



# GOLD STANDARD



NHLIBERTY.ORG

HOUSE SESSION - THURSDAY, MARCH 10, 2022

CACR 14 YEA ITL

HB 1031 NAY ITL

HB 1151 YEA ITL

HB 1282 YEA OTP

HB 1408 YEA ITL

HB 1011 NAY OTP

HB 1059 NAY OTP

HB 1175 NAY ITL

HB 1299 YEA OTP/A

HB 1411 YEA OTP/A

HB 1021 YEA OTP

HB 1138 NAY ITL

HB 1216 YEA ITL

HB 1385 YEA ITL

HB 1636 YEA OTP

## HB 1011, relative to the penalty for criminal mischief.

**Criminal Justice and Public Safety: OTP 16-5**

**ANTI-LIBERTY:** This bill increases the penalty from a violation to a Class A misdemeanor (punishable by up to one year in jail and a fine up to \$2,000) for acts such as drawing a hopscotch board on a public sidewalk with chalk or attempting to clean graffiti from public property.

- Under current law, an individual who has vandalized, defaced, destroyed, tampered with, or made any other unauthorized alteration, whether permanent or temporary, on public property is guilty of a violation and must make restitution for any damage they have caused. This bill would increase that penalty to a Class A misdemeanor.
- Criminal penalties for items such as temporary defacement of public property is a significant overreach that will eventually have unintended consequences. Providing the state with this new criminal tool will eventually result in it being used to silence political dissent.
- Existing law already provides for a Class A misdemeanor in cases where the property damage is in excess of \$100 (per RSA 634:2 II-a.) and this applies both to private and public property (per RSA 634:2 I). Increasing the penalty to a class A misdemeanor for incidental items such as chalking or unauthorized cleanup of graffiti is a significant overreach.

# HB 1011

## NAY OTP

## HB 1031, prohibiting law enforcement from encrypting public frequencies.

**Criminal Justice and Public Safety: ITL 12-5**

**PRO-LIBERTY:** This act prohibits law enforcement from encrypting public frequencies, except when necessary to ensure the safety of law enforcement and the public.

- This bill would provide modest protection of the public's right to know by prohibiting encryption of public frequencies except when necessary to ensure the safety of law enforcement and the public. While the included 'loophole' to encryption may essentially allow agencies to regularly still encrypt communications, the bill would provide some check on agencies by at least making the position of the legislature on open government clear.
- The committee majority opinion includes the scare phrase of "We should be grateful that New Hampshire is the safest state and should not jeopardize our unique position by not practicing common sense." — it is worth noting that encryption of public frequencies is a relatively new occurrence in New Hampshire and that part of the reason we have the safety we have is the relative level of trust between the inhabitants and the state. Encryption of law enforcement communications undermines that trust.

# HB 1031

## NAY ITL

# HB 1151

## YEA ITL

# HB 1175

## NAY ITL

# HB 1282

## YEA OTP

# HB 1636

## YEA OTP

**HB 1151, prohibiting the display of a deadly weapon at a parade, funeral procession, picket line, march, rally, vigil, or demonstration.**

**Criminal Justice and Public Safety: ITL 13-6**

**ANTI-LIBERTY: This bill prohibits the open carry or display of a firearm, knife, or other deadly weapon at a parade, funeral procession, picket line, march, rally, vigil, demonstration, or other similar event.**

- This bill would criminalize even incidental witnessing of a parade, picket line, or demonstration as a spectator while open carrying a firearm. Free people should not be forced to turn and flee if a march is approaching them.
- This bill could force citizens to store firearms in cars parked off site and potentially lead to a rise in firearm theft from vehicles.
- Possession crimes by their very nature make law-abiding citizens criminals where no actual crime has been committed.

**HB 1175, relative to recording interactions with public officials.**

**Criminal Justice and Public Safety: ITL 17-3**

**PRO-LIBERTY: This bill allows for a person to record interactions with public officials during the performance of their duties.**

- This bill is an opportunity to dramatically enhance transparency in government, as well as public trust in it and its works.
- While this bill would offer the opportunity to record all public officials, it does not preclude the right of private citizens to remain unrecorded.

**HB 1282, relative to the records of communication common carriers.**

**Criminal Justice and Public Safety: OTP 14-6**

**PRO-LIBERTY: This bill requires that customer information in records of communications common carriers only be provided pursuant to a search warrant or a judicially-recognized exception to the warrant requirement.**

- Under current law, otherwise-private information held by communication common carriers must be provided to the state upon written demand of the attorney general. This is incompatible with the spirit and potentially the letter of the New Hampshire Constitution which states that "[Art.] 2-b. [Right of Privacy.] An individual's right to live free from governmental intrusion in private or personal information is natural, essential, and inherent."
- Inhabitants' private information should be protected and require judicial review of the requests of agents of the executive branch to reduce the risk of abuse.

**HB 1636, relative to prohibitions on carrying a loaded firearm on an OHRV or snowmobile.**

**Criminal Justice and Public Safety: OTP 11-6**

**PRO-LIBERTY: This a modest improvement to New Hampshire's existing constitutional carry law which corrects an oversight that mandates a permit when carrying a pistol or revolver when operating a snowmobile or Off Highway Recreational Vehicle (OHRV).**

- New Hampshire voters affirmed our inherent right to self-defense in 1982 with the adoption of Article 2-a. of the state Constitution: "*All persons have the right to keep and bear arms in defense of themselves, their families, their property and the state.*"
- A requirement to have a license to carry a concealed firearm is an infringement on an individual's right to self-defense. This bill removes the infringement of the right of law-abiding citizens to carry protection discreetly when operating snowmobiles or OHRVs.

# HB 1059, clarifying limits on licensure by operation of law.

Executive Departments and Administration: OTP 11-5

# HB 1059

**ANTI-LIBERTY: This bill would remove default grant of applications for a licensed profession in cases where the state fails to approve/deny an application within a reasonable time period.**

- Under current law, if a state agency fails to take any required action on an application within 60 days, the application is granted by default. This important protection was put in place to provide a strong incentive for the state to complete review and take action in a timely manner. This bill would effectively remove this protection entirely by requiring that the application only be approved by the executive director if the application otherwise meets the requirements for licensure established in law or administrative rule. The absence of a time limit for this review/approval process by the executive director could mean that applicants are denied their right to work in the chosen profession essentially forever while waiting for the decision of the executive director.
- The minority committee report wrote "...the underlying problem is that New Hampshire requires licenses for too many professions. We require more professions to be licensed than many other states which do not appear to have significant public safety problems caused by that lack of licensure. If there are not enough people either willing to serve on a licensure board or who are willing to meet in order to perform their duties the requirement for a license for such professions should be repealed."

# NAY OTP

# HB 1299, relative to the process for the importation of wildlife and creating an appeal process for denials of permits.

Fish and Game and Marine Resources: OTP/A 13-6

# HB 1299

**PRO-LIBERTY: This bill streamlines the procedure for obtaining a permit to import or display wildlife and establishes an appeal process for denial of such permits.**

- Under current law, there is no time limit specified for the approval or denial of a permit to import live marine species or wildlife or eggs. This bill, with the proposed committee amendment, requires that the permit be granted within 60 days of the request, unless there is reason to deny it. Having a time period outlined in the law allows businesses and individuals to better understand how government regulations may impact their actions.
- In addition, the bill specifies an appeals process, which is not a part of the current law. Any individual or organization can make an error, and certainly individuals within the government are not immune to errors; therefore an appeals process provides a modest check on the power of the state to restrict commerce.

# YEA OTP/A

# HB 1021, prohibiting regulation of religious land use based on the religious nature of the assembly or speech taking place on the land or in the structure.

Judiciary: OTP 14-7

# HB 1021

**PRO-LIBERTY: This bill would provide for modest protections of private property rights that are used for religious purposes.**

- This bill would prohibit zoning ordinances or site plan review regulations that restrict the use of land or structures for religious purposes that are more restrictive than restrictions placed on non-religious property use.
- Per the New Hampshire Constitution Article 5: "*Every individual has a natural and unalienable right to worship God according to the dictates of his own conscience, and reason; and no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession, sentiments, or persuasion; provided he doth not disturb the public peace or disturb others in their religious worship.*"

# YEA OTP

# HB 1216, repealing the housing appeals board.

Judiciary: ITL 17-3

# HB 1216

**ANTI-LIBERTY: This bill eliminates a low cost way for property owners to secure justice when local governments violate their right to build housing.**

- The Housing Appeals Board (HAB) reduces the cost of legal disputes between municipalities and landowners by providing an alternative to the court system.
- The HAB helps discourage land use boards from unlawfully delaying development approvals.
- HAB works just like other appeals boards that the state has used successfully.

# YEA ITL

# HB 1408, requiring the refund of residential tenancy application fees.

# HB 1408

Judiciary: ITL 14-7

**ANTI-LIBERTY: This bill shifts the costs of residential tenancy application fees from those who don't qualify for a rental due to poor credit or a criminal record to those who do qualify.**

# YEA ITL

- While the bill allows property owners to itemize and deduct out-of-pocket expenses for service incurred in connection with consideration of an application, this bill would specifically prohibit consideration of time and effort that a property owner or agent spends processing the application. Some may argue that the property owner simply needs to 'absorb' the cost of doing business, but ultimately these incremental costs end up being paid for tenants.

**CACR 14, relating to unions. Providing that all workers have the right to join a union.**

# CACR 14

Labor, Industrial and Rehabilitative Services: ITL 12-9

**ANTI-LIBERTY: This proposed constitutional amendment would potentially provide a positive right to join a union that goes beyond what is required to meet freedom of association.**

# YEA ITL

- The federal National Labor Relations Act (NLRA) contains several coercive mechanisms that infringe upon the rights of workers and business owners. Among these are section 9a, which mandates exclusive representation by a single union and mandates that the union representative is given opportunity to be present at grievance adjustment between employers and employees even if the employee does not wish that the representative is present. In addition, it forces employers to recognize and bargain collectively with unions following a majority vote of their workforces. While this proposed amendment would seek to establish a right to join a union, it would do nothing to protect the right of workers to **not** join a union and therefore it strengthens federal coercion and would potentially further infringe upon the rights of individuals to choose the manner in which they negotiate with employers.

**HB 1385, prohibiting the use of credit history in employment decisions.**

# HB 1385

Labor, Industrial and Rehabilitative Services: ITL 17-4

**ANTI-LIBERTY: This bill prohibits an employer from using an employee's or prospective employee's credit history as a criterion for making certain employment decisions.**

# YEA ITL

- Government should not be dictating hiring practices for businesses.
- This would increase the risks involved in hiring, making firms more reluctant to bring on new employees. Like many other well-intentioned measures, this could have a detrimental effect on the people it seeks to help.
- Credit reports are less-subjective criteria for evaluating the potential of new employees. Without the use of a pre-employment credit check, many employers will likely use other more arbitrary means in making a selection.
- The bill contains exclusions for cases where the employer is required by state or federal law to use individual credit history. This implies that the state recognizes that there are times when credit history provides information that is meaningful. Employers should be free to determine whether credit history is a meaningful factor in potential employee performance without the state playing a role.

**HB 1411, relative to transparency of federal agency operations within New Hampshire.**

# HB 1411

State-Federal Relations and Veterans Affairs: OTP/A 14-7

**PRO-LIBERTY: This bill requires the attorney general to request information from federal agencies operating in New Hampshire and to compile and display such information on a website.**

# YEA OTP/A

- This bill is another opportunity to enhance government transparency and accountability to the public.
- Trust is a vital outcome of enhanced government transparency.

**PRO-LIBERTY:** This bill provides a modest improvement by providing a process through which individuals may petition the state for permission to operate certain vehicles with only a single license plate.

- Many vehicle types do not include mounting brackets for front plates, which requires owners to damage/drill into the bumper to install a mount. The state should not require owners to damage their vehicles.
- Twenty states in the US and ten (of thirteen) Canadian jurisdictions do not require front license plates. Operators of vehicles from these states travel upon our roadways without front plates and enjoy greater freedom than we provide to our own citizens.
- Current law provides a pretext for greater interaction between citizens and police, which may result in unacceptable outcomes. Other states have waited until the situation in which an individual was killed by a police officer after a stop that was initiated solely for a missing front plate, prior to reforming their laws. While broad elimination of this requirement would be preferable to this modest improvement, this bill would potentially prevent New Hampshire from being the next state to wait for loss of life before taking action.

NAY ITL