**HB 598-FN-L** Wednesday February 1, 2017, TRANSPORTATION, Room 203, L.O.B. 2:30 P.M.

The following four pages of Stare Decisis, all support and confirm the courts determination of the fact that the **AUTOMOBILE** is defined and classified by **RSA 382-A:9-109** as **“consumer goods”,** not used for commercial purposes or to make a gain or profit by using the public ways **(See 108 N.H. 386 attached),** further, the **MOTOR VEHICLE** is defined and classified as a self-propelled conveyance that uses the public way for profit and/or gain and such commercial use falls within the jurisdiction of the state to regulates and tax such use. It is the distinction in the classification difference between the **AUTOMOBILE** and the **MOTOR VEHICLE** that HB 598-FN-L is bringing forth, since there is a duty for the state to disclose these facts to the public before inviting them to enter into a contract of compelled performance and thus, forfeit their RIGHT to TRAVEL for a taxable PRIVILEDGE. The court has expressed; *“There can be no sanction or penalty imposed upon one because of his exercise of Constitutional Rights”*, Sherer v. Cullen; 481 F.2d 946 (1973) Submitted pursuant to the peoples **“RIGHT to KNOW”** by Prime Sponsor, Representative Richard Marple, Merrimack #24

**U.S. SUPREME COURT AND OTHER HIGH COURT CITATIONS PROVING THAT NO LICENSE IS NECESSARY FOR NORMAL USE OF AN AUTOMOBILE ON COMMON WAYS**

Shuttlesworth v. Birmingham 394 U.S. 147 (1969). “With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that document cannot be overthrown or impaired by any state police authority.” Donnolly vs. Union Sewer Pipe Co., 184 US 540; Lafarier vs. Grand Trunk R.R. Co., 24 A. 848; O’Neil vs. Providence Amusement Co., 108 A. 887. “The right to travel (called the right of free ingress to other states, and egress from them) is so fundamental that it appears in the Articles of Confederation, which governed our society before the Constitution.”

“The right of a citizen to travel upon the public highways and to transport his property thereon, by horse drawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but a common right which he has under his right to life, liberty and the pursuit of happiness. Under this constitutional guaranty one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another’s rights, he will be protected, not only in his person, but in his safe conduct.”

Thompson v. Smith, 154 SE 579, 11 American Jurisprudence, Constitutional Law, section 329, page 1135 “The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, is a common right which he has under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing, to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive a horse drawn carriage or wagon thereon or to operate an automobile thereon, for the usual and ordinary purpose of life and business.” –

Caneisha Mills v. D.C. 2009 “The use of the automobile as a necessary adjunct to the earning of a livelihood in modern life requires us in the interest of realism to conclude that the RIGHT to use an automobile on the public highways partakes of the nature of a liberty within the meaning of the Constitutional guarantees. . .”

Berberian v. Lussier (1958) 139 A2d 869, 872, See also: Schecter v. Killingsworth, 380 P.2d 136, 140; 93 Ariz. 273 (1963). “The right to operate a motor vehicle [an automobile] upon the public streets and highways is not a mere privilege. It is a right of liberty, the enjoyment of which is protected by the guarantees of the federal and state constitutions.”

Adams v. City of Pocatello, 416 P.2d 46, 48; 91 Idaho 99 (1966). “A traveler has an equal right to employ an automobile as a means of transportation and to occupy the public highways with other vehicles in common use.”

Campbell v. Walker, 78 Atl. 601, 603, 2 Boyce (Del.) 41. “The owner of an automobile has the same right as the owner of other vehicles to use the highway,\* \* \* A traveler on foot has the same right to the use of the public highways as an automobile or any other vehicle.”

Simeone v. Lindsay, 65 Atl. 778, 779; Hannigan v. Wright, 63 Atl. 234, 236. “The RIGHT of the citizen to DRIVE on the public street with freedom from police interference, unless he is engaged in suspicious conduct associated in some manner with criminality is a FUNDAMENTAL CONSTITUTIONAL RIGHT which must be protected by the courts.” People v. Horton 14 Cal. App. 3rd 667 (1971) “The right to make use of an automobile as a vehicle of travel along the highways of the state, is no longer an open question. The owners thereof have the same rights in the roads and streets as the drivers of horses or those riding a bicycle or traveling in some other vehicle.”

Thompson vs. Smith, supra.; Teche Lines vs. Danforth, Miss., 12 S.2d 784 “… the right of the citizen to drive on a public street with freedom from police interference… is a fundamental constitutional right House v. Cramer, 112 N.W. 3; 134 Iowa 374; Farnsworth v. Tampa Electric Co. 57 So. 233, 237, 62 Fla. 166. “The automobile may be used with safety to others users of the highway, and in its proper use upon the highways there is an equal right with the users of other vehicles properly upon the highways. The law recognizes such right of use upon general principles.

Brinkman v Pacholike, 84 N.E. 762, 764, 41 Ind. App. 662, 666. “The law does not denounce motor carriages, as such, on public ways. They have an equal right with other vehicles in common use to occupy the streets and roads. It is improper to say that the driver of the horse has rights in the roads superior to the driver of the automobile. Both have the right to use the easement.”

Indiana Springs Co. v. Brown, 165 Ind. 465, 468. U.S. Supreme Court says No License Necessary To Drive Automobile On Public Highways/Streets No License Is Necessary Copy and Share Freely YHVH.name 2 2 “A highway is a public way open and free to any one who has occasion to pass along it on foot or with any kind of vehicle.” Schlesinger v. City of Atlanta, 129 S.E. 861, 867, 161 Ga. 148, 159;

Holland v. Shackelford, 137 S.E. 2d 298, 304, 220 Ga. 104; Stavola v. Palmer, 73 A.2d 831, 838, 136 Conn. 670 “There can be no question of the right of automobile owners to occupy and use the public streets of cities, or highways in the rural districts.” Liebrecht v. Crandall, 126 N.W. 69, 110 Minn. 454, 456 “The word ‘automobile’ connotes a pleasure vehicle designed for the transportation of persons on highways.”

-American Mutual Liability Ins. Co., vs. Chaput, 60 A.2d 118, 120; **95 NH 200** Motor Vehicle: 18 USC Part 1 Chapter 2 section 31 definitions: “(6) Motor vehicle. – The term “motor vehicle” means every description of carriage or other contrivance propelled or drawn by mechanical power **and used for commercial purposes on the highways…**” 10) The term **“used for commercial purposes**” means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit. “A motor vehicle or automobile for hire is a motor vehicle, other than an automobile stage, used for the transportation of persons for which remuneration is received.”

-International Motor Transit Co. vs. Seattle, 251 P. 120 The term **‘motor vehicle’** is different and broader than the word **‘automobile.’**”

-City of Dayton vs. DeBrosse, 23 NE.2d 647, 650; 62 Ohio App. 232 “Thus self-driven vehicles are classified according to the use to which they are put rather than according to the means by which they are propelled” – Ex Parte Hoffert, 148 NW 20 ”

The Supreme Court, in Arthur v. Morgan, 112 U.S. 495, 5 S.Ct. 241, 28 L.Ed. 825, held that carriages were **properly classified as household effects, and we see no reason that automobiles should not be similarly disposed of.”**

Hillhouse v United States, 152 F. 163, 164 (2nd Cir. 1907). “…a citizen has the right to travel upon the public highways and to transport his property thereon…” State vs. Johnson, 243 P. 1073; Cummins vs. Homes, 155 P. 171; Packard vs. Banton, 44 S.Ct. 256; Hadfield vs. Lundin, 98 Wash 516, Willis vs. Buck, 263 P. l 982;

Barney vs. Board of Railroad Commissioners, 17 P.2d 82 “The use of the highways for the purpose of travel and transportation **is not a mere privilege, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived.”**

Chicago Motor Coach vs. Chicago, 169 NE 22; Ligare vs. Chicago, 28 NE 934; Boon vs. Clark, 214 SSW 607; 25 Am.Jur. (1st) Highways Sect.163 “the right of the Citizen to travel upon the highway and to transport his property thereon in the ordinary course of life and business… is the usual and ordinary right of the Citizen, a right common to all.” –

Ex Parte Dickey, (Dickey vs. Davis), 85 SE 781 “Every Citizen has an unalienable RIGHT to make use of the public highways of the state; every Citizen has full freedom to travel from place to place in the enjoyment of life and liberty.” People v. Nothaus, 147 Colo. 210. “No State government entity has the power to allow or deny passage on the highways, byways, nor waterways… transporting his vehicles and personal property for either recreation or business, but by being subject only to local regulation i.e., safety, caution, traffic lights, speed limits, etc**. Travel is not a privilege requiring licensing, vehicle registration, or forced insurances.”**

Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 169 N.E. 22. **“Traffic infractions are not a crime.” People v. Battle “Persons faced with an unconstitutional licensing law which purports to require a license as a prerequisite to exercise of right… may ignore the law and engage with impunity in exercise of such right.”**

Shuttlesworth v. Birmingham 394 U.S. 147 (1969). U.S. Supreme Court says No License Necessary To Drive Automobile On Public Highways/Streets No License Is Necessary **“The word ‘operator’ shall not include any person who solely transports his own property and who transports no persons or property for hire or compensation.”**

Statutes at Large California Chapter 412 p.83 “Highways are for the use of the traveling public, and all have the right to use them in a reasonable and proper manner; the use thereof is an inalienable right of every citizen.” Escobedo v. State 35 C2d 870 in 8 Cal Jur 3d p.27 “RIGHT — A legal RIGHT, a constitutional RIGHT means a RIGHT protected by the law, by the constitution, but government does not create the idea of RIGHT or original RIGHTS; it acknowledges them. . . “ Bouvier’s Law Dictionary, 1914, p. 2961. **“Those who have the right to do something cannot be licensed for what they already have right to do as such license would be meaningless.”**

City of Chicago v Collins 51 NE 907, 910. “A license means leave to do a thing which the licensor could prevent.” Blatz Brewing Co. v. Collins, 160 P.2d 37, 39; 69 Cal. A. 2d 639. “The object of a license is to confer a right or power, which does not exist without it.”

Payne v. Massey (19\_\_) 196 SW 2nd 493, 145 Tex 273. “The court makes it clear that a license relates to qualifications to engage in profession, business, trade or calling**; thus, when merely traveling without compensation or profit, outside of business enterprise or adventure with the corporate state, no license is required of the natural individual traveling for personal business, pleasure and transportation.”**

Wingfield v. Fielder 2d Ca. 3d 213 (1972). **“If [state] officials construe a vague statute unconstitutionally, the citizen may take them at their word, and act on the assumption that the statute is void.” –**

 (Paul v. Virginia). “[T]he right to travel freely from State to State … is a right broadly assertable against private interference as well as governmental action. Like the right of association, it is a virtually unconditional personal right, guaranteed by the Constitution to us all.” (U.S. Supreme Court,

Shapiro v. Thompson). EDGERTON, Chief Judge: “Iron curtains have no place in a free world. …’Undoubtedly the right of locomotion, the right to remove from one place to another according to inclination, is an attribute of personal liberty, and the right, ordinarily, of free transit from or through the territory of any State is a right secured by the Constitution.’

Williams v. Fears, 179 U.S. 270, 274, 21 S. Ct. 128, 45 L. Ed. 186. “Our nation has thrived on the principle that, outside areas of plainly harmful conduct, every American is left to shape his own life as he thinks best, do what he pleases, go where he pleases.” Id., at 197.

Kent vs. Dulles see Vestal, Freedom of Movement, 41 Iowa L.Rev. 6, 13—14. “The validity of restrictions on the freedom of movement of particular individuals, both substantively and procedurally, is precisely the sort of matter that is the peculiar domain of the courts.” **Comment, 61 Yale L.J. at page 187. “a person detained for an investigatory stop can be questioned but is “not obliged to answer, answers may not be compelled, and refusa 43** Kan 671, 23 P 1075, 8 LRA 772 **l to answer furnishes no basis for an arrest.” Justice White, Hiibel “Automobiles have the right to use the highways of the State on an equal footing with other vehicles.”**

Cumberland Telephone. & Telegraph Co. v Yeiser 141 Kentucy 15. “Each citizen has the absolute right to choose for himself the mode of conveyance he desires, whether it be by wagon or carriage, by horse, motor or electric car, or by bicycle, or astride of a horse, subject to the sole condition that he will observe all those requirements that are known as the law of the road.”

Swift v City of Topeka **43** Kan 671, 23 P 1075, 8 LRA 772,Court says No License Necessary To Drive Automobile on Public Highways/Streets No License Is Necessary,4 Kansas 671, 674. The Supreme Court said in U.S. v Mersky (1960) 361 U.S. 431: An administrative regulation, of course, is not a “statute.” A traveler on foot has the same right to use of the public highway as an automobile or any other vehicle.

Cecchi v. Lindsay, 75 Atl. 376, 377, 1 Boyce (Del.) 185. Automotive vehicles are lawful means of conveyance and have equal rights upon the streets with horses and carriages.

Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 205; See also: Christy v. Elliot, 216 Ill. 31; Ward v. Meredith, 202 Ill. 66; Shinkle v. McCullough, 116 Ky. 960; Butler v. Cabe, 116 Ark. 26, 28-29. …automobiles are lawful vehicles and have equal rights on the highways with horses and carriages. Daily v. Maxwell, 133 S.W. 351, 354.

Matson v. Dawson, 178 N.W. 2d 588, 591. A farmer has the same right to the use of the highways of the state, whether on foot or in a motor vehicle, as any other citizen.

Draffin v. Massey, 92 S.E.2d 38, 42. Persons may lawfully ride in **automobiles**, as they may lawfully ride on bicycles. Doherty v. Ayer, 83 N.E. 677, 197 Mass. 241, 246;

Molway v. City of Chicago, 88 N.E. 485, 486, 239 Ill. 486; Smiley v. East St. Louis Ry. Co., 100 N.E. 157, 158. “A **soldier’s personal automobile is part of his ‘household goods[.]’**

U.S. v Bomar, C.A.5(Tex.), 8 F.3d 226, 235” 19A Words and Phrases – Permanent Edition (West) pocket part 94. “[I]t is a jury question whether … **an automobile** … is a motor vehicle[.]”

United States v Johnson, 718 F.2d 1317, 1324 (5th Cir. 1983). Other right to use an automobile cases: –\EDWARDS VS. CALIFORNIA, 314 U.S. 160 –(Interstate commerce re: bringing a pauper into the state)

TWINING VS NEW JERSEY, 211 U.S. 78 – WILLIAMS VS. FEARS, 179 U.S. 270, AT 274 – CRANDALL VS. NEVADA, 6 WALL. 35, AT 43-44 – THE PASSENGER CASES, 7 HOWARD 287, AT 492 – U.S. VS. GUEST, 383 U.S. 745, AT 757-758 (1966) –

GRIFFIN VS. BRECKENRIDGE, 403 U.S. 88, AT 105-106 (1971) – CALIFANO VS. TORRES, 435 U.S. 1, AT 4, note 6 –

SHAPIRO VS. THOMPSON, 394 U.S. 618 (1969) – CALIFANO VS. AZNAVORIAN, 439 U.S. 170, AT 176 (1978**) Look all citations up in American Jurisprudence. Some citations may be paraphrased or typos may exist. Kindly share as we are admonished; *“Our people are destroyed for lack of knowledge”* Hosea 4:6**

**108 N.H. 386 (1967)**

**NATIONAL SHAWMUT BANK
v.
VICTOR L. JONES.**

No. 5644.

**Supreme Court of New Hampshire.**

Argued November 7, 1967.

Decided December 29, 1967.

\*387 *Perkins, Holland & Donovan* and *William Beckett* (*Mr. Beckett* orally), for the plaintiff.

\*388 *William W. Treat* and *Robert G. Tetler* (*Mr. Tetler* orally), for the defendant.

GRIMES, J.

**Since Wever purchased for personal, family or household purposes**, **the Dart is classified as consumer goods. RSA 382-A:9-109.** The plaintiff's security interest was perfected by filing the financing statement with the town clerk of Hampton where Wever resided (RSA 382-A:9-401 (1) (a), and continues when the collateral is sold without its consent as was the case here unless Article 9 provides otherwise. RSA 382-A:9-306 (2). In the case of buyers of goods, Article 9-307 (1) does provide otherwise in certain instances, as follows:

"A buyer in ordinary course of business (subsection (9) of Section 1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence."

Since defendant purchased in good faith without knowledge that the sale to him was in violation of the security interest of another and bought in the ordinary course from a person in the business of selling automobiles, he was a "buyer in ordinary course of business." RSA 382-A:1-201 (9). However, Article 9-307 (1) permits him to take free only of "a security interest created by his seller." The security interest of the plaintiff was not created by Hanson-Rock, Inc., the defendant's seller, but by Wentworth Motor Co., Inc. Defendant, therefore, does not take free of the plaintiff's security interest under this section. Neither does he take free of the security interest by reason of the provisions of Article 9-307 (2) relating to consumer goods even if he purchased for his own personal, family or household purposes (a fact not agreed upon) because "prior to the purchase, the secured party. . . filed a financing statement. . . ." These are the only two provisions of Article 9 under which a buyer of goods can claim to take free of a security interest where a sale, exchange or other disposition of the collateral was without the consent of the secured party. The defendant does not benefit from either one. Article 9-306 (2) gives the court no leeway to create any other exceptions to its dictates and no custom, usage or agreement has been brought to our attention which would permit us to do so. RSA 382-A:1-102 (2). See *Lincoln Bank & Trust Co.* v. *Queenan,* 344 S.W.2d 383 (Ky. 1961).

\*389 Defendant contends that RSA 382-A:2-403 (1) provides an escape from plaintiff's security interest when it provides ". . . a person with voidable title has power to transfer a good title to a good faith purchaser for value . . . ."

The contention has two answers. Article 9-306 (2) provides for the continuance of the security interest "except when this Article otherwise provides" thereby limiting any exceptions to those contained in Article 9; and Article 2-403 (4) itself provides that the rights of "lien creditors are governed by the Articles on Secured Transactions (Article 9) . . . ." See also, Article 2-402 which provides "(3) Nothing in this Article shall be deemed to impair the rights of creditors of the seller (a) under the provisions of the Article on Secured Transactions (Article 9) . . . ." It is clear, therefore, that a security interest in the case of a sale without consent was to be impaired only as provided in Article 9 and is unaffected by Article 2-402.

Our answer to question 1 is in the affirmative and to question 2 is in the negative.

*Remanded.*

All concurred.