact information of the camera owner in a manner visible while mounted.

IV. A property owner shall contact a local or state law enforcement officer or conservation officer to remove and seize a game camera which was placed in violation of this section.

V. This section shall not prohibit:

(a) The lawful use of implanted or attached electronic devices by fish and game department staff, or other persons holding a scientific permit from the executive director, to identify, monitor, or track animals; or

(b) Any device placed or used in accordance with a warrant or in accordance with other lawful actions of law enforcement officers or personnel of the fish and game department in the performance of their official duties.

VI. Any person who violates this section shall be guilty of a violation and subject to a fine of up to $125 for each offense and, for a second or subsequent conviction under this section, may forfeit the game camera and related fastening devices used during the violation of this section.

10 Effective Date.

I. Sections 6 and 7 of this act shall take effect July 1, 2023.

II. Sections 8 and 9 of this act shall take effect January 1, 2024.

III. The remainder of this act shall take effect 60 days after its passage.

LBA
23-0394
Amended 6/9/23

HB 221- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENTS #2023-1996s, #2023-2068s, #2023-2079s, and #2023-2136s)

AN ACT relative to the acquisition of agricultural land development rights and relative to advanced deposit account wagering and relative to the use of game cameras.

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

	Estimated Increase / (Decrease)			
STATE:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	[X] General and Game Fund	[X] Education	[ ] Highway	[X] Other - Fish

METHODOLOGY:

This bill requires that agricultural land development rights purchased by the department of agriculture, markets and food shall be held in the name of the state of New Hampshire or the deed shall stipulate that the state has the right to enforce the terms of the deed. It also adds one voting member from the New Hampshire Land Trust Coalition to the agricultural lands preservation committee. This bill allows advanced deposit wagering on pari-mutuel betting on horse racing and authorizes the lottery commission to adopt rules governing the license and regulation of such wagers. This bill adds a definition of "game camera" and permits the use of a game camera to take or attempt to take a game animal or fur-bearing animal.

This bill creates a violation level offense for certain improper uses of game cameras. It is not possible to estimate how many new cases may arise because of this change, if any, however the Judicial Branch estimates the potential cost of violation level cases to be $119 in FY 2023 and $122 in FY 2024. Additionally, violations of this statute carry a fine up to $1,000, and therefore may increase revenue to the fish and game fund. It is assumed fiscal impacts, if any, would not occur until FY 2024.

This bill allows advanced deposit wagering on pari-mutuel betting on horse racing, which currently already takes place in New Hampshire and is not subject to the regulation in this state. The Lottery Commission states this bill establishes a revenue sharing agreement where licensed advanced deposit wagering will pay the state 2.25 percent (2.25%) of handle on advanced deposit wagers from New Hampshire residents. While this bill is effective July 1,

2023, the Commission states it permits current unlicensed operators to continue their operations during the rulemaking and licensing process until January 1, 2024. The Commission assumes approximately $17,000,000 in advanced deposit wagering handle per year based on estimates of current operations, therefore this bill would increase state lottery revenue by $382,500 per year ($17,000,000 x 2.25%). The impact in FY 2024 would be $191,250 (half year) considering the implementation date of January 1, 2024, and the full $382,500 in FY 2025 and each year thereafter. Lottery revenue is credited to the lottery fund, with net revenues after expenditures being credited to the state education trust fund.

AGENCIES CONTACTED:

Lottery Commission, Judicial Branch and Fish and Game Department