

THIS HEARING WILL BE CONDUCTED BY VIDEO ON THE DATE AND TIME REFERENCED BELOW



State of New Hampshire
DEPARTMENT OF SAFETY
BUREAU OF HEARINGS

James H. Hayes Safety Building, 33 Hazen Drive, Concord, NH 03305

Tel: (603) 271-3486

Speech/Hearing Impaired

TDD Access Relay NH 1-800-735-2964

JOHN J. BARTHELMES
COMMISSIONER OF SAFETY

CHRISTOPHER CASKO
ADMINISTRATOR OF HEARINGS

NOTICE OF HEARING

FILE #

OLN: 08BDI80021

HEARING #

DOB: 08/02/80

DATE: 7/16/2013

CLIENT:

IAN BERNARD
63 EMERALD ST #160
KEENE NH 03431

YOU ARE ORDERED TO APPEAR AT: The JAMES H. HAYES SAFETY BUILDING,
First Floor Room 100, 33 Hazen Drive, Concord, New Hampshire.

DATE OF HEARING: JULY 26, 2013

TIME: 1:00 PM

ATTY JEAN KILHAM AND OFFICER JASON SHORT, KEENE PD, ARE NOTIFIED OF HEARING

SCOPE OF HEARING:

You are ORDERED to appear and show cause why your driver license/operator privilege should not be revoked or denied. To review receipt of information submitted from Keene PD, that you could be hazardous to public safety. A person who shall be subject to such an order shall include but not be limited to, one whom:

1. Was driving to endanger the public; or
2. A law enforcement officer has reported [you] for misconduct.
3. Has been convicted 2 or more times of driving a motor vehicle while under the influence of intoxicating liquor or controlled drugs, or any combination thereof; or
4. Has an alcohol or drug problem, which is not under control.

(See attached complaint)

AUTHORITY: RSA 263:56, 263:59 Administrative Rule Saf-C 204.03, 204.13

1. You are required to be present at this hearing and you may appear with an attorney.
2. You shall be required to produce your license at the hearing.
3. Failure to appear shall result in a default judgement. Appearance by a representative of a party shall not waive the party's required presence at a hearing. Failure to appear shall result in suspension of license and/or operating privileges, and may result in the suspension of registration privileges.
4. If you are under age eighteen (18), one or both parents or a legal guardian should accompany you to the hearing.
5. You have the right to have the complainant, if applicable, present at the hearing. If you wish to have this person present you must so notify the Bureau of Hearings in writing at least five (5) days prior to the hearing or your right will be deemed to have been waived.
6. Rules relative to the hearing procedure and substantive rules of the Department of Safety are available at the Bureau of Government Information Services, N.H. State Library, 20 Park Street, Concord, N.H. 03301. Telephone number: (603) 271-2239.
7. Continuances may be granted only for good cause and must be requested in writing and received five (5) days prior to the hearing.

SEE REVERSE SIDE

WARNING

WARNING

WARNING

New Hampshire has a serious habitual offender law. You may or may not qualify as a habitual offender. You may or may not be close to qualifying BUT in a sincere effort to tell you about the habitual offender law, the Division of Motor Vehicles is utilizing this notice in the hope you will read and heed its warning.

The purpose of the habitual offender law is to provide maximum safety for all persons who travel in New Hampshire, discourage repeated patterns of conviction and DENY license and operating privileges to individuals who fail to respect and obey our laws.

Here is how someone can become an Habitual Offender:

1. Any combination of 12 convictions for speed, yellow line, operating without a license or operating without proof of financial responsibility, or
2. 3 major convictions (see below), or
3. 1 major conviction and any combination of 8 of the convictions shown in item 1 above, or
4. 2 major convictions and any combination of 4 of the convictions shown in item 1 above, and
5. These convictions must be within a 5 year period BASED ON DATE OF VIOLATION.

The most common major convictions are:

- A. Driving while intoxicated (any such offense)
- B. Reckless driving
- C. Leaving the Scene of (Conduct After) an accident
- D. Operating after Revocation or Suspension
- E. Taking a vehicle without authority
- F. Disobeying a Police Officer

DEMERIT POINTS ASSESSED AFTER COURT CONVICTION:

Based Upon the Date of the Violation

DRIVERS UNDER THE AGE OF 18 ARE SUBJECT TO THESE SUSPENSIONS:

6 Points in one calendar year	= up to 3 months suspension
12 Points in two calendar years	= up to 6 months suspension
18 Points in three calendar years	= up to 1 year suspension

DRIVERS UNDER THE AGE OF 21 ARE SUBJECT TO THESE SUSPENSIONS:

9 Points in one calendar year	= up to 3 months suspension
15 Points in two calendar years	= up to 6 months suspension
21 Points in three calendar years	= up to 1 year suspension

DRIVERS 21 YEARS OF AGE OR OLDER ARE SUBJECT TO THESE SUSPENSIONS:

12 Points in one calendar year	= up to 3 months suspension
18 Points in two calendar years	= up to 6 months suspension
24 Points in three calendar years	= up to 1 year suspension

1 POINT

operating without vehicle registration available in the vehicle
failing to obey inspection requirements
failing to obtain a NH drivers license

2 POINTS

driving an unregistered vehicle
failing to produce a license when requested by a police officer
allowing an improper person to operate a motor vehicle
failing to abide by license restrictions
operating a vehicle with an improper class of license
operating without a motorcycle license
failing to comply with directions from a police officer
allowing an improper person to operate a commercial motor vehicle

3 POINTS

disobeying any traffic control device
following too closely
driving on a sidewalk
failing to yield right of way
failing to obey yield sign
failing to obey stop and yield signs
failing to use due care
failing to signal turn
improper conduct at a railroad crossing
illegal backing
obstructing a driver's view
opening and closing vehicle doors improperly
coasting
following fire trucks too closely
carrying passengers in a truck not so designed
speeding at less than 25 MPH above the posted limit
misuse of plates
misuse or failure to display plates
abandoned vehicle

4 POINTS

driving without a license
speeding at 25 MPH or more above the posted limit
failing to drive on the right side of the road
improper passing
yellow line violation
driving without required insurance

6 POINTS

improper use of registration
false report of theft
removal or changes to vehicle identification
improper use of license
modifying or forging inspection sticker or registration decal
school bus violation
title alteration
taking motor vehicle without the owner's consent
odometer tampering
lending license to an underage person to buy alcoholic beverages
driving after license revocation or suspension
failure to immediately stop after accident involvement
disobeying a police officer
racing
reckless driving
driving a motor vehicle while in possession of controlled drug(s)
driving while under the influence of drugs or liquor
aggravated DWI



City of Keene

Police Department 400 Marlboro Street New Hampshire 03431-3188

June 25, 2013

NH Department of Safety
Division of Motor Vehicles
23 Hazen Drive
Concord, NH 03305

COPY

RE: Ian "Freeman" Bernard (Date of Birth 08/02/80)

Dear Sir or Madam:

I am a prosecutor for the Keene Police Department. I am submitting for your review, information concerning Mr. Bernard who was recently charged with Failure to Obtain a NH license within 60 days of establishing a residency in New Hampshire pursuant to RSA 263:35. On February 7, 2013, Sergeant Jason Short of the Keene Police Department conducted a motor vehicle stop of a vehicle driven by Mr. Bernard for Misuse of Plates. Mr. Bernard presented Sergeant Short with a valid Florida driver's license. Mr. Bernard does not hold a New Hampshire driver's license.

As you will see in the enclosed documents, Mr. Bernard established a residency in New Hampshire quite some time ago, certainly more than 60 days prior to his motor vehicle stop. Mr. Bernard owns a home in Keene, New Hampshire. Further, he has demonstrated a current intent to designate his home in Keene as his principal place of physical presence for the indefinite future to the exclusion of all others (see RSA 21:6 defining a "Resident").

In support of the State's assertion, enclosed please find documentation concerning the following: (1) Mr. Bernard's voter registration forms that are on file in the Keene City Hall dating back to 2006, (2) a declaration of candidacy to become a school board member from January 2013 and a corresponding affidavit from a Senior Administrative Assistant for School Administration Unit 29, (3) a notice of candidacy and corresponding documentation concerning Mr. Bernard's intent to file candidacy for the office of Mayor for the City of Keene in 2011, (4) a copy of the deed to Mr. Bernard's home that he purchased in 2006, (5) documentation concerning Mr. Bernard's Florida's driver's license which is valid through the year 2020, (6) documentation showing that Mr. Bernard has not obtained a NH driver's license, (7) Chesterfield police reports concerning Mr. Bernard's Misuse of plates conviction from September 29, 2010, (8) an email between Keene Police Department Sergeant Jason Short and Mr. Bernard, and (9) Keene police reports concerning Mr. Bernard's recent arrest.

NH-DMV-FR

JUN 28 2013

Area Code 603
Phone

Mayor 357-9804 • Manager 357-9804 • Accounting 352-1013 • Airport 357-9835 • Assessment 352-2125 • Attorney 357-9806
Building Maintenance 357-9844 • City Clerk 352-0133 • Fleet Services 357-9831 • Fire 357-9861 • Health 352-5440 • Human Resources 357-9858
Human Services 357-9809 • Information Management Services 357-9802 • Inspections 352-5440 • Library 352-0157 • Parks, Recreation & Facilities 357-9829
Planning 352-5474 • Police 357-9815 • Public Works 352-6550 • Purchasing 357-9800 • Recycle Center/Transfer Station 352-5739 • Revenue Collection 357-9801
Wastewater Treatment Plant 357-9836 • Water & Sewer 352-3239 • Water Treatment Facility 357-8483 • Youth Services 357-9810

FAX

Airport 357-9853 • Assessment 357-9857 • City Hall 357-9847 • Fire 358-3420 • Library 352-1101 • Parks, Recreation & Facilities 357-9859
Police 357-9823 • Public Works 357-9848 • Recycle Center/Transfer Station 352-8325 • Wastewater Treatment Plant 357-9854 • Water Treatment Facility 358-1008

Website

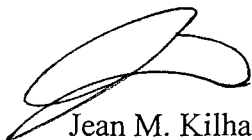
www.ci.keene.nh.us

Mr. Bernard claims that he is not a resident and that he is only domiciled in this state. It is clear however in the documentation submitted, that New Hampshire is his principal place of physical presence for the indefinite future to the exclusion of all others. The documents submitted demonstrate Mr. Bernard's intent to be an active community member and to hold city positions for lengthy terms. He certainly meets the definition of a resident.

I respectfully request that the Department of Motor Vehicles hold an administrative review hearing to determine whether Mr. Bernard's privilege to drive in the State of New Hampshire should be suspended pursuant to RSA 263:56, I (h) for Mr. Bernard's repeated misuse or abuse of his driving privilege. Should the Department of Motor Vehicles hold a hearing on this matter, I intend to call Sergeant Jason Short of the Keene Police Department as the State's witness. Additionally, I intend on introducing the actual certified documents, under seal during the hearing.

Thank you for your time and consideration. Please give me a call if I can be of further assistance.

Sincerely,



Jean M. Kilham, DOB 12/28/78
Bar I.D. 18031
Assistant Cheshire County Attorney
603-357-9815, extension 7050

NH-DMV-FR

JUN 28 2013