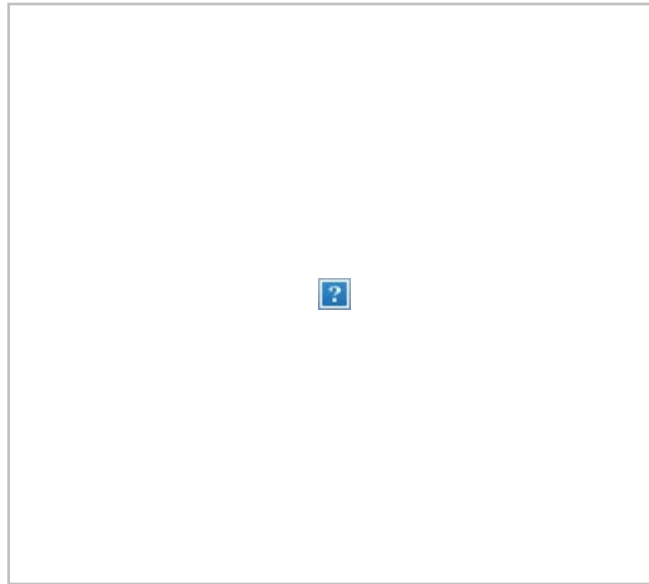


STATE OF NEW HAMPSHIRE

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Second Year of 161st Session of the New Hampshire General Court

Legislative

SENATE CALENDAR ADDENDUM

REPORTS, AMENDMENTS, HEARINGS AND NOTICE

THE SENATE WILL MEET IN SESSION ON WEDNESDAY, MAY 12, 2010, AT 10:00 A.M.

REPORTS

COMMERCE, LABOR AND CONSUMER PROTECTION

HB 366, relative to retail vehicle dealers.
Ought to Pass with Amendment, Vote 5-1.
Senator Reynolds for the committee.

HB 1137, relative to withholding of wages.
Inexpedient to Legislate, Vote 3-3.
Senator Reynolds for the committee.

HB 1163, (New Title) relative to the definition of employer for purposes of safety provisions under the workers' compensation law.
Ought to Pass, Vote 6-0.
Senator Bragdon for the committee.

HB 1352, relative to direct shippers.
Ought to Pass with Amendment, Vote 6-0.
Senator DeVries for the committee.

HB 1364, relative to Medicare unfair trade practices.
Inexpedient to Legislate, Vote 3-3.
Senator Hassan for the committee.

HB 1370, requiring independent medical examination practitioners to file a report with the insurance department.
Inexpedient to Legislate, Vote 6-0.
Senator Bragdon for the committee.

HB 1371, allowing recording of an examination by health care providers performing independent medical examinations.
Ought to Pass with Amendment, Vote 6-0.
Senator DeVries for the committee.

HB 1393, (New Title) relative to the treatment of New Hampshire investment trusts.
Ought to Pass with Amendment, Vote 4-2.
Senator Reynolds for the committee.

HB 1417, allowing companion dogs in certain areas of restaurants.
Inexpedient to Legislate, Vote 3-3.
Senator Cilley for the committee.

HB 1470, establishing a committee to study laws relating to condominium and homeowners' associations.
Ought to Pass with Amendment, Vote 5-1.
Senator Roberge for the committee.

HCR 30, (New Title) urging the attorney general to fully investigate the proposed transaction between Catholic Medical Center Healthcare System and Dartmouth-Hitchcock Health.
Ought to Pass, Vote 5-1.
Senator DeVries for the committee.

AMENDMENTS

Commerce, Labor and Consumer Protection
May 11, 2010
2010-2021s
03/05

Amendment to HB 366

Amend RSA 259:29-a, III(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Such business location is a permanent physical structure; and

Commerce, Labor and Consumer Protection

May 11, 2010
2010-2013s
03/05

Amendment to HB 1352

Amend the bill by replacing section 3 with the following:

3 Direct Shippers. Amend RSA 178:27, III to read as follows:
III. ***Except with written permission of the commission***, no direct shipper shall ship more than 60 individual containers of not more than one liter each of liquor and ***not more than 12 - 9 liter cases or equivalent of*** wine to any one [licensee in New Hampshire or to any] consumer [or consumer's address] in New Hampshire in any calendar year. ***The commission shall only grant permission for additional shipments if the additional shipments are of products not otherwise available in New Hampshire.*** Furthermore, in the event any [manufacturer or wholesaler] direct shipper wishes to ship more than a total of [1,200 individual containers of not more than one liter each] ***600 liters*** of any particular liquor or wine directly to any combination of licensees and/or consumers in New Hampshire, the shipper shall offer to sell a matching amount to the commission or beer distributor at ***the lower of the*** wholesale [prices] ***price or the lowest price delivered into New Hampshire. A licensee may purchase from a direct shipper pursuant to RSA 179:32, III.***

Amend the bill by inserting after section 4 the following and renumbering the original sections 5-7 to read as 6-8, respectively:

5 New Paragraph; Fees. Amend RSA 178:29 by inserting after paragraph V-a the following new paragraph:
V.b.(a) Annual direct shipper permit fees:
 (1) Wine manufacturers, \$100.
 (2) Importers, retailers, and wholesalers, \$500.
 (b) If a direct shipper made less than 5 shipments during the permit year, the commission shall, upon request of the direct shipper, refund a portion of the permit fee. The amount of the refund shall be equal to 20 percent of the fee paid multiplied by the difference between 5 and the number of shipments made.

Amend the bill by replacing section 6 with the following:

6 Prohibited Sales. Amend RSA 179:5, I to read as follows:
I. No licensee, salesperson, direct shipper, common carrier, delivery agent, nor any other person, shall sell or give away or cause or allow or procure to be sold, delivered, or given away any liquor or beverage to a person under the age of 21 or serve an individual who is visibly intoxicated or who a reasonable and prudent person would know is intoxicated. For all deliveries of packages by common carrier or delivery agent marked "alcoholic beverages" or "alcoholic products," the [addressee shall sign a delivery receipt] ***carrier shall obtain an adult signature.*** [In no case shall any section of this title be so construed as to permit sale of liquor or beverages in any so-called saloon or speakeasy.] ***A licensed carrier shall not transport any liquor, wine, or beverage that has been identified by the commission as originating from a person who does not hold a valid New Hampshire direct shipper permit, provided that such identification has first been provided to and received by the licensed carrier in writing. The commission shall notify carriers by mail on a monthly basis of the identity of unauthorized shippers, which notification shall be effective 15 days after such mailing.***

2010-2013s

AMENDED ANALYSIS

This bill changes reporting requirements for direct shippers of alcoholic beverages and modifies the limitations on the number of containers of liquor and wine a direct shipper may ship to a customer. This bill also prohibits transportation of unauthorized direct shipments.

Commerce, Labor and Consumer Protection
May 11, 2010
2010-2011s
01/05

Amendment to HB 1371

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

AN ACT allowing an injured employee to have a witness present at the examination by health care providers performing independent medical examinations and establishing a committee to study certain aspects of independent medical examinations.

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

1 Workers' Compensation; Independent Medical Examinations. Amend RSA 281-A:38, II to read as follows:

II. Any health care provider conducting independent medical examinations under this chapter shall be certified by the appropriate specialty board as recognized by the American Board of Medical Specialties or obtain the approval of the commissioner for those specialties not recognized by such board. The health care provider shall maintain a current practice in that area of specialty. The independent medical examination shall take place within a 50-mile radius of the residence of the injured employee, unless, within the discretion of the commissioner, examination outside the 50-mile radius is necessary to obtain the services of a provider who specializes in the evaluation and treatment specific to the nature and extent of the employee's injury. The injured employee shall not be required to submit to more than 2 independent medical examinations per year, unless within the discretion of the commissioner, more than 2 examinations are necessary. ***An injured employee shall have the right to have a witness present during such examination. In the event that a witness is present, including but not limited to a witness taking notes or observing, on behalf of the injured employee, the witness shall not interfere in the examination in any way. The injured employee shall be required to sign an authorization, as prepared by the commissioner, to the effect that he or she understands that his or her medical history and condition or conditions will be discussed during said examination and that he or she waives any right to privacy that he or she may have under the circumstances of voluntarily allowing a witness to be present on his or her behalf.***

2 Committee Established. There is established a committee to study whether allowing an injured employee to record the independent medical examination is feasible and whether independent medical examination practitioners should be required to file a report with the insurance department.

3 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) One member of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house of representatives.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

4 Duties. The committee shall study whether allowing an injured employee to record the independent medical examination required by workers' compensation is feasible and whether independent medical examination practitioners who perform 10 or more examinations in a calendar year should be required to file an annual report with the insurance department.

5 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

6 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2010.

7 Effective Date.

I. Section 1 of this act shall take effect January 1, 2011.

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

2010-2011s

AMENDED ANALYSIS

This bill allows an injured employee to have a witness present during the independent medical examinations required under workers' compensation.

This bill also establishes a committee to study certain aspects of independent medical examinations.

Commerce, Labor and Consumer Protection

May 11, 2010

2010-2020s

08/04

Amendment to HB 1393

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

AN ACT relative to the treatment of New Hampshire investment trusts, and relative to pooled risk management programs.

Amend RSA 293-B:6, III and IV as inserted by section 2 of the bill by replacing them with the following:

III. A trustee of a New Hampshire investment trust may be served with process in the manner prescribed in paragraph IV of this section in all civil actions or proceedings brought in this state involving or relating to the activities of the New Hampshire investment trust or a violation by a trustee of a duty to the New Hampshire investment trust, or any beneficial owner, whether or not the trustee is a trustee at the time suit is commenced. Every resident or nonresident of this state who accepts election or appointment or serves as a trustee of a New Hampshire investment trust shall, by such acceptance or service, be deemed thereby to have consented to the appointment of the New Hampshire trustee or registered agent of such New Hampshire investment trust required by RSA 293-B:9 as such person's agent upon whom service of process may be made as provided in this paragraph. Such acceptance or service shall signify the consent of such trustee that any process when so served shall be of the same legal force and validity as if served upon such trustee within this state and such appointment of such New Hampshire trustee or registered agent shall be irrevocable.

IV. Service of process shall be effected by serving the New Hampshire trustee or registered agent of such New Hampshire investment trust required by RSA 293-B:9 with one copy of such process in the manner provided by law for service of writs of summons. In addition, the clerk of the court in which the civil action or proceeding is pending shall, within 7 days of such service, deposit in the United States mails, by registered mail, postage prepaid, true and attested copies of the process, together with a statement that service is being made pursuant to this section, addressed to the defendant at the defendant's address last known to and furnished by the party desiring to make such service.

Amend the bill by replacing all after section 2 with the following:

3 New Section; Pooled Risk Management Programs; Authority of Secretary of State. Amend RSA 5-B by inserting after section 4 the following new section:

5-B:4-a Authority of the Secretary of State; Investigations; Cease and Desist Orders; Penalties.

I. Notwithstanding any other provision of law, the secretary of state shall have exclusive authority and jurisdiction:

(a) To bring administrative actions to enforce this chapter.

(b) To investigate and impose penalties for violations of this chapter, including but not limited to:

(1) Fines.

(2) Rescission, restitution, or disgorgement.

II. The secretary of state shall have all powers specifically granted or reasonably implied in order to perform the substantive responsibilities imposed by this chapter.

III. For the purpose of any investigation, hearing, or proceeding under this chapter, the secretary of state or any officer designated by him or her may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the secretary of state deems relevant or material to the inquiry.

IV. In the event that a person refuses to obey a subpoena issued to him or her or any order or determination the secretary of state is authorized to make, the superior court, upon application by the attorney general or secretary of state or any officer designated by the secretary of state, may issue to the person an order directing him or her to appear before the attorney general or secretary of state, or the officer designated by him or her, to produce documentary evidence if so ordered or to give

evidence relative to the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as contempt of court.

V. In any investigation to determine whether any person has violated or is about to violate this chapter or any rule or order under this chapter, upon the secretary of state's prevailing at hearing, or the person charged with the violation being found in default, or pursuant to a consent order issued by the secretary of state, the secretary of state shall be entitled to recover the costs of the investigation, and any related proceedings, including reasonable attorney's fees, in addition to any other penalty provided for under this chapter.

VI. Whenever it appears to the secretary of state that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule or order under this chapter the secretary of state shall have the power to issue and cause to be served upon such person an order requiring the person to cease and desist from violations of this chapter. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. All hearings shall be conducted in accordance with RSA 421-B:26-a.

VII. The following fines and penalties may be imposed on any person who has violated this chapter.

(a) Any person who, either knowingly or negligently, violates any provision of this chapter or any rule or order thereunder, may, upon hearing, and in addition to any other penalty provided for by law, be subject to an administrative fine not to exceed \$2,500. Each of the acts specified shall constitute a separate violation.

(b) After notice and hearing, the secretary of state may enter an order of rescission, restitution, or disgorgement directed to a person who has violated this chapter, or rule or order under this chapter. Rescission, restitution, or disgorgement shall be in addition to any other penalty provided for under this chapter.

VIII. Decisions of the secretary of state may be appealed to the supreme court pursuant to RSA 541.

4 Standards of Organization and Operation. Amend RSA 5-B:5, I(b) to read as follows:

(b) Be governed by a board the majority of which is composed of elected or appointed public officials, officers, or employees. ***Board members shall not receive compensation but may be reimbursed for mileage and other reasonable expenses.***

5 New Subparagraph; Standards of Organization and Operation. Amend RSA 5-B:5, I by inserting after subparagraph (f) the following new subparagraph:

(g) Provide notice to all participants of and conduct 2 public hearings for the purpose of advising of potential rate increases, the reasons for projected rate increases, and to solicit comments from members regarding the return of surplus, at least 10 days prior to rate setting for each calendar year.

6 Limitations on Reserves and Administrative Expenses of Pooled Risk Management Programs. The secretary of state, in consultation with the insurance commissioner and by employing the services of an actuary who has experience with pooled risk management programs shall, no later than January 1, 2011, submit a report to the speaker of the house of representatives, the president of the senate, and the governor, containing specific recommendations concerning the limitation of reserves in pooled risk management programs and the limitation on administrative expenses as a percentage of claims of pooled risk management programs. The secretary of state may use funds from the investor education fund established in RSA 421-B:21, II-c to pay for the services of the actuary.

7 Repeal. The following are repealed:

I. 2009, 128:4, relative to the 2011 amendment of the pooled risk management program informational filing fee.

II. 2009, 128:5, I, relative to the effective date of the amendment of pooled risk management program informational filing fee.

8 Effective Date. This act shall take effect upon its passage.

2010-2020s

AMENDED ANALYSIS

This bill:

I. Makes various changes to the laws regarding New Hampshire investment trusts.

II. Enables the secretary of state to investigate and bring actions against pooled risk management programs.

III. Requires the secretary of state to employ an actuary and report on the limitation of reserves in pooled risk management programs and the limitation on administrative expenses as a percentage of claims of pooled risk management programs.

IV. Repeals a provision permitting the department of state to make requests for additional information from pooled risk management programs making informational filings for a 2-year period.

Commerce, Labor and Consumer Protection
May 11, 2010
2010-2023s
05/10

Amendment to HB 1470

Amend RSA 356-B:70, IV as inserted by section 1 of the bill by replacing it with the following:

- IV. The committee shall:
- (a) Study laws relevant to condominium and other homeowners’ associations.
 - (b) Study the registration of subdivisions under the land sales full disclosure act, RSA 356-A, and condominiums under the condominium act, RSA 356-B, with the department of justice.
 - (c) Evaluate the need to distinguish smaller and larger associations in the statutes and to differentiate between condominium associations and homeowners’ associations.
 - (d) Study model laws for possible improvement to New Hampshire laws.
 - (e) Recommend statutory changes.
 - (f) Solicit information and testimony from the Community Associations Institute and others with expertise or information relevant to the committee’s study.

HEARINGS
THURSDAY, MAY 13, 2010

COMMERCE, LABOR AND CONSUMER PROTECTION, Room 102, LOB
Sen. Hassan (C), Sen. DeVries (VC), Sen. Reynolds, Sen. Cilley, Sen. Bragdon, Sen. Roberge
9:00 a.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**
 TO REVIEW SENATE BILLS AMENDED BY THE HOUSE

EDUCATION, Room 103, LOB
Sen. Kelly (C), Sen. Merrill (VC), Sen. Fuller Clark, Sen. Lasky, Sen. Bragdon, Sen. Letourneau
9:30 a.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**
 TO REVIEW SENATE BILLS AMENDED BY THE HOUSE

ELECTION LAW AND VETERANS' AFFAIRS, Room 101, LOB
Sen. Lasky (C), Sen. Houde (VC), Sen. Merrill, Sen. Barnes, Sen. Carson
9:00 a.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**
 TO REVIEW SENATE BILLS AMENDED BY THE HOUSE

ENERGY, ENVIRONMENT AND ECONOMIC DEVELOPMENT, Room 102, LOB
Sen. Fuller Clark (C), Sen. Merrill (VC), Sen. Cilley, Sen. Lasky, Sen. Odell, Sen. Bradley
10:30 a.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**
 TO REVIEW SENATE BILLS AMENDED BY THE HOUSE

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB
Sen. Cilley (C), Sen. Fuller Clark (VC), Sen. DeVries, Sen. Downing, Sen. Carson
10:00 a.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**
 TO REVIEW SENATE BILLS AMENDED BY THE HOUSE

FINANCE, Room 100, SH
Sen. D'Allesandro (C), Sen. Janeway (VC), Sen. Larsen, Sen. Hassan, Sen. Sgambati, Sen. Gallus, Sen. Odell
11:00 a.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**
 TO REVIEW SENATE BILLS AMENDED BY THE HOUSE

HEALTH AND HUMAN SERVICES, Room 103, SH

Sen. Sgambati (C), Sen. Gilmour (VC), Sen. Kelly, Sen. Gallus, Sen. Downing

11:30 a.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**

TO REVIEW SENATE BILLS AMENDED BY THE HOUSE

JUDICIARY, Room 103, SH

Sen. Reynolds (C), Sen. Lasky (VC), Sen. Houde, Sen. Roberge, Sen. Letourneau

10:00 a.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**

TO REVIEW SENATE BILLS AMENDED BY THE HOUSE

PUBLIC AND MUNICIPAL AFFAIRS, Room 103, LOB

Sen. DeVries (C), Sen. Houde (VC), Sen. Sgambati, Sen. Roberge, Sen. Barnes

10:30 a.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**

TO REVIEW SENATE BILLS AMENDED BY THE HOUSE

TRANSPORTATION AND INTERSTATE COOPERATION, Room 101, LOB

Sen. Letourneau (C), Sen. Gilmour (VC), Sen. Fuller Clark, Sen. Kelly, Sen. Boutin

11:00 a.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**

TO REVIEW SENATE BILLS AMENDED BY THE HOUSE

WAYS AND MEANS, Room 100, SH

Sen. Odell (C), Sen. D'Allesandro (VC), Sen. Janeway, Sen. Reynolds, Sen. Gilmour, Sen. Downing, Sen. Bradley

9:30 a.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**

TO REVIEW SENATE BILLS AMENDED BY THE HOUSE

NOTICE

WEDNESDAY, MAY 12, 2010

If we do not complete our session work on Wednesday, May 12th, 2010, the Senate will reconvene in session on Thursday, May 13th, 2010, at 1:00 p.m. to finish Senate session work, and possibly to take up Committee of Conference business from Thursday morning's executive sessions.

Sylvia B. Larsen, Senate President
