

Legalese and Finding the Law

Types of State Law

Local officials are bound by state law. That includes not just (a) the written laws (statutes) passed by the legislature, but also (b) the New Hampshire Constitution, (c) administrative regulations enacted by state agencies under authority from the legislature, and (d) the "common law," which is the set of legal principles developed and explained by the courts in their written opinions (usually referred to as "case law"). Keep in mind that the court system is an equal branch of government, and is just as powerful within its domain of interpreting law as the legislature is in its power to make laws. Thus, "common law" (court case law) is just as legal and binding on the town and its officials as statutes are.

RSAs

The statutes of New Hampshire, as passed by the legislature, are collected in the *Revised Statutes Annotated*, now issued by West as the official publisher, and also by Lexis Publishers (formerly Michie). They are referred to as either statutes or "RSAs" for short. The RSAs are arranged by title, chapter and section. They are cited with the chapter number separated from the section number by a colon. For example, a citation to "RSA 31:39," refers to RSA Chapter 31, section 39.

Sometimes a section of the RSAs is divided into subsections, paragraphs, and even subparagraphs. In written citations, paragraph numbers are separated from the section number with a comma. So, for example, RSA 676:4, 1(g) means Chapter 676, section 4, subsection I, paragraph (g). (This happens to be the law authorizing a planning board to charge administrative fees to a developer.)

When the legislature enacts a new chapter of the statutes that belongs between two existing chapters, or a section that belongs between two other sections, a letter suffix is used. For example, RSA Chapter 36-A is a completely different chapter than Chapter 36, but it falls right after it, and before Chapter 37. Similarly, RSA 31:39-a is a separate, distinct, section that comes after RSA 31:39.

Legislation

The state legislature has its own system for identifying bills that are being reviewed in any given year. A citation such as "HB 424," refers to a bill that has originated in the House of Representatives. It is a proposed law that has not been passed yet. "SB 123" would represent a Senate Bill. Bills are passed back and forth and reviewed by both the House and Senate but keep their original reference number for the entire session. Once a bill passes, it gets a session law chapter number, such as "Laws of 1992, Chapter 184." However, not all session laws are necessarily the type that become statutes. Some are enacted for specific places or situations, or are otherwise non-statutory matters. Do not confuse session law numbers with the RSAs. Session law chapter numbers are chronological and are only of historical interest. Shortly after those session laws that modify the RSAs are "chaptered," they receive the appropriate statutory designation in the RSAs. The RSA numbers are the ones to use when citing state law.

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Supplements

Statutory research is not complete upon finding an RSA in the bound volume. In order to find the most updated and accurate version of law one must check that same citation (statute number) in the "supplement" or "pocket part." These supplements, reprinted every year, contain changes the legislature has made since the hardbound book was printed. The "pocket part" is a paper pamphlet, usually stuck in the rear of the hardbound RSA book. Sometimes the softbound booklet (with a white paper cover) that follows the hardbound volume on the shelf. This update is usually referred to as the "supplement." If there's nothing in the supplement under the number at issue, then the version in the hardbound book is the current, correct one to use.

Annotations

Below the text of each law as printed in the RSAs, there often appears in smaller print one or more annotations. These are summaries - not actual quotations - of what the New Hampshire Supreme Court has written in a court case opinion about the statute. The annotation is not part of the statute itself. Do not rely on the annotation; instead, use it to find the case to which it refers.

Regulations

The other state laws that are binding on the town and its officials are the regulations passed by state administrative agencies (for example, the Division of Waste Management in the Department of Environmental Services, the Municipal Records Board, or the Current Use Board). An administrative agency cannot enact regulations in any field unless the legislature has passed a law allowing it. To get a copy of an agency's regulations, make a request of the agency itself. Many administrative regulations are also available on the New Hampshire state government Web site (www.nh.gov/). Both West and Lexis publish softbound sets of state regulations, but they are not complete.

Where To Get the Law

Many municipal offices have copies of the RSA volumes. If yours does not, many public libraries have them. For access to case law, some local libraries may have copies of New Hampshire Reports. The New Hampshire State Library and the New Hampshire State Law Library (in the Supreme Court building) both have extensive collections of statutory, regulatory and common law and are open to the public.

The internet has many useful sites. For New Hampshire law, use the state's official Web site (www.nh.gov/). The site contains full text copies of the RSAs, a list of the sections affected by legislative action, current bills and Court opinions.