

2016 Legislative Review

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The disposition of bills followed by Farm Bureau in the New Hampshire Legislature this year. In **bold print** following each bill number and description is the position taken by Farm Bureau.

by Rob Johnson, NHFB Policy Director

Bills* Signed into Law

HB 197-FN was introduced as a bill authorizing wine manufacturers to conduct sampling and retail sales at two additional locations other than at its manufacturing facility. It passed the House but was amended and given a new title in the Senate, establishing a commission "establishing a commission to evaluate the 3-tier system." The separation of alcoholic beverage producers, distributors, and retailers is commonly referred to as the 3-tier system. This new bill was signed into law. Effective 6/9/16, Chapter Law 216. **Supported as introduced.** (See also **SB 301** – the original language contained in **HB 197-FN** was later added to **SB 301**, which failed in Conference Committee.)

HB 280, authorizing multi-use decal number plates bearing decals issued by certain tax-exempt organizations authorized by statute. Provides the ability for NH Agriculture in the Classroom and other 501(c)(3) organizations to raise funds. Effective 7/1/17, Chapter Law 279. **Supported**

HB 466, clarifying specialized vehicles used for agricultural purposes qualify for Farm Tractor Plates to current law as follows (language added in **bold italics**):

261:83 Farm Tractor Plates; *Specialized Vehicles.*

I. A tractor shall qualify for farm tractor registration rates and shall be driven with such registration only when the tractor is used exclusively for agricultural purposes or to draw another vehicle in such a way that part of the load is carried on such towing vehicle.

II. Notwithstanding any provision of law to the contrary, a farm tractor that is fitted with attachments such as cultivators, loaders, or other equipment, specific to the activities of the farm, *or a specialized vehicle such as a backhoe, bulldozer, excavator, grader, or loader*, shall qualify for farm tractor registration rates and number plates, provided that it is being used exclusively for agriculture and farming purposes, and not being used for hire.

III. *For a person using a specialized vehicle under paragraph II to be eligible for the issuance of a farm tractor plate, the applicant shall sign the following form which the treasurer of a city or such other official as the city government may designate or the town clerk shall provide. This form shall be provided to the applicant upon request without further evidence from the applicant that the plate shall be used for purposes of this section.*

I, the undersigned, fully understand the limitations concerning the use of specialized vehicles such as backhoes, bulldozers, excavators, graders, or loaders registered under RSA 261:83, and hereby certify that my vehicle will be used only for agricultural and farming purposes and uses incidental thereto. Signed: _____

Date: _____

Copies to: Town or City Clerk, Applicant

Effective 7/26/16, Chapter Law 129. **Supported**

HB 499, permitting farmers to sell farm-raised bison directly to the public (RSA 143-A) provided they are slaughtered and processed in accordance with provisions outlined in RSA 427:16, XII. Effective 7/2/16, Chapter Law 36. **Supported**

HB 500, "Hunters Hearing Protection Act" repeals statute prohibiting the use of silencing devices for the taking of wildlife (RSA 207:4) and related penalties (RSA 207:46, II). Effective 6/10/16, Chapter Law 234. **Supported**

HB 1116, increasing the cap on net energy metering tariffs available to eligible customer-generators from 50 megawatts to 100 megawatts, allocated amongst distributing utilities. Effective 5/2/16, Chapter Law 31. **Supported**

HB 1147, requiring the Department of Resources and Economic Development to make an annual report on federal landholdings within the state. Effective 6/3/16, Chapter Law 162. **Monitored**

HB 1264, updating the statute governing carnival and amusement ride inspections, RSA 321-A, including the definition of carnival and amusement ride as follows (language added in **bold italics**):

I. "Carnival or amusement ride" means a device [which carries or conveys passengers for the purpose of giving its passengers amusement, pleasure or excitement] *or combination of devices that carry, convey, or direct a person or persons over or through a fixed or restricted course or within a defined area, for the primary purpose of amusement or entertainment.*

Effective 1/1/17, Chapter Law 133. **Monitored**

HB 1285, exempting persons donating and nonprofits distributing food that has passed its expiration date from

liability from injury arising from such donations. Effective: 7/2/16, Chapter Law 38. **Supported**

HB 1292, clarifying the intent concerning the use of agricultural property in the state's zoning and planning statutes under Agricultural Uses of Land by making the following change to RSA 674:32-b, I-II as follows (language added in **bold italics**):

I. Any new establishment, re-establishment after [~~disuse~~] **abandonment**, or significant expansion of an operation involving the keeping of livestock, poultry, or other animals may be made subject to special exception, building permit, or other local land use board approval.

II. Any new establishment, re-establishment after [~~disuse~~] **abandonment**, or significant expansion of a farm stand, retail operation, or other use involving on-site transactions with the public, may be made subject to applicable special exception, building permit, or other local land use board approval and may be regulated to prevent traffic and parking from adversely impacting adjacent property, streets and sidewalks, or public safety.

Effective: 7/18/16, Chapter Law 86. **Supported**

HB 1298, creating a Landowner's Right of Action (RSA 149-P) against any person who damages land by unauthorized dumping. The owner of land where unauthorized dumping has taken place may:

(a) *Commence an action for the cost of cleanup and any such damages as may result from the discharge;*

(b) *Seek injunctive relief enjoining any activity described in paragraph II, if such activity is imminent or likely;*

(c) *Obtain a court order requiring the person causing the discharge to contain, clean up, and remediate the discharge at such person's expense;*

(d) *Obtain multiple damages against the person causing the discharge of up to 3 times actual damages, based upon the degree of culpability, as determined by the trier of fact;*

(e) *Obtain reasonable attorneys' fees and professional fees associated with the containment, cleanup, and remediation, and the seeking and obtaining relief and damages;*

(f) *Require the person causing the discharge to provide a bond, or other assurances sufficient to cover the costs of containment, cleanup, and remediation, upon a showing by the owner that there is a reasonable likelihood of a judgment; and*

(g) *Obtain an attachment, prejudgment attachment, or trustee process in accordance with RSA 511, RSA 511-A and RSA 512.*

Also amends OHRV operator responsibilities under RSA 215-A and snowmobile operator responsibilities under RSA 215-C to provide "the owner of any lands where trees, shrubs, roads, or other property have been damaged as a result of travel over the owner's premises by such vehicles" the following:

In addition to any other penalty or obligation imposed, the owner of any lands which have been damaged in violation of this chapter may bring an action to recover such damages, in the superior court for the county in which the lands are located, against any person who is responsible and accountable under subparagraph I(a). In bringing such action, the owner shall be entitled to:

(a) *The cost of clean-up and restoration to the prior condition of the lands;*

(b) *Multiple damages of up to 3 times actual damages, based upon the level of culpability for the conduct, as determined by the trier of fact; and*

(c) *Reasonable attorney's fees necessary to the action.*

Effective 1/1/17, Chapter Law 278 **Supported.**

HB 1354, establishing a committee to study livestock and meat inspection. The duties of the committee, made up of Legislators, is to study RSA 427, Livestock and Meat Inspection and make recommendations on what should be repealed and what should be modified. Effective 6/6/16, Chapter Law 210. **Monitored**

HB 1355, amending RSA 143-A:16, relative to the sale of uninspected poultry to restaurants, to increase the number of uninspected, processed whole poultry a producer may sell in a calendar year from 1,000 to a number not exceeding the federal limit established in 21 U.S.C. section 464. This federal limit is currently 20,000 birds. Effective 6/24/16, Chapter Law 26. **Supported**

HB 1430-FN, enabling and establishing operation and

*Bill Abbreviation Key

HB = House Bill – a bill sponsored by a Representative and originating in the House

SB = Senate Bill – a bill sponsored by a Senator and originating in the Senate

FN = Fiscal Note – means a cost estimate pre-

pared by relevant agencies indicating the bill's fiscal impact is attached.

A = Appropriation – means the bill includes an appropriation of funds.

L = contains information on the bill's impact on municipal revenue.

equipment requirements for "compact utility tractors" on ways where the posted speed limit is 35 mph or less and "the route or crossing being used is open to such vehicles and at such times and under any other special operating conditions established by the government authority having control of the way." Compact Utility Tractors are defined as:

259:13-a Compact Utility Tractor. "Compact utility tractor" shall mean any self-propelled 4-wheel vehicle utilizing diesel fuel, with a rated horsepower not to exceed 28 horsepower, that is capable of carrying not more than one occupant, is equipped by the manufacturer with at least one PTO (power take-off) in addition to any PTO installed for the purpose of an under-tractor mower deck, and has no provision for carrying a load other than attached implements such as snowplows, tool boxes, or bucket loaders.

Compact utility tractors (CUTs) are exempt from inspection requirements. Any person operating a compact utility tractor under this statute must hold a valid driver's license. CUTs must be equipped with at least one red reflex reflector and when operating at any time during the period from 1/2 hour after sunset to 1/2 hour before sunrise must be equipped with "one or more headlights and one or more rear taillights". Effective 7/1/17, Chapter Law 260. **Monitored**

HB 1461, revising the definition of and criteria for protection instream flow under the NH Rivers Management and Protection Program (RSA 483). Makes changes to the definition of "Protected instream flow" as follows (words added in bold italic print): a [constant minimum] stream flow [level] *pattern which is* established to maintain water for present and future instream public uses. Effective 8/20/16, Chapter Law 286. **Monitored**

HB 1547-FN, specifically establishing the crime of bestiality in the animal cruelty statute (RSA 644). Contains language the statute shall not apply to:

- (a) Accepted veterinary medical practices.
- (b) Insemination of animals for the purpose of procreation.
- (c) Accepted animal husbandry practices that provide care for animals.

Effective 1/1/17, Chapter Law 321. **Opposed as introduced** as "bestiality" is already covered in the statute under the definition of "cruelty" which is defined as "shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal..." Also opposed the placement of the proposed language in the Sexual Assault statute (RSA 632-A) and certain qualified "non-applicable" language that was proposed. After these concerns were addressed opposition was withdrawn and the bill **Monitored**. Effective 1/1/17, Chapter Law 321.

HB 1595-FN, making changes, clarifications, and updates to the Rivers Management and Protection Program. **Opposed as introduced.** After certain changes were made, particularly language being deleted which removed from current law the requirement riparian landowners receive written notice when a river segment is nominated for the program (RSA 483:6) and language added (in bold italics) clarifying certain minimum impact forestry and agricultural activities were exempted from review and comment by the Local Rivers Management Advisory Committee, opposition was withdrawn and the bill **Monitored**. Effective 8/20/16, Chapter Law 287.

Amend RSA 483:12-a, I-I-a to read as follows:

I. Any state agency considering any action affecting any river or segment designated under this chapter shall notify the rivers coordinator and the local river management advisory committee prior to taking any such action. Such agency shall forward to the rivers coordinator and the local river management advisory committee for review and comment copies of all notices of public hearings, or, where a public hearing is not required, a copy of the application for issuance of a permit, certificate, or license within the designated river or corridor under RSA 485-C, RSA 485-A, RSA 483-B, RSA 12-E, RSA 270:12, RSA 482, **RSA 482-A, except notifications for minimum impact activities under RSA 482-A:3, V and XII and for routine roadway maintenance under RSA 482-A:3, XVI on land used for agricultural purposes**, RSA 149-M, RSA 430, or RSA 147-A. If an agency is notified by the rivers coordinator that a proposed activity would violate a protection measure under RSA 483:9, 483:9-a, 483:9-aa, or 483:9-b, such agency shall deny the application.

HB 1655-FN, correcting an oversight in SB 231 (2014) establishing Agriculture/Industrial Utility Vehicles (AIUV) - defined in RSA 259:2-a. The intent in SB 231 was to set a reduced registration fee but did so only for the state portion. HB 1655 sets the municipal fee at \$5 for AIUVs. Effective 1/1/17, Chapter Law 93. **Supported**

HB 1656-FN, establishing an exception from the Real Estate Transfer Tax (RETT) for transfers of title related to changes in form of organization or made between the owners and the entity for no consideration. Effective 6/21/16, Chapter Law 288. **Supported** (The RETT is imposed on both the buyer and the seller at the rate of \$.75 per \$100 of the price or consideration for the sale, granting, or transfer.)

SB 306, allowing the sampling of beer, cider, and wine at farmers' markets if authorized by the municipality. Effective 8/2/16, Chapter Law 179. **Supported**

SB 345, defining agritourism within the definition of "agriculture" and "farming" within RSA 21:34-a by amending the law as follows:

II. The words "agriculture" and "farming" mean all operations of a farm, including:

(b) Any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to:

(5) The marketing or selling at wholesale or retail, [on-site and off-site, where permitted by local regulations,] of any products from the farm, on-site and off-site, where not prohibited by local regulations. Marketing includes agritourism, which means attracting visitors to a farm to attend events and activities that are accessory uses to the primary farm operation, including, but not limited to, eating a meal, making overnight stays, enjoyment of the farm environment, education about farm operations, or active involvement in the activity of the farm.

and striking existing section VI:

~~VI. The term "agritourism" means attracting visitors to a working farm for the purpose of eating a meal, making overnight stays, enjoyment of the farm environment, education on farm operations, or active involvement in the activity of the farm which is ancillary to the farm operation.~~

Also permitting agritourism activities on any property where the primary use is agricultural as follows:

Amend RSA 674 relative to Agricultural Uses of Land by inserting after section 32-c the following new section:

674:32-d Agritourism Permitted. Agritourism, as defined in RSA 21:34-a, shall not be prohibited on any property where the primary use is for agriculture, subject to RSA 674:32-b, II.

Effective 7/18/16, Chapter 267. **Supported**

SB 356-FN, authorizing Agricultural plates for qualifying vehicles of commercial fishing operations. Effective 1/1/17, Chapter Law 97. **Supported**

SB 376-FN, requiring Fish and Game, DOT, and DES to research voluntary mechanisms to protect existing and needed wildlife corridors and make recommendations to protect them. Effective 8/9/16, Chapter Law 243. Noted at the initial hearing this issue was addressed in the State Wildlife Action Plan. Also voiced concerns with the language as drafted conflicting with property rights and local officials using the study to regulate land uses. After our concerns were addressed, the bill was **Monitored**.

SB 384, prohibiting the placement of food for consumption by wild deer that would be detrimental to the health of the deer population or a threat to public safety, in accordance with rules adopted by the Fish and Game Department. Also requires Fish and Game to provide informational materials to businesses which sell "wild animal feed" by adding the following new section to current law as follows:

208:8-b Feeding of Wild Deer.

I.(a) No person shall knowingly place food for consumption by wild deer if the fish and game department has determined such feeding would be detrimental to the health of the deer population or a threat to public safety.

(b) The executive director shall adopt rules pursuant to RSA 541-A that include but shall not be limited to the definition of food, the time of feeding, and the locations for feeding that would be detrimental for consumption by wild deer and the criteria by which the department will determine if feeding would be detrimental to the health of the deer population or a threat to public safety.

II. The fish and game department shall provide informational materials concerning the harmful or fatal feeding of wild deer to businesses and establishments in this state which sell or offer for sale wild animal feed.

III. Any person who violates the provisions of this section shall be given a warning for a first offense and shall be guilty of a violation for any subsequent offense.

IV. This section shall not apply to baiting permitted under RSA 207:3-d and agriculture as defined in RSA 21:34-a.

Effective 8/20/16, Chapter Law 302. **Took no position** but worked to include the language (**bold emphasis above**) clarifying that the law does not apply to agriculture

Bills Vetoed - Legislature has not acted on veto

SB 324, making changes in RSA 121 relative to the acquisition of land in New Hampshire by the federal government. Providing (with certain exemptions) federal acquisitions of land meet the following process:

1. Notification is made in writing to the Department of Resources and Economic Development (DRED).
2. DRED is to notify local governing bodies where the land is located of the proposed acquisition and schedules a public hearing.
3. Governor and Executive Council approval.
4. A "Certificate of Compliance" is issued by DRED when the transaction complies with statute. The Register of Deeds may not record a deed involving a federal land acquisition without a Certificate of Compliance.

"Acquisition" is defined "as fee ownership and easements where the federal government is the primary holder of the easement." Vetoed by the Governor 6/21/16, Passed the House on a vote of 191-149 and the Senate on a vote of 15-9. **Took no position** but raised concerns, particularly with how the term "acquisition" is defined in the bill, but did not take a position.

Bills Found

Inexpedient-to-Legislate or Otherwise Defeated

HHB 602-FN, regulating the use of drones. **Monitored** (Conference Committee unable to come to agreement, see also **SB 459-FN**)

HB 661-FN, requiring animal shelters keep certain records for dogs and cats taken in, sold, or transferred and provide certain information pertaining source and health to the Department of Agriculture, Markets and Food. **Supported**

HB 688-FN-L, relative to establishing an agricultural education number plate. - (See **HB 280**)

HB 1112, authorizing planning boards to adopt a subdivision regulations requiring the cleanup of environmental contamination as a condition of approval. **Took no position** but voiced concern that the term "environmental contamination" in the bill needed to be clarified. (Died on the Table in the House)

HB 1177, relative to permission required for baiting for game on the property of another. **Opposed**

HB 1182-FN, introduced as a bill to change the fee payable on sales by wine manufacturers from a percentage of sales to a per gallon fee. The bill was amended and title changed to establish a committee to study fees for sales of wine by manufacturers before the bill was amended with a third new title containing language unrelated to wine manufacturing. **Monitored** (Conference Committee report on third new title not signed.)

HB 1184-FN, modifying the license fee schedule for wine manufacturer licensees. **Monitored**

HB 1191, establishing an exotic game license for hunting in a game preserve. **Monitored**

HB 1207-FN, exempting wine sample fees from the meals and rooms tax. **Supported**

HB 1275, relative to net energy metering capacity. **Supported** - (See **HB 1116**)

HB 1291, eliminating the land use board, establishing an advisory board, and requiring approval of federal land acquisitions by the governor, executive council, and general court. **Monitored** - (See also **HB 1147**)

HB 1376, requiring an employer to offer a full-time temporary employee a permanent position after 6 months of temporary employment - provided the need for such work is ongoing. **Monitored**

HB 1358, regulating engine idling of certain vehicles. **Monitored**

HB 1425-FN, restricting the use of food stamps in convenience stores. **Opposed**

HB 1436-FN, relative to exemption from the yield tax on timber for clearing for solar energy. **Monitored**

HB 1466, allowing Homestead Food operations (RSA 143-A: 12-13) to use a sign and business cards at the point of sale to fulfill labeling requirements. **Monitored**

HB 1480-FN, establishing a state minimum hourly wage (\$8.25/hr.) **Monitored** - (See also **SB 412-FN**)

HB 1499-FN, requiring certificates for rabies vaccination of dogs, cats, or ferrets be produced in duplicate, not in triplicate, and the town or city not be sent a copy. **Monitored**

HB 1514, relative to the application of nitrogen and phosphorus content fertilizers. **Monitored**

HB 1533, enabling municipalities to regulate noise level limitations for permanent machinery. **Opposed** - Municipalities already have authority to regulate noise.

HB 1571-FN, prohibiting the possession, purchase, or sale of equipment used for animal fighting. **Opposed** - unnecessary, existing animal cruelty statutes prohibit "animal fighting"

and as proposed could make criminals of innocent people.

HB 1576-FN-L, repealing the licensure of dogs. **Opposed**

HB 1578, requiring a landowner who abuts a private road to repair and maintain the portion of the road abutting their property. **Opposed**

HB 1600-FN, prohibiting the possession of a flame thrower. **Opposed**

HB 1605-FN, prohibiting the use of latex gloves and utensils in the food service industry. **Monitored**

HB 1647-FN, repealing laws regulating hawkers and peddlers and itinerant vendors. **Monitored**

HB 1660-FN-L, (Second New Title) relative to appraisals of residential property, a residential owner option in a partial taking, and relocation, temporary housing, and legal expenses in eminent domain proceedings for gas pipelines; relative to intervention by the site evaluation committee in such proceedings; and relative to expenditures from the energy efficiency fund. Introduced in response to a proposed gas pipeline in the southern portion of the state. As proposed the bill contained changes to the Current Use law - relative to the Land Use Change Tax - and eminent domain statutes that we **Opposed**. After the section concerning Current Use was removed and other concerns were addressed, **Monitored**. (Conference Committee report defeated)

HB 1674-FN, requiring the labeling of genetically engineered foods. **Opposed**

HB 1686-FN, repealing the Land and Community Heritage Investment Program (LCHIP). **Opposed**

SB 121, (New Title) relative to exceptions from the land use change tax for removal of certain materials. **Opposed**

SB 301, (New Title) relative to the consumption of liquor at sports complexes and relative to sales and samples provided by wine manufacturers. - authorizing wine manufacturers to conduct sampling and retail sales at two additional locations (tasting rooms) for both samples and retail sales of its own wine separate apart from its manufacturing facility, subject to an annual fee of \$420 for each location. **Supported** (Conference Committee unable to come to agreement, see also **HB 197-FN**)

SB 305, including fermented pear juice in the definition of cider. **Opposed** as introduced out of concern it would be confusing and misleading. The House Commerce Committee determined the bill was unnecessary as the issue raised by the bill sponsor was already covered in the definition of "beverage" contained in the liquor laws. The bill was amended and title changed to authorize "brew pubs to manufacture alcoholic cider". (Conference Committee report defeated)

SB 333, increasing the cap on net energy metering tariffs available to customer-generators. **Supported** (See **HB 1116**)

SB 412, establishing a state minimum hourly wage (\$12/hr.) **Monitored** (See also **HB 1480-FN**)

SB 415, (New Title) requiring appropriate hydration be made available to animals and establishing a committee to study harmful weather conditions for dogs. **Opposed** as unnecessary. RSA 644:8, III(a) already states a person is guilty of a misdemeanor (first offense) and class B felony (subsequent offenses) when they "without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter". The Governor's Commission on the Humane Treatment of Animals, in which Farm Bureau has representation, is in existence and has the ability to conduct studies as may be needed.

SB 505-FN, relative to the transfer of animals and birds (kept as household pets). **Monitored**

Bills Held in Interim Study - (Committee Holding Bill)

HB 372, relative to certain private employers under workers' compensation. (House Labor, Industrial and Rehabilitative Services). This bill was introduced at the request of Farm Bureau to find cost effective workers' compensation coverage for very small sized farm operators. One option being explored is to extend current language under the statutes enabling workers' compensation coverage for occasional labor under a homeowner's policy - which covers labor such as a babysitter or neighborhood teenager mowing a lawn - to occasional or limited seasonal labor under a commercial farm policy. **Support**

HB 1141, defining "agritourism." This bill was incorporated into SB 345 but held in Interim Study in the event problems arose with SB 345. (Senate Public and Municipal and Affairs) (See SB 345, relative to the definition of agritourism. **Supported**)

HB 1176, relative to nomination and qualification of fish and game commissioners. (House Fish and Game and Marine Resources) **Oppose**

HB 1615-FN, regulating the transfer of dogs from out of state. (House Environment and Agriculture) **Monitoring**

SB 459-FN, establishing requirements for the operation of drones. (Senate Transportation, see also **HB 602-FN**) **Monitoring**