



Gold Standard

LIBERTY WATCHLIST

MARCH 26, 2009

HB346 – Relative to real estate developers creating space for drying laundry without electricity or gas.

Committee report: Commerce & Consumer Affairs: ITL (14–3) Our recommendation: **YEA on ITL**

This bill, which mandates developers devote valuable real estate to clotheslines, is **anti-liberty**:

- This bill will drive up real estate and rental costs on all new development by mandating use of space for purposes the owner may not want to utilize. If people want clothesline spaces, they will demand them and developers will provide them.
- It is senseless to mandate this on all new development, especially where covenants may already prohibit clotheslines in new buildings.
- This is a local zoning issue and not something in which the state should get involved.

HB312 – Permitting a person to record a law enforcement officer in the course of their official duties.

Committee report: Criminal Justice & Public Safety: ITL (14–5) Our recommendation: **NAY on ITL**

This bill, which allows the recording of police when on the job, is **pro-liberty**:

- A member of law enforcement has a right to record you without your consent, but a citizen doing the same is threatened with a class B felony.
- On the job means on the record: Part I, Art. 8 of the New Hampshire Constitution provides that officers and agents of the government are at all times accountable to the people.

HB398 – Relative to the unauthorized use of firearms in the compact part of a city or town.

Committee report: Criminal Justice & Public Safety: OTP (8–6) Our recommendation: **YEA on OTP**

This bill, which repeals a redundant and largely unused firearms statute, is **pro-liberty**:

- The law this bill repeals offers local police overly broad powers to restrict and deny shooting even where appropriate safety precautions are in place, and conflicts with the spirit of RSA 159:26, which grants the state, not municipalities, the sole power to regulate firearms.
- Even if this bill passes, existing statutes would continue to be in force which limit reckless or unsafe use of firearms.

HB356 – Relative to required training for chiropractors performing spinal manipulation or spinal adjustment.

Committee report: Executive Departments & Administration: ITL (15–0) Our recommendation: **YEA on ITL**

This bill, which requires non-chiropractors to be licensed as chiropractors to continue performing spinal manipulations, is **anti-liberty**:

- This bill is an attempt to create a chiropractic monopoly on spinal manipulations for any medical or therapeutic reason.
- As there were no reports of any harm by non-chiropractors, this bill is a solution in search of a problem.

HB381 – Prohibiting preferences in recruiting, hiring, promotion, or admission by state agencies, the university system, the community college system, and the postsecondary education commission.

Committee report: Executive Departments & Administration: ITL (14–1) Our recommendation: **NAY on ITL**

This bill, which prohibits discrimination by the state and its agencies, is **pro-liberty**:

- Part I, Art. 2, of the New Hampshire Constitution states “Equality of rights under the law shall not be denied or abridged by this state on account of race, creed, color, sex or national origin.” State preferences or “affirmative action” deny our rights.

HB426 – Establishing the New Hampshire homestead plan.

Committee report: Ways & Means: Without recommendation

Our recommendation: **NAY on OTP / YEA on ITL**

This misnamed tax bill, which more than doubles the state's education property tax on non-owner occupied property, is **anti-liberty**:

- This bill will increase business property taxes, increasing prices across the board and raising the cost of living.
- Property taxes are passed on to renters through rental prices. This bill assesses all rental properties at the much higher business property tax rate. Requiring renters to bear a substantially greater tax burden than homeowners is a clear violation of Part I, Arts. 10 & 12 of the New Hampshire Constitution.

HB522 – Allowing municipalities to adopt a road maintenance property tax credit for resident unit owners in an over-55 condominium community.

Committee report: Local & Regulated Revenues: ITL (18-0)

Our recommendation:

YEA on ITL

This bill, which allows municipalities to create a new property tax credit, is **anti-liberty**:

- The property tax credit is only available to residents of over-55 condominiums, in violation of Part I, Art. 10 of the New Hampshire Constitution.

HB474 – Prohibiting the trafficking in persons for the purposes of sexual or labor exploitation.

Committee report: Criminal Justice & Public Safety: OTP/A (17-0)

Our recommendation:

NAY on OTP/A

This bill's true purpose hides behind a falsely sympathetic title—the horrible and heinous acts which it seeks to prohibit are already amply illegal. Instead, this gravely unconstitutional and **anti-liberty** bill would grant police unprecedented, sweeping power to seize and sell off a citizen's property—no warrant or probable cause would be required. Most seized property would be sold without any judicial oversight. This bill shockingly violates the most basic notions of due process; lowers the state's burdens to seize and sell confiscated property; and would restrict a defendant from introducing critical evidence at his criminal trial that might prove his innocence.

The NHLA is most concerned over the draconian asset forfeiture provisions in this bill, which:

- Give police total discretion to confiscate an accused's property with total disregard for legal process or probable cause;
- Lower the burden of proof necessary to deprive a person of his property, by converting a criminal act into a "civil suit in equity" against property and placing the burden of proof on the property owner to demonstrate their and/or their property's lack of involvement in the crime;
- Deprive the accused of their constitutional right to trial by jury in such a civil proceeding (Part I, Art. 20);
- Deprive a property owner of due process by empowering the department of justice to bypass the courts in most circumstances before selling any confiscated property. A property owner is afforded neither sufficient notice nor a hearing;
- Demand that the aggrieved owner of confiscated property post an unconstitutional bond before being allowed to dispute the Dept. of Justice's forfeiture findings in court (Part I, Art. 14);
- Fail to afford a wrongfully accused—or acquitted—person any legal recourse for any wrongfully sold property;
- Create legally ambiguous criteria to determine whether property should have been confiscated; and
- Turn New Hampshire criminal law into a revenue generation mechanism for the benefit of the Victim's Assistance Fund.

In addition, the bill suffers from a raft of other defects. Notable among these is its modification of the rules of evidence. This bill sees fit to violate due process by making irrelevant or inadmissible a variety of evidence, including evidence as to consent (by persons of any age) and mistake, however reasonable. The NHLA believes that evidence as to true mistake should always be heard by the jury and allowed to constitute a valid part of a defense. Likewise, the NHLA believes that evidence of an adult's informed consent is necessarily relevant and must be allowed to be considered by the jury.

One of the changes to the bill introduced by the committee's amendment might encourage persons charged with prostitution-related crimes to falsely accuse other persons of trafficking. More significant, however, is the possibility for false accusations of these felonies to be made in the context of cases of domestic violence, divorce and child custody. The standard for these felonies is so broad and vague that one could easily make such a claim, even where nothing which you or I would consider untoward has been occasioned.