

Sen. Pierce, Dist 5
Sen. Woodburn, Dist 1
March 23, 2016
2016-1163s
09/01

Floor Amendment to SB 382

Amend the title of the bill by replacing it with the following:

AN ACT relative to the authority of federal border patrol agents to make arrests in Coos county.

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

1 Police Standards and Training Council; Power to Certify Border Patrol Agents. Amend
RSA 188-F:26, IV to read as follows:

IV. Certify persons as being qualified under the provisions of this subdivision to be police officers, state corrections officers, [ø] state probation-parole officers, ***or certified border patrol agents for the purposes of RSA 594:26***, and establish rules under RSA 541-A for the suspension or revocation of the certification of such persons in the case of egregious misconduct or failure to comply with council standards.

2 Arrests in Criminal Cases; Definition of Officer. Amend RSA 594:1, III to read as follows:

III. "Officer" or "peace officer" is any sheriff or deputy sheriff, mayor or city marshal, constable, police officer or watchman, member of the national guard acting under orders while in active state service ordered by the governor under RSA 110-B:6, ***certified border patrol agent as defined in RSA 594:26, I***, or other person authorized to make arrests in a criminal case.

3 New Subdivision; Certified Border Patrol Agents. Amend RSA 594 by inserting after section
25 the following new subdivision:

Certified Border Patrol Agents

594:26 Power of Arrest for New Hampshire Crimes.

I. In this section, “a certified border patrol agent” means a person who:

(a) Is employed as a border patrol agent by the United States Department of Homeland Security, Customs and Border Protection;

(b) Has satisfactorily completed a course of study in New Hampshire laws and criminal procedures approved by the police standards and training council, at the expense of the agent's agency;

(c) Has been certified by the director of police standards and training pursuant to paragraph II; and

(d) Has taken an oath administered by the commissioner of safety or by the

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1 commissioner's designee to uphold the constitution of the state of New Hampshire.

2 II. The director of police standards and training shall certify a border patrol agent who
3 applies for certification if the agent satisfies the employment and study requirements listed in
4 paragraph I. Border patrol agents certified under this section shall be exempt from regular
5 physical fitness examinations required of state or municipal law enforcement officers. A
6 certification under this paragraph shall automatically terminate immediately upon the agent's
7 suspension or termination of employment from the federal agency in which he or she was employed
8 at the time the certification occurred.

9 III. A certified border patrol agent may make an arrest pursuant to New Hampshire law
10 for violation of New Hampshire laws in Coos county if the agent determines that it is necessary to
11 do any of the following:

12 (a) Protect an individual in the presence of the agent from the imminent infliction of
13 serious bodily injury.

14 (b) Provide immediate assistance to an individual who has suffered or is threatened
15 with serious bodily injury.

16 (c) Prevent the escape of any individual whom the agent has probable cause to believe
17 has committed a crime in the presence of the agent.

18 (d) Prevent the escape of any individual whom the agent has probable cause to believe
19 has committed a felony under New Hampshire law.

20 IV. A certified border patrol agent who makes an arrest under this section shall report the
21 arrest, without delay, to the division of state police.

22 V. A certified border patrol agent who makes an arrest under the authority of this section
23 shall have the same immunity from liability that a state or municipal law enforcement officer has
24 under the laws of this state.

25 VI. This section is not intended to limit existing authority of federal officers under federal
26 law or to interfere with the performance of federal duties by federal officers.

27 4 Effective Date. This act shall take effect January 1, 2017.

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AMENDED ANALYSIS

This bill grants federal border control agents the authority to make arrests in Coos county.