



State of
New Hampshire

HOUSE RECORD

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Calendar and Journal of the 2016 Session

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No. 34A

Contains: Speaker's Notice; Caucus Notices; Draft Legislation; Governor's Veto Messages
Regarding HBs 512, 533, 582, 1208, 1266 and 1637; County Delegation Notice

ADDENDUM TO HOUSE CALENDAR 34

MEMBERS OF THE HOUSE:

The next House session will be **Thursday, June 16, at 10:00 a.m.**

As provided in House Rule 35, the House Rules Committee convened this week to act on a request by Rep. Hinch for approval of late drafting and introduction of a bill establishing a state grant program to assist state and local law enforcement agencies in addressing the opioid crisis. A draft of the proposed legislation is printed later in this Calendar.

There will be no legislative activity or mileage reimbursement between June 20 and August 15, unless special circumstances arise and authorization is granted. From the middle of August through the end of the year, legislative mileage to Concord will be limited primarily to Tuesdays, Wednesdays, and Thursdays.

Shawn N. Jasper, Speaker

NOTICE

There will be a Republican caucus on **THURSDAY, JUNE 16 at 9:30 a.m.** in Representatives Hall.
Rep. Dick Hinch, Majority Leader

NOTICE

There will be a Democratic caucus on **THURSDAY, JUNE 16 at 9:00 a.m.** in LOB 305-307.
Rep. Stephen Shurtleff, Democratic Leader

DRAFT LEGISLATION

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Sixteen

AN ACT establishing a state grant program to assist state and local law enforcement agencies in addressing the opioid crisis and making an appropriation therefor.

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

1 Legislative Findings. The legislature finds that:

I. From 2010 through October 21, 2015 drug overdoses in New Hampshire have claimed 1,322 lives, of which 315 were related to heroin and 377 to fentanyl. Heroin-related hospital emergency department visits in New Hampshire during the first 9 months of 2015 increased by 70.4 percent over the same period the previous year; and between July and September 2015, the anti-opioid drug Naloxone was administered by emergency responders to prevent an opioid death 866 times.

II. Drug-related deaths currently are eclipsing by far the number of deaths in highway fatalities. At the same time, however, there was a 21.43 percent increase in persons killed in highway crashes as of mid-October 2015 compared with the same period in 2014 and nearly 500 additional serious but not fatal injury crashes, with significant numbers involving drugged driving. Armed robberies and burglaries and other street crimes involving drugs have become a weekly occurrence and every county in the state has been affected.

III. Increased information sharing and more visible police presence on the streets and highways along with intensive enforcement of the traffic laws is strongly correlated to the deterrence of crime, cutting off the supply of drugs, apprehension of criminals, and a reduction in highway deaths.

IV. This act is intended to make additional resources available to provide for more, better, and smarter law enforcement approaches to the current crisis.

2 New Subdivision; Substance Abuse Enforcement Program. Amend RSA 21-P by inserting after section 65 the following new subdivision:

Substance Abuse Enforcement Program

21-P:66 Substance Abuse Enforcement Program.

I. The commissioner of safety shall establish a substance abuse enforcement program which shall make grants available to county and local law enforcement agencies, and also provide funding for the division of state police for the following purposes:

(a) Overtime costs for officers performing law enforcement activities under this program.

(b) Overtime, supplies, and other costs of the state forensic science laboratory.

II. The commissioner shall establish protocols and conditions for increased state police patrols and conditions for eligibility for grants to local and county law enforcement agencies. The protocols and conditions shall be based on the principles of intelligence-driven, problem-oriented policing, using statistics and information to place additional police patrol and investigative presence at the locations, times, and places where there have been a significant convergence of motor vehicle crashes, crimes, and drug use, or in corridors known to be used by drug dealers for shipments of illegal drugs into the state. The protocols and conditions shall:

(a) Require dedicated patrol units relieved of taking calls for service absent an emergency.

(b) Insure that the officers assigned to such patrol units have been trained in the concept of data-driven policing and have an appropriate knowledge of the requirements of the state and federal constitutions.

III. The commissioner shall give equal consideration to all local and county law enforcement agencies and the division of state police when allocating available program funding.

IV. The program shall include the following prohibitions on allowable uses of funds:

(a) No funds shall be granted for "purchase of evidence" or for "confidential funds."

(b) No funds shall be used for the purchase of operational equipment, except for direct supply costs for state forensic science laboratory testing.

(c) No funds shall be used for supplanting locally budgeted and approved funds for routine law enforcement.

V. The program shall include semi-annual reporting, to the governor, senate president, and speaker of the house of representatives, which includes measurable program results and a detailed accounting of program funding and uses. The first report shall be submitted on or before December 15, 2016.

21-P:67 Rulemaking. The commissioner of safety shall adopt rules to implement this subdivision. Notwithstanding any other provisions of law, such rules shall be exempt from the provisions of RSA 541-A.

3 Substance Abuse Enforcement Program; Rulemaking; July 1, 2017. RSA 21-P:67 is repealed and reenacted to read as follows:

21-P:67 Rulemaking. The commissioner of safety shall adopt rules, pursuant to RSA 541-A, to implement this subdivision.

4 New Subparagraph; Administrative Procedures Act; Exceptions. Amend RSA 541-A:21, I by inserting after subparagraph (hh) the following new subparagraph:

(ii) RSA 21-P:67, relative to the substance abuse enforcement program.

5 Repeal. RSA 541-A:21, I(ii), relative to a rulemaking exception for the substance abuse enforcement program, is repealed.

6 Appropriation; Department of Safety; Substance Abuse Enforcement Program.

I. The sum of \$1,500,000 for the biennium ending June 30, 2017 is hereby appropriated to the department of safety, for the purpose of funding the substance abuse enforcement program under RSA 21-P:66.

II.(a) For the purposes of funding the appropriation made in paragraph I, the governor shall identify excess appropriations from sums appropriated pursuant to 2015, 275 and 276, and shall transfer said sums to 2 separate accounting units as follows:

(1) An accounting unit for enforcement activities, including grants to local and county agencies.

(2) An accounting unit for division of forensic science laboratory activities.

(b) Prior to making such transfers, the governor shall certify to the fiscal committee of the general court that any excess appropriations identified pursuant to this section are in addition to the projected lapses assumed during the adoption of the state operating budget for the biennium ending June 30, 2017. Any transfers made pursuant to this section shall not require the prior approval of the fiscal committee of the general court and the governor and council and shall not be subject to the provisions of RSA 9:16-a, 9:17-a, and RSA 9:17-c.

7 Effective Date.

I. Sections 3 and 5 of this act shall take effect July 1, 2017.

II. The remainder of this act shall take effect upon its passage.

GOVERNOR'S VETO MESSAGE REGARDING HB 512

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on June 9, 2016, I have vetoed House Bill 512, prohibiting the confiscation of firearms, ammunition, or firearms accessories during a state of emergency.

Current New Hampshire law, RSA 4:46, already makes clear that the state cannot confiscate firearms and ammunition as a result of a state of emergency. This bill had two main components. The first added "firearms accessories" to the items that could not be confiscated – a change that I would have signed into law. The second provision would subject members of law enforcement, members of the National Guard and even private security officers to personal civil penalties and lawsuits. This provision has raised serious concerns with the New Hampshire Association of Chiefs of Police and the New Hampshire Police Association, and it is because of those concerns that I am vetoing House Bill 512.

In a letter, the New Hampshire Association of Chiefs of Police wrote:

"This legislation endangers the safety of New Hampshire citizens and broadly overextends the State's influence on local control. This bill restricts the taking of firearms, firearm accessories, ammunition, or ammunition components during a declared state of emergency. It does not offer an exception for seizure of firearms or ammunition if they are used in the commission of a crime or part of a protective order. Furthermore, this legislation infringes on local control by legislating specific corrective and disciplinary actions historically held by the local government."

In a state of emergency, there may still be reasons – violation of a domestic violence restraining order or criminal activity, for instance – that demand the lawful seizure of a weapon. Police officers should not fear that if they follow lawful orders during a state of emergency that they will be subject to personal lawsuits and personal fines, which could be thousands of dollars. Even if, and when, a civil court ultimately finds that they were acting in accordance with the law in a particular case, the police officer may still incur significant personal costs in defending themselves.

Current law already provides remedies, including compensation to individuals, for property taken during a state of emergency. There is no compelling reason to subject individual members of law enforcement to civil penalties, including fear of losing their lifesavings or home for doing their job appropriately and exercising their lawful duty to maintain public safety. Therefore, I have vetoed House Bill 512.

Respectfully submitted,
Margaret Wood Hassan
Governor

Date: June 9, 2016

GOVERNOR'S VETO MESSAGE REGARDING HB 533

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on June 9, 2016, I have vetoed House Bill 533, relative to installation requirements for arc-fault circuit interrupters.

Arc-fault protection is a significant advancement in electrical system technology that helps prevent fires from overheated and arcing wires, potentially saving lives and preventing property loss. House Bill 533 would allow an exemption to the use of arc-fault circuit interrupters after repeated tripping and after determination that the branch circuit is the not cause. However, this bill does not take into consideration what the actual cause of the nuisance tripping is, potentially reducing the level of fire protection in homes and threatening public safety.

Arc-fault protection can reduce the chance of an electrical fire occurring. Simply switching the arc-fault protection to another device without this protection against fires – without understanding the root cause of the electrical system issues – takes away from New Hampshire families an important protection of the electrical code that works and helps save lives.

Additionally, New Hampshire has established a State Building Code Review Board to ensure the technical expertise of professionals is an important part of our process when considering changes to the building code. That process was not followed in this case, and in fact, the Building Code Review Board opposes this legislation.

The State Fire Marshal, the New Hampshire State Building Code Review Board, the New Hampshire Building Officials Association, the International Brotherhood of Electrical Workers Local 490, the Electrical Safety Foundation International, the National Electrical Manufacturers Association, the National Fire Protection Association and dozens of advocates who have been victims of severe and debilitating burns have expressed opposition to this bill, rejecting the need to scale back successful technology that help save lives.

Because this measure could jeopardize the safety of our families, I have vetoed House Bill 533.

Respectfully submitted,
Margaret Wood Hassan
Governor

Date: June 9, 2016

GOVERNOR'S VETO MESSAGE REGARDING HB 582

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on May 26, 2016, I have vetoed House Bill 582, repealing the license requirement for carrying a concealed pistol or revolver.

As I said when I vetoed nearly identical legislation last year, New Hampshire's current concealed carry permitting law has worked well for nearly a century – safeguarding the Second Amendment rights of our citizens while helping to keep the Granite State one of the safest states in the nation. It is a permitting system that gives an important oversight role to local law enforcement while ensuring that an appeal process is in place if a permit is denied, a law that Republican Governor Mel Thomson said was 'a sensible handgun law.' Not only has the current law worked well, I also continue to share the public safety concerns of law enforcement and citizens across New Hampshire about removing the protections that the licensing process offers.

I also continue to support the Second Amendment and the right of Americans to responsibly own guns for personal safety, hunting, and recreation, but as the late Justice Antonin Scalia reaffirmed in the 2008 Supreme Court case of *District of Columbia v. Heller*, states also have the ability to responsibly and appropriately regulate the concealed carry of firearms.

Nothing has changed since last year's attempt to repeal the license requirement for carrying a concealed firearm – our current law continues to work well, public safety officials have the same concerns and the elimination of this responsible, common-sense law would still compromise the safety of our citizens. Therefore, I have vetoed House Bill 582.

Respectfully Submitted,
Margaret Wood Hassan
Governor
Date: May 26, 2016

GOVERNOR'S VETO MESSAGE REGARDING HB 1208

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on May 6, 2016, I have vetoed House Bill 1208, relative to administration of the tobacco tax.

This bill makes technical changes to the tobacco tax laws, as administered by the Department of Revenue, including changing and adding certain definitions and removing references to metering machines. It also clarifies activities that constitute unauthorized sales of tobacco products and makes records of tobacco stamps sold and tobacco products distributed required taxpayer records.

The primary purpose of this bill was to make technical changes at the request of the Department of Revenue Administration, changes that are important for the Department's administration of tax law. But the negatives of one provision outweigh the benefits of these technical changes. House Bill 1208 would also expand the definition of 'premium cigar' to include those that wholesale for less than two dollars, thereby exempting low-priced cigars from State tobacco taxes. As a matter of public health and fairness, I have proposed requiring parity for tobacco products during the last two budget cycles, but this bill would move in the opposite direction by expanding the exemption for premium cigars. Because cutting tobacco taxes is detrimental to public health, the American Cancer Society Cancer Action Network opposes measures such as this.

While this bill makes important clarifying changes to tobacco tax laws for the Department of Revenue Administration, those changes are outweighed by its negative health and fiscal impacts. In the interest of public health and fiscal responsibility for the State's budget, I have vetoed House Bill 1208.

Respectfully Submitted,
Margaret Wood Hassan
Governor
Date: May 6, 2016

GOVERNOR'S VETO MESSAGE REGARDING HB 1266

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on May 31, 2016, I have vetoed House Bill 1266, relative to legalizing firecrackers.

Ensuring the health and safety of citizens is the first responsibility of state government. In New Hampshire we have a long tradition of a balanced regulatory approach when it comes to our fireworks industry, an approach that focuses on minimizing risk to public safety and protecting all citizens' quality of life. Our current approach prohibits the sale and use of firecrackers, and none of the proponents of this bill made a compelling argument for changing current law. House Bill 1266 repeals the prohibition on the sale and use of firecrackers in the State of New Hampshire, and in doing so, threatens our tradition of carefully balancing public safety with public access to this industry.

The New Hampshire Association of Fire Chiefs and the New Hampshire Fire Marshal's Office oppose House Bill 1266, and I share their public safety concerns. According to estimates by the U.S. Consumer Product

Safety Commission, firecrackers have previously accounted for up to 20 percent of all fireworks-related injuries nationwide. Additionally, because of their small size, firecrackers can also be used to create panic in a crowd, potentially resulting in disastrous consequences.

It is unnecessary to change current law – which already provides public access to fireworks while aiming to minimize public safety risks – by repealing a prohibition on some of the most dangerous types of fireworks. Because of the threat it poses to public safety, high risk of injury and the potential disruption to other citizens, I have vetoed House Bill 1266.

Respectfully Submitted,
Margaret Wood Hassan
Governor

Date: May 31, 2016

GOVERNOR'S VETO MESSAGE REGARDING HB 1637

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on June 9, 2016, I have vetoed House Bill 1637, relative to school attendance in towns with no public schools.

House Bill 1637 diverts taxpayer money to private and religious schools with no accountability or oversight, a clear violation of the New Hampshire Constitution, which states, "... no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination." Not only is the bill unconstitutional, it also has no mechanism to ensure a student's constitutional right to the opportunity to receive an adequate education and would undermine the state's efforts to ensure a strong and robust public education system for all New Hampshire students.

Under current New Hampshire law, public schools are required to provide the opportunity for an adequate education, as defined by the Legislature, and are held accountable through laws and rules that require monitoring and review by the Department of Education. Additionally, as required by statute and as a result of Supreme Court decisions requiring a statewide education accountability system, New Hampshire schools are required to participate in the Statewide Educational Improvement and Assessment Program. If House Bill 1637 is enacted, public funds would be used to send students to private schools – which are only approved by the Department of Education for attendance and not curriculum, without the same accountability standards as the public schools – violating the requirements of state law and the state Constitution.

In addition, House Bill 1637 interferes with tuition agreements between school districts throughout the state and potentially removes voters from the approval process for those agreements. It allows school districts that do not have public schools for every grade level to assign a student to or enter into a contract with a private school, but this is not necessary, because under current New Hampshire law, school districts that do not have their own public school are able to enter into tuition agreements with other school districts – many of which are multi-year contracts. It is common practice for these tuition agreements to go before the town voters to approve the terms of the contract – a provision not provided for in this proposed law.

The National Education Association, the New Hampshire School Administrators Association and the New Hampshire School Boards Association all opposed this legislation. The National Education Association wrote, "The bill creates an unlimited and unregulated local voucher program with enormous opportunities for discrimination and inequality," and the school administrators wrote, "This proposed law is substantially flawed and would expose the school districts and their citizens to likely costly litigation."

House Bill 1637 clearly violates the explicit language of New Hampshire's Constitution. It also would undercut every New Hampshire public school student's constitutional right for the opportunity for an adequate education, with strong accountability from the school. Because it is unconstitutional, undermines our efforts to ensure a strong and robust public education system for all New Hampshire students and interferes with tuition agreements between school districts throughout the state, I have vetoed House Bill 1637.

Respectfully submitted,
Margaret Wood Hassan
Governor

Date: June 9, 2016

OFFICIAL NOTICES

COUNTY DELEGATION NOTICE

The Coös County Delegation Members will be having an Emergency Delegation Meeting, Thursday, June 16th immediately after Session. The meeting will be held in Room 203 in the LOB. We will be discussing and voting on the SEA and ASFCME union contracts for 2016 – 2018.

Robert L. Théberge, Chairman
Coös County Delegation