SB 331-FN - AS INTRODUCED

2014 SESSION

 $14-2795 \\ 05/03$

SENATE BILL 331-FN

AN ACT relative to waivers for out-of-state businesses and employees in a state of

emergency.

SPONSORS: Sen. Bradley, Dist 3; Rep. G. Chandler, Carr 1

COMMITTEE: Commerce

ANALYSIS

This bill waives certain business registration and occupational licensing requirements for out-of-state businesses and employees operating in the state during a declared state of emergency.

Explanation: Matter added to current law appears in **bold italics**.

Matter removed from current law appears [in brackets and struckthrough.]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to waivers for out-of-state businesses and employees in a state of emergency.

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

1	1 New Chapter; State of Emergency; Waivers for Out-of-State Businesses and Employees.
2	Amend RSA by inserting after chapter 319-C the following new chapter:
3	CHAPTER 319-D
4	STATE OF EMERGENCY;
5	WAIVERS FOR OUT-OF-STATE BUSINESSES AND EMPLOYEES
6	319-D:1 Definitions. In this chapter, unless the context otherwise indicates, the following terms
7	have the following meanings:
8	I. "Declared state disaster or emergency" means a disaster or emergency event for which a
9	governor's state of emergency proclamation has been issued pursuant to RSA 4:45 or that the
10	President of the United States has declared to be a major disaster or emergency.
11	II. "Disaster period" means the period of time that begins no later than 10 days following the
12	governor's proclamation of a state of emergency or the declaration by the President of the
13	United States of a major disaster or emergency, whichever occurs first, and that extends for a period
14	of 60 calendar days following the end of the declared disaster or emergency as proclaimed by the
15	governor or the President of the United States or pursuant to law, whichever occurs first.
16	III. "Infrastructure" means:
17	(a) Property and equipment, including related support facilities that provide service to
18	more than one customer or person, owned or used by a public utility or by a communications service
19	provider. "Infrastructure" includes, without limitation, real and personal property such as buildings,
20	offices, power lines, poles, pipes, structures, and equipment; and
21	(b) Public roads and bridges.
22	IV. "Out-of-state business" means a business entity:
23	(a) That does not have a presence in the state;
24	(b) That does not conduct business in the state; and
25	(c) Whose assistance in performing work in this state, such as repairing, renovating
26	installing, or building infrastructure, rendering services, or engaging in other business activities
27	related to a declared state disaster or emergency is requested by the state or a county, city, town, or
28	other political subdivision of the state or a registered business.

V. "Out-of-state business" includes a business entity that is affiliated with a registered

business solely through common ownership as long as that business entity does not have any

registrations, tax filings, or nexus in the state prior to the declared state disaster or emergency.

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- VI. "Out-of-state employee" means an individual who performs services for an out-of-state business in return for compensation and who, prior to the declared state disaster or emergency, was neither a resident of this state nor had a nexus in the state.
- VII. "Registered business" means a business entity that is registered or licensed to do business in the state prior to the declared state disaster or emergency.
 - 319-D:2 Status of Out-Of-State Businesses and Employees During Disaster Period.
- I. Notwithstanding any other provision of law to the contrary, during a disaster period an out-of-state business that conducts operations within the state for the purpose of performing work or providing services related to a declared state disaster or emergency is deemed to have not established a level of presence that would require that business or its out-of-state employees to be subject to any state or local employment, licensing, or registration requirements, including, but not limited to:
 - (a) Business licensing or registration requirements.
 - (b) Occupational licensing fees.
- II. After the termination of a disaster period, an out-of-state business or out-of-state employee that remains in the state is subject to the state's standards for establishing presence or residency or for doing business in the state and shall meet all business and employee licensing and registration requirements.
- 319-D:3 Notification.
 - I. An out-of-state business shall provide notification to the secretary of state as soon as practicable after entry to the state during a disaster period that the out-of-state business is in the state for purposes of responding to the declared state disaster or emergency. The out-of-state business shall provide to the secretary of state information related to the out-of-state business including but not limited to the following:
 - (a) Name;
 - (b) State of domicile;
 - (c) Principal business address;
 - (d) Federal employer identification number;
 - (e) The date when the out-of-state business entered the state; and
 - (f) Contact information while the out-of-state business is in this state.
 - II. A registered business shall provide the notification required in paragraph I for an affiliate of the registered business that enters the state as an out-of-state business. The notification under this paragraph also shall include contact information for the registered business in the state.
 - III. An out-of-state business that remains in the state after a disaster period shall notify the secretary of state and shall meet all registration, licensing, and filing requirements resulting from establishing a business presence in the state.
 - 2 Effective Date. This act shall take effect 60 days after its passage.

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LBAO 14-2795 Revised 02/06/14

SB 331-FN FISCAL NOTE

AN ACT

relative to waivers for out-of-state businesses and employees in a state of emergency.

FISCAL IMPACT:

The Department of State, Department of Revenue Administration, and Joint Board of Licensure and Certification state this bill, <u>as introduced</u>, will have an indeterminable impact on state revenue in FY 2014 and each year thereafter. There will be no impact on county and local revenue, or state, county, and local expenditures.

METHODOLOGY:

The Department of State states this bill permits out-of-state business entities to operate in New Hampshire during a state of emergency without registering as a business under the laws of the state. Such a business entity would have to file a statement with the Department confirming its presence in the state during an emergency. The Department states that the processing of such filings can be absorbed within its current budget. An indeterminable amount of revenue could potentially be generated by out-of-state businesses that decide to remain in the state after an emergency has ended, in which case they would be required to formally register with the Department.

The Department of Revenue Administration states it has no data regarding businesses and employees that came to the state during past emergencies, and is unable to predict the number of businesses and employees that will come to the state during future emergencies. For this reason, the Department is unable to estimate the possible negative impact of allowing waivers of business tax liabilities during states of emergency. The Department states that any administrative costs imposed on it by the bill can be absorbed within its current budget.

The Joint Board of Licensure and Certification states it is unable to determine how many unlicensed out-of-state businesses or employees would perform work in the state as a result of the bill. For this reason, the bill's impact on state revenue is indeterminable.

The Department of Safety states the bill will have no fiscal impact.